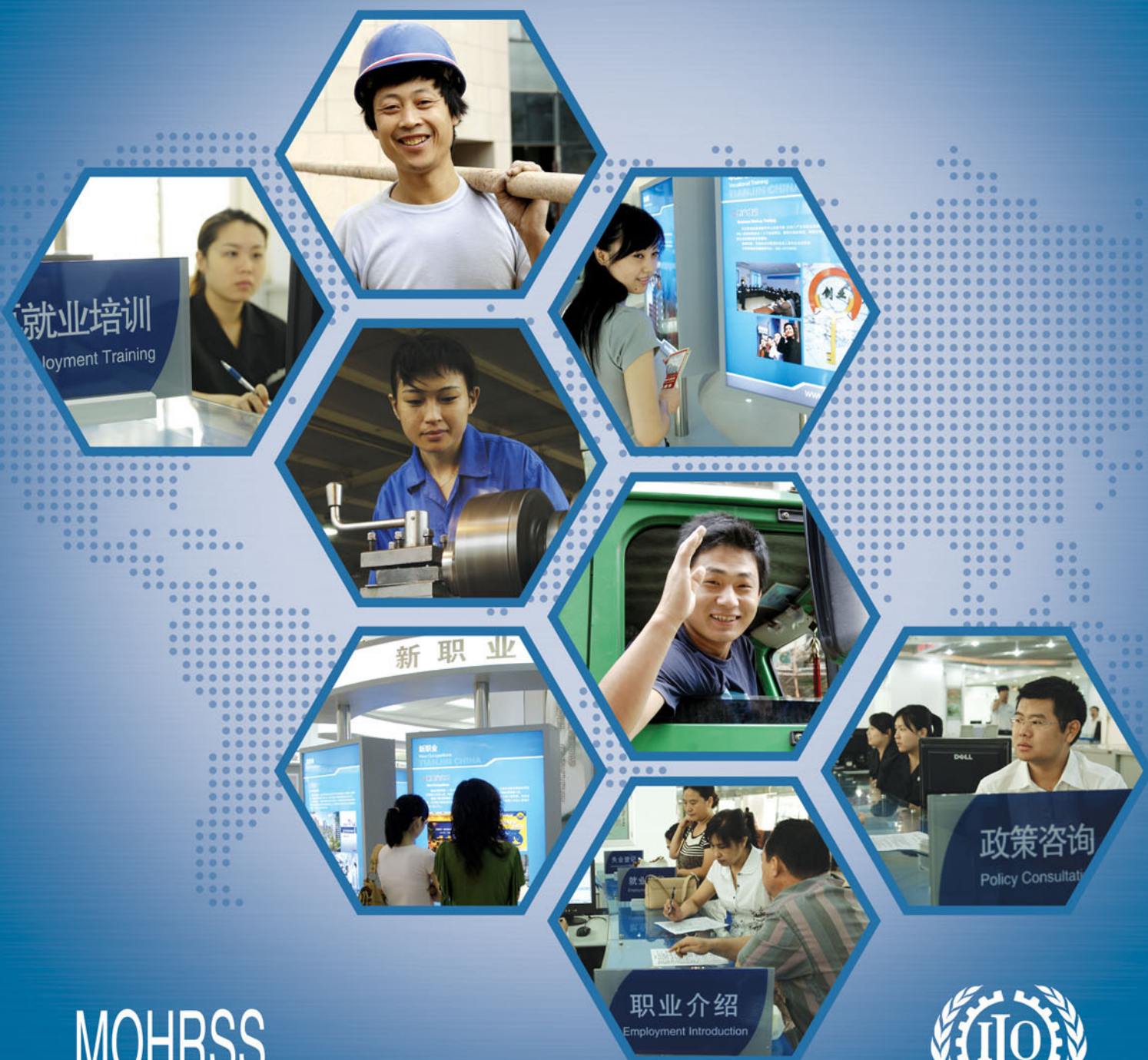


From Active Employment Policies to the Employment Promotion Law

Coping with economic restructuring and labour market adjustments



MOHRSS

Ministry of Human Resources
and Social Security



International Labour Office

From Active Employment Policies to the Employment Promotion Law

Coping with economic restructuring and labour market adjustments

MOHRSS

Ministry of Human Resources
and Social Security



International Labour Office

Copyright © International Labour Organization 2011

First published 2011

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit www.ifro.org to find the reproduction rights organization in your country.

Employment Policies Report – China: From Active Employment Policies to the Employment Promotion Law

978-92-2-125663-2 (print)

978-92-2-125664-9 (web pdf)

ILO Cataloguing in Publication Data

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Visit our web site: www.ilo.org/publns

Printed in China



Contents

Foreword

Economic restructuring and labour market adjustments.....	1
Re-employment of laid-off workers: The origins of China's active employment policies.....	4
China's Active Employment Policies: The framework.....	7
China's Employment Promotion Law.....	13
China's future employment challenges.....	17



Foreword

The ILO has been involved in Chinese employment policy reforms since the beginning of the era of economic reform and opening up. The ILO active labour market policy project launched in China in the early 1990s, for example, gave a timely impetus to the establishment of public employment services in the country, which benefited both urban and rural workers. The signing of a Memorandum of Understanding (MoU) between the Ministry of Labour and Social Security – now the Ministry of Human Resources and Social Security (MOHRSS) – and the International Labour Office (ILO) in 2001 defined a framework for cooperation based on China's national priorities and the ILO's Decent Work Agenda. One key outcome of the MoU is the production of detailed accounts of China's employment policies to promote full and productive employment. The Asia Employment Forum jointly organized by the ILO and the Chinese Government in Beijing in 2007, gave the initial impetus to write a series of booklets on Chinese employment policies. The publication of this series of booklets today is thus the result of the fruitful collaboration between the MOHRSS and the ILO to showcase China's unique experience in economic restructuring and labour market adjustments over the period 1990–2010. From Active Employment Policies to the Employment Promotion Law was written by the MOHRSS with editorial assistance by the ILO.

Since the start of the country's reform process in the late 1970s, there have been significant changes in China's economy. The country's once planned labour market is giving way to a market-oriented system. Focusing on the formulation and implementation of China's active employment policies in a fast-changing context, this booklet describes the path followed by the Chinese government to formulate, test and improve its active employment policies. It shows how, building on successful results and lessons learnt, these policies were gradually improved and finally upgraded to legislation.

Active employment policies in China are systematic and comprehensive and have benefitted from international experience in their formulation. Great achievements have been made and the adoption of the Employment Promotion Law in 2008 was well received by the international community as well as the ILO. The Chinese experience is a good example of a successful policy development process, spanning many years, addressing huge challenges and devoting the necessary resources. We believe it can inspire many countries who face similarly difficult employment situations.



Economic restructuring and labour market adjustments

Over more than three decades, China has been experiencing spectacularly high GDP growth rates, thanks to the massive economic, social and institutional reforms that the country has undertaken. Such change and reforms were taking place at a time when globalization was intensifying, as international trade, international financial markets, capital flows and technology transfers flourished. Reforms, which were also influenced by China's accession bid to the WTO, confronted the dual challenge of developing a socialist market economy, while effecting increasing integration into the global economy. In many ways, the two objectives were inter-linked and, hence, entailed a number of policy initiatives to balance the 'opening' of the economy with domestic economic and social developments.

While rapid growth and modernization were a key consideration of the economic reforms, these were not seen as being divorced from the objectives of building a stable, harmonious society. At the heart of the latter was the government's "people-oriented" development strategy that incorporated the goal of full employment, towards which reforms have been undertaken to frame the related policies and institutions. This concerted attention has led to the initiation and formulation of China's Active Employment Policies (AEP) and the subsequent promulgation of the Employment Promotion Law (EPL). While the growth successes of China's economic reforms have been profusely researched and documented, the concurrent social and labour market adjustments that China had to cope with have been relatively less studied. This report provides an account of some of these issues pertaining to how the Chinese government coped with the massive labour adjustments that were warranted by the restructuring process as well as the move towards increased participation in the market economy.

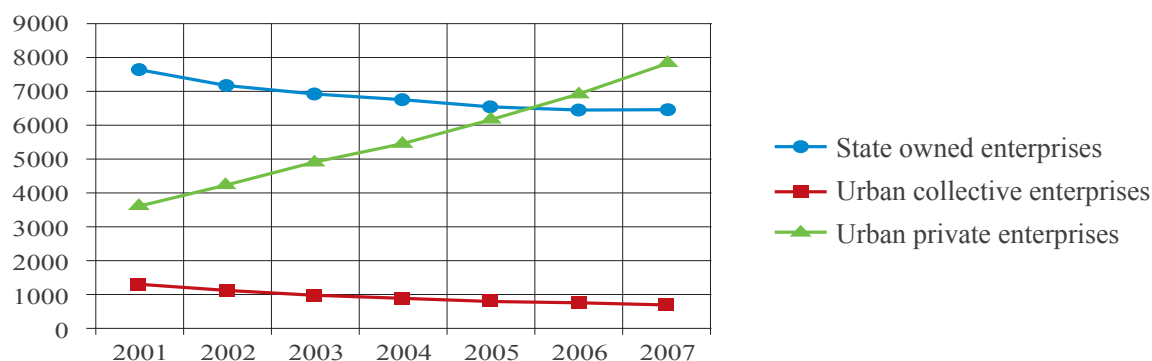
China stepped up the process of economic restructuring, especially during the 1990s. The GDP grew rapidly and the economic structure was undergoing transformation, through accelerated industrialization and urbanization of rural areas.

The structural reforms were not only changing the industrial structure, but also the employment structure. The share of GDP attributable to the primary sector changed from 27% to 15%, from 41% to 46% in the secondary sector, and from 31% to 39% in the tertiary sector from 1990 to 2000. The share of the primary sector dropped continuously while the share of the secondary and tertiary sectors increased by 4.6% and 7.4% respectively. During the same period, the employment structure in China also changed notably. The share of the workforce in the primary sector dropped by 10.1%, while that in the tertiary sector increased by 9%. The absolute size of the agricultural labour force decreased after the 1990s, when productivity in agriculture improved, and rural workers increasingly moved to non-agricultural sectors for jobs.

While China was experiencing rapid growth and structural change since the 1990s, the ownership structure was also undergoing profound changes. The share of output and employment in the publicly owned sector dropped, while the share of output and employment in individual, private and other forms of ownership saw rapid growth. (Figure 1)



Figure 1 Employment growth in enterprises under different forms of ownership in urban areas
Unit: (10,000 persons)



Source: China Statistics Year Book (from 2002 to 2008)

Policy interventions toward labour market adjustments

In order for China's reforms to be effective, certain developments were needed at the national level. Globalization and international competitiveness, especially in terms of attracting foreign direct investment (FDI), required that industries be restructured and upgraded. In China, this meant, first and foremost, the restructuring of the state-owned enterprises (SOEs), which would have a massive impact on the labour market. The market orientation of the reform programme also required that the Chinese labour market develop the characteristics of a socialist market economy. In other words, the economic reforms were intricately linked with various employment and labour market reforms, both in order to cushion the adverse impact of the restructuring process, as well as to foster the development of a new labour market.

The reform policies that had great impact on the labour market covered the following areas:

(i) reform of the employment system in state-owned enterprises through the introduction of the employment contract system.

The State Council issued four provisions in July 1986, which required SOEs to implement an employment contract system with appropriate revisions with regard to the recruitment system, termination of employment and unemployment insurance. The provisions on the employment contract system clearly defined the rights and obligations of the employer and the employee. The provision on the recruitment system abolished the internal recruitment practices of SOEs. The provision on the termination of employment regulated the approach to dismissals and those on unemployment insurance provided measures to address unemployment.

The measures had the following effects:

- the former employment system of the SOEs was abandoned. Increasingly the employment status was changed from being employed by the State to being employed by enterprises. All employees



needed to sign a contract with the enterprise, and the responsibilities and rights of both sides were defined through a regulatory framework;

- reform of personnel management followed market principles, which included workforce management, fair competition, and promotion policies. Salary scales were adjusted according to economic conditions and the performance of enterprises.
- a wage system based on efficiency and productivity was set up, and linked to the restructuring of operations, productivity and profits of enterprises.

(ii) a re-employment scheme to facilitate structural adjustment and reform of SOEs.

The re-employment scheme was a specific measure taken to cushion labour market adjustments at a time when the social security system in China was insufficient. Its aim was to mobilize society to resolve the issue of re-employment of redundant workers from the SOEs through the strengthening of job placement, unemployment insurance, skills development and promoting the development of employment service agencies.

The reform of SOEs and economic restructuring in general also led to the establishment of a new social security system, including old age insurance, unemployment insurance and medical insurance.

(iii) an orderly migration programme for the rural labour force

In order to promote orderly labour migration, the (former) Ministry of Labour launched a policy and programme on “orderly trans-regional migration” of the rural labour force and a coordinated employment plan in urban and rural areas in 1993. Several measures were taken to improve the regulation and employment of the rural labour force, including introducing a certificate management system and an information and service network for migrants; developing service and training programmes for migrant workers; strengthening labour inspection to better protect migrants’ rights; and reinforcing the registration of and statistics on migrant workers.

(iv) an active employment policies to facilitate the transformation from a planned to a market system

The central government decision in September 2002 to strengthen the re-employment services for laid-off workers entailed the introduction of a series of supporting policies, such as tax exemptions, micro-loan guarantees, social insurance subsidies, job subsidies, employment services and vocational training. Together these formed the framework of the active employment policies with so-called Chinese characteristics.

The government formulated and implemented a programme in support of the active employment policies to provide a strong framework for realizing full employment, protecting workers’ rights and enhancing labour quality and workers’ income. The employment policy coverage was expanded gradually from initial coverage of laid-off, unemployed workers from SOEs to the entire labour force.



Re-employment of laid-off workers: The origins of China's active employment policies

While enterprise-level restructuring entailed massive reductions of workers, the prospects of redundant workers regaining jobs were, at that time, difficult. Although the SOEs were acting under state guidance to improve efficiency through mergers and the shedding of labour, they were also advised to seek ways of rehabilitating the redundant workforce, and implementing various re-employment projects. Meanwhile, a basic living standard guarantee scheme was devised in order to protect the workers. The government was confronted with a market-based employment system and had to undertake measures to support a stable labour market.

The main contents of the re-employment scheme

The re-employment project was effectively a social programme aimed at rehabilitating the unemployed in a short time and helping enterprises to make arrangements for their redundant workers through the use of policy support, incentives, and various employment services. It involved a combination of measures, such as jobs placement by enterprises, self-employment by individual workers, and assistance from the government and society. A significant aim of implementing the re-employment scheme was to explore the role of an employment service system as a means of solving redundancies without depending purely on relief from enterprises. There were several aspects to the re-employment scheme, including the following:

- Vocational guidance workshops
- Participation in transition training
- Incentives to enterprises for setting aside jobs for the unemployed
- Encouraging employers to hire the unemployed and redundant workers. Those enterprises which provided unemployed workers with an employment contract of more than one year could enjoy a wage subsidy equal to their contribution to the unemployment insurance fund
- Supporting workers to find jobs by themselves or create their own business
- Encouraging enterprises to coordinate and adjust vacancies amongst themselves regarding re-employment and to provide necessary services such as employment guidance, jobs information and counselling
- Encouraging employers to hire redundant workers for a three-to-six month probation period
- Incentives to set up dedicated labour-service enterprises or agencies.



Basic living guarantee system for laid-off workers

The (former) Ministry of Labour was mainly responsible for formulating policy, implementing a basic living guarantee scheme, social insurance and re-employment of laid-off workers, and guiding local labour and social security departments.

Funds used to guarantee the basic living standard and social insurance contributions came from three channels: one-third from budgetary outlays, one-third from enterprises, and the remaining one-third from social pooling.

Establishment of re-employment service centres at the enterprise level

The central government adopted regulations requiring all SOEs which had retrenched workers to establish re-employment service centres. The re-employment service centres came to be recognized as the principal carriers of policies concerning the basic cost of living allowances for redundant workers and the unemployed, as well as their re-employment. The re-employment centres had three primary functions: first, payment of a basic living allowance to redundant workers, which, in principle, could be higher than the unemployment benefit; second, payment of various social insurance contributions on behalf of the redundant workers; third, organization of vocational guidance and re-employment training to facilitate their re-employment.

The re-employment service centres were characterized by an exit strategy, i.e. laid-off workers could not stay in the centre for a period of more than three years. If they were unable to get re-employed within that period, their relationship with the enterprises would be severed. They would then be categorized as 'unemployed' and become eligible for unemployment benefits for a maximum period of two years. The redundant workers, when leaving the centres, were entitled to compensation for retrenchment from their former enterprises and severance of their labour contract, according to provisions of the Labour Law.

Re-employment through community services

The tertiary sector was seen as having a large potential for generating employment, especially in terms of community services closely linked to the daily life of residents, such as business, catering, repairs, domestic services, handicraft production and many others. To this end, the Government brought forward a series of policies and measures concerning the tertiary sector, including strengthening the construction of facilities, increased investment, reform of pricing policies, improvements in urban planning and construction policies, and easing the constraints on private and small enterprises engaged in tertiary activities. In addition, the state holding banks were required to set up a special credit department for small businesses, and to enhance their credit support to SMEs.



Re-employment Assistance Campaign for workers leaving the centres

In order to overcome the difficulties faced by workers who were leaving the centres, the Government organized a ‘Re-employment Assistance Campaign’ to provide timely and effective services.

Re-employment Assistance Plan

In May 2001, the (former) Ministry of Labour and Social Security launched a ‘Re-employment Assistance Plan’, which included:

- i. On-site counselling and policy assistance to ensure that each laid-off worker participated in at least one counselling activity before leaving the centre;
- ii. Vocational guidance assistance to help workers analyze their own conditions for identifying proper jobs that fit in with their personal situations, or for achieving self employment;
- iii. Employment information and job assistance to provide laid-off and unemployed workers who were willing to get re-employed with effective employment information;¹
- iv. Skills training assistance. Ensure that each worker who wishes to do so has access to skills training gets at least once either for free or at a discounted cost;
- v. Assistance for continuation of the social insurance relations. The social insurance administrative agencies should help the re-employed (including those engaged in individual businesses) with continuation of their social insurance relations and collect the social insurance contribution;
- vi. Assistance with basic living standards. The unemployment insurance administrative agencies should review the applications of the unemployed and provide benefits to the qualified applicants in accordance with the regulations;
- vii. Assistance to the most vulnerable groups. Priority should be given to help them get a community service job. The community and neighbourhood officials should regularly visit these families and collect first-hand information about their condition.

¹ i.e. the employment information provided to job seekers should meet their needs as well as employers’ demand.



China's Active Employment Policies: The framework

Background and context

It was the initial reform of the SOEs that appeared to usher in major structural changes in various economic sectors, regions and labour markets. While reforms helped improve the quality of SOEs, this was also a period of massive lay-offs of workers. Nonetheless, thanks to the rapid growth of the Chinese economy and various public interventions, nearly 16.8 million out of the 25.5 million laid-off workers found re-employment in different forms. Overall employment increased tangibly in the national economy, especially during the period 1998-2001.

The employment challenge at that time was seen as how to move towards full employment in a situation of excess labour, with variable, and often incompatible, skills levels. During the 10th Five-Year Plan (2001-2005) there were concerns over how far the total volume of employment could be increased to meet the employment challenge. At that time, an estimated 22 to 23 million people, in addition to the laid-off workers, were seeking job opportunities in urban areas while only 8 million jobs were being created each year. Meanwhile, another 150 million surplus rural workers were potentially seeking employment in urban centres.

A significant step towards the articulation of a comprehensive employment policy was the concept of employment as the basis for people's livelihoods.² This proposal, forwarded in September 2002, marked a fundamental shift in focus for employment policy, i.e. from one largely devoted to re-employment and the containment of unemployment, to one that stressed the promotion of employment as a strategic development goal.

In consideration of the above, a comprehensive set of economic and social policy measures known as Document No. 12 was introduced to strengthen the efforts toward re-deployment of laid-off workers and the unemployed.³ Several points were emphasized. First, the expansion of employment opportunities would be explored through multiple channels, e.g. through ownership restructuring (private sector, FDI, shareholding, self-employment, public sector etc.), through a focus on SMEs, labour-intensive industries and the service sector, and through a degree of labour market flexibility such as part-time or flexible work. Second, steps were needed for the development and extension of support and incentives that would encourage (i) independent job-seeking by individuals, (ii) business start-ups, (iii) existing enterprises to re-employ or absorb the unemployed in exchange for a number of tax incentives and insurance and employment subsidies, (iv) the employment of relatively vulnerable groups, especially laid-off women workers aged 40 years or above, and males aged 50

² See Jiang Zemin, 'Employment is the basis for people's livelihoods', Selection from JIANG Zemin, Vol.3 People's Publishing House, 2006, PP. 504-513.

³ See Zhang Zuojin, 'Strong Ideological Weapons for Doing a Good Job in Employment and Reemployment in the New Time', People's Daily, October 18, 2002.



years or above (the so-called “40-50 interventions” in Document No. 12). Third, it was necessary to carefully establish the public employment service system, and develop and expand the system’s mandate for better job placement, training and re-training facilities. A systematic labour market database and information system was required to facilitate the above and monitor unemployment and job growth in the economy.

Document No. 12 also underscored the need for “social participation” of various stakeholders for the successful implementation of the employment policies, including workers’ and employers’ organizations. The State Council also set up an inter-ministerial platform in the form of a joint conference system, in order to coordinate the formulation and implementation of the national policies for employment expansion. To realize its goal of a full employment society within the framework of a socialist market economy, China established a series of guidelines and policies which were first encapsulated in the framework of active employment policies (AEP).

China’s Active Employment Policies: The fundamental elements

China’s AEP is a rather complex and comprehensive policy framework, that evolved from an initial concern to redress the situation of laid-off workers to a full-fledged range of policies to contain unemployment, promote employment and extend social protection.

Re-employment. defining targets and preferential policies. Document No. 12 formed the basis of the formulation of the AEP and the development of programmes and institutions to support its implementation. The first objective of Document No. 12 was the re-employment of laid-off and unemployed workers from the SOEs,⁴ and those who were seeking re-employment due to closures and bankruptcies of enterprises. In addition, the target included the urban unemployed who were beneficiaries of the ‘minimum living wage’ and had been unemployed for more than one year. These target groups would be the beneficiaries of various affirmative policies and interventions, stipulated by China’s AEP to promote their re-employment. For this, the government issued a “preferential re-employment card” to guarantee them access to re-employment benefits.

A Re-employment Fund. A Re-employment Fund was constituted dedicated to the promotion of re-employment of displaced workers. The Fund would be resourced largely from central and local government budgets, and would also include the amount marked for expenditure on unemployment insurance that specifically targeted the re-employment promotion scheme.

From 2003, budgets at all levels began to grant special funds for job placement, mainly for the promotion of employment and re-employment for laid-off workers and the unemployed. From 2003 to 2007, expenditure for employment subsidies at all levels reached 110.6 billion yuan, of which the central government spent 66.6 billion yuan.

⁴ The unemployed and laid-off workers from the SOEs are distinguished by the fact that the former have ended their contracts, while the latter have not severed their ties with the SOEs.



Job placement and vocational training. According to Document No. 12, the scope of applying for free job-placement and free vocational training policies mainly covered laid-off SOE workers and the registered unemployed in urban areas.⁵ The public job-placement agencies would provide job-placement and vocational guidance services to these categories free of charge. The ‘one-step’ employment service that was established included: registration of job seekers (employment registration), vocational guidance, job placement, training application, skills appraisal and certification, documentation, administration, and the continuation of social security participation.

Tax incentives for self-employment and business start-ups. Document No. 12 stipulated that laid-off workers and the unemployed were encouraged to find jobs by themselves or start their own businesses. For those who were engaged in individual business (with the exception of national restrictions on certain industries), the business tax, the urban maintenance and construction tax, the education surcharge and income tax would be exempted for 3 years. In addition, various administrative fees and charges for management, registration and licenses would also be waived.

Micro-credit guarantees. Under the AEP, an elaborate programme was incorporated to guarantee micro-credit lending to laid-off workers and the unemployed to set up own businesses (as self-employment) as well as for small, labour-intensive enterprises.

Micro-credit for self-employment. The AEP in order to promote entrepreneurship for self-employment designed and formulated an expanded programme to extend credit and other support services (e.g. guarantees, discount interest rates, etc.) to ease constraints on setting up a business. The programme also expanded its beneficiaries from the initial target group of those who possessed the preferential re-employment card to others, such as retired army personnel, rural migrants attending SIYB training, as well as college and university students.

Tax exemption for enterprises that provide re-employment. As part of its preferential policy programme, the AEP provided various tax exemptions to enterprises that absorbed laid-off and unemployed workers. In general, Document No. 12 stipulated that enterprises which offered an employment contract to such workers for at least one year would be entitled to an income tax rebate of 2,000 RMB each year for each additional person re-employed.

For instance, newly set-up service industries, barring a few, would be exempted from a range of taxes (e.g. business tax, urban maintenance and construction tax, educational surcharges, income tax) for three years, if workers were reemployed for at least 3 years each, and constituted at least 30 per cent of the total workforce of the respective enterprises.

Employment assistance for people with difficulties in employment. The AEP defined people with employment difficulties in the labour market to include the following: female workers over 40 years

⁵ At that time, local offices were also encouraged to provide free job placement and free employment service to laid-off workers of collectively owned enterprises and migrant workers.



of age, males over 50, the long-term unemployed and jobless households, i.e. whose members had no employment. These groups had much less opportunity to be employed by enterprises and lacked the capability to seek a job by themselves. These were also the groups who shared the heaviest burdens in their households. Thus, the active employment policies decided to prioritize people with employment difficulties as specific targets in providing assistance for their re-employment. The policy stipulated that an employment assistance system should be established covering all workers with difficulties in employment, especially by creating public service jobs, formulating a policy on special support and providing specific assistance.

Absorbing laid-off workers into the unemployment insurance scheme. Seen from a long-term perspective, it was clear that at some point in the future, the SOEs would no longer be required to sustain the re-employment service centres and that laid-off workers would no longer remain attached to those centres. Provisions were stipulated that the basic living allowance that was afforded to laid-off workers would then be subsumed under the unemployment insurance scheme.

Separating subsidiary businesses from the core business of SOEs. While the SOEs were being substantially restructured and modernized to attain efficiency and competitiveness, these enterprises were also being advised to undertake various measures to support the employment and protection of laid-off workers. An innovative measure was the separation of the subsidiary business of the SOEs and from their core businesses. Such a move would allow the SOEs to concentrate on the efficiency and productivity of their core business, while the subsidiaries could be turned into separate independent units that would support the re-employment of redundant workers. An incentive structure and a preferential policy were designed to promote such a measure under the AEP programme. Two aspects of the policy were most attractive to enterprises: the tax exemption policy and capital compensation.

Flexible employment policy

Flexible employment was an important instrument of the AEP to help re-employ redundant workers and the unemployed. With intensifying reforms of the Chinese economy and continuous adjustment of industry structures, an increasing number of employees were resorting to flexible employment such as part-time, temporary and flexible jobs. These flexible employees, however, faced serious medical insurance problems. The (former) Ministry of Labour and Social Security subsequently issued specific guidance on basic medical insurance for the protection of persons in flexible employment. All regions were asked to review their development level and medical insurance administration ability, based on an identification of the number of persons in flexible employment and their basic medical demands.

Assessment of AEPs

The (former) Ministry of Labour and Social Security, together with relevant departments, initiated assessment reports on the impact of AEP support on employment and re-employment, analysing the various problems and constraints encountered in order to make further adjustments to the



AEP framework. Specific parameters were laid out in the content of the assessment, which was conducted in three phases. During the first phase, it was the local governments, together with relevant departments, who provided feedback from the grassroots level on the effectiveness and coverage of the AEP vis-à-vis the goals of employment and re-employment. In the second phase, the MOLSS, together with the State Council constituted joint investigation teams to conduct field visits and to articulate the various responses from different localities and social groups. During the third phase, the MOLSS, jointly with relevant departments of the State Council, coordinated the findings in order to formulate further revisions and recommendations.

Major findings of the assessment

Based on local-level experiences and assessments, the local departments unanimously agreed that since 2002, with the efforts of various regions and departments, the AEP programmes on employment and re-employment had made remarkable progress. With job numbers increasing over time, confidence was expressed in the effectiveness of the policy.

- i. A positive link between economic development and employment promotion had begun to take shape, which contributed to job creation at a rapid pace. Local governments combined economic development and restructuring with employment promotion, enhancing the tertiary sector, especially through the development of labour-intensive, small and medium enterprises.
In 2004, the workforce engaged in the tertiary sector reached 230 million, representing an increase of 14% compared with that in 2001. By encouraging and providing guidance for the development of enterprises with different forms of ownership to create more jobs, the number of people employed in private enterprises and the self-employed reached nearly 96 million, an increase of 29% compared with 2001.
- ii. Various support policies on re-employment played an active role in promoting self-employment and job creation by enterprises. From 2003 to the first half of 2005, there were a total of 12 million laid-off and unemployed workers who were re-employed through various channels.
- iii. The public employment service system was gradually institutionalized and progress was made in various ways, especially in terms of increasing vocational training for promoting employment. Professionalism, systematic operation and access to public employment services were improved. Since 2003, public employment services were provided free of charge to nearly 13 million laid off and unemployed people.
- iv. Achievements were also made in terms of the improvement of working conditions for rural migrant workers in urban areas, conducting organized labour migration to other regions, conducting training for migrants and safeguarding the legitimate rights and interests of rural migrant workers.



Some limitations of AEP implementation

First, the coverage of policies was not wide enough and their duration too short. These factors affected the results of the implementation of these policies. For instance, the policies initially only applied to laid-off workers and unemployed people in state-owned enterprises. Workers in collective enterprises were not eligible for support from the policies.

Second, the operational procedures of some of the AEP policies were too complex, and eligibility requirements or thresholds for access to these policies were too high. For instance, applications for getting micro-credit guarantees and loans involved reviews and checks by many departments, such as labour and social security, finance, banking, etc.

Third, some policies had loopholes or biases in implementation.

Broadening the AEP canvas: Improvements and adjustments

The initial phase of AEP from 2002 to 2005 was subjected to close scrutiny and assessments in order to review the difficulties and constraints, and to strengthen the employment policy framework under the 11th Five-Year Plan. A significant element that influenced and warranted the adjustments to the AEP came from local-level feedback on the real efficacy of each of the AEP's policy supports at the grassroots level. An elaborate system of monitoring and coordination provided rapid assessments of the benefits and emerging difficulties.

The emerging employment situation and the new challenges required that active employment policies should continue to be implemented and be kept consistent and stable. It was necessary to extend, enlarge, adjust and enrich existing re-employment policies. In November 2005, based on the findings of the assessment, the State Council issued Policy Document No.36 on strengthening the work on employment and re-employment. Document No.36 was considered a milestone in China's active employment policies.

Some of the changes and adjustments to the AEP, as brought about by Document No.36 may be stated as follows:

- Target coverage expanded
- Assistance provided to people holding a preferential reemployment card
- Policies on tax and social insurance subsidy substantially revised to encourage enterprises to create more jobs
- Specific policy interventions to support people with difficulties in employment
- Aggressive targeting of households with no employment



China's Employment Promotion Law

Since 2003, employment generation and the reduction of unemployment have come to be regarded as a key goal in national-level planning, alongside three other indicators, notably economic growth, inflation, and the volume of trade. Employment was embedded in the macro-economic policy framework and the attainment of full employment was considered to be one of the key objectives in building a harmonious society. Thus, employment promotion as a strategy emerged strongly in the country's process of socio-economic planning. This was gradually reflected in the policy and incentive structure for the promotion of labour-intensive industries and services, especially small and medium enterprises, in order to create jobs in the private, non-state sector. Fiscal and monetary policies were reviewed to accommodate the goal of employment promotion. These were concurrent features in employment planning, beyond the on-going public interventions in the labour market that were being carried out through the expanded and adjusted AEP.

Towards a legal framework on employment promotion

Globally, legislation on employment promotion is not uncommon, especially when governments wish to take major responsibilities in promoting employment and in controlling unemployment. Employment has often been a key element in the political agenda of governments. Legislation varies according to specific issues and the legal system of the country concerned.

Legislation on employment promotion in China draws its inspiration and foundation from the Constitution of the People's Republic of China, as well as the Labour Law. Article 42 of the Constitution clearly stipulates that citizens of the People's Republic of China have a right (and obligation) to work. The State should create the conditions for work and employment through various means such as strengthening labour protection, improving labour conditions and, in accordance with productivity growth, raise workers' remuneration and benefits. The State should also provide necessary training for citizens to increase their employability.

The process of employment generation and the functioning of the labour market are complex. Legislation in this regard would likely require a set of principles stipulated through general laws, as well as legislation with specific provisions. In China, various employment promotion policies which proved to be effective and feasible in practice were being considered for upgrading into employment legislation.



Main features of the Employment Promotion Law (EPL)⁶

Establishing the Guideline for Employment

At first step towards the goal of employment promotion was to clarify the basic guidelines for developing a socialist market-oriented economy, where the market would play the fundamental role in labour allocation. The government's role needed to change from taking care of employment for all under the planned economy system to fostering an accelerated role for the market-oriented employment mechanism.

Within such an outlook, the government would promote employment largely through the formulation of a development strategy and by establishing a macro-policy environment that would help to expand employment as well as through the provision of public employment services. The government should be fully aware of its own position and its appropriate role in employment promotion, and in coordinating the relationship between employment and economic development.

The EPL also provided guidelines in respect of individual workers' entitlement to freely-chosen employment, market-regulated employment and the government's promotion of employment. The EPL thus contained clear provisions for the appropriate mix of public and private sector initiatives for employment promotion.

Promoting fair employment

The EPL laid down clear provisions for promoting fair employment, prohibiting employment discrimination and protecting workers' right to equal employment. Workers are entitled to enjoy the right to employment on an equal footing and to the choice of jobs on their own initiative in accordance with the law. In seeking employment, workers shall not be subject to discrimination due to their ethnic backgrounds, race, gender or religious beliefs, etc.

This is fundamental to constructing a harmonious society and is a reflection of the government's commitment to workers. Article 25 of the EPL states that government at all levels shall create an environment for fair employment, eliminate discrimination in employment, and formulate policies and take measures to support and aid persons who have difficulty in finding jobs.

Legislating government's obligation to promote employment

Employment generation is a complex phenomenon. This is particularly so for China which has undertaken massive economic and social reforms to promote greater integration into the global

⁶ The Employment Promotion Law was finally approved by the 29th Session of the 10th National People's Congress Standing Committee on 30 August 2007. On that day, President Hu Jintao signed the No.70 Order to issue the Law and it took effect from 1 January 2008.



economy, and equally, to establish a socialist market economy. The EPL contains the following key components:

- First, it is the government's responsibility to foster economic development in a manner that will enhance job opportunities. This would warrant placing employment generation at the heart of national and local economic and social planning.
- The government's conduct in promoting employment and reducing unemployment would mainly embody formulating and implementing a systematic and proactive policy framework. In Articles 11 to 24 of Chapter II, the Law stipulates the formulation of policies favouring employment promotion in the fields of industry, fiscal administration, revenue, finance, investment, trade, etc. The provisions also require a comprehensive alignment of employment policies in urban and rural areas and for different regions and different groups. These provisions were supplemented by the AEP, which is incorporated within the EPL framework.
- The government has an obligation to promote the overall development of human resources and to regulate the human resources market to support the development of socialist market economy.
- Public employment services were considered a critical aspect of AEP, and developing public employment services is an important responsibility of the government. It has a significant function in promoting balance in labour market supply and demand, and establishing a flexible and effective human resources market that would support job-seekers, especially vulnerable groups to get employed.
- Strengthening the vocational education and training system is a major government responsibility to promote human resources development and to enhance the quality of the labour force.
- Government at all levels shall establish a sound employment aid system to support, in particular, the more vulnerable groups in society.

The global financial crisis: A test case for the EPL

The EPL came into effect in January 2008, the year which saw the Chinese economy hit by various internal and external shocks. The external shock, in the form of the global financial crisis, hit the Chinese economy with full force early in 2009, although by the second half of 2008, the Chinese economy was already experiencing declining growth.

The financial crisis sharply reduced employment in enterprises. According to a sample investigation in some provinces and regions conducted by Ministry of Human Resources and Social Security, from October 2008 to January 2009, about 40% of enterprises reported a net reduction in jobs, while the overall average jobs decline for all enterprises was nearly 8%. According to an investigation by the



National Bureau of Statistics, by the Spring Festival of 2009, more than 12 million rural migrant workers had lost their jobs and returned home, i.e. nearly 8.5% of all rural migrant workers.

China had been generating more than 10 million job opportunities every year since 2002. This came to a halt with the financial crisis. From the second quarter of 2008, new urban job opportunities had been declining nationally; for example the number of new jobs in December was 54.2% lower compared to January of the same year. In terms of employment requirements in the labour market, the ratio of vacancies to job seekers fell to 0.85 in the fourth quarter of 2008, the lowest in the previous ten years.

To deal with the serious impact on Chinese employment of the financial crisis, the State rapidly issued an economic stimulus plan. In terms of employment, the State Council and relevant departments formulated and adopted a series of policies and measures on stabilizing and expanding employment.

The labour market mechanism as reflected in the EPL and AEP played an important role in this regard. The Chinese government used it to its advantage and embarked on policy actions as quickly as possible. The EPL and the fully functioning AEP, with its elaborate and tested implementation mechanisms, helped China to cushion the adverse employment effects of the crisis.



China's future employment challenges

China has made rapid strides over the past three decades in terms of economic growth, employment generation and the rise in living standards of its population. Nevertheless, the country will continue to face an enormous employment challenge, given the large size of its population and the working-age population. The working-age population is expected to peak at 930 million in 2014, and is expected to remain relatively stable over the next two decades. Regarding new entrants to the labour force, an estimated 10 million people are likely to enter the labour market every year. This, together with the 8 million unemployed and 6 million redundant workers, would warrant the need for employment generation to the tune of nearly 25 million jobs each year, especially in urban areas. Given current trends and employment elasticities, the growth of new jobs is likely to be around 8 million per year, implying a major gap between labour supply and demand.

China also faces major anomalies in the employment and labour market structure. First, there are emerging skills mismatches in the economy, which has been a key constraint in the re-employment scheme discussed earlier. The increasing demand for professional and technical skills in line with the intensified pace of industrialization and modernization is unmet by the existing skills structure.

On the other hand, there is a large proportion of the workforce with low quality skills for whom jobs are not in adequate supply. There are unequal job opportunities in different regions, and also between rural and urban areas. Rural labour migration so far has been administratively managed, especially in order to provide an unlimited labour supply to the growing cities and urban industrial centres. A unified rural-urban labour market, as envisioned in the AEP and the EPL, has yet to evolve to the point that there is a free, market-determined process of labour allocation and labour mobility.

Despite an estimated 150 million surplus workers in rural areas, analysts argue that China's future growth and modernization process may face a structural lack of labour supply.⁷

Various constraints, both on the supply and demand sides of the labour markets, would continue to underlie the debate on how far China has progressed in its employment performance to reach at least the Lewisian turning point, on its path to achieving full employment.⁸

The target of full employment in China

It may be noted that China is among the very few developing countries that are pursuing the goal of full employment with full vigour. Moreover, China has not only developed a comprehensive policy

⁷ See, for instance, Michele Bruni and Claudio Tabacchi (2011) *Present and Future of the Chinese Labour Market* CAP Paper No.83, Feb. 2011

⁸ See C. Teng (ed.), *The China Population and Labour Yearbook*, Vol I., The Chinese Academy of Social Services, 2009; see various articles on the subject.



and programme framework, but also a detailed legal framework in the form of an Employment Promotion Law.

Under Chinese conditions, the blue-print for the pursuit of full employment rests on ensuring that all workers, able and willing to work, can get an employment opportunity; developing a mature, market-oriented employment and labour market mechanism whereby workers are free to choose jobs or set-up businesses; fully developing and utilizing labour resources in urban and rural areas; ensuring stability of jobs; and enhancing workers' earnings through improving the quality of employment.

Policy planners are tasked by the EPL and related economic, social and legal considerations to embed employment in their macroeconomic and sectoral and regional development policies. Over the past three decades, various reforms have led to the rapid growth of GDP and employment opportunities. One must note that a large part of the job growth has occurred owing to the massive expansion of exports based on relatively low-cost labour. However, as China continues to accelerate its pace of industrialization and urbanization, and the use of ICT and upgraded technology, concern will remain over the rate of labour utilization in the economy.

These concerns would need to be addressed through a range of development and intervention policies, much of which are encapsulated in the EPL. The full employment target, as defined by the country, lies not only in realizing a reasonable quantitative balance between labour supply and demand, but also in enhancing labour's quality, productivity and incomes.

The EPL, and related policies and regulations, have been devised in order to support and promote a comprehensive social and economic development framework, the contours of which are stated above, to move towards a full-employment society. The EPL not only provides a legal framework for such policies, but also warrants institution-building and support structures to promote better jobs for all.



International Labour Office for China and Mongolia
Tayuan Diplomatic Office Building 1-10, Liangmahe Nanlu No.14,
Chaoyang District, 100600 Beijing, P.R.China

Tel: 86-10-65325091

Fax: 86-10-65321420

Email: beijing@ilo.org

www.ilo.org/beijing