

what is going on in Europe and do not exercise the right to buy in Europe.

Those sellers have got it coming and going both ways for them. I think you ought to take a good look at it.

Mr. STAATS. The absence of satisfactory prices from domestic drug manufacturers has led both the Veterans' Administration and the Defense Personnel Support Center to the procurement of certain drugs from foreign sources. However, neither the Veterans' Administration nor the Defense Personnel Support Center are currently making extensive use of foreign sources for their drug procurements.

In recent years the Veterans' Administration has bought only one drug from a foreign source and does not actively solicit foreign bids in its procurements.

The Defense Personnel Support Center furnished this subcommittee with information relative to its foreign procurement of five drug items during 1968 and 1969. During 1970 only one of these items, tetracycline hydrochloride, has been procured from a foreign source. Another of these items has been obtained during 1970 from a domestic manufacturer because the bid by the foreign sources were not considered low after considering the Buy American Act provisions and related policies. The remaining three items were not procured from any source during 1970.

One factor in the small use of foreign sources is the Government's exposure to possible action under section 1498 of title 28, United States Code. This section provides that whenever an invention described in and covered by a patent of the United States is used or manufactured by or for the United States without license of the owner, the owner's remedy shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture.

Since our last report to you on this subject, dated July 12, 1967, in which we explained the background and purpose of section 1498 of title 28, there have been two suits against the Government by drug patent holders for infringement of their patents rights. One of these suits involving purchases of nitrofurantoin was settled by the parties for \$192,500 in September 1969 and the other one involving purchases of meprobamate is still pending.

As an integral part of their drug procurement systems both the Veterans' Administration and the Defense Personnel Support Center have established programs for assuring the capability of Government contractors to supply a drug product of acceptable quality. These programs vary somewhat in their approach but have a common objective.

At the Defense Personnel Support Center the quality assurance program, and I think that is what we have really been talking about here in the last few minutes—includes an evaluation, through preaward surveys of the plant and preaward testing of product samples, of the contractor's ability to supply a specific drug item.

Preaward surveys and preaward samples may be generally required when: (1) The contractor has never before furnished the item being procured; (2) a doubt exists as to the quality control, housekeeping procedures, or financial position of the prospective