Mr. GRANT. If you are not, then we are not talking about that situation. The statute does not talk about it and our price rule does not talk about it.

Mr. GORDON. Well, which price would you count, the $2 price or the $32 price in the United States?

Mr. GRANT. What we are now concerned with, as I say, is a situation in which as far as this rule is concerned, we say we will not finance a bulk pharmaceutical product from the United States at a price more than 10 percent higher than the price at which it is generally available in free world countries. And in calculating what that price is—the price at which it is generally available from free world countries—we do not count those sales abroad which would violate a U.S. patent.

If they would not violate a U.S. patent they become part of the basket of prices by which we would determine the price at which it is generally available in free world countries.

Mr. GORDON. Thank you.

Mr. DWINELL. To continue, Mr. Chairman, as an example of how this rule operates, the drug tetracycline, certified by FDA, is available from many sources, both U.S. and non-U.S. The world market price for this item ranges between $25 and $35 a kilogram (about 2.2 pounds). Most applications that we have received for the proposed sales of this drug have been at a price of $100 a kilogram or more. All such applications are rejected under this rule.

Rule No. 2 states that AID will not finance a bulk pharmaceutical product at a price which exceeds the lowest price at which the same product, by whatever description, is available from the same source country.

This standard establishes clearly that we do not pay premium prices for a brand name drug if the same drug is available under its generic description at a lower price. It is particularly applicable to drugs in the "public domain" such as vitamins, penicillins and certain antihistamines all of which are available from many sources if bought by generic description. As a specific example, a leading antihistamine is sold under its brand name at $100 per kilogram. The same drug is available at about $30 to $35 per kilogram if bought by generic description. Under this rule, AID finances the drug at the lower price only.

Under Rule No. 3 AID will not finance a bulk pharmaceutical product at a price which exceeds the price of another product if there is evidence that the lower-priced product, although of different generic description, is, for the purpose intended, pharmacologically a substantial equivalent to the higher-priced product.

Under the criteria of standard (3) we have declared at the present time 14 drugs ineligible for financing. Two additional drugs have been declared unsuitable for financing within the meaning of Section 604(f) of the Foreign Assistance Act because there are equally effective lower cost drugs available for the purposes intended. These 16 drugs are listed in my statement.

Senator NELSON. You say they are ineligible for further financing. When did they go on the ineligible list?

Mr. DWINELL. As of December 31, 1970.