

or traded services is 43 percent more likely to conclude in full concessions by the defendant under the WTO than under the GATT. In contrast, the probability of concessions by defendants, more generally, is *no more likely* than under the GATT.⁴² Keep in mind that this result accounts for the differing legal dispositions of each case.

The model produces a number of other interesting quantitative results. Specifically, defendants are 22 percent *less* likely to concede in multilateral as opposed to purely bilateral disputes; 43 percent *less* likely to make concessions in SPS or cultural cases; yet 33 percent *more* likely to concede in cases involving purely discriminatory measures; and 24 percent *more* likely to make concessions in agricultural cases. Most telling, the defendant is far more likely to concede in *advance* of a ruling, rather than after, regardless of the direction of the ruling. Starkly, a ruling for the defendant reduces the probability of full concessions by 63 percent; a mixed ruling by 43 percent; and a ruling for the *complainant* by roughly 25 percent. Clearly, when the US and EC litigate to a verdict, concessions in transatlantic disputes are *less* likely.

One commonly held view in the literature is that the success of early settlement under the GATT is increasingly less evident under the WTO, especially in consultations.⁴³ While bargaining in the shadow of the law proved efficacious under the GATT's more diplomatic system, the argument is that the DSU's reforms may have made litigation attractive, motivating complainants to push for a definitive verdict. As evidence, many observers point not only to the caseload at the panel stage, but the frequency of appeals to the AB. Moreover, the received wisdom is that consultations are *pro forma* at best.

In fact, the proportion of cases paneled differs little across the GATT/WTO years; the WTO's greater caseload reflects growth in the institution's membership and in the volume of

⁴² The coefficient of *WTO Case* in Table 3 is positive but hardly larger than its standard error, so we cannot with statistical confidence reject the very likely possibility the WTO has had no effect whatsoever.

⁴³ Wethington 2000, 587.