

WORKSHOP ON INTERNATIONAL MIGRATION AND LABOUR MARKET
TOKYO, 16 MARCH 2007

I. LEGAL MEASURES ON FOREIGN WORKERS IN FRANCE

Legal measures in France relating to foreign workers are set out in an Act which defines the conditions under which immigrants may work and stay in France (Code of Entry and Stay of Foreigners in France, as well as Asylum - CESEDA). The National Welcome and International Migration Agency (ANAEM) is responsible for the reception procedures for newly-arrived immigrants. The Ministry of Interior is responsible for the delivery of residence and/or work permits.

Immigrant workers fall under three categories according to the country of origin:

- Citizens of European Union (EU) member countries, in the framework of the agreement on the free movement of workers between EU member states. These workers do not come under the regulations of the CESEDA and do not have to undergo reception procedures into France. Of the ten new EU members states (May 2004), it should be noted that only Cypriots and Maltese workers can circulate and settle freely within the EU. Citizens from other new member states including Bulgaria and Romania since January 2007 must hold a work permit.
- Citizens from African countries with whom France has signed a bilateral agreement (former colonies, previously under French administration). These agreements determine the conditions of entry and stay in France.
- Citizens from other countries that fall under the jurisdiction of the CESEDA.

Different categories of foreign workers exist:

- Foreign workers recruited by companies:
The procedure is rather complex. The French employer makes a request for a temporary work permit to the Department of Labour, Employment and Vocational Training (DDTEFP), who then makes a decision based on:
 - local conditions of employment within the French Department where the request is being made, labour market testing which consists in verifying that no unemployed French or immigrant workers in a regular situation are available for the job;
 - employment conditions of the immigrant worker concerned: the company making the request must respect French employment law and the conditions of work must be the same as for French nationals;
 - levels of pay that are identical to French nationals employed in the same or similar post;
 - in addition, the host company must ensure that the temporary immigrant worker has adequate accommodation for the duration of the stay.

The type of work permit delivered to the immigrant worker depends on the length of stay stipulated in the contract with the employer:

- if the contract is a temporary one for less than one year, the immigrant worker will be given a work permit marked 'temporary worker' and a provisional work permit valid a maximum of nine months, renewable at the end of the contract. It should be noted that each provisional work permit binds the immigrant worker to a specific employer.

He or she cannot change employer without seeking authorisation from the French administration;

- if the work contract is a permanent contract or a temporary contract for more than one year, the immigrant worker will be given a work permit marked 'employee', for a period of one year, automatically renewable if the worker continues in the same employment. At each request for renewal, the conditions of employment and the situation in the labour market are re-examined.

- Seasonal workers have a different status:

They are normally given a contract for a maximum of six months, which can be extended in exceptional circumstances to eight months over a period of twelve consecutive months. Whatever the length of their contract, if the workers are from a country with which France has a bilateral agreement (Poland, Morocco and Tunisia), it is the National Welcome and International Migration Agency which supports the travel expenses and the organisation of their entry in France.

- Artists, Scientists and researchers and Business representatives:

For each of these categories, work permits are delivered under other specific conditions.

II. INCENTIVE MEASURES TO ATTRACT IMMIGRANT WORKERS TO FRANCE

France does not have a system of quotas. Nevertheless, aware that it needs to attract highly skilled immigrant workers, France has put into place simplified procedures for certain categories of workers, such as high-level managers.

From 1998 to 2004, due to a shortage of computer technicians, France set up a policy to attract them. This was mainly due to the Year 2000 Computer problem, to the change of the monetary system to euros, and the information systems needed for the change to take place. Computer technicians who earned a monthly gross salary above 2,250 euros were allowed entry through a simplified immigration procedure and without labour market testing.

Since 2004, a new measure has been introduced that simplifies the immigration procedure for recruitment of top executives and managers.

III. CHANGES IN LEGISLATION ON IMMIGRATION AND INTEGRATION

The law relating to immigration and integration passed on 24 July 2006 introduced diverse measures aiming at attracting highly qualified workers to France. In this new perspective, it is not necessary for a prospective immigrant who is highly skilled to have secured a job before arriving in France.

- The law created a new work permit, entitled '*compétences et talents*' (competencies and talents). This three-year permit is delivered to applicants, living in France or not, who are likely to be able to contribute significantly to economic development or to the intellectual, scientific, cultural, humanitarian or sporting domains of French life, or that of their country of origin.

This permit allows the holder to undertake work in any field related to the project proposed at the moment of making the application.

Family members of holders of this work permit have the right to stay in France with a permit '*vie privée et familiale*' (family and private life).

- The law created also a temporary work permit for employees who are on short missions (intra-company transfers). This permit is valid for three years and is delivered to applicants who are employed abroad and who are sent to work in France by their company. They must have a salary that is at least 1.5 times the equivalent of the minimum wage in France (SMIC). The holder of this permit can enter France at any time.

Family members of this type of work permit have the right to stay in France with a permit '*vie privée et familiale*' provided that the holder has worked in France for a period of six months continuously.

- Some measures allow foreign students to work in France at the end of their studies: Students holding a Masters degree and who wish to have their first work experience in France, can receive a non-renewable work permit for six months. At the end of this period, if the holder has found a job or has a job offer related to the educational studies undertaken in France, he can obtain a work permit which is delivered without labour market testing.

Two other measures modify the conditions of foreign workers in France:

- A list of jobs for which there is a labour force shortage at a national level has been created. Workers who want to take one of these jobs can obtain a work permit, which is delivered without labour market testing. The applicant is given a temporary employee work permit once he or she has been given an indefinite work contract or a contract longer than one year. Currently, this list is open only to immigrant workers from the new EU member states: it is a temporary measure for the duration of the transition period (at least until 2009).
- A temporary work permit for three years is given to immigrant workers who hold a seasonal contract and who undertake to retain their main residence outside of France. This permit allows seasonal workers to work in France for a maximum of six months in a twelve-month consecutive period. The immigrant worker can not stay in France for more than six months in one year.

IV. OTHER CATEGORIES OF ENTRY INTO THE LABOUR MARKET

The direct measures for immigrant workers described above represent only a small part of the total number of foreign workers who are admitted annually to France. Immigrants who have the right to stay in France that include the right to work (without having to go through the procedure of applying for a work permit) form a part of the indirect immigrant work force that is not directly measurable. These immigrants are:

- Newly-arrived migrants, that is to say immigrants who hold a resident permit, a permit '*vie privée et familiale*' or a certificate for Algerian residents. They can either start working immediately or in the future;
- Immigrants who have changed status, that is to say they were previously allowed to enter France on a temporary basis (asylum seekers, students, temporary workers). The most frequently observed status change of these immigrants include:
 - ✓ asylum seekers who become refugees;
 - ✓ foreign students who wish to become employees: they must obtain permission to work under the category 'employee' or 'temporary worker';
 - ✓ immigrants with a temporary entry permit who become a member of a French family; the most common case is a foreigner who marries a French national.

V. WHAT HAPPENS WHEN IMMIGRANTS LOSE THEIR JOBS?

This depends on the type of permit that the immigrant holds:

- Immigrants who have the right to work as employees without having to apply for a work permit can be included in the national system registering people who seek work, can receive unemployment benefits and can gain access to public measures designed to help unemployed persons back to work;
- Immigrant workers admitted to France as 'permanent workers' can also be included in the national system registering people who seek work, receive unemployment benefits and can gain access to public measures designed to help unemployed persons back to work. If the immigrant worker is involuntarily deprived of work at the time when he or she seeks to renew a work permit, the validity of this permit is extended for one year;
- Immigrants admitted to France as 'temporary workers' cannot be included in the national system registering people who seek work, nor receive unemployment benefits.

VI. CONCLUSIONS

1) The French situation is very specific: most of the immigrant workers come from family migration and not from direct economic migration

2) It should be kept in mind that migration for employment policy operate parallel with an integration policy, since most of the workers finally stay in the receiving country.

ANNEX: SOME STATISTICS

I. FOREIGN WORKERS IN THE FRENCH LABOUR MARKET

France, Stock of foreign labour by sex & nationality - 2005

	Men	Women	Both
Portugal	169,096	134,449	303,545
Algeria	115,957	68,365	184,322
Morocco	121,287	59,257	180,544
Tunisia	49,688	20,591	70,279
Turkey	60,284	23,146	83,430
Italy	33,135	17,614	50,749
Spain	22,468	14,004	36,472
Poland	4,950	13,981	18,931
Other countries	291,190	236,901	528,091
Total	868,055	588,308	1,456,363
<i>Of which: EU - 15 members</i>	<i>295,337</i>	<i>221,350</i>	<i>516,687</i>
<i>Of which: Newer member states of EU</i>	<i>5,601</i>	<i>15,611</i>	<i>21,212</i>
Total (% of total labour force)	5.9	4.6	5.3

Source: INSEE- Labour force survey.

France, Stock of working population by sex & sector - 2005

	Men	Women	Both
Farming & Fisheries sector	23,713	10,095	33,808
Industrial sector	115,334	31,640	146,974
Construction sector	148,040	3,005	151,045
Tertiary sector	336,640	372,065	708,705
Total	623,727	416,805	1,040,532

Source: INSEE- Labour force survey.

France, Activity & Unemployment rate by sex & nationality - 2005

	Activity rate			Unemployment rate		
	Men	Women	Both	Men	Women	Both
Total	74.7	63.8	69.2	9.0	11.0	9.9
French by birth	74.5	64.6	69.5	8.3	10.1	9.1
French by acquisition	77.4	63.5	70.0	13.3	18.1	15.6
UE - 15 members	81.1	64.5	73.1	5.5	10.0	7.4
Others countries, of which	73.6	45.1	59.4	22.4	32.5	26.2
<i>Algeria</i>	<i>74.1</i>	<i>43.5</i>	<i>59.1</i>	<i>23.3</i>	<i>38.6</i>	<i>28.8</i>
<i>Morocco</i>	<i>73.2</i>	<i>39.3</i>	<i>56.9</i>	<i>22.3</i>	<i>34.8</i>	<i>26.4</i>
<i>Tunisia</i>	<i>76.4</i>	<i>44.1</i>	<i>63.7</i>	<i>26.3</i>	<i>31.0</i>	<i>27.6</i>
<i>Turkey</i>	<i>81.1</i>	<i>27.8</i>	<i>55.9</i>	<i>22.9</i>	<i>49.8</i>	<i>29.5</i>
<i>China</i>	<i>67.8</i>	<i>38.3</i>	<i>51.1</i>	<i>7.1</i>	<i>18.8</i>	<i>11.8</i>

Source: INSEE- Labour force survey.

II. SEASONAL WORKERS

Inflows of seasonal foreign workers by nationality – 2005

	2005
Total	16,242
<i>of which farming activities</i>	15,795
Nationality	
Morocco	6,941
Tunisia	682
Poland	8,192
Other countries	427
<i>Source: ANAEM.</i>	

III. PROVISIONAL WORK PERMIT HOLDERS

Inflows of provisional work permit holders by nationality & sector – 2005

	2005
Total, of which	10,405
<i>Business representatives</i>	1,202
<i>Researchers & Professors</i>	1,564
<i>Teachers</i>	2,321
Nationality	
Europe	1,713
Commonwealth of Independent States (ex-USSR)	599
Asia	2,246
Africa	1,666
America	3,955
Oceania	213
Stateless people & Unknown nationality	13
Sector	
Farming sector	51
Industrial sector	1,401
Construction sector	412
Tertiary sector	8,541
<i>Source: ANAEM.</i>	

IV. WORK PERMIT 'EMPLOYEES' HOLDERS

Inflows of work permit 'employees' holders by qualification, nationality & sector – 2005

	2005
Total	8,556
Levels of qualification	
Unskilled workers	732
Skilled workers	3,603
Technicians, Executives, Managers, Engineers	4,221
Nationality	
Europe	1,610
Commonwealth of Independent States (ex-USSR)	282
Asia	2,483
Africa	2,845
America	1,241
Oceania	92
Stateless people & Unknown nationality	3
Sector	
Farming sector	250
Industrial sector	1,201
Construction sector	1,177
Tertiary sector	5,928
<i>Source: ANAEM.</i>	