Prepared Statement of Chairman Fred Thompson (R-TN)
Committee on Governmental Affairs
Hearing on High Performance Computer Export Controls
Thursday, March 15, 2001

Good Morning. Today, the Governmental Affairs Committee is holding a hearing on the recent changes to our export control policy with regard to high performance computers. These changes were made by former president Clinton in January, 2001, before he left office.

High-Performance Computers (or HPCs) represent a special challenge for our export control regime, because in many ways they are the King of "dual-use" technologies–that is, technologies that are subject to national security export controls because they are easily usable for important civilian purposes as well as dangerous military ones. High performance computers are particularly sensitive because they are enabling technologies that have important applications to national security. HPCs can be used to design more powerful nuclear weapons, more capable ballistic missiles, quieter submarines, and high performance jet aircraft. Computers are critical to our intelligence agencies. They are used in cryptology, reconnaissance satellites, and electronic eavesdropping. High performance computers are also key to modern warfare. They are used in precision-guided munitions, theater missile defense, battle management, and information superiority. In short, computers are the technical keystone of our national security apparatus; they are also important to our potential adversaries.

Given the military importance of high performance computers, and reports at the time that foreign entities had illegally acquired U.S.-made HPCs for military purposes, the Congress inserted language into the FY 1998 National Defense Authorization Act that was designed to strengthen HPC export controls. Among other things, this legislation required the Administration to provide a report to the Congress on three factors when proposing a modification of the export control notification thresholds for high performance computers. First, the report is to address the availability of high performance computers from other countries. Second, it is to address all potential uses of military significance at the new control thresholds. And third, the report is to assess the impact of such uses on U.S. national security interests. It is important to note that the purpose of the law was not to fetter international trade or hurt the computer industry, but to ensure that the government conducted a thorough assessment of the risks and reasons underlying any change to our HPC export control policies.

Two years later, the Cox Committee stated in its July, 1999, report that the Peoples' Republic of China was diverting U.S.-built HPCs for unlawful military applications. Specifically, it was using American-made computers to design, model, test, and maintain advanced nuclear weapons. The committee clearly stated that "The illegal diversion of HPCs for the benefit of the PRC military is facilitated by the lack of effective post-sale verifications of the locations and purposes for which the computers are being used. HPC diversion for PRC military use is also facilitated by the steady relaxation of U.S. export controls over sales of HPCs." The committee added that U.S.-origin HPCs had been obtained by PRC organizations involved in the research and development of missiles, satellites, spacecraft, submarines, and military aircraft, to name a few.

Despite this report and others, the Clinton Administration further relaxed export controls on high performance computers. In January, 2000, the licensing threshold for HPCs was set at 2,000

MTOPS. Over the course of a year additional changes were made---including removing distinctions between civilian and military end-users—culminating in the January, 2001, decision to raise the licensing level to 85,000 MTOPS----over a 40-fold increase in a 12 month period! These changes, and others, were made to our HPC export control policies *without* conducting a thorough national security risk assessment. I might add that a risk assessment not only would have been the responsible and prudent thing to do, it was required by law.

It also appears that the Clinton Administration couldn't justify these changes on economic and commercial grounds. HPCs of similar capability are not "foreign available" despite industry claims that they are "widely available." Additionally, while the Administration and industry cited computer "clustering" and other techniques as making computer controls ineffective, we will hear otherwise today from the General Accounting Office. Even the Cox Committee reported two years ago that "while the PRC might attempt to perform some HPC functions by other means, these computer work-arounds remain difficult and imperfect."

Surprisingly, however, little money appears to be at stake in the decisions over HPC export controls to China and other tier 3 countries. Let me be clear. HPCs can be sold license-free to most countries in the world. With regard to tier 3 countries—China, India, the former Soviet Union, all of the Middle East, Vietnam, and most of Eastern Europe—computers under 85,000 MTOPS can be sold license-free. Computers over 85,000 MTOPS require a license, but even then, over 90% are approved for sale. HPCs cannot be exported to any of the rogue states. In short, given that sales to tier 3 countries represent less than 10% of all HPC sales abroad, and HPC sales don't appear critical to the economic health of most U.S. computer companies, it is hard to justify the national security risks simply to sell a few hundred more of them to China and other "high risk" destinations. It is even more difficult to believe the computer industry's argument that the U.S. military will be harmed if U.S. firms can't reinvest these marginal profits gained from Tier 3 sales back into R & D programs that might produce military-ready "off the shelf" technology. According to this line of reasoning, the United States must jeopardize its national security in order to improve its national security. This makes little sense.

The bottom line is that the computer industry is not concerned about *current* sales because these sales are not as significant as we were led to believe; however, the industry is concerned about *future* sales. Any government efforts to regulate the sale of HPCs on national security grounds is summarily and automatically rejected. The problem with this approach is that our country faces serious threats *today*. Despite the fact that the Cox Committee identified several alternative methods to safeguard U.S.-made HPCs, the bipartisan Deutch Commission made several recommendations to strengthen our export control regime, and the GAO recently listed nearly a dozen alternatives to the current MTOPS metric, we can't seem to find any consensus within the government or private sector that export controls on computer hardware are either needed or effective. I strongly disagree.

Given sufficient political will, ingenuity, and leadership, I am confident that we can find a system that accommodates commerce while protecting our national security. The first step in that process, however, is finding an honest broker that can conduct the research, present the facts, outline the costs and benefits, and analyze the risks to our national security and economic

prosperity of each policy option. I am confident we will hear from such an honest broker today when we hear from the GAO.

The Committee has been closely involved with nonproliferation policy and export control issues for many years. In legislation passed by the Congress last year at my urging, the General Accounting Office was tasked to assess the president's compliance with the reporting requirements outlined in the FY '98 NDAA, and to evaluate the adequacy of the stated justification for any proposed changes to HPC export controls. This hearing, therefore, will ask the GAO to report on its findings pursuant to these taskings

I look forward to hearing today, therefore, from our witnesses, who can shed some much-needed light on the complex, yet critical, issue of high performance computer export controls.