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Using the SAFETY Act to Build a Stronger U.S.–Israeli Terrorism-Fighting Partnership

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Passed after 9/11 to encourage innovation in the development of security technology, the Support Anti-Terrorism by Fostering Effective Technologies (SAFETY) Act provides a safe harbor for manufacturers of new “Qualified Anti-Terrorism Technologies.” The U.S. could vastly expand markets for these technologies and exploit technologies and services being developed elsewhere in the world by building bi-national agreements framed on the SAFETY Act model. One ideal partner for the U.S. is Israel, which has a strong domestic security market and is a close ally of the United States.

After Ground Zero. In the wake of the attacks on New York and Washington, many innovators stepped forward with new ideas to combat terrorism, but manufacturers had civil liability concerns, fearing that however tenuous the connection, they would be sued if their technology was purchased and deployed but a successful attack still occurred. Congress, wanting to encourage the production of new technologies, offered the manufacturers of qualified anti-terrorism technologies (both products and services) liability protection against lawsuits.

Under the act, the term “Qualified Anti-Terrorism Technologies” covers a broad spectrum of products and services. Certification eligibility can be extended to:

- Threat and vulnerability assessment,
- Detection systems,
- Blast-mitigation materials,
- Screening services,

- Sensors and sensor integration,
- Threatening-object detectors,
- Decision-support software,
- Security services, and
- Crisis-management services.

The SAFETY Act also encourages the development of software and other forms of intellectual property. In 2007, IBM was awarded certification for a software application that improves the accuracy of name searching and identity verification.

Without question, the SAFETY Act has been one of the most successful initiatives in the post-9/11 homeland security enterprise. Over 200 new technologies and services have been reviewed by the Department of Homeland Security and designated as qualified under the act for use in America.

The legislation established a win-win framework: America acquires the security technology it needs, and manufacturers obtain the governmental assurance against liability that they require to spur investments and innovation. Overall, the certifications that have been awarded have a broad and significant impact on the everyday security of Americans.

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How to Build on Success. It is time for the United States to expand the benefits of the SAFETY Act by working with key allies and partners. Counterterrorism is an international effort requiring the cooperation of like-minded countries around the world. Everyone's security is increased when successful technologies are transplanted beyond the borders where they were first built. Furthermore, addressing liability issues on a multi-national basis could open up markets for U.S. products and also increase American access to innovative counterterrorism technologies developed by other nations.

The best way to promote effective international cooperation is on a bilateral basis. Nations bear the primary responsibility for protecting their citizens. In turn, nations should collaborate with one another to protect their mutual interests. The U.S. can contribute to this cause most effectively by continuing to develop and strengthen the implementation of the SAFETY Act and by sharing best practices and lessons learned with other countries. Meanwhile, other nations should establish their own liability-protection regimes.

The U.S. should, as a matter of policy, agree to share qualified security technology with other countries on a reciprocal basis. If other nations adopted similar liability-protection regimes comparable to the SAFETY Act, they could form a network to promote innovation. As national liability protection proliferates, new opportunities for international cooperation would emerge.

First Steps. The U.S. would be wise to pilot the "international SAFETY Act" with a few trusted partners to see how the legal and policy issues that would inevitably arise could be worked out. One

ideal potential partner is Israel, a country that has also focused on the development of security technologies as a response to terrorist threats. Israel already has a thriving international business in anti-terrorism technologies, including about 400 Israeli companies exporting about \$1.5 billion each year. As a long-time American ally with a comparable legal system but a relatively small economy, Israel might be just the right partner for a pilot SAFETY Act expansion program.

Congress and the Administration should:

- Identify initiatives that can be taken to establish reciprocal programs for certifying anti-terrorism technologies; and
- Identify key allies such as Israel to pilot technology-sharing partnerships under a SAFETY Act-like regime.

SAFETY First. Implementing these initiatives with due diligence would both enhance the utility of the SAFETY Act and encourage more and more nations to adopt similar practices. An expanding global web of liability protection would facilitate the proliferation of security technologies for national security.

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