The Evolution of GATT/WTO Dispute Settlement

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Introduction

Despite debuting to little fanfare under the General Agreement on Tariffs and Trade (GATT), dispute settlement under the World Trade Organization (WTO) has been called the "backbone of the multilateral trading system."[1] Indeed, whereas GATT dispute settlement could scarcely have seemed more flawed,[2] the WTO's Dispute Settlement Understanding (DSU) is widely touted for boosting confidence in an increasingly rules-based global economy.[3] Why such starkly different views of GATT and WTO dispute settlement? The conventional wisdom is that the GATT's diplomatic norms have been supplanted by the WTO's more legalistic architecture,[4] resulting in a system in which "*right* perseveres over *might*."[5] Perhaps unsurprisingly, many observers insist that a wider variety of Members—and *developing* countries, in particular—are achieving more favourable results in dispute settlement due to the reforms introduced with the DSU and the WTO's greater clarity of law.

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[1] Moore 2000.

[2] Castel 1989; Young 1995; Pescatore 1997.

[3] Petersmann 1997; Steger and Hainsworth 1998; Horn and Mavroidis 2001.

[4] See Jackson 1978; 1998.

[5] Lacarte-Muro and Gappah 2000, 401.