Since the quota was put into place, it was discovered that wheat gluten imports from the European Communities had entered the United States in excess of the allotted quota. The Trade Act of 1974 allows the President to make an additional order under section 203 to eliminate any circumvention of any previous action taken under this section.[180] This additional action took the form of a reduction in the European Communities' 1999–2000 wheat gluten quota in the amount of the excess over the 1998 quota entering the United States.

On June 30, 1999, the European Communities requested a WTO panel to consider the safeguard measures imposed by the United States on imports of wheat gluten. It alleged that the U.S. action was in breach of several WTO obligations, including the Most Favoured Nation principle, the Agreement on Safeguards and the Agreement on Agriculture.

On December 22, 2000, the WTO Appellate Body released its findings. The Appellate Body upheld the panel's finding that the United States had acted inconsistently with its obligations under the Agreement on Safeguards, by excluding imports from Canada and Mexico from the application of the safeguard measure after conducting an investigation including imports from all sources, including Canada and Mexico, to determine whether increased imports were causing or threatening to cause serious injury. For reasons of judicial economy, the Appellate Body declined to rule on whether the exclusion per se was inconsistent with U.S. obligations.

9 Lamb Meat

Following receipt of a petition filed on October 7, 1998, on behalf of nine sheep industry associations, the ITC initiated a safeguard investigation, under section 202 of the Trade Act of 1974, on imports of lamb meat.

On April 7, 1999, the ITC unanimously determined that fresh, chilled or frozen lamb meat was being imported into the United States in such increased quantities as to be a substantial cause or threat of serious injury to the domestic industry producing an article like or directly competitive with the imported article. Pursuant to the NAFTA Implementation Act, the ITC made a negative finding with respect to imports of lamb meat from Canada and Mexico.

The ITC determined that although the U.S. lamb industry was not currently experiencing serious injury, factors relevant to future industry performance were negative. During the period of review (1993–1998), the industry had experienced massive changes in market conditions. Demand for lamb meat was consistently low, subsidies for wool had recently been terminated, and major lamb exporters (e.g., Australia and New Zealand) were increasing their exports. The ITC found that imports had been increasing in both actual and relative terms. Actual imports

180 § 204(b)(2).