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Germany, Multilateralism, and the Eastern Enlargement of the EU

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ABSTRACT

Since World War II, the most distinctive characteristic of German foreign policy has been its commitment to multilateralism. This commitment has served German material interests, but it has a normative basis as well. This paper analyzes German domestic support for multilateralist policies, defined in terms of the principles of indivisibility, generalized principles of conduct, and diffuse reciprocity, in the context of negotiations on the EU's eastern enlargement. Empirically, the paper focuses on the policy areas of freedom of movement for workers and agriculture. The main theoretical argument is that domestic support for multilateralist policies depends on the distributional consequences of such policies and the ability of political institutions to manage distributional conflicts. Distributional conflict undermines support for multilateralist policies. In the case of Germany, distributional conflicts among different sectors and regions of the German economy have become more severe partly, but not exclusively, due to German unification. Furthermore, German political institutions are less able to resolve such conflicts than in the past. The evidence presented here shows more intense domestic distributional conflicts on the free movement of labor issue than over agriculture, and, as expected, we see more explicitly bilateral and less multilateralist demands by unions and employers

Much of the existing literature on multilateralism has focused on why states support multilateral organizations (MOs) and multilateralism. Thus, Lisa Martin has used a rationalist approach explaining when and why it may be in the interest of powerful states to support MOs and multilateralism.\(^1\) Taking a different approach, Ruggie has suggested that the appeal of multilateralism for U.S. foreign policy was based on "a congruence between the vision of world order invoked by American leaders when 'founding' a new international order and the principles of domestic politics at play in America's understanding of its own founding, in its own sense of political community.\(^{12}\) This paper argues that domestic support for multilateralist policies depends on the distributional consequences of such policies and the ability of political institutions to resolve distributional conflicts. With domestic support I mean support for multilateral policies by interest groups. *Ceteris paribus*, we would expect broad changes in interest group support of multilateralism to result in changes in German government policy, although, of course, a number of intervening variables may attenuate such a direct link.

German support of multilateral organizations and multilateral principles (indivisibility, generalized principles of conduct, and diffuse reciprocity), one of the distinguishing characteristics of post-World War II German foreign policy, has a normative basis and also served German interests. Similarly, German support for the eastern enlargement of the European Union reflects both normative considerations and material interests. German as well as other European political leaders have advocated the eastern enlargement on the basis of overcoming divisions on the European continent. German politicians have also acknowledged a moral debt to support the EU accession of Poland, Hungary and the Czech Republic in particular because events in these countries helped bring about German reunification. At the same time, Germany has benefited economically from the reorientation of Central and Eastern European trade toward the West. Thus, German support for EU enlargement and multilateralism are overdetermined. However, it should be easier to disentangle the relative weight of norm and interest based explanations of German policies on EU enlargement if we analyze more concrete issues in the enlargement negotiations, such as the free movement of labor or agricultural policy.

This paper argues, first of all, that German positions on these issues can be explained more easily using material-interest-based arguments than approaches emphasizing norms. An even more interesting question is precisely which interests are most influential. In other words, this paper considers the distributional impact of EU enlargement on different sectors of German society. This is important because any accession treaty will contain transition arrangements in sensitive areas, such as the free movement of labor and agriculture. Depending on which interests carry the most weight, such transition arrangements would look quite different.

For the purposes of this paper the key question is the extent to which German positions are compatible with multilateral principles. James Caporaso, following Ruggie, has defined multilateralism as "an organizing principle [of international life] ... distinguished from other forms by three properties: indivisibility, generalized principles of conduct, and diffuse reciprocity." This paper shows that although German politicians continue to voice their commitment to multilateral principles, an increase in distributional conflict in Germany and a related decline in the ability of German political institutions to handle distributional conflicts

among different economic actors, such as different sectors or regions of the German economy, has undermined domestic support for multilateral principles. The German construction workers union and industry associations in that sector favor an explicitly bilateral approach to EU enlargement where access to the labor market of current member states would be regulated through bilateral quotas. In regard to agriculture, the German farmers association has argued that if German labor markets remained at least partially closed to workers from the accession countries, German farmers need protection as well. In other words, EU enlargement should not come at the expense of German farmers. Before turning to a detailed analysis of these specific policy areas, we need to understand the sources of support for multilateralism.

EXPLAINING MULTILATERALISM IN GERMAN FOREIGN POLICY

Political Culture and State Identity

German support of multilateralism may rest on "a distinctive, widely shared, and rather elaborate set of beliefs and values of potentially great relevance to foreign and national security policy," or, in other words, a distinctive German political culture.⁴ To some extent, the sources of the post-World War II German political culture are relatively easy to identify. After 1945 and the experience of the Nazi regime and of World War II German political culture was "remade." German support for multilateralism and antimilitarism are reactions to the failures of Weimar and the horrors of the Nazi regime. However, what matters is less history as such but its reinterpretation for present purposes, or in other words collective memories.⁶

One way in which political culture may have an impact on foreign policy behavior is by legitimizing or delegitimizing particular foreign policy tools or types of conduct.⁷ Thus, in the wake of debates over why Germany's "special path to modernity" had produced Hitler, unilateral or special German foreign policies have been considered highly suspect. There is a consensus on this point across the major political parties in Germany from the Christian Democrats to the Greens.⁸ Similarly, German policy makers also considered "seesaw politics" between the blocs as illegitimate, rather Germany had to be a reliable partner. Furthermore, German politicians place considerable weight on the need for German foreign policy to be predictable (*berechenbar*).⁹ If German support for multilateralism has a cultural rather than a purely instrumental basis, we would expect German policy makers to pursue such policies even in areas where such policies did not manifestly serve German interests. Furthermore, since cultural values tend to be fairly stable, German support for multilateralism should be relatively stable as well.¹⁰

A different but related line of argument emphasizes Germany's European identity and begins with the assumption that state interests are not given or exclusively determined by external constraints but are shaped by a state's identity. Peter Katzenstein distinguishes between "national identity" and "state identity":

State identities are primarily external; they describe the actions of governments in a society of states. National identities are internal; they describe the processes by which mass publics acquire, modify, and forget their collective identities.¹¹

More specifically regarding Germany, Katzenstein argues that European institutions have transformed Germany's state identity into a European identity and that it makes less and less sense to distinguish between German national and European interests. Following a broad cultural or identity-based approach we would not expect to find significant differences in domestic support for multilateralism across specific issues. We would also expect to find considerable continuity over time, although advocates of these lines of argument recognize that values, norms or identities may change.

Material Interests

An alternative approach starts with the recognition that after World War II multilateralism served material German interests. Today, the integration of the EU accession candidates, and of the Czech Republic and Poland as Germany's immediate eastern neighbors in particular, into multilateral Western institutions, also serves Germany's geopolitical and economic interests. However, it is also clear that some sectors of German society will benefit from EU expansion more than others. In order to understand the German position in the accession negotiations it is necessary to pay attention to these distributional consequences of EU enlargement. Economically, a consequence of the collapse of Communist regimes in Eastern Europe and the reorientation of Central and Eastern European economies toward Western Europe was internationalization, defined as "processes generated by underlying shifts in transaction cost that produce observable flows of goods, services, and capital."¹² To begin with trade in goods, between 1989 and 1995 exports by the twelve member states of the European Union to six Central and Eastern European countries (Bulgaria, Czech Republic, Hungary, Poland, Romania and Slovakia) grew by 131 percent, and EU imports from these states increased by 185 percent.¹³ Over the same time period Germany's share of EU exports to these six states grew from 36 percent to 51 percent.¹⁴ Once the accession countries become fully integrated into the European Union the remaining restrictions on the free movement of goods, services, capital and people will fall. For this study the key issue is to explain the preferences of domestic German political actors regarding these developments. There is a broad overall consensus that EU expansion represents a benefit for the German economy as a whole. However, despite this aggregate net welfare gain, EU expansion may have adverse distributional consequences for specific groups.

If we find intense distributional conflict this would be significant because distributional conflict undermines support for multilateralism. One central component of multilateralism is an emphasis on diffuse rather than specific reciprocity. Distributional conflict undermines undermines the willingness of potential losers to accept diffuse reciprocity. Rather, they will attempt to block multilateral deals or demand compensation. If such distributional conflict pits a range of narrowly rather than broadly defined interests against each other, the prospects for multilateralism decline.

Depending on which underlying economic model one chooses different actors benefit or lose from decreased costs of international transactions.¹⁵ If we limit ourselves to trade, the Stolper-Samuelson theorem posits that within any given country the owners of those factors of production which are relatively abundant will benefit from increased international trade, whereas relatively scarce factors will lose and consequently will push for protection.¹⁶ Relative to the rest of the world, and the Central and Eastern European accession countries in

particular, the Germany economy is well endowed with physical capital whereas labor and land are relatively scarce. Thus, we would expect German business to support the eastern enlargement of the EU, whereas labor unions and farmers should be less enthusiastic.

As Frieden and Rogowski point out, there are other possibilities as well. The model just discussed rests on a number of restrictive assumptions regarding factor mobility and returns to scale. Following a different perspective, we would expect that "[n]ot the country's factor endowments, but the specificity of the particular industry's human and physical capital, and its position in world trade and payments, would predict the likely pressure for and against liberalization. Rather than sharpening battles between laborers and capitalists, easier trade would lead to greater conflict between internationally competitive and uncompetitive *industries*, uniting workers and managers alike behind sectoral demands." Finally, in sectors where economies of scale are important we should see a third pattern where large and internationally experienced enterprises favor liberalization whereas small and less internationally experienced companies do not. In the German case this perspective has a regional dimension in that in eastern Germany the proportion of small- and medium-sized enterprises is particularly high.

In regard to EU accession, trade between the existing EU member states and the eastern accession states will most likely continue to expand at substantial rates, but in terms of trade restrictions trade in goods has been completely liberalized already, with the partial exception of trade in agricultural products. Thus, EU accession as such will not make much difference for trade between the existing member states and the eastern accession states. For the most part, provisions on the free movement of capital are not controversial in the accession negotiations, with the exception of possible restrictions on acquiring real estate in accession countries.

The area where EU accession could produce the most change compared to the status quo is in the movement of labor. At this point, all EU member states restrict the movement of central and eastern European workers into the EU. Once the accession candidates are EU members those restrictions will eventually disappear. Up to now the vast majority of immigrants from the eastern accession countries live in Austria and Germany, and to the extent that EU accession results in further migration, these two countries would most likely remain the primary destinations. There is, however, considerable uncertainty over the likely magnitude of such migration flows. The impact of immigration on labor market outcomes for native workers, i.e. their wages and chances of becoming unemployed, depends on the extent to which eastern and central European immigrants substitute or complement native workers. This in turn depends on the skills of immigrants relative to natives.²⁰

A common line of argument claims that employers favor liberal immigration policies and the cheap pool of labor these immigrants provide, whereas unions oppose high levels of immigration. Leah Haus has shown that American unions in the 1920s indeed favored restrictionist policies but that this was not the case at the end of the twentieth century, when immigration levels were quite high.²¹ Haus attributes this difference largely to changes in the ability of the state to control immigration effectively. In the 1980s and 1990s unions questioned the ability of the state to limit immigration, and if restrictionist policies were bound to fail in any case, it made more sense for unions to try to organize immigrant workers. Advocacy of restrictionist policies would have undermined the unions' ability to attract immi-

grants as new members. Thus, in the 1980s American unions favored the Immigration Reform and Control Act's legalization program of 1986. On the other hand, unions took a more restrictionist position toward temporary nonimmigrant workers, who would have been much more difficult to organize, and guest-worker programs. Following this logic, we would expect German unions not to oppose inevitable Central and Eastern European immigration as such, but to favor restrictions on temporary workers, border commuters and foreign subcontractors bringing in foreign workers for project-tied work.

Jeannette Money has challenged the existing literature by showing that the concentration of immigrants in particular communities results in an uneven distribution of the costs and benefits of immigration. Geographically concentrated costs of immigration, such as labor market competition over scarce jobs in times of recession or scarce public resources, will only lead to restrictive immigration policies at the national level if these costs occur in marginal electoral districts which are important for the outcome of elections.²² She also further refines arguments about the benefits of immigration to particular kinds of employers. Immigration will be particularly attractive to employers in industries with low capital mobility, such as agriculture or mining or declining industries, whereas employers in industries with high capital mobility might simply relocate to take advantage of low labor costs elsewhere.²³

Overall, if the central argument of this paper is correct, we would expect domestic support for multilateralism to be lower, and conversely support for bilateral or unilateral approaches to be higher, for those issues where there is intense distributional conflict among domestic interest groups than for issues where such conflict is less significant. If distributional conflict becomes more severe over time, we would similarly expect support for multilateralism to drop.

The Role of Domestic Institutions

Understanding the preferences of different actors is not enough, though. Different institutional arrangements may handicap or favor the effective representation of different actors. Peter Cowhey has argued that for multilateralism to work great powers need to be able to make credible commitments.²⁴ This ability in turn depends on a state's domestic political system, and its electoral system in particular. More specifically, Cowhey claims that

Multilateralism will be more credible if (1) the structure of political competition in the country (e.g. type of voting system and voter preferences) provides incentives for leaders to advocate the provision of international collective goods; (2) the structure of political competition makes it difficult for an individual party or leader to reverse major foreign policy commitments quickly; (3) conflicts between domestic political incentives and multilateral commitments can be eased by adaptation of domestic and international institutions; and (4) domestic political and economic decisions are transparent to interested third parties.²⁵

The first condition means that multilateral promises are more credible if the political system favors the provision of broad collective goods rather than particularistic private goods. Second, multilateral commitments are obviously more credible if the domestic costs of

defection are high. An illustration of the third condition is the way the U.S. Congress delegated trade policy authority to the executive branch and, for much of the post-World War II period, ensured a U.S. commitment to a multilateral trade regime while remaining sensitive to the concerns of import competing sectors. Finally, multilateral commitments are more credible if foreigners have confidence in their understanding of the policymaking process.

Regarding the first condition, the eastern enlargement of the European Union may be beneficial for Germany as a whole but it also poses distributional challenges. Thus, what matters are how German socioeconomic and political institutions aggregate class, sectoral or regional preferences. Here, some German institutions favor the articulation of broad interests, others are more geared toward the effective articulation of narrow interests.

Cowhey argues that the single nontransferable-vote electoral system Japan traditionally used favored the representation of particularistic interests inimical to credible multilateral commitments. Germany's party-list proportional representation system avoids the particularistic bias of Japan's old system. Germany is also known for a relatively centralized union and wage bargaining structure where one union, the IG Metall, represents workers from highly competitive industries which benefit from EU expansion and workers from declining industries which experience EU expansion as a competitive threat. However, in recent years some of these institutions have come under increasing stress. After early organizational successes union membership in eastern Germany dropped quite significantly. On the employer side firms have left employer associations. Stephen Silvia has pointed out that this development was not caused by German unification but [a]ssociation flight is instead the product of contradictions that arose within Germany's system of comprehensive pattern bargaining during the 1980s (well before German unification) that disrupted the distributive balance between large and small enterprises. Directly related to this, sector-wide collective bargaining agreements have been undermined as well, particularly in the East.

The costs of EU expansion will be felt not only by particular industrial sectors but also by specific regions, particularly those bordering Poland and the Czech Republic and thus primarily the eastern German Länder and the western Land of Bavaria. Concerns include, among others, the impact of increased migration, competition with the applicant states over access to EU structural funds, and competition in attracting investors. This does not mean that either the eastern Länder or Bavaria oppose the expansion of the EU, but they are concerned about the particular challenges EU expansion presents to them.³⁰ In the past the German brand of federalism was best characterized as cooperative federalism with an emphasis on consensual decision making and a commitment to a uniformity of living conditions across the federation. As Charlie Jeffery has pointed out, "[u]nification has brought with it a much wider differentiation of Länder interests," and in recent years we have seen a shift toward a more competitive federalism.³¹

As a general rule, eastern German political actors have been at a disadvantage in gaining access to the decision making process. However, this overall picture is complicated by German federalism. On the whole, the German Länder have only limited influence over German foreign policy. There are exceptions, though, in the area of German EU policy, and in particular in the area of cross-border cooperation. Länder participation in German policy making on the EU has received a constitutional foundation in article 23 of the Basic Law, and regional cooperation with neighboring countries is largely the responsibility of the

Länder. Thus, we would expect narrow interests to have an impact on German government policy when these interests are regionally concentrated. On the other hand, German federalism, and the tools it provides to the opposition parties, produces a German equivalent to divided government in the United States which makes it more difficult to reverse broad policy commitments.

As this very brief discussion of three sets of German institutions (electoral system, labor market institutions, and federalism) has suggested, an answer to the question of how German institutions affect domestic support for multilateralism across issue areas and time itself has to differentiate among institutions. We would not expect the German electoral system to be able to explain differences in domestic support across different issue areas, whereas labor market institutions obviously have a greater impact on some issues than others, and under German federalism the impact of regional interests again varies by issue area. On the temporal dimension the preceding section has suggested that increasing distributional conflicts among employers, unions, and Länder have weakened the ability of collective bargaining institutions and German federalism to articulate broad rather than particularistic interests which in turn should weaken support for multilateralism. On the other hand, institutions are sticky, and this quality of institutions at least partially explains why changes in material interests do not necessarily lead to corresponding changes in policy. Thus, to the extent that multilateral norms have been institutionalized in Germany, multilateralist policies may have greater staying power than an analysis of material interests would lead us to expect.

ISSUES IN THE EU ACCESSION NEGOTIATIONS

This paper analyzes the impact of cultural norms, material interests and domestic institutions on the German negotiating position in some of the particularly sensitive policy areas of the accession negotiations. For the purposes of this paper the key question is the extent to which the German position is compatible with multilateral principles. Sensitive policy areas include agriculture, the free movement of labor and the adoption by the accession countries of the EU's environmental standards. Furthermore, the enlargement of the EU is directly linked to the issue of institutional reform within the EU. Different member states have different sensitivities. Labor migration from Central and Eastern Europe is a sensitive political issue in Germany and Austria but less so in the other member states. The sensitive nature of the integration of the accession countries, and of Poland in particular, into the EU's agricultural policy does not require further elaboration. Other issues, such as cohesion policy, affect Germany as well, but they are of even greater concern to other member states, such as Spain in the case of cohesion policy. This paper will focus on the free movement of labor and agriculture.

These two issues are particularly well-suited for an analysis of German support for multilateral principles. Demands for long transition periods for the establishment of full freedom of movement of labor and plans by the existing member states and the European Commission to exclude the accession countries from some agricultural subsidies have aroused suspicions in the accession countries that the EU was only willing to offer a "second class membership." If such charges were true, this would be incompatible with the multilateral principle of generalized principles of conduct. Furthermore, German politicians recognize the critical importance of these issues. In a speech by Foreign Minister Joschka Fischer

on "multilateralism as a task of German foreign policy" he argued that the "multilateral imperative" in German foreign policy presented Germany with a number of challenges, including most prominently EU enlargement. The two concrete policy issues he mentioned in this context were the free movement of labor and agriculture.³²

If domestic support for multilateralism is weakening in Germany this would manifest itself in these policy areas if German political actors favor different sets of rules for the old member states and the new member states, such as a different (and less generous) agricultural policy for the new member states than for the old ones, or criteria for the establishment of the free movement of labor which would not be met for decades. Similarly, regulating access to labor markets in the old member states through the use of bilateral quotas would violate the multilateral principle of generalized principles of conduct.

Free Movement of Labor

Before discussing the free movement of labor after EU enlargement it is important to consider the experience of the EC with previous expansions and the experiences Western European countries have had in partially opening their labor markets to Central and Eastern European migrants on a bilateral basis. In the first enlargement in 1973 when Denmark, Ireland and the United Kingdom joined freedom of movement was not a major issue. This changed with the southern expansion of the EC in the 1980s. The accession treaty between the EC, on one side, and Portugal and Spain, on the other side, contained a number of provisions on the free movement of workers. Article 56 of the treaty stated that the free movement of workers would not apply to Spain until January 1, 1993, seven years after the accession date, and this transitional period could be extended for Luxembourg until the end of 1995. The reason for the special rule for Luxembourg was that Luxembourg at the time had a large number of workers from the Iberian peninsula.33 An additional provision allowed the shortening of this period. Article 216 contained the equivalent rules for Portugal.³⁴ The accession treaty for the northern expansion involving Austria, Finland and Sweden did not contain provisions on the free movement of workers. Beyond these accession treaties, the EU more recently negotiated a number of agreements with Switzerland one of which concerns the free movement of workers. This agreement allows Switzerland to limit immigration from the EU for five years through the use of quotas. Thereafter EU citizens enjoy freedom of movement in Switzerland, but Switzerland may reintroduce quotas if large-scale immigration takes place.³⁵ The politically important and controversial issue for this paper is what can and should be learned from these agreements for the eastern enlargement of the EU.

A very common line of argument has been that previous experience shows fears of immigration waves to be rather exaggerated. In the 1950s and 1960s before the freedom of movement was actually fully implemented in the EC there were concerns about large numbers of Italian migrants moving further north which turned out to be unfounded. Similarly, Thomas Straubhaar has argued, as have others, that the southern expansion of the EC did not lead to a massive migration wave. Rather, in line with the theoretical expectations of neoclassical trade theory, integration of Greece, Portugal and Spain led to significant increases in trade and direct investment between the old and the new member states rather than labor migration. This view is shared by the European Commission. In April 2000 the European Commission presented an information note to the member states which stated that enlarge-

ment most likely would have only a limited impact on EU labor markets. In response the Austrian government issued its own information note which suggested that enlargement could have a significant impact on the Austrian labor market and that there were a number of important differences between the EC's southern expansion and the EU's eastern enlargement ³⁸

From the perspective of the German debate, an important point of the Austrian information note was that although immigration might turn out to be limited, there was also the issue of border commuters. In the context of very large income differentials there is a strong economic incentive to work in Austria and earn high wages but to spend this income in the Czech Republic or Hungary where the costs of living are much lower. The Austrian note argues that this was not much of an issue at the time of the southern expansion because income differentials between southern French and northern Spanish border regions were much less than those between Austria and its Central and Eastern European neighbors. Furthermore, simple topographical differences between the mountainous French-Spanish border regions and the much more permeable Austrian borders made border commuting more difficult at the time of the southern expansion. Not only in Austria but in the German debate as well, the issue of border commuters plays a significant role.³⁹

Bilateral Agreements in the Early 1990s. After 1989 migration from Central and Eastern Europe to destinations in Western Europe, including most prominently Germany, initially increased substantially but has tapered off since then. In 1997 a total of 415,823 citizens of Central and Eastern European accession countries lived in Germany representing .7 percent of Germany's total population.⁴⁰ By far the largest group were Poles. In 1998 Germany took 58.8 percent of gainfully employed Hungarian, Polish, and Romanian citizens working in the EU, Austria accounted for 15.6 percent.⁴¹ Although the numbers for Austria are lower than for Germany, in Austria Central and Eastern Europeans represent a higher proportion of the labor force. Again, geography matters. So far, immigrants from the eastern accession countries have settled primarily in Bavaria and parts of Baden-Württemberg rather than the eastern German border regions. This is not too surprising since Bavaria borders the Czech Republic and is quite prosperous, a characteristic which it shares with Baden-Württemberg. Eastern German border regions, on the other hand, are relatively poor with high unemployment rates.

In the 1990s a number of EU member states had bilateral agreements with non-EU countries to recruit labor migrants for fixed periods of time. Poland, for example, had small guest worker programs with Belgium, France, Germany, and Switzerland.⁴² These agreements cover four main types of workers: guest workers, seasonal laborers, project-tied workers (*Werkvertragsarbeitnehmer*) and border commuters. This paper will concentrate on project-tied workers and seasonal laborers both because of their quantitative significance and the political controversies surrounding particularly project-tied workers. Guest worker programs, on the other hand, have been rather small and thus may be safely neglected here, but we will need to discuss border commuters in a separate section.

Project-tied workers come to Germany on the basis of a *Werkvertrag* between a German company and a foreign subcontractor. The subcontractor agrees to finish a particular project in Germany using his/her own workforce. Thus, there is no labor contract between the foreign workers and the German general contractor. The workers are paid by the foreign

subcontractor who also provides social insurance for the workers according to the social insurance laws of the country of origin. Legally subcontractors do not pay German social insurance contributions which by itself results in total wage cost savings of 20-25 percent compared to German workers.⁴³ In practice, the wages paid are often considerably below German wages, and project-tied work has given rise to various illegal practices.

The number of legal project-tied workers is regulated in the form of quotas (Kontingente). The first project-tied workers agreements of 1989-1990 with the Czechoslovak Federated Republic, Yugoslavia, Poland and Hungary provided for quotas totalling 20,000 workers, with Polish workers accounting for over half of this figure. 44 In the early 1990s these numbers increased substantially with the Polish quota increasing from 11,000 to 35,170 in 1992.⁴⁵ At the same time these agreements became highly controversial politically. Besides the already mentioned problems, there were concerns about competitive distortions as project-tied workers were concentrated in the construction sector, the big cities, and the new German Länder. 46 In response to these concerns, the 1992 agreement with Poland included a sentence which called upon the German employment office to prevent a regional or sectoral concentration of project-tied workers. Furthermore, the 1992 agreement contained an additional quota for small and medium-sized German companies. Both the German construction workers union (IG Bau) as well as employer associations in the construction sector asked for the cancellation of the agreements with Central and Eastern European countries. The administrative board of the German employment agency (Bundesanstalt für Arbeit) took a critical position as well. This view was not shared, however, by the peak association of German employers (Bundesvereinigung deutscher Arbeitgeberverbände). The SPD played an ambivalent role. The federal government thus faced conflicting pressures from unions which opposed these agreements, on the one hand, and Central and Eastern European governments which pushed for increases in the quotas.⁴⁷

In the end the German government responded by defending these agreements in principle, yet it also significantly reduced the quotas, shelved new agreements with Russia and Lithuania, and took other measures to address abuses of project-tied contracts. As if these problems had not been enough, in 1996 the European Commission challenged the German-Polish agreement by claiming that it violated Community law. A French entrepreneur had wanted to conclude project contracts with Polish companies to be carried out in Germany. However, the German-Polish agreement only covered German general contractors. In response the German labor ministry in July 1997 asked the employment agency to temporarily stop accepting requests for project-tied workers.

All these issues were particularly sensitive in the construction industry. There German unions were not only concerned about Polish workers undercutting German wages but about subcontractors and workers from other EU member states as well. This resulted in a protracted struggle within the European Union over a directive concerning the posting of workers and within Germany over a national law setting minimal standards for workers employed by a foreign subcontractor in Germany. In 1996 the Council agreed on an EU directive over the opposition of Great Britain and Portugal.⁵¹ In the German debate unions and employers associations in the construction industry supported these efforts, whereas the peak association of German employers opposed both the national law, which passed several months before the adoption of the EU directive, and the EU directive as protectionist.⁵²

The controversy did not end in 1996. Shortly after the Social Democrats and Greens had gained power in 1998 the new government initiated several changes in the national German law, the so-called *Arbeitnehmer-Entsendegesetz*. One of these changes made it easier than before for the German labor minister to apply a collective bargaining agreement on minimum wages in the construction sector to all construction firms, regardless of whether or not they were a party to the agreement.⁵³ In May 1999 the German construction workers union and two employer associations in the construction sector reached such a minimum wage agreement, and the labor ministry then declared it applicable to all firms in the sector. An employer association from Mecklenburg-West Pomerania, which had left the national association, and three individual construction firms then filed a constitutional complaint with the Constitutional Court which in July 2000 declined to hear the case.⁵⁴

Less sensitive than project-tied workers in the construction industry but still significant are seasonal workers. The vast majority of seasonal workers from Central and Eastern Europe are used in the agricultural sector, and a significantly smaller proportion work in hotels and restaurants. By far the largest nationality group is Polish which in 1996 accounted for 89 per cent of seasonal workers. For the most part these workers receive permits to work in Germany for up to three months.

The same German union, which represents construction workers (IG Bau), also organizes agricultural workers. There are about 150,000 full-time employees on German farms, but there are also significant variations between eastern and western Germany. In the East employees account for 70 per cent of the agricultural work force compared to 25 per cent in the West. According to the IG Bau, German farmers save about 5.5 billion DM annually through the use of seasonal workers rather than full-time native workers. In 1999 the IG Bau launched an initiative through the European Union's Economic and Social Committee to set up an agricultural migrant work observatory, to issue identity cards for migrant workers and to extend the social security coverage of agricultural migrant workers.

Europe Agreements. Besides the patchwork of bilateral agreements, the association agreements, so-called Europe agreements, between the accession countries and the European Union also contain a few provisions about the rights of migrant workers. Thus, article 37 of the Europe Agreement with Poland states that Polish citizens who are legally employed in one of the member states shall enjoy the same treatment as EU citizens in regard to working conditions, pay and employment termination. However, article 37 does not grant Polish citizens the right to move to an EU member state to take up employment, with the partial exception of dependents of Polish citizens who are already employed in the EU. Article 41 called upon the member states to open their labor markets further to Polish citizens to the extent possible.

In 1993 both the Bundesrat and the Bundestag supported the Europe Agreements with Poland and Hungary which were ratified at the same time. The vote in the Bundestag was unanimous. To the extent that there were concerns they primarily dealt with the issue of freedom of movement, and in particular the project-tied workers program and the implications of the right of establishment for the job prospects of German medical graduates potentially competing with Eastern Europeans. The Europe Agreements were seen as an intermediate step toward eventual membership in the EU. Actual accession negotiations between the existing member states and the so-called "Luxembourg group" (Czech Republic, Estonia,

Hungary, Poland, Slovenia, and Cyprus) began in 1998. The European Commission's negotiating strategy has been to leave the particularly controversial issues, such as the free movement of labor and agriculture, for later negotiating rounds. By the end of 2000 German political actors had formulated their positions on this issue.

The Positions of German Political Actors. The Deutscher Industrie- und Handelstag (German chambers of commerce) argued in a position paper of April 2000 that it did not share fears of increased immigration. Linguistic and cultural barriers as well as insufficient flexibility would limit migration, and, in any case, the immigration of well-qualified workers could be an advantage.⁵⁹ The federation of German industry has argued that the EU should hold to the principle of not allowing long transition periods. Where transitional arrangements will be necessary, such as in the area of freedom of movement, there need to be clear and firm agreements when the acquis in these areas will apply to the accession countries.⁶⁰ In more concrete terms. Dieter Hundt, the president of the federation of German employers associations (BDA), argued in a press conference on September 18, 2000, that transition periods of seven years, as used during the southern expansion, were too long. Even within limited transition periods, there was the need for flexibility by allowing individual member states or sectors to gradually introduce free movement of labor and services on a bilateral basis before the end of the transition period.⁶¹ German farmers have their own special concerns with regard to agricultural policy but they are also employers who have benefited from the use of Central European seasonal workers. The German farmers association has received some political support for its position, as the conference of German agriculture ministers asked in its resolution of March 24, 2000, that any transition arrangements for labor had to take into account the needs of the German agricultural sector. 62

For German unions this is a more difficult and divisive issue, particularly for those unions, such as the construction workers' union, which are most affected and which face the most intense pressure from the rank and file.⁶³ A key issue for German unions is to maintain German labor and social standards and to prevent "social dumping." Specifically regarding the free movement of workers, the German trade union federation (DGB) has demanded transitional arrangements rather than fixed transitional periods.⁶⁴

The union which is most affected is the IG Bau which organizes workers in agriculture, construction and janitorial services. In a position paper of September 2000 the union supported the eastern enlargement of the EU in principle, but also argued that the accession countries had to strictly meet the Copenhagen accession criteria and specifically had to institute a functioning social dialogue and remove restrictions on unions. The union emphasized that it did not see its demands as protectionist or shaped by xenophobic fears. Specifically regarding freedom of movement issues, the union demanded a sector specific restriction on the free movement of services for a minimum of ten years applicable to firms in the construction, forestry and janitorial services sectors. On the issue of free movement of labor the union argued that this presented less social problems than the use of foreign workers by foreign subcontractors on German construction sites. Nonetheless, the union asked for a ten year transition period during which migration would be regulated through the use of quotas which would be differentiated by sector and could increase over time. For Germany, these quotas could be based on the quotas Germany had set up in the bilateral agreements with Poland and other Central and Eastern European countries on project-tied workers. Finally,

the union demanded special restrictions for border regions and border commuters. More specifically, border commuting should be restricted to a zone of no more than thirty kilometers from the border, and initially border commuting should be prohibited for the sectors organized by the IG Bau.

On September 28, 2000, the IG Bau and two German construction sector employer associations issued a joint declaration which essentially endorsed these demands and added a demand for changing EU legislation on migrant workers. According to this demand, social insurance payments should be made for foreign workers posted in another EU member state sooner than under existing legislation.⁶⁶

Among German government agencies, the German labor ministry and the finance ministry pursued a more restrictive line than the foreign office. The German labor ministry sought to balance the demands of economic sectors and regions which perceive labor migration from the accession countries as either a potential threat or an opportunity. Regarding transition periods, labor ministry officials responsible for this area favored the "Swiss model" more than the "southern expansion" model and supported a solution where there would be one transition period for all member states. To the extent that some member states wanted to open their labor market earlier they would be free to do so. The German finance ministry was more concerned with the issue of the coordination of social security systems which is directly tied to the freedom of movement question and which has clear budgetary implications. The foreign office took a more liberal position. On September 29, 2000, Wolfgang Ischinger, state secretary in the foreign office, argued in a speech that German border regions in particular did not have to fear a large influx of labor migrants. After the establishment of the free movement of labor, Polish migrant workers would most likely go to regions with high demand for labor rather than regions with high unemployment. Furthermore, German farmers needed Polish seasonal workers.67

On December 18, 2000, Chancellor Schröder presented the official position of the German government. He noted that, compared to the transition arrangements for the southern expansion of the EC in the 1980s, transition agreements for the eastern enlargement should be more flexible. More specifically, he proposed a seven-year transition period for the free movement of labor. However, this period could be shortened for individual accession countries. Beyond that, in case of labor shortages in the existing member states, these should be able to grant access to their labor markets during the transition period according to their national laws. Finally, Schröder proposed restrictions on the free movement of services for selected areas, including the construction sector and handicrafts (*Handwerk*).⁶⁸

Reactions to these proposals were mixed. Politicians in the accession countries initially strongly opposed such transition periods and argued that such demands were based on misplaced fears. Within Germany, responses were mixed. In a statement prepared for a hearing conducted by the European affairs committee of the German Bundestag, the peak association of German employers (BDA) and the federation of German industry supported the flexible and differentiated handling of transition periods but criticized the government's defensive approach which neglected Germany's need for immigrants due to an aging population.⁶⁹ In a response to questions by the committee, Christoph Kannengießer of the BDA noted that in principle an increased mobility of workers was a positive development, but he also recognized that a quick introduction of freedom of movement could have negative dis-

tributional consequences, particularly in sectors with many low skill jobs, such as construction or agriculture. A representative of the German trade union federation agreed that in the medium and long term Germany needed immigrants. Nonetheless, German unions regarded transition periods on the free movement of workers as necessary for about seven to ten years after the accession of the Central and Eastern European candidate countries. Representatives of the business community in border regions also supported transition arrangements for the free movement of labor and services, but there were noteworthy differences between Bavaria and eastern German border regions. A representative of the small business chamber of Niederbayern-Oberpfalz noted that there already was a shortage of skilled labor in his region, and thus he did not support very strict transition periods for labor. On the other hand, he emphasized the need for precisely such strict transition periods for the free movement of services. In contrast, an official with the chamber of commerce in Neubrandenburg in eastern Germany noted that given very high unemployment rates in eastern Germany even low levels of migration could strain regional labor markets.

Analysis. To conclude, transition arrangements in the area of free movement of labor and related questions can take different forms from a simple fixed transition period applicable to all member states to highly complex solutions differentiated by sector and region. In the German debate on these issues so far German construction sector employers and unions have articulated the most detailed proposals. These demands which support sector and region specific solutions take on a bilateral character. This becomes evident when the IG Bau uses the bilateral project-tied workers agreements as a model for at least some parts of transition arrangements for the EU's eastern enlargement. The German federation of employer associations also supports a flexible solution which allows for bilateral variations but with the goal of reducing the length of any transition period.

As stated earlier, support for bilateral or multilateral principles may rest either on a normative or an interest-based foundation, or a combination of the two. German opposition to a quick introduction of full freedom of movement rests both on diffuse (and exaggerated) fears of a large migration influx and concrete interests, such as in the construction sector. When German politicians attempt to counter such diffuse popular fears, they primarily use the language of interests. Thus, both Chancellor Schröder and Foreign Minister Fischer, as well as others, have argued that the opening to the east has already created more jobs for German workers in export-oriented industries than have been lost through internationalization. The more interesting question is which interests matter the most.

Arguments emphasizing a straightforward division between employers, favoring a cheap source of labor, and unions opposing liberal immigration policies, find only limited support in this case. So far, German unions have been relatively quiet on this issue, with the important exception of the IG Bau. This and the position which the IG Bau has taken support Haus' arguments. The union takes its strongest position not on restricting the right of Central and Eastern European workers to permanently settle in Germany but on the free movement of services, i.e., foreign contractors employing foreign workers in Germany subject to foreign labor and social insurance laws. Furthermore, the union favors tight restrictions on border commuters who are difficult to organize.

In the construction sector the union found allies among employer associations, whereas in agriculture union demands run counter to the position of the German farmers as-

sociation. The evidence presented here also supports Money's arguments on variation among employer interests. The sector which most explicitly favors liberal entry rules for foreign workers is the agricultural sector which is characterized by low capital mobility. Such variation across sectors is at least partially linked to regional differences. The construction industry, for example, plays a more prominent role in the eastern German states than in western Germany. The controversy over project-tied workers also revealed concerns over the differential impact of the opening of labor markets on small and large companies. More generally, small enterprises in border regions are seen as potential losers of the enlargement process which explains their insistence on transition periods on the free movement of services.

Overall, the evidence presented here supports the central argument of this paper that an increase in distributional conflict leads to less support for multilateralism. In this case the most explicit demands for bilateral transition arrangements come from the construction union which sees itself, and is regarded by others, as a potential loser in the enlargement process. We also see in this case how distributional conflict weakened institutions which in the past served to aggregate preferences. Evidence for such developments is most clear in the construction sector where regional associations and individual firms left the national employers association and a protracted struggle over minimum wages took place. On the other hand, we also see the continuing influence of multilateralist norms. Thus, one of the questions which the Bundestag's European affairs committee posed to the interest groups and individual experts at the hearing on free movement issues was whether a differentiation among accession countries was compatible with the principle of nondiscrimination. Union representatives present their demands not only as necessary for German workers but argue that transition arrangements should serve the interests of workers in both old and new EU member states. None of the interest groups involved in this area questioned the desirability of EU enlargement as such.

Agriculture

Compared to freedom of movement issues, agriculture is an even more important hurdle which the accession negotiations have to clear. This is so for a number of reasons. First of all, agriculture still represents the largest component of the EU's budget, and the acquis in this area is more extensive and complex than the lower regulation density for free movement of labor issues. Second, changes in the Common Agricultural Policy (CAP) are highly sensitive in member states and agricultural policy is even more sensitive for the largest accession country, Poland. Third, CAP is clearly a moving target, under pressure from a variety of directions, including negotiations within the WTO. This means that by the time the first accession countries join around 2004-06, CAP may have been reformed once again.

Distributional issues are critical for understanding CAP. First of all, CAP represents a rather costly and inefficient income transfer from taxpayers and consumers to farmers. The supranational organization of agricultural policy in Europe has played a critical role in this respect. It is quite unlikely that national parliaments would have continued such an agricultural "welfare program" over decades as the economic significance of the agricultural sector rapidly declined.⁷⁴ As Elmar Rieger put it, "[t]he CAP thus helped to take agricultural policies out of divisive domestic distributional conflicts by creating a functionally segmented and

politically insulated policy arena."⁷⁵ Within the farming sector, CAP has disproportionately benefited large farms. Finally, CAP raises distributional issues among the member states in terms of the EU budget. As a net payer Germany would benefit from a renationalization of agricultural policy, an idea which France has vigorously opposed.

An analysis of the position of the German farmers association (*Deutscher Bauernverband*) shows the prominence of distributional arguments. The most frequently repeated argument is that the extension of the "four freedoms" of the single market (free movement of goods, labor, services and capital) to the accession countries should occur simultaneously. For the Bauernverband it is not acceptable to end all restrictions on agricultural trade while the establishment of free movement of labor is postponed through lengthy transition periods. In more concrete terms, the managing director of the association demanded that if the federal government asks for transition periods of seven to ten years for labor then there should be equivalent transition periods for labor intensive agricultural products. Regarding the financial side of enlargement, the *Bauernverband* claims that the budget package for 2000-06 provides adequate funds for incorporating the accession countries into CAP. More specifically, the *Bauernverband* denies the need for introducing degressive elements into the direct payments scheme for farmers in the existing member states, i.e., reducing direct payments over time to pay for enlargement.

In June 2000 the accession negotiations on the agricultural chapter were formally opened. Particularly difficult issues include the fixing of quotas, veterinary and phytosanitary standards and the extension of the system of direct payments to the accession countries. Regarding production quotas the accession countries essentially ask for generous quotas in line with historic patterns or future production potential rather than actual current production. Here it is important to note that in 1990 and the following years, agricultural production in Central and Eastern Europe dropped significantly. The European Commission has opposed this demand and has pushed for reference periods close to the present. It is also important, though, to recognize sector specific differences. Regarding the milk sector, representatives of the milk industry have a different perspective than the *Bauernverband*. Whereas the *Bauernverband* does not regard milk quotas as particularly problematic in the context of EU enlargement, the German milk industry views the EU milk quota system as administratively rather complex and difficult and favors a phase-out of milk quotas.

A second issue concerns veterinary and phytosanitary standards, such as sanitary standards for dairies and slaughter houses. Here the accession countries have asked for transition periods. For the EU this raises concerns about consumer protection and the potential spread of animal diseases. Before the establishment of the single market without border controls, such issues were easier to handle. The EC could grant transition periods and make sure that shipments of products which did not meet EC standards were stopped at the border. Today, the reinstitution of border controls would undermine one of the major accomplishments of the EC/EU. Here the German government opposes transition periods which undermine the operation of the single market.⁸¹ The German farmers association opposes such transition periods as well.⁸² There are also efforts, though, to investigate the extent to which these standards really would present major practical problems and to look for pragmatic solutions.⁸³

The most contentious issue involves direct payments, which today account for a large part of EU support to farmers. These payments were introduced as part of the 1992 reform of the CAP in the context of the Uruguay Round GATT negotiations and were meant to compensate farmers for decreases in price support which brought EC/EU prices closer to world market prices.⁸⁴ In WTO terminology these direct payments are part of the so-called "blue box" of agricultural support measures. This issue has obvious budgetary implications which brings out a potential contradiction in German policy. On the one hand, Germany has been an advocate of eastern enlargement, but, on the other hand, the Schröder government has been concerned with reducing its disproportionate contribution to the EU budget. The issue also directly touches a central aspect of multilateralism, generalized principles of conduct. If the accession countries were excluded from the system of direct payments this would arguably represent a second-class membership. On the other hand, direct payments were first instituted to compensate farmers for price cuts. Since integration into the EU will mean higher prices for the majority of Central and eastern European farmers, there is no reason to extend them to the accession countries. However, this argument does not hold for Slovenia where prices have tended to be higher than in the EU.85 To the extent that direct payments have other purposes than compensation for price cuts, exclusion of Central and Eastern European accession countries is even more questionable. Thus, "[i]f payments are paid as income support, the poorest farmers cannot be excluded. If payments are finally, seen as a reward for stewardship of the land, all farmers should receive such a reward."86 In a speech on July 10, 2000, EU Agriculture Commissioner Fischler made a distinction between equal and fair treatment and stated that he was "committed to fair treatment of all members, old and new."87 He also repeated other arguments against the extension of direct payments, such as direct payments would not facilitate the necessary restructuring of the agricultural sector in the accession countries and could lead to social tensions between subsidized farmers and industrial workers.

The financial perspective for 2000-06, which the leaders of the member states agreed upon at the EU summit in March 1999, did not include funds for direct payments to farmers in the accession countries. One solution to the conflicts surrounding direct payments, which was supported by German political parties across the political spectrum from the Greens to the Christian Democrats, would have been to partly renationalize direct payments through substantial national cofinancing. As Rabinowicz pointed out, this "would suit the interests of countries that wish to reduce their contribution to the budget but avoid a radical reduction of agricultural support. Germany is a prime example." Under such plans Polish farmers, for example, would not necessarily get the same amount as farmers in the old member states, but this would then be due to Polish budget limitations rather than discrimination by the EU. In 1999, however, German proposals for national co-financing failed due to French resistance.

In any case, EU policy on direct payments will change. At a Bundestag hearing in January 2001 the EU Commissioner for agriculture Franz Fischler argued that EU budget decisions of 1999 leave enough room to gradually introduce direct payments for farmers in the accession countries before 2006. The Bauernverband has stated that in principle it supports the extension of direct payments to farmers in the accession countries. How this will play out is not known yet since the Commission does not intend to negotiate the sensitive financial aspects of CAP before 2002. Furthermore, the EU budgetary decisions of 1999 call for a review in 2003, and direct payments will be a contentious subject at the WTO negotia-

tions where some WTO members will push for an elimination of the "blue box" and thus EU direct payments in their current form. Future changes in policy on direct payments will not only be controversial at the international level but have a domestic conflict potential as well, because, as Rabinowicz argued, the shift from price support to direct payments made distributional conflicts among farmers more likely:

As long as price support was the major agricultural policy instrument, large and small farmers shared the same interests. Faced with a choice between low price and high price, all farmers unanimously united behind demands for the latter even if price policy mostly benefited large ones. Reinstrumentation of agriculture policy towards direct payments make this coalition weaker and redistributional conflicts among different groups of farmers more pronounced.⁹³

This is so because direct payments and their distributional effects are more transparent than traditional price supports. In the German case reunification exacerbated the potential for distributional conflict as reunited Germany contains a large number of small farms in western Germany and large farms in the East. Thus, in a Bundestag debate on the results of the Berlin EU summit of 1999 members of the governing parties claimed that the government had succeeded in preventing the introduction of differentiating elements into the administration of direct payments, i.e., large farmers receiving relatively less than small farmers, and thus had defended the interests of eastern farmers.

Compared to the free movement of labor issue, in agriculture there has been less open distributional conflict among domestic political actors, although the potential for distributional conflict is there. Consumers (and taxpayers) who have paid for the EU's "agricultural welfare program" through higher prices and taxes have not mobilized an effective counterweight to the German farming lobby. In line with the theoretical arguments presented here, German interest groups in this area make less explicitly bilateral demands than in the free movement of labor area. However, distributional issues are, of course, critical for understanding negotiations over CAP, but these conflicts pit German budgetary interests against French interests, for example, rather than different German interests against each other. There is some evidence of domestic conflict as well, such as the different positions of the *Bauernverband* and the milk industry on milk quotas, or the differences between eastern and western German farmers. So far, though, these domestic tensions have largely been more potential than actual conflicts.

CONCLUSION

In the past German governments have supported multilateral policies, and the Eastern enlargement of the EU in particular, both because multilateralism served material German interests and because over time a strong normative consensus developed behind the pursuit of such policies. By and large this consensus still holds. Yet, in some areas, such as German policies on sensitive topics in the EU enlargement process, such support has diminished. This paper has argued that this change is due to increasing distributional conflicts within Germany and a related decrease in the ability of German political institutions to manage distributional conflicts among different sectors and regions of the German economy. The evidence presented here shows more intense domestic distributional conflicts on the free move-

ment of labor issue than over agriculture, and, as expected, we see more bilateral and less multilateralist demands by unions and employers in the construction sector and border regions than by agricultural groups.

This still leaves the question of why distributional conflicts became more difficult to resolve in the 1980s and 1990s. Here the evidence presented in this paper has favored interest-based explanations. A common objection to such arguments is that ideas/norms frame or shape preferences. One can certainly argue that cooperative federalism in Germany, for example, was undermined not only by the widening gap between economic interests of the Länder due to unification but that ideology also played a role. Bavaria, the chief proponent of competitive federalism and a rich western and southern German state, not only has different economic interests than relatively impoverished eastern states, but Bavarian advocacy of competitive federalism also "has a solid ideological foundation. Bavaria has a far stronger sense of distinctive identity than any of the other Länder, based on its historic traditions of statehood, peculiarities of social structure (a very strong and persistent small farming tradition), its political Catholicism, and so on."98 Similarly, both changes in material interests and ideational shifts help explain the changes in the positions of labor unions in the United States and elsewhere on immigration from the 1920s to the late twentieth century, as observed by Leah Haus and others. On the other hand, when we examine the specific arguments of German unions and employers on freedom of movement issues, the proposals for sectoral and regional differentiation are easily explained on the basis of material interests but there is no clear ideational explanation. More broadly, it would be farfetched to argue that norms/ ideology do more than supplement the rather hard material interests at stake in the issues analyzed in this paper.

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- ⁸⁶ Ibid., p. 410.
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