

scribe to the view that, as a result of these legal reforms, WTO dispute settlement unfolds differently than under GATT. The data tell a different story: *early settlement*, which we define as concessions negotiated in advance of a ruling, yields the most favourable policy outcomes under the WTO, much as it did under the GATT. Dispute settlement provides a forum in which Members bargain in the "shadow of the law;" while WTO adjudication yields less ambiguous and more binding legal decisions, the evidence suggests that the DSU's reforms *per se* have *not* made early settlement more likely, as compared to the GATT system. In fact, certain aspects of these legal reforms have made early settlement *less* likely in key respects, placing developing countries, in particular, at a disadvantage.

This finding runs counter to conventional wisdom; the risk of pro-plaintiff rulings by panels and the Appellate Body (AB), which carry greater weight under the WTO, would be expected to induce *more* early settlement, yet this is not happening. Together with evidence on the lack of compliance with rulings more generally, this finding casts doubt on the hypothesis that the DSU's legal reforms *per se* deserve credit for the WTO's successes. Rather, the WTO's improved record appears to owe more to the expanded scope of "actionable" cases under new agreements, and the propensity for wealthy complainants to prevail over developing countries, the latter being more likely to be defendants in WTO than GATT cases. These results warrant careful consideration in weighing proposals for dispute settlement reform in the Doha Development Agenda.

This chapter proceeds in five sections. Section II explains the logic of early settlement. Section III provides an overview of GATT dispute settlement, looking at the impact of legal reform on patterns of early settlement. Section IV turns to the DSU, paying special attention to the experience of developing countries and the transatlantic relationship. Section V takes up several of the more salient reforms proposed for dispute settlement under the Doha Development Agenda in light of these findings. Section VI concludes.