ORIGINAL ARTICLE

Enlargement processes and distributional conflicts: The politics of discriminatory membership in the European Union*

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Abstract This paper examines discriminatory membership in the European Union from a game-theoretical perspective. I argue that discriminatory membership enables the enlargement of international organizations with heterogenous member states. EU members impose discriminatory measures on new members to redistribute enlargement gains from new members to particularly negatively affected EU members as to render expansion pareto-efficient. The empirical findings of a probit analysis on the EU accession negotiations and outcomes of all five EU enlargement rounds support the theoretical claim. The EU grants acceding states restricted membership rights if distributional conflicts emerge. Moreover, the candidate's bargaining power and the possibility of alternative compensation schemes influence the enlargement outcomes.

Keywords Enlargement · European Union · Discriminatory membership · Transitional periods

1 Introduction

In 2004, almost 17 years after the Turkish government had officially applied for European Union (EU) membership, the EU finally decided to open accession negotiations. This decision comes as surprise because many EU governments appeared rather reluctant to admit Turkey to the European club. Most of them immediately asserted that the applicant would have to accept several derogations from the common acquis. Germany already called for permanent restrictions on the free movement of labor while France and other EU members suggested to refuse an allocation of agricultural subsidies to Turkish farmers. As a matter of fact,

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the accession of states to the EU never took place without an agreement on some form of transitional periods.

Although the EU member states often have referred to transitional periods when distributional conflicts arose in the enlargement process, the transitional allocation of limited membership rights – or discriminatory membership – as a strategy to accomplish EU enlargement has never been fully acknowledged in the literature. Consequentially, many authors treat at least the Southern and Eastern enlargements as puzzling because the gains from enlargement did not outweigh the losses for at least some EU members (e.g., Baldwin & Portes, 1997; Torreblanca, 2001).[1] According to the literature, these members must have accepted the accedence of candidates, *although* they suffered a severe loss from approving expansion. To solve this puzzle, Schimmelfennig (2001, 2003) proposes to depart from a pure rationalist framework. While EU governments largely pursue self-interested preferences and goals in the accession process, EU widening succeeded because the drivers of enlargement referred to the common liberal values and norms, persuading the brakemen to approve the admission of the candidates.

This paper presents a game-theoretical model of discriminatory membership in the EU which largely builds upon those scholarly insights. However, I transcend the literature by arguing that EU widening may be accomplished *despite* existing distributional conflicts if one accounts for discriminatory membership. In a nutshell, EU enlargement has always triggered distributive conflicts and political tensions among EU members. Historically, economically advanced EU members were usually more supportive of enlargement than EU members that are structurally weak or agriculturally oriented. In the Eastern enlargement, for example, the main beneficiaries of structural aid and agricultural subsidies belonged to the relative losers of enlargement since all applicant states would be eligible for those transfers upon their accession. In 2000, approximately 10.8% of the population of the candidate states were still employed in the agricultural sector.[2] Moreover, a majority of the regions which currently receive large structural transfers from the EU would lose their eligibility after enlargement (Eurostat, 2005). In the same line, Greece was reluctant to approve the admission of Spain and Portugal because it feared a dramatic decline of structural aid for its regions. Distributional conflicts did not, however, only arise in budgetary issues. Germany and Austria, for example, anticipated that a liberalization of the labor market would lead to massive labor movements from the new member states, causing social and economic disruptions.[3] The relative losers pose an obstacle to the accession of applicants since enlargement has to be approved unanimously. If distributive conflicts emerge, then enlargement only succeeds if either the relative winners of enlargement within the EU or the candidate states accept a redistribution of the enlargement gains at their expense to compensate the relative losers of expansion. Discriminatory membership presents one possible redistributive instrument. Phasing-in membership rights for candidates that cause political tensions may render the relative losers' veto dispensable.

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[1] In general, possible enlargement costs result from an increase in the political heterogeneity of the EU (Alberto & Spolaore, 1997; Ruta, 2005), a further loss in the EU member state's policy autonomy (Braun, 2001; Holzinger, 2001), a loss in the old members' bargaining power (Welfens, 1995; Brams, 1975; Brams & Affuso, 1985; Hosli, 1993; Widgren, 1994; Johnston, 1995), or the lack of the EU members' financial capacity especially to admit economically weak countries. Potential benefits range from the reduction of negative externalities (Yarbrough & Yarbrough, 2001; Roland & Verdier, 2000; Baldwin & Portes, 1997), an increase of the members' political leverage in the new member states (Brou & Ruta, 2004), to the diffusion of international norms (Sjurson, 2002; Schimmelfennig, 2001, 2003).

[2] This compares to a mere 5.6% within the EU member countries.

[3] See Schneider (2006) for an in-depth case study on the EU Eastern enlargement and the conflicts around the free movement of workers.

By limiting the newcomers rights to free movement, for example, Germany and Austria were not concerned about possible labor market disruptions anymore.

The theory provides important insights for theories of EU enlargement. EU widening was accomplished although some members expected serious losses in one or the other policy field because members and non-members could compromise on a deal in which either the drivers of enlargement within the EU or the candidates redistributed some of their enlargement gains in favor of the brakemen of expansion. In the EU Eastern enlargement, candidates agreed to receive full agricultural subsidies only after a period of ten years. In the same line, EU members often accepted some form of inner-union redistribution. Germany, for example, raised its long-term budgetary contributions to ensure enlargement to Spain and Portugal.[4] Hence, if the overall gains from expansion are positive, thus, if at least some other members or the candidates benefit from the admission of candidates, then the EU and the candidates may find strategies as to ensure EU widening. As a consequence, enlargement may be explained *within* the rationalist framework if scholars acknowledge that the EU member states and the candidate governments may negotiate the distribution of the enlargement gains.

To assess the theoretical argumentation, I empirically analyze the conditions on which EU members and the candidates in the five EU enlargement waves have compromised on the allocation of limited membership rights in four EU policies. The findings bolster my claim that EU newcomers accept differentiated membership if their accession causes distributional conflicts across EU member states. Discriminatory membership, thus, serves to compensate the relative losers of enlargement as to make EU widening politically viable. Accordingly, this study does not only present a first theoretical and empirical analysis of discriminatory membership in the EU. With the theoretical and empirical underpinnings of discriminatory membership, it presents an explanation of why the EU accomplishes the accession of further states to the union despite the distributive effects of EU enlargement.

2 Theoretical model

This section presents a bargaining model elucidating the allocation of differentiated membership rights in the EU. The theoretical model illuminates how distributional conflicts and political tensions may arise and how current and future members negotiate the allocation of the integration utility in the accession negotiations. Based on the diverging benefits EU members draw from the EU policies, some members states may face relative utility losses from at least unconditional enlargement while others aim at inducing them to support the accession of candidates. The laggards of enlargement condition their approval on either a redistribution of enlargement gains within the union (between the EU member countries) or a discrimination of new members. The negotiations between members opposing and members advocating enlargement as well as the EU and the applicant allow for a derivation of the conditions under which these outcomes likely occur. The equilibrium solution of the model centers on the outcome of discriminatory membership since I am most interested in why EU members and candidates compromise on discriminatory measures against acceding states. A differentiation of membership rights occurs if distributional conflicts arise for at least some EU members, and if, for applicant countries, a phase-in of membership rights renders pareto-superior to non-membership.

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[4] Greece had threatened to impose a veto on enlargement if it would not be appropriately compensated for its losses of structural transfers.

2.1 Assumptions

The model rests on a standard political economy model (e.g., Persson & Tabellini, 2002). Governments are rational actors who aim at maximizing the aggregated welfare of the country they govern, and thus, always choose a strategy guaranteeing their survival in power. In their decision-making, governments discount the future, meaning that gains (losses) that apply today are higher (lower) than the gains (losses) in the future. On these preconditions, they negotiate the conditions under which they (a) accept EU membership and (b) support the accession of further states to the Union. Since enlargement has to be approved unanimously, it fails if some EU members experience relative losses.

The net utility, u_{ij}, individual members, M_i, receive from EU membership is composed of some basic cooperation benefits, b_i, which are positively increasing in the membership size, M, budgetary costs, R, that arise from the harmonization of common policies,[5] and political costs, μ, as a consequence of the heterogeneity of policy preferences, $\mu \geq 0$.[6] Finally, individual states gain from the harmonization of policies, p_j. The EU policies are the issues subject to common decision-making, such as the integration of the common market and the Common Agricultural Policies (CAP). For simplicity and without any loss of generalizability, I assume that the EU harmonizes two policies, p_1 and p_2.[7] In the following, I assume that those policies differ in respect to their consumption rivalry, λ_j (Buchanan, 1965). Membership benefits decline in the number of main beneficiaries if the policy is subject to rivalry, thus if $0 < \lambda_j \leq 1$.[8] Each member's share of structural or agricultural transfers, for example, decreases in the number of eligible member states.

The members' preferences towards each policy are heterogeneous.[9] Members associate themselves with one of two subgroups, M_1 and M_2, *within* the organization according to their preferences towards the common policies. France belongs to the subgroup of EU members advocating the allocation of agricultural subsidies because it is the main beneficiary of those funds currently. While the French agricultural sector turns out relatively large, the country is not a main beneficiary of structural aid. Greece, on the other hand, would align with the EU members preferring structural transfers owing to its large number of poor regions, which turns the country into a main recipient of these funds. Thus, EU member countries value different common policies within the EU according to their gains from those policies. The affiliation with one or the other subgroup does *not* imply that members only benefit

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[5] This implies an increase in budgetary costs as the number of common policy areas increases, thus $R = \sum_{j=1}^{P} p$. However, costs decline in the number of EU members.

[6] Political costs emanate from the loss in independent policy-making and state sovereignty concerning the common EU policies. The less contingent the EU members' policy preferences, the higher the political costs (Alesina & Etro, 2001; Plümper, Schneider & Tröger, 2006).

[7] My ultimate goal is to acknowledge the heterogeneity of preferences of the members states towards the common policies. It is important to show that members receive more benefits from some policies than from others and that they may suffer distributional conflicts if many EU members are eligible for the same benefits. For such an investigation, it is not necessary to assume a whole range of common policies.

[8] Some of the common EU policies such as the Common Statistics or the Common Environmental Policies do not affect single members negatively due to an increase in the number of EU members supporting this policy. Conflicts in the accession negotiations always result from the redistributive effect of EU enlargement which is only observed for rival policies.

[9] Note that p_1 and p_2 are constant. Initially, members may not change their provision explicitly. In the accession negotiations, EU members and candidates indirectly change the provision of benefits to the single members by either restricting the newcomer's access to those benefits or by raising their budget contributions to increase the benefits for the members in the two subgroups.

from one policy. Parameter α_{ij} indicates each state's appraisement of the other available policy, $0 \leq \alpha_{ij} \leq 1$. Parameter α_{ij} acknowledges that France does not only gain from the CAP, but that some French regions also receive structural transfers. The larger α_{ij}, the more France benefits from structural aid in addition to agricultural subsidies. However, the fact that members of one subgroup also benefit from the other policy hurts members of the other subgroup. Next to being a main beneficiary of structural transfers, Greece, for example, also receives CAP subsidies. The country's share of those transfers eventually decreases the share of all other CAP recipients.

2.2 Membership benefits and EU enlargement

Owing to the heterogeneity of preferences towards the common policies, members of the two subgroups face different utilities from EU membership. Equations (1) and (2) exhibit the individual net utility for individual members in each subgroup:

$$u_{i1} = \left[b_i M + p_1 M_1^{-\lambda_1} + \alpha_{i1} p_2 M_2^{-\lambda_2} \right] - \left[R M^{-1} - M^\mu - \alpha_{i2} p_1 M_2^{-\lambda_1} \right] \qquad (1)$$

$$u_{i2} = \left[b_i M + p_2 M_2^{-\lambda_2} + \alpha_{i2} p_1 M_1^{-\lambda_1} \right] - \left[R M^{-1} - M^\mu - \alpha_{i1} p_2 M_1^{-\lambda_2} \right] \qquad (2)$$

Now, assume that O outsiders attempt to join the Union. All of them benefit from policy p_2 and would belong to subgroup M_2 after their accession. The new member states would be, for example, eligible for agricultural subsidies, but not for structural transfers. A graphical analysis of both utility functions may illustrate the impact of outsiders on the membership utility of the current member states. For an increasing number of outsiders which accede to the Union, the utility of both, subgroup M_1 and M_1, is computed holding the other parameter values fixed.[10] The two functions in Figure 1 depict the EU members' valuation of enlargement given that all outsiders become main beneficiaries of p_2. The reference point is the utility before expansion. I marked the reference point u_{ij} if $O = 0$ with a dotted line in the graph.

The graph illustrates a diverging impact of expansion on the current members' utility. Although both subgroups experience rising membership utilities up to seven outsiders, evidently, the utility of the slower growing subgroup increases more sharply. In this numerical example, with 22 or more outsiders joining the Union (and subgroup M_2), members of subgroup M_2 face a utility less than the utility before enlargement. Although the increasing number of contributors have a positive effect on the common budget, this effect does not compensate for arising distributional conflicts that owe to a rising number of recipients. As a consequence and in the example used throughout the paper, EU widening would fail due to the refusal of the main CAP beneficiaries if the conflicts are not resolved during the accession talks. Members of subgroup M_2, thus, appear as the possible brakemen of EU expansion while members of subgroup M_1 emerge as the proponents of enlargement.

Conflicts that affect EU members differently, thus, only arise from the distributive effect of enlargement within the policy fields. A widening of the EU and the new members' contributions to the common budget may countervail the diminishing benefits within the policy field. This explains the rise in M_1's utility and the slight increase in M_2's utility after enlargement, until more than seven states join the Union. Nevertheless, the larger the number of main beneficiaries within a policy field, or the larger the benefits each member receives from those funds, the more likely the current beneficiaries experience relative losses after expansion.

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[10] Here: $\alpha_{ij} = 0.5$, $\mu = 1.01$, $\lambda_j = 0.5$, $M_2 = 1.5 * M_1$, $M_1 = 1$, $R = 2$, $b_i = 1$, $p_j = 1$. The results do not change substantially if the parameter values differ.
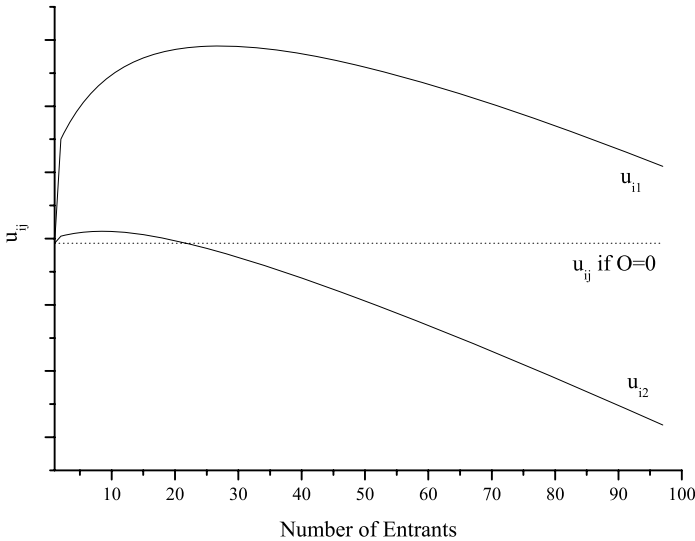
Fig. 1 The impact of enlargement on EU member states

Contrariwise, members that do not face distributional conflicts (members of M_1) experience rising benefits of cooperation and a decrease in the resource and governance costs without facing deteriorating benefits within their favorite policy field. Those actors expect to belong to the relative winners of enlargement, ceteris paribus.

EU members refuse to grant full membership to outsider states if the gains from the admission of non-members do *not* compensate for the declining gains in their favorite policy field. In this case, members of M_2 condition their approval on a redistribution of gains either within the community, or at the expense of the candidate. Inner-union redistribution implies a rise in either the funds for p_2, or the overall budget which is allocated to the common policies. Redistribution is also possible if the applicant accepts to receive only limited benefits in its preferred policy area p_2. Those outcomes are well represented in the EU. At some points in its history, the EU accepted candidates without any qualification of membership or other measures of redistribution. None of the EU member states, for example, objected the accession of Austria, Finland, and Sweden in 1995, besides some tensions in the Common Fisheries Policies. Most enlargements, however, have been accompanied by some form of redistribution. Inner-union redistribution occurred for instance when Spain and Portugal entered the EU. Here, Germany agreed on an increase in contributions to satisfy Greece, which had threatened to block the admission of the two candidates due to their eligibility for structural funds. In the same expansion, Spain and Portugal had to accept limited access to agricultural subsidies as demanded by France and other net recipients of the CAP funds. The Eastern expansion finally provides a nice example for mixed strategies within policy fields. On the one hand, the ten new member states will receive an asymmetric share of CAP subsidies for the next ten years. Additionally, the current members compromised on a reform of the CAP to reduce the costs incurred by the net contributors to the budget.

Each group's preferences towards the available strategies differ. Members of subgroup M_2 prefer non-membership, differentiated membership, or inner-union redistribution to unconditional enlargement. Members of subgroup M_1, on the other hand, prefer unconditional or conditional admission to non-membership or a redistribution of enlargement gains

at their expense. Finally, the outsider prefers unconditional admission or a redistribution between the EU members to non-membership and qualified membership. Based on these preferences, the three subgroups negotiate the conditions under which further states may join the European club.

2.3 Accession negotiations and enlargement outcomes

Since EU governments decide the admission of states to the EU unanimously, the accession negotiations take the form of a simple ultimatum game with complete information and consist of three stages and three players: subgroup M_1, subgroup M_2, as well as outsider O.[11] Recall, the outsiders will be main beneficiaries of p_2, and thus, aim at entering subgroup M_2. The structure of the game mirrors the EU accession negotiations. At the first stage, members of subgroup M_1 propose a deal to subgroup M_2 about the allocation of enlargement gains. Members of subgroup M_1 may either propose no redistribution, or offer to increase the funds that are allocated to policy p_2 at the group's own expense, d_{M1}. Alternatively, they may recommend granting candidates limited eligibility for subgroup M_2's preferred policy, thus, the outsider would receive differentiated membership rights. At the second stage, members of M_2 decide whether they accept or reject M_1's proposal. Their reservation point is just their utility before expansion. Expansion fails if they reject the offer. Otherwise, the deal serves as their common position in the negotiations. The candidate, at the third stage, either accepts the offer and enters the EU or opts for non-membership. Its reservation point is determined by available outside options. Insiders as well as outsiders have full information about both reservation points. The equilibrium enlargement outcomes fulfill the requirements of the coalition-proofed Nash equilibrium (Bernheim & Whinston, 1987a, b) which takes the multilateral component of the accession negotiations into account.[12]

From these assumptions, the equilibrium strategies $S^*[M_1, M_2, O]$ in the enlargement process may be derived by deducing the amount of d_{M1}, d_{M2}, and d_O for which each group approves of enlargement, respectively. At the third stage of the game, the outsider has to decide whether it accepts the membership rights offered by the Union. The candidate accedes if

$$b_i(M + O) + p_2(M_2 + O)^{-\lambda_2} + \alpha_{i2} p_1 (M_1)^{-\lambda_1} + \alpha_{i1} p_2 (M_1)^{-\lambda_2} - R(M + O)^{-1} - \delta_i$$
$$-(M + O)^\mu - d_O \geq 0 \tag{3}$$

Note, the outsider's bargaining power is largely determined by the gains from membership, possible discrimination, and its outside options, δ_i. On this condition, the maximum restriction within policy field p_2 which the outsider accepts is

$$\max[d_O] = b_i(M + O) + p_2(M_2 + O)^{-\lambda_2} + \alpha_{i2} p_1 (M_1)^{-\lambda_1} + \alpha_{i1} p_2 (M_1)^{-\lambda_2}$$
$$-R(M + O)^{-1} - (M + O)^\mu - \delta_i \tag{4}$$

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[11] I may aggregate over the two subgroups since all members within a subgroup are similarly affected by expansion and therefore have common preferences towards EU enlargement.

[12] Since group M_1 disposes of the first-mover advantage, it would offer to grant new members restricted access to the preferred policy in order to minimize d_{M1} whenever possible. The implications of the first-mover advantage where already discussed by Stackelberg (1934). Another equilibrium solution could follow the Rubinstein notion where the two players just divide the difference. Yet, other equilibrium solutions do not crucially alter the results of the game.

At the second stage, members of M_2 decide whether they oppose or approve enlargement based on the deal proposed by the drivers of enlargement. They support enlargement if

$$
\begin{aligned}
&b_i(M + O) + \alpha_{i2} p_1 (M_1)^{-\lambda_1} + p_2(M_2 + O)^{-\lambda_2} - R(M + O)^{-1} - (M + O)^{\mu} + d \\
&-\alpha_{i1} p_2 (M_1)^{-\lambda_2} - \alpha_{i2} p_1 (M_1)^{-\lambda_1} - p_2 (M_2)^{-\lambda_2} + RM^{-1} + M^{\mu} \\
&-b_i M + \alpha_{i1} p_2 (M_1)^{-\lambda_2} \geq 0
\end{aligned}
\tag{5}
$$

Then, the minimum amount of redistribution d_{M2} subgroup M_2 requires is

$$
\begin{aligned}
\min[d_{M2}] = {} & p_2\big(M_2^{-\lambda_2} - (M_2 + O)^{-\lambda_2}\big) - R[M^{-1} - (M + O)^{-1}] + (M + O)^{\mu} \\
& - M^{\mu} - b_i O
\end{aligned}
\tag{6}
$$

Finally, at the first stage, the drivers of enlargement would offer some inner-union redistribution such that:

$$
\begin{aligned}
&b_i(M + O) + p_1 (M_1)^{-\lambda_1} + \alpha_{i1} p_2 (M_2 + O)^{-\lambda_2} - R(M + O)^{-1} - (M + O)^{\mu} - d \\
&-\alpha_{i2} p_1 (M_2 + O)^{-\lambda_1} - p_1 (M_1)^{-\lambda_1} - \alpha_{i1} p_2 (M_2)^{-\lambda_2} + RM^{-1} + M^{\mu} \\
&-b_i M + \alpha_{i2} p_1 (M_2 + O)^{-\lambda_1} \geq 0
\end{aligned}
\tag{7}
$$

Accordingly,

$$
\begin{aligned}
\max[d_{M1}] = {} & b_i O + \alpha_{i1} p_2\big((M_2 + O)^{-\lambda_2} - M_2^{-\lambda_2}\big) + M^{\mu} + R[M^{-1} - (M + O)^{-1}] \\
& -(M + O)^{\mu}
\end{aligned}
\tag{8}
$$

Here, I am most interested in the equilibrium conditions on which differentiated membership provides an alternative to non-enlargement solving the distributional conflicts arising within the EU. Generally, unconditional enlargement fails if the larger subgroup experiences net costs from enlargement. Subgroup M_1's second best outcome is to offer the candidate restricted access to their favorite policy. In equilibrium, new members are granted discriminatory membership rights if $\min[d_{M2}] > 0$ and $\max[d_O] - \min[d_{M2}] \geq 0$. Thus,

$$
\begin{aligned}
S^*[M_1, M_2, O] = {} & [\text{Discriminatory Membership}] \quad \text{if} \\
& b_i(M + O) + (1 + \alpha_{i1})\big[p_2(M_2 + O)^{-\lambda_2}\big] - p_2 M_2^{-\lambda_2} + \alpha_{i2} p_1 M_1^{-\lambda_1} \\
& -\alpha_{i1} p_2 M_1^{-\lambda_1} - R(M^{-1} - (M + O)^{-1}) - 2(M + O)^{\mu} - M^{\mu} - \delta_i \\
& \wedge p_2\big(M_2^{-\lambda_2} - (M_2 + O)^{-\lambda_2}\big) - R\big[M^{-1} - (M + O)^{-1}\big] \\
& +(M + O)^{\mu} - M^{\mu} - b_i O
\end{aligned}
\tag{9}
$$

EU members and candidates agree on the allocation of differentiated membership rights, as long as the maximum possible extent of differentiation for which the outsider still accepts membership exceeds the minimum amount of redistribution for which the enlargement-sceptics approve of EU expansion. If the net recipients of CAP subsidies condition their approval on a redistribution of enlargement gains, then, as long as the candidates would

still accede to the Union, members favoring structural transfers offer a deal in which new members would not receive the EAGGF subsidies they are eligible for, but a limited share.

2.4 Hypotheses

From the mathematical conditions for the equilibrium enlargement outcomes, it is possible to derive the conditions under which new members transitionally receive limited membership rights given the alternative outcomes. Recall, acceding states would receive (and accept) differentiated membership rights when (a) some EU member states face relative loses from unconditional admission, and (b) if the maximum amount of restrictions the candidate accepts suffices to compensate the current members' losses. Otherwise, EU expansion only succeeds if some members accept a redistribution of enlargement gains at their expense. To assess the impact of the aggrandizement of the EU on the probability of differentiated membership, it is of the upmost importance to examine the behavior of the two equilibrium functions – $F(\min[d_{M2}])$ and $F(\max[d_O]-\min[d_{M2}])$ – for an increasing size of the Union *given all other parameters* because distributional conflicts largely owe to the size of the EU. These functions present the conditions under which each enlargement outcome – and in particular, discriminatory membership – occurs. Additionally, I graph $F(\max[d_{M1}]-\min[d_{M2}])$ to examine the potential for inner-union redistribution.

Figure 2 exhibits the three equilibrium functions and the effect of the expected number of members after enlargement on the odds of differentiated membership given the other parameters.[13] The results are discussed with reference to the example I referred to throughout the theory. The main CAP beneficiaries (M_2) would *not* always decide to reject unconditional enlargement, if no more than 23 members belong the Union. Up to this point, they do *not* face utility losses, even though all newcomers are eligible for the CAP funds. This may owe to the gains from economic integration and rising trade benefits which compensate for the losses in the share of agricultural subsidies. Above a size of 23, the CAP recipients would impose a veto on unconditional admission because they face net losses (since $F(\min[d_{M2}]) > 0$). As the second best strategy, the proponents of enlargement (M_1) offer differentiated membership rights to new members. In this example, they may propose granting new members only limited access to the CAP funds until 35 members belong to the union. Otherwise, the candidate would reject any discrimination that sufficed to compensate the enlargement laggards (since $F(\max[d_O]-\min[d_{M2}]) < 0$). From then, enlargement only succeeds if the proponents of enlargement follow a strategy that includes discriminatory membership and (or just) inner-union redistribution. Such a strategy is sufficient until the Union reaches 60 member states. From then, enlargement would fail owing to distributional conflicts that may neither be compensated by the winners of enlargement nor by the candidate states.

The graphic illustrates the potential for enlargement if EU members pursue different strategies. Most importantly, the graph exhibits that the likelihood of a redistribution at the expense of the candidate accelerates if distributional conflicts emerge.

Hypothesis 1. If some current EU members expect to experience distributional conflicts upon enlargement, then the probability increases that applicant states receive discriminatory membership rights, ceteris paribus.

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[13] As above: $\alpha_{ij} = 0.5$, $\mu = 1.01$, $\lambda_j = 0.5$, $p_j = 1$, $b_i = 1$, $R = 2$, $M_2 = 1.5 * M_1$, $M_1 = 1$. Again, the exact fix-points are less important since I am solely interested in the behavior of the curves (and less in the overall amount) if the parameter under investigation changes.
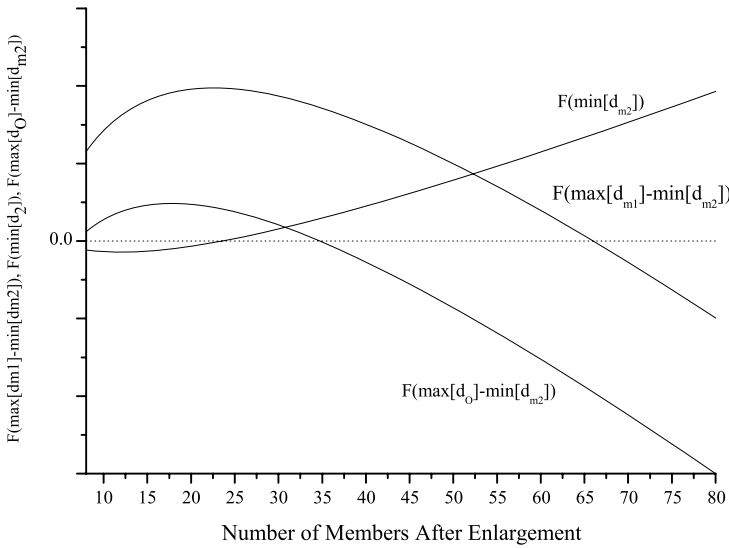
Fig. 2 Varying number of members, distributional conflicts, and the likelihood of differentiated membership

The theoretical model thereby suggests that the likelihood of distributional conflicts especially increases in the size of the Union.

As of yet, discriminatory membership has always been phased-in. The differentiation of membership has been transitional because permanent derogations, so far, have been incommensurate with existing EU law. Nevertheless, differentiated membership rights still compensate the relative losers of enlargement since governments discount the future. In other words, if newcomers are discriminated against, then enlargement gains accrue immediately while the losses fully apply only after the transition period. This has tremendous implications for the cost-benefit calculus of EU members – the costs decline while the gains increase even if the future is only moderately discounted. To exemplify, by restricting the access of the Central and Eastern European states to the CAP subsidies for a certain period, France and other main beneficiaries experience higher gains from EU enlargement in the short run (because they do not face declining subsidies) even though those costs will apply after ten years. However, since those states rate the short-time gains higher than the long-time costs, phasing-in membership suffices to compensate the brakemen of enlargement. Additionally, political leaders in EU member countries expect that their time in power is limited. Thus, governments trigger voter support because of the short-term benefits of expansion. At the same time, they do not have to deal with the frictions enlargement may cause in the long-run. Finally, governments in laggard countries anticipated that the acceding states would structurally adjust after accession. Due to the common policies, the size of the agricultural sector may decline, new members do not delay infra-structural investment, and per capita income between old and new members begins to converge.

However, acceding states do *not* always accept a phase-in of membership rights. Current member states only demand for compensation if they expect to suffer relative losses from enlargement. Thus, discriminatory membership is only granted to acceding states if some current members experience distributional conflicts. Additionally, in every enlargement round, EU applicant states have clarified that they would not enter the Union under any circumstance. The candidate's outside options heavily influence its willingness to accept phase-in periods.

They presented an obstacle for the accession of Norway and even lead the EU to increase the number of objectives in the European Reconstruction and Development fund (ERDF) such that Finland and Sweden would receive structural transfers after their accession. Even the Eastern European candidates possessed bargaining leverage. Although some EU members originally had demanded restrictions on the free movement of workers for more than eleven years, the EU and the candidates compromised on a protection of European labor markets for only seven years and a deal in which EU members are able to liberalize their labor markets before the end of the transition period.

Accordingly, discriminatory membership does not enable enlargement if the applicant is not willing to bear the side-payments that would suffice to compensate the enlargement-sceptics. EU widening, then, only succeeds if the drivers approve of some inner-union redistribution of gains at their expense. From this, two additional testable hypotheses may be derived:

Hypothesis 2. The greater the candidate's bargaining power, the lower the probability that applicant states receive discriminatory membership rights, ceteris paribus.

Hypothesis 3. The more likely the proponents of EU enlargement accept some inner-union redistribution, the lower the probability that applicant states receive discriminatory membership rights, ceteris paribus.

In sum, the probability of discriminatory membership most crucially depends on (a) whether some current members face net enlargement costs, (b) the candidate's bargaining power, and (c) the importance the drivers of EU widening attach to expansion.

3 Empirical analysis

This section takes the theoretical argument to an empirical test and examines whether arising distributional conflicts and the candidate's bargaining power influence the likelihood that states receive only limited membership rights when they enter the European club. In the empirical analysis, I draw on four EU policies: the Free Movement of Workers, the Common Agricultural Policies, the Common Structural Policies, and the Common Fisheries Policies. The examination of these policy areas appears most appropriate for several reasons. First, for these policies, restricted membership was granted in almost all enlargement rounds, but not for all new member states. It is possible to detect acceding states that accepted discrimination in a given policy field, but also candidates for which the EU did not restrict membership. This guarantees sufficient variation on the dependent variable. Probably most important, differentiated membership is expected the most for these policy fields. The failure to detect restrictions, when it is expected, would most unambiguously falsify the theoretical claim. The analysis of those policies, thus, provides the most thorough test of the theory. Finally, because these policy areas belong to the group of the most prominent policies, sufficient coding information is available.

The data set captures all successfully completed EU enlargement waves until 2004[14] whereby the dyad old member-candidate state for each of the four policies serves as level

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[14] Denmark, Ireland, and Great Britain in 1973, Greece in 1981, Portugal and Spain in 1986, Austria, Finland, and Sweden in 1995, and Malta, Cyprus, Hungary, Poland, Slovakia, Slovenia, Estonia, Latvia, Lithuania, and the Czech Republic in 2004.

of analysis.[15] Hence, the data set is a cross section over the five enlargement rounds and all pairs of old and new member states.

The theoretical model makes predictions about the likelihood that current members and applicants agree on the allocation of asymmetric membership rights to the newcomers in order to solve distributional conflicts. To test this relationship, I refer to a simple binary operationalization of the dependent variable. The variable takes the value 1 if a candidate formally accepts differentiated membership in the policy field under investigation, and 0 if the EU member does not discriminate the applicant. The EU accession treaties provide the relevant information (Treaty of Accession, N.d.). Here, the EU keeps hold of all temporary derogations from the common acquis. As example, eight Central and Eastern European candidate countries were discriminated in the field of the Free Movement of Workers for the old member states except the United Kingdom and Ireland. Moreover, Cyprus and Malta belong to the latter category because they received the right of free movement directly upon accession.

Following the structure of the data set, I code the variable for each dyad, enlargement round, and EU policy. For the Freedom of Movement, discrimination takes place if newcomers accept restricted access to the labor market of an EU member state. For the Common Fisheries Policies, the dependent variable takes on 1 if a new member has to reduce its fleet or limit its fishing capacity, or if it receives limited access to an EU member's fishing territory. In regards to the Common Agricultural Policies, I focus on differentiated treatment concerning the amount of agricultural subsidies allocated to new members. An asymmetric allocation of agricultural subsidies is coded as 1. The same applies for the Common Structural Policies. The variable takes on 1 if new members receive only limited eligibility for structural aid.

The independent variables of main interest capture the theoretically deduced factors that influence the likelihood of discriminatory membership. Hypothesis 1 implies that the expected number of EU members after enlargement exerts an impact on the fate of unconditional accession. The larger the EU, the more members have to share the benefits within the policy field. Accordingly, EU members are more prone to distributional conflicts and political tensions and the limitation of membership rights is more likely, everything else equal. The variable is measured as the expected number of EU Members after accession. In addition, I incorporate the variable *Demand for Differentiation* to account for the emergence of distributional conflicts and political tensions especially since the size of the EU by itself should not have an impact on labor market disruptions. Tensions arise if there exists a potential of a mass influx of cheap labor. The variable is dichotomously coded as 1 if an EU member demands for the discrimination of a candidate state in a certain policy field and 0 otherwise.[16]

A measurement of the quality of outside options appears difficult. Several approximations exist, but none seems fully satisfying because it is impossible to operationalize the utility from non-membership. I thus refer to different variables which at least indirectly measure the outsider's bargaining power. First of all, I employ *Share of GDP per capita to EU average*, which is coded continuously as the GDP per capita in (PPS) as EU average (Eurostat, 2005). Economically weak countries value EU membership higher than economically advanced

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[15] A dyad is defined as a pair of states, here, an EU member state and a candidate state. The examination of dyads is a prerequisite because it captures the theoretical notion that only the enlargement laggards gain from the allocation of differentiated membership rights. In fact, in many areas, not all EU member states benefited from discriminatory measures against the acceding countries.

[16] Information on this variable comes from a systematic content analysis approaching documents of the EU parliament (European Parliament, 1999), summaries of the relevant EU Council summits, reports of the EU Commission, various publications, and some official interviews (e.g. Fischer, 1999; Kok, 2001; Persson, 1999). Finally, information was received from international newspapers offered by the data base 'Lexis-Nexis'.

countries. Moreover, current members prefer to admit richer countries, to avoid further strains on the common budget. Additionally, the more a state exports to EU countries, the more it should aim at acceding to the Union. The variable *Amount of Exports to EU/GDP* measures the amount of exports of an applicant state to the European Union in US Dollars as a ratio of the applicant's GDP. Since the bargaining power in the accession negotiations may as well arise from the candidates' outside options as a group, I included *Trade Union* exhibiting the volume of trade between the group of candidate countries as a ratio of their trade with the EU. The higher the ratio, the more valuable the establishment of a free trade area, which would concur with the EU. Coding information for both variables comes from the *Direction of Trade Statistics* of the International Monetary Fund IMF.[17]

Those variables to some extent capture the willingness of EU member states to compensate the enlargement laggards by means of inner-union redistribution. The more important a candidate state's accession to the EU for current member states, the smaller the probability of discriminatory membership. To further explore the trade-off between discriminatory membership and inner-union redistribution, I employ *Budgetary Ceiling*. The variable accounts for the likelihood that EU members benefiting from enlargement accept some inner-union redistribution by raising the overall budget. It is operationalized as the ceiling on the own resources as percentage of the Union's GNP. Information was received from the EU Budgetary Vade-Mekum.

Several variables control for the robustness of the estimated coefficients. Dummy variables for each EU policy catch the diverging influence of the policies on differentiated membership. Further variables acknowledge potentially dominant institutional factors. *Regime Type* denotes the level of democracy on a range from 0 to 10. The Polity IV data set provides the necessary information (Marshall & Jaggers, 2003). *Change to Majority Voting* serves as dummy variable measuring whether the decision-making rules were altered from unanimity to majority voting in a given policy field. To account for an EU member's expected loss in its bargaining power within the union, *Change of Voting Power in EU Council* captures the change of each member's voting power after enlargement as a percentage of total votes. Information was obtained from the EU web page. Moreover, I expect that the higher the EU member's budgetary contributions, the more reluctant they are to unconditionally accept non-members seeking membership. *EU Budget Contributions* measures each member's financial contributions to the EU budget as a percentage of total contributions (EU Budgetary Vade-Mekum). *Rivalry* serves to distinguish between rival and non-rival policies operationalized as dummy variable which takes the value 1 if the EU policy is rival in consumption and 0 if not.[18] Finally, I test for possible spillover effects. The course of accession negotiations suggests that if some EU members achieved transitional periods to their advantage, other EU members also received these safeguard measures. The dummy variable *Dependency of Preferences* takes 1 if an EU member did *not* demand the qualification of membership, and, if another member demands differentiated membership in a given policy field. Table 1 presents descriptive statistics.

Since the dependent variable is binary coded, I refer to a probit analysis in estimating the effects of the exogenous variables on the likelihood that EU member states and

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[17] Economic factors certainly do not solely determine the group's bargaining power. Yet, it appears impossible to assess the likelihood to establish a concurring political group. Thus, these variables just serve as the best possible approximate.

[18] Hence, all dyads for which the EU policy are CAP subsidies or ERDF transfers are coded as 1. I defined the Common Fisheries Policies to be non-rival. This appears true to some extent only. Yet, the results do not change due to a different coding scheme.

Table 1 Descriptive statistics

Variable	N	Mean	SD	Min	Max
Demand for Discrimination	872	0.24	0.43	0	1
GDP per capita	872	62.62	25.11	31.1	129.7
Amount of Exports/GDP	872	7.56	33.81	0.01	422
Trade Union	872	0.17	0.11	0	0.48
Change to Majority Voting	872	0.786	0.41	0	1
Expected Number of EU Members	872	20.22	6.29	9	25
Budgetary Ceiling	872	1.23	0.11	1	1.4
Dependency of Preferences	872	0.38	0.49	0	1
Rivalry	872	0.50	0.50	0	1
EU Budget Contributions	872	7.93	8.27	0.12	31.14
Democracy	872	9.28	1.12	6	10
Change Voting Power EU Council	872	−1.72	1.14	−6.29	−0.27
Agriculture	872	0.25	0.43	0	1
Free Movement of Workers	872	0.25	0.43	0	1
Structural Funds	872	0.25	0.43	0	1

candidate countries compromise on the allocation of differentiated membership rights.[19] Table 2 presents the results of the probit model. Model 1 incorporates the variables of main interest. Models 2 and 3 serve to check for the robustness of the results by including a battery of control variables.

As Table 2 illustrates, the model fits the data well. Model 2 predicts 95.63% of the observations correctly. Additionally, I may reject the null hypotheses that all independent variables are jointly equal to zero based on the highly significant results for the Wald test.

I now turn to the interpretation and discussion of the substantive results. The probability that new members accept the qualification of membership increases in the size of the EU. The larger the EU, the more likely some EU members oppose unconditional expansion, and the more inclined members are to redistribute the enlargement gains at the expense of the candidates. The model also depicts that if distributional conflicts arose between old and new members in a certain policy field and if current EU members demanded for the discrimination of the applicant, then the chance that this candidate is discriminated against increases. Thus, differentiated membership in fact serves to solve distributional conflicts between EU member states.

This is a ceteris paribus condition since a redistribution of enlargement gains at the expense of the acceding states largely depends on their value for current EU members. While the coefficient on *EU Budget Contributions* turns out positive, but not robust over the different model specifications, it appears that the more beneficial the entrance of applicant states to the Union for current EU members, the more likely EU members accept the candidates without discrimination by bearing some of the costs of expansion. The more economically advanced the country, and the less dependent it is on trade with the European area, the less likely candidate states are to accept limited membership rights, all other things being equal. Furthermore, countries with a high quality of democratic institutions do not have to fear discriminatory treatment. If candidates have strong trading relations with each other, then EU members are less inclined to condition admission on the acceptance of differentiated

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[19] I further employ the Huber-White sandwich estimator to control for potential heteroscedasticity across EU members.

Table 2 Probit model for the likelihood of discriminatory membership

Variables	Model 1	Model 2	Model 3
Number of Expected	0.038	0.764	0.043
EU Members	(0.006)**	(0.185)**	(0.006)**
GDP per capita	−0.031	−0.084	−0.033
as EU average	(0.001)**	(0.018)**	(0.001)**
Amount of Exports/	0.002	0.007	0.002
GDP (Applicant)	(0.000)**	(0.002)**	(0.000)**
Trade Union	−1.753	0.337	−2.123
	(0.240)**	(1.308)	(0.247)**
Demand for	1.491	3.601	1.414
Differentiation	(0.376)**	(0.616)**	(0.418)**
Ceiling on EU Budget	1.838	0.309	1.983
	(0.197)**	(0.562)	(0.200)**
Change to Majority Voting		−9.764	
		(2.431)**	
Rivalry		0.022	
		(0.197)	
Dependency of		3.316	
Preferences		(0.603)**	
EU Budget Contributions		0.011	
		(0.010)	
Regime Type		−0.337	
		(0.090)**	
Change of Voting		−0.188	
Power in EU Council		(0.113)	
Agriculture			0.876
			(0.153)**
Free Movement			0.825
of Workers			(0.061)**
Structural			0.154
Funds			(0.216)
Intercept	−0.595	−3.269	−1.073
	(0.218)*	(0.855)**	(0.257)**
N	872	872	872
Wald χ^2	1460.89**	661.41**	2100.62**
Pseudo R^2	0.4359	0.7679	0.4744

Standard errors are in parentheses. $P > 0.01 = \dagger$, $P > 0.05 = *$, $P > 0.001 = **$

membership. The potential for a free trade area among candidates as an alternative to accession seems to strengthen the candidates' leverage in the accession negotiations. However, the variable is not robust to the inclusion of additional control variables in Model 2.

For the control variables, the positive coefficient on *Rivalry* indicates that the probability of differentiated membership is significantly higher for the Common Agricultural Policies and the Common Structural Policies, both indivisible in consumption. However, the variable is not significant at conventional levels of significance. The dummies for CAP Subsidies, ERDF Funds, and the Free Movement of Workers positively affect differentiation while the Common Fisheries Policies (as indicated by the intercept) negatively relate to the probability of discrimination. *Change to Majority Voting* exerts a negative impact on the odds of discrimination. Hence, the less restrictive the decision-making process, the less likely newcomers are granted discriminatory membership. The positive influence of *Dependency of Preferences* implies that the introduction of transitional periods for the full

Table 3 Predicted Probabilities (in %) for the likelihood of differentiated membership

	All other variables				
Variable of interest	Worst sample value	25th sample percentile	Sample median	75th sample percentile	Best sample value
Expected number of EU members					
9	00.00	00.00	00.01	98.46	100.00
10	00.00	00.00	00.17	99.83	100.00
12	00.00	00.00	08.17	100.00	100.00
15	00.00	00.00	81.57	100.00	100.00
25	00.00	02.02	100.00	100.00	100.00
Share of GDP per capita to EU average					
Max. sample value: 129.7	00.00	00.00	00.00	22.27	100.00
25th sample percentile: 76.2	00.00	00.00	00.10	99.99	100.00
Sample median: 56	00.00	00.00	08.17	100.00	100.00
75th sample percentile: 40.7	00.00	00.00	45.91	100.00	100.00
Min. sample value: 31.1	00.00	00.00	76.03	100.00	100.00
Demand for discrimination					
Worst sample value: 0	00.00	00.00	08.17	100.00	100.00
Best sample value: 1	00.00	00.00	98.63	100.00	100.00

Displayed are the predicted probabilities. Values over 50 describe constellations leading to restricted membership rights in the EU. The variable of interest is displayed in the rows

implementation of the common acquis leads to a significant higher probability of differentiated membership also for members which had *not* demanded for discrimination in the first place. The remaining variables do not exert any significant influence on the probability of discrimination.

Unfortunately, the coefficients produced by a probit model cannot be interpreted straightforwardly. To assess the impact of the main exogenous variables on the likelihood of differentiation, I calculated the predicted probabilities of *Expected Number of EU Members*, *Share of GDP per capita to EU average*, and *Demand for Discrimination* holding the other variables constant at different sample values.[20]

Table 3 depicts that the number of EU member states considerably affects the chance that new members accept limited membership rights. With a size of 15 members, the Union grants differentiated membership to new members even if all other variables are only at their median sample values in regard to the likelihood of discrimination. Notwithstanding its impact, the number of EU members is not the single driving factor since differentiated membership occurs for 9 members already if the other variables are at their 75th sample percentiles. *Share of GDP per capita to EU average* exerts a similar influence on the odds of differentiated membership. If all other variables are at their sample median, then differentiated membership takes place only if the applicant's GDP falls short of 41% of the EU average. Moreover, new members do not have to accept differentiated membership if their GDP exceeds the EU average even if all other variables are at their 75th sample percentile. Finally, as already indicated above,

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[20] Without any ulterior motives, I use the worst sample values, the 25th and 75th sample percentiles, the medians, and the best sample values in respect of the odds of differentiation. In this respect, for variables with a negative coefficient I use their maximum value as the worst sample value and so on. The computations of the predicted probabilities are based on the coefficients of Model 2. Results for the other variables are available upon request.

the emergence of distributional conflicts is an important factor explaining the discrimination of new members. If old members demand for discrimination, then discrimination takes place even if all other variables are only at their median sample values. However, distributional conflicts are not sufficient to explain discriminatory membership. If the accession of a country is highly supported by current member states – hence, if all other variables are at their worst sample values – discrimination is unlikely even though distributional conflicts may exist.

To sum up, the estimation findings robustly bolster the hypotheses. EU widening exerts a heterogenous impact on current members and thus, triggers debates within the union about the conditions on with expansion may succeed. In accounting for the inner-union differences as well as the bargaining between candidates and the EU in a unified framework, the empirical analysis detected three main factors to drive the agreement between EU members and the candidate about transitionally restricting the applicant's membership rights. At first, distributional conflicts generally increase the odds that acceding states receive discriminatory membership. Still, the candidate's bargaining power and the importance of expansion to other EU members may lead to unconditional enlargement. In general terms, the different groups of countries bargain over the allocation of the enlargement gains opting for strategies satisfying all parties.

4 Conclusion

This paper aimed at explaining discriminatory membership in the EU. In a nutshell, the main argument stated that discriminatory membership serves as one instrument to render enlargement politically viable where at least some EU members would have opposed the admission of those states otherwise. More specifically, discrimination serves as a means to redistribute enlargement gains from new members to particularly negatively affected EU members. From this point of view, differentiated membership has to be considered as an alternative to the failure of enlargement: if neither the candidates nor some of the EU member states agree to provide the side-payments which are requested by the enlargement laggards, then enlargement necessarily fails. Thereby, the unified framework accounting for all potential membership costs and benefits was most important for the derivation of the hypotheses. As the bargaining model exhibited, if at least some EU members oppose unconditional enlargement, then those members which largely gain from the admission of candidates aim at providing alternative solutions to unconditional membership as to induce the negatively affected EU members to approve expansion. Their most preferred strategy is the allocation of limited membership rights to newcomers. If the candidate denies accepting conditional membership, then enlargement only succeeds if the drivers of enlargement bear some inner-union redistribution.

In general, an application of the results of this work in regards to a larger context has, from a normative perspective, even very positive implications. Discriminatory membership is by no means only a strategy pursued by EU governments seeking their own advantage. Sometimes, EU members are disposed to bear the costs of enlargement as long as this strategy accomplishes EU widening without leading to an overall utility loss. In this light, differentiated membership should not be compared to the unconditional admission of further countries. Quite to the contrary, discriminatory membership serves as a means to achieve the admission of states if the widening of the EU would be doomed to failure otherwise.

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