

Is this account borne out by the data? And does the empirical record offer clues as to the likely efficacy of further refinements of the DSU?

This chapter takes up these questions, offering statistical evidence on patterns of dispute settlement under the GATT and WTO regimes. The results help disentangle two related hypotheses in the literature. The first hypothesis is that the WTO has had greater *success* than the GATT in inducing favourable policy outcomes in dispute settlement. At first glance, the data would appear to confirm this hypothesis: roughly three-fifths of disputes filed under the GATT resulted in at least partial concessions⁶, a percentage that increases to four-fifths under the WTO. But there are two important caveats to add here, one being that, unlike their richer counterparts, poorer complainants have not clearly received greater concessions from defendants in the WTO era, the other being that the WTO has fared no better than the GATT in resolving disputes between the US and European Communities (EC). Still, the bigger picture is that the WTO *has* improved on the GATT's surprisingly strong performance for an important category of cases, raising the question: Why?

The second hypothesis speaks to this question, attributing the WTO's successes to the DSU's legal reforms. In contrast to the GATT's diplomatic norms, which were criticized for lacking the "teeth" necessary to induce compliance, the DSU has been described as perhaps being "the most developed dispute settlement system in any existing treaty regime."⁷ In particular, the DSU fills in where the GATT seemed to fall so terribly short, notably by formalizing a complainant's right to a panel, providing for the automatic adoption of panel reports (save by "negative consensus"), affording appellate review, and establishing a mechanism with unified jurisdiction over all disputes arising under the covered agreements. Many observers sub-

⁶ By concessions we mean measures by the defendant to liberalize its contested trade measure(s), conceding to some or all of the complainant's demands.

⁷ Palmeto 2000, 468