market power—to retaliate. In this sense, as one noted observer puts it, "[t]he 'legalization' of disputes under the WTO stops, in effect, roughly where non-compliance starts."[35] How, then, has the DSU influenced patterns of dispute settlement?

Developing countries

A glance at the data on concessions between 1980 and 2000 reveals the WTO boasts a more favourable track record than the "mature" GATT period: overall, defendants have liberalized disputed policies more fully since the DSU came on line.[36] The data further reveals, however, that developing-country complainants have not benefited as much under the WTO as wealthier complainants. On the one hand, *developing*-country complainants gained full liberalization from defendants 36 percent of the time under the GATT, a figure that has risen to 50 percent under the WTO. On the other hand, this is far surpassed by the gains achieved by *developed*-country complainants, which secured full liberalization from defendants 40 percent of the time under the GATT, but 74 percent of the time under the WTO. Why are developing countries falling short? The answer is that these countries are failing to induce defendants to settle early, *not* that they disproportionately receive unfavourable verdicts, or that they lack the market power necessary to (credibly) retaliate.

Recent empirical work estimates the probability of full concessions by a defendant, looking at the influence of the WTO (versus the GATT) and the complainant's level of development (i.e., per capita income). The complainant's absolute market size (overall GDP) as well as the income and GDP of the defendant are controlled for, as is the question of whether a panel was formed, the direction of any ruling, whether the case had multiple disputants or third parties, whether the case centered on an agricultural policy, strictly discriminated against the complain-

[35] Pauwelyn 2000, 338.
[36] Busch and Reinhardt 2003b.