

INTERNATIONAL LABOUR ORGANIZATION
Sectoral Activities Programme

**Private employment agencies,
temporary agency workers and
their contribution to the labour market**

**Issues paper for discussion at the
Workshop to promote ratification of the
Private Employment Agencies Convention, 1997 (No. 181)
(20–21 October 2009)**

Geneva, 2009

Copyright © International Labour Organization 2009
First published 2009

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 a reproduction rights organization 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.

Private employment agencies, temporary agency workers and their contribution to the labour market: Issues paper for discussion at the Workshop to promote ratification of the Private Employment Agencies Convention, 1997 (No. 181), 20–21 October 2009 / International Labour Office, Sectoral Activities Programme – Geneva, ILO, 2009

ISBN 978-92-2-122657-4 (print)
ISBN 978-92-2-122658-1 (web pdf)

International Labour Office and Sectoral Activities Programme: Workshop to promotion ratification of the Private Employment Agencies Convention, 1997 (No. 181) (2009, Geneva, Switzerland)

Also available

in French: *Les agences d'emploi privées, les travailleurs intérimaires et leur contribution au marché du travail: Document de réflexion à débattre au cours de l'Atelier visant à promouvoir la ratification de la convention (no. 181) sur les agences d'emploi privées, 1997* (ISBN 978-92-2-222657-3 print; ISBN 978-92-2-222658-0 web pdf), Geneva, 2009;

and in Spanish: *Las agencias de empleo privadas, los trabajadores cedidos por medio de agencias de trabajo temporal y su contribución al mercado de trabajo: Ponencia para debate en el Taller para promover la ratificación del Convenio sobre las agencias de empleo privadas, 1997 (núm. 181)* (ISBN 978-92-2-322657-2 print; ISBN 978-92-2-322658-9 web pdf), Geneva, 2009

conference paper / private employment agency / temporary work agency / ILO Convention / comment / ratification / application / developed countries / developing countries
13.02.4

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

Cover design: DTP/Design, International Labour Office

Printed by the International Labour Office, Geneva, Switzerland

Preface

This paper has been prepared by the International Labour Office as a basis for discussions at the Tripartite Workshop to Promote Ratification of the Private Employment Agencies Convention, 1997 (No. 181). The Governing Body of the ILO decided at its 301st and 305th Sessions (March 2008 and June 2009) that the two-day Tripartite Workshop would be held in Geneva, 20–21 October 2009, and be composed of eight Employer and eight Worker participants, selected after consultations with the respective groups of the Governing Body; and be open to representatives of all interested governments. Its purpose is to promote ratification of the Convention by European and other countries where the private employment agency market was developing and by major sending and receiving countries of migrant workers. Governments potentially ratifying the Convention were encouraged to attend, for example, those that had ratified the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), or that had requested technical assistance on Convention No. 181. The Workshop could adopt recommendations that would be the basis of subsequent action by the ILO and its constituents.

After the October 2009 Tripartite Workshop, SECTOR will focus more specifically on temporary workers in private services sectors (especially hotels, catering, tourism; commerce; financial and professional services; media and entertainment; and telecommunications, postal services and logistics), in research to be carried out in 2010. In 2011, the ILO is organizing a tripartite global dialogue forum on the role of private employment agencies in promoting decent work and improving the functioning of labour markets in private services sectors. The ILO has also included this issue in its General Survey on employment (see Chapter 7, below).

The 2009 and 2011 sectoral meetings are part of the ILO's Sectoral Activities Programme, defined by the ILO programme and budget, aimed at assisting governments, and employers' and workers' organizations to develop their capacities to deal equitably and effectively with social and labour problems in particular economic sectors. Sectoral action programmes, technical cooperation, advisory and research activities, and tripartite meetings contribute to ILO strategic objectives. Such meetings bring together a cross-section of Government, Employer and Worker representatives from various countries, and aim to strengthen tripartism and promote social dialogue at the international level.

Contents

	<i>Page</i>
Preface.....	iii
Acknowledgements	ix
Introduction	1
Defining agencies and agency work	1
Occupations and education levels	2
Fee-charging employment agencies.....	2
1. Political and economic background and main provisions of Convention No. 181	5
2. Overview of private employment agencies and main provisions of Convention No. 181	7
Contribution to better functioning of labour markets.....	7
Sectoral restrictions and conditions relating to private employment agencies' operations.....	7
Agency workers' rights and working conditions	8
Existing regulation, monitoring and controls.....	9
Cooperation between the public employment service and private employment agencies	9
3. Sectoral aspects of the labour market for temporary agency workers	11
3.1. Introduction.....	11
3.2. Growth of the private employment agency industry around the world	11
3.3. Rising levels of temporary employment	14
3.4. Sectoral and occupational dimensions of temporary staffing	16
3.5. Age and gender dimensions of temporary staffing	23
3.6. Summary	25
4. The economic crisis and private employment agencies: Opportunities and challenges	26
4.1. Introduction.....	26
4.2. The economic crisis and the triangular employment relationship	26
4.3. Variable impact of the economic crisis on the temporary agency labour market.....	28
4.4. The post-recession future of the private employment agency industry	33
4.5. Summary	35
5. Developing sectoral social dialogue on temporary agency work.....	36
6. Benefits of ratification of Convention No. 181 and challenges to ratifying it	41
7. Support for further ratifications	43
Tools available (e.g. the ILO Guide to private employment agencies) and needed.....	43
Convention No. 181 and the General Survey on employment.....	43
Points for discussion.....	44

Appendices

I.	Full text of the Private Employment Agencies Convention, 1997 (No. 181)	45
II.	Full text of the Private Employment Agencies Recommendation, 1997 (No. 188).....	51
III.	Full text of the CIETT Members' commitment: Towards a well-functioning international labour market	53
	I. The CIETT Code of Conduct.....	53
	II. The CIETT Charter of Private Employment Agencies	54
IV.	Memorandum of Understanding between CIETT Corporate Members and UNI Global Union on Temporary Agency Work.....	56

List of tables

3.1.	The top 20 private employment agencies, 2008.....	12
3.2.	The top 20 multinational employment agencies, by foreign revenues, 2008.....	13
3.3.	Number of agency workers, selected countries, 1997–2007 (thousands)	14
3.4.	Agency work penetration rates, 1997–2007 (FTE percentage of total active working population)	15
3.5.	Agency workers in Japan, by sector of placement, 2007	17
3.6.	Distribution of temporary staffing assignments by occupation, EU15 (early 2000s)	18
3.7.	Leading occupations in the private employment agency industry, United States, May 2004	19
3.8.	Employment of wage and salary workers in the United States employment services sector, by occupation, 2006, and projected change, 2006–16	21
3.9.	Agency (dispatch) workers in Japan by occupation, 1987–2007 (thousands)	23
4.1.	Number of workers placed by private employment agencies subsequently laid-off by user enterprises: Some examples in 2009	29
4.2.	The top 20 staffing agencies by revenue, 2008.....	29
4.3.	Private employment agencies' response to the economic crisis, 2008 onwards: Some examples.....	31
4.4.	The top staffing agencies by net profit margin, 2008.....	31
4.5.	Changing revenues, profits and earnings of selected agencies from among the top 20 agencies, first quarter 2009 compared to first quarter 2008.....	32
4.6.	Changing revenues from the fourth quarter of 2008 to the first quarter of 2009: The case of Adecco	33

List of figures

3.1. Private employment agency global market size, 1994–2007	11
3.2. Sectoral distribution of agency work use, selected countries (in 2007).....	17
3.3. Agency workers by gender, various countries (in 2007)	24
3.4. Agency workers by age, various countries (in 2007).....	25
4.1. The triangular relationship between an agency, a worker and a user enterprise.....	27

Acknowledgements

This issues paper, prepared under the authority of the International Labour Office, is based on information from a variety of sources. ILO publications, various studies, national statistical databases and other material were consulted during its preparation. Inputs and comments from the Skills and Employability Department and the International Labour Standards Department were very valuable in developing and finalizing the text. It was prepared by John Myers (Sectoral Activities Department – SECTOR), with contributions by Neil Coe, Kevin Ward and Jennifer Johns from the Geographies of Temporary Staffing Unit at the University of Manchester, and was reviewed by John Sendanyoye (SECTOR).

Introduction

The purpose of this paper is to raise awareness of the Convention's importance among governments, employers and workers, who have a common interest in promoting its ratification. Ratifying Convention No. 181 encourages improved efficiency of national labour markets by permitting private actors to enhance matching of supply of and demand for workers. It promotes cooperation between public and private employment services in various fields, including helping jobseekers and workers in user enterprises. It effectively regulates services provided by private employment agencies, especially temporary work agencies, thereby ensuring reliable professional service providers for human resources, while preventing human trafficking and unfair practices. Ratification could help to promote and implement the Decent Work Agenda by ensuring protection of the rights and working conditions of agency workers. The 2009 Workshop is intended to encourage ratification and implementation of the Convention by ILO member States and cooperation with the International Trade Union Confederation (ITUC), International Organisation of Employers (IOE), UNI Global Union, International Confederation of Private Employment Agencies (CIETT) and World Association of Public Employment Services (WAPES). The Convention is of relevance to several sectors, notably construction; financial and professional services; health services; hotels, catering, tourism; media, culture, graphical; mining; and transport.

Defining agencies and agency work

For the purposes of this paper, agencies and agency work (not all of which is temporary) includes the following:

- *Temporary agency employment* – Employment where the worker is employed by the temporary work agency, and then hired out to perform his/her work at (and under the supervision of) the user company. There is no employment relationship between the temporary agency worker and the user company, although there could be legal obligations of the user company towards the temporary agency worker, especially with respect to health and safety. A labour contract may be of limited or unspecified duration with no guarantee of continuation. The employment is often called “temporary work”, “temping” or “agency work”. The hiring firm pays fees to the agency, and the agency pays the wages (even if the hiring company has not yet paid the agency). Flexibility for both worker and employer is a key feature of agency work.
- *Private employment agency* – Any enterprise or person, independent of the public authorities, which provides one or more of the following labour market functions: (a) services for matching offers of and applications for employment; (b) services for employing workers with a view to making them available to a third party (“user enterprise”); and/or (c) other services relating to jobseeking, such as the provision of information, that do not aim to match specific employment offers and applications. Agencies cannot charge workers for finding work.¹
- *Employment placement agencies* interview jobseekers and try to match their qualifications and skills to those required by employers for specific job openings.

¹ Definition based on Convention No. 181, Art. 1, para. 1; some exceptions are envisaged under Art. 7, para. 2, for certain categories of workers (for example, in the entertainment industries).

-
- *Temporary help agencies* provide temporary employees to user enterprises to cover employee absences, skill shortages and varying seasonal workloads. Workers are employed and paid by the agency, but are contracted out to a client for either a prearranged fee or an agreed hourly wage. Some companies choose to use temporary workers on a long-term basis rather than employ permanent staff.
 - *Temporary agency workers* – Workers with either a contract for service or a contract of employment with the agency who finds them work. Such workers may be able to use it to try out different kinds of work, as a stepping stone to the job they want, as a way of entering or re-entering the job market or of working more flexibly to suit their circumstances, and/or to move jobs easily and at short notice. However, they may have less control over their work, more pressure and shift work, and fewer rights than regular staff colleagues. The user enterprise has the flexibility to stop temporary work, and the agency may be liable for unfair dismissal or redundancy pay.

Occupations and education levels

The private employment agency industry (which can be seen as a sector in its own right) employs a large number of medium- and high-skilled professional and technical staff with expertise in human resources management in its own offices. The industry also employs staff with widely varying skill and educational levels for placement in user workplaces across the whole range of sectors of the economy (in enterprises, public health and educational establishments, and other activities). The temporary agency workforce placed in user establishments tends to be younger, with more women and minority groups represented than in the workforce as a whole; many work in “entry-level” functions with low skill requirements, but also in skilled occupations with high levels of training and skills in nursing, specialist trades in construction, and so on.

Fee-charging employment agencies

The principle of free placement services for workers and employers was first established as a standard for employment services in the Unemployment Convention, 1919 (No. 2), and confirmed in the Employment Service Convention, 1948 (No. 88). In Convention No. 181, free job-placement services for jobseekers was retained as a provision to safeguard the interests of workers, but governments were allowed to grant exceptions to this principle if there were clearly justifiable reasons. Article 7 states that:

1. Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.
2. In the interest of the workers concerned, and after consulting the most representative organizations of employers and workers, the competent authority may authorize exceptions to the provisions of paragraph 1 above in respect of certain categories of workers, as well as specified types of services provided by private employment agencies.
3. A Member which has authorized [such] exceptions shall, in its reports under article 22 of the Constitution of the International Labour Organization, provide information on such exceptions and give the reasons therefor.

In industrialized countries where temporary work agencies dominate the private employment agency market, the prohibition of fee-charging to workers is standard procedure. For example, all European Union countries prohibit fee-charging to workers. The CIETT Members’ commitment (reproduced here in Appendix III) expressly forbids the charging of fees to workers. Other countries, particularly those with a significant number of overseas placement agencies, have opted for either restricting the collection of fees to certain categories of workers or regulating the amount of fees to be charged. Some

countries do not regulate fees at all and leave them to the discretion of the agencies. The ILO Committee of Experts on the Application of Conventions and Recommendations is responsible for considering whether exceptions under national law are in accordance with the Convention.

There are various reasons why collecting fees from jobseekers by private employment agencies might be tolerated. In some instances, fee collection from the employer would be difficult in practice, for example because the employer is based abroad.² The relationship between labour supply and demand in many countries should be considered; where excess supply of labour or high unemployment rates exist, jobseekers may accept paying high fees. Fee collection from jobseekers by agencies may be tolerated in order to compete with illegal market participants gaining profit through acceptance of bribes, but only if safeguards to protect jobseekers from exploitation are introduced and the level of fees is regulated. To ease the implementation and monitoring of fees collected from jobseekers, a maximum should be fixed in the legislation, and, it is important that the fees agencies are permitted to charge are transparent and made public.

In some countries, fees collected from the jobseeker are a proportion of the monthly or yearly wage: the amount stipulated in legislation varies considerably, from 5 to 15 per cent of the initial monthly wage up to 5 per cent of the first gross annual wage. For some categories of workers, such as artists, performers, dancers or models, the fee can be calculated differently.

Some countries have opted to fix a ceiling for the fees collected from workers. For some specific categories of workers, certain exemptions are made: for au pairs and domestic workers the maximum fee is considerably lower, while for apprentices, in general, no fees are collected. For recruitment as an artist, model, disc jockey, stunt performer or professional sportsperson, a maximum percentage of the wage is set for the fee. In some cases, fees are payable only if the agency's efforts result in employment.

Other countries' regulations allow agencies to charge an equivalent of one month's salary to the jobseeker, unless the foreign country, in which the worker is to be employed, prohibits the collection of fees from jobseekers. In addition, jobseekers may be charged with documentation costs, which, in recruitment for work abroad, can often turn out to be considerably high. Such documentation costs usually cover expenses for issuing identity cards, passports and medical certificates, or for undergoing medical examinations or skills testing. The rationale for these costs is that non-workers or non-migrants would also be subject to such fees, and that these costs may be conceived to be in the interest of the worker. Governments, hospitals, etc., might be unwilling to make specific exceptions for migrant workers on documentation costs.

In the 1920s, fee-charging became notorious because of certain abuses; the Fee-Charging Employment Agencies Convention, 1933 (No. 34), drafted to prevent abuse and improve organization of the labour market,³ provided for abolition of fee-charging agencies within three years of its coming into force, with certain exceptions contained in Article 3. The Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96),

² However, it is important that the agency knows who the employer is.

³ ILO: *Record of Proceedings*, International Labour Conference, 16th Session, Geneva, 1932, p. 280.

introduced more flexibility and, when it came into force, Convention No. 34 was closed to ratification.⁴

Convention No. 96 leaves ratifying States the choice of either prohibiting such agencies or regulating their activities; of the 42 countries that ratified,⁵ most accepted the first alternative. Its application gave rise to problems regarding the placement of performers and domestic servants, and wider problems in the 1960s and 1970s with the establishment of new fee-charging temporary employment agencies. Responding to questions posed in 1965 on the development of temporary work agencies and their relevance to the Convention, the Office stated that such agencies were indeed covered by the definition of fee-charging employment agencies. In the early 1970s, the need to revise it was already foreseen.⁶

⁴ Convention No. 34 is still in force only in Chile, which has expressed its intention to ratify Convention No. 181.

⁵ Of the 42 ratifying States, 17 have subsequently denounced the Convention.

⁶ See N. Valticos: "Temporary work agencies and international labour standards," in *International Labour Review*, Vol. 107, No. 1, Jan. 1973, pp. 43–56.

1. Political and economic background and main provisions of Convention No. 181

From the 1970s, funding for public employment services diminished in many developed countries, creating new opportunities for temporary work agencies. Meanwhile, economic liberalism and international competition led to increasing acceptance of the role that private employment agencies could play in improving the functioning of the labour market. Their spectacular growth since then has been linked to the need to provide services to a rapidly developing and increasingly flexible labour market. While they have long complemented the traditional employment market, they have more recently been seen as a catalyst for new forms of human resource management services that can contribute strongly to improvements in working conditions. In view of these developments and debate among governments, employers and trade unions on this in the 1990s, new international labour standards were developed through the International Labour Conference, namely the Private Employment Agencies Convention, 1997 (No. 181), and Recommendation No. 188. The employers supported the Convention, and considered that it represented major progress over Convention No. 96 because it recognized the importance of flexibility in labour markets and the role of private agencies. The trade unions supported the new standards because they viewed them as offering protection to temporary and migrant workers, and an opportunity to reduce unfair competition from unregulated recruitment agents who are frequently associated with malpractices and abuse.

Convention No. 181 balances enterprises' needs for flexibility to expand or reduce their workforce with workers' needs for employment stability, a safe work environment, decent conditions of work, and a safety net when they are unable to work. Good practice in regulation and effective national legislation includes clearly defining the term "private employment agency", determining basic requirements for the legitimate operation of an agency, and ensuring that laws and regulations are within the capacity of the government to be enforced thoroughly. It sets the general parameters for the regulation, placement and employment of workers by these agencies, and it assists member States to establish clear policies, legislation and mechanisms for the effective registration and licensing of private employment agencies, thereby helping them play a constructive role in contributing to a labour market free from exploitative conditions.

The Convention came into force in May 2000; by July 2009, 21 countries had ratified it,¹ 11 of which are EU Member States. The ratification level is relatively low, perhaps because the Convention has not been the object of a promotional campaign. While Chile remains bound by Convention No. 34, and 25 countries by Convention No. 96, most of these countries have expressed their intention to ratify Convention No. 181.

¹ Albania (1999), Algeria (2006), Belgium (2004), Bulgaria (2005), Czech Republic (2000), Ethiopia (1999), Finland (1999), Georgia (2002), Hungary (2003), Italy (2000), Japan (1999), Lithuania (2004), Republic of Moldova (2001), Morocco (1999), Netherlands (1999), Panama (1999), Poland (2008), Portugal (2002), Spain (1999), Suriname (2006), Uruguay (2004).

The ILO's Constitution requires member States to submit regular reports on their legislation and national practice for each Convention they have ratified. The ILO's Committee of Experts on the Application of Conventions and Recommendations examines such reports and draws up two types of comments: observations² and direct requests.³ In its comments on the application of Convention No. 96, the Committee has reminded governments about the ILO Governing Body's invitation to its States parties to contemplate ratifying Convention No. 181,⁴ thereby, ipso jure, denouncing Convention No. 96. For Convention No. 181, the Committee of Experts has examined reports of ratifying States since 2002 and made comments on its application. In its direct requests, the Committee has referred to issues raised under fundamental Conventions, such as violations of freedom of association or the use of child labour. The Committee has recalled that incorporating a prohibition on child labour in the conditions for awarding licenses to private agencies should be envisaged; and that governments should indicate measures adopted to prevent fraudulent practices or abuses by private employment agencies in relation to migrant workers,⁵ and provide detailed information on any bilateral agreements concluded to prevent such practices in recruitment, placement and employment covered by the Convention.⁶

As fee-charging recruitment agencies are increasingly involved in international *migration* and, as some recruiters have engaged in unfair and abusive practices, efforts should be increased at the national and international levels to further regulate this market and ensure proper application of existing rules. The licensing and supervision of recruitment and contracting agencies for *migrant workers*, with the requirement that those agencies provide clear and enforceable contracts, should be a key element in this, in accordance with the Convention and Recommendation. These efforts should also include promoting wider ratification of the Convention and implementation by member States, in order to prevent abusive practices by certain recruiters and ensure greater respect of workers' rights.

² Written comments on the application of a ratified ILO Convention, usually made in cases of serious and persistent failure to comply with obligations under the Convention, published annually in the report of the Committee of Experts to the International Labour Conference. Observations provide the starting point for the Conference Committee on the Application of Standards to examine specific cases.

³ Requests from the Committee of Experts to governments, usually dealing with technical issues, or addressing issues for the first time following a report from a government on a recently ratified Convention.

⁴ For example, see 2009 comments of the Committee of Experts under Convention No. 96 for Bolivia, Djibouti, France, Ghana and Pakistan.

⁵ Referring to the conclusions contained in the report of the Committee on Migrant Workers, International Labour Conference, 92nd Session, June 2004.

⁶ See 2009 direct requests of the Committee of Experts under Convention No. 181 for Algeria, Belgium and Bulgaria.

2. Overview of private employment agencies and main provisions of Convention No. 181

Contribution to better functioning of labour markets

Private employment agencies play an important role in the functioning of contemporary labour markets. For the past three decades, the increasing need to provide workers and services to a rapidly growing and flexible labour market has led to the spectacular development of these agencies. Temporary work agencies are intermediaries in modern labour markets that allow enterprises to have more flexibility to increase or decrease their workforces, while ensuring for the workers sufficient security in terms of job opportunities and employment standards, including pay, working time and training. While they have long been recognized as complementing public employment services, they can also help to improve working conditions. Convention No. 181 sets the general parameters for the regulation, placement and employment of workers by these agencies. It also assists ILO member States to establish clear policies, legislation and implementing mechanisms for effective registration and licensing, thereby facilitating them playing a constructive role in a labour market free from exploitative conditions.

In EU Member States, approximately 4 million people are employed by temporary work agencies every day, representing about 2 per cent of total employment.¹ Agency work has been the most rapidly growing form of employment in the EU since 1990. Temporary agency work can be an effective stepping stone for new entrants into the labour market and hence contribute to increased job creation. “Acting as human capital managers – rather than mere manpower suppliers – these agencies can also play the role of new intermediaries in the recruitment and management of both qualified and unqualified staff, offering employers an attractive alternative to traditional recruitment channels.”²

Sectoral restrictions and conditions relating to private employment agencies’ operations

According to Article 2(4)(a) of the Convention, governments may exclude private employment agencies from operating in respect of certain categories of workers or branches of economic activity, after having consulted the most representative organizations of employers and workers. Such exclusion may be appropriate in cases where malpractice by private agencies has occurred, and governments view that workers are better protected by public employment services. However, exclusion of private agencies from recruitment activities requires that public employment services are actually capable of providing them. This relates not only to States’ financial capacities, but also to jobseekers’ perceived acceptance of using public employment services. If some jobseekers prefer private agencies to public services, it would be better to allow private recruitment agencies and regulate their participation in the labour market.

While Belgium regulated temporary agency work substantially, it has liberalized some sectoral and occupational restrictions in recent years – bans on using temporary

¹ European Foundation for the Improvement of Living and Working Conditions (Eurofound): based on figures given by the *Temporary agency work and collective bargaining in the EU*, Dublin, 2008, p. 3, and the author’s own calculations.

² EC (Office for Official Publications): *Jobs, jobs, jobs: Creating more employment in Europe*, report of Wim Kok to the European Commission (Kok Report), 2004, p. 29.

workers in the agriculture, hotel and catering sectors were lifted in 2005, and in the construction sector since 2001. Temporary agency work (TAW) is prohibited in certain dangerous jobs and in the public sector, where it may only be used for replacing contracted officials (regular staff are, therefore, excluded).³ In Spain, the 1999 reform of the law prohibited the assignment of workers to dangerous occupations; within the temporary work agency segment, i.e. to other agencies; and in public administration (except for carrying out opinion polls). Law 32/2006 governing subcontracting in the construction sector aims to reduce accident rates related to high levels of temporary employment, and therefore limits the use of workers from private employment agencies in user enterprises in that sector. Similarly, in Portugal, according to the 1989 Law for Temporary Work Agencies (Decree-Law 358/89), modified in 2007 (by Law 19/2007), TA workers cannot work in dangerous sectors, for example construction. France has no explicit sectoral restrictions although, in the public sector, employers prefer to use less expensive forms of temporary work. In Germany, until 2004, temporary work agencies were not allowed to supply workers for blue-collar jobs in the construction sector. However, because collective labour agreements must be applicable to both the agency and the user enterprise, this is restrictive, because such labour agreements may exclude agency workers. In Norway, the State can prohibit agency work for some categories of employees or in certain areas, if deemed necessary, but has not yet done so.⁴

Agency workers' rights and working conditions

Articles 4, 5, 9 and 11 of the Convention deal with the protection of agency-recruited workers. These guarantees cover fundamental rights at work, such as freedom of association, collective bargaining, equality of opportunity and treatment, and eliminating child labour. Special protection for migrant workers is outlined in Article 8, which provides that:

A Member shall, after consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses.

The Philippines and Sri Lanka provide examples of protection provisions for migrant workers recruited via overseas agencies.⁵

Articles 4 and 11 address freedom of association and collective bargaining, stipulating that legislation on private employment agencies should specify that agency-recruited workers be afforded these rights. They should also have adequate protection in relation to: minimum wages; working time and other working conditions; statutory social security benefits; access to training; occupational safety and health; compensation in cases of occupational accidents and diseases and insolvency and protection of workers' claims;

³ TAW is also prohibited by collective agreement at the sectoral level, e.g. in house removal and harbour-based enterprises.

⁴ J. Arrowsmith: *Temporary agency work in an enlarged European Union*, European Foundation for the Improvement of Living and Working Conditions, Dublin, 2006, pp. 24–25.

⁵ The Migrant Workers and Overseas Filipinos Act, 1995, contains text reproduced in the ILO *Guide to private employment agencies: Regulation, monitoring and enforcement*, 2007, p. 68.

and maternity protection and benefits. Article 12 further indicates the responsibilities of agencies that employ workers and make their services available to “user enterprises”.

Recommendation No. 188 (Paragraph 6) states that: “private employment agencies should not make workers available to a user enterprise to replace workers of that enterprise who are on strike.” Several countries have adopted legislation that prohibits the replacement of regular workers who are on strike by agency staff. In the United Kingdom, for example, the Conduct of Employment Agencies and Employment Business Regulations, 2003, which came into force in April 2004, restrict the provision of temporary workers during industrial disputes.

Existing regulation, monitoring and controls

Leading private employment agencies have developed mechanisms of self-regulation that promote good business practice and reinforce their status as key players in the labour market alongside public employment services. Self-regulation, however, must not replace the role of national legislators and law enforcement agencies. Legislation is a means of reconciling the protection of workers’ rights with the interests of the agencies, as set out in the Convention and Recommendation (see Appendices I and II), and shapes the agencies’ role within the context of national employment and migration policies, local specificities of labour markets and levels of socio-economic development. China, for example, has developed a credit-rating system for private employment agencies to ensure quality of service operations and protection of workers. Regulation should therefore aim at ensuring that the agencies offer their services in the interests of their clients while supporting overall national development goals and improving the functioning of the labour market. However, it should not serve as a tool to restrain competition and create unnecessary burdens for the agencies.

Many countries elaborating such legal frameworks have sought guidance from the ILO. The 2007 ILO Guide provides information to national legislators for drafting laws in accordance with international standards; a comprehensive overview of regulatory frameworks, based on the Convention and Recommendation, and other international labour standards; and country examples to illustrate possible approaches to drafting legislation.

Cooperation between the public employment service and private employment agencies

Article 13 of the Convention promotes cooperation between the public employment service (PES) and private employment agencies to ensure labour market efficiency, with the national labour market authority retaining responsibility for formulating labour market policies. It specifies:

A Member shall, in accordance with national law and practice and after consulting the most representative organizations of employers and workers, formulate, establish and periodically review conditions to promote cooperation between the public employment service and private employment agencies.

Such cooperation must be based on the principle that the public authorities “retain final authority” for formulating labour market policy [and for] utilizing or controlling the use of public funds earmarked for the implementation of that policy.⁶

⁶ See Art. 13, para. 2.

Paragraph 17 of Recommendation No. 188 proposes the following cooperation measures:

- pooling of information and use of common terminology so as to improve transparency of labour market functioning;
- exchanging vacancy notices;
- launching joint projects, for example in training;
- concluding agreements between the PES and private employment agencies regarding the execution of certain activities, such as projects for the integration of the long-term unemployed;
- training of staff; and
- consulting regularly with a view to improving professional practices.

Joint activities can be non-commercial or commercial. Non-commercial cooperation could involve the exchange of information on vacancies, while commercial cooperation could include public resources being allocated to private employment agencies to carry out such activities as training of the unemployed. There are some instances of national memoranda of agreement being drawn up setting out how the public and private services will work together.

Cooperation can be facilitated through ongoing communication. There could be regular meetings between representatives of private employment agencies' associations and the PES at the regional and national levels. Ultimately, however, cooperation will depend on the trust private and public actors have in each other. Lack of trust, often due to unclear legal regulations or the absence of established good practice, can significantly hamper the delivery of more efficient services.

Information sharing between the PES and private employment agencies

Several countries have useful approaches to the PES–agency cooperation. For example, in France, Pôle Emploi (the French PES, formerly ANPE) provides jobseekers with offers from temporary work agencies, and assists the agencies in finding suitable candidates. In Lithuania, the PES–agency cooperation also focuses on information exchange; the PES briefs agencies on a regular basis on the labour market situation and its development, while agencies can report on their activities through the PES offices. In Poland, the two services not only exchange databases on jobseekers, but also jointly organize job fairs and exchange information on hard-to-fill vacancies. In Slovakia, the PES publishes a list of all agencies on its web site and in all its offices.¹ In Germany, Quadriga cooperates in eight cities with the Bundesagentur für Arbeit and ARGENT; in France, ARRE works with Pôle Emploi, Unedic and Conseil Généraux; in Italy, Sportello Marco Biagi with the City of Milan and the Lombardia PES; in the United Kingdom, Job Centre Plus with many agencies.²

Sources: ¹A. Samorodov, J. Barbier and E. Hansen: "Public–private partnerships in employment services", SKILLS Working Paper, No. 17, Geneva, ILO, 2003. ²Tristan d'Avezac de Moran: "The experience of PPP at Adecco: Key findings and success factors", paper for the Seminar on Public–Private Cooperation in Delivering Employment Services, 12–13 June 2008, Brussels.

3. Sectoral aspects of the labour market for temporary agency workers

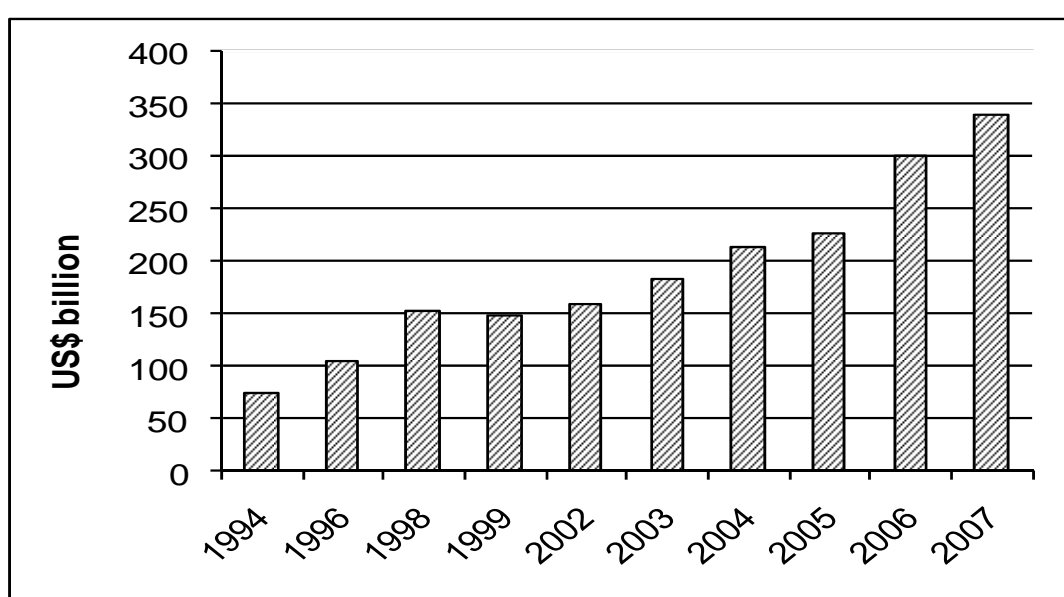
3.1. Introduction

This chapter outlines the recent dynamics of the private employment agency industry and of temporary agency workers; examines the sectoral and occupational distribution of temporary workers and how they are changing; and assesses their age and gender profiles. Despite ongoing efforts – notably by the CIETT – to collect reliable information, attempts to profile the industry remain beset by difficulties concerning the availability, consistency, accuracy and comparability of data, particularly with respect to the sectoral destinations and occupational classification of workers placed by private employment agencies. In most cases the latest available data are for 2007.

3.2. Growth of the private employment agency industry around the world

The global private employment agency industry has grown steadily since the mid-1990s – doubling in size over the period 1994–99 and again in the years 1999–2006 – reaching a level of US\$341 billion in 2007 (see figure 3.1). While recession in the period 2001–03 held back growth somewhat, revenue levels recovered quickly from 2004 onwards. In 2007, six national markets dominated the global industry, accounting for 80 per cent of total revenues: United States (28 per cent), United Kingdom (16 per cent), Japan (14 per cent), France (9 per cent), Germany (6 per cent) and the Netherlands (5 per cent). The remaining markets collectively constituted 20 per cent of the global revenue total. However, this figure represented a rapid increase from just 8 per cent in 2004, reflecting both real growth and improved data availability on temporary employment levels in those markets (e.g. data were not available for Brazil in 2004, but it represented 3 per cent of the global market in 2007). Over the last decade, the key growth market has been Japan, expanding from a market size of US\$14.7 billion in 2000 to US\$43.3 billion in 2007.

Figure 3.1. Private employment agency global market size, 1994–2007



Source: Adapted from CIETT (2009).

The industry is also very concentrated in corporate terms. Table 3.1 lists the top 20 private employment agencies in terms of their 2008 revenues. The accumulated income of US\$128 billion of this elite group of American, Western European and Japanese agencies accounts for approximately 38 per cent of the global industry. In large part, the dominance of these enterprises reflects their emergence from, and/or proximity to, the largest national markets for temporary staffing. In particular, the listing reflects the long-standing size and strength of the American market, home to 11 of the largest 20 enterprises. Another important characteristic of the industry over the past decade, however, has been the extent to which leading agencies have been expanding internationally.

Table 3.1. The top 20 private employment agencies, 2008

Rank	Firm	Origin	Revenue (\$ million)
1	Adecco	Switzerland	31 068.93
2	Randstad	Netherlands	23 242.91
3	Manpower	United States	21 552.80
4	Allegis	United States	5 740.00
5	Kelly Services	United States	5 517.29
6	Goodwill Group ¹	Japan	5 465.92
7	USG People	Netherlands	5 446.22
8	Hays	United Kingdom	4 994.57
9	Robert Half International	United States	4 600.55
10	Tempstaff	Japan	2 597.15
11	Volt Information Services	United States	2 427.32
12	Pasona	Japan	2 271.71
13	MPS Group	United States	2 222.30
14	Spherion	United States	2 189.16
15	Express Employment Professionals	United States	2 000.00
16	Synergie Group	France	1 624.95
17	Michael Page	United Kingdom	1 443.83
18	TrueBlue ²	United States	1 384.27
19	Monster	United States	1 343.63
20	CDI Corp.	United States	1 118.60

¹ Goodwill Group recently rebranded to Radia Holdings. ² TrueBlue is the rebranded name for the group that owns Labor Ready.

Note: All figures are for the reported full financial year that corresponds most closely to calendar year 2008.

Source: Company annual reports and web sites.

Table 3.2 presents the top 20 staffing agencies in 2008, ranked by foreign revenue, and several attributes of this are noteworthy. First, all 20 enterprises derived over US\$200 million per year from foreign markets (up from just over US\$110 million per year in 2004), while the top seven earned from US\$1.3 billion to over US\$30 billion. Second, the level of concentration with respect to foreign revenues – the top five enterprises accounted for 88 per cent of foreign revenues of the top 20 multinational agencies – far exceeds that of the industry as a whole, where the top five in table 3.1 accounted for 68 per cent of revenues of the top 20. Third, the 2008 merger of the Dutch agencies, Randstad and Vedior, arguably produced an elite top three – Adecco, Randstad and Manpower – that are truly global operators. Fourth, in terms of the home country of the leading transnational

agencies, the top 20 are all American- or European-owned, from just six countries: United States (nine enterprises); United Kingdom (five); Netherlands (three); Switzerland (one); France (one); and Germany (one). This distribution varies from that of table 3.1 in two important ways: the number of American enterprises is nine rather than 11, as staffing enterprises can be very big by serving the American market alone; and three Japanese enterprises disappear, because, while Japan is a large and growing market, its key players have yet to venture overseas significantly. Fifth, the extent of international expansion is highly variable, ranging from less than ten countries for Allegis, CDI Corp. and Olympia to over 50 in the case of the “big three” (the mean for the top 20 was 24 countries). Enterprises also differ in the degree to which they depend on foreign revenues, ranging from just 6 per cent for Allegis to over 90 per cent for Adecco and Manpower (the mean for the top 20 was 54 per cent). Finally, the significance of foreign revenues has been increasing in recent years for most enterprises. From 2007 to 2008, for example, 14 of the 20 enterprises saw the proportion of their revenues from foreign markets increase, and for a further five, the level held steady.¹

Table 3.2. The top 20 multinational employment agencies, by foreign revenues, 2008

Rank 2008	Firm	Origin	Foreign revenue 2008 (\$m) ¹	% revenue foreign	No. of territories
1	Adecco	Switzerland	30 183.47	97	50
2	Manpower	United States	19 607.40	91	82
3	Randstad ²	Netherlands	18 159.82	78	50
4	USG People	Netherlands	3 109.24	57	13
5	Kelly Services	United States	2 280.15	41	34
6	Hays	United Kingdom	1 904.43	38	29
7	Robert Half International	United States	1 321.96	29	21
8	Michael Page	United Kingdom	901.19	62	32
9	MPS Group	United States	882.07	40	12
10	Hudson Highland	United States	806.58	75	22
11	Brunel	Netherlands	757.88	78	32
12	Monster	United States	602.69	45	24
13	Synergie Group	France	526.09	32	11
14	Olympia	Germany	415.13	83	7
15	SThree	United Kingdom	363.02	39	11
16	Allegis	United States	360.00	6	6
17	CDI Corp.	United States	344.74	31	4
18	Harvey Nash	United Kingdom	315.87	67	12
19	Robert Walters	United Kingdom	302.93	61	16
20	Resources	United States	212.37	25	20

Notes: ¹ Exchange rates used: € to US\$: June 2008, 1.55617; December 2008, 1.35311. £ to US\$: June 2008, 0.508552; December 2008, 0.673752. ² Randstad revenue figures are pro forma following the consolidation of Vedior Group in May 2008. Comparison is made with 2007 pro forma data. Revenue: 2007 €17,625.2 million (\$25,647.66 million); 2008 €17,177.4 million (\$23,242.91 million).

Source: Annual reports, corporate web sites.

¹ See N.M. Coe, J. Johns, and K. Ward: “Mapping the globalization of the temporary staffing industry”, in *Professional Geography*, 59(4), 2007, 503-520; idem, 2009: “Updating the top 20 transnational temporary staffing agencies: 2008 rankings”, *Geographies of Temporary Staffing Unit (GOTSU)*, Working Brief 38; and idem, 2009: “Top 20 transnational staffing firm geographies: Regional presence in 2008”, *GOTSU Working Brief 39*.

Table 3.3. Number of agency workers, selected countries, 1997–2007 (thousands)

	1997	Growth 1997–2002 (%)	2002	Growth 2002–07 (%)	2007	Growth 1997–2007 (%)
Europe						
Austria	18	72	31	90	59	227
Belgium	51	29	66	44	95	86
France	359	59	570	12	638	77
Germany	180	48	267	130	614	241
Hungary	ns	–	30	83	55	–
Italy	nlr	–	82	168	220	–
Netherlands	163	4	169	38	233	43
Poland	ns	–	ns	–	60	–
Spain	90	37	123	30	160	78
Sweden	14	164	37	59	59	321
Switzerland	24	54	37	89	70	192
United Kingdom	775	34	1 036	33	1 378	78
Rest of the world						
Argentina	ns	–	na	–	96	–
Brazil	na	–	na	–	859	–
Japan	340	104	693	91	1 330	291
Korea, Republic of	ns	–	ns	–	75	–
Mexico	na	–	na	–	105	–
South Africa	ns	–	ns	–	300	–
United States	2 440	–11	2 160	37	2 960	21
World total	4 513	20	5 407	76	9 525	111

Notes: Expressed in full-time equivalents – FTEs. European countries with over 50,000 agency workers in 2007 included. ns: not significant; nlr: not legally recognized; na: not available.

Source: Adapted from CIETT: "The agency work industry around the world: Main statistics", Brussels, 2009, p. 21.

3.3. Rising levels of temporary employment

Another way to chart growth is to profile temporary employment levels in both absolute and relative terms. Table 3.3 plots the rise in temporary agency workers across a range of economies that together account for over 98 per cent of the global total, which more than doubled from around 4.5 million in 1997 to 9.5 million in 2007. Temporary employment levels grew in absolute terms in all of the listed countries over the decade. By far the biggest growth was in Japan, which saw the addition of 990,000 temporary workers, but there was also strong growth in the United Kingdom (+603,000), the United States (+520,000), Germany (+434,000) and France (+279,000). The table also illustrates that data are now available from important new markets in Central Europe, Latin America and East Asia. In percentage terms, temporary staffing levels more than trebled in Austria, Germany, Sweden and Japan, with strong growth also in Switzerland and Italy while, unsurprisingly, the increases were lower in the mature markets of the United Kingdom, United States, France and the Netherlands. Growth was strongest in the second half of the period – 76 per cent from 2002 to 2007 – compared to the first half – 20 per cent from 1997 to 2002. In large part, this reflects post-recessionary expansion; however, in some

countries, deregulation has underpinned growth. The strong increase in numbers in Japan, Germany and Italy, for example, reflects important legislative changes in 1999, 2002 and 2003, respectively, which relaxed restrictions on the operations of agencies (as opposed to initial legalization, which took place in 1986, 1972 and 1997 in those countries). These have been among the most profitable markets for staffing agencies over the last decade, demonstrating that the notion of “emerging markets” is different from that in other sectors and reflects the nature of nationally specific deregulation processes.

Table 3.4. Agency work penetration rates, 1997–2007
(FTE percentage of total active working population)

	1997	2002	2007	Change in percentage points, 1997–2007
Europe				
Austria	0.5	0.8	1.5	+1.0
Belgium	1.3	1.6	2.2	+0.8
Denmark	0.2	0.4	0.8	+0.6
Finland	0.4	0.5	1.1	+0.7
France	1.6	2.4	2.5	+0.9
Germany	0.5	0.7	1.6	+1.1
Hungary	ns	0.8	1.4	–
Ireland	0.3	1.4	1.7	+1.4
Italy	nlr	0.4	1.0	–
Luxembourg	1.2	2.2	2.4	+1.2
Netherlands	2.3	2.1	2.8	+0.5
Norway	0.4	0.5	1.0	+0.6
Poland	ns	ns	0.4	–
Spain	0.7	0.7	0.8	+0.1
Sweden	0.4	0.9	1.3	+0.9
Switzerland	0.6	0.9	1.7	+1.1
United Kingdom	2.9	3.8	4.8	+1.9
Rest of the world				
Argentina	na	na	0.9	–
Brazil	na	na	0.9	–
Japan	0.5	1.3	2.8	+2.3
Korea, Republic of	na	na	0.3	–
Mexico	na	na	0.2	–
South Africa	na	na	2.3	–
United States	1.5*	1.6**	2.0	+0.5

Notes: ns: not significant; nlr: not legally recognized; na: not available; * 1999; ** 2001.

Source: Adapted, and augmented, from CIETT, 2009, op. cit., pp. 22 and 23.

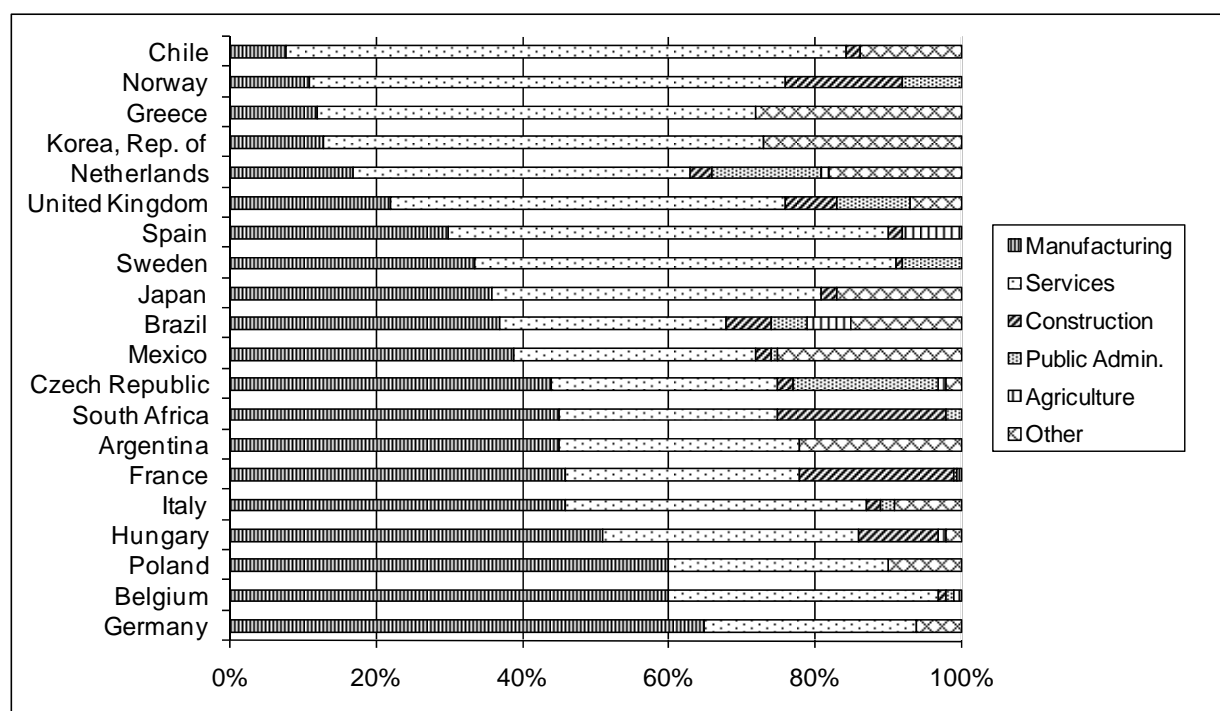
Changes in the relative significance of temporary staffing to total employment can be seen in table 3.4, which profiles the changing penetration rate of agency work (i.e. as a proportion of total workers) across all the leading markets over the period 1997–2007. The first and most obvious observation to make is that penetration rates have increased in all markets. The United Kingdom, at 4.8 per cent, exhibited by far the highest rate in 2007, but the other relatively mature markets of Belgium, France, Luxembourg, Netherlands, Japan and the United States all had rates of 2 per cent or more. Within the newly emerging markets of Central Europe, Latin America and East Asia, penetration rates are still low – ranging from 0.2 per cent in Mexico and 0.3 per cent in the Republic of Korea to 1.4 per cent in Hungary. In South Africa, although data have only recently been forthcoming, temporary staffing has developed since initial legislation in 1983 and hence the rate is somewhat higher.² In terms of percentage change, the United Kingdom and Japan have seen the most significant rises, with 1.9 and 2.3 per cent of the working population respectively moving into temporary staffing over the period 1997–2007. Further deregulation in Japan in 2004 has fuelled expansion in the second half of the data period, with the penetration increasing by 1.5 per cent between 2002 and 2007 alone. Most other countries saw increases in penetration rates of between 0.5 and 1.2 per cent over the whole period, which, although seemingly small, represent the movement of significant numbers of people into this form of working.

3.4. Sectoral and occupational dimensions of temporary staffing

When considering the sectoral and occupational trends that have accompanied this growth, it should be stressed that these are two different aspects, as some data sources appear to conflate them: sectoral data classify the industry in which workers are placed; occupational data concern the type of job being undertaken. Although there is a relationship between the two – for example, nearly all teaching jobs are in the education sector – it is not always clear-cut, for example, ICT and clerical workers are present in all sectors of the economy. Figure 3.2 shows the broad sectoral distribution of agency work for leading markets in 2007. As one would expect, manufacturing and services together account for the lion’s share of agency workers in all markets (70–90 per cent of the total). The distribution varies widely, however: in Chile, Greece, Norway, Spain, Sweden and the United Kingdom the level of service sector placements is very high – over 50 per cent of the total; while in Belgium, Germany, Hungary and Poland, manufacturing accounts for over half the total. The level of temporary staffing usage is generally low in agriculture, perhaps reflecting the informality of temporary employment in that sector in many countries. Levels of agency employment in the public sector are very variable between countries, even though agencies have generally seen the public sector as “recession-proof” and hence an attractive one in which to expand. In several countries – notably Argentina, Greece, Republic of Korea and Mexico – the category “other” accounts for over 20 per cent of the total, hampering attempts at analysis.

² J. Theron et al.: “The rise of labour broking and its policy implications”, Development and Labour Law Monographs 1/2005, University of Cape Town.

Figure 3.2. Sectoral distribution of agency work use, selected countries (in 2007)



Source: Adapted from CIETT, 2009.

In order to explore one country in more depth, table 3.5 offers a detailed breakdown of agency workers in Japan in 2007, by sector of placement. The data reflect the rapid expansion of temporary staffing in manufacturing industries since restrictions on placement in that sector were lifted in 2004.³ Beyond the 36 per cent in manufacturing, the rest of the workers are spread relatively evenly across a range of sectors, including the ICT industry, transport, banking and insurance, health care and general services industries. The third column shows that, in addition to manufacturing, ICT and banking/insurance are the two industries where the proportion of temporary staff is highest, reflecting the placement of both professional and clerical personnel.

Table 3.5. Agency workers in Japan, by sector of placement, 2007

Sector	No. of agency workers	Percentage of total agency workers	Agency workers as a percentage of total workers in sector
Farming	4 400	0.0	0.8
Forestry	200	0.0	0.5
Fishery	100	0.0	0.1
Mining	0	0.0	0.0
Construction	24 100	1.5	0.5
Manufacturing	580 600	36.1	5.3
Utilities	3 400	0.0	0.9
ICT	94 800	5.9	4.4
Transport	84 100	5.2	2.7

³ N.M. Coe, J. Johns and K. Ward: *Transforming the Japanese labour market: Deregulation and the rise of temporary staffing*, GOTSU Working Paper 11, 2009.

Sector	No. of agency workers	Percentage of total agency workers	Agency workers as a percentage of total workers in sector
Wholesale and retail	144 000	9.0	1.4
Banking and insurance	106 000	6.6	6.4
Real estate	12 600	0.1	1.6
Restaurants and hotels	23 900	1.5	0.9
Medical and welfare	79 500	4.9	1.4
Education	24 200	1.5	0.9
Complex service	2 700	0.0	0.5
Service	147 600	9.2	2.1
Civil service	6 800	0.0	0.3
Unclassified	268 200	16.7	14.0
Total	1 607 200	100.0	2.81

Note: Bold: top three sectors of representation apart from "Unclassified".

Source: Employment Status Survey.

Comparable national data on the *occupation* of temporary staffing workers currently do not exist; attempts to bring together different national datasets are beset by difficulties concerning the use of different timeframes and terminology.⁴ Table 3.6 collates the findings of different national surveys within the EU15 countries in the early 2000s. Such data do serve to confirm that a significant proportion of temporary staffing is in lower skilled manufacturing and service occupations, the latter including clerical and administrative work. Enterprises in some countries also use substantial numbers of more skilled engineering and technical professionals, for example, France, Germany, Italy and the United Kingdom. Detailed data do exist for some of the leading markets, however, and here we profile the United States and Japan, two of the largest markets globally.

Table 3.6. Distribution of temporary staffing assignments by occupation, EU15 (early 2000s)

Country	Occupational split
Austria	83% blue collar; 17% white collar Two-thirds of workers in low-skilled jobs are temporary
Belgium	63% blue collar; 37% white collar 15% low educational standard; 53% average; 28% higher education
Denmark	31% production, storage; 31% health care (of which ¼ are nurses); 28% administration; 5% catering; 2% sales and demonstration; 3% other
France	44% low-skilled manual; 36% skilled manual; 13% clerical; 6% intermediary occupations; 1.6% managerial
Germany	32% in low-skilled jobs; 18% metal workers or mechanics; 7% electricians; 9.5% administration/clerical
Greece	36% office staff; 8% sales staff; 6% call centre staff; 13% warehouse workers; 4% low-skilled workers
Italy	23% skilled workers; 21% generic workers; 9% administration; 7% sales or cash desk staff
Netherlands	32% lower secondary or primary education; 48% middle secondary; 19% higher secondary or higher

⁴ J. Arrowsmith: *Temporary agency work in an enlarged European Union*, European Foundation for the Improvement of Living and Working Conditions, Dublin, 2006.

Country	Occupational split
Portugal	45% in jobs requiring no qualifications (28% construction, manufacturing, mining and transport; 17% in services); 13% administration; 4–6% receptionists, sales staff, metalworkers and technical staff
Spain	64% low-skilled workers; 14% workers in catering, personal services, protection and sales; 10% administration; 8% plant and machine operators and installers; 3% craft workers and skilled workers in manufacturing, construction and mining; 69% basic or low education; 16% secondary education; 6% diploma or degree
Sweden	22% blue collar; 78% white collar
United Kingdom	26% secretarial and clerical; 10% professional/managerial; 8.5% financial; 7% computing/IT; 7% hotel/catering workers; 11% technical and engineering; 2.5% blue-collar

Note: No data for Finland, Ireland, Luxembourg and Sweden.

Source: Adapted from Arrowsmith, op. cit., 2006, table 3.

Table 3.7 provides a detailed breakdown of temporary staffing workers in the United States in 2004, showing the preponderance of low-skill service, administration, manufacturing, construction and transportation occupations. The data on average hourly wage rate and divergence from the national average show that wages for agency staff are mostly below the average for the occupation, and considerably so in some cases – for example, for construction and manufacturing labourers. However, owing to the nature of their skills, nurses and computer programmers placed by agencies earn more than the national average.

Table 3.7. Leading occupations in the private employment agency industry, United States, May 2004

Occupation	Temporary services employment	Percentage of temporary services employment	Average hourly wage (\$)	Difference from national average wage (\$)
Labourers and freight, stock and material movers	439 390	18.5	8.69	-1.84
Office clerks, general	127 420	5.4	10.53	-1.09
Packers and packagers	107 850	4.5	8.09	-0.88
Team assemblers	103 470	4.4	9.68	-2.68
Production workers, all other	77 660	3.3	9.66	-3.81
Helpers – production workers	72 020	3.0	8.41	-1.94
Customer service representatives	62 760	2.6	11.72	-2.29
Construction labourers	53 970	2.3	9.27	-4.59
Packaging and filling machine operators and tenders	51 640	2.2	8.96	-2.63
Secretaries, except legal, medical and executive	47 730	2.0	12.39	-0.67
Executive secretaries and administrative assistants	47 370	2.0	15.57	-2.12
Data entry keyers	45 010	1.9	10.80	-0.92
Registered nurses	44 820	1.9	30.99	+4.93
Receptionists and information clerks	40 320	1.7	10.67	-0.24

Occupation	Temporary services employment	Percentage of temporary services employment	Average hourly wage (\$)	Difference from national average wage (\$)
Assemblers and fabricators, all other	38 380	1.6	9.48	-4.66
Office and administrative support workers, all other	37 790	1.6	11.13	-2.03
Nursing aides, orderlies, and attendants	36 130	1.5	11.64	+1.25
Janitors and cleaners, except maids and housekeeping cleaners	30 750	1.3	8.40	-1.51
Licensed practical and vocational nurses	30 210	1.3	20.63	+3.88
Employment, recruitment and placement specialists	28 750	1.2	21.80	-0.96
Stock clerks and order fillers	28 690	1.2	9.74	-0.78
Inspectors, testers, sorters, samplers and weighers	26 470	1.1	11.48	-3.52
Bookkeeping, accounting and auditing clerks	25 850	1.1	13.28	-1.06
Shipping, receiving, and traffic clerks	25 360	1.1	10.63	-1.80
All other information and record clerks	22 510	0.9	13.13	-5.21
Farm workers and labourers; crop, nursery and greenhouse	21 150	0.9	7.77	-0.30
Industrial truck and tractor operators	20 450	0.9	10.94	-2.63
Word processors and typists	18 890	0.8	13.57	-0.60
File clerks	18 550	0.8	10.43	-0.29
Business operations specialists, all other	16 690	0.7	20.93	-6.79
First-line managers of office and administrative support workers	16 690	0.7	17.95	-3.20
Truck drivers, heavy and tractor-trailer	14 250	0.6	14.73	-1.90
Cutting, punching, and press machine setters	14 130	0.6	9.80	-3.24
General and operations managers	12 240	0.5	39.83	-4.41
Refuse and recyclable material collectors	12 170	0.5	8.10	-5.27
Landscaping and grounds-keeping workers	11 940	0.5	9.37	-1.25
Home health aides	11 840	0.5	9.73	+0.60
Carpenters	11 710	0.5	14.98	-3.28
Telemarketers	11 230	0.5	9.78	-1.51

Occupation	Temporary services employment	Percentage of temporary services employment	Average hourly wage (\$)	Difference from national average wage (\$)
Machinists	11 230	0.5	12.50	-4.23
Computer support specialists	10 740	0.5	19.33	-1.64
Maintenance and repair workers, general	10 620	0.4	12.90	-2.51
Mail clerks and mail machine operators, except postal service	10 230	0.4	9.81	-1.46
Construction and related workers, all other	9 960	0.4	8.15	-4.56
Truck drivers, light or delivery services	9 120	0.4	10.43	-2.45
Computer programmers	8 890	0.4	39.54	+7.85
Accountants and auditors	8 240	0.3	25.44	-1.91
Electrical and electronic equipment assemblers	8 100	0.3	10.38	-2.25
All occupations	2 375 330	100.0	12.53	-5.27

Source: Bureau of Labor Statistics, 2004: "Occupations in the temporary help services industry", p. 7, available at www.bls.gov/oes/2004/may/temp.pdf.

Table 3.8 offers a more recent profile for the employment services industry as a whole in the United States (including their direct employees) and includes estimates for percentage growth 2006–16. This again shows the importance of office and administrative work, and manufacturing and transportation occupations, which together account for almost two-thirds of the total. In terms of growth, however, professional and related occupations, and general service jobs (e.g. nursing, fast food, waiting staff, cleaners) are projected to expand the fastest, reflecting a gradual ongoing shift away from the temporary staffing heartlands of manufacturing and clerical work.

Table 3.8. Employment of wage and salary workers in the United States employment services sector, by occupation, 2006, and projected change, 2006–16⁵

Occupation	Employment 2006		Percentage change, 2006–16
	Number (thousands)	Percentage	
All occupations	3 657	100.0	18.9
Management, business, and financial occupations	205	5.6	21.9
Top executives	28	0.8	13.9
Employment, recruitment, and placement specialists	70	1.9	11.6
Professional and related occupations	392	10.7	27.7
Computer specialists	70	1.9	31.6
Engineers	25	0.7	30.4
Engineering technicians, except drafters	18	0.5	27.7
Primary, secondary, and special education teachers	18	0.5	26.6
Registered nurses	95	2.6	26.6
Licensed practical and licensed vocational nurses	54	1.5	26.6

⁵ Includes direct employees of staffing agencies and all forms of staffing placement.

Occupation	Employment 2006		Percentage change, 2006–16
	Number (thousands)	Percentage	
Service occupations	376	10.3	25.8
Nursing aides, orderlies, and attendants	52	1.4	26.6
Fast food and counter workers	21	0.6	37.7
Waiters and waitresses	47	1.3	26.6
Janitors and cleaners, except maids and housekeeping cleaners	49	1.3	29.4
Maids and housekeeping cleaners	20	0.6	26.6
Landscaping and grounds-keeping workers	28	0.8	11.1
Sales and related occupations	110	3.0	19.6
Retail sales workers	26	0.7	21.5
Telemarketers	30	0.8	1.3
Office and administrative support occupations	872	23.8	12.8
Bookkeeping, accounting, and auditing clerks	40	1.1	26.6
Customer service representatives	106	2.9	39.2
Receptionists and information clerks	61	1.7	7.0
Shipping, receiving, and traffic clerks	44	1.2	21.8
Stock clerks and order fillers	44	1.2	5.9
Secretaries and administrative assistants	129	3.5	11.7
Data entry keyers	54	1.5	1.3
Office clerks, general	183	5.0	12.2
Construction and extraction occupations	178	4.9	22.6
Carpenters	29	0.8	26.6
Construction labourers	91	2.5	26.6
Installation, maintenance, and repair occupations	58	1.6	26.5
Maintenance and repair workers, general	32	0.9	26.6
Production occupations	697	19.1	21.2
Team assemblers	200	5.5	26.6
Machine tool cutting setters, operators and tenders, metal and plastic	32	0.9	22.2
Machinists	24	0.7	32.9
Inspectors, testers, sorters, samplers, and weighers	37	1.0	19.3
Packaging and filling machine operators and tenders	61	1.7	13.9
Helpers – production workers	120	3.3	18.9
Transportation and material-moving occupations	752	20.6	13.0
Truck drivers, heavy and tractor-trailer	42	1.1	26.6
Truck drivers, light or delivery services	26	0.7	26.6
Industrial truck and tractor operators	38	1.0	13.9
Labourers and freight, stock, and material movers, hand	469	12.8	13.9
Packers and packagers, hand	139	3.8	1.3

Note: Columns may not add to totals due to omission of occupations with small employment.

Source: Bureau of Labor Statistics, at www.bls.gov/oco/cg/cgs039.htm.

In Japan, by contrast, manufacturing has been the fastest growing occupation in recent years. Table 3.9 profiles the country's occupational distribution of temporary staffing workers over the past two decades. All categories increased in terms of absolute numbers over the period 1997–2007. In relative terms, “manufacturing and construction” expanded more than threefold from 2002 to 2007, becoming the largest category by the latter year (40 per cent of the total), with clerical work having fallen from 50 per cent in 2002 to 37 per cent of dispatch worker employment. “Technical and professional” is another occupational category on the relative wane, falling from 12 per cent of the total in 1997 to 5 per cent in 2007. Overall, in Japan, temporary staffing has now expanded well beyond its clerical and professional origins.

Table 3.9. Agency (dispatch) workers in Japan by occupation, 1987–2007 (thousands)

Category	1987	1992	1997	2002	2007
Technical and professional	18 20.7%	21 12.9%	30 11.7%	44 6.1%	76 4.7%
Clerical	39 44.8%	94 57.7%	180 70.0%	360 49.9%	588 36.6%
Sales	0 0.0%	0 0.0%	4 1.6%	48 6.7%	91 5.7%
Service	4 4.6%	10 6.1%	10 3.9%	43 6.0%	72 4.5%
Agriculture/fishery	0 0.0%	0 0.0%	0 0.0%	1 0.1%	4 0.2%
Transportation and communication	2 2.3%	6 3.7%	4 1.6%	11 1.5%	31 1.9%
Manufacturing and construction	14 16.1%	27 16.6%	28 10.9%	192 26.6%	636 39.6%
Unclassified	10 11.5%	5 3.1%	0 0.0%	21 2.9%	110 6.8%
Total employees	87 100.0%	163 100.0%	257 100.0%	721 100.0%	1 608 100.0%

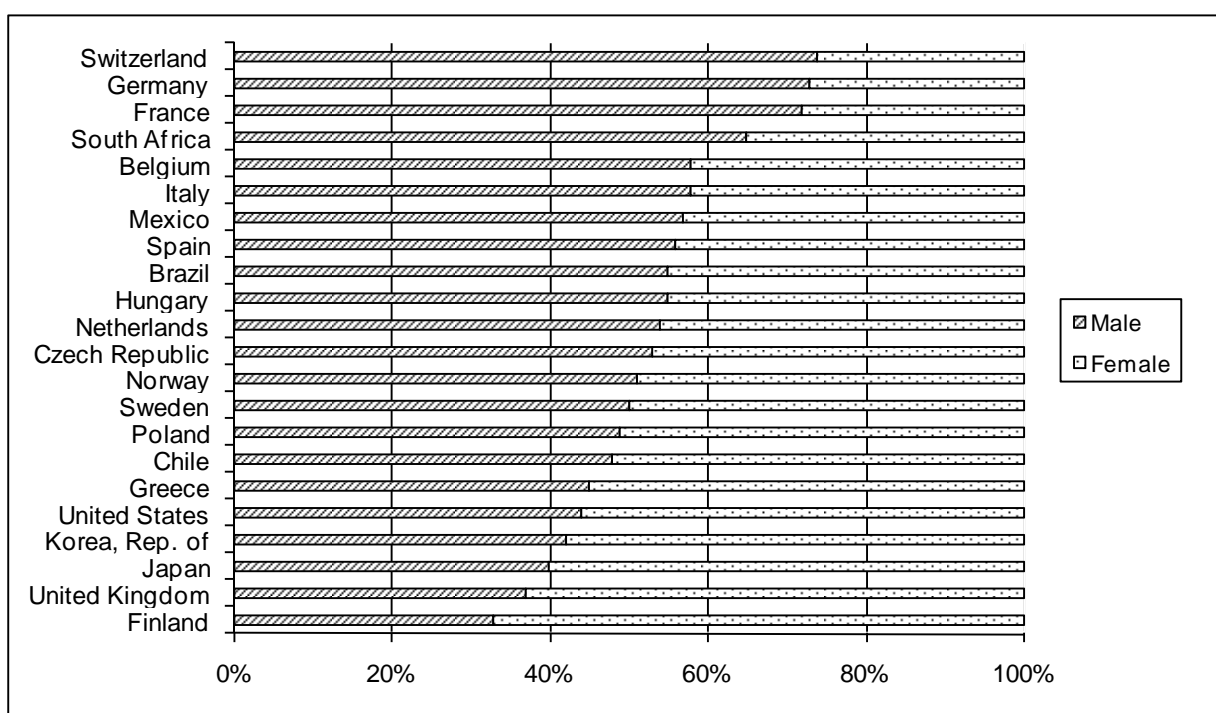
Source: Employment Status Survey, various years.

3.5. Age and gender dimensions of temporary staffing

On the gender dimensions of the workers placed through agencies, figure 3.3 demonstrates that for many countries this is reasonably balanced (in the 40–60 per cent range). Of the countries shown, the United Kingdom and Finland are the only two where the proportion of females is above 60 per cent, while for Switzerland, Germany, France and South Africa the figure is below 40 per cent. While these figures partly reflect the social and economic histories of these countries (e.g. the sectoral bases of the economy, social attitudes to family/gender divisions of labour), they may also be closely connected to the sectoral/occupational distribution of agency work described in the previous section, with more men being concentrated in the manufacturing and construction sectors, while women form the majority in service sectors and occupations (hence clearly correlating to the data in figure 3.2). The data for the United Kingdom and Germany, for example, reflect

the significance of temporary agency employment in services and manufacturing, respectively, in those countries. Comparison with previous surveys⁶ shows that the gender distribution remains generally static, with slight increases in the female share in many countries in the 2000s. In Japan, however, the changes have been more dramatic, as manufacturing placements have expanded rapidly in recent years. While for much of Japan's temporary staffing history, its workforce was dominated by female workers – who made up 80 per cent of the total in 1997 – there is a profound ongoing shift in gender composition with the female proportion having dropped to 62 per cent by 2007.

Figure 3.3. Agency workers by gender, various countries (in 2007)

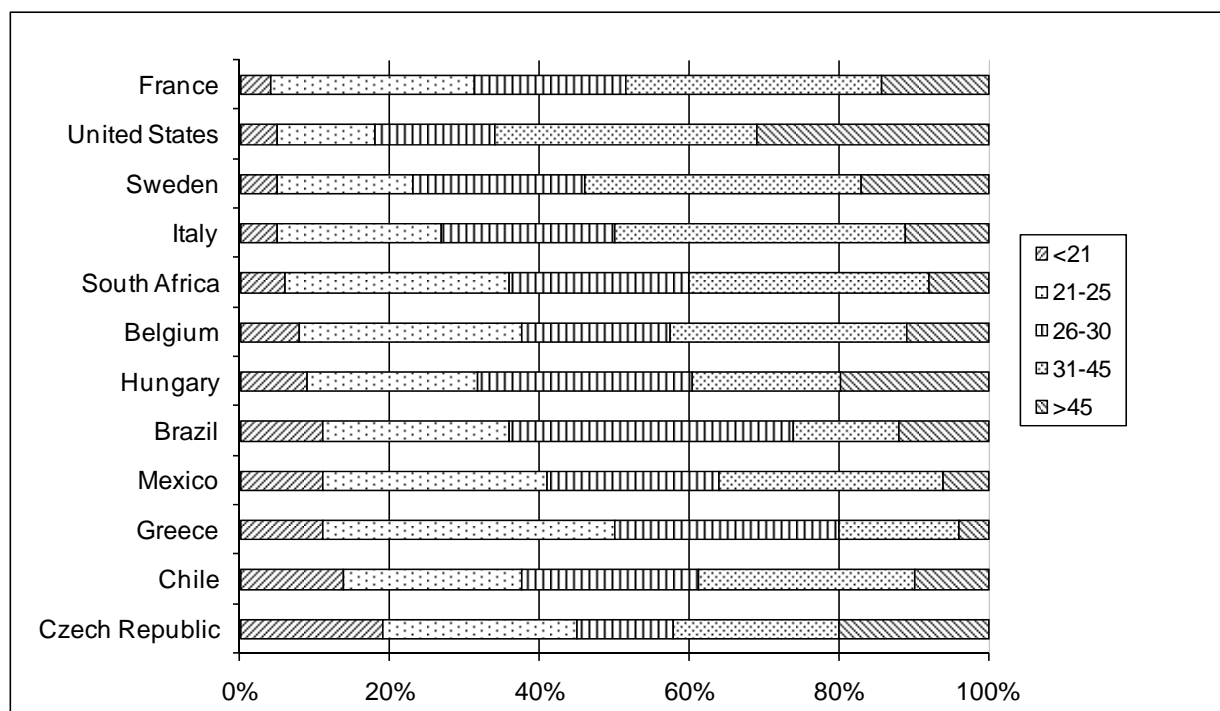


Source: CIETT, 2009, p. 33.

With regard to age composition, figure 3.4 illustrates that the majority of agency workers are below the age of 30, with that age category accounting for over 50 per cent of the total in all countries except the United States and France. This reflects the long-standing role of the industry in placing student workers and providing an entrance point into the labour market for younger workers. The proportion of workers over 45 years of age varies more widely, ranging from just 4 per cent in Greece to 31 per cent in the United States. Importantly, older age groups of the working population are increasingly represented among agency workers reflecting demographic change in many of the leading markets, as older workers remain in the labour market for longer. In France, for example, the proportion of agency workers aged 50 and over increased from 4.1 to 7.5 per cent over the period 1997–2007, and in Italy, representation expanded in all age groups over 34 in the period 2003–07 (CIETT, 2009).

⁶ J. Arrowsmith, *op. cit.*

Figure 3.4. Agency workers by age, various countries (in 2007)



Source: CIETT, 2009, p. 30.

3.6. Summary

Several key dimensions characterize the growth of the private employment agency industry:

- rapid expansion of the industry since the mid-1990s and the emergence of a small group of transnational agencies that are leading the globalization of the sector;
- strong growth in agency work in many economies both in numerical terms and penetration rates, with some important market-to-market variations;
- nationally distinctive sectoral and occupational patterns of agency worker placement, although data illustrate a general increase in employment beyond the traditional areas of manufacturing and clerical work, especially in private services sectors;
- broadly similar age and gender trends across the leading markets, including a gradual increase in the representation of female and older workers everywhere, except in Japan, where men are more represented in the temporary workforce than before.

Overall, the identification of these general trends should be supplemented in future by a more detailed study of its sectoral aspects. In addition, research should cover wider issues such as problems faced by temporary agency workers as regards conditions of work, occupational safety and health, training, social protection coverage, and so on.

4. The economic crisis and private employment agencies: Opportunities and challenges

4.1. Introduction

This chapter examines how the private employment agency industry and its triangular relations – user enterprises, the agencies themselves and agency-placed workers – have been affected by the ongoing global economic and financial crisis from 2007 to mid-2009, and outlines possible outcomes for the industry when the global economic recovery begins. It draws on several sources because the lag between changes in the real economy and the collection of data means that the impact of the crisis is not registered, combined with the well-documented paucity of consistent, accurate, and comparable industry statistics.¹

4.2. The economic crisis and the triangular employment relationship

Private employment agencies are a form of labour market intermediary. They meet the needs of user enterprises for workforce flexibility, on the one hand, and of workers for temporary employment, on the other. With its core business of matching labour demand and supply, the private employment agency industry is a very particular kind of “people-based” business service activity.² Supplying workers to many if not all sectors of the economy, the industry’s fortunes are bound up with those of many industries and occupations, from light manufacturing to engineering, accountancy to retailing, and clerical to warehousing.

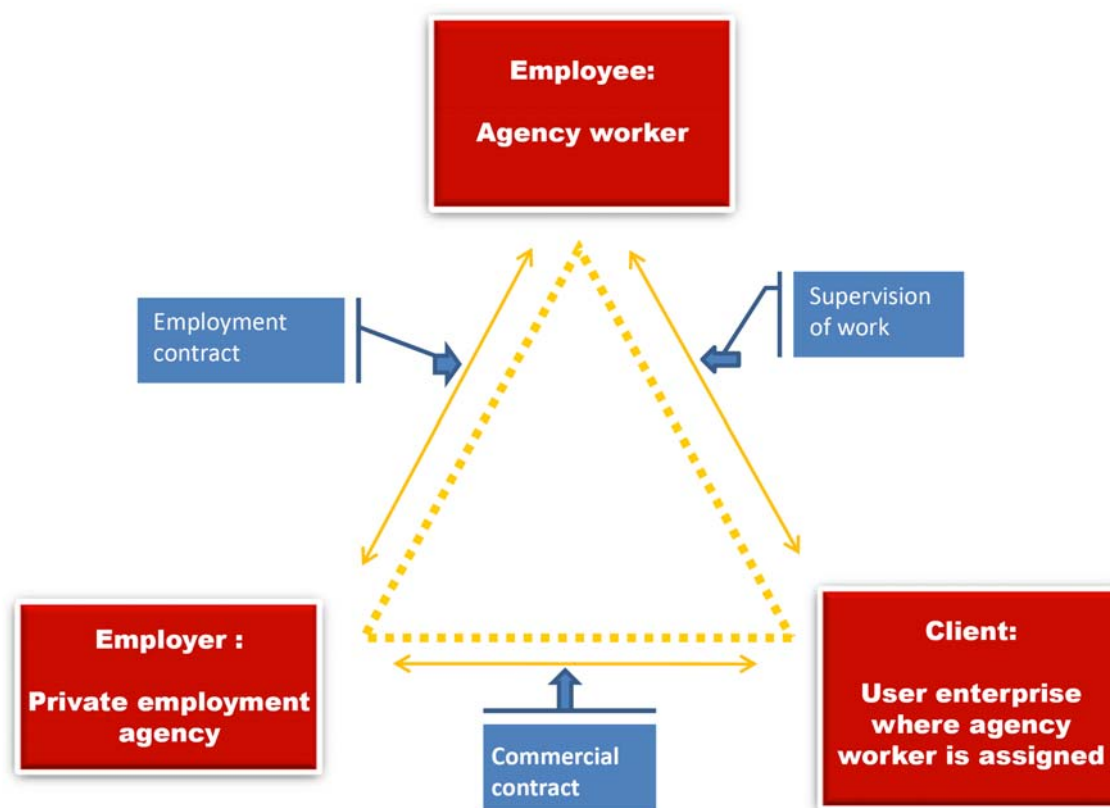
Over the past 30 years the industry has become a large-scale labour-market intermediary, acquiring the status of a broker of flexibility at both the micro-level (meeting the preferred needs of individuals and enterprises) and at the macro-level (managing economic uncertainty and risk across the labour market).³ At its centre is a mediated employment relationship, as agencies bring user enterprises and workers together during economic upturns and provide a means of separation during the economic downturns. An important aspect of the industry is, then, the sense of “disposability” for both user enterprises and workers.

¹ N.M. Coe, J. Johns, and K. Ward: “Mapping the globalization of the temporary staffing industry”, in *Professional Geography*, 59(4), 2007; J. Peck, N. Theodore and K. Ward: “Constructing markets for temporary labour: Employment liberalization and the internationalization of the staffing industry”, in *Global Networks* 5(1), 2005, pp. 1–24.

² Coe et al., op. cit.

³ J. Peck and N. Theodore: “Flexible recession: The temporary staffing industry and mediated work in the United States”, in *Cambridge Journal of Economics*, 31(2), 2007, pp. 171–192.

Figure 4.1. The triangular relationship between an agency, a worker and a user enterprise



Source: Adapted from a CIETT illustration.

Figure 4.1 details the triangular employment relationship when it is intermediated through a private employment agency. The fortunes of the three actors involved in this relationship are intertwined. Changes in the circumstances of one can have knock-on effects for one or both of the other two actors. This constitutes a virtuous circle during economic booms, and a vicious circle during economic slumps. The relationships between the three actors are governed by the nature of the national regulatory context in which they occur. During periods of declining global economic performance, the importance of this triangular employment relationship shrinks, as has been the case since the middle of 2008, with varying implication for each party involved. There is a close correlation in many industrialized countries between GDP growth and the use of temporary agency workers,⁴ so the current financial and economic crisis – and the subsequent drop in national economic output the world over has led to a contraction of the global private employment agency industry. Temporary agency workers were the first to have to leave user enterprises, but analysts predict that these workers will also be the first to be taken back when the economy begins to recover. While such workers may remain employed by the agency in the short term, contractual obligations and rights may end rapidly.

The ILO noted that although the impact of the financial and economic varies widely by country and period,⁵ “groups that were already in a vulnerable position before the crisis will be disproportionately affected, while temporary and migrant workers are also usually

⁴ CIETT: “The agency work industry around the world: Main statistics, Brussels, 2009.

⁵ See ILO: *Global employment trends for women*, Mar. 2009.

not protected by collective bargaining agreements”⁶ and that women are often regarded as a flexible reserve, drawn into the labour market in upturns and expelled in downturns. Women are over-represented among casual and temporary employment, contract labour and homeworkers, tending to earn lower wages than their male counterparts, and the crisis is likely to worsen their situation.⁷

4.3. Variable impact of the economic crisis on the temporary agency labour market

The impact of the crisis can be viewed from the divergent perspectives of the three actors of the triangular relationship. First, user enterprises hire workers through agencies so that, if economic fortunes change, they can adjust their workforce accordingly. Since mid-2008, enterprises have used this “pressure-valve” or “shock absorber” function to lay off temporary agency workers, while often leaving their core workforce unaffected. Table 4.1 provides some evidence of this phenomenon. In several economic sectors, across much of the developed world and most noticeably in vehicle manufacturing, temporary workers have borne the initial brunt of the lay-offs related to the financial and economic crisis. As the downturn has deepened, user enterprises have set about reducing their workforces through ending their agreements with agencies for the supply of workers.⁸ In Germany, it was estimated that between 100,000 and 150,000 temporary agency workers lost their placements in the four to six months since October 2008. Meanwhile, the Japanese Government estimated that 85,000 temporary workers lost their jobs in the year since the second quarter of 2008, while in the United States 52,000 jobs per month were lost by the private employment agency industry from December 2007 to April 2009.⁹ In Spain, placements through agencies fell 8 per cent in the last quarter of 2008, and dropped by 10 per cent in France over the same period.¹⁰ In many countries, the number of temporary agency workers who have had their placements ended is unknown, but this lack of quantitative data should not detract from the message that emerges from the available data elsewhere: in many countries and sectors, temporary agency work is no longer such a prevalent employment option. Overall, it is in those countries where temporary agency workers are concentrated in the manufacturing sectors that have seen the biggest job losses to date.

Second, according to Koncept Analytics,¹¹ agencies with wider geographical reach and sectoral coverage may be less affected, because of the geographically uneven consequences of the economic crisis. Table 4.2 profiles the top 20 global agencies and reveals geographical and sectoral differences among them (see Chapter 3 for more analysis of the top 20 agencies). This would seem to give Adecco, Manpower and Randstad a competitive advantage over the others. The data reveal, nevertheless, that even the largest multinational enterprises are affected.

⁶ ILO and International Institute for Labour Studies (IILS): *The financial and economic crisis: A decent work response*, 2009, p. 10.

⁷ A. King-Dejardin and J. Owens: *The global economic crisis: Impacts and responses from a global gender perspective* (forthcoming 2009), quoted in ILO–IILS, 2009, p. 11.

⁸ OECD: *Economic outlook 2008*, Paris, OECD, 2009; and ILO–IILS, op. cit.

⁹ Bureau of Labor Statistics, 2009: “Current employment statistics highlights, April 2009”, at www.bls.gov/ces/highlights042009.pdf, p. 13.

¹⁰ OECD: “Impact of the economic crisis on employment and unemployment in the OECD countries”, 2009, at www.oecd.org.

¹¹ Koncept Analytics: “Global recruitment market report”, 2009, at www.konceptanalytics.com/.

Table 4.1. Number of workers placed by private employment agencies subsequently laid-off by user enterprises: Some examples in 2009

Client firm	Sector	Country	No. of workers	Details
BMW-Mini	Car manufacturing	United Kingdom	850	Job losses at its Cowley manufacturing plant
Corning, Inc.	Glass manufacturing	United States	1 400	Job losses at its manufacturing plants
Dell	Computer manufacturing	Ireland	400	Job losses at its Limerick plant
Honda	Car manufacturing	Japan	3 100	Job losses at its manufacturing plants
Honsel	Car component manufacturing	Germany	100	Job losses because of cutbacks in the car industry
Isuzu Motors Limited	Car manufacturing	Japan	1 400	Job losses at its manufacturing plants
Mazda	Car manufacturing	Japan	800	Job losses at its plant in Hiroshima
Nissan Motor Company	Car manufacturing	Japan	780	Reduced output at two plants that ship large vehicles to the American market
SKF	Car manufacturing	North America	100	Job losses in its American manufacturing plants
Sony Corporation	Electronics	Japan	8 000	Job losses at its manufacturing plants
Toyota Motor Corporation	Car manufacturing	Japan	3 000	Job losses at its manufacturing plants
Volkswagen	Car manufacturing	Europe	16 500	Cutting all use of temporary workers by the end of 2009

Source: Company web sites and press releases, newspaper articles.

Table 4.2. The top 20 staffing agencies by revenue, 2008

Rank	Firm	Origin	Revenue \$m	No. of territories	Business mix
1	Adecco	Switzerland	31 068.93	50	Generalist 83% (Office 22%; Industrial 55%; Emerging markets 6%); Specialist 17% (IT 6%; Engineering and technology 4%; Finance and legal 2%; Medical 2%; Science 2%; Sales, Marketing and events 2%; Human capital solutions 1%)
2	Randstad	Netherlands	23 242.91	50	Generalist 80% (70% industrial staffing; 10% in-house staffing (on client premises)); Specialist 20% (20% professional)
3	Manpower	United States	21 552.80	82	Generalist 96% and Specialist 4%
4	Allegis	United States	5 740.00	6	Majority of placements are in specialist sectors
5	Kelly Services	United States	5 517.29	34	Generalist 79% and Specialist 21%
6	Goodwill Group	Japan	5 465.92	4	na
7	USG People	Netherlands	5 446.22	13	Generalist 63% and Specialist 37%

Rank	Firm	Origin	Revenue \$m	No. of territories	Business mix
8	Hays	United Kingdom	4 994.57	29	Generalist 0% and Specialist 100% (Accountancy and finance 36%; Construction and property 24%; IT 14%; Other 26%)
9	Robert Half International	United States	4 600.55	21	Majority of placements are in specialist sectors
10	Tempstaff	Japan	2 597.15	8	Generalist 46%; Specialist 54% (Specialist office 18%; IT/Engineering 8%; Other 28%)
11	Volt Information Sciences	United States	2 427.32	8	na
12	Pasona	Japan	2 271.71	8	Generalist 63% and Specialist 37% (Technical 16%; IT/Engineering 11%; Other 10%)
13	MPS Group	United States	2 222.30	12	Generalist 0% and Specialist 100% (IT 42%; Accounting 29%; Engineering 14%; Legal 9%; Health care 6%)
14	Spherion	United States	2 189.16	2	Generalist 65% and Specialist 35%
15	Express Employment Professionals	United States	2 000.00	4	na
16	Synergie Group	France	1 624.95	11	Majority of placements are in generalist sectors
17	Michael Page	United Kingdom	1 443.83	32	Specialist 100% (Financial and accounting 49%; Marketing and sales 19%; Legal, HR and others 17%; Engineering and property 15%)
18	TrueBlue	United States	1 384.27	3	Generalist 100% (General labour, light industrial, skilled trades)
19	Monster	United States	1 343.63	24	Majority of placements are in generalist sectors
20	CDI Corp.	United States	1 118.60	4	Majority of placements are in specialist sectors

Source and notes: See table 3.1.

Table 4.3 details some of the ways in which the largest agencies have responded to the economic crisis. Branches have been merged or closed altogether, while workforce numbers have been cut. For example, Adecco is in the process of a €15m restructuring exercise, the bulk of which will be implemented in the second and third quarters of 2009. There is evidence of all the largest agencies doing what they can to cut costs while retaining capacity, so that they are in a position to grow quickly when the upturn comes. For many smaller agencies, the upturn may come too late, with the TUC reporting that the British private employment agency industry had experienced a 67 per cent increase in bankruptcies between the second and third quarters of 2008.¹²

¹² TUC: Recession report No. 1, 2008, at www.tuc.org.uk.

Table 4.3. Private employment agencies' response to the economic crisis, 2008 onwards: Some examples

Strategy	Agencies	Details
Closure of branches	Adecco	Merging 75 branches in France
	Randstad	157 closed in France including 72 branches closed through the merger of Randstad France and VediorBis
	TrueBlue Inc.	102 closed including all of its Labor Ready business in the United Kingdom
Reduction of workforce	Adecco	600 job cuts in France
	Hays	Reduced by 27 per cent (approximately 800 jobs), mostly in the United Kingdom
	Randstad	589 jobs in France (including 100 as part of the Randstad France and VediorBis merger)
	TrueBlue Inc.	Reduced by 20 per cent, mostly in the United States

Source: Company annual reports, web sites and press releases.

Tables 4.4 and 4.5 reveal the extent of the fall in profits experienced by the largest agencies. While the financial year 2007–08 was bad,¹³ the first quarter of 2009 was even worse. In some markets business is down by 40 per cent,¹⁴ while in the United States the current penetration rate of 1.33 per cent is the lowest since 1993.¹⁵ Many of the largest agencies are on record as stating that it will be 2010 at least before they expect any upturn in business. This would generally happen after overtime hours and the length of the working week begin to rise among the core workforce and slack capacity begins to fall, when user enterprises will again consider turning to agencies to meet their workforce needs, although some may opt for agency workers sooner.

Table 4.4. The top staffing agencies by net profit margin, 2008

Rank	Top 20 rank by revenue 2008	Firm	Origin	Net profit margin 2007 (%)	Net profit margin 2008 (%)	Change up or down
1	17	Michael Page	United Kingdom	11.24	10.01	↓
2	19	Monster	United States	11.66	7.12	↓
3	8	Hays	United Kingdom	7.02	6.62	↓
4	9	Robert Half International	United States	6.53	4.48	↓
5	16	Synergie Group	France	3.25	3.36	↑
6	10	Tempstaff	Japan	2.32	2.45	↑
7	1	Adecco	Switzerland	3.84	2.06	↓
8	12	Pasona	Japan	1.82	1.25	↓
9	20	CDI Corp.	United States	2.52	1.00	↓
10	3	Manpower	United States	2.30	0.74	↓

¹³ Except, perhaps, in emerging markets: for example, Manpower's revenue grew 44 per cent in 2008 – India (+40 per cent); China (+15 per cent) and Eastern Europe (+38 per cent) (Manpower: *Annual report 2008*, at www.manpower.com).

¹⁴ Euractiv: "Temp chief: 'Agencies will see early green shoots'", 2009, at www.euractiv.com/en/enterprise-jobs/temp-chief-agencies-see-early-green-shoots/article-182296.

¹⁵ N. Ziemiński: "V, U, W-shaped rebound? Temp firms don't see eye to eye", 8 May 2009, at www.reuters.com/article/companyNews/idUKTRE5474QC20090508?symbol=SFN.N.

Rank	Top 20 rank by revenue 2008	Firm	Origin	Net profit margin 2007 (%)	Net profit margin 2008 (%)	Change up or down
11	18	TrueBlue	United States	-1.42	-0.30	↑
12	2	Randstad	Netherlands	4.54	-0.73	↓
13	7	USG People	Netherlands	3.16	-0.77	↓
14	11	Volt Information Sciences	United States	-1.41	-1.44	↓
15	5	Kelly Services	United States	0.99	-2.05	↓
16	6	Goodwill Group (Radia)	Japan	1.30	-2.20	↓
17	14	Spherion	United States	-5.23	-6.04	↓
18	13	MPS Group	United States	4.03	-12.16	↓

Note: Data unavailable for Express Personnel and Allegis.

Source: www.reuters.com, company web sites and press releases.

Table 4.5. Changing revenues, profits and earnings of selected agencies from among the top 20 agencies, first quarter 2009 compared to first quarter 2008

Rank 2008	Firm	Origin	Q1 2009 revenue (\$m)	Change since Q1 2008 (%)	Q1 2009 gross profit (\$m)	Change since Q1 2008 (%)	Q1 2009 net earnings (\$m)	Change since Q1 2008 (%)
1	Adecco	Switzerland	4 832.34	↓ 26	895.22	↓ 25	30.00	↓ 85
2	Randstad	Netherlands	3 987.37	↓ 28	801.12	↓ 30	-68.64	↓ 170
3	Manpower	United States	3 647.10	↓ 32	664.30	↓ 21	2.30	↓ 97
5	Kelly Services	United States	1 042.60	↓ 25	175.50	↓ 30	-16.10	↓ 300
6	Goodwill Group (Radia)*	Japan	2 678.82	↓ 40	68.22	↑ 7	-140.41	↓ 92
7	USG People	Netherlands	985.26	↓ 22	232.89	↓ 25	-2.61	↓ 107
9	Robert Half International	United States	823.33	↓ 33	293.73	↓ 42	8.79	↓ 88
11	Volt Information Sciences	United States	499.70	↓ 14	21.80	↑ 56	13.1	↑ 1
12	Pasona **	Japan	568.13	↓ 10	114.15	↓ 17	-8.76	↓ 163
13	MPS Group	United States	429.35	↓ 24	115.63	↓ 29	1.60	↓ 92
14	Spherion	United States	425.92	↓ 26	83.10	↓ 35	-6.7	↓ 300
17	Michael Page	United Kingdom	na	na	134.79	↓ 32	na	na
18	TrueBlue	United States	224.40	↓ 31	62.70	↓ 36	-5.3	↓ 160
19	Monster	United States	254.41	↓ 31	13.74	↓ 82	-10.34	↓ 218
20	CDI Corp.	United States	228.65	↓ 22	47.43	↓ 33	-0.92	↓ 108

* Figures for second quarter results June 2009 compared to second quarter results June 2008. Gross profit figure is from "recurring profit".

** Pasona figures for 30 November 2008 to 28 February 2009.

Notes: Data unavailable for Allegis, Hays, Tempstaff, Synergie Group and Express Personnel.

Source: Company annual reports, web sites and press releases.

Table 4.6 focuses on Adecco, the world's largest private employment agency. While there are differences across countries, the general picture is one of dramatic falls in revenue in early 2009. This example is emblematic of the performances of the largest multinational agencies.

Table 4.6. Changing revenues from the fourth quarter of 2008 to the first quarter of 2009:
The case of Adecco

Country	Percentage revenue decline (%)
Belgium, Luxembourg and the Netherlands	↓14
Denmark, Finland, Norway and Sweden	↓32
Emerging markets	↑ 3
France	↓32
Germany	↓32
Italy	↓45
Japan	↓10
Spain and Portugal	↓42
United Kingdom and Ireland	↓31
United States and Canada	↓26

Source: Adecco press release 6 May 2009, at www.adecco.com/MediaRelations/MediaReleases/Pages/News.aspx?newsURL=http://cws.huginonline.com/A/100102/PR/200905/1311575.xml.

Third, and finally, temporary agency workers who have lost their placements in the current economic crisis appear to face a very difficult 2009, and even 2010. There are possibilities of another placement for some of them. However, with employers “rethinking their jobs strategy before they start hiring workers”,¹⁶ this group will be a minority. In general, the balance of power has moved from the placed workers to the user enterprises. As the number of laid-off temporary agency workers has increased, so the competition for new placements has intensified. With a rise in the number of workers on their books, it is likely that the agencies will intensify their selecting and sorting of workers, with consequences for who fares best when the recession abates.

There are some examples of efforts aimed at ensuring that the voice of this group of workers remains heard. For example, in Japan, male temporary agency workers in manufacturing established temporary *hakenmura* tent villages that provide them a place to live and serve to focus public attention on their problems and lobbying for greater social protection. In the United Kingdom, the TUC highlighted the plight of temporary agency workers in the economic crisis as a means of drawing attention to the consequences of the economic crisis for the most vulnerable workers.¹⁷

4.4. The post-recession future of the private employment agency industry

In recent months, several international-level policy statements have highlighted issues surrounding agencies and temporary work. For example, the June 2009 Global Jobs Pact refers to “establishing or strengthening effective public employment services and other labour market institutions” and “providing adequate [social protection] coverage for

¹⁶ N. Zieminski, op. cit.

¹⁷ TUC, op. cit.

temporary and non-regular workers”.¹⁸ The Chair’s Conclusions from the G8 Labour and Employment Meeting stated that:

Active labour market policies combined with well-designed unemployment benefit systems can improve the chances of jobless people re-entering the labour market and prevent long-term unemployment. Our Governments should ensure that such policies are delivered through efficient, modern and well functioning public and, according to national policies, private employment services, which combine payment of benefits with effective job-matching services, as well as providing a way to other labour market help for those who need it.”¹⁹

The London Jobs Conference 2009 Chair’s Report noted that:

Promoting employment also means promoting effective labour market policies in which employers are encouraged to hire people. It is also important for the unemployed and the underemployed to be supported through employment agencies and incentives for employees to seek work and increase employability.²⁰

The current financial and economic crisis may or may not be the worst since the 1930s, but it is the biggest that the agency industry has faced, and the agencies believe they have played a critical role as a labour market intermediary in managing its consequences, allowing user enterprises to reduce their payrolls while shielding their core workforces. The strong positive correlation of industry size with economic growth in the good years has been mirrored by contraction during the current economic crisis.²¹ Meanwhile, the industry itself is reorganizing to cut costs and increase the efficiency of its services. For these measures to be effective, however, several challenges will have to be addressed:

- continuing to ensure that regulation on agency work is based on the flexicurity concept – achieving the right balance between the need for flexibility in the labour market while also ensuring the right protection for agency workers;
- assisting the transition of those temporary workers displaced from user enterprises into other jobs as quickly as is possible in order to make good on its claims about its “impresario” role.²² For example, Manpower already claims to have assisted “over 60,000 people worldwide to prepare for new careers”.²³
- staving off widespread business closures through cost-cutting and efficiency programmes. For example, Hays are predicting that 20 per cent of British private employment agencies will cease trading in the next 12 months.²⁴

¹⁸ Paras 9(4) and 12(vi), at www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_108456.pdf.

¹⁹ Para. 9 of “People first: Tackling together the human dimension of the crisis”, Rome, 29–31 March 2009, bringing together Labour and Employment Ministers from the G8 countries, the European Union Commissioner for Employment, Social Affairs and Equal Opportunities, the ILO’s Director-General, the OECD’s Secretary-General and the IMF’s First Deputy Managing Director.

²⁰ Para. 13, 2009.

²¹ CIETT, *op. cit.*, p. 27.

²² Eurociett: “How to position the AW industry in the context of the economic crisis, Paper 1: General positioning”, Brussels, 2009.

²³ Manpower: “Manpower employment outlook survey global”, p. 1, 2009, at www.manpower.com.

²⁴ R. Jones: “Hays see demand fall sharply”, 9 Apr. 2009, at www.reuters.com.

-
- devising new ways of selling its services in an economic climate of cost-cutting by user enterprises and where some client firm–agency relationships have been damaged by the economic crisis;
 - surmounting restrictions on its activities in certain countries and in certain sectors in post-recession recovering economies, as part of its quest for further global expansion.
 - developing strategies to reflect the possibility of a V-shaped (rebound), a U-shaped (long flat period with jobless upturn) or a W-shaped (brief rebound followed by second period of decline) recovery;
 - rethinking its role in post-recession national labour markets as a means of increasing its penetration rates, particularly in the industry’s emerging markets of Eastern Europe, India, Latin America and Asia;
 - garnering greater social acceptability through using its institutional position in the labour market to point to early signs of economic recovery.

4.5. Summary

This chapter has characterized the ways in which the three parties in the triangular employment relationship – user enterprises, the agencies themselves and agency-placed workers – have fared in the current economic crisis. The precise consequences for each actor depend on where in the world they are and in what industrial sector they work. There is an uneven geography to the economic crisis, as those countries with a high proportion of their temporary agency workers placed in manufacturing sectors – such as Germany, Japan, United Kingdom and the United States – have been particularly affected.²⁵ Nevertheless, the following preliminary lessons can be drawn:

- workers placed through agencies have been among the first to lose their jobs in the economic crisis;
- while agency-placed workers have fulfilled a pressure-valve role, protecting “core” workforces from the initial consequences of the economic crisis, there is evidence that core workforce employment is now under threat;
- private employment agencies have made changes to their businesses as a consequence of the economic crisis, closing some branches and reducing their workforces in some countries and in some industrial sectors;
- governments have come under pressure from a range of social actors to make changes to the benefits and social assistance provided to workers placed through agencies, although reform has been slow and piecemeal where it has occurred at all;
- it is generally believed that an upturn in the demand for the services of private employment agencies will be among one of the first indicators of the beginning of the end of the economic crisis, as has been the case in past economic downturns;
- there is consensus that the private employment agency industry will continue to internationalize and diversify after the recession.

²⁵ Euractiv, op. cit.

5. Developing sectoral social dialogue on temporary agency work

Some industrialized countries' legislation legalizes profit-oriented private employment agencies, treats them as any other business and, therefore, their employers and workers are covered under general labour legislation. This simplifies regulation in this field, especially where strong trade unions exist, having secured the working conditions of the employees through collective agreements. Good case examples are found in the Netherlands,¹ Sweden² and Germany,³ where agencies and temporary workers are covered by collective agreements that stipulate the employment relationship. These are also indicative of the positive role of social dialogue in regulating and monitoring the agencies. The Netherlands and Denmark have statutory regulations on private employment agencies, whose legal framework has been achieved through collective labour dialogue, emphasizing the growing role of collective bargaining in the expansion of the sector.⁴

Social dialogue in the temporary agency work sector has operated at EU level since the European Commission established a sectoral social dialogue committee in 2000, with UNI-Europa⁵ and Eurociett⁶ as its representative social partners. This committee has produced three joint declarations⁷ and recently contributed to the adoption of a European Council Directive on temporary agency work⁸ in November 2008. The February 2007 Joint Declaration reaffirmed the need to reach a fair balance between protecting agency workers and enhancing the positive role agency work may play in the European labour market. It emphasized that:

- agency work can smooth transitions from unemployment or education into work, lead to longer term employment and help improve work–life balance;

¹ Algemene Bond Uitzendondernemingen (ABU), FNV Bondgenoten (FNV), Dienstbond CNV and De Unie: "Collective Employment Agreement for Temporary Employees 2004–09", version Apr. 2008, Amsterdam, at www.abu.nl/abu2/pagina.asp?pagkey=98135.

² B. Nystrom: "The legal regulation of employment agencies and employment leasing companies in Sweden", in *Comparative Labour Law and Policy Journal*, Vol. 23, No. 1, Aug. 2003.

³ Collective Framework Agreement on Temporary Work, Germany, at www.bza.de/tarif/tarifvertraege.php.

⁴ "Temporary Agency Work in an enlarged EU", June 2006, at <http://eiro.eurofound.eu.int/thematicfeature14.html>.

⁵ Union federation for services workers in commerce, finance, telecommunication, postal, graphical, cleaning, private security, business services, IT, personal services, sport, media, entertainment and temporary agency work.

⁶ The European Confederation of Private Employment Agencies represents agency work employers in Europe, including large multinational corporate members.

⁷ "Objectives of the European Directive on Private Agency Work", 8 Oct. 2001; "Joint Declaration within the framework of the flexicurity debate", 28 Feb. 2007; and "Joint Declaration on the directive on working conditions for temporary agency workers", 28 May 2008 (see www.union-network.org/unitwa.nsf/EnESD?OpenPage).

⁸ Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work, 5 Dec. 2008, in *Official Journal of the European Union*, L 327/9, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:327:0009:0014:EN:PDF>.

-
- discriminatory measures against the industry compared to other forms of non-open-ended contracts should be ended, and regular review of the restrictions or prohibitions on the use of temporary agency work was required;
 - the partners would fight against “unfair competition”, illegal practices and undeclared work, and agency workers should not be used to substitute for striking employees;
 - the principle of equal treatment for agency workers, both within agencies and with user companies, was crucial;
 - promoting sectoral social dialogue at national level, recognizing temporary agency workers’ right to freedom of association, and facilitating access to vocational training for agency workers were important;
 - to improve the employment and social protection of workers, efforts should be made to provide for continuity of rights between assignments.⁹

These three joint declarations affirm Eurociett’s and UNI–Europa’s support for collective bargaining and freedom of association as a prerequisite, and identify the provider agency as the temporary agency worker’s employer. The European Sectoral Social Dialogue Committee on temporary agency work has adopted the following work programme for 2009–10¹⁰ for UNI–Europa and Eurociett:

I. Labour market policies

- Training
- EU employment strategy
- Promoting national social dialogue

II. Joint project on cross border activities within temporary agency work

- Range of labour contracts offered by temporary work agencies to agency workers
- Posting of Workers Directive

III. Sectoral developments and the economic situation

IV. TAW regulation

- EU Directive on temporary agency work
- Decent work, non-discrimination and equal treatment
- ILO Convention No. 181

A Memorandum of Understanding between CIETT Corporate Members and the UNI Global Union on Temporary Agency Work was signed in October 2008, aimed at promoting fair conditions for the temporary agency work industry and for temporary agency workers through global social dialogue (see Appendix IV). It recognizes the

⁹ Eurofound: *Temporary agency work and collective bargaining in the EU*, Dublin, 2008.

¹⁰ www.euro-ciett.org/fileadmin/templates/eurociett/docs/TAW_SSDC_Work_Program_for_2009-2010.pdf.

importance of Convention No. 181 and its accompanying Recommendation, and of the ILO Declaration on Fundamental Principles and Rights at Work in achieving this.

The European Council Directive 2008/104/EC of 19 November 2008 on temporary agency¹¹ work contains specific provisions on representation of temporary workers (but confirms their ambiguous situation as user-company and/or temporary agency workers) and thus provides greater opportunities for social dialogue on their behalf:

Article 7: Representation of temporary agency workers

1. Temporary agency workers shall count, under conditions established by the Member States, for the purposes of calculating the threshold above which bodies representing workers provided for under Community and national law and collective agreements are to be formed at the temporary-work agency.

2. Member States may provide that, under conditions that they define, these workers count for the purposes of calculating the threshold above which bodies representing workers provided for by Community and national law and collective agreements are to be formed in the user undertaking, in the same way as if they were workers employed directly for the same period of time by the user undertaking.

3. Those Member States which avail themselves of the option provided for in paragraph 2 shall not be obliged to implement the provisions of paragraph 1 of this article.

Article 8: Information of workers' representatives

Without prejudice to national and Community provisions which are more stringent and/or more specific on information and consultation, ... the user undertaking must provide suitable information on the use and planned use of temporary workers when providing information on the employment situation in that undertaking to bodies representing the workers set up in accordance with national and Community legislation.

A research paper on agency workers¹² indicates their low unionization rates in France, Netherlands, Sweden, Poland and the United Kingdom; over-representation of young people and immigrants, who were less likely to join unions than other workers; and challenges in unionizing temporary staff.¹³ In France, agency workers' rights had been enhanced through the involvement of unions and agencies in sectoral social dialogue,¹⁴ but many agency workers were unaware of their rights and few of them were unionized (only 1,000–2,000 workers). This hindered effective action in various fields, such as equal treatment, training, health and safety. Unions were enhancing information to workers about their rights, although it was difficult to unionize agency workers who were generally young, mobile and isolated. Sweden¹⁵ had no specific legislation for temporary agency workers; the industry relied on solutions through collective agreements and bipartite bodies. Representation was poorly adapted to agency workers at user enterprises or in different sectors of industry, not only on wages but also health, safety and conditions of work issues. In the Netherlands, sectoral representation of agency workers through collective agreements and other forms was relatively well developed,¹⁶ but low

¹¹ See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:327:0009:0014:EN:PDF>.

¹² K. Håkansson et al.: "Representation of Agency workers in Europe at national and local levels in France, Netherlands, Sweden, Poland and the UK", University of Gothenburg, Sweden, 2009.

¹³ *ibid.*, p. 13.

¹⁴ *ibid.*, pp. 24–25.

¹⁵ *ibid.*, pp. 32–33.

¹⁶ *ibid.*, pp. 50–51.

unionization of agency workers could undermine such agreements. Employers' associations and unions had developed solutions for problems on training and pension rights, equal treatment, division of responsibilities for health and safety between user enterprises and employment agencies, and self-regulation to combat fraud and illegal immigrant labour. At enterprise level, union representation of agency workers was weak; works councils represent agency workers and have codetermination rights on health and safety. In Poland, agency work and the functioning of temporary work agencies were regulated,¹⁷ with restrictions on agency work by user enterprises and formal requirements for those wishing to provide services as a temporary work agency. Generally, agency-supplied workers were granted the same rights as in standard employment agreements, with some exceptions under the Agency Work Act and because of defined time of work contract or frequent change of jobs and employers. Regulation of health and safety provisions for temporary workers had been improved, more clearly defining the obligations of the agency and user firm. However, temporary workers did not benefit fully from freedom of association and collective bargaining, which were theoretical rather than practical rights for them; trade union membership rates were low in Poland and the representation system was enterprise-based. In the United Kingdom, the industrial relations system had only very recently included works councils, so agency worker representation was normally only carried out by trade unions.¹⁸ However, low unionization rates meant that most agency workers were not trade union members, except in sectors where trade unions were stronger or in specific enterprises where there had been a strong effort to organize agency workers. Many recent migrants were agency workers and represented some of the most vulnerable workers in the country. Several union projects and campaigns reported some successes in organizing among migrant agency workers. The joint statement of 20 May 2008 by the Government, the TUC and the CBI on agency workers and the implementation of the European Council Directive on temporary agency work had gone some way towards ending the discrimination against agency workers, but they would remain without guaranteed representation at work, and legal ambiguities about the status of agency workers and the relationship between the agency and the end user would persist.

Company-level dialogue

Adecco and Randstad are the only two multinational companies that have developed Europe-wide social dialogue bodies. Adecco, a Fortune Global 500 company registered in Switzerland, was created in 1996, following the merger of Adia (Switzerland) and Ecco (France), two leading personnel service enterprises with complementary geographical profiles. It currently posts 700,000 temporary agency workers per day in 60 countries. In 1999, it set up a Platform for Adecco Communication in Europe (PACE) “for the promotion of communication and social dialogue between the management and colleagues of the Adecco group companies (and future companies) within the European Union (EU), the European Economic Area (EEA) and the European Free Trade Area (EFTA)”. The company observes that PACE represents about 64 per cent of all Adecco group workers, at meetings held once a year, mainly for exchange of views between management and workers' representatives rather than as a genuine information-consultation body. Most workers' representatives are trade union members affiliated to UNI-Europa. UNI-Europa representatives may participate as observers.

¹⁷ *ibid.*, pp. 65–66.

¹⁸ *ibid.*, p. 75.

Randstad has over 34,000 employees working from 5,400 branches in 53 countries. With a business culture oriented towards social dialogue, it became the first multinational temporary agency to sign a European agreement on workers' representation in this sector, establishing a European Platform for Social Dialogue (EPSD). The Platform's objective is promoting social dialogue between management and workers' representatives at European level, and facilitating exchange of information and consultation based on cooperation between management and workers within the Randstad group. The EPSD has the same characteristics as a European Works Council and functions according to the EWC directive of 1994. Its members meet twice per year; most EPSD members are not unionized.

In both the Randstad's EPSD and Adecco's PACE, most workers' representatives are from the company's internal staff rather than temporary agency workers. The lack of stability of the temporary work force undermines its capacity to involve itself in bodies of workers' representation. The rate of trade union membership is extremely low except in Scandinavian countries. The temporary nature of agency work has proved to be a barrier for workers to organize and protect their basic rights.

6. Benefits of ratification of Convention No. 181 and challenges to ratifying it

As regards benefits, the Convention can be an engine for job creation, structural growth, improved efficiency of national labour markets, better matching of supply and demand for workers, higher labour participation rates and increased diversity. It also sets a clear framework for regulation, licensing and self-regulation thereby encouraging reliability; ensuring effective protection of workers against unfair practices, for example as regards pay, contract conditions, safety and health by unscrupulous providers or user enterprises of temporary agency workers; discouraging human trafficking; and promoting cooperation between public and private employment services. Private employment agencies can act as an entry-point to the labour market, especially for disadvantaged jobseekers, and can enhance workers' employability by facilitating access to training and offering opportunities for professional experience in different working environments.

Governments, workers and employers therefore have a common interest in promoting ratification, which can help to promote and implement the Decent Work Agenda by ensuring that the rights and working conditions of agency workers are protected. Decent Work Country Programmes, an important means for delivering ILO programmes,¹ are designed to be relevant to the main social, economic and labour challenges facing member States and the social partners. As part of efforts to ensure they reflect the priorities of the primary actors in the world of work, the involvement of sectoral employers' and workers' representatives in such programmes' initial sectoral analysis could highlight the contribution of temporary agency work to the national economy or to remittances as appropriate. The analysis should also highlight the principles and rights that the Convention enshrines. For example, the regulation of private employment agencies and the protection of expatriate labour in line with Convention No. 181 have been included in the Decent Work Country Programme of the United Arab Emirates as a priority area.²

The ILO aims to assist member States to establish clear and effective laws and structures in the registration and licensing of agencies, which support the Convention's principles. However, there are also voluntary means, using professional codes and industry standards, where self-regulation is practised. A balance can be achieved, "[r]ecognizing the role which private employment agencies may play in a well-functioning labour market, and [r]ecalling the need to protect workers against abuses" (Preamble).

The challenges that can be encountered in ratifying the Convention and possible solutions are summarized below:³

- (1) Legislation should be designed to meet the requirements and standards set out in the Convention. However, in its application, due regard must be given to specific national circumstances and capacities. The law on private employment agencies should address shortcomings and gaps regarding their current role in the national labour market and take into account the main activities and services they carry out. Regulation should be adapted to the enforcement capacities that are available to the government. If there is a lack of monitoring and enforcement capacity due to scarce financial and technical resources, this should be considered when drafting the new

¹ ILO: *Declaration on Social Justice for a Fair Globalization*, 2008, Section II(A)(ii).

² See statement made by Dr Gargash, Minister of State for Foreign Affairs, United Arab Emirates, at the Tenth Session of the Human Rights Council, Geneva, 19 Mar. 2009, at <http://diplomacymonitor.com/stu/dma1.nsf/uh/cc64DB1D72B42239C88525757E005B3BAC>.

³ See ILO: *Guide to private employment agencies: Regulation, monitoring and enforcement*, 2007, pp. 47–49.

law, and it would be advisable to keep the regulations simple and emphasize provisions that can be enforced effectively. Establishing principles in the law that will not be enforced can undermine its legitimacy.

- (2) To adjust the law to specific national circumstances, the current practice and performance of existing private employment agencies in the labour market should be reviewed before any new laws and/or regulations are drafted and adopted. Legislators should know roughly or exactly how many agencies exist, which types of services they offer and in which economic sectors they predominate. Reported malpractice and abuse by agencies should be analysed. An assessment of the services and performance of agencies ensures that the specific problems of the national labour market are taken into consideration when drafting legislation.
- (3) In accordance with tripartism and sound principles of social dialogue, employers' and workers' organizations should be consulted during the process of drafting legislation. It is helpful if the agencies concerned have already set up their own business association, as they are more aware of specific problems they face in the labour market. Expert opinions from workers' and employers' organizations, and other stakeholders, such as women's or migrant workers' organizations, can help assess problems and gaps in the regulatory framework. They can also play a crucial role in the enforcement of new legislation as well as voluntary codes of practice.
- (4) The overall objective of regulating private employment agencies' activities should be to increase the effectiveness of labour market services provided by both public and private employment agencies. The provisions of the law should not primarily be aimed at restraining competition or deliberately or involuntarily hindering small and medium-sized agencies from entering the market. Legislation should not only provide for controls on abuse in employment practice, but should also include positive incentives for law-abiding agencies.
- (5) Legislation in this area needs to be harmonized with laws and policies on general commercial practices, labour, migration and the PES. For example, in the placement of jobseekers abroad, cooperation mechanisms between countries of origin and destination should be set up, not only for law enforcement agencies, but also the agencies themselves. As problems often arise in countries of destination after recruitment takes place, follow-up procedures should be envisaged.
- (6) It is important to establish a functioning and effective complaint and grievance mechanism and to investigate and resolve cases of non-compliance. This includes a specific procedure for jobseekers, who have suffered in the recruitment and placement process, to seek redress. Complaint mechanisms should be based on a differentiated approach, allowing for settlement among the different parties before choosing adjudication.
- (7) Provisions of a new law or regulation should be publicized and made available to those concerned, including the agencies themselves, government agencies involved in monitoring and enforcement, and workers' and employers' representatives. Awareness raising among stakeholders is important to ensure broad support for new legislation, for which training seminars on the specific conditions set out in the law can be a useful tool.
- (8) Since market forces tend to alter business opportunities for agencies quickly, it is useful to review experiences in implementing legislation, so that necessary adaptations and amendments can be made.
- (9) There are several modes of cooperation between private employment agencies and the PES. The latter can play a role in professional standard-setting for the agencies as they have the expertise in providing labour market services. Both can exchange information to enrich one another's broader understanding of labour market dynamics.

7. Support for further ratifications

Tools available (e.g. the ILO Guide to private employment agencies) and needed

The ILO *Guide to private employment agencies: Regulation, monitoring and enforcement* was published in 2007 to provide guidance to national legislators in drafting legal frameworks in line with the Convention and Recommendation. Twenty-one countries have ratified the Convention and the ILO has received a number of requests to assist national governments develop legal frameworks to regulate private employment agencies. The Guide provides many examples of country legislation and specific provisions from both developed and developing countries.

It is a useful resource for national legislators and social partners to identify possible gaps in their legislation and to find appropriate solutions. The Guide provides an overview of regulatory and institutional requirements, so that countries can be free to adapt aspects of the legislation applicable to their own national situations.

Convention No. 181 and the General Survey on employment

In view of the decision of the Governing Body to place on the agenda of the 2010 Conference a recurrent item on the strategic objective of employment, the ILO is conducting a General Survey on employment, for which reports should be submitted for 2009 under article 19 of the ILO Constitution concerning six employment instruments,¹ including Convention No. 181.

Examination of these reports is in November–December 2009 at the ILO Committee of Experts on the Application of Conventions and Recommendations.

At the 99th Session of the International Labour Conference in June 2010, the Conference Committee on the Application of Standards will discuss the General Survey on employment, including issues related to Convention No. 181, which may interest participants at the October 2009 workshop.

¹ The Employment Service Convention, 1948 (No. 88); Employment Policy Convention, 1964 (No. 122); Human Resources Development Convention, 1975 (No. 142); Private Employment Agencies Convention, 1997 (No. 181); Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189); and the Promotion of Cooperatives Recommendation, 2002 (No. 193).

Points for discussion

1. Private employment agencies' contribution to labour markets
2. Regulation, monitoring and controls
3. Agency workers' rights and working conditions
4. The economic crisis and private employment agencies
5. How to support further ratifications, case studies on the benefits of ratification
6. Points of consensus and suggestions for future ILO action

Appendix I

Full text of the Private Employment Agencies Convention, 1997 (No. 181)

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the International Labour Office,
and having met in its Eighty-fifth Session on 3 June 1997, and
Noting the provisions of the Fee-Charging Employment Agencies Convention (Revised),
1949, and
Being aware of the importance of flexibility in the functioning of labour markets, and
Recalling that the International Labour Conference at its 81st Session, 1994, held the view that
the ILO should proceed to revise the Fee-Charging Employment Agencies Convention
(Revised), 1949, and
Considering the very different environment in which private employment agencies operate,
when compared to the conditions prevailing when the above-mentioned Convention was
adopted, and
Recognizing the role which private employment agencies may play in a well-functioning
labour market, and
Recalling the need to protect workers against abuses, and
Recognizing the need to guarantee the right to freedom of association and to promote
collective bargaining and social dialogue as necessary components of a well-functioning
industrial relations system, and
Noting the provisions of the Employment Service Convention, 1948, and
Recalling the provisions of the Forced Labour Convention, 1930, the Freedom of Association
and the Protection of the Right to Organise Convention, 1948, the Right to Organise and
Collective Bargaining Convention, 1949, the Discrimination (Employment and
Occupation) Convention, 1958, the Employment Policy Convention, 1964, the Minimum
Age Convention, 1973, the Employment Promotion and Protection against
Unemployment Convention, 1988, and the provisions relating to recruitment and
placement in the Migration for Employment Convention (Revised), 1949, and the
Migrant Workers (Supplementary Provisions) Convention, 1975, and
Having decided upon the adoption of certain proposals with regard to the revision of the Fee-
Charging Employment Agencies Convention (Revised), 1949, which is the fourth item
on the agenda of the session, and
Having determined that these proposals shall take the form of an international Convention;
adopts, this nineteenth day of June of the year one thousand nine hundred and ninety-seven, the
following Convention, which may be cited as the Private Employment Agencies Convention, 1997:

Article 1

1. For the purpose of this Convention the term private employment agency means any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:
- (a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;
 - (b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a “user enterprise”) which assigns their tasks and supervises the execution of these tasks;

(c) other services relating to jobseeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.

2. For the purpose of this Convention, the term workers includes jobseekers.

3. For the purpose of this Convention, the term processing of personal data of workers means the collection, storage, combination, communication or any other use of information related to an identified or identifiable worker.

Article 2

1. This Convention applies to all private employment agencies.

2. This Convention applies to all categories of workers and all branches of economic activity. It does not apply to the recruitment and placement of seafarers.

3. One purpose of this Convention is to allow the operation of private employment agencies as well as the protection of the workers using their services, within the framework of its provisions.

4. After consulting the most representative organizations of employers and workers concerned, a Member may:

(a) prohibit, under specific circumstances, private employment agencies from operating in respect of certain categories of workers or branches of economic activity in the provision of one or more of the services referred to in Article 1, paragraph 1;

(b) exclude, under specific circumstances, workers in certain branches of economic activity, or parts thereof, from the scope of the Convention or from certain of its provisions, provided that adequate protection is otherwise assured for the workers concerned.

5. A Member which ratifies this Convention shall specify, in its reports under article 22 of the Constitution of the International Labour Organization, any prohibition or exclusion of which it avails itself under paragraph 4 above, and give the reasons therefor.

Article 3

1. The legal status of private employment agencies shall be determined in accordance with national law and practice, and after consulting the most representative organizations of employers and workers.

2. A Member shall determine the conditions governing the operation of private employment agencies in accordance with a system of licensing or certification, except where they are otherwise regulated or determined by appropriate national law and practice.

Article 4

Measures shall be taken to ensure that the workers recruited by private employment agencies providing the services referred to in Article 1 are not denied the right to freedom of association and the right to bargain collectively.

Article 5

1. In order to promote equality of opportunity and treatment in access to employment and to particular occupations, a Member shall ensure that private employment agencies treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability.

2. Paragraph 1 of this Article shall not be implemented in such a way as to prevent private employment agencies from providing special services or targeted programmes designed to assist the most disadvantaged workers in their jobseeking activities.

Article 6

The processing of personal data of workers by private employment agencies shall be:

- (a) done in a manner that protects this data and ensures respect for workers privacy in accordance with national law and practice;
- (b) limited to matters related to the qualifications and professional experience of the workers concerned and any other directly relevant information.

Article 7

1. Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.

2. In the interest of the workers concerned, and after consulting the most representative organizations of employers and workers, the competent authority may authorize exceptions to the provisions of paragraph 1 above in respect of certain categories of workers, as well as specified types of services provided by private employment agencies.

3. A Member which has authorized exceptions under paragraph 2 above shall, in its reports under article 22 of the Constitution of the International Labour Organization, provide information on such exceptions and give the reasons therefor.

Article 8

1. A Member shall, after consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses.

2. Where workers are recruited in one country for work in another, the Members concerned shall consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment.

Article 9

A Member shall take measures to ensure that child labour is not used or supplied by private employment agencies.

Article 10

The competent authority shall ensure that adequate machinery and procedures, involving as appropriate the most representative employers and workers organizations, exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies.

Article 11

A Member shall, in accordance with national law and practice, take the necessary measures to ensure adequate protection for the workers employed by private employment agencies as described in Article 1, paragraph 1(b) above, in relation to:

- (a) freedom of association;
- (b) collective bargaining;
- (c) minimum wages;
- (d) working time and other working conditions;

-
- (e) statutory social security benefits;
 - (f) access to training;
 - (g) occupational safety and health;
 - (h) compensation in case of occupational accidents or diseases;
 - (i) compensation in case of insolvency and protection of workers claims;
 - (j) maternity protection and benefits, and parental protection and benefits.

Article 12

A Member shall determine and allocate, in accordance with national law and practice, the respective responsibilities of private employment agencies providing the services referred to in paragraph 1(b) of Article 1 and of user enterprises in relation to:

- (a) collective bargaining;
- (b) minimum wages;
- (c) working time and other working conditions;
- (d) statutory social security benefits;
- (e) access to training;
- (f) protection in the field of occupational safety and health;
- (g) compensation in case of occupational accidents or diseases;
- (h) compensation in case of insolvency and protection of workers claims;
- (i) maternity protection and benefits, and parental protection and benefits.

Article 13

1. A Member shall, in accordance with national law and practice and after consulting the most representative organizations of employers and workers, formulate, establish and periodically review conditions to promote cooperation between the public employment service and private employment agencies.

2. The conditions referred to in paragraph 1 above shall be based on the principle that the public authorities retain final authority for:

- (a) formulating labour market policy;
- (b) utilizing or controlling the use of public funds earmarked for the implementation of that policy.

3. Private employment agencies shall, at intervals to be determined by the competent authority, provide to that authority the information required by it, with due regard to the confidential nature of such information:

- (a) to allow the competent authority to be aware of the structure and activities of private employment agencies in accordance with national conditions and practices;
- (b) for statistical purposes.

4. The competent authority shall compile and, at regular intervals, make this information publicly available.

Article 14

1. The provisions of this Convention shall be applied by means of laws or regulations or by any other means consistent with national practice, such as court decisions, arbitration awards or collective agreements.

2. Supervision of the implementation of provisions to give effect to this Convention shall be ensured by the labour inspection service or other competent public authorities.

3. Adequate remedies, including penalties where appropriate, shall be provided for and effectively applied in case of violations of this Convention.

Article 15

This Convention does not affect more favourable provisions applicable under other international labour Conventions to workers recruited, placed or employed by private employment agencies.

Article 16

This Convention revises the Fee-Charging Employment Agencies Convention (Revised), 1949, and the Fee-Charging Employment Agencies Convention, 1933.

Article 17

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 18

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 19

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 20

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

Article 21

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 22

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 23

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides –

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 19 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 24

The English and French versions of the text of this Convention are equally authoritative.

Appendix II

Full text of the Private Employment Agencies Recommendation, 1997 (No. 188)

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eighty-fifth Session on 3 June 1997, and

Having decided upon the adoption of certain proposals with regard to the revision of the Fee-Charging Employment Agencies Convention (Revised), 1949, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Private Employment Agencies Convention, 1997;

adopts, this nineteenth day of June of the year one thousand nine hundred and ninety-seven, the following Recommendation, which may be cited as the Private Employment Agencies Recommendation, 1997:

I. GENERAL PROVISIONS

1. The provisions of this Recommendation supplement those of the Private Employment Agencies Convention, 1997, (referred to as “the Convention”) and should be applied in conjunction with them.

2. (1) Tripartite bodies or organizations of employers and workers should be involved as far as possible in the formulation and implementation of provisions to give effect to the Convention.

(2) Where appropriate, national laws and regulations applicable to private employment agencies should be supplemented by technical standards, guidelines, codes of ethics, self-regulatory mechanisms or other means consistent with national practice.

3. Members should, as may be appropriate and practicable, exchange information and experiences on the contributions of private employment agencies to the functioning of the labour market and communicate this to the International Labour Office.

II. PROTECTION OF WORKERS

4. Members should adopt all necessary and appropriate measures to prevent and to eliminate unethical practices by private employment agencies. These measures may include laws or regulations which provide for penalties, including prohibition of private employment agencies engaging in unethical practices.

5. Workers employed by private employment agencies as defined in Article 1.1(b) of the Convention should, where appropriate, have a written contract of employment specifying their terms and conditions of employment. As a minimum requirement, these workers should be informed of their conditions of employment before the effective beginning of their assignment.

6. Private employment agencies should not make workers available to a user enterprise to replace workers of that enterprise who are on strike.

7. The competent authority should combat unfair advertising practices and misleading advertisements, including advertisements for non-existent jobs.

8. Private employment agencies should:

- (a) not knowingly recruit, place or employ workers for jobs involving unacceptable hazards or risks or where they may be subjected to abuse or discriminatory treatment of any kind;
- (b) inform migrant workers, as far as possible in their own language or in a language with which they are familiar, of the nature of the position offered and the applicable terms and conditions of employment.

9. Private employment agencies should be prohibited, or by other means prevented, from drawing up and publishing vacancy notices or offers of employment in ways that directly or indirectly result in discrimination on grounds such as race, colour, sex, age, religion, political opinion, national extraction, social origin, ethnic origin, disability, marital or family status, sexual orientation or membership of a workers organization.

10. Private employment agencies should be encouraged to promote equality in employment through affirmative action programmes.

11. Private employment agencies should be prohibited from recording, in files or registers, personal data which are not required for judging the aptitude of applicants for jobs for which they are being or could be considered.

12. (1) Private employment agencies should store the personal data of a worker only for so long as it is justified by the specific purposes for which they have been collected, or so long as the worker wishes to remain on a list of potential job candidates.

(2) Measures should be taken to ensure that workers have access to all their personal data as processed by automated or electronic systems, or kept in a manual file. These measures should include the right of workers to obtain and examine a copy of any such data and the right to demand that incorrect or incomplete data be deleted or corrected.

(3) Unless directly relevant to the requirements of a particular occupation and with the express permission of the worker concerned, private employment agencies should not require, maintain or use information on the medical status of a worker, or use such information to determine the suitability of a worker for employment.

13. Private employment agencies and the competent authority should take measures to promote the utilization of proper, fair and efficient selection methods.

14. Private employment agencies should have properly qualified and trained staff.

15. Having due regard to the rights and duties laid down in national law concerning termination of contracts of employment, private employment agencies providing the services referred to in paragraph 1(b) of Article 1 of the Convention should not:

- (a) prevent the user enterprise from hiring an employee of the agency assigned to it;
- (b) restrict the occupational mobility of an employee;
- (c) impose penalties on an employee accepting employment in another enterprise.

III. RELATIONSHIP BETWEEN THE PUBLIC EMPLOYMENT SERVICE AND PRIVATE EMPLOYMENT AGENCIES

16. Cooperation between the public employment service and private employment agencies in relation to the implementation of a national policy on organizing the labour market should be encouraged; for this purpose, bodies may be established that include representatives of the public employment service and private employment agencies, as well as of the most representative organizations of employers and workers.

17. Measures to promote cooperation between the public employment service and private employment agencies could include:

- (a) pooling of information and use of common terminology so as to improve transparency of labour market functioning;
- (b) exchanging vacancy notices;
- (c) launching of joint projects, for example in training;
- (d) concluding agreements between the public employment service and private employment agencies regarding the execution of certain activities, such as projects for the integration of the long-term unemployed;
- (e) training of staff;
- (f) consulting regularly with a view to improving professional practices.

Appendix III

Full text of the CIETT Members' commitment: Towards a well-functioning international labour market

Introduction

Services provided by private employment agencies represent a modern answer to reconcile the requirement of labour flexibility for user companies and the need of work security for employees.

Being aware of such a social responsibility, the private employment agency industry has adopted, for many years, national codes of conduct at country level.

Because of the growing importance of private employment agencies at the international level and the need for strengthening self-regulation principles to enhance the quality standards of the industry, CIETT has established a global Code of Conduct, which provides General Agreed Principles on private employment agency practices, shared by all its Members.

These common agreed principles are complemented by the CIETT Charter of private employment agencies, which describe the obligations of CIETT members regarding their corporate social responsibility.

I. THE CIETT CODE OF CONDUCT

Principle 1 – Respect for ethical and professional conduct

Members shall observe the highest principles of ethics, integrity, professional conduct and fair practice in dealing with temporary agency workers as well as other relevant stakeholders and shall conduct their business in a manner designed to enhance the operation, image and reputation of the industry.

Principle 2 – Respect for laws

Members and their staff shall comply with all relevant legislation, statutory and non-statutory requirements and official guidance covering private employment agencies.

Principle 3 – Respect for transparency of terms of engagement

Members shall ensure that workers are given details of their working conditions, the nature of the work to be undertaken, rates of pay and pay arrangements and working hours.

Principle 4 – Respect for free-of-charge provision of services to jobseekers

Members shall not charge directly or indirectly, in whole or in part, any fees or costs to jobseekers and workers, for the services directly related to temporary assignment or permanent placement.

Principle 5 – Respect for safety at work

1. Members shall act diligently in assessing risks in order to promote the safety at agency workers in their workplace.

2. Members shall inform agency workers whenever they have reason to believe that any particular assignment causes an occupational health or safety risk.

Principle 6 – Respect for diversity

Members shall establish working practices that safeguard against any unlawful or unethical discrimination.

Principle 7 – Respect for the workers' rights

1. Equitable, objective and transparent principles for the calculation of agency workers' wages shall be promoted, considering national legislation and practices.

2. Members shall not in any way deny the right of freedom of association of their employees.

3. In accordance with national law and practices, private employment agencies shall not make workers available to a user company to replace workers of that company who are legally on strike.

Principle 8 – Respect of confidentiality

1. Members shall ensure confidentiality in all of their dealings.

2. Members and their staff shall ensure that permission has been given and documented before disclosing, displaying, submitting or seeking confidential or personal information.

Principle 9 – Respect for professional knowledge and quality of service

1. Members shall work diligently to develop and maintain a satisfactory and up to date level of relevant professional knowledge.

2. Members shall ensure that their staff are adequately trained and skilled to undertake their responsibilities and assure a high-quality service.

Principle 10 – Respect for fair competition

Members shall assure mutual relations based on fair competition.

II. THE CIETT CHARTER OF PRIVATE EMPLOYMENT AGENCIES

Services provided by private employment agencies represent a statutory labour flexibility arrangement which provides workers an opportunity for employment security, enhanced occupational status and a stepping-stone function while, at the same time, reconciling employees' aspirations and employers' needs for flexible workforce.

As socially responsible employers, the CIETT members fully agree to recognize through this Charter of Private Employment Agencies that:

1. employment through private agencies should respect the international and national principles of non-discrimination on all issues linked to working conditions;
2. private employment agencies should not charge directly or indirectly any fees or costs to workers for job-finding services;
3. private employment agencies should not make workers available to a user enterprise to replace workers of that enterprise who are on strike;
4. private employment agencies should facilitate access to training for the agency workers;
5. social dialogue and collective labour bargaining should be seen as an appropriate means to organize the private employment agency industry, when relevant and fitting.

At the same time, the positive contribution that private employment agencies make to the worldwide employment and economic objectives should be fully recognized by national governments, international institutions and relevant stakeholders. Indeed, services provided by private employment agencies can be part of the solution to improve the efficiency of the labour markets by:

-
- providing work to jobseekers;
 - acting as a stepping-stone to permanent employment;
 - enhancing job opportunities and integration in the labour market, in particular for the most disadvantaged group of workers;
 - improving labour market's fluidity;
 - helping the creation of jobs that would not exist otherwise and therefore contributing to reduce unemployment;
 - cooperating with the public employment services;
 - facilitating access to vocational training.

Additionally, any regulation on private employment agencies should enhance the fight against illegal practices and human trafficking.

Finally, as the International Confederation of Private Employment Agencies, CIETT fully endorses ILO Convention No. 181 on private employment agencies. CIETT supports its members in encouraging their respective countries to ratify this ILO instrument, in case they have not done so.

Appendix IV

Memorandum of Understanding between CIETT Corporate Members and UNI Global Union on Temporary Agency Work

Goals and purpose

This Memorandum of Understanding (MoU) aims at creating a partnership between UNI Global Union ¹ and CIETT Corporate Members ² in order to achieve fair conditions for the temporary agency work industry and temporary agency workers through global social dialogue.

The signatories to this MoU recognize:

- that the ILO Convention 181 on private employment agencies and its accompanying Recommendation No. 188 provide a framework that allows for the improved functioning of private employment agencies;
- the ILO Declaration on Fundamental Principles and Rights at Work, namely freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation as a means to ensure decent working conditions for temporary agency workers;
- that temporary agency work contributes to improve the functioning of labour markets and fulfils specific needs for both companies and workers and aims at complementing other forms of employment;
- the need for further discussion and elaboration on a large number of issues. They shall seek to develop joint actions falling within the framework of their respective areas of responsibility.

1. UNI and CIETT Corporate Members recognise that temporary agency work can, to different degrees, contribute to:

- facilitating fluctuations in the labour market, e.g. the matching of supply and demand;
- implementing active labour market policies and creating pathways between unemployment and employment by:
 - helping jobseekers entering or re-entering the labour market;
 - helping disadvantaged people entering into the labour market;
 - providing more work opportunities for more people;
- facilitating the transition between education and work, for example by providing students and young workers with their first access to professional life and an opportunity to gain work experience;
- facilitating the transition between assignments and jobs by providing agency workers with vocational training;
- promoting conversion between different types of work contracts, for example by assisting in a transition from a temporary agency contract to fixed-term or open-ended contracts;

¹ UNI Global Union industries covered by the agreement: agency staff, commerce, electricity, finance, gaming, hair and beauty, graphical, IT and business services, media and entertainment, postal, property services, social insurance, telecom.

² CIETT Corporate Members Committee: Adecco, Kelly Services, Manpower, Olympia Flexgroup AG, Randstad, USG People.

-
- improving life–work balance, for example by providing flexible working time arrangements such as part-time work and flexible working hours;
 - helping fight undeclared work.

2. UNI and CIETT Corporate Members agree that an appropriate regulatory framework for the operation of temporary work agencies needs to:

- guarantee that temporary work agencies do not compete to the detriment of workers' rights and working conditions;
- clarify the role, obligations and rights of the temporary work agency as the employer of the temporary agency workers;
- combine adequate protection, decent working and employment conditions for temporary agency workers and proper conditions for the operation of temporary work agencies in a well-functioning labour market;
- ensure that legislation regulating the use of temporary agency work is proportionate, non-discriminatory and objective; promotes decent forms of temporary agency work and effectively prevents potential abuses, such as undermining of employment conditions of workers;
- promote quality standards within the industry and prevent unfair competition by fraudulent agencies and/or user companies, counter abuses and illegal practices and fight human trafficking.

3. UNI and CIETT Corporate Members agree that a regulatory framework on temporary agency work must include and promote:

- principles as guaranteed by ILO Convention No. 181 and Recommendation No. 188 on private employment agencies, with a particular focus on the implementation of the non-fee-charging rule for jobseekers for temporary assignments and permanent placement services provided by the temporary work agency;
- fair treatment for temporary agency workers with regard to their basic working and employment conditions based on the principle of non-discrimination (for instance equitable, objective and transparent principles for the calculation of agency workers' wages and benefits, considering national legislation and practices);
- respect for freedom of association and the right to collective bargaining as guaranteed by ILO Conventions Nos 87 and 98;
- sectoral social dialogue at national and company levels for which collective labour bargaining is one appropriate means;
- prohibition of the replacement of striking workers by temporary agency workers without prejudice to national legislation or practices;
- attention to and clarity of benefits (i.e. salary, social insurance, pension, vocational training).

4. Actions to be taken jointly by the signatories:

On national level:

- Identify and review obstacles of a legal or administrative nature that may limit the opportunities for temporary agency work to operate, and, where appropriate, work with the national governments to eliminate them.
- Review the need for systems of licensing and inspection and, when relevant, work with the national governments for the introduction of such systems (which can include financial guarantees), which will contribute to the development of good industry standards, provided that such systems are proportional, non-discriminatory and objective and do not aim at hampering the development of temporary agency work.
- Work with the national governments to provide adequate and continuous social protection for temporary agency workers as well as subsistence payments provided for by safety nets after assignments.
- Promote sectoral social dialogue as the appropriate platform to negotiate working conditions of temporary agency workers as well as the conditions of use of temporary agency work.

At global level:

- Work with the ILO to promote ratification of ILO Convention No. 181 and the application of Recommendation No. 188.
- Cooperate with the ILO, IOM and other organizations to promote international instruments and actions to eliminate human trafficking (e.g. promotion of ratification and effective implementation of relevant ILO Conventions on forced labour and migration, Athens Ethical Principles, UN.GIFT).
- Continue to research the industry and further elaborate on perceptions and conditions for both workers and employers (e.g. on job creation, precarious work, etc.).
- Promote the establishment of a global sectoral dialogue forum on temporary agency work.

5. Implementation of this Memorandum of Understanding:

- UNI and CIETT Corporate Members commit to publicize this MoU throughout their membership and corporate structures, respectively.
- In order to assess implementation and address any disputes that may arise concerning the application of this MoU, UNI and CIETT Corporate Members will meet twice yearly. This meeting will among other things review mutual respect for and implementation of this MoU.
- The secretariats of both organizations will maintain ongoing communications between those meetings.

(Signed) Philip J. Jennings
General Secretary
UNI Global Union

(Signed) Leo Houwen
Chair
CIETT Corporate Members Committee

Date and place: San Diego, 24 October 2008.