

capacity utilization, and unit labour costs had almost doubled. While there were minor improvements in several factors during the most recent year, these improvements were found to be isolated. The ITC found a direct correlation between the dramatic increase in wheat gluten imports and the significant decline in domestic wheat gluten industry performance in 1996 and 1997. Accordingly, the ITC found that the domestic wheat gluten industry was seriously injured and that increased imports were both an important cause of serious injury and a cause that was greater than any other cause.

With respect to remedy, the ITC unanimously recommended that the President impose a four-year quantitative restriction on imports of the subject merchandise, in the amount of 126 million pounds in the first year, to be increased by 6% in each subsequent year that the action would be in effect. Within the overall quantitative restriction, the ITC recommended that the President allocate separate quantitative restrictions for the European Union, Australia and "all other" non-excluded countries, taking into account the disproportionate growth and impact of imports of wheat gluten from the European Union.

Having made negative findings with respect to imports of wheat gluten from Canada and Mexico under section 311 (a) of the NAFTA Implementation Act, the ITC recommended that such imports be excluded from the quantitative restriction.

## **8.1 Canadian Government Activity**

On December 11, 1997, the Government of Canada submitted a brief to the ITC presenting Canada's position: that, based on NAFTA and U.S. law, imports of wheat gluten from Canada should be excluded in the event that the ITC recommended import relief.

On May 30, 1998, the President proclaimed a three-year quantitative limitation on imports of the subject goods at an amount equal to 126.812 million pounds in the first year; this represented total average imports in the crop years from June 30, 1993, through June 30, 1995. The amount was to increase by 6% annually for the duration of the relief period. The quotas were allocated based on average import shares in the 1993-1995 period. Import shares of countries excluded from the quota were assigned on a prorated basis to countries subject to the quota. The President also proclaimed that pursuant to section 312 (b) of the NAFTA Implementation Act, the quantitative limitation would not apply to imports of wheat gluten from Canada or Mexico.

The President further directed the U.S. Trade Representative, with the assistance of the Secretary of Agriculture, to seek to initiate international negotiations in order to address the underlying cause of the increase in imports of the article, or otherwise to alleviate the injury found to exist.

On March 17, 1999, the European Communities requested consultation with the United States over this matter but the two parties never reached a satisfactory resolution.