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Improving Labour Market Performance in France

Stéphanie Jamet

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ABSTRACT

Improving labour market performance in France

With high unemployment, low participation of specific groups such as the low-skilled and those nearing retirement age, and relatively low average hours worked, France is far from using its full labour potential. Improving the labour market situation would not only increase living standards and growth potential but also reduce social exclusion and ease pressures on public spending. This paper analyses various characteristics of the French labour market that may explain the low utilisation of labour potential. It puts forward the need for a comprehensive reform of the labour market aiming at: *i*) shifting the burden of social protection in the labour market away from employers towards the state by reducing and streamlining employment protection legislation; *ii*) removing incentives that lead to early withdrawal from the labour market; *iii*) allowing employers and employees more freedom to negotiate working hours; and *iv*) improving efficiency in job placement services.

This Working Paper relates to the 2005 OECD *Economic Survey of France* (www.oecd.org/eco/surveys/france), and is also available in French under the title “Améliorer la performance du marché du travail en France”.

JEL classification: J08, J30, J50, J65, K31

Keywords: France, employment protection legislation, wage bargaining, public employment services, minimum wage, labour cost, inactivity traps, working time reduction

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Improving labour market performance in France

By
Stéphanie Jamet¹

Despite some improvements in the French labour market situation during the 1990s – with estimated structural unemployment² declining from its peak of 12% in 1997 to 8.9% in 2005 and employment increasing by 11% between 1995 and 2005, the high level of unemployment remains a major policy concern. Due for the most part to inappropriate policies, France also has one of the lowest labour utilisation among OECD countries (OECD, 2004a). This not only reduces living standards and growth potential but it also reduces government revenues and increases expenditures on the non-working population. In addition, French labour markets suffer from high and increasing dualism.

The low utilisation of labour potential is mainly caused by four factors:

- high structural unemployment,
- low labour market participation among youths,
- early exit from the labour market by older workers,
- a relatively low number of annual hours worked per worker.

Given the low rate of labour utilisation and high level of dualism, the main challenges are to:

- reduce impediments to labour market adjustment such as unduly strict employment protection legislation (EPL) and high tax wedges;
- reduce or remove inappropriate incentives to early withdrawal from the labour market by particular groups such as the old and mothers of young children;
- ensure that social legislation does not unduly impinge on the ability of workers and employees to negotiate working hours;
- maximise cost efficiency in job placement services.

1. This paper was originally produced for the *OECD Economic Survey of France*, published in September 2005 under the responsibility of the Economic and Development Review Committee; main measures introduced since then are presented in Box 8. Stéphanie Jamet is an economist in the OECD Economics Department. The author is thankful to Paul O'Brien and Willi Leibfritz for their helpful comments on previous drafts. The author also thanks Jean Philippe Cotis, Andrew Dean, Val Koromzay and Peter Jarrett for useful comments as well as Roselyne Jamin, Mee-Lan Frank and Sylvie Ricordeau for excellent technical assistance. This paper has also benefited from valuable discussions with French economists and researchers.

2. Defined as the unemployment rate at which inflation is stable.

Past policies have tried to address some of the challenges, sometimes successfully. Changes have focused mainly on active labour market policies and on cutting taxes for low income earners, leaving other labour market rigidities unchanged. Some of these policies are costly for the budget and there may be more cost efficient measures available. In addition, various policies went in the wrong direction, in particular the introduction of early retirement programmes, the increase in EPL from an already relatively high level and the compulsory reduction in working hours. Although the tax wedge declined for low paid workers, the cost of low-skilled labour remains among the highest in the OECD. As well, the tax wedge is high for average and higher-skilled workers. In addition, benefit entitlements for some groups of unemployed increased and the implicit tax on continuing work for older workers, though it has fallen, remains very high. Hence, despite the reforms carried out in recent years, France has continued to lag behind many other OECD countries in implementing the OECD's Jobs Strategy recommendations (Brandt *et al.*, 2005). Therefore, it is of crucial importance to further reduce barriers to employment by comprehensive reforms addressing problems on both the demand and supply sides of the labour market.

This paper argues that reform of the labour market should proceed on a broad front. Policies first need to reduce disincentives for firms to hire workers and for workers to stay on the labour market. They should also aim at ensuring that employers and employees have greater ability to negotiate working time while improving the efficiency of placement services so as to reduce long-term unemployment. The main areas addressed here are employment protection legislation, constraints on working hours, wage formation, taxation of labour, the public employment service and policies that lead to withdrawal from the labour market. Recommendations to improve labour market performance are summarised in Box 1.

Box 1. Summary of recommendations to improve labour market performance

Reform employment protection legislation

- Unify EPL by introducing a single permanent contract with less stringent protection that increases steadily with the length of employment. As transitional measures towards the single contract, the cost of "economic" dismissal under existing permanent contracts could be reduced and more flexible permanent contracts could be introduced where possible;
- Reduce the cost of the obligation on firms to help those employees they wish to lay off to find a new job;
- Scrap or further reform the Delalande contribution – the penalty paid by firms for dismissing workers more than 50 years old.

Ensure that employers and employees have the ability to negotiate working hours

Continue reducing the cost of unskilled and part-time labour

- Limit future increases in the minimum wage and renounce the use of "coups de pousse" for a certain period;
- Ensure the stability of policies of cuts in social security contributions so as to enhance their efficiency by avoiding uncertainty generated by frequent changes.

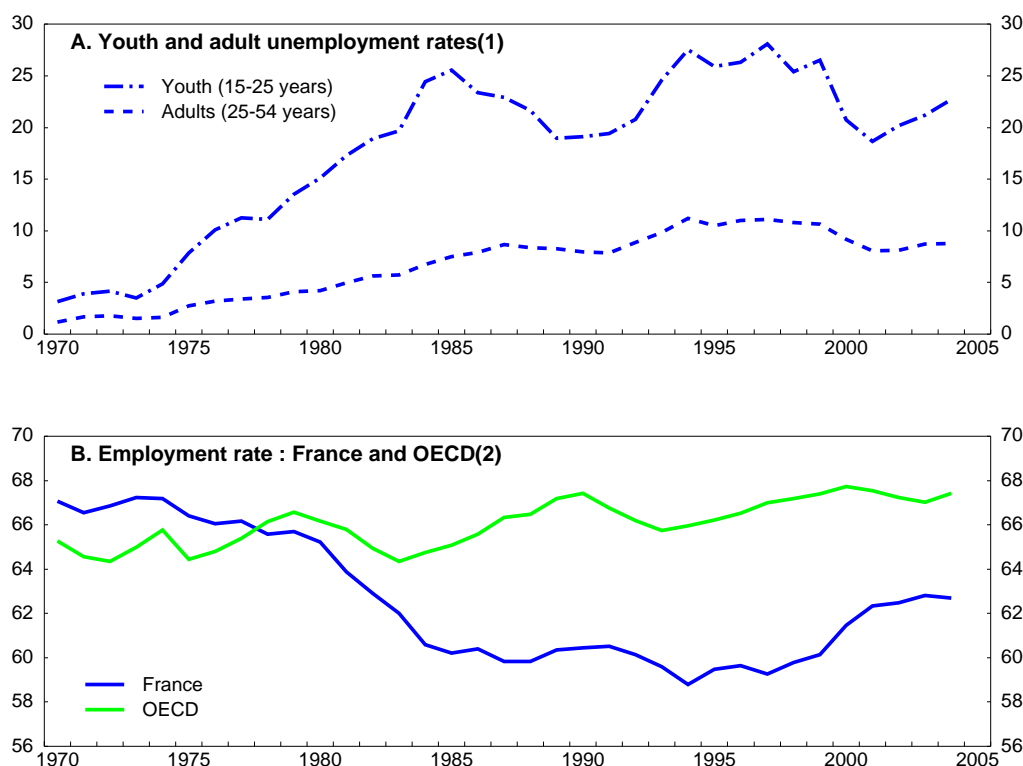
Improve the efficiency of the public service for employment

- Continue to improve coordination between the job placement agency (ANPE), the unemployment insurance administration (UNEDIC) and other agencies;
- Create a one stop shop service system for the unemployed;
- Improve monitoring of job search and make use of systematic evaluations of these policies to improve efficiency.

Continue reducing inactivity traps

- Carefully evaluate the aim of family policies, and avoid inappropriate disincentives to employment;
- Phase out early retirement programmes, and increase older workers' obligations to look for a job.

Figure 1. Unemployment and employment from a long-term perspective



1. As per cent of the age group labour force.

2. As per cent of the working-age population.

Source: OECD, ELS database.

The development of the labour market over the past decade

Despite recent improvements structural unemployment remains high, while employment and participation are low

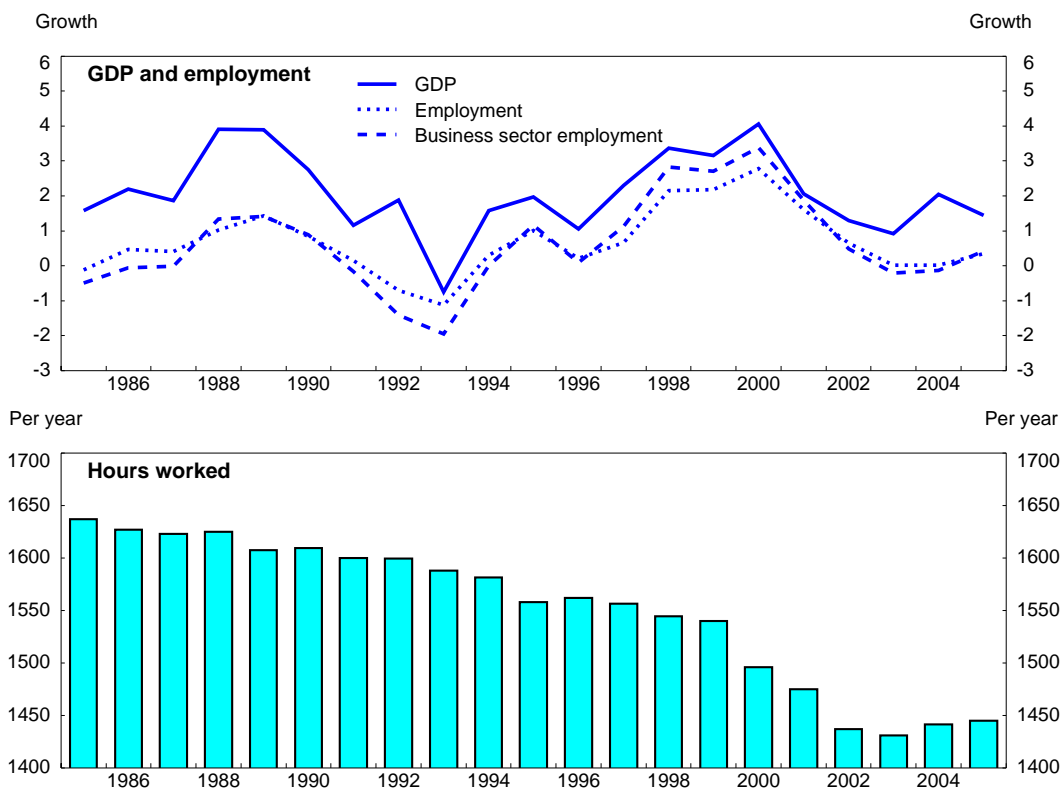
After deteriorating in the beginning of the 1990s, the labour market improved toward the end of the decade. Both actual and structural unemployment are below their mid-1990s peaks, although actual unemployment increased again during the recent cyclical downturn (Figure 1). The employment rate has increased by 3 percentage points since 1996, while the OECD average has remained essentially unchanged. In contrast with the earlier period, this growth came largely in the private sector (Figure 2). It is especially noteworthy that employment also kept up quite well when GDP growth slowed in the early 2000s.

Up to the mid 1990s, growing unemployment had been largely at the expense of the least educated, whose share in employment declined steadily (Figure 3). These trends have been halted and reversed as unemployment among the least educated workers decreased markedly in France after 1992, while it increased in many other OECD countries. Youth unemployment has also fallen significantly since 1999 but has been increasing since 2001.

Despite these improvements France continues to belong to the group of OECD countries with the poorest labour market performance (Figure 4). Moreover, since 2002 long-term unemployment has increased more markedly than the OECD average, and more so than in many euro-area countries (Figure 5). Although young people are perhaps the most heavily affected by unemployment, the

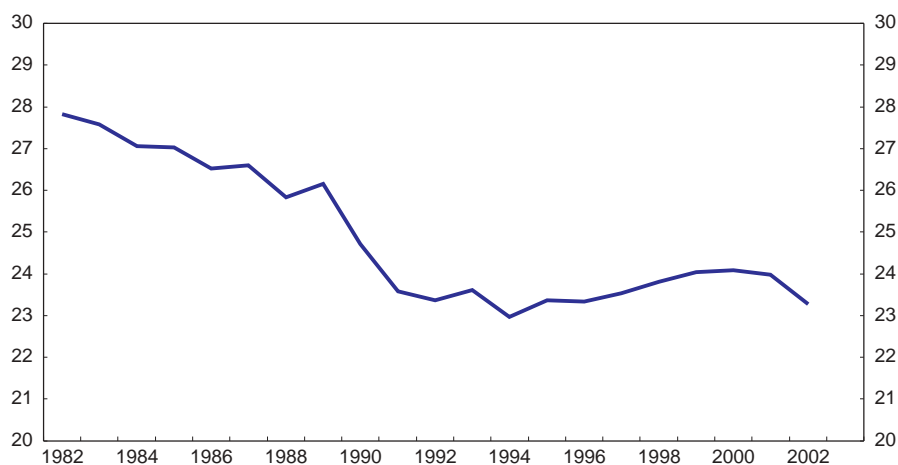
unemployment rate for prime-age workers is also high. Employment rates are also well below the OECD average for older workers.

Figure 2. GDP, employment and hours worked



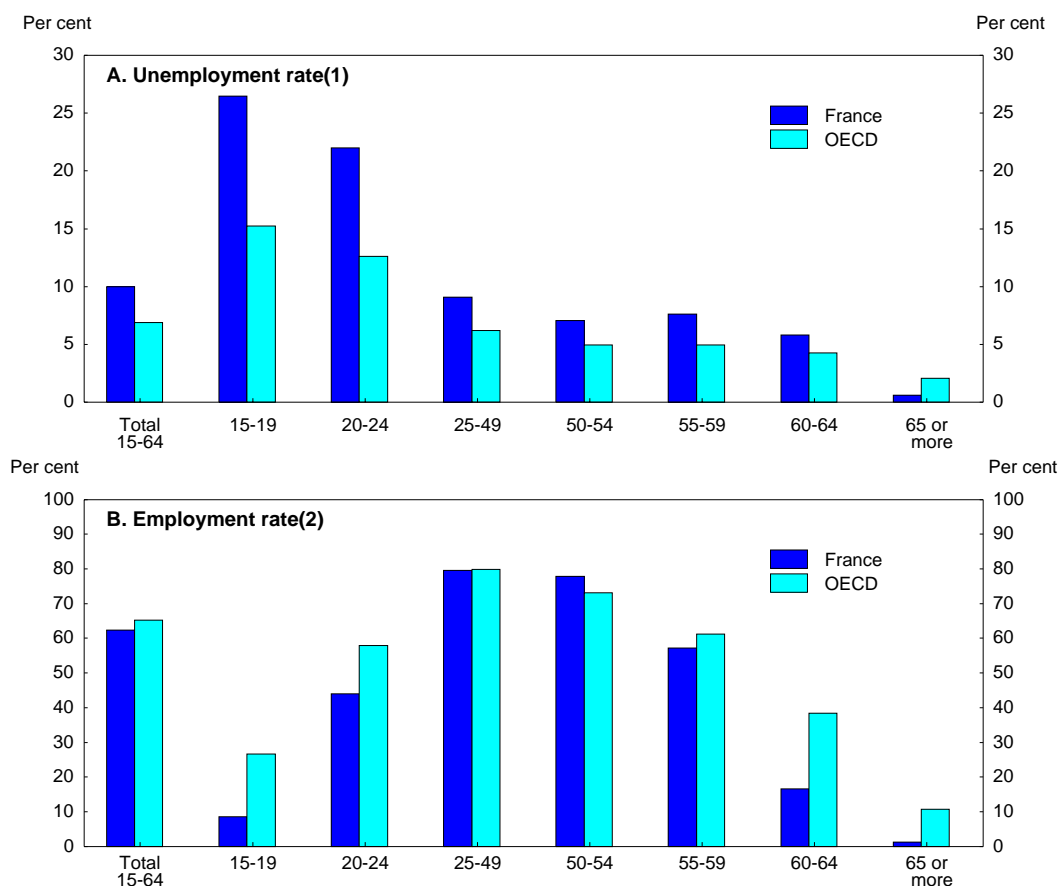
Source: OECD, Economic Outlook No. 79.

Figure 3. Share of low-skilled employment
As per cent of total employment



1. Low-skilled employment is defined by the job.
Source: INSEE, Enquêtes emploi 1982 to 2002.

Figure 4. Unemployment and employment rates by age, 2004

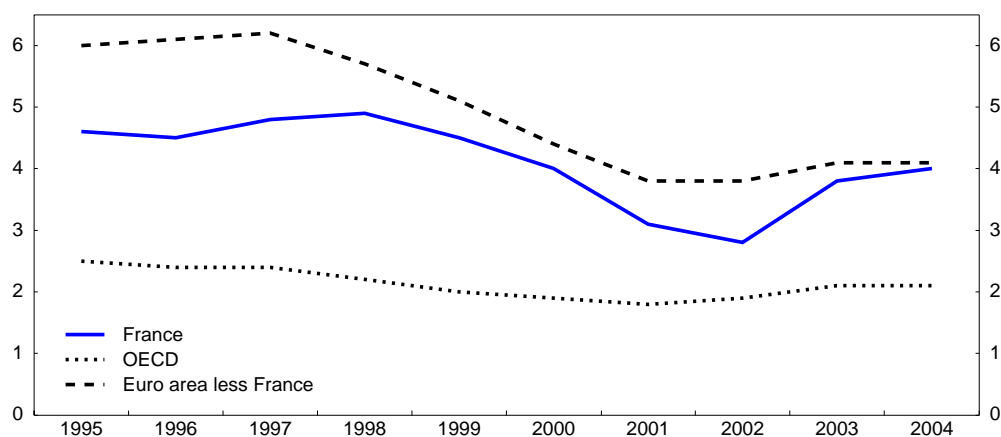


1. As per cent of the labour force in the corresponding age group.

2. As per cent of the age group population.

Source: OECD, ELS database.

Figure 5. Long-term unemployment¹
As per cent of labour force

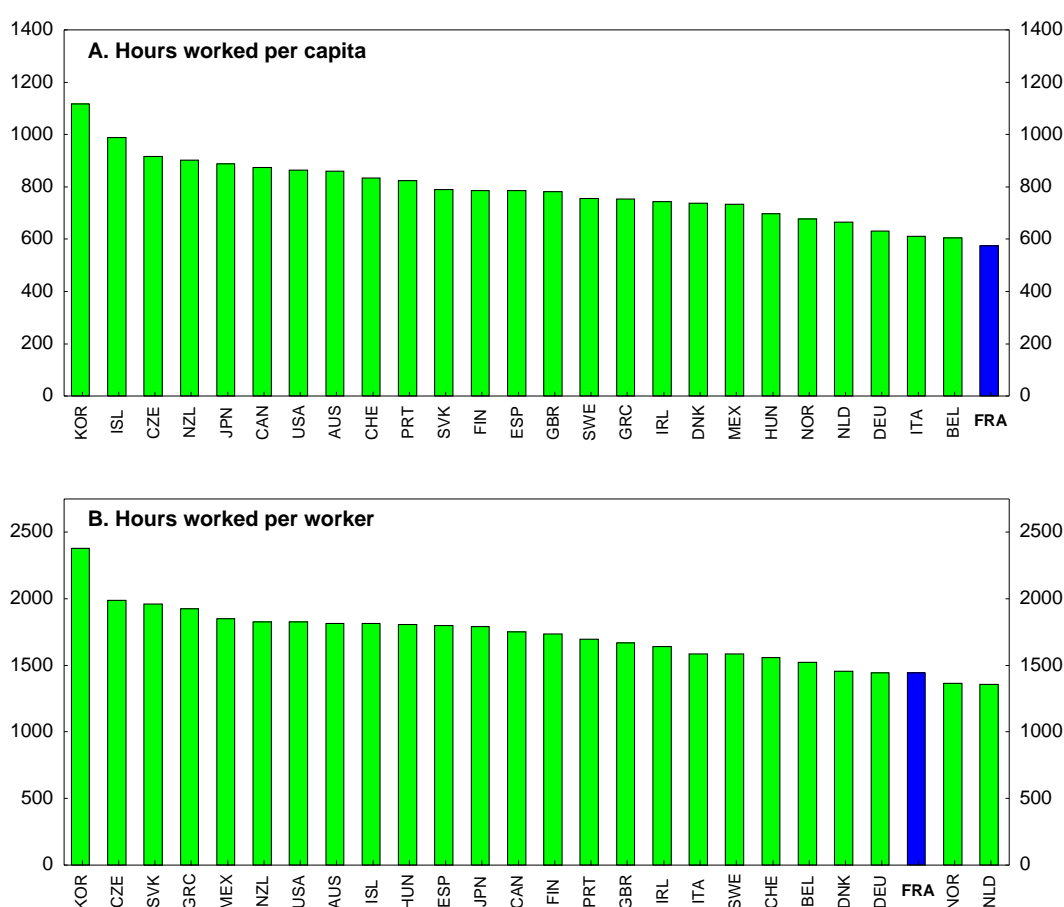


1. One year or more.

Source: OECD, ELS database.

Working hours have declined significantly

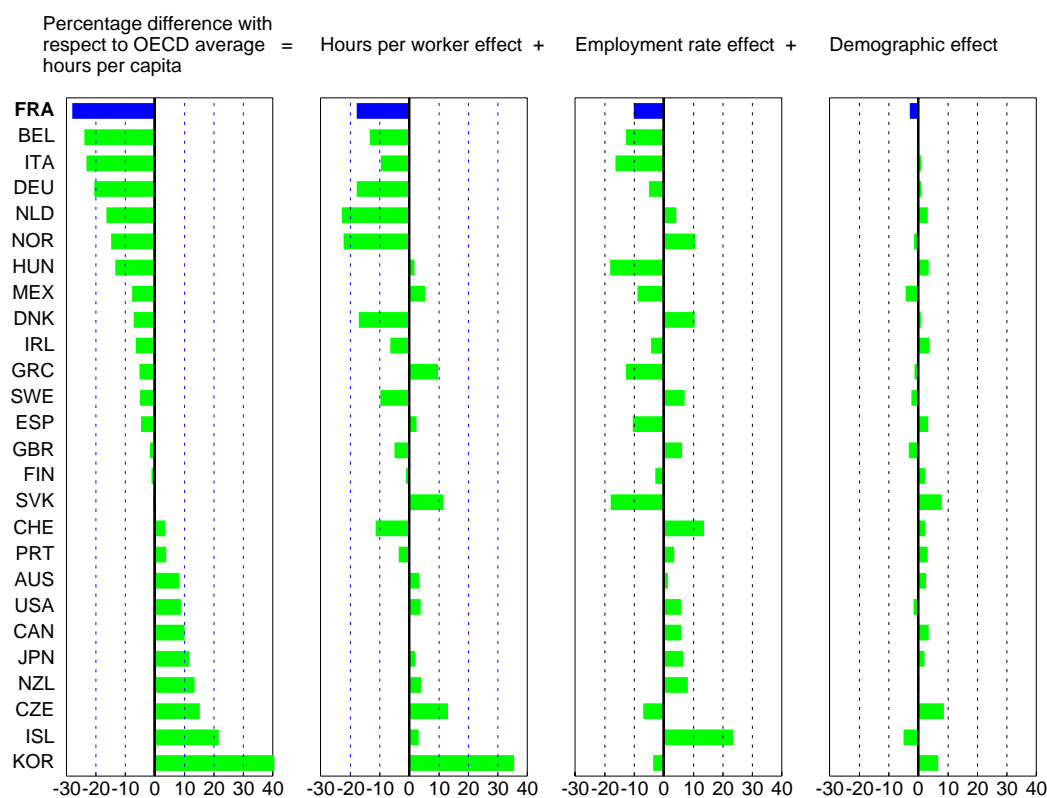
Annual hours worked per capita are among the lowest in the OECD, and this is the main source for the gap in GDP *per capita* and for its widening *vis-à-vis* the best-performing countries in the OECD (Figure 6). GDP per hour worked is relatively high in France, higher than in the United States. However, this good productivity performance is largely due to the exclusion of substantial parts of the unskilled labour force from employment in France (Artus and Cette, 2004). This low utilisation of labour potential is attributable to both low hours worked per worker, in particular the low working-time of full-time workers, and weak employment rate.³ The same factors have contributed to the decline of labour utilisation over time (Figure 7).

Figure 6. Annual hours worked, 2004¹

1. 2002 for Iceland and 2003 for Switzerland.
Source: OECD, Productivity database.

3. The differences in hours worked per capita (across countries and over time) can be decomposed into: *i*) differences in hours per employee; *ii*) differences in the employment rate (the ratio of employment to working-age population); and *iii*) differences in demography (the ratio of working-population to total population). Hours worked per employee depend on the incidence of part-time work and on working time for full-time workers.

Figure 7. Low hours per capita reflect both low hours per worker and low employment, 2004



Source: OECD, Productivity database.

Labour market problems are mainly structural

The persistence of labour market problems through a number of cycles shows that they are structural and deeply rooted. Various factors may be at work, among them, institutions, certain aspects of wage bargaining, work incentives and job search.

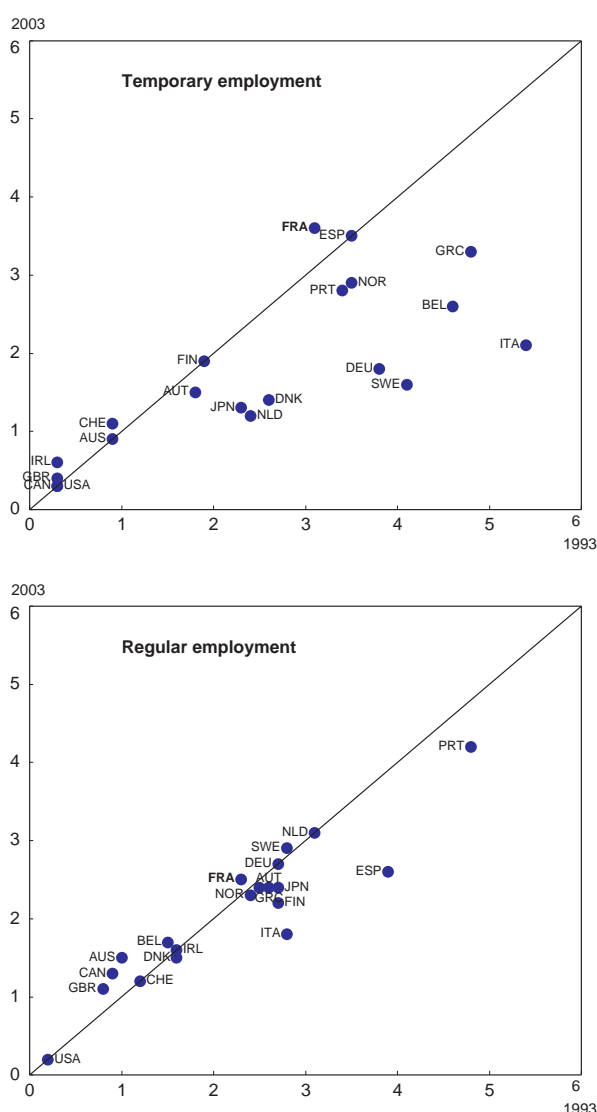
The rest of the paper examines these various aspects of labour market practices and institutions. These institutions provide a high level of protection to workers, especially workers on permanent contract, which may lead to the perverse effect of curbing hiring. The legislation on hours is also quite restrictive, which could have a negative impact on output in the long run. The paper then analyses the system of wage setting. While wage formation is constrained for low paid workers because of the minimum wage (SMIC, *salair minimum interprofessionnel de croissance*), it appears to be relatively decentralised and unconstrained for the rest of the wage distribution. Nevertheless, the high level of unemployment suggests that this wage flexibility is not sufficient to clear the market. One possible factor at work is the high level of social security contributions, despite reductions for some groups. To assist policies to reduce rigidities and costs, repetitive efforts also need to be made to improve the efficiency of the public employment service and to stimulate labour supply, especially among certain groups.

The Labour Code, jurisprudence and administrative procedures provide high protection to permanent workers

Employment protection for permanent workers is rather strict and has been strengthened

According to OECD indicators, EPL is relatively strict in France (Figure 8). This is partly due to highly restrictive dismissal procedures laid down in the Labour Code for permanent contracts – which is the standard form of contract allowed by the law, and is presumed when there is no written agreement. Temporary contracts, which allow some flexibility around the constraints of the standard contract, are in turn constrained in their application⁴ but their use has nonetheless strongly developed, leading to high dualism in labour markets (Box 2).

Figure 8. Overall strictness of EPL according to OECD indicators



Source: OECD, ELS database.

4. Surprisingly, temporary contracts in the public administration are less constrained.

Box 2. Main characteristics of employment protection legislation

Rights and obligations are defined in the Labour Code, which provides a minimum guarantee for workers' rights, but collective bargaining agreements can include more favourable conditions for workers. There are two types of contracts, permanent or temporary (temporary contracts with the employer directly or with an agency), but the full-time permanent contract is the reference contract.

Permanent contracts

Provisions concerning permanent contracts mainly cover how to terminate them. There are three categories identified: dismissal, retirement or resignation. Dismissals can take two broad forms, dismissal for "personal" reasons or for an "economic" reason.

Dismissal for "personal" reasons can take two forms, either for "real and serious" reasons, including refusal of a change in the labour contract or the inability to meet objectives set by the employer, or for "fault". In the latter case, the employer does not have to pay severance payment.

A dismissal for economic reasons can be "individual" if it concerns a single worker or "collective" for two or more workers. In both cases, allowable justifications for such dismissals are strictly defined. It should not be inherent in the person but caused by economic difficulties or technological changes. Moreover, since 1995 jurisprudence has further narrowed the reasons for an economic dismissal (see Annex A1). It can be used only if it is necessary to preserve the competitiveness of the firm i.e. it cannot be used to *improve* competitiveness or profitability.

Administrative procedures for layoffs for economic reasons are complex and long, more so when the layoff concerns many workers:

- General provisions: employers must respect a mandatory notice period and have interviews with the worker. Employers are obliged to help employees deal with changes in their jobs and finding another job. Firms also have to negotiate with the works council in the case of a collective dismissal.
- For a dismissal of more than 10 workers, an "employment preservation" plan (plan de sauvegarde de l'emploi), which includes measures such as encouraging the search for jobs outside the firm, creation of new activities, training programmes, etc., must be put in place by the dismissing firm.
- Firms with more than 1 000 employees have to offer a "reclassification leave" which is a four to nine month period before the employee is dismissed during which firms have to provide their employees with training and other help to find a job.

Severance payments depend on the number of years spent in the firm and on the reason for the dismissal:

- For an employee with less than 10 years of experience in the firm: 1/10 of a month's wages by year of seniority and 2/10 in case of dismissal for economic reasons.
- For an employee with more than 10 years of experience in the firm: 1/10 of a month's wages by year of seniority for the first 10 years and 1/15 by year of seniority after 10 years. In case of a dismissal for economic reasons, the rates are respectively 2/10 and 2/15.

Dismissed workers have priority in any re-hiring done by the firm. Employees can bring the case before a court (the "Prudhommes") if they contest the reason for the dismissal or the procedures followed. If the reason for the dismissal is not serious and justified according to the court, firms have to pay the worker an allowance equal to at least six months of wages.

Temporary contracts

Temporary contracts cannot be used to fill a permanent job linked to permanent activity of the firm. Therefore, their use is restricted to specific situations:

- to replace an employee on leave
- temporary increase in firm activity
- seasonal jobs or jobs in specific sectors with a lot of fluctuations in their activity. In this case, they are called "common use temporary contracts", and there is a list of sectors which can use them.

The framework of the contract is strictly set:

- the duration of the contract must be written in the contract. It can be renewed once only.
- maximum duration is 18 months (including renewal), 9 months in certain cases, and 24 months for very specific reasons

After a dismissal for economic reasons, for a period of six months it is not possible to hire a worker on temporary contract for temporary increases in activity or seasonal tasks.

A worker on a temporary contract cannot be paid less than a worker on a permanent contract in the same firm with equivalent skill and position. Firms have to pay the employee a one-time premium of 10% of the gross monthly wage when a fixed-term contract expires and is not transformed into a permanent one.

Public sector

The State is not subject to the same restrictions on short-term contracts. In theory, temporary contracts can be used only in specific situations: when no civil servants have the skills needed to do the job (which is the case of computer scientists for instance) or for an occasional need. In practice, these contracts are easily used. They may be of three years duration and can be renewed indefinitely. The salary can be less than that of a civil servant doing the same work, and most other advantages enjoyed by civil servants are not granted.

The use of temporary contracts in the public sector is not consistent with the 1999 European directive. The State has planned to restrict the use of these contracts and to transform some of the existing temporary contracts into permanent ones. Efforts in these directions have been very slow up to now.

Legal provisions concerning permanent contracts mainly cover how to terminate them. Severance payments are not particularly high in France, representing half a month's wages for an employee with five years of seniority in case of dismissal for "personal" reasons and a full month's wages in case of a dismissal for "economic" reason. For an employee with 15 years of seniority, severance payments reach 1.3 month's wages for a dismissal for "personal" reason and 2.7 month's wages in case of a dismissal for "economic" reasons (Figure 9). However, the procedure to be followed in case of a dismissal for "economic" reasons is very complex and increases employers' costs considerably. Moreover, firms also have to help displaced employees to find new jobs. This is costly and likely to be particularly difficult when the firm itself is in difficulty.

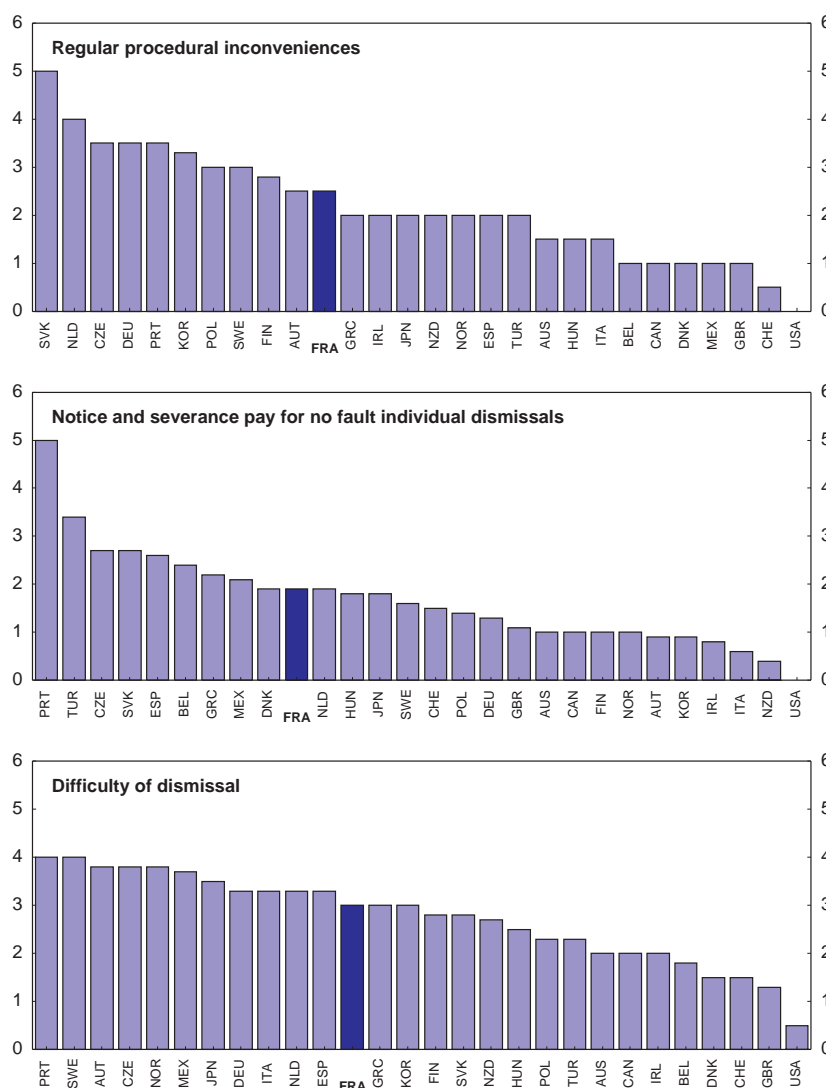
France is one of the few OECD countries where EPL concerning permanent contracts has increased from the mid 1970s to 2002⁵, due both to new legislation and to jurisprudence (see Annex A.1). EPL has tightened in three areas:

- Procedures for economic dismissal have become more complex;
- Legal restrictions on economic dismissals have tightened;
- The burden of the obligation to help redundant workers to find new jobs has increased.

A previous government introduced the Social Modernisation Law in 2002, significantly tightening the constraints on dismissal of more than 10 employees. But in 2003 the new government suspended some of these provisions before introducing another law in 2004 which, while moderating some aspects of EPL, increased the obligation on employers to try to find alternative jobs for employees under threat of collective dismissal.

5. Except for the suppression of the prior administrative authorisation for dismissal for economic reason in 1986.

Figure 9. Indicators of strictness of EPL for regular employment
2003

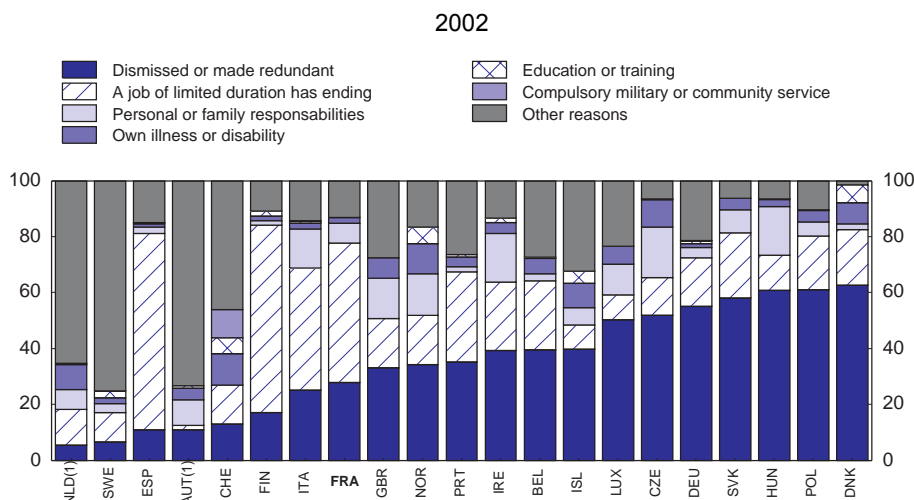


Source: OECD, ELS database.

Firms are reluctant to dismiss workers on permanent contracts

The law permits “economic” dismissal only if it is necessary to preserve the competitiveness of the firm. Financial rationalisation by the management is not sufficient justification. Moreover, in 2002 the Social Modernisation Law added a provision requiring that the financial position of the group to which the firm belongs be taken into account, which means that an economic dismissal is not legally justified if the group is healthy. These provisions prevent firms from undertaking practically any reorganisation to increase productivity that might ensure the survival or faster growth of the firm in the future, if it involves job losses. The assessment of whether the economic situation of the firm justifies economic dismissals is made by a judge. The number of cases brought before the courts is high compared with other OECD countries (Employment Outlook, 2004a). In a study relating to the year 1995, it was reported that employers lose 74% of these cases, compared with 48% in Canada, 51% in Italy, and 38% in the United Kingdom (Bertola *et al.*, 2000).

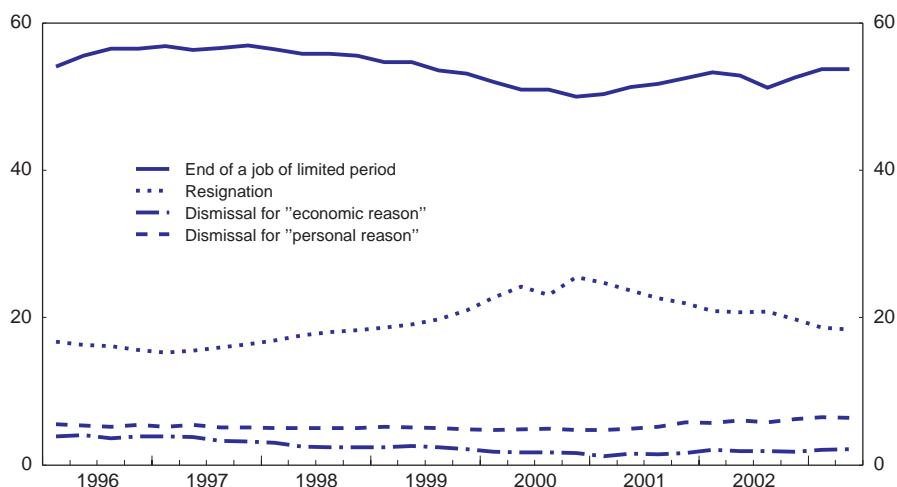
Figure 10. Reasons for leaving a job and becoming unemployed



1. 2001.
Source: Data from Eurostat.

Figure 11. Evolution of the reasons for ending a labour contract¹

Share in job termination (%)



1. Source and definition are different from those used in Figure 10.
Source: Ministry of labour and social cohesion, Déclarations de mouvements de main d'oeuvre (DMMO-EMMO).

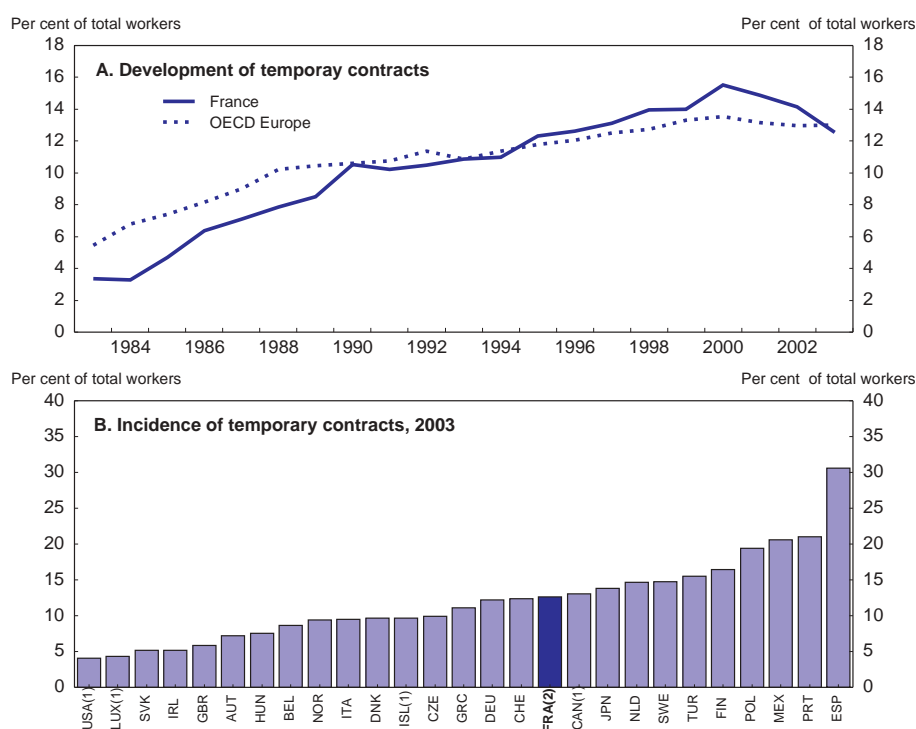
As a result of this strict EPL, job termination does not often occur through dismissal for “economic” reasons (Figure 10). Dismissals for economic reasons increased only moderately despite the fall in profitability after 2001 (Figure 11). Labour market weakness in this period was reflected first in a big increase in the termination of temporary contracts and, secondly, through an increase in dismissal for other reasons including those for “personal” reason, which are less costly to firms than dismissals for “economic” reasons. Indeed, in the case of a dismissal for “personal” reasons, an agreement is often signed between the employee and the employer that ensures that neither will contest the procedure of the dismissal, and severance payments are negotiated. The cost of such agreements suggests that the constraints of EPL are costly to firms. Kramarz and Michaud (2004) estimate that the average cost of

dismissing a worker represents 14 months wages but is significantly higher for a collective dismissal. Although this kind of job termination is easier for firms, it has three negative aspects. First, it leads to very unequal treatment between employees, with some receiving very high severance payments while others do not (Cahuc and Kramarz, 2004). Second, since it absolves firms of their obligation to help workers find a new job, the help that is presumed to have been given by firms is in fact never provided to these dismissed workers. Finally, a possible consequence of this kind of employment adjustment is that high productivity workers quit the firm while low productivity workers remain, with negative implications for productivity.

Temporary contracts have developed strongly

Despite the constraints on their use, temporary contracts developed markedly during the 1990s (Figure 12). It is likely that some firms also manage to by-pass some aspects of the law, especially the constraint that they can be renewed only once (*e.g.*, by creating another, similar, job). Thus, these contracts are more flexible and therefore attractive to firms. While they represented less than 5% of dependent employment in the mid 1980s, their share reached 12% by 2004, close to the OECD average. The contribution of temporary contracts to employment growth since the mid 1980s has been significant.

Figure 12. **Incidence and developments of temporary contracts**



1. USA: 2001; Iceland, Luxembourg and Canada: 2002.
Source: OECD, ELS database.

Table 1. **Average duration¹ of temporary contracts by sector (in months)**

	1996	1997	1998	1999
Total activity	2.7	2.6	2.6	2.6
Industry, including energy	3.6	3.4	3.5	3.7
Construction	4.2	3.9	4.2	4.2
Services	2.4	2.4	2.4	2.3

1. Data exclude workers employed on a temporary contract through an agency, where the average placement is of shorter duration. The duration is unknown for 18% of the sample population. Many temporary contracts are used for intrinsically short-term seasonal task. Excluding "seasonal" temporary contracts, the average duration of temporary contract would be close to 5 months.

Source: Ministry of labour and social cohesion, Déclarations de mouvements de main d'oeuvre (DMMO/EMMO).

Temporary contracts in France are of very short duration, less than five months in most sectors (Table 1). The most frequent duration in other countries is between six months and a year (OECD, 2002). The short duration does not seem to be a consequence of the limitation on the maximum duration of those contracts, which is 18 months, much longer than the average effective duration. It is more likely to be a consequence of the fact that the employer must pay for the entire duration of the contract, even if the job is terminated before the date specified in the contract.

As a result of restrictions on fixed-term contracts, they are mainly used for seasonal tasks with well known duration. They are less suitable when employers do not know precisely how long they need someone. For instance, they are appropriate neither for medium-term projects nor for periods during which the recovery seems uncertain. Hence, temporary contracts often correspond to low skilled jobs of short duration with poor prospects for human capital accumulation. It is difficult for workers to obtain temporary contracts of good quality, not restricted to seasonal tasks that will help them to remain employed afterwards.

Labour market dualism has increased

Despite the fact that temporary contracts are often used for seasonal tasks, they provide flexibility to firms, helping them to adjust their workforce rapidly to changing conditions while the probability that a temporary contract is transformed into a permanent one is low (the probability being greater for workers employed directly, at 1 chance in 3, than for those under contract to an agency, for whom the probability is only 1 in 4). Such behaviour can also be observed in other OECD countries where strict employment protection of permanent workers tends to increase the incidence of temporary work (OECD, 2004a). As a result, labour market dualism is increasing, with the majority of workers benefiting from permanent contracts and high employment protection, while a growing number alternate between unemployment and short, temporary contracts.

Overall strictness of employment protection legislation should be eased

The effect of employment protection on labour markets is a controversial subject, and the literature highlights positive and negative effects on labour market performance (OECD, 2004a). However, there seems to be a consensus on two points. First, while strong EPL and low unemployment initially coexisted, circumstances have changed, and the interaction between economic shocks and EPL can explain part of the increase in unemployment and unemployment persistence (Blanchard and Wolfers, 2000). Second, EPL does not affect groups in the same manner and is likely to have negative effects on youth, prime-age women and older workers (OECD, 2004a). Some arguments seem to be relevant for France:

- The purpose of EPL is to protect existing jobs. At the same time, it increases the present value of the cost of hiring. Moreover, for low skilled workers and young workers with low education levels, the minimum wage already makes this high, despite the reductions in social contribution rates on low salaries. Taken together, these measures significantly lower the chances of these workers finding a job.
- The impact on wages depends on opposing factors. On the one hand, EPL might increase wages by increasing insiders' bargaining power, but, on the other hand, it could reduce the reservation wage because it reduces risk. Moreover, by reducing the hiring rate, it should decrease the reservation wage for new entrant workers. However, as the minimum wage puts a floor on the wages of new entrants, the effect on reservation wages is reduced or eliminated. As a result, EPL on permanent contracts is likely to reduce wage flexibility.
- Theory suggests that differences in the strictness of EPL on temporary and permanent jobs produce high turnover in temporary jobs, since high firing costs for permanent contracts induce firms to use temporary contracts in sequence rather than converting them to regular contracts (Blanchard and Landier, 2002; Cahuc and Postel-Vinay, 2002; OECD, 2004a). As a result, easing the use of temporary contracts would foster both hiring and firing with unclear implications for overall unemployment. This might be the case in France where one-year and two-year mobility of workers on temporary contracts towards permanent ones is low relative to other European countries (OECD, 2002). Nevertheless, temporary contracts give some low-productivity workers the opportunity (that they would not have had otherwise) to enter the labour market and to acquire some skills that may improve their employability.

The objective of a reform in EPL is to increase the likelihood that unemployed workers find a job and stay employed, avoiding long-term unemployment. Empirical evidence shows that it is more the quality of the job than its type (temporary or permanent) that will help in meeting this objective (Lhommeau, 2003). Indeed, low skilled workers who start their careers with a low paid full-time, temporary contract of long duration (more than one year) are very likely to be employed two years later and quite often they find a permanent contract; workers who start with part-time and low paid, short-term temporary contracts remain in an unstable situation, where they alternate unemployment and poor quality jobs. The latter category of workers corresponds to young and low skilled workers. For them, the solution may be to improve active labour market policies (see below). For the former category, a possible reform to increase employment could include:

- easing the use of temporary contracts so that they can be used for permanent activity in risky sectors, which should incite firms to take more risk and to create jobs that, if matched with the right workers, would ensure human capital accumulation and increase productivity;
- reducing the cost of dismissal on permanent contracts in order to increase employers' willingness to hire on permanent contract or to transform temporary contracts into permanent ones.

A number of reports have made suggestions on possible ways to make these changes:

- The de Virville report (2004) suggests relaxing the legislation on temporary contracts by enlarging the access to "common use temporary contract" (*contrat d'usage*), which already exist for specific sectors and whose use has already been extended, through the jurisprudence, to other sectors (see Annex A1);

- Blanchard and Tirole (2003) and Cahuc (2003) suggest reforming EPL on permanent contracts by reducing the burden of administrative procedures, lowering the cost to firms of helping dismissed workers to find another job, and limiting the judge's power. They suggest introducing, at the same time, an experience rating system under which employers' social security contributions are made an increasing function of the frequency with which they dismiss workers;
- Cahuc and Kramarz (2004) suggest abolishing the difference between permanent and temporary contracts by creating a single contract, with severance payments increasing with the length of service. Another suggestion is that firms pay tax to public authorities that will finance actions to help dismissed workers to find a job. In exchange, the procedures and the allowable reasons for "economic" dismissal would be smoothed.

The creation of a single contract is likely to be the most efficient solution, as it should not only increase effective labour demand but also reduce labour market dualism and improve fairness among workers. Since implementing such changes may be politically difficult, gradual reforms could be introduced that would at the same time ease the use of temporary contracts and reduce EPL on permanent contracts. The government took recent steps in this direction by introducing the "Contrat Nouvelle Embauche" (see Box 8). Although this contract weakens EPL for small firms, designing further special types of employment contracts is likely to increase administrative cost and reduce transparency, without a significant impact on reducing dualism. In any case, the authorities should consider proposals to relieve firms of the obligation to help dismissed workers find a new job, making them contribute to the financing of the public employment service instead.

Legislation has significantly reduced hours worked

As mentioned above, working hours per worker are relatively low in France. Annual hours worked per employee are now 8% below the EU average and around 20% lower than in the United States, Japan, Australia and New Zealand (Figure 6). This is not caused by a particularly high incidence of part-time work but rather by the low annual working time of full-time workers (Table 2). Largely as a result of both recent and older policy measures, the standard working time per week and per year is now significantly lower than in most other industrial countries.

Over the past several decades France has legislated significant cuts in standard working hours per week, which has also reduced the actual working time per year. In 1982, legal working time (*i.e.* standard hours in employment contracts, above which an overtime premium must be paid) was reduced from 40 to 39 hours per week. In 1996, the *loi de Robien* offered reductions in employers' social contribution rates to create new jobs or preserve existing ones through work-sharing by reducing working time. In 1998 the first *loi Aubry* announced the reduction of the legal working week from 39 to 35 hours, while keeping workers weekly compensation unchanged, with effect from January 2000 for firms with more than 20 employees and from January 2002 for others. Firms were encouraged to reduce hours worked before the 2000 deadline through cuts in social security contributions that were made conditional on a 10% decrease in hours worked and the creation of 6% more jobs. The second *loi Aubry* (2002) confirmed the new legal working time and introduced new cuts in social contributions for those firms reducing hours worked. This time, these cuts did not depend on the amount of the reduction in working time or on job creation.

Table 2. **The anatomy of a typical work year for full-time dependent employees, 2002**
Decomposition of average annual hours actually worked by full-year equivalents into its components

	Annual hours of work	Average weekly hours on all jobs	Usual weekly hours of work in the main job	Extra hours on main job = Overtime + variable hours (e.g. flexible hours) + others	Hours on additional jobs	Annual weeks worked	Holidays and vacation weeks	Absences due to non holiday reasons
	(a) = (b)*(f)	(b) = (c)+(d)+(e)	(c)	(d)	(e)	(f) = 52 - [(g) + (h)]	(g)	(h)
	Hours	Weekly hours worked			Weeks worked/not worked			
Austria	1 657	41.9	40.1	1.5	0.4	39.5	7.3	5.2
Belgium	1 600	39.8	39.3	0.3	0.2	40.3	7.1	4.6
Switzerland	1 875	44.1	40.9	2.9	0.3	42.6	6.1	3.3
Germany	1 679	41.3	39.9	1.3	0.2	40.6	7.8	3.6
Denmark	1 597	40.5	39.1	0.8	0.6	39.4	7.4	5.2
Spain	1 712	40.7	40.4	0.1	0.2	42.1	7.0	2.9
Finland	1 589	40.9	39.2	1.4	0.4	38.9	7.1	6.0
France	1 569	38.6	37.7	0.8	0.1	40.7	7.0	4.3
Greece	1 851	41.5	41.0	0.1	0.3	44.6	6.7	0.7
Hungary	1 821	41.5	40.9	0.4	0.2	43.9	6.3	1.8
Ireland	1 755	39.9	39.5	0.2	0.2	43.9	5.7	2.3
Iceland	2 022	50.7	47.3	1.8	1.6	39.9	6.2	5.9
Italy	1 594	38.8	38.5	0.1	0.1	41.1	7.9	2.9
Luxembourg	1 680	40.1	39.5	0.5	0.1	41.9	7.5	2.6
Netherlands	1 604	40.5	38.9	1.4	0.2	39.6	7.6	4.8
Norway	1 517	41.1	38.5	1.8	0.8	37.0	6.5	8.5
Portugal	1 729	41.3	40.3	0.3	0.8	41.9	7.3	2.8
Sweden	1 503	41.8	39.9	1.3	0.6	36.0	6.9	9.2
United Kingdom	1 805	44.2	43.3	0.7	0.2	40.8	6.6	4.6

Source: OECD (2004a).

The 35 hours legislation⁶ prompted an increase in pay (for overtime) after 35 hours worked and decreased maximum allowable overtime (Table 3). It also introduced a guarantee for the monthly earnings of minimum wage earners in order to prevent a fall in their real incomes as a result of working fewer hours (see below).⁷

6. The “35 hours legislation” is generally considered to be the set of the three laws, the *loi de Robien*, the first and the second *loi Aubry*.

7. M. Durand and J. Martin (2004), “The 35-hour week, Portrait of a French exception”, *OECD Observer* No. 244, September 2004.

Table 3. Evolution of working-time legislation

	Before the 35 hours legislation	Aubry laws (1998-2002)	Fillon law (2003)	Currently
Standard working time	39 hours per week	35 hours per week	35 hours per week	35 hours per week
Level of overtime before a rest period is compulsory	130 hours per worker per year	130 hours per worker per year, but more during the transition period	Fixed by branch level agreement. Otherwise, 180 hours	220 hours except in case of branch or firm level agreement
Overtime premium	25% between 40 and 43 hours and 50% above 43 hours	25% between 36 and 43 hours ⁸ and 50% beyond 43	Premium can be negotiated at the branch level between 10 and 25%, 25% otherwise	Fillon's framework extended until 2008
For firms with less than 20 employees		10% between 36 and 43 hours and 50% beyond that	10% between 36 and 43 hours and 50% beyond that	
"Leave" account (i.e. to store accrued but unused leave)	Did not exist	Can be used for leave or training only	Part of unused leave can be paid (5 days per year max) or stored (22 days per year max.) and used within five years	A collective branch-level agreement can decide that the leave account can be paid (with no limit on the number of days); otherwise, used for leave or training Repeal of the annual ceiling of 22 days

Other aspects of implementing the cuts in working hours were left to collective bargaining between firms and trade unions. These negotiations introduced greater working-time flexibility so that firms can ask for longer or shorter hours per week according to their needs, provided that the average annual work week is 35 hours. This increases firms' ability to respond to seasonal and cyclical fluctuations of production and has been favourably appraised by employers (DARES, 2003). Negotiations also led to wage moderation for two or three years (Pham, 2002). Wage moderation, productivity gains through organisational changes and cuts in social contribution were the three pillars of the measures that were designed to limit the increases in firms' costs that the working-hours reduction would have caused.

The driving force for the reduction in working hours in France (and some other European countries) was in particular to create more jobs by "work sharing" (on the assumption that insufficient aggregate demand rather than high costs was at the origin of unemployment), rather than just providing workers with more leisure by distributing part of productivity gains as more free time. In France it has also been justified as a way to improve the efficiency of cuts in social security contributions on the argument that firms had to hire workers in order to avoid a reduction in output (DARES, 2003). Many employers opposed this legislation, as they feared an increase in labour costs even though the measure was

8. During the transition scheme, premium between 35 and 39 hours was limited to 10%.

accompanied by fiscal incentives and wage moderation.⁹ The policy of shortening working hours came under additional attack when it was extended to smaller firms and also when hospitals claimed that the 35-hour week had led to severe staff shortages.

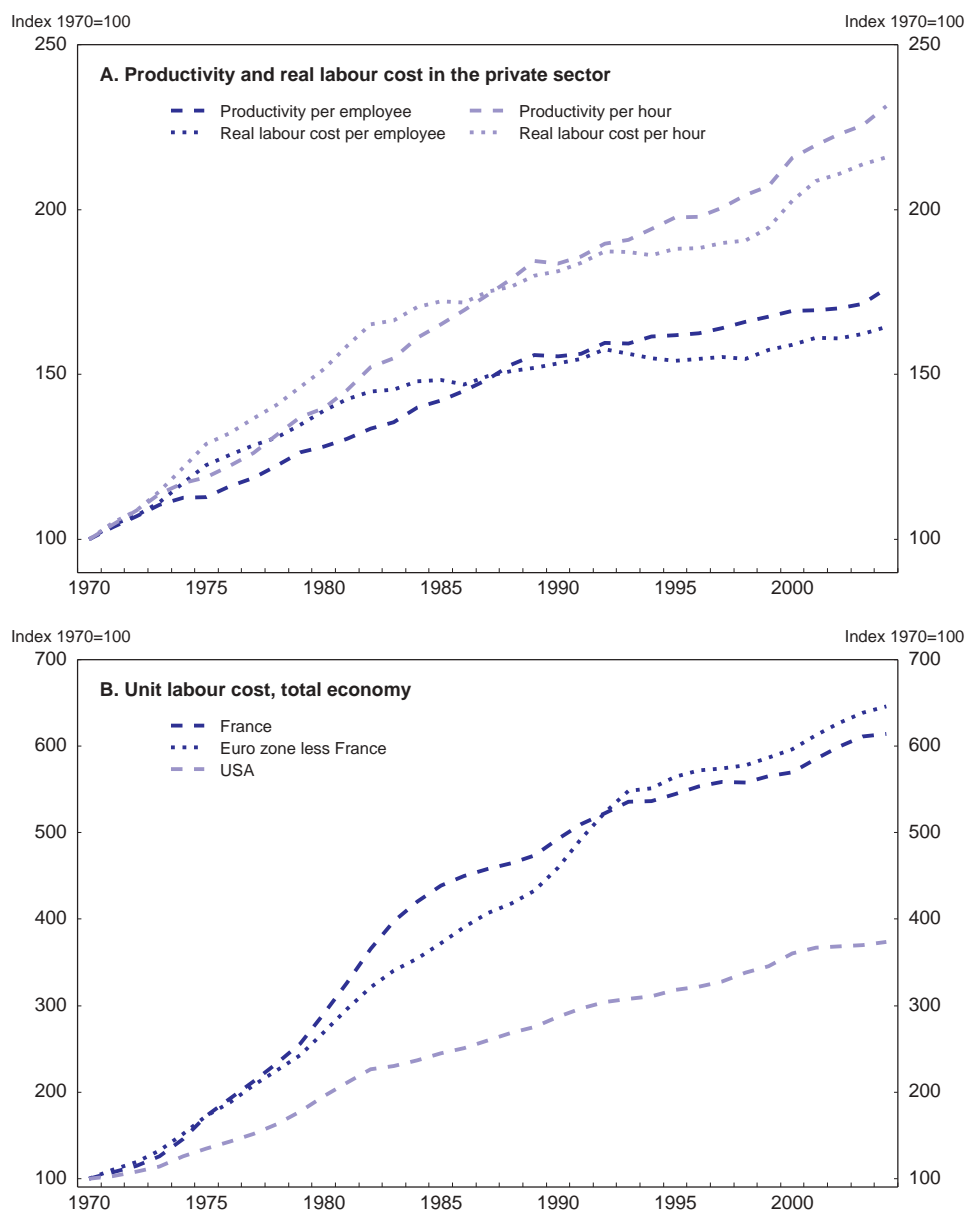
This paved the way for reconsidering the policy of mandatory working-time reductions and introducing instead more flexible arrangements, in particular by the *loi Fillon* (OECD, 2003), by the collective-bargaining reform (see Annex A.2), which introduced the possibility for enterprise agreements on hours worked to be less favourable to employees than sectoral ones, and by the new arrangements of 2003 and 2005 (Table 3). However, except for some firms facing specific problems where hours have been increased and wage moderation continued (Bosch, Doux, Seb), few firms have so far used the possibility to increase hours (Bilan de la négociation collective, 2004) although the relaxation measures taken since 2003 have cut firms' overtime costs sharply (especially between the 36th and the 43rd hours). One of the reasons could be that employers fear that the advantages of increased flexibility and wage moderation, which had come in exchange for the reduction in hours worked and after long negotiations, could be lost again. Weak economic conjuncture may also have played a role.

It is hard to evaluate the overall impact of the reduction in working time, the associated cut in social security contributions, related firms-level negotiations on working practices and wage increases that were moderated for a certain period. It is fairly clear that the simple imposition of reduced working hours, with a compulsory overtime premium and a binding ceiling on total hours worked, would have been costly for the economy. A necessary condition for the 35 hours legislation to have had a positive impact on employment was that productivity gains should be higher than the increase in the labour cost.

- Some estimates have evaluated the firm-level impact of the 35 hours legislation by comparing job creation in firms that reduced working hours with that in similar firms that maintained the 39 hours standard. This methodology relies on the possibility of comparing behaviour of similar firms, which is very difficult task and was not possible once the legislation was fully implemented, since only small firms with specific characteristics maintained a 39 hour week. Such estimates conclude that the 35 hours legislation increased employment by 6% for firms eligible for incentive provisions (the *loi Robien* and the first *loi Aubry*) and by roughly 3% for other firms shifting to a 35 hour week (the second *loi Aubry*) (Jugnot, 2002), meaning that productivity gains, wage moderation and cuts in social contributions were able to offset cost increases for businesses. This result is consistent with survey studies in which firms have reported that the 35 hours legislation generated 6% rise in employment (Bunel *et al.*, 2002).
- Empirical studies all agree on the fact that the legislation was differently assessed by firms. While large firms say they are happy with the changes in working practices, notably on the flexibility on week-to-week or month-to-month allocation of working time, that they were able to negotiate in exchange for an early move to the 35 hour week, smaller firms were not able to undertake re-organisation and thus were more affected by the increase in labour cost (even if the 35 hour week was introduced for SMEs later on).
- The overall impact on employment of the 35 hours legislation is difficult to estimate. Assuming that the legislation did not affect production negatively in the short term, and adding the different firm-level job creations, Jugnot (2002) finds that the overall impact is a 310 000 net creation of jobs in the short term. This estimate also assumes that firms that maintained the 39 hour work

9. In 2000, monthly earnings were kept constant for 98% of those workers who passed to the 35 hour. (Pham, 2002).

Figure 13. Productivity and labour cost developments



Source: INSEE, *Comptes trimestriels* and OECD, *Economic Outlook No. 77*.

week were not affected by the legislation, which may not be true since the SMIC grew more rapidly in the first few years following implementation of the legislation. This was because the SMIC is linked to the average *hourly* wage, which accelerated as working-time reductions concerned more and more workers, because *monthly* wages were very often kept constant when working time was reduced.

- The long-term impact of the 35 hours legislation is also very uncertain (Pisani-Ferry, 2003). No studies have taken into account the cost of financing the 35 hours legislation that, in the end, is very likely to require higher taxes. This cost includes the cuts in social contributions that were made during the introduction of the legislation and also those that came after 2002, during the

period of harmonisation of the different minimum wages, to offset the increase in wages that this harmonisation caused. Absent the legislation, these cuts in social contributions would, on their own, have succeeded in boosting employment and reducing the NAIRU in a period of weak labour demand without imposing any cost burden. Furthermore, while the increased flexibility has further increased hourly labour productivity growth, this was not enough to prevent a clear deceleration of growth of productivity per employee (Figure 13). This is likely to have reduced growth of potential output and (material) living standards. Finally, no studies have taken into account the fact that reducing working hours may have led to an underutilisation of the capital stock that could also have a negative impact on growth.

Wage setting is constrained for wages close to the SMIC but is relatively decentralised otherwise

The minimum wage has increased as a consequence of the 35 hours legislation

The Labour Code specifies a legal minimum wage. Before 2002, there was a single minimum wage, the SMIC, indexed to inflation and half the increase in the purchasing power of the average wage, with occasional discretionary increases. When the legal workweek was reduced from 39 hours to 35 in any particular firm, the monthly earnings of minimum wage earners were maintained at the level applying in the year in which the firm reduced hours. As a result, the 35 hours legislation created several hourly minimum wages, according to when a worker's employer signed a 35 hours agreement (OECD, 2003). By July 2005, these different minimum wages were harmonised and there has been a single SMIC, as before. During the period of harmonisation (from July 2002 to July 2005), the average real minimum wage (excluding employer contributions) will have increased by 6.5%. The way the SMIC will evolve after 2005 has not yet been decided; without any change, it may revert to its usual method of indexation.

Wage formation appears to occur mainly at firm level

Collective bargaining takes place at various levels in France: national, inter-professional, sector, section of industry and firm level. Five unions are officially considered to be representative of employees, having an "indisputable presumption" that automatically involves them in bargaining (CFDT, CFTC, CFE-CGC, CGT, CGT-FO).¹⁰ Other unions have to prove their representative character at the level of the bargaining unit. There are no constraints on the side of employers. Bargaining covers various issues apart from wages (Box 3). Sector-level collective agreements are very often extended to all employees of the sector. The OECD index of legal extension of sector-level collective agreements is thus high for France (Brandt *et al.*, 2005).

In practice, however, enterprise-level bargaining has developed strongly, and this tendency has been reinforced by the 35 hours legislation; the relevance of having branch-level bargaining is regularly questioned, and the number of branch agreements is decreasing. There are reasons to expect that this move towards more decentralised wage bargaining has reduced structural unemployment (OECD, 2004a). Intermediate-level negotiation on wages does not seem to play an important role in wage setting. Indeed, almost all agreements on wages and a large number of the extensions in fact have aimed to raise the sector-level minimum wage up to the level of the SMIC. This comes from the fact that, because of the large discretionary increases in the minimum wage, minima negotiated at the industry level have often been overtaken by the SMIC. In 2003, the sector-level minimum was below its national counterpart in 78% of the branches.

10. CFDT, confédération française du travail ; CFTC, confédération française des travailleurs chrétiens ; CFE-CGC, confédération française de l'encadrement -- confédération générale des cadres ; CGT, confédération générale du travail ; CGT-FO confédération générale du travail — force ouvrière.

Box 3. Main characteristics of collective bargaining

The main characteristics of collective bargaining are:

- Collective bargaining covers a wide range of topics: wages, conditions of employment, training, seniority, career guarantees, sick pay, lay-off restrictions, leave, etc. Agreements on wages include a job classification, and bargaining focuses on a minimum wage for each level of the classification, which is then further split into minima by categories ("minima hiérarchiques").
- A collective agreement applies to all those who have signed it and to those who belong to a union or an organisation which has signed it. It applies to firms that are members of the signatory employers' organisations.
- Most agreements are extended to all employers in an industry. As a result, coverage is very high: it reached 90-95 % in 1995 and stabilized at this level. In practice, in the vast majority of branches, there is no difference between the situation of the employees directly covered by the collective agreement and other employees in the branch. Extension is the procedure that makes a sector-level collective agreement applicable to all employees. It can be requested by an organization or on the initiative of the minister of Labour. In any case, it is decided by the Minister of Labour after consultation with the National Commission on Collective Bargaining.
- Before the 2004 collective bargaining reform law was passed (Annex A.2), collective agreements could only make provisions more favourable to the workers than those already legally existing. Before this law was passed, it was sufficient for an agreement to have been signed by at least one trade union with representative status to be regarded as valid.

Bargaining also occurs at the level of the firm. Since 1982 (loi Auroux), enterprises with a union delegate must negotiate at least once a year on effective salaries and working time, although they do not have to reach an agreement. Usually, enterprise-level bargaining aims at adjusting the industry level agreement to the enterprise. It is sometimes because the industry-level agreement is not sufficient. For many issues (Annex A.2), enterprise level agreements have to be more favourable to the workers than the relevant industry-level agreements.

Nominal wages show a degree of downward flexibility and average real wage growth has been moderate

Empirical studies conclude that wages seem to be mainly determined at firm level. Theoretically, firm-level wage setting should allow firms to adjust workers' wages to changes in their productivity. As it is difficult to measure individual productivity, studies have first measured flexibility by the existence of negative adjustments of wages and the absence of a spike at zero in the frequency distribution of wage changes. According to this definition, employee-level data display wage flexibility (Goux, 1997; Biscourp and Fourcade, 2003). Each year, one quarter of workers who do not change employer experience a decrease in their annual wage and 20% a decrease in their hourly wage. This result has been demonstrating on different sets of data from 1991 to 2000. Since the Labour Code tends to protect workers from decreases in their basic wages (Bonnechère, 2002), adjustments come from decreases in variable pay schemes, as offsets to improvements of working conditions or changes of jobs inside the firm. When flexibility is measured as the reaction of wages to positive and negative shocks to firm activity, flexibility appears to be less "perfect" (Biscourp and Fourcade, 2003). Wages seem to react more to a positive shock than to a negative one. Part of the explanation must be that the minimum wage constrains downwards adjustments.

Studies that show wage flexibility exists at the firm level are consistent with those that show that wage moderation occurred in France. Estevao and Nargis (2002), using a wage equation estimated on microdata, show that the evolution of real hourly wages fell behind that of productivity from 1991 to 2000.

Table 4. **Decomposition of real labour cost growth between real wage and social security contributions**
Average annual growth

	Contribution of real wage growth (%)	Contribution of social contributions growth (%)	Total real labour cost growth (%)	Share of real wage growth in total growth (%)
1970-1985	2.1	1.0	3.1	68
1986-2003	0.8	0.3	1.1	76
1986-1992	1.2	0.5	1.6	72
1993-1997	0.4	0.1	0.5	80
1998-2003	0.8	0.2	1.0	83
[1986-2003]-[1970-1985]	-1.3	-0.7	-2.0	63

Source: OECD.

However, part of the wage moderation may be explained by structural shifts, such as the growing importance of low-wage-share sectors (De Serres *et al.*, 2002). Moreover, labour market policies, both general reductions in labour cost and programmes for specific groups, may have had a negative impact on wage growth by developing low paid jobs (Audenis *et al.*, 2002). The increase in part-time jobs also had a downward impact on wage growth as these jobs are often low paid. However, since 1996, the share of part-time jobs has fallen, as a consequence of the 35 hours legislation (Ulrich, 2003). These studies are consistent with the slowdown of average real wage growth, which can be observed at the aggregate level from 1985, with wages accounting for two thirds of the reduction in labour cost growth between the periods 1970-85 and 1986-2003 (Table 4).

Despite cuts in social charges for low-paid workers, labour costs at the level of the SMIC remain high

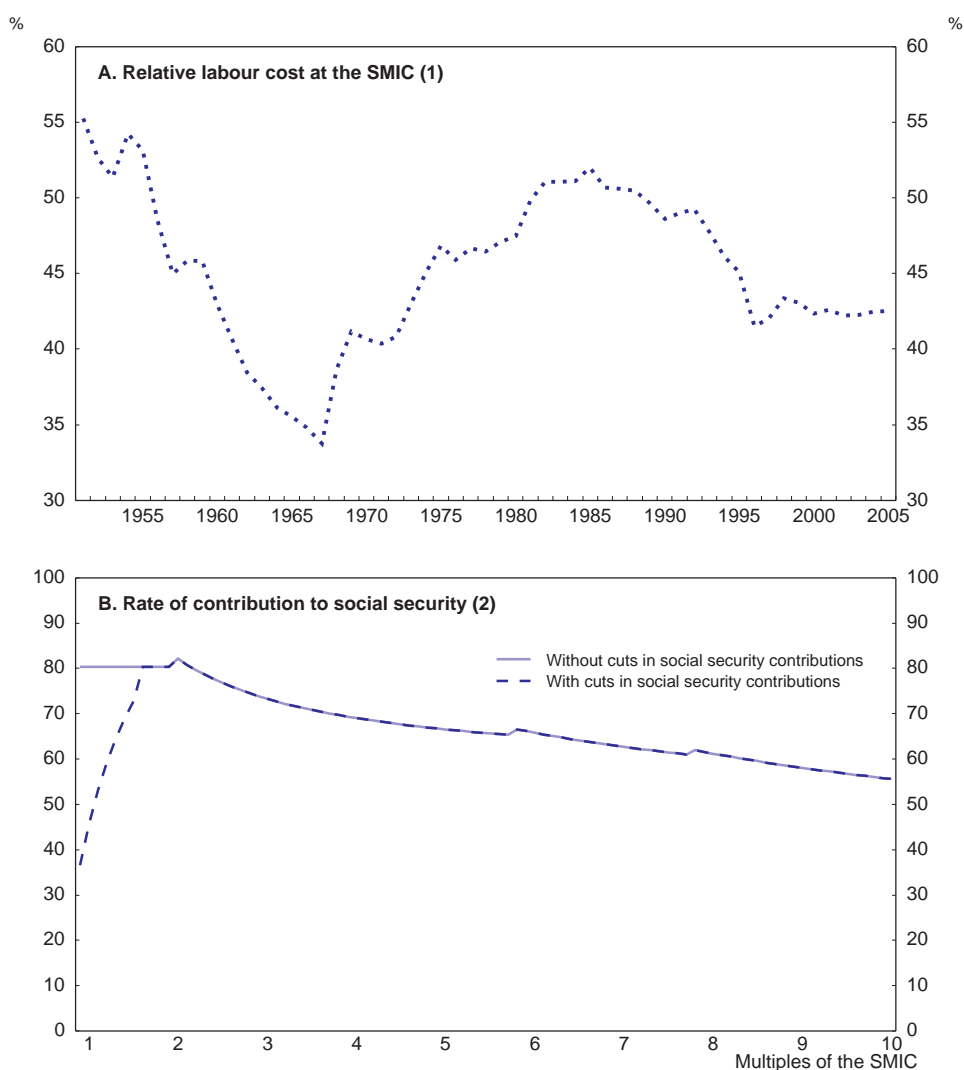
Taxes on labour are high in France compared to other countries (OECD, 2005a). Beginning in 1993, the government introduced rebates on social security contributions for wages close to the minimum wage with a view to reduce the cost of unskilled labour. In a second stage starting in 1998, further rebates were decided to mitigate the otherwise steeply rising cost of unskilled labour associated with the implementation of the 35 hours workweek.

Both the range of wages concerned by these rebates and the size of the rebates has increased with time. Between 1998 and 2002, the rebates were larger for firms that decided to reduce hours worked. Since 2003, the aim has been to offset the increase in the minimum wage generated by the harmonisation of the various minimum wages created by the 35 hours legislation. With those rebates, taxes on labour now represent 46% of the net wage for a worker paid at the SMIC rising to 80% of the net wage for a worker on 1.6 times the minimum wage (Figure 14). As a result of these measures the tax wedge has decreased sharply for low paid workers but has remained unchanged for an average productivity worker (Brandt *et al.*, 2005). Although it is difficult to estimate precisely the number of jobs created by these policies, employment of low skilled workers has strongly improved, and total net job creation has been robust since the introduction. Econometric estimates of the effect of the reduction of social contribution rates between 1993 and 1996 vary from an extra 100 000 to 500 000 jobs (Box 4).

Despite these tax reductions, unemployment of low skilled workers is still high, while at the same time the trend towards reducing the labour cost of low paid workers has been halted since the late 1990s. Given the limited fiscal room for manoeuvre, the only way to further lower unemployment of the low skilled is likely to be to slow down SMIC increases relative to the growth of average wages, *e.g.* by blocking any real increase in the SMIC in the coming years.

Up to now, the framework for social security contribution rebates has been highly variable. The wage threshold under which social contributions are reduced has changed almost every year, starting from 1.2 times the SMIC in 1993 to 1.6 as from 2005. The uncertainty both on the durability of the rebates and on their shape may have limited the positive impact on labour demand. Hence, the government should pursue a more stable policy to ensure that firms' expectations are more firmly anchored. Moreover, when changes in the range of wages concerned by these policies are made, the trade-off between targeting the policy on specific groups and steeply increasing marginal tax rates over the range where the rebates are phased out should be taken carefully into account.¹¹

Figure 14. **Relative labour cost and social security contributions at the level of minimum wage**



1. Labour cost including social charges of hiring a worker at the SMIC as a per cent of the same costs for an APW.
2. Total social charges (employer and employee) as a percentage of the net monthly wage at different multiples of the monthly SMIC at 35 hours per week.

Source: OECD calculations using INSEE data.

11. See O'Brien and Leibfritz (2005), Figures 5 and 6.

Box 4. Estimates of the impact of cuts in social security contributions on employment

Various studies have attempted to evaluate the impact on employment of the cuts in social contributions that were made before the 35 hours legislation.¹ The majority of them are “*ex ante*” evaluations - they don't take into account the actual evolution of variables after the introduction of the measures. Those *ex ante* evaluations rest on macroeconomic models with three inputs (capital, low skilled labour and high skilled labour). It is often assumed that there is no unemployment or high skilled workers, while unemployment of low skilled workers is caused by a rigid wage. Low skilled labour supply is often assumed exogenous. In this framework, a decrease in the labour cost of low skilled workers implies an increase in the relative labour cost of high skilled workers since the frontier of input prices is unchanged. Hence, there is a substitution effect in favour of low skilled workers. Output also increases, which increases further low skilled employment through an income effect. The impact on overall employment depends to a large extent on the elasticity of substitution between low skilled and high skilled workers.

Ex post evaluations try to assess what the evolution of employment would have been without the cuts in social contributions. Crépon and Desplatz (2002) is the only study that uses firm-level data. The authors compare employment developments of similar firms and distinguish between those that benefited strongly from such cuts and those that did so to a lesser degree. Since, all the firms could have benefited from the cuts, this separation is difficult to make. Moreover, the result of the study gives an average micro-economic effect of the policy that could differ from the aggregate effect if interactions between firms are strong. Using sector-level data, Jamet (2005) takes into account interactions between sectors in order to estimate an aggregate effect, but the study is restricted to low skilled workers. Finally, Gafsi *et al.* (2005), also using sector-level data, take into account the employment impact of the cuts in social contributions on wages that reduces the overall impact of the measures.

On the whole, it is difficult to say precisely how much employment has been created by these policies. Among *ex ante* studies there is a large range of estimates of employment creation, from 100 000 to 490 000. *Ex post* studies give a narrower range for low skilled labour alone, from 120 000 to 220 000. It is still difficult to reach a conclusion on the effect on high skilled labour.

Type of evaluation	Studies	Low skilled job creation	High skilled job creation	Total job creation
<i>Ex ante</i>	Salanié (2000)	[100 000;390 000] ^a		
	Audric, Givord and Prost (2000)	[120 000;410 000] ^a		
	Laffargue (2000)	[116 000;440 000] ^a		
	Laroque and Salanié (2000)	490 000		
	Doisy, Duchêne and Gianella (2004)	180 000	140 000	320 000
	Cahuc (2003)	[150 000;350 000] ^a		
	Campens (2003)	345 600	2 600	348 200
<i>Ex post</i>	Crépon and Desplatz (2002)	220 000	240 000	460 000
	Jamet (2005)	[160 000;200 000] ^b		
	Gafsi, L'Horty and Mihoubi (2005)	[118 000;140 000]	[-41 000; -76 000]	[60 000;80 000]

a. Depending on the elasticity of substitution between inputs.

b. Depending on the inclusion of capital in the model.

Source: Remy (2004).

1. See Remy (2004) for a survey of different estimates.

The unemployment benefit system has been reformed, but inactivity traps remain

While reducing labour cost further for low paid workers and easing EPL would stimulate labour demand, efforts are also needed on the side of labour supply in particular by ensuring that public employment services provide efficient counselling and monitoring of the unemployed and that inappropriate incentives to withdraw from the labour market are removed.

The organisation of the public employment service is complex

At more than 3% of GDP, France is one of the OECD countries with the highest spending on labour market programmes. Of this spending, 1.25% is used for active labour market policies. However, despite this spending, long-term unemployment remains high. Many reports have questioned the efficiency of the French public employment service.

In France, various authorities are responsible for the evaluation, placement and payment of job seekers as has been highlighted in the Marimbert report (2004). The three main authorities are:

- The Assedic (federated in the UNEDIC, *Union Nationale pour l'Emploi dans l'Industrie et le Commerce*) handle the administration of unemployment benefits and, since 1996 of the registration of any unemployed (before, it was the *Agence Nationale Pour l'Emploi*, ANPE). They are private associations administered by the social partners.
- The ANPE, a public institution, until recently had a legal monopoly on job placement for the unemployed; the Act of 18 January 2005 abolished this monopoly. It is made up of several hundred agencies and secondary offices whose purpose is to gather job offers and requests and to provide advice to the unemployed in their job search. However, since 1986, other institutions, if recognised by the ANPE, may also offer placement services.
- The regional and departmental *Directions du travail, de l'emploi et de la formation professionnelle* are part of the Ministry of Labour and are in part responsible for the implementation of government labour market policies.

In addition to those three main actors, a national agency (the *Association Nationale pour la Formation Professionnelle des Adultes* (AFPA)) is in charge of adult training and another (the *Agence pour l'Emploi des Cadres* (APEC)) aims to match job supply and demand for white collar workers. Moreover, the ANPE out-sources part of its activity to various external operators (Balmory *et al.*, 2004). As a consequence of this complex organisation, job seekers may have to deal with several organisations. For instance, the financing of some special programmes for the unemployed may depend on all three main authorities.

This complexity generates several problems:

- Resources are wasted by the multiplication of administrative structures;
- Job seekers can be discouraged by the complexity of the system;
- The monitoring of job seekers is inadequate (Marimbert, 2004, see below);
- Evaluation of the performance of authorities in charge of job placement is made difficult because of the number of entities in charge of it. As a result, evaluation is very rare (Balmory, 2004), and accountability and performance suffer.

Improvements have been made with the implementation of the *plan d'aide au retour à l'emploi* (PARE, plan to help to bring people back to work) in 2001 that has brought the ANPE and the Assedic closer. A further rapprochement of those various services, as intended as part of the Social Cohesion Plan (Box 5), took place in 2006. Despite these improvements, the system is still handicapped by the multiplicity of agencies. The creation of "houses for employment", places where all the agencies of labour market policy should be gathered, goes in the right direction. However, given the limited number of those houses scheduled, it seems unlikely that they could cover all the unemployed. The important point is that those houses be made one-stop shops for the unemployed, gathering together all the actors of labour market policy. If they only add more complexity to the system, the objective will be completely missed. The question is whether effective one-stop shop services are possible without merging the institutions.

The fact that a large number of programmes give young and low skilled workers the opportunity to find a job by reducing the labour cost paid by firms (OECD, 2003) is another source of complexity and inefficiency of the public employment service (PES). The government plan (as part of the Social Cohesion Plan) to consolidate a number of these specific programmes to improve their performance is to be welcomed (Box 5). The fact that more resources will be allocated to specific programmes in the public sector is more questionable, since experience with these kind of jobs has been unconvincing in terms of providing people with lasting employment.

Monitoring of job seekers has increased, but control is low

The unemployment benefit system was reformed in 2002. Conditions that need to be fulfilled to receive unemployment benefit, which depend on the length of affiliation and on the recipient's age, are now more restrictive but still relatively generous. The maximum duration has fallen from 60 to 42 months. The minimum length of affiliation that gives access to the benefit has increased from 4 months to 6 months. Unemployed people who no longer receive unemployment benefit can receive another benefit for two years; this benefit, the ASS, (allocation de solidarité spécifique), is designed to support the long-term unemployed and is lower than unemployment benefits.

Policy on monitoring unemployed job seekers was reformed in July 2001. On the one hand, unemployment benefits no longer decrease with duration of unemployment. On the other hand, individual follow-up has been made systematic, and more services are offered to the unemployed. The aim is to encourage active job search and increase its efficiency. A personalised action plan (PAP, part of the PARE) is now offered to any newly unemployed person in the form of a contract with the relevant unemployment institutions (Assedic and ANPE). The job seekers commit themselves to look for a job, while the institutions pay them the unemployment benefit and help them to find a job. An interview is now compulsory for any newly registered unemployed person and recurs at least every six months. The purpose of the interview is to decide the degree of assistance and the type of services that the job seeker needs.

At the moment, little is known about the impact of the PAP. One study (Crépon *et al.*, 2004) has attempted to evaluate its impact. The authors focus on the impact of specific support that concerns only 17% of the unemployed. This reinforced support is made up of four types of help: basic skill assessment, project assessment (a deeper skill assessment), job search support and project support for people who have to change profession. The authors' results depend strongly on the statistical technique used but are consistent with theoretical results. With a statistical correction for unobserved heterogeneity, only job-search support significantly reduces unemployment duration and increases the exit rate from unemployment to employment. But project assessment, job-search support and project support are found to decrease the exit rate from employment to unemployment. Hence, supporting the unemployed improves the quality of jobs found by the unemployed and thus decreases the probability of their becoming unemployed once again. Since the PAP is available only to a minority of the unemployed, its macro-economic impact would, however, appear to be small.

Although the monitoring of job search *per se* has not been shown to decrease unemployment duration (Fougère, 2000), an increase in the monitoring and job-search obligations conditional on more specific follow-up (such as information on job offers and training) and help to the unemployed is likely to have a more positive effect on job search. The Auditor General's report (*Cour des Comptes*, 2003) has pointed to the lack of monitoring of job seekers as being also the result of the complexity of the system. In contrast with other countries, the monitoring of job searchers was not increased on the introduction of the PAP. The proposal in the "social cohesion plan" (see Box 5) to increase job search obligations and the introduction of the possibility of reducing the unemployment benefit¹² (see Box 8) may address these deficiencies to some extent and could thus increase exit from unemployment into jobs when these obligations are not fulfilled.

Box 5. The Social Cohesion Plan, 2004

The social cohesion plan is an ambitious plan that aims at reducing both structural unemployment and social exclusion. Provisions concern employment, housing and providing equal opportunities. The main measures regarding employment are the following:

Public employment services

- Opening of placement services to competition, which in fact already exists in practice, with a number of obligations (exemption from payment for the unemployed, free access, non discrimination). In return, the ANPE is allowed to make firms pay for its services.
- Bringing together the State, the ANPE and the UNEDIC through a three year agreement. In 2006, each unemployed should have a single file to which each organisation should have access.
- Creation of 300 "houses for employment" with a mission to provide access to the services of all of the agencies involved.
- Mutual obligations approach; improvement of the services offered to the unemployed will go with an obligation of active job search and an increase in monitoring. The unemployed have to participate in any action proposed by an agency. Unemployment benefits are to be suppressed if the unemployed refuse job offers that match their skills; are appropriately remunerated and do not require mobility inconsistent with their family situation. The possibility of reducing the unemployment benefit is introduced (see Box 8).

Active labour market policies

Specific programmes have been simplified, leading to a halving of the numbers of programmes (from 14 to 7). Programmes depend on the type of employer (public or private) and on the person (recipient of a minimum subsistence income or not):

- Recipient of a minimum subsistence income -- employer in the private sector: minimum activity income (RMA). This is a part-time job contract for six months (which can be renewed for up to 36 months), during which training is provided. It is paid at the minimum hourly wage, but firms pay only the difference between the part-time minimum wage and the minimum subsistence income (RMI).
- Recipient of a minimum subsistence income – employer in the public sector: "contrat d'avenir". Same as the RMA except that jobs are in the public sector, on two-year contracts. In addition, employers are required to take support measures.
- Other people facing substantial difficulties to find jobs (older workers, long-term unemployed, disabled) – employer in the private sector: "Contrat Initiative Emploi" (CIE). Temporary or permanent contract with State help and with the obligation for the firm to provide training.
- Other people facing difficulties to find jobs (older workers, long-term unemployed, disabled) – employer in the public sector: "Contrat d'Accompagnement dans l'Emploi" (CAE). Same as the CIE, except that jobs are in the public sector.

12. Before that, only a total suppression of the benefit was possible. As a result, the sanction was rarely imposed.

Some of the other specific programmes (mainly those for youths) remain:

- “Contrat de professionnalisation”: on-the-job training programmes that should lead to skills acquisition. Workers can be paid below the minimum wage if they are less than 26 years old. Firms benefit from cuts in social security contributions.
- “Contrat jeune en entreprise”: part-time or full-time permanent contract in the private sector for low skilled youth between 16 and 25 years old. Firms benefit from cuts in social security contributions.
- “Contrat emplois jeunes”: programmes for youths in the public sector. New entries were stopped in 2004. These programmes should gradually disappear.

Other

Help to the unemployed to start businesses.

Cost of the employment part of the plan Million of euros, constant 2004 prices

	2005	2006	2007	2008	2009
Houses for employment	120	405	530	375	300
Action for youth	235	452	525	513	468
		1 19	1 36	1 36	
Programmes for long-term unemployed	423	9	5	5	1 200
Development of on-the-job training programmes (apprenticeship)	169	297	402	512	629
Firm creation by unemployed	114	154	193	220	247
	1 06	2 50	3 01	2 98	
Total	1	7	5	5	2 844
Total, % GDP	0.1	0.2	0.2	0.2	0.2

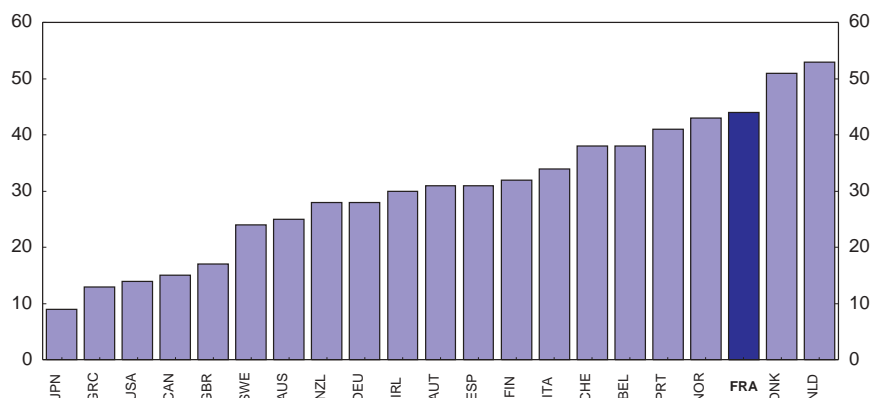
Source: Social Cohesion Plan.

Inactivity traps remain for certain groups

Relatively generous transfers including a relatively high replacement rate for the unemployed, a long duration for receiving unemployment benefits, a minimum subsistence income (RMI), family policies and various local transfers (Anne and l’Horty, 2002) may discourage job search (Figure 15). So as to provide incentives to take a job, the government introduced the possibility of taking a job while at the same time keeping the rights to some social benefits. Housing allowances and local residence taxes were reformed to alleviate aspects that could discourage people from returning to work. The government also introduced an in-work benefit in 2001 (the employment premium, in the form of a tax credit), which has been increased and extended in order to make part-time jobs pay. Finally, housing allowances and the local residence tax (taxe d’habitation) have been reformed to reduce disincentives to taking jobs.

Despite the introduction of these in-work benefits and other changes, there is still little incentive for one person of a household with two children to take a job paid at the minimum wage (Anne and l’Horty, 2002), because marginal effective tax rates are high. Certain family policies also give low paid women with children an incentive to withdraw from the labour market. When the allowance of “free choice of activity” (Box 6) was broadened to women with two children in 1994, the employment rate of women with two children (with one child younger than 3 years old) immediately fell by 11.2 percentage points (Piketty, 1998). The marginal effective tax rate is also high for part-time work at the minimum wage, even for a single person.

Figure 15. The OECD summary measure of the generosity of unemployment benefit entitlements, 2001



Note: The OECD summary measure is defined as the average of the gross unemployment benefit replacement rates for two earnings levels, three family situations and three durations of unemployment. For further details see OECD (1994), the OECD Jobs Study.

Source: OECD (2004), Benefits and Wages: OECD Indicators.

Box 6. Policies that discourage female labour force participation

Some aspects of the family policy and of the tax system discourage female labour market participation (see Artus and Cette (2004)).

Family policies

Family policies are very complex in France, but some of the measures have been unified very recently. The main measures are:

- The PAJE (prestation d'accueil du jeune enfant) that aims at giving women "free choice of activity". The PAJE lasts 6 months for a woman with one child and three years for a woman with more than one child. So as to be eligible, a woman must have worked all of the last two years if she has one child, two years during the last four years if she has two children and two years during the last five years if she has more than two children. The amount is € 522 per month if the mother does not work, € 397 if she works less than half time and € 300 for a part-time job between 50 and 80% of full-time.
- Assistance to lone parents (API). This allowance depends on the income of the person. Its maximum is € 552 for a person with one child and € 736 for a person with more than two children. This allowance lasts three years. If the person takes a job, part of the allowance can continue to be received.

Tax system

In a family, income tax depends on the income of the household, not of the individual. As a result, for a couple whose incomes are very different, the marginal tax rate for the person with the lowest income can be much higher than for a single person on the same income. Taking into account the cost of child minding, hardship of work and loss of leisure, the reservation wage can be higher than the compensation remuneration from taking a job.

In principle, when the unemployment rate is high and the minimum wage is binding, so that employment may depend more on labour demand than on labour supply, the gains from stimulating labour supply are uncertain. However, some analysis shows that part of the unemployment and low activity rate of certain groups, especially women with young children, may be explained by low incentives to take a job (Piketty, 1998; Laroque and Salanié, 2000). Since mainly low skilled women are concerned, the risk of falling into a long-term inactivity trap is high. It may be that this is necessary if the aims of family policy are to be effectively pursued. It is not clear, however, whether these aims have been carefully specified (for

example, analysis of the impact of these policies on the children concerned is lacking), or if the economic consequences of the policies have been properly assessed and considered.

Older workers are another major group for which low employment rates are partly explained by meagre incentives to take a job (Box 7). Early retirement programmes were developed in a context of high unemployment in a largely mistaken attempt to facilitate young workers' entry into the labour market. As a result, the employment rate of older workers plummeted between 1980 and 1985. Most early retirement schemes are being phased out. However, there is evidence that those schemes are effectively being replaced by specific schemes for workers who occupied physically demanding or stressful jobs.

The labour market needs a global reform

To summarise, numerous characteristics of the French labour market tend to produce high structural unemployment and are particularly harmful for specific groups of workers.

- The high level of unemployment among prime-age workers is the result of the high tax wedge that discourages firms' labour demand and of the poor efficiency of the public service for employment that increases the risk of becoming long-term unemployed.

Box 7. Policies to improve employment of older workers

The employment rate of older workers is among the lowest of OECD countries. Part of the explanation for this poor performance comes from the development of early retirement programmes in the 1980s that were introduced with the hope of reducing unemployment and facilitating restructuring. Although the government has ended most of these policies, problems on the labour market for older workers remain. These issues are discussed in depth in OECD (2005). The main points and main recommendations of that study are the following.

Improving the incentives to continue working

- Early retirement programmes have been tightened since 1990 for programmes provided by the State and since 2000 for programmes provided by the social partners, but programmes provided by firms have also emerged and seem to have developed markedly. Remaining fiscal incentives for early retirement programmes should be suppressed. Negotiations between the social partners should take remedial action to alleviate strenuous working conditions, giving no encouragement to early retirement.
- Mutual obligations to job seekers and to the PES should be gradually re-established. Reform the exemption from looking for work that is available almost automatically to unemployed people after the age of 57 and a half and to many after the age of 55.
- Adjust the retirement age according to demographic trends. The average effective retirement age should rise gradually in parallel with the increase in contribution periods for a full pension, in line with increased life expectancy – when the average effective retirement age is well over 60, the statutory minimum age and the compulsory retirement age should also be raised in line with life expectancy gains. Promote possibilities for benefiting from the bonus, the premium for people continuing to work after reaching the full pension entitlement, which currently limited to 65 years old. Implement good practices with regard to older public-sector workers by reconsidering the very early retirement ages that exist for certain categories.

Stimulating labour demand for older workers

- Adding to general EPL, there is an additional penalty for firms dismissing workers older than 50 years (the Delalande contribution). Although the number of cases of exemption has increased, this penalty creates an entry barrier and reduces inter-firm mobility by increasing the cost of older workers. Moreover, there is no empirical evidence that this penalty decreases the number of dismissed older workers. Hence, it should be either removed or reformed so that it effectively becomes an experience-rating system.
- Age profiles of earnings are very steep in France, which has a negative impact on labour demand for older workers, especially for those who are less productive. Collective bargainers should consider linking wage evolution to skills, rather than to age.

Promoting the employability of older workers

- On-the-job training opportunities are few in France compared with northern Europe countries. The 2003 inter-professional agreement should be implemented as soon as possible. On-the-job training at every stage of the career needs to be encouraged.

Helping older workers to find a job and to continue working

- Although specific programmes already exist for those unemployed who are more than 50 years old, employment policies have mainly concentrated on youths. PES initiatives to help job seekers over 50 back into work should be stepped up.
- Make gradual retirement attractive and accessible to all. Support financially the switch to part-time work, though only for older workers on low incomes.

- Young and low skilled workers are particularly affected by EPL (OECD, 2004a) whose negative impacts on labour demand are reinforced by the relatively high labour cost at the level of the SMIC. These workers would need a very efficient public service for employment, capable of counselling them towards specific programmes that will at the same time improve their skills and provide them with a valuable first job experience.
- Low skilled women with children also suffer from restrictive EPL and high labour cost at the level of the SMIC. Moreover, incentives to withdraw from the labour market when their children are young are strong, with very negative consequences for their future employability.
- Older workers also have strong incentives to withdraw early from the labour market. Moreover, EPL is particularly strong for older worker due to an additional penalty for firms dismissing workers older than 50 years (the Delalande contribution), even if the penalty was relaxed in 2003.¹³ Research has shown that the penalty has had no positive effect on the employment of older workers (Behaghel *et al.*, 2004, Bommier, *et al.*, 2003). Hence, it creates an entry barrier and reduces inter-firm mobility by increasing older workers' cost, which is already high because wages developments are strongly linked to age. Policies to reduce incentives to early withdrawal need to be combined with active labour market policies for the less skilled and with less restrictive EPL to encourage firms to hire such workers.

The labour market therefore needs a global reform that should combine easing EPL with reduction in labour cost for the low paid, improvements in the efficiency of the public employment services and suppression of the incentives to withdraw from the labour market. Although the authorities are aware of the need for a global reform, judging by their actions in various fields (relaxation of some aspects of the social modernisation law and of the 35 hours legislation, improvement of job search monitoring), policies seem to be concentrating on certain aspects such as ALMP, and less on others, especially more fundamental reform addressing the unintended perverse effects of EPL. (The main measures that have been undertaken after the publication of the economic survey on France – in which a shorter version of this paper was included as chapter 3 – are presented in Box 8). Policies also leave aside the problem of inactivity traps caused by an inconsistency of family policies and employment objectives. Finally, policymakers have not succeeded in convincing the public that increases in the real level of the minimum wage are more likely to create unemployment than to increase aggregate demand.

13. The firm is exempt from the contribution if the worker in question was over 45 when hired and was hired after May 2003.

Box 8. Main measures on the labour market introduced after the publication of the Economic Survey of France (June 2005)

Employment protection legislation

In August 2005, the government introduced the CNE ("Contrats Nouvelles Embauches"). These contracts concern firms with up to 20 employees. They are permanent contracts but for the first two years the contract can be terminated without giving any specific justification and the notice period (two weeks during the first six months and one month after that) is shorter than for a normal permanent contract. During this period, the employer can thus, in principle, avoid the costs associated with the risk of a legal challenge to a dismissal with insufficient justification. In return for this additional flexibility granted to the firm, severance payments paid by the firm are higher than standard payments for a common permanent contract. They include: *i*) an allowance directly paid to the employee of 8% of total earnings since the beginning of the contract; and *ii*) an allowance paid to the public employment service to finance action to help the employee to find new employment, equal to a further 2% of cumulative earnings. An employee dismissed from a CNE is also eligible for unemployment benefit with a shorter qualifying contribution period than usual, or a special benefit package if he or she is still ineligible.

At the beginning of 2006, the government proposed a measure to extend similar contracts to workers below 26 years old, whatever the size of the firm. This was the "Contrat Première Embauche" (CPE). This proposal led to much debate about the implied dualism in the labour market, and to many demonstrations opposed to the measure. As a result, the government dropped the proposal and has instead proposed to broaden the access of the "contrats jeunes en entreprises" (see Box 5) and to increase the aid allocated to firms within these contracts.

The introduction of the CNE has eased the employment protection legislation for firms that have access to it, but has also increased the complexity of the whole system by introducing a further, new, specific contract. As explained in the paper, it is important that efforts to ease employment protection legislation continue; the introduction of the CNE should be a step towards the creation of a standard single contract where the degree of protection against dismissal is initially low and increases with length of service.

Public employment services

When an unemployed person receiving unemployment benefit fails to respect one of his or her obligations (actively searching for a job, taking job offers corresponding to his or her skill and geographic mobility, following specific training or job programme), the unemployment benefit can be lowered by 20% after the first failure and by 50% after the second failure. Before this change was introduced, only a complete withdrawal of the benefit was possible; therefore, the sanction was rarely implemented. This measure goes in the right direction and should improve implementation.

Measures to promote employment in domestic services

The government has introduced the so-called "chèque emploi service universel" (CESU), which replaces and extends the "chèque emploi service" (CES) and the "titre emploi service" (TES). The purpose of the measure is to promote employment in domestic services by reducing both the cost and the administrative burden for households employing someone at home.

The CESU is a system of cheques which can be used by households to pay a domestic employee. It relieves the household from administrative procedures such as: calculating and paying social security contributions (they are directly charged from the household's bank account) and sending an official notification of earnings to the employee. The CESU can be co-financed by firms as part of their human resources policies. Firms then benefit from cuts in social security contributions and tax credits. Households also benefit from an exemption on personal income tax of 50% of related spending.

These measures, by simplifying procedures linked to employing a worker and by lowering taxation on labour, also go in the right direction, although they are not a substitute for a global tax reform and to a general simplification of procedures, which would have a stronger impact on employment. Moreover, the impact of the CESU in itself on employment may not be very large since many of its advantages already existed with the CES and TES.

*Annex A1***Evolution of employment protection legislation**

Despite some exceptions, the rigidity of EPL has gradually increased since 1970:

		Legislation on temporary contracts	Legislation on permanent contracts
1973	Law		The burden of proof in the case of a dismissal is shared between the employer and the employee.
1975	Law		Introduction of prior administrative authorisation for dismissal for economic reasons.
1982	Ordinance	The permanent contract is legally the reference contract. The use of temporary work is restricted. Introduction of a premium imposed on firms when a fixed-term contract expires and is not transformed into a permanent one.	
1986	Law		Reinforcement of the dismissal procedure: increase in the notice period, consultation of enterprise committee (works council), obligation on the employer to have an interview with the employee. Suppression of the prior administrative authorisation for dismissal for economic reasons.
1989	Law		Definition of a strict framework for dismissals for economic reasons. An economic dismissal is a dismissal for a reason which is not inherent to the person but is caused by economic difficulties facing the firm or technological changes. An economic layoff gives right to have access to a reclassification programme, with a priority to be re-hired. Reinforcement of the procedure: Obligation for the employer to inform the works council about employment developments over the next year.
1990	Law	Statement that temporary contracts should not be used to fill a permanent job linked to permanent activity of the firm and definition of the cases in which they can be used. Strict definition of the framework of the contract (duration, payment).	

		Legislation on temporary contracts	Legislation on permanent contracts
1991	Law		Framework for the employee to have legal advice.
1992	Jurisprudence		The reason for an economic dismissal can be a reorganisation of the firm. The firm needs to adapt employees to the evolution of their jobs.
1995	Jurisprudence Jurisprudence		The notion of an economic dismissal justified by a reorganisation of the firm is abandoned, replaced by the notion of competitiveness safeguard. Obligation in the case of a dismissal of more than 10 workers to put in place a "plan social", that should include precise measures so as to ease the reclassification of workers and minimise the number of dismissed workers.
1997	Jurisprudence		A financial rationalisation of the management does not justify economic dismissal.
1998	Act of 30 December 1998		It is in the power of the judge to assess the seriousness of the reason of the economic layoff.
1999	Jurisprudence		The burden is on the employer to prove that he met his obligation to find another job for the worker.
2000	Jurisprudence		The employer should put in place all the measures, within the means of the firm, in order to maintain the level of employment and to facilitate internal re-assignment.
2002	Law (see below)	Increase in the premium introduced in 1982.	Reinforcement of the procedure for economic dismissal. Reinforcement of the measures that should be taken by the employer to avoid dismissals Narrowing of the reasons that can justify economic dismissal (summary of the jurisprudence).
2003	Jurisprudence	Easing of the use of "common use temporary contract". In case of a dispute about the recourse to "common use temporary contract", the judge should only check that it is common practice not to employ a worker on a permanent contract for that job.	Suspension of some articles of the 2002 Law (see below).

In 2002, the strictness of EPL was reinforced by the “*Loi de modernisation sociale*”, but some of the provisions were changed in 2003 and 2004 and new ones have been introduced by the “*Plan de cohésion sociale*”. The main changes introduced since 2002 are the following:

Legislation on dismissal (permanent contract)	
Reassignment actions	
Before putting in place a collective dismissal (more than 9 workers dismissed), firms should:	
– have implemented working time reduction;	Suppressed
– have started a “plan de sauvegarde de l’emploi”, which consists of efforts to re-assign the worker to another job of the same category or of a lower category (with the agreement of the worker) in the group to which the firms belongs. The employer also has the obligation to do his best to train and to adapt the worker so that he is able to cope with job changes. Offers made to the worker should be written and precise.	Maintained
A dismissed worker has priority to be hired in the firm for a period of 12 months.	Maintained
Firms with more than 1 000 employees have to offer a “re-assignment leave” (congé de reclassement) during which the worker can be re-assigned without any interruption in his contract. It lasts between 4 and 10 months during which a unit must be set up in the firm to take charge of the re-assignment of workers. The employee receives an allowance, which is at least 65% of yearly gross wage (and can not be less than 58% of the SMIC). It is paid half by the firm, half by the State (the <i>Fonds national pour l’emploi</i>).	Maintained
Firms with more than 300 employees have to negotiate every three years on the evolution of employment and skills.	Introduced by the Social Cohesion Plan (SCP)
A “re-assignment leave” is created for any employee in a firm with less than 1 000 employees, managed by the PES and the houses for employment and financed by the firm, the unemployment insurance system and the State.	Introduced by the SCP
Re-hiring if asked by the judge when the procedure has not been correctly followed can not be required if the firm has closed or if there is no job availability.	Introduced by the SCP
Procedure	
The Law states the number of meetings with the enterprise committee (works council) and the periods between them. The joint production committee has a right to be advised by an expert and to oppose the dismissal plan.	Suppressed
In firms with more than 50 salaries, the procedure includes regular consultation of the works council.	Maintained.
In case of disagreement in the termination of a firm activity that implies the dismissal of hundred workers, a mediator should intervene and make a proposal to both parties.	Suppressed
When a collective dismissal leads to a reduction in activity that, in return, impacts subcontracting firms, those firms should be informed.	Maintained
In the case of a termination that implies the dismissal of more than a hundred workers, the employer must present the social and territorial consequences of the termination to the Labour Inspectorate (à vérifier).	Suppressed
The procedure for a dismissal for economic reason can be defined by contractual agreements.	Introduced by the SCP
Some maximum time periods in the procedures are shortened.	

<p>Definition of a dismissal for economic reason</p>	
<p>When examining the legitimacy of a collective dismissal, the administration can take into account the financial position of the group to which the firm belongs.</p>	Maintained
<p>Professional quality can not be a criterion to decide which workers are going to be dismissed.</p>	Suppressed
<p>Legislation on temporary contracts</p>	
<p>The premium that is paid by the firm on expiry of the contract (if the contract is not converted to a permanent one) increased from 6% of gross wage to 10%.</p>	Maintained, but if social partners agree and if the worker is given access to special training, the premium is 6%.
<p>An employee can terminate a temporary contract if (s)he has found a permanent one.</p>	Maintained
<p>Firms have to inform employees on a temporary contract about permanent job offers.</p>	Maintained

Annex A2

Collective bargaining reform – April 2004

Collective bargaining was reformed in 2004 with two major innovations. First, the principle according to which an agreement can only improve the employees' rights laid down in an agreement of a higher level was relaxed in certain cases, in particular in respect of hours worked. (The hierarchy consists of intersectoral agreements, sector agreements and company-level agreements.) Second, it changed the majority principle: it is no longer sufficient for an agreement to be valid that it has been signed by just one trade union with representative status.

New relationships between norms (levels of agreement)

The principle of favourability to the employee according to which an agreement can only improve the employees' rights laid down in an agreement of a superior level is modified. A sector-level agreement may deviate from the provisions of an intersectoral agreement unless such derogation is expressly forbidden by that intersectoral agreement. A company-level agreement may, in turn, deviate from all or part of a sector-level agreement, again unless such derogation is expressly forbidden at the higher level. There are also other restrictions on the right for lower-level agreements to depart from higher ones. The favourability principle is retained for minimum wages, job classifications, supplementary social protection measures, and multi-company and cross-sector vocational training funds.

The previous 'hierarchy of norms' in terms of collectively agreed provisions remains in force for agreements reached before the new law came into force.

Validity of agreements and majority principle

The legislation introduced a 'majority principle' for collective agreements to be regarded as valid. Previously, it was sufficient for an agreement to have been signed by at least one trade union with representative status. The new majority principle will be applied differently depending on the level of negotiations:

- At intersectoral-level, an agreement is valid in the absence of opposition by a numerical majority of trade union organisations with representative status.
- At sector level, two variations of the majority support principle are allowed, and the social partners must choose one of them in a sector-level agreement. The first model is that of the intersectoral-level. Under the second model, the agreement must be signed by one or more unions representing the majority of the employees in the relevant sector.
- At company level, two different variations of the majority principle are available, and the social partners have to choose between them and enshrine this in a sector-level agreement. In the first model, in order to be valid a company-level agreement must be signed by one or more unions that received at least 50% of the votes cast in the first round of the most recent works council or workforce delegate elections. If no union holds this majority, the agreement must be approved by

a majority of employees in a vote. In the second variant, an agreement is valid if not opposed by non-signatory unions that received at least 50% of the votes cast in the first round of the most recent works council or workforce delegate elections.

Collective bargaining in SMEs

To facilitate the conclusion of collective agreements in small and medium-sized enterprises (SMEs) with no trade union delegates, the law allows the social partners to reach agreements on methods in each sector that enable firms to conclude agreements with elected staff representatives or with employees designated by a representative union.

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