

suggests that neither the *Improvements* nor the *Understanding* helped sponsor more early settlement.<sup>19</sup>

Which pairs of disputants were most likely to settle early under the GATT? Interestingly, pairs of highly democratic states (measured on a 20-point scale) were especially likely to negotiate up front. Consider three hypothetical cases: US-Canada, India-Canada and Brazil-Canada, which, respectively, obtain the maximum, the 25<sup>th</sup> percentile and 10<sup>th</sup> percentile "joint democracy" score in a sample of all GATT cases. Controlling for other attributes of these cases, the US-Canada case would have been only 3 percent more likely to settle in consultations than the India-Canada case, but fully 21 percent more likely to settle early than the Brazil-Canada case. This is especially noteworthy in light of the finding that the US and Canada would have been *no* more likely to make concessions at the *panel* stage than other pairs of disputants.

Further empirical work shows this relationship occurs in WTO disputes as well. This suggests that pairs of highly democratic countries benefit from having more latitude to negotiate in consultations before the case gains visibility at the panel stage, where both international and domestic "audience costs,"<sup>20</sup> and thus electoral concerns, are likely to weigh heavily on these governments. True, an adverse ruling is likely to inspire greater concessions from a defendant than is a ruling upholding the status quo (see Table 2),<sup>21</sup> but the point is that the *overall* level of concessions after a ruling is expected to be lower than in cases ending prior to a ruling, just as the evidence presented earlier indicates.

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<sup>19</sup> Busch 2000.

<sup>20</sup> Fearon 1997.

<sup>21</sup> The one GATT-era case in which the defendant conceded despite a ruling fully in its favor was the US vs. Netherlands dispute, Action under Article XXIII:2. This case, an early GATT-era equivalent of a WTO 22.6 panel, concluded that the proposed Dutch retaliatory quantitative restriction on US wheat flour (57,000 metric tons) was the appropriate level. The Netherlands formally kept the quota on the books for 7 years but declined throughout to enforce it, allowing uncapped imports from the US in practice (Hudec 1993, 430).