ISBN 92-64-01546-9 OECD Reviews of Regulatory Reform: France Charting a Clearer Way Forward © OECD 2004

## **Summary**

The French economy has been relatively successful in recent years...

France is the fourth or fifth largest economy in the world in terms of GDP and enjoys a high standard of living with a GDP per capita of EUR 24 759 in 2002. The economy is highly diversified with a broad manufacturing base and a large service sector. International trade plays an important role, accounting for some 29% of GDP.

Economic performance has recently improved, following slow growth and recession in the early 1990s. After 1995, when growth picked up, France outperformed all the large continental European countries and the Eurozone average. Though the economy has experienced a significant slowdown, the outlook remains slightly more favourable than in some other large economies.

... thanks in part to structural and regulatory reforms

This good performance was supported by a wide range of important structural, regulatory and other reforms undertaken in the 1980s and 1990s. Major structural adjustments were made to product markets. A long and ongoing process to open the capital of public enterprises substantially reduced direct state ownership, bringing into private hands the major share of the banking, insurance and manufacturing sectors. The liberalisation of network industries and the introduction of new regulatory frameworks fostering competition were also initiated. Competition policy started to have a stronger influence, following the abolition of price controls and the establishment of an independent competition authority. OECD research shows that market reforms undertaken in France during the 1990s have had significant impacts on productivity, overall economic activity and, not least, the labour market.

#### Labour market conditions reveal contrasts

The performance of the French labour market deteriorated throughout the 1970s and 1980s, more so than elsewhere in the OECD. The strong growth of employment during the 1990s owes much to efforts to reduce the labour costs of unqualified workers. Nevertheless, the French labour market still faces a double challenge, with low rates of participation among younger and older workers, and an increase in unemployment. The 1990s, to be sure, saw a reversal in the trend decline in youth employment rates. On the other hand, the low level of employment of older workers can be related to the policies carried out from the mid-1970s to the mid-1980s.

These policies, which included early retirement programmes, were based on the hypothesis, now discredited, that early retirement of older workers would make way for

younger workers. These policies are now largely being reversed, though efforts so far have only had limited results. A number of steps have also been taken to relax some restrictions linked to labour hours, such as lifting restrictions on part-time work, for example, while others such as the 35-hour week tend to reduce the labour supply.

## Product market reforms and network industry liberalisation: a further opening of capital

The 1980s privatisation programme and the opening of capital of public enterprises continue, notably with the sale of the capital of Crédit Lyonnais which remained with the State, the sale of Thomson Multimedia, and the opening of Autoroutes du Sud to private investors. This has further reduced the role of the State. Projects are under way to further reduce the role of the State in a few network industries, and to prepare the ground for further privatizations.

Reforms have progressed in some key network sectors, usually in accordance with EU legislation. This has involved some capital-opening and a reshaping of the regulatory framework to encourage competition, not least access to the networks or infrastructures which are still owned by the historic incumbents.

The telecommunications sector has experienced substantial progress and improved performance. Liberalisation started in 1996 with the implementation of EU directives which promoted strong market opening. An independent regulator (ART) was set up. New entrants have done best in long distance where they now have more than 30% of the market, as well as in mobile telephony with half the market. The prices for long distance and international service, where new entrants have had considerable success, have significantly fallen, and are among the lowest in the OECD. The sector, however, remains under the strong hold of the historic incumbent, *France Télécom*. Moreover, the take-off of the Internet, and especially of wide-band services, has been relatively slower than in other OECD countries.

Important changes have also taken place in civil aviation. Liberalisation in this sector conforms to EU requirements. Competition in international traffic has been the main beneficiary of reform. Low-cost airlines have entered the market and on their routes, prices have fallen significantly. Competition is also developing in airport management. But the State remains very engaged. An important issue is the allocation of airport take-off and landing slots: the regulatory framework still favours *Air France* for these, and the exnational carrier remains dominant. The airport network is very dense, State-owned and managed by public entities. Civil aviation's traditional close association with public service (*"service public*") complicates reform strategies.

There has been a slow start to reform in the electricity and gas sectors, although future developments are becoming clearer. Liberalization, with some lags, has followed changes in the European framework, and an independent regulator (CRE) has been set up which has now competence for both electricity and gas. Since 2000, EDF has lost a quarter of its French market share (not least, to foreign companies). But EDF remains 100% State-owned. Generation remains highly concentrated in the hands of EDF though there have been developments such as the auction of EDF capacity, and significant imports. However further plans include the transformation of EDF into a limited corporation are a possible prelude to an eventual further opening of capital to private investors.

Independent regulators: institutions that are altering the institutional structure, while promoting transparency and market competition

Independent regulators have been successfully introduced into the French institutional setting over the last decade or so. They are part of the institutional apparatus of a modern "regulatory state". This is relevant to several sectors. A first wave of regulators answered a need in the area of civil liberties and administrative transparency. A second wave of regulators arose out of the EU-driven liberalisation of network industries. These regulators (including ART and CRE) have generally been given rather broad regulatory scope. They have contributed to a better quality of regulation in important sectors of the French economy, as well as promoting transparency and individual citizens' rights in a culture which traditionally gave priority to the views of the administration as guardian and promoter of the general interest. The independence of the economic regulators plays a key role in protecting markets from short-term political intervention while taking a long term perspective of market development. However, French regulators should be made officially accountable. Attention needs to be paid to this important point.

Competition policy has made important and steady progress after a modest start, to become an important element of decision making in the economy

> The mid-1980s marked the departure from a previous system of price controls and very limited scope for competition law and policy. A consensus was reached to promote competition and curtail price controls. In 2001 the competition law was comprehensively restated and codified. France is now equipped with a reasonably effective and comprehensive system for the promotion of competition policy, which includes many of the features of other well-functioning competition systems around the OECD. The provisions for abuse of dominance are strong, sanctions and criminal penalties are in line with the European norm, and a leniency programme has been set up.

> The competition authority (*Conseil de la concurrence*) has affirmed itself on a number of fronts. It has scored a notable success against a "non-aggression" pact by banks. The *Conseil's* most important challenge, however, is the application of competition law principles to those parts of the economy – which are very significant – linked to public services. It has played a major role in designing the legal changes which are increasing the scope of competition policy in the economy.

The legal system: an important evolution is taking place, which echoes the growing freedom of the economy and of previously sheltered public services

> Recent years have seen major developments in the working of the French legal system, with a significant impact on the management of the economy and society. The traditional distinction between administrative and private law in regulating the economy and society has become blurred. This development was initially prompted by the need to adjust to EU

laws and policies which were difficult to reconcile with the historical view of the State's role in the economy and especially, public services. The privatisations of the 1980s and 1990s also changed the situation by removing a large number of companies out of the direct ambit of State control. However, key French institutions, notably the *Conseil d'État* (the supreme judicial authority for public law) as well as the *Conseil de la concurrence* and the new sectoral regulators also started to take the initiative too.

The boundary between administrative and private law has in the past ring-fenced actions and functions related to the exercise of public authority. Today the principles of private law are increasingly applied to administrative decisions, evidenced by the close and frequent consultations between the *Conseil d'État* and the *Conseil de la concurrence*. The latter takes a strong interest today in potential abuses by public entities and private firms performing public service functions. The change is quite recent: in 1989 separation of the two types of law was still being formally underlined. However the situation is complicated, partly because of a pre-existing and somewhat complicated competition law relationship with public services. Competition law does not apply to the delivery of public services under a prerogative of public authority. It is not the nature of the body but the nature of the act which determines if competition law is applicable. Thus, the *Conseil de la concurrence* can examine the actions of entities providing public services if the actions are not linked to the provision of public services, but this is a difficult principle to apply in practice.

The concept of public authority is still pervasive in France. Thus, there is reluctance to implement the solution of a complete structural separation of historic incumbents in network industries, that is, a separation of competitive and non-competitive activities. This solution is intended to eliminate the incentive and the ability to distort competition through cross-subsidies. Instead, France has favoured controls on their behaviour, via the application of the abuse of dominance provisions of the competition law. This choice reflects the importance given to other factors, notably the promotion of public services. Competition policy has had to adapt to this and its main efforts have been directed at cross-subsidisation in the context of new markets. The *Conseil de la concurrence* has sought to establish a definition of what would be considered abuse of dominance by public service operators in new markets.

#### Decentralisation: a far-reaching reform

France is a unitary State with a long tradition of centralised government. This is important in order to appreciate the significance of the reforms started some twenty years ago to decentralise central State powers to sub-national levels of administration, to foster local initiative in the management of the economy and society, and to bring government closer to the citizen. The decentralisation of competences broadly took place through a number of laws adopted in the early 1980s. Apart from the traditional area of the administrative police, a whole range of responsibilities is now partly decentralised, covering issues such as infrastructure, education, and the health and social fields. The State (central government) retains a general prerogative of control and follow-up. The resulting situation is very complex, and at times difficult to manage. Deconcentration (in which State powers are delegated to local State representatives) has proceeded in parallel. There is a range of co-ordination mechanisms to manage the relationships between the different layers of administration. Reform of the administration: a longstanding process that covers a wide field of action

Awareness of the need for reform of the administration started in the 1970s and gathered momentum in the 1980s. The first phase emphasised the importance of greater transparency for users of the administration, and a better awareness of their needs. For example the French Ombudsman was created in 1973. Two laws in the late 1970s significantly improved access to administrative documents and generally improved relations between citizens and the State.

Administrative simplification has been an important part of the agenda. Following several earlier initiatives, a further wide-ranging programme was launched in 2003 which includes simplification of everyday administrative procedures, practical measures to improve relations between users and the administration, modernisation of public procurement, simplification of the management of the health system, of the law, and of the daily running of companies. The main target of previous efforts was *ex post* (that is, made after the adoption of laws) to reduce the number of forms, and this has happened. A deeper reform required *ex ante* efforts to promote simpler and better texts when laws are drafted and adopted.

The needs of the business community have also been addressed. The commission for administrative simplification (COSA) was reorganized in 2003 and now includes business representatives. One-stop-shops have been established for fiscal matters in the Ministry of Finance, with a special unit for the largest firms.

Another important aspect of these reforms is the use of new communication technologies. France has put considerable effort into rolling out e-government and is proving to be a particular success for online services. Information and consultation on the web have been developed (the general public can take part in consultative exercises), though the sites could be improved. The online management of administrative procedures (for example tax returns) is being further developed. An important project is the development, by 2008, of a single window for fiscal services.

The 2001 financial management law (LOLF), due to become fully operational by 2006, should promote very significant changes over time. It introduces concepts such as objectivesetting, performance management, and *ex post* evaluation of outcomes, whilst allowing managers greater freedom in the handling of their budget allocations. Tax and fiscal reforms are also covered, aimed at reducing the tax burden on citizens as well as firms.

Market openness: reforms have been beneficial for trade

Domestic reforms, especially administrative simplification, have made a positive contribution to French market openness. France has generally been successful in adopting the OECD's six "efficient regulation for market openness principles" into its regulatory system. The management of international standards in relation to remaining national standards is especially good. Problems do remain, which tend to reflect the weaknesses in reform for the domestic market, such as the continuing overall complexity of the regulatory structure, continuing high State involvement in the economy which can potentially lead to discrimination, and complex consultation procedures. As regards trade in services, France follows the position adopted at a European level in relation to the GATS, when its ranking in services exports (second in the world) might be expected to encourage a more open approach.

However some important aspects of current performance raise concerns

Growth has slowed recently (as in many other OECD countries). Trend growth is well below the levels of the 1960s and 1970s. A major factor is declining productivity growth, shared with much of Europe. Unemployment remains above average and France has the lowest share of working-age population with jobs in the OECD. The government deficit, which is likely to be close to 4.1% of GDP in 2003, is another source of concern.

These weaknesses need attention because the population is ageing rapidly

At the same time the economy faces the challenge of population ageing. Between now and 2030, the ratio of retired people to those employed is expected to double (by then, only one worker will support each retired person, on current trends). As a result, the rate of growth of gross domestic product per capita will slow. The rate of increase of per capita health and pension expenditures is set to rise, but slower growth will mean slower increases in the tax revenues necessary to pay for these services France is one of the most exposed OECD countries in terms of sustainable pensions provision, especially as regards future public pensions liabilities (even allowing for the most recent reforms).

While the demographic challenge is long term, actions to deal with it effectively now are nonetheless urgent, because deep reforms to stimulate growth can only yield results over time. Moreover, reform options become fewer and more costly the longer they are deferred.

Further regulatory reform can help to contain costs and stimulate growth in the long term

Though regulatory reform is not the whole answer to meeting the challenges, it can help to contain costs, maintain an environment favourable to investment, and generate the conditions for stronger growth.

Containing costs means improving the efficiency of government, ensuring that regulation works effectively and that the administration is fully responsive to user needs. Key issues include public expenditure management and control, decentralization to allocate decision making to the right level, administrative and regulatory quality reforms, and taking account of European initiatives. Many of these issues have already been the subject of important reforms, but more is needed. Raising output also involves a number of interlocking measures to promote investment and raise productivity growth. A higher rate of labour participation in the economy would support higher growth. Incomplete product and labour market reforms and continuing State involvement in the economy (especially in the network industries) are also holding back a better performance and improved productivity. Labour markets: higher employment rates to counter the effects of ageing

Though employment has risen recently, further reforms to reduce rigidities could raise employment and hence output and GDP growth. OECD research suggests that a relaxation of labour market rules in France could yield as much as a 2.3% increase in employment. The French labour market is unusual, with low employment rates at both ends of the age spectrum. One of the main challenges facing France is to rectify this anomaly by putting in place a set of policies to ensure that those who wish to work can.

The relatively good performance of the labour market in recent years owes much to past policy efforts to reduce the cost of employing the young and low-skilled. Some existing initiatives such as providing young workers with private sector job experience have had some success. The reduction in social charges for low-paid workers in the first half of the 1990s has also been helpful in raising employment and reducing labour costs, but this has not been the case with the reduction in social charges associated with the 35 hour week, because these reductions have only compensated for higher costs. Policy also needs to focus on inactivity traps, and the effectiveness of locally administered public employment services needs to be improved. To ensure that older people wanting to work can do so, existing policies which substantially reduce the financial incentives to continue working need to be adjusted, which would involve cutting back sharply on various State and unemployment insurance measures that subsidise early withdrawal from the labour force. In this connection, recent efforts to raise the official retirement age and to eliminate financial incentives to stop working as soon as this age is reached are welcome. Last but not least, the administrative burdens of labour market legislation need attention.

Competition policy: its coherence could be improved, and its influence across the whole economy needs to be consolidated

The objective of French competition policy is to promote free and fair competition. However a number of complexities arise from this simple starting point. The law, whilst promoting "effective" competition, also leaves room for considerations that may not be directly related to competition, for example agreements (or other conduct) that have the effect of ensuring "economic progress", provided that a fair share of the benefit goes to the consumer and that competition is not eliminated for a substantial part of the market. The *Conseil de la concurrence* seeks to give a narrow interpretation to this part of the law. The parts of the law relating to unfair competition (aimed at protecting competitors from each other, especially as regards economic dependence) may also raise some tensions with the elements aimed at promoting competitive freedom.

This is a particular issue in the distribution sector (notably large supermarkets). The law has recently been reinforced in this area (the *loi Galland*). The law, which was intended to protect small shops, probably had the unintended effect of reducing competition between supermarkets and overprotecting existing ones.

This can generate conflicts over priorities, as between fighting against bid-rigging and enforcing fair competition. More resources could usefully be devoted to the former, which is widespread but imperfectly controlled. Tensions remain between the *Conseil de la*  concurrence and the responsible directorate (DGCCRF) in the Ministry of Economy, Finance and Industry, which share certain functions but also exercise different responsibilities and can have different points of view and priorities. The situation could be helped if the juridical basis of administrative law took full account of market competition principles.

Decisions concerning mergers are taken by the Ministry of Economy, Finance and Industry. There are several steps which can lead to an advisory opinion by the *Conseil de la concurrence*, whose opinion however is only required in the event of a decision by the Minister rejecting a merger. This system, which allows a minister to take a decision without being obliged to ask the opinion of the independent public body responsible for applying competition policy, incurs the risk that the reasons for the decision will not be transparent. Without recasting the decision-making process in its entirety, transparency would be improved if the Council could give an opinion on a notified operation without having to wait for the minister to request an opinion.

Supervision of mergers now belongs in administrative law. The *Conseil d'État* is solicited more and more often to examine competition policy in the light of disputes about mergers. Reflection could be given to considering whether competition policy in cases of mergers should be subjected to a different legal regime and to different standards from those that are applied in cases of dominant position and restraints of competition.

Overall, the impact of competition law and policy can be reinforced across the whole economy. The integration of competition principles into administrative law is being prudently engaged, and is in some respects at a preliminary stage. Consideration could be given to the advice of the *Conseil de la concurrence* on the need for structural separation to ensure the effective application of competition principles in areas of the economy related to public services.

The State in the economy: a more coherent approach is needed

Notwithstanding the significant privatisations of the 1980s and 1990s, the State and other public institutions still retain a major direct stake in the economy. This stake is not limited to network industries but also includes businesses in sectors such as the car industry. The State's role has traditionally been especially strong in relation to public services. Considerable debate has been generated by the advent of liberalisation in the network industries, around the question of how the values of *service public* can be maintained in this new context. *Service public* needs a clearer definition as the public policy objectives which underlie the role of the public authorities need to become more explicit in a competitive environment, thus distinguishing the ends from the means used to attain them. A more transparent financing can also help reduce costs. The picture is not yet coherent in France. There are encouraging developments such as a debate on setting up competitive tendering for universal service provision in telecommunications, alongside less encouraging features such as some management practices for public service in the civil aviation sector.

Progress, albeit uneven, towards a "regulatory State" is happening, and previously seamless responsibilities of the State (and of State entities) are being disaggregated. As well as privatisation and independent regulation, efforts are being made to put in place a more effective corporate governance of State entities via a new agency to manage State shareholdings, though it is still difficult to say if this new system has enough autonomy to manage potential conflicts of interest. Unlike some other OECD countries France does not have a competitive neutrality framework, and separation of competitive activities in the network industries remains at the accounting and management level. The costs of maintaining a more traditional approach are likely to be heavy, especially in terms of associated costs.

Network industries: slow liberalization in some important sectors

The incumbents of important sectors such as energy, transport and postal services remain fully State-owned, and liberalisation in these sectors is slow and incomplete. Where the association with public services is strong, resistance to change is also strong, and hampered by a possibly over-generous definition of what they should provide.

There have been limited developments so far in natural gas, against a background of security of supply concerns. EU market opening legislation, so far confined to large clients, was adopted late. State-owned GDF remains the dominant company. France is almost wholly dependent on gas imports which explains part of the caution. However foreigners have made some headway, capturing some 14% of contracts. Significant further changes are in prospect, including accounting and management separation of the pipeline network.

The reform of postal services is also less advanced than for gas. The main difficulty is the sector's close association with *service public*, and hence public concerns about change. Market opening in line with EU legislation has been implemented. Changes are in prospect with an accounting separation of the different activities of *La Poste*, including its large banking network. ART is to become the sector's regulator.

A similar picture emerges for the railways, with EU-based market opening of freight services. Track and train operations have been separated with the creation of a new track entity called *Réseau ferré de France* (RFF), to which has been transferred most of the SNCF's significant debt, and restored the latter's financial health. The underpayment by SNCF to the RFF for track maintenance work leads to a deficit which is covered by State subsidy. SNCF freight services appear inefficient and are in deficit. Reform is complicated, as for postal services, by a strong association with *service public*.

#### The relationship with the EU

The development of the EU single market has brought France important benefits, contributing to substantial inflows of foreign direct investment (FDI). France was the number one destination for FDI in the OECD in 2002. Foreign markets have at the same time been opened up to French firms, reflected in even stronger FDI outflows. At the same time, Brussels is the source of nearly half of new French regulations. France has a longstanding co-ordination mechanism for EU affairs, the SGCI which is attached to the Prime Minister's office. But *ex ante* assessment of proposed rules focuses on the legal aspects only, and does not include a broader cost-benefit analysis which could help to identify and prioritise between issues that need taking up in Brussels. The transposition of EU rules into national law is slow, often missing the set time limits, which can disadvantage French business by generating uncertainty about the state of the law, and may encourage other countries to keep their markets closed until the French situation is

regularised. The emergency plan adopted by the Ministry of Foreign Affairs to speed up transposition looks promising.

EU-based regulatory regimes are now shaping whole sectors of European economies, from automobiles to network industries. One major issue is the future shape and regulation of services of general economic interest in Europe. France has helped to stimulate a debate on this at the appropriate time. Concerns about public services and how to sustain them in a competitive environment may emerge differently across EU countries but there is considerable common ground too which France might seek to build on in Brussels debates. Most European partners are as attached to their own public policy goals, as evidenced by the strong weight given to regional economic development in Germany.

# The reform of the administration and of regulatory systems: room for more progress

Despite the considerable achievements of recent years, there is still scope for improvement. Previous efforts at administrative simplification and the related law codification initiative have shown that there are limits to reducing complexity on a lasting basis. Paradoxically, these efforts can implicitly foster greater complexity in the regulatory superstructure because they rationalize but do not eliminate the complexity that already exists. The lack of a sun-setting mechanism for laws and regulations remains a problem. This is aggravated by the State's increased range of intervention (an OECD-wide problem). The average number of new laws grew by 35% over the last thirty years, and the length of legal texts has also grown. Paperwork and administrative procedures arising from these rules are a major source of discontent for market players. However a major change is on the way with the 2003 administrative simplification law, which has the aim of simplifying texts when they are drafted, rather than simply addressing the consequences of their impact, as was the case in the past.

Regulatory quality would also be improved by a more rigorous and less formal application of Regulatory Impact Analysis (RIA) to proposed laws or rules. Current regulatory quality provisions are mainly focused on ensuring legal quality and administrative simplification. Though impact analysis was introduced in France in 1996, it has not played the role that it deserves to play, notwithstanding critical reports by the *Conseil d'État* and others. They are carried out without appropriate means, are not systematically diffused, and most important, they are carried out *ex post*, at the end of the process of drafting new rules. They are not used as a tool to assist decision making, but rather represent a justification *ex post*. Quantitative and economic analysis of the impact of administrative action on the economy, notably in terms of management and administrative burdens, remains underdeveloped.

Consultation in France needs to be better structured and more systematic if it is to help shape better regulations. Currently France has a wide but eclectic range of arrangements in place, the system depending on the type of rule. The growing use of the Internet has been a helpful development. However the system can generate "consultation fatigue", especially at the local level. There can also be failures to consult effectively at a sufficiently early stage. France is aware of the problem, and might consider the experiences of other OECD countries which have introduced systematic "notice and comment" procedures, or rationalised their consultative apparatus. The French civil service is highly competent but recruitment rules are quite rigid (external recruitment to senior posts is virtually impossible) and the system is compartmentalised into a large number of corps, which constrains evolution. Though this is changing slowly, the views and interests of the administration may be more easily identified and better served than those of citizens and businesses as users of the administration.

Decentralisation: a complex process which needs a clearer strategy, simplification and stronger management control

Decentralisation is a key reform, but it has created a complex set of partly overlapping structures and competences. The decentralisation of competences has led to situations which are complicated from the point of view of everyday management, especially in such key sectors as education and the health and social field. Some overlaps are probably unavoidable, but this reinforces the importance of effective co-ordination mechanisms. An efficient use of each level of government follows from efforts to organize and distribute competences appropriately, to co-ordinate among different levels of administration, and to promote regulatory quality at all levels.

Another issue is the lack of effective guidance and control mechanisms to support the decentralisation of competences. In effect, good regulatory quality practices are deficient at the local level, and regulatory inflation is a further problem. Regulatory actions by local governments have risen by 40% over the last ten years. What is more, the State's capacity to monitor legality is made difficult by the lack of available resources for this purpose.

The government's recent decentralisation reforms attempt to take account of many of these problems. A new framework law embodying comprehensive reforms was adopted in 2003. Among other issues it proposes changes to revenue-raising and goes some way towards a clearer allocation of responsibilities. But the development of tools to promote regulatory quality at local level is an important omission.

Public expenditure management control: this needs stronger reform to improve efficiency and contain costs

> Public expenditure is high by OECD standards, and in the long run, its growth is unsustainable. Measured in terms of expenditure as a share of GDP it is the fifth largest in the OECD. Nearly one in four French employees work for the government. Despite producing a multi-year budgetary forecast each year, the government has repeatedly missed its target to contain public expenditure. Even if the government has managed most of the time to meet its budgetary objectives for the State budget, control is more tenuous over that share of general government spending that lies outside the State budget, notably social security, especially for health and unemployment insurance.

> The government has taken important steps to strengthen the management of public expenditure, notably in the framework of the 2001 LOLF financial management law. Moreover, important efforts have also been made to improve oversight and governance of social security spending.

Steps have also been taken to slow the rate of growth of public expenditure and to improve the sustainability of the pension system. A second reform in 2003, following the initial pension reform in 1993, tries to harmonise the conditions governing public employees with those of other salaried workers, all the while anticipating an extension of their contribution period. However, additional reforms remain necessary to put the pension system on a sustainable track.

Improve communication

Though important efforts have been made recently, a communication gap appears to remain. Recent communication efforts for pension reforms represent an encouraging example. The general public's understanding of reforms and their effects often lags reality, especially as regards *service public* sectors, where reform has often improved public services. Some recent positive examples of effective management of change have been the transition to competition of *Air France* and *France Télécom*, in which employees were actively engaged.

#### Conclusions

France has undergone some striking changes over the past few years, and a wide field of important reforms has been set in motion, ranging from decentralization, administrative simplification, to the liberalisation of network industries and internal changes to the management of public expenditure, among others. These reforms have contributed to the country's economic success. There is a growing internal consensus over the need to review the role of the State and reform the governance and regulatory framework A mid-point in the process has been reached, with many questions unanswered.

The public authorities need to chart a clearer way forward with a strategic coherent long term path. Paradoxically, the absence of an acute crisis represents not only a positive factor, but also a weakness, insofar as attaching greater priority to reform does not seem urgent. Further regulatory reforms are an essential component of the actions which are needed now to ensure that the rapid ageing of the population can be handled effectively, while continuing to increase the standard of living of future generations. This is especially important during the current phase of slower growth, and deterioration in public finances. The past achievements provide a solid base and reason for encouraging the implementation of new reforms.

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### Bibliography

Accenture (2003), E Government Leadership, Realizing the Vision.

- Assemblée nationale (2001a), "Activités aéroportuaires, aménagement du territoire et développement durable", colloque, 7 février 2001, Paris.
- Bonnafous Alain et Yves Crozet (1998), La gestion de la rareté des créneaux aéroportuaires, l'expérience américaine de "buy-sell rule" et les enseignements que l'on peut en tirer de la tarification dans d'autres domaines, LET, Lyon.
- Braun Gérard (2001), Rapport d'information n° 348 au nom de la Commission des Finances, du contrôle budgétaire et des comptes économiques de la Nation sur une étude comparative sur la réforme de l'État à l'étranger, Sénat, www.senat.fr/rap/r00-348/.
- Carcenac T., (2001), "Pour une administration électronique citoyenne, rapport au Premier ministre, méthodes et moyens", www.Internet.gouv.fr/français/textesref/rapcarcenac/rapcarcenac.pdf.
- Chidiak M. (2000), "Voluntary Agreements, Implementation and Efficiency", CERNA, Écoles des Mines de Paris, www.ensmp.fr/fr/cerna.
- Conseil économique et social (2002a), Aéroports de proximité et aménagement du territoire, Paris.
- Conseil économique et social (2002b), note de synthèse: "Aéroports de proximité et aménagement du territoire", Paris.
- Conseil d'État (1991), Rapport public annuel, "De la Sécurité Juridique".
- Conseil d'État (1995), Rapport public annuel, "La transparence et le secret, documentation française".
- Cournède B., S. Gastaldo (2002), "Combinaison des instruments prix et quantités dans le cas de l'effet de serre", Économie et Prévision, n° 156.
- Cours de Comptes (2002), Chapitre IV: Aéroports de Paris, Paris.
- Conseil d'Orientation des Retraites (2001), "Retraites: renouveler le contrat social entre les générations Orientations et Débats", first report, La documentation française, Paris.
- De La Coste P. (2003), "L'hyper république, Bâtir l'administration en réseau autour du citoyen", Rapport au Secrétaire d'État à la Réforme de l'État.
- De Margerie G. (2000), "La révolution libérale masquée", dans Fauroux R., B. Spitz (2000), Notre État: le livre vérité de la fonction publique, Éditions Hachette, Pluriel.
- De Roux X. (2002), Simplifications administratives concernant les entreprises, propositions du groupe parlementaire, décembre.
- Fauroux R. (2000), "La crise de notre État" dans Fauroux R., B. Spitz (2000), Notre État: le livre vérité de la fonction publique, Éditions Hachette, Pluriel.
- Hel S. Thelier (2000), "Organisation des pouvoirs et gestion publique: une comparaison des pays de l'Union européenne", dans Conseil d'Analyse Économique, État et Gestion Publique, actes du colloque of 16 december 1999.
- Houssin P. R. (1997), Rapport au Premier ministre sur la simplification des relations entre les usagers, citoyens et entreprises, et l'administration, Assemblée Nationale.
- Lecat Jean-Jacques (2002), "La propriété et le contrôle des compagnies aériennes: le cas d'Air France", Revue internationale de droit comparé, No. 2.
- OECD (1997), Regulatory Impact Analysis: Best Practices in OECD Countries, Paris.
- OECD (1999), Regulatory Reform in the Netherlands, Paris.
- OECD (2002), Regulatory Policies in OECD Countries From Interventionism to Regulatory Governance, Paris.

- Rondé-Ousau Isabelle (2001), "Coût et productivité de la navigation aérienne française", extract from the original manuscript, Laboratoire d'économie et d'économétrie de l'aérien, Paris.
- Saugey B. (2003), "Rapport au nom de la commission des lois constitutionnelles, de législation, du suffrage universel, du règlement et d'administration générale sur le projet de loi habilitant le gouvernement à simplifier le droit", Sénat, www.senat.fr.
- Sénat (2001a), Rapport d'information fait au nom de la Commission des Affaires économiques et du Plan par le groupe de travail sur l'avenir des dessertes aériennes régionales, ainsi que sur le fonctionnement du fonds d'investissement des aéroports et du transport aérien (FIATA), par MM. Jean François-Poncet et Jean-François Le Grand, No. 237, Paris.
- SH&E International Air Transport Consultancy (2002), Study on the quality and efficiency of ground handling services at EU airports as a result of the implementation of Council Directive 96/67/EC, Report to the European Commission, Londres. And "Annex to the report".
- UCCEGA (2002), Le Livre Blanc des grands aéroports régionaux français, Paris.
- Waintrop F. (1999), Enquête portant sur le renforcement des relations entre les administrations et les citoyens, Délégation Interministérielle à la Réforme de l'État.



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