

to the effect that under the statute, after a negotiated contract has been completed, the GAO has the authority to go in and examine the production costs of the seller to find out whether the price charged is reasonable? I think I state the statute correctly. Are you aware of that?

General HAYES. Yes, we are.

Senator NELSON. Why shouldn't you ask the GAO to do that? This is such a dramatic difference when we have two licensees on the same continent with common borders, one selling for over \$32—\$32.62 for a 1,000 to our Defense Supply Agency and another company selling the same product as a licensee to Canada's Department of Veterans Affairs for \$2.60.

It would seem to me that would be just exactly the kind of situation in which the statute ought to be used because certainly the cost of production can't be that great. If they can make a profit on the \$2.60 in Canada, the profit made in this country must be very great. Why shouldn't the statute be used in that case?

Colonel SNYDER. Really this is a policy decision. I assure you it will be explored. We discussed this with the GAO people and they were going to look into it. We have not traditionally audited fixed price contracts on a post-contractual basis. We always audit cost-type contracts. We do not normally audit fixed price.

It is certainly something that warrants investigation and it will be done.

Senator NELSON. Well, it just seemed to me we have examples with such dramatic differences—this is a price differential of about 14 times—that with the statute there and the Department having to negotiate to buy, with no knowledge of whether it is reasonable or not, that this is the kind of occasion when we ought to have this kind of an audit, particularly when you know what the Canadian licensee is selling it for.

Colonel SNYDER. In almost every instance where you have a substantial price difference between a domestic and overseas or a Canadian supplier, there is also an added factor of an NDA or some FDA control that also limits it.

These are things that have to be explored and I am sure they will be.

Senator NELSON. Well, it works both ways. I have looked at prices in Canada and found a number of retail prices, that is, prices charged to the pharmacist for brand name drugs in Canada higher than the prices charged here in the United States. And substantially lower for the same product—perhaps one-fifth as much—in Switzerland and Italy by the same company. We end up with them charging \$4 or \$5 a hundred more for a product in Canada than they charge in the United States where it is made, or one-fourth or one-fifth as much in Europe after the company that made it in the United States shipped it over there.

So I don't see how anybody could claim that the price differential based upon cost of production and reasonable profit, could range from \$2.60 a thousand in Canada to \$32.62 in the United States.

Colonel SNYDER. I make no such claim.

Senator NELSON. Please proceed.