

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.

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## 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

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## 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.

