

H.R. 3680, TO AMEND THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998 WITH RESPECT TO THE ADJUSTMENT OF COMPOSITE THEORETICAL PERFORMANCE LEVELS OF HIGH PERFORMANCE COMPUTERS

MARKUP

BEFORE THE
SUBCOMMITTEE ON
INTERNATIONAL ECONOMIC POLICY AND TRADE
OF THE

COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

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THURSDAY, APRIL 6, 2000

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL ECONOMIC
POLICY AND TRADE,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:10 p.m., in room 2172, Rayburn House Office Building, Hon. Ileana Ros-Lehtinen (Chair of the Subcommittee) presiding.

Ms. ROS-LEHTINEN. This Subcommittee will come to order.

American ingenuity, creativity and talent has throughout the centuries spiraled the United States into a position of global leadership. It has enabled us to adapt and build upon economic, political and social changes to usher in a new era of prosperity and opportunity.

Just as Eli Whitney's cotton gin served as the catalyst for the Industrial Revolution, the computer industry responsible for one-third or real economic growth continues to serve as the driving force behind the incredible commercial expansion that the U.S. is now enjoying. However, it cannot continue this unparalleled trend unless it is able to innovate and compete in new markets. This goes to the heart of the legislation that we are considering today.

H.R. 3680, introduced by our House colleagues David Dreier and Zoe Lofgren takes into account emerging threats and security considerations by maintaining a limited waiting period. Nevertheless it offers a practical, judicious and realistic solution to the challenges faced by our computer industry by reducing the Congressional review period from 180 to 30 days. H.R. 3680 would make the waiting period more reasonable and bring it into line with other review periods for changing national security export controls.

Currently, for example, there is a 30-day waiting period established by Congress to remove articles from the munitions list, a list of Defense articles and services that are subject to export controls including such items as artillery, launch vehicles, missiles, rockets, torpedoes, warship, aircraft, and tanks. Yet we maintain a 180-day waiting period for exports of supercomputers.

From a practical perspective it does not make any sense for military items or arms transfers to require less time for Congressional review than that which is required for supercomputers. These products and technology have broad commercial application and an innovative cycle or life cycle of less than 3 months. If we do not reduce the waiting period and expedite the process for our computer industry, we will have a situation where new export controls will be out of date by the time they are approved.

For example, the new policy announced by the Administration on February 1st of this year will be an anachronism by the time the current 6-month review period expires on August 1st. It is impossible for computer export control policy to keep pace with the ever-changing technological and market realities unless we pass H.R. 3680 to reduce Congressional review to 30 days.

We need to avoid a repetition of recent events. For example, last Fall Apple Computers began marketing its new single processor personal computer whose power exceeded the computer export control threshold in effect at that time. However, Apple was unable to sell any of these new systems because the adjustment made by July of last year did not become effective until January, 2000. IBM was in a similar situation with its new Aptiva personal computer line.

H.R. 3680 is a bipartisan bill which provides immediate relief for the computer industry, an industry which is conducting landmark, cutting edge work to maintain U.S. technological leadership. H.R. 3680 maintains the delicate balance between national security and market considerations while providing a more responsive, realistic approach to export controls on supercomputers.

I am proud to be a cosponsor of this measure, and I am encouraged by the fact that all the majority Subcommittee Members have also rendered their support as cosponsors, and that person needs some Florida orange juice for Dana, and I am proud to recognize Mr. Robert Menendez of New Jersey, our Ranking Member. Thank you, Bob.

[The prepared statement of Ms. Ros-Lehtinen appears in the appendix.]

Mr. MENENDEZ. Thank you, Madam Chairlady, and I am glad we are holding this markup. I would have hoped that the legislation would be as futuristic as the room is and would have a few more things to it, but at least we are doing something.

Madam Chairlady, the Republicans' impromptu inclusion of a 180-day Congressional notification period for increasing the MTOPS level for export sales in the 1998 National Defense Authorization Act handicapped the American computer industry. A 180-day review period has made it impossible for the U.S. Government to respond quickly to the latest advances in computer processing technology.

Last summer for example, new personal computers introduced by Apple and IBM surpassed the MTOPS level for exports for Tier 3 countries like Israel and Egypt. It was not until after the 180 day notification period ended in January that these computers were allowed to be sold without a license.

Later this year Intel is expected to introduce the Itanium chip that will allow a computer that uses four chips to operate at nearly

23,000 MTOPS, a level that exceeds current policy for export sales to Tier 2 and Tier 3 countries. In the computer industry, where the average shelf-life of a computer is no more than 18 months and probably closer to 12, a 6-month delay in sales is a very long time, particularly when overseas competitors are nipping at the heels of American companies.

For this reason I strongly support this legislation. However, I am disappointed that this legislation only addresses the MTOPS notification period. The legislation does not address other NDAA-derived problems like the 120-day notification period for moving countries between tiers and burdensome post-shipment verification requirements.

More importantly, while this bill fixes one problem, it is not a substitute for reauthorizing the EAA and updating our Cold War export control policies.

I intended to offer amendments today to address these issues, but in the interest of the bill's passage in the House I have decided to withhold at this stage from offering any amendments. It is unfortunate that there are those who cannot see clear to making these very important changes that would ensure America's continued leadership in the computer industry.

America's industry deserves laws that are responsive to today's global economy and not laws that were created over two decades ago to respond to Cold War era threats.

I know that the Chairlady shares my view that in order to sustain our leadership in the global economy we must take action. I hope that she and other enlightened Members of the Republican caucus can talk to some of their colleagues about the importance of reauthorizing the EAA. No one in the Congress is advocating for changes that would undermine our national security, but rather for policy changes that would ensure our national security while also streamlining our export control laws to focus on those countries and those exports that are of greatest concern to our nation.

It is our obligation to address this issue and to ensure that our laws reflect what is in the best interest of our nation. Failure to do so keeps the Congress and its legitimate role out of the issue and cedes it to the executive branch, so instead of this piecemeal approach, we should consider comprehensive legislation, namely the EAA, to reform our export control laws, but I do urge for the purposes of solving part of our problems that our colleagues support today's legislation. Thank you.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Menendez. Mr. Rohrabacher, Mr. Crowley, do you have opening statements?

Mr. CROWLEY. Yes.

Ms. ROS-LEHTINEN. Yes, Mr. Crowley.

Mr. CROWLEY. Thank you, Madam Chairman.

I am here today to speak in support of H.R. 3680 to amend the National Defense Authorization Act and reduce the waiting period for the export of computers from 180 days to 30 days. I am proud to cosponsor this legislation, which will enable American high tech companies to compete effectively around the world.

Currently the NDAA requires a 6-month waiting period before the Administration can update Tier 3 countries' export control laws. When NDAA went into effect in 1998 the bill targeted com-

puters that operated above 2000 MTOPS. Today's personal computers operate in the 4000 MTOPS range and office servers in the 12,000 MTOP range.

The current 6-month waiting period clearly does not make sense for products that have a 3-month innovation cycle and are widely available from our foreign competitors. I know that some of my colleagues think that this legislation is not going far enough. I agree with them and I am looking forward to working with my distinguished colleagues on this Subcommittee to overhaul the U.S. export control system in a more comprehensive manner, but we also have to realize how time-sensitive the passage of H.R. 3680 is.

The new Intel microprocessor, the Itanium, will be available at midyear. A four-way Itanium processor computer is projected to perform above 22,000 MTOPS, therefore the recent update to a threshold of 12,500 MTOPS will already be out of date when it takes effect.

Make no mistake, our current economic boom relies heavily on the information technology industry. The IT sector contributed about 35 percent to U.S. economic growth in recent years and foreign sales are crucial to that success, but our broken export control system threatens to cost the computer industry valuable sales in some of the most critical markets in the world.

We should concentrate our resources on controlling real supercomputers and not waste them on controlling widely available business computers. This bipartisan legislation is supported by the Administration and the computer industry, and I urge my colleagues to vote in favor of it today.

Thank you, Madam Chair.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Crowley.

Hillel, if you could pass on to the Chairman our deep dissatisfaction. I had told all the Subcommittee Members that our images would be portrayed as rock stars on this giant screen before us, but alas, it is not to be, and I was practicing my air guitar all morning.

Mr. CROWLEY. Madam Chair, I just want to let you know, I think you are a rock star, no matter whether you are on the screen or not.

Ms. ROS-LEHTINEN. Aw—thank you. He's good. He's good.

Pursuant to notice, the Subcommittee will now turn to the consideration of H.R. 3680, which the Staff Director will report, Mr. Tamargo.

Mr. TAMARGO. H.R. 3680, a bill to amend the National Defense Authorization Act for Fiscal Year 1998 with respect to the adjustment of composite theoretical performance levels of high performance computers.

Ms. ROS-LEHTINEN. Without objection, the Clerk will read the text of the bill.

Mr. TAMARGO. To amend the National Defense Authorization Act for Fiscal Year 1998 with respect to the adjustment of composite theoretical performance levels of high performance computers. Be in enacted by the—

Ms. ROS-LEHTINEN. Without objection, the bill is considered as having been read and is open to amendment at this point.

Are there any amendments? If there are no amendments, the Chair will put the question on favorably reporting the bill to the full Committee.

So many who are in favor of the question, say aye.

[Chorus of ayes.]

Ms. ROS-LEHTINEN. So many who are opposed, say no.

[No response.]

Ms. ROS-LEHTINEN. The ayes appear to have it. The ayes have it and the bill will be forwarded to the full Committee.

[The bill appears in the appendix.]

I thank the Members for their cooperation, and before we adjourn I would like to recognize Mr. Bereuter for some statements and we will be in touch with Chairman Gilman about prompt consideration of this measure in the full Committee next Thursday, April 13th.

Mr. Bereuter.

Mr. BEREUTER. Madam Chairman, I have no comment. I just want to commend you on being so expeditious and I was happy to get here in time for the vote.

Ms. ROS-LEHTINEN. Thank you so much.

The Subcommittee will stand in recess subject to the call of the Chair. Thank you.

[Whereupon, at 2:25 p.m., the Subcommittee adjourned subject to the call of the Chair.]

A P P E N D I X

APRIL 6, 2000

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GOVERNMENT REFORM

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POLICY AND TRADE

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Introductory Statement by Hon. Ileana Ros-Lehtinen
Chair, Subcommittee on International Economic Policy
for Mark-up of H.R. 3680
Thursday, April 6, 2000
~~2255~~ Rayburn
2172

American ingenuity, creativity, and talent has, throughout the centuries, spiraled the United States into a position of global leadership. It has enabled us to adapt and build upon economic, political, and social changes to usher in a new era of prosperity and opportunity.

Just as Eli Whitney's cotton gin served as the catalyst for the Industrial Revolution, the computer industry, responsible for 1/3 of real economic growth, continues to serve as the driving force behind the incredible commercial expansion the U.S. is enjoying. However, it cannot continue this unparalleled trend unless it is able to innovate and compete in new markets.

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I am proud to be a co-sponsor of this measure and am encouraged by the fact that all Majority Subcommittee Members have also rendered their support as co-sponsors.

**REMARKS OF THE HONORABLE DONALD A. MANZULLO
BEFORE THE INTERNATIONAL ECONOMIC POLICY & TRADE SUBCOMMITTEE
OF THE HOUSE INTERNATIONAL RELATIONS COMMITTEE
IN SUPPORT OF HR 3680**

April 6, 2000

Madam Chairwoman, I rise in strong support of HR 3680. As an early cosponsor, I am pleased to see the Subcommittee take quick action on this much needed legislation.

It was three years ago that Congress imposed this requirement which forces computer companies to wait six months for the completion of a Congressional review to see if an advanced but widely available computer can be exported. In an environment where computer product life-cycles are now three months, this requirement does not reflect technological reality.

I hate to say “I told you so” but I predicted this outcome in 1997. I ask unanimous consent that my speech on the House floor in 1997 speaking against this original amendment be included in the record of the Subcommittee’s mark-up. Only 88 Members of Congress had the foresight and courage to stand against emotionalism by opposing the original amendment. I am pleased to point out that many of those brave 88 Members sit on this subcommittee.

I ask that the Subcommittee support this narrow “rifle shot” bill so that we can correct the most egregious export control problem. If we want the high-tech industry to remain robust and healthy, please support HR 3680.



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No. 86

Mr. MANZULLO. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in opposition to the amendment. This amendment proposes to kill a gnat with a bazooka. The amendment sounds good, but ignores technological reality on the world scene.

First, some facts. Fact: Computers of between 2,000 and 7,000 MTOPS are widely available on the world market through individual computers, upgrade boards, parallel processing, and networking. We cannot turn back the technological clock.

Fact: Computers in this range are not supercomputers. Supercomputers are far more advanced, with performance power in the hundreds of thousands of MTOPS, reaching as high as 1 million MTOPS.

Fact: Increasing power levels of computers does not enable anyone to do anything unique. Our entire nuclear weapons arsenal and our pilot space program were designed on computers of two MTOPS or less. Increasing the MTOPS levels does not accomplish any new task. It just simply processes information at a faster rate. If we want to stop foreign military from developing weapons of mass destruction, we do not target computers, we focus on other technologies.

Fact: Personal computers like those we have in our offices or at home will soon cross the 2,000 MTOPS barrier next year. Are we prepared to have the Secretaries of Defense, Commerce, State, Energy, and the Director of the

Arms Control and Disarmament Agency give written approval every time someone wishes to sell a personal computer overseas to a tier 3 country?

That brings me to my fifth point. Tier 3 countries consist of 50 nations, including Israel, Saudi Arabia, Pakistan, and India. Are we prepared to turn all of these markets over to our foreign competitors? Are we prepared to have four Cabinet Secretaries sign off on every computer sale of over 2,000 MTOPS to 50 countries? It will be a paperwork nightmare without any measurable reduction in the spread of weapons of mass destruction.

We have to remember the last time we bungled supercomputer export control policy. The United States Government took so long to review a proposed Cray supercomputer sale to India that India turned around and created its own supercomputer industry. Now American firms compete against Indian firms selling so-called supercomputers all over the world, including China and Russia.

I urge my colleagues to cut through the rhetoric and look at the facts. This amendment will not accomplish the goal we all aim to achieve, which is reducing the proliferation threat. I urge its defeat. Otherwise, Congress will surrender America's most innovative industry to our foreign competitors.

Mr. Chairman, I ask unanimous consent that control of the balance of the time delegated to me be given to the gentleman from Connecticut [Mr. GEJDENSON].

106TH CONGRESS
2D SESSION

H. R. 3680

To amend the National Defense Authorization Act for Fiscal Year 1998 with respect to the adjustment of composite theoretical performance levels of high performance computers.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2000

Mr. DREIER (for himself and Ms. LOFGREN) 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 amend the National Defense Authorization Act for Fiscal Year 1998 with respect to the adjustment of composite theoretical performance levels of high performance computers.

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. ADJUSTMENT OF COMPOSITE THEORETICAL**
4 **PERFORMANCE LEVELS OF HIGH PERFORM-**
5 **ANCE COMPUTERS.**

6 Section 1211(d) of the National Defense Authoriza-
7 tion Act for Fiscal Year 1998 (50 U.S.C. app. 2404 note)

1 is amended in the second sentence by striking “180” and
2 inserting “30”.

3 **SEC. 2. EFFECTIVE DATE.**

4 The amendment made by section 1 shall apply to any
5 new composite theoretical performance level established
6 for purposes of section 1211(a) of the National Defense
7 Authorization Act for Fiscal Year 1998 that is submitted
8 by the President pursuant to section 1211(d) of that Act
9 on or after January 1, 2000.