

106TH CONGRESS
1ST SESSION

H. R. 1962

To prohibit the export of high-performance computers to certain countries until certain applicable provisions of the National Defense Authorization Act for Fiscal Year 1998 are fulfilled.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 1999

Mr. HUNTER introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit the export of high-performance computers to certain countries until certain applicable provisions of the National Defense Authorization Act for Fiscal Year 1998 are fulfilled.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Supercomputer Post-
5 shipment Verification Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) Section 1213 of the National Defense Au-
2 thorization Act for Fiscal Year 1998 (Public Law
3 105–85; 111 Stat. 1934) requires the Secretary of
4 Commerce to conduct post-shipment verification of
5 each digital computer with a composite theoretical
6 performance of more than 2,000 millions of theo-
7 retical operations per second (MTOPS) that is ex-
8 ported from the United States on or after November
9 18, 1997, to countries specified in section 1213(b)
10 of that Act.

11 (2) Section 1213(b) of that Act identified the
12 countries covered by the post-shipment verification
13 requirement as those countries listed as “Computer
14 Tier 3” eligible countries in section 740.7 of title 15
15 of the Code of Federal Regulations, as in effect on
16 June 10, 1997. Computer Tier 3 countries are coun-
17 tries that have been identified as countries of con-
18 cern for national security or proliferation reasons
19 such as Russia, the People’s Republic of China,
20 India, Pakistan, and Israel.

21 (3) Section 1213 of that Act also requires the
22 Secretary of Commerce to submit an annual report
23 to congressional committees on the results of post-
24 shipment verifications required by that section dur-
25 ing the preceding year.

1 (4) The Committee on Armed Services of the
2 House of Representatives received the first of these
3 reports on January 7, 1999. The report identified
4 390 high-performance computers as having been ex-
5 ported to Computer Tier 3 countries during the pe-
6 riod beginning on November 18, 1997, and ending
7 on November 17, 1998.

8 (5) The report also identified 286 supercom-
9 puter exports covered by the post-shipment
10 verification requirement for which a post-shipment
11 verification was not conducted.

12 (6) The report stated that 190 of the instances
13 where a post-shipment verification was not con-
14 ducted involved exports to the People's Republic of
15 China. The Secretary of Commerce reported that the
16 People's Republic of China did not allow post-ship-
17 ment verifications to be conducted.

18 (7) Because post-shipment verifications were
19 not conducted in a number of instances, the United
20 States Government does not know if the computers
21 in question are being used for benign commercial
22 purposes, or for purposes that benefit military or
23 proliferation promoting projects.

1 **SEC. 3. AMENDMENT TO THE NATIONAL DEFENSE AUTHOR-**
2 **IZATION ACT FOR FISCAL YEAR 1998.**

3 (a) ANNUAL REPORT.—Section 1213 of the National
4 Defense Authorization Act for Fiscal Year 1998 (Public
5 Law 105–85; 111 Stat. 1934) is amended by striking sub-
6 section (c) and inserting the following:

7 “(c) ANNUAL REPORT.—The Secretary of Commerce
8 shall submit, on January 1 of each year, a report to the
9 congressional committees specified in section 1215 on the
10 results of post-shipment verifications conducted under this
11 section covering exports carried out during the preceding
12 fiscal year. Each such report shall include a list of all the
13 items subject to the post-shipment verifications that were
14 so exported and, with respect to each such export, the fol-
15 lowing:

16 “(1) The destination country.

17 “(2) The date of export.

18 “(3) The intended end use and intended end
19 user.

20 “(4) The results of the post-shipment
21 verification.”.

22 (b) MORATORIUM ON EXPORTS.—Section 1213 of the
23 National Defense Authorization Act for Fiscal Year 1998
24 (Public Law 105–85; 111 Stat. 1934) is further amended
25 by adding at the end the following:

1 “(e) MORATORIUM ON EXPORT OF SUPERCOM-
2 PUTERS UNTIL POST-SHIPMENT VERIFICATIONS HAVE
3 BEEN CONDUCTED.—

4 “(1) FOR EXPORTS PRIOR TO OCTOBER 1,
5 1998.—Until all post shipment verifications required
6 by subsection (a) have been conducted for exports
7 carried out during the period beginning on Novem-
8 ber 18, 1997, and ending on September 30, 1998,
9 no digital computers with a composite theoretical
10 performance of more than 2,000 MTOPS may be ex-
11 ported or reexported to a country specified in sub-
12 section (f).

13 “(2) FOR SUBSEQUENT EXPORTS.—Until all
14 post shipment verifications required by subsection
15 (a) have been conducted for exports carried out dur-
16 ing the period addressed in each report required by
17 subsection (c), no digital computers with a composite
18 theoretical performance of more than 2,000 MTOPS
19 may be exported or reexported to a country specified
20 in subsection (f).

21 “(f) COUNTRIES COVERED BY MORATORIUM.—For
22 the purposes of subsection (e), a country specified in this
23 subsection is a country that has been the recipient of the
24 export of any computer described in subsection (a) for

1 which the post-shipment verification required by sub-
2 section (a) has not been conducted.”.

3 **SEC. 4. REPORTS.**

4 (a) REPORT ON DELINQUENT POST-SHIPMENT
5 VERIFICATIONS.—When all post-shipment verifications
6 are conducted with respect to a country to fulfill the re-
7 quirements of section 1213(e) of the National Defense Au-
8 thorization Act for Fiscal Year 1998, as added by section
9 3 of this Act, the Secretary of Commerce shall submit to
10 the Committee on Armed Services of the Senate and the
11 Committee on Armed Services of the House of Represent-
12 atives a report on the results of those post-shipment
13 verifications. The report shall include a list identifying all
14 the items subject to the post-shipment verifications that
15 were exported from the United States to that country dur-
16 ing the applicable time period specified in paragraph (1)
17 or (2) of such section 1213(e) and, with respect to each
18 such export, the following:

19 (1) The date of export.

20 (2) The intended end use and intended end
21 user.

22 (3) The results of the post-shipment
23 verification.

24 (b) REPORT ON IMPACT OF SUPERCOMPUTER EX-
25 PORTS ON NATIONAL SECURITY.—The Secretary of De-

1 fense shall submit to the Committee on Armed Services
2 of the Senate and the Committee on Armed Services of
3 the House of Representatives a report on the impact on
4 national security of the export of digital computers with
5 a composite theoretical performance of more than 2,000
6 MTOPS to countries listed as “Computer Tier 3” eligible
7 countries in section 740.7 of title 15 of the Code of Fed-
8 eral Regulations, as in effect on June 10, 1997. This re-
9 port shall be submitted not later than 120 days after the
10 date of the enactment of this Act. The report shall be sub-
11 mitted in both classified and unclassified form.

○