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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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JUN 10 1974

B-180009

RELEASED

The Honorable John Melcher  
House of Representatives

Dear Mr. Melcher:

Your November 2, 1973, letter asked us to obtain certain information on importations of butter and butter substitutes (butter oil) authorized by the October 31, 1973, Presidential Proclamation No. 4253. This proclamation temporarily amended the U.S. tariff schedules by adding a new section which authorized the importation from November 1 to December 31, 1973, of 56 million pounds of butter and 22.6 million pounds of butter oil with over 45 percent butterfat. These quantities were in addition to the annual quota quantities of 707,000 pounds of butter and 1.2 million pounds of butter oil.

We discussed your request with Customs officials and by letter dated January 3, 1974, we requested the information from the Commissioner of Customs. Customs furnished some of the requested information by letter dated March 12, 1974 (see enclosure), but said some of the requested information was confidential business information which it could not make available.

The information from Customs shows that, on the December 31, 1973, closing date, about 55 million pounds of the 56-million-pound quota for butter had been imported. Of this 55 million, about 46 million pounds were exported before the November 1, 1973, effective date of the proclamation. The 22.6-million-pound quota on butter oil authorized by the proclamation was filled on December 14, 1973. About 11 million pounds of this was exported to the United States before the effective date of the proclamation.

Also Customs officials said:

- Customs did not assess or collect countervailing duties on butter or butter oil imported under Proclamation No. 4253.
- Customs initiates countervailing duty investigations only after it receives a complaint from an outside source.
- Customs had not received any complaints on importing merchandise authorized by the proclamation but is informally investigating a complaint received in 1968 on importing dairy products.

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We understand the Federal Court is considering this complaint.

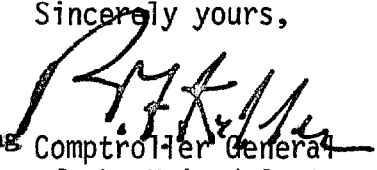
With regard to the requested information which Customs considered confidential and didn't furnish, Customs responded as follows (see enclosure):

"The Customs Service considers quantities and prices of individual transactions and names of purchasers to be confidential commercial or financial information of the importers involved which may not be disclosed under the provisions of 5 U.S.C. 552(b)(3) and (4) and sections 103.10(c) and (d), Customs Regulations (19 CFR 103.10(c) and (d)). Consequently, we are unable to furnish this information for transmittal to Representative Melcher.

"Customs is aware of the provision of the Freedom of Information Act which reads: 'This section is not authority to withhold information from Congress.' However, the Department of the Treasury has taken the position that this provision applies to requests from congressional committees and is not applicable to individual members of Congress."

In view of the above you might want to consider asking the appropriate committee to request Customs to furnish any needed information.

Sincerely yours,

  
Acting Comptroller General  
of the United States

Enclosure



ENCLOSURE

THE DEPARTMENT OF THE TREASURY  
BUREAU OF CUSTOMS

WASHINGTON

March 12, 1974



REFER TO

ADM 3-03:R:CV:V S  
133.22  
900136

Dear Mr. McAuley:

This refers to your letter of January 3, 1974, in which you request, on behalf of Congressman John Melcher, certain information in Customs records concerning the importation of butter and butter oil under the quota established by Presidential Proclamation No. 4253 of October 31, 1973.

Specifically, you ask (1) the names of the source countries and quantities exported from those countries prior to November 1, 1973; (2) the names of the importers and the quantities each imported; (3) the value of the merchandise imported under Proclamation No. 4253 which had been exported prior to November 1, 1973; and (4) advice as to whether Customs obtained the names of the owners of the merchandise as well as the names of the importers, and, if so, the names of the owners.

Attached are tables showing the names of the source countries, the quantities exported therefrom prior to November 1, 1973, and the invoice prices of butter and butter oil exported prior to that date; and a copy of a press release relating to the quota.

We have been unable to determine the price of butter from Argentina and butter oil from Jamaica. This is due, in part, to the fact that these commodities are subject to a specific rate of duty, and value records, therefore, are incomplete or non-existent. In addition, even though specific entry numbers were provided, our New York office was unable to refer to them because the entries presently are in the process of transfer from the Customhouse to the World Trade Center.

The Customs Service considers quantities and prices of individual transactions and names of purchasers to be confidential commercial or financial information of the importers involved which may not be disclosed under the provisions of 5 U.S.C. 552(b)(3) and (4) and sections 103.10(c) and (d), Customs Regulations (19 CFR 103.10(c) and (d)). Consequently, we are unable to furnish this information for transmittal to Representative Melcher.

Mr. Charles P. McAuley

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Customs is aware of the provision of the Freedom of Information Act which reads: "This section is not authority to withhold information from Congress." However, the Department of the Treasury has taken the position that this provision applies to requests from congressional committees and is not applicable to individual members of Congress.

You also inquired as to whether Customs obtained the names of the owners as well as those of the importers in administering that part of Proclamation No. 4253 which limits the amount any one entity could enter. Customs did not obtain this information. As we interpreted the Proclamation, Customs was obligated to restrict the amount of merchandise that any one importer or an affiliate or subsidiary of that importer could bring into the country, but was under no obligation to obtain the name of the owner of the merchandise at the time of entry or to follow the merchandise into commerce for this purpose.

If we can be of any further assistance to you, please let us know.

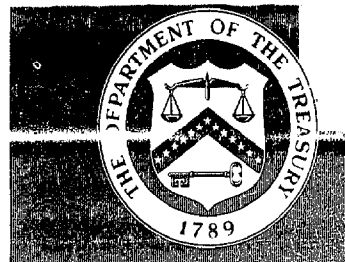
Sincerely yours,



W. A. MAGEE, JR.  
Assistant Commissioner  
(Security and Audit)

Mr. Charles P. McAuley  
Systems Director  
General Government Division  
United States General Accounting Office  
Washington, D. C. 20548

Attachments



ENCLOSURE

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FOR IMMEDIATE RELEASE

January 11, 1974

BUTTER AND BUTTER OIL QUOTAS

Certain quotas were established on butter and butter oil under Presidential Proclamation No. 4253 of October 31, 1973, for the period beginning November 1 and ending December 31, 1973. As there was no provision in the proclamation for licenses to be issued by the Department of Agriculture for the admittance of these articles into the commerce of the United States, the quotas were administered by the Treasury Department's U.S. Customs Service on a first-come-first-served basis.

The 22.6-million-pound quota on butter oil established by this proclamation was filled on December 14, 1973.

The countries of origin of the butter oil (TSUS 177.67) entered under the quota are as follows:

Belgium	7,881,676 pounds
Canada	233,280 "
France	2,589,139 "
Germany (West)	768,303 "
Ireland	1,085,657 "
Jamaica	6,773 "
Kenya	2,665 "
Netherlands	8,089,422 "
New Zealand	1,898,285 "
United Kingdom	<u>44,800 "</u>
<b>TOTAL</b>	<b>22,600,000 pounds</b>

(more)

The 56-million-pound quota on butter (TSUS 116.00 and .05) did not fill. Following is a summary of the allocations and amounts entered against each:

<u>Supplying Country</u>	<u>Quota Level</u>	<u>Pounds Released</u>
New Zealand	28,560,000	28,560,000
Member States of the European Economic Community (EEC)	24,640,000	23,563,568
Other Countries as follows: Argentina, Australia, Canada, Norway, Sweden, and Switzerland	2,800,000	2,799,993
TOTALS	56,000,000	54,923,561

The level of restraint on butter from New Zealand was reached on November 8, 1973. (Participating EEC Member States were Denmark - 2,050,682 lbs., France - 2,822,400 lbs., Germany - 1,177,475 lbs., Ireland - 12,948,993 lbs., and The Netherlands - 4,564,018 lbs. Other Countries participating were Argentina - 18,032 lbs., Australia - 1,756,832 lbs., and Sweden - 1,025,129 lbs.)

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BUTTER & BUTTER OILEXPORTED PRIOR TO NOVEMBER 1, 1973

(Presidential Proclamation No. 4253 (10/31/73))

	<u>Country</u>	<u>Amount (Lbs.)</u>
BUTTER	Argentina	18,032
	Denmark	276,770
	France	1,803,200
	Germany	1,177,475
	Ireland	9,476,748
	Netherlands	4,564,018
	New Zealand	28,560,000
	Sweden	<u>99,206</u>
	TOTAL	45,975,449
BUTTER OIL	Belgium	2,881,587
	France	1,025,141
	Jamaica	6,773
	Netherlands	5,567,455
	New Zealand	<u>1,179,637</u>
	TOTAL	10,660,593

BEST DOCUMENT AVAILABLE

INVOICE PRICES OF BUTTER AND BUTTER OIL EXPORTED PRIOR TO NOVEMBER 1, 1973

	<u>Butter</u>	<u>Butter Oil</u>
France	\$0.575 # FOB	\$0.55 # FOB
Ireland	0.60 # C.L.F. 0.80 # C.L.F.	- -
New Zealand	0.65 # C.L.F.	0.80 # C.L.F.
Netherlands	0.40 # FOB	0.51 # FOB 0.58 # FOB
Argentina	?	-
Denmark	0.72¢ # FOB	-
Sweden	0.50 # FOB	-
Germany	0.40 # FOB	-
Belgium	-	0.51 # FOB 0.58 # FOB
Jamaica	-	?