



# **DEVELOPING COUNTRIES AND THE DISPUTE RESOLUTIONS SYSTEM OF THE WTO**

*Presentation to the Investigation and Judgement Committee of Industry Injury  
State Economic and Trade Commission of the People's Republic of China  
São Paulo, November 28, 2001*

**Durval de Noronha Goyos Jr.**  
**São Paulo**  
**Noronha-Advogados**

São Paulo, Rio de Janeiro, Brasília, Curitiba, Salvador, Manaus, Porto Alegre  
Londres, Lisboa, Miami, Los Angeles, Buenos Aires, Shanghai



## **SUMMARY:**

- 1. Introduction;**
- 2. History of the Dispute Settlement Negotiations at the Uruguay Round of GATT;**
- 3. Procedural Rules of the Dispute Settlement System of the WTO;**
- 4. Institutional and Procedural Failures of the System;**
- 5. Operational Failures of the System;**
- 6. The Developing Countries in the Dispute Settlement System of WTO;**
- 7. Conclusions.**



## **AREAS OF INTERNAL LAW INFLUENCED BY INTERNACIONAL LAW:**

### ***1 - Formulation by IMF***

- 1.1- Tax Law;**
- 1.2 - Social Security Law;**
- 1.3 - Monetary Policy; and**
- 1.4 - Fiscal Policy.**

### ***2 - Formulation by the WTO***

- 2.1 - Intellectual Propriety;**
- 2.2 - Foreign Trade;**
- 2.3 - Investments;**
- 2.4 - Customs Policy;**
- 2.5 - Agriculture;**
- 2.6 - Industry; and**
- 2.7 - Services, including professionals.**

## **GLOSSARY OF LEGAL TERMS IN THE WTO PROCESS:**

<i>English language</i>	<i>WTO jargon</i>
Action at law -	<i>Complaint</i>
Appreciation of appeal -	<i>Reconsideration</i>
Arbiter -	<i>Panellist</i>
Plaintiff -	<i>Complainant</i>
Hearing -	<i>Substantive meeting</i>
Plea -	<i>Formal Complaint</i>
Court -	<i>Panel</i>
Case -	<i>Complaint; dispute</i>
Hearing -	<i>Oral trial</i>
Decision -	<i>Recommendation</i>
Derogation -	<i>Prejudice</i>
Initial -	<i>Submission</i>

## **GLOSSARY OF LEGAL TERMS IN THE WTO PROCESS:**

*English language*

*WTO jargon*

**Jurisprudence -**

*Practice*

**Award -**

*Report*

**Object of the action -**

*Reference term*

**Petition -**

*Submission*

**Execution proceeding -**

*Implementation*

**Procedure -**

*Working Procedure*

**Response -**

*Submission*

**Defendant -**

*Respondent part*

**Repeal -**

*Nullification*

**Session -**

*Substantive meeting*

**Rejoinder -**

*Submission*

## **SCHEDULE OF THE CHRONOLOGICAL PROPOSAL FOR THE WORK OF THE LOWER COURT PANEL:**

**a) Receipt of the first written submission of the parties:**

- *complaining party* **3 to 6 weeks**

- *defendant party* **2 to 3 weeks**

**b) Day, hour and place of the first substantive meeting with the parties; session of the third interested**

**1 to 2 weeks**

**c) Receipt of the written pleas of the parties**

**2 to 3 weeks**

**d) Day, hour and place of the first substantive meeting with the parties**

**1 to 2 weeks**

## **SCHEDULE OF THE CHRONOLOGICAL PROPOSAL FOR THE WORK OF THE LOWER COURT PANEL:**

**e) Issue of the descriptive party of the award  
to the parties**

**2 to 4 weeks**

**f) Receipt of the comments of the parties to the  
descriptive party of the award to the parties**

**2 weeks**

**g) Issue of the preliminary award, including the  
arguments and conclusions to the parties**

**2 to 4 weeks**

**h) Period for the party to request revision of  
party of the award**

**1 week**

## **SCHEDULE OF THE CHRONOLOGICAL PROPOSAL FOR THE WORK OF THE LOWER COURT PANEL:**

- i) Period of revision for the panel, including possible additional meeting with the parties**  
**2 weeks**
- j) Issue of final award to the dispute parties**  
**2 weeks**
- k) Circulation of the final award to the members**  
**3 weeks**





## **APPEAL SCHEDULE:**

### **Day**

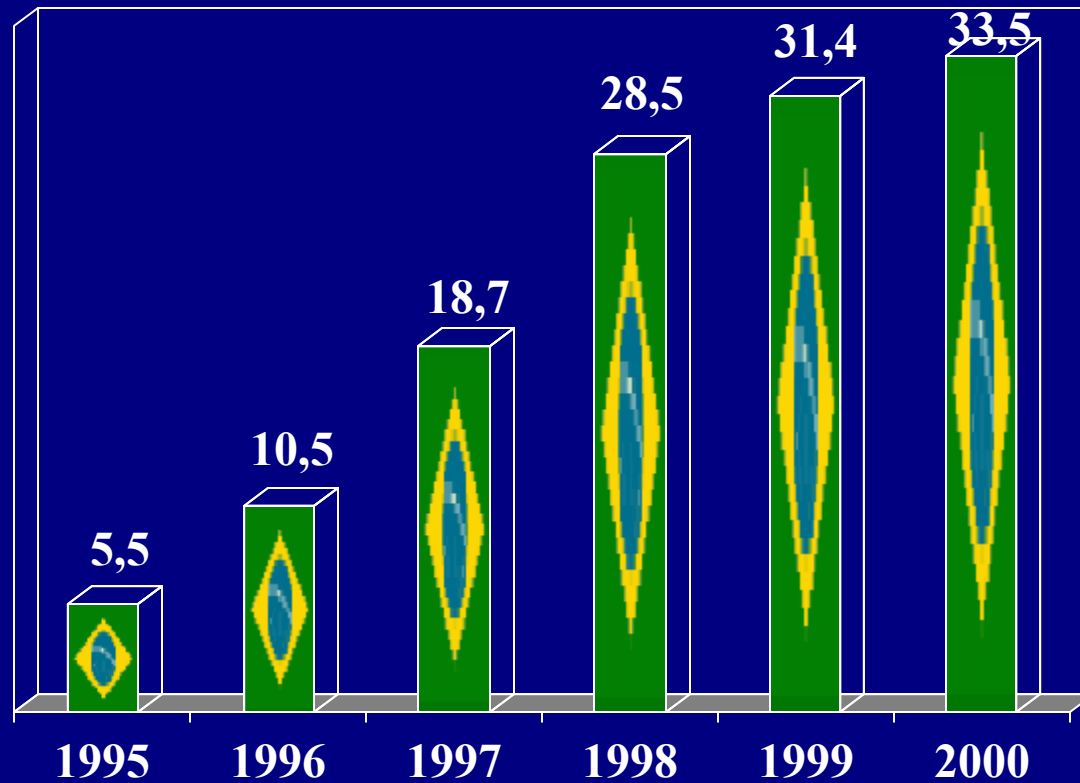
<b>Appeal notice</b>	<b>0</b>
<b>Appellant submission</b>	<b>10</b>
<b>Other appellant submission</b>	<b>15</b>
<b>Appellee submission</b>	<b>25</b>
<b>Oral preliminary hearing (sic)</b>	<b>30</b>
<b>Appeal award circulation</b>	<b>60 a 90</b>
<b>ORD meeting for adoption</b>	<b>90 a 120</b>



# CONCLUSIONS

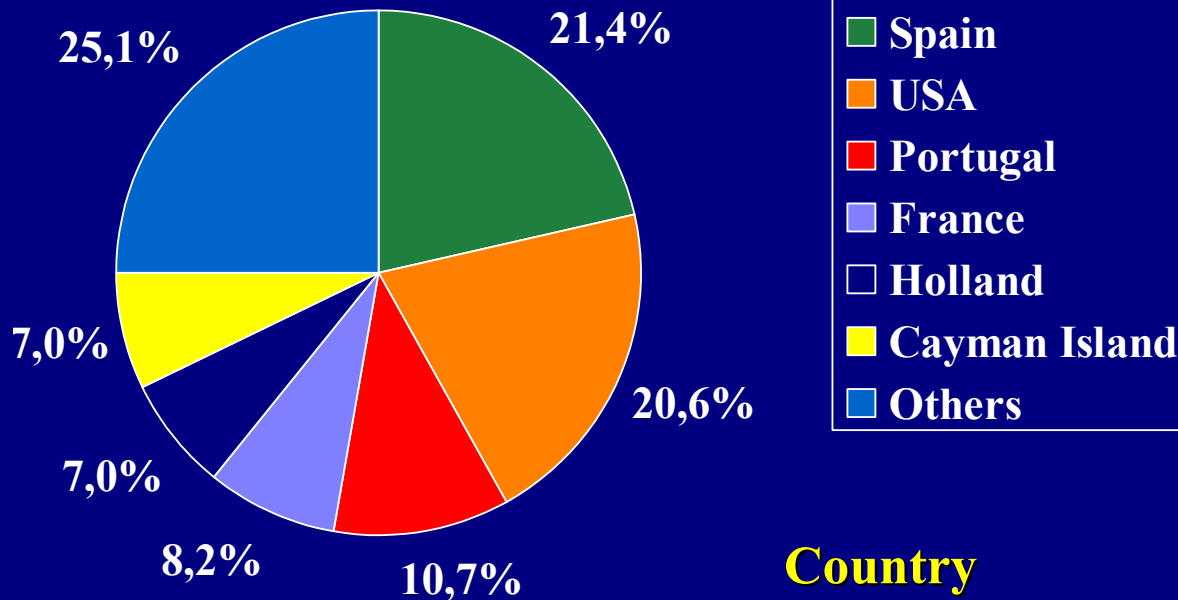


# Brazil - Foreign Direct Investment - US\$ billions





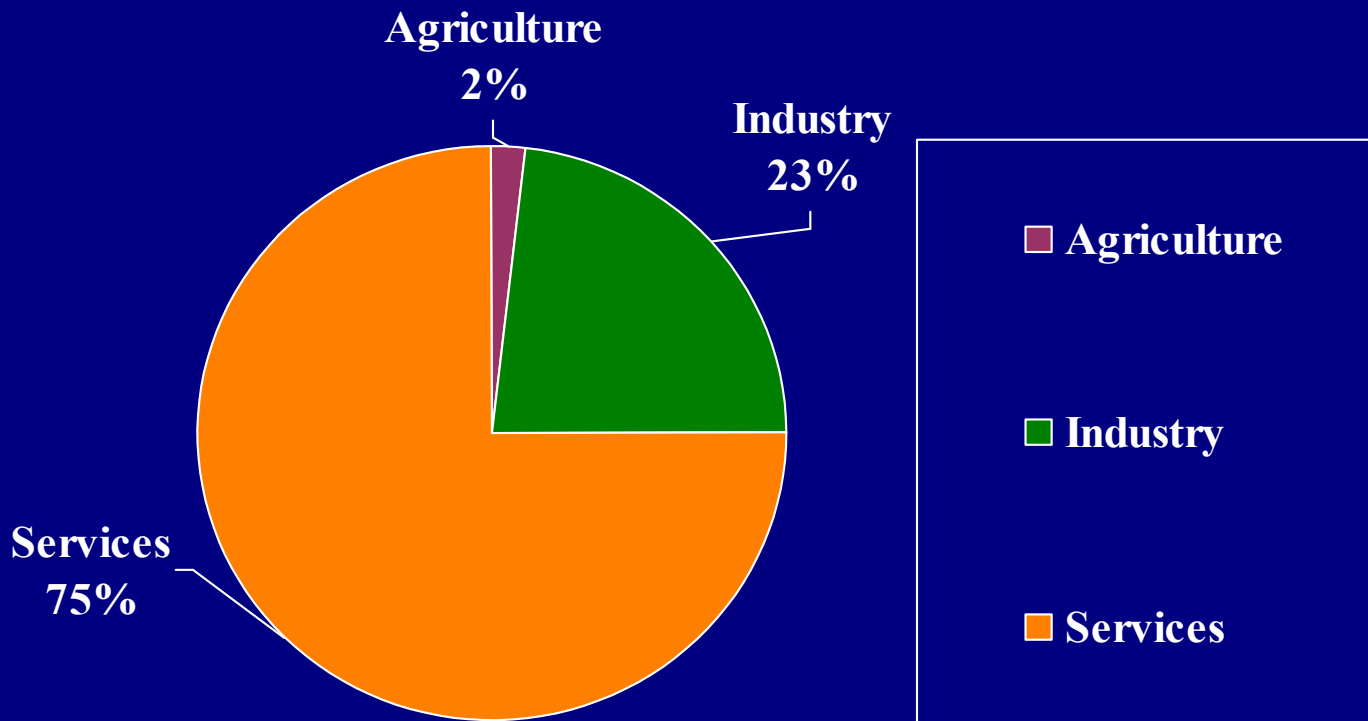
# Brazil - Foreign Direct Investment - by countries



Country	US\$ billion
<i>Spain</i>	5,2
<i>USA</i>	5,0
<i>Portugal</i>	2,6
<i>France</i>	2,0
<i>Holland</i>	1,7
<i>Cayman Island</i>	1,7
<i>Others</i>	6,1



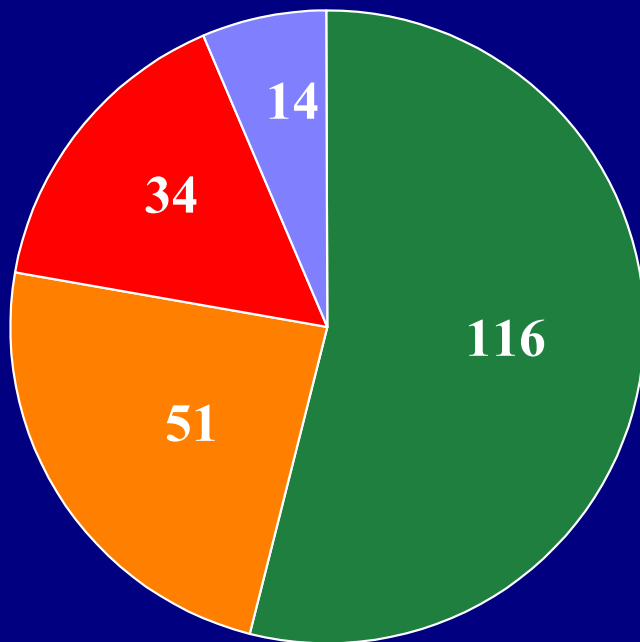
# Brazil - Foreign Direct Investment - by sector



# Developing Countries and The Dispute Resolution System of the WTO

*Figures as of January 15, 2001*

**220** COMPLAINTS AS OF JANUARY 15, 2001



■ Resolved During Consultations

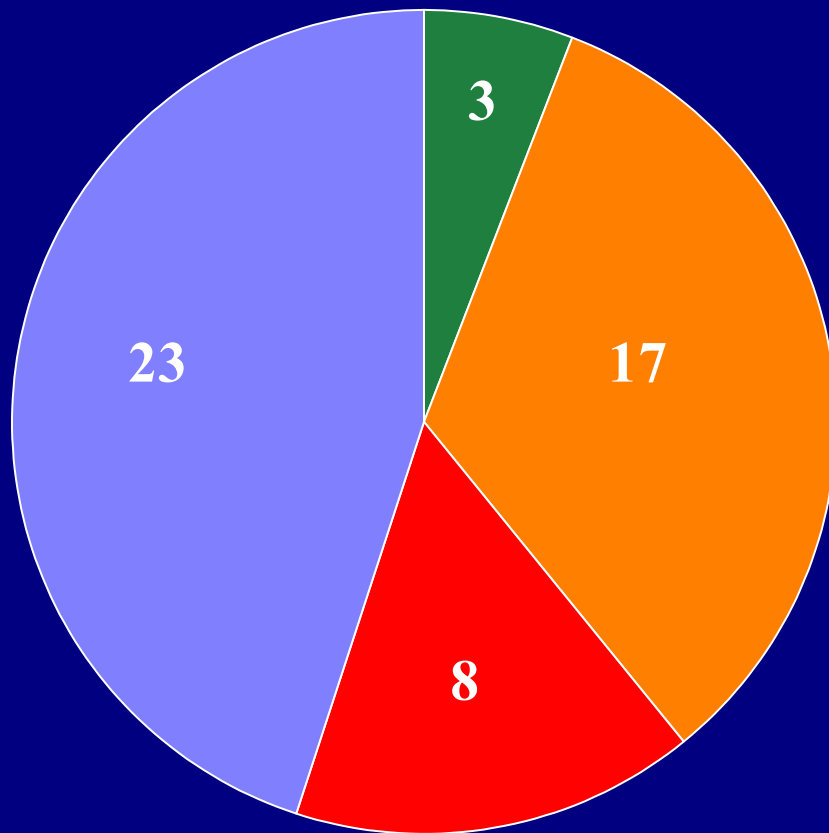
■ Resolved by Definitive Decisions of the DSB

■ Semed or innactive

■ Pending

# DSB Nature of the Parties as of January 2001

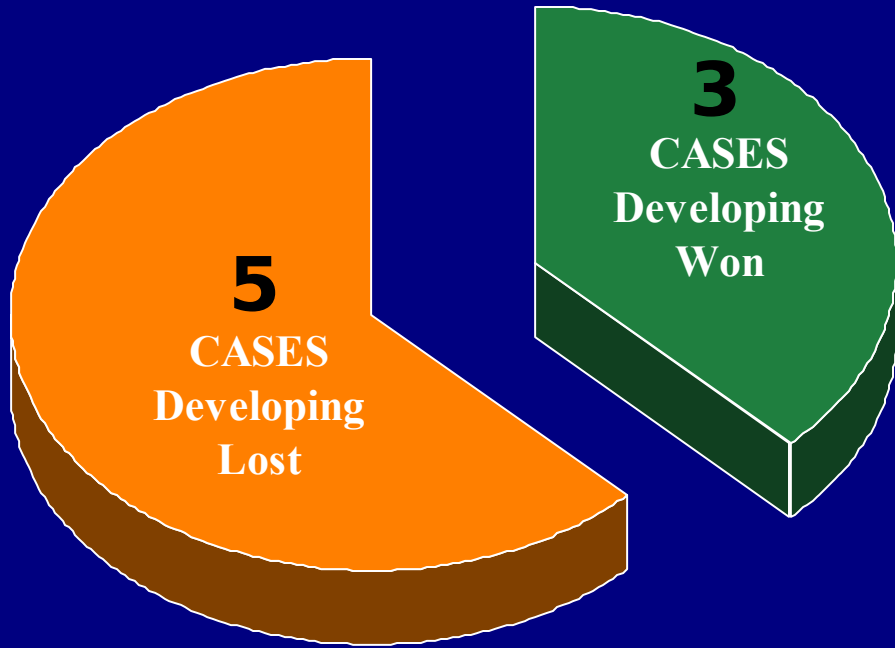
**51 CASES**



- Developing Country Against Developing Country
- Developed Country Against Developing Country
- Developing Country Against Developed Country
- Developed Country Against Developed Country

# 8 Cases Developing Countries as Plaintiffs against Developed Countries

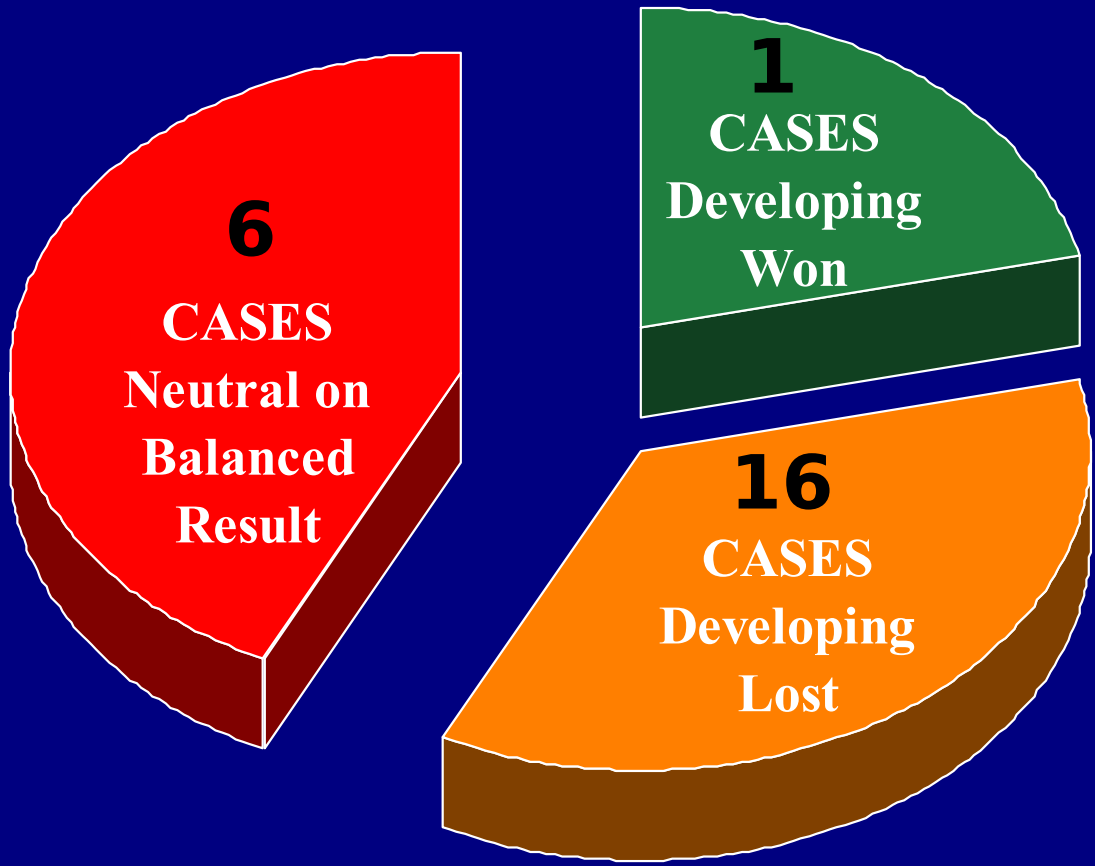
*Jan.2001*





# 23 Cases Developed Countries as Plaintiffs against Developing Countries

*Jan.2001*



# Total History of Developing vs. Developed Countries at the DSB

*Jan. 2001*

