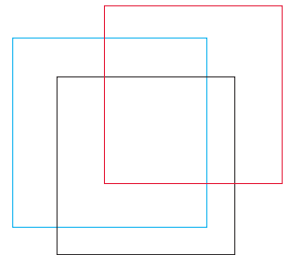




International
Labour
Office
Geneva

China: From an active employment policy to Employment Promotion Law

**Coping with economic restructuring
and labour market adjustments**



Employment
Policy
Department

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Based on a study by the Institute for Labour Studies
Ministry of Human Resources and Social Security,
People's Republic of China

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FOREWORD

China, now the second largest economy in the world, has seen spectacularly high economic growth over a prolonged period of nearly three decades. This high and sustained growth has been closely associated with massive economic, social and institutional reforms and with China's vision of its own "socialist market economy".

Since the start of the country's reform process in the late 1970s, there have indeed been significant changes in China's economy. The country's once planned labour market is giving way to a market-oriented system. These reforms have created a number of challenges. These include rising unemployment (it is estimated that more than 10 million jobs need to be created each year), widening income inequalities, addressing the needs of vulnerable groups – particularly those who face difficulty in finding work –and the need to develop high-skilled workers. In addition, the massive movement of workers seeking jobs in urban areas needs to be managed.

The signing of a Memorandum of Understanding between the Ministry of Labour and Social Security – now Ministry of Human Resources and Social Security (MoHRSS) – and the International Labour Office (ILO) in 2001 defined a framework for cooperation, based on China's national priorities and the ILO's Decent Work Agenda. This study is the result and one example of the fruitful collaboration between the MoHRSS and the ILO to showcase China's unique experience in economic restructuring, labour market adjustments and employment creation over the period 1990–2010.

Focussing on the formulation and implementation of China's active employment policies in a fast-changing context, the study elaborates on the path followed by the Chinese government to design, test and adapt its active employment policies. It shows how, building on successful results and lessons learnt, these policies were gradually improved, scaled up and finally upgraded to legislation.

The active employment policies in China are systematic and comprehensive. Their design assimilates good practices of the international experience in formulating employment policies while adapting them to national circumstances. Great achievements have been made and the adoption of the Employment

China: From an active employment policy to Employment Promotion Law

Promotion Law in 2008 received wide applause from the international community as well as the ILO. The Chinese experience is a good example of a successful policy development process, spanning many years, addressing huge challenges and devoting the necessary resources. We believe it can inspire many countries who face similarly difficult employment situations.

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The Chinese study was prepared in collaboration with the ILO. Mr Muhammed Muqtada was the key counterpart to the Chinese team of academics. He provided extensive guidance to the team and drafted this shortened English version of the study. Peter Auer, Michael Henriques, Sukti Dasgupta, Liu Xu and Claire Harasty also provided comments and inputs at various stages of the preparation of the study. Azita Berar Awad, Director of the ILO Employment Policy Department, Constance Thomas, former Director and Ann Herbert, Director of the ILO Beijing Office provided overall guidance to the ILO team.

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ABBREVIATIONS

AEP	active employment policy
EPL	Employment Promotion Law
FDI	foreign direct investment
GDP	gross domestic product
ILO	International Labour Office
MoHRSS	Ministry of Human Resources and Social Security
NPC	National People’s Congress
SIYB	start and improve your own business
SMEs	small and medium-sized enterprises
SOEs	state-owned enterprises

China is currently acknowledged as the second largest economy in the world. Its gross domestic product (GDP) growth has been spectacularly high over a prolonged period of nearly three decades. These developments are closely associated with massive economic, social and institutional reforms, and with the vision of China developing its own “socialist market economy”. Such changes and reforms were taking place at a time when globalization was intensifying, through the rapid flourishing of international trade, international financial markets, capital flows and technology transfer. China’s reforms confronted the dual challenge of developing a socialist market economy, and of effecting increasing integration into the global economy. In many ways, the two objectives were interlinked, and hence entailed a number of policy initiatives to balance the “opening” of the economy with domestic economic and social developments.

China stepped up the process of economic restructuring, especially during the 1990s, in order to adapt to the changes of a market economy and to the competition in international markets. Its GDP grew rapidly and its economic structure was undergoing transformation, through the accelerated industrialization and urbanization of rural areas.

The structural adjustment was not only changing the industrial structure, but also the employment structure. The share of the three usual industries in the GDP changed from 27 per cent to 15 per cent in the primary industry, 41 per cent to 46 per cent in the secondary industry and 31 per cent to 39 per cent in the tertiary industry, during 1990–2000. The share of the primary industry dropped continuously while the share of the second secondary industry increased by 4.6 per cent and the share of the tertiary industry increased by 7.4 per cent (table 1.1).

During the same period, the employment structure in China also changed notably, with a continuous and steady decline in the share of employment in the primary industry and increases in the secondary and tertiary sectors. The share of workforce in the primary industry dropped by 10.1 per cent, while that in the tertiary industry increased by 9 per cent (table 1.1). The absolute number

Table 1.1 GDP and employment structure in 1990–2000 (%)

Year	Primary industry		Secondary industry		Tertiary industry	
	GDP	Employment	GDP	Employment	GDP	Employment
1990	27.1	60.1	41.3	21.4	31.6	18.5
1995	19.9	52.2	47.2	23.0	32.9	24.8
2000	15.1	50.0	45.9	22.5	39.0	27.5

Source: China Statistical Yearbook (2008).

of the agricultural labour force decreased slowly after the 1990s, when productivity in agriculture improved, and rural workers increasingly moved to non-agricultural sectors for jobs.

Both the ownership and employment structure had undergone significant changes. While China was experiencing rapid growth and structural changes during the 1990s, the ownership structure was also undergoing profound changes. The share of output and employment in the public-ownership sector dropped, while the share of output and employment in individual, private and other ownership forms saw rapid growth. The speed of the growth of the private sector during the 1990s is illustrated in table 1.2.

The number of employees in the individual and private enterprises in urban areas increased from 7.6 million in 1991 to 26.69 million in 1997, with an average increase of 41.9 per cent yearly. Such a growth rate was similar to the rate of growth of foreign direct investment (FDI) including investments from Hong Kong (China), Macao (China) and Taiwan, China. Thus, the private economy became the major source of job opportunities in China.

Along with changing employment structures in various sectors and ownerships, the employment structure in urban and rural areas also witnessed great changes. In urban areas, employment increased by 3.3 per cent during 1985–97, while employment in rural areas dropped by the same proportion. The real change was in fact probably much greater, but it is hard to have an exact number due to the difficulties in measuring a moving population.

While rapid growth and modernization were key considerations of the economic reforms, these were not seen as being divorced from the objectives of building a stable, harmonious society. At the heart of the latter was the government’s “people-oriented” development strategy that incorporated the goal of full employment, towards which reforms have been undertaken to frame the related policies and institutions. This concerted attention has led to the initiation and

Table 1.2 Situation of employment growth in various ownership economies

Economy units	1991	1997	Average annual growth rate (%)
State-owned economy	106.64 million	110.44 m	0.6
Collective economy	36.28 m	28.83 m	-3.4
Shareholding economy	1.64 m (1993)	4.86 m	32.7
FDI, including Hong Kong, Macao and Taiwan	1.65 m	5.81 m	42.0
Individual and private economy	7.6 m	26.69 m	41.9

Source: *China Statistical Yearbook* (1996, p. 87; 1998, p. 127).

formulation of China's active employment policy (AEP), and the subsequent promulgation of the Employment Promotion Law. While the growth successes of China's economic reforms have been profusely researched, and documented, the concurrent social and labour market adjustments that China had to cope with has been relatively less known. This report provides an account of some of these issues pertaining to how the Chinese government, chronologically, coped with the massive labour adjustments that were warranted by the restructuring process, as well as the move towards increased participation of the market economy.

ECONOMIC REFORMS AND LABOUR MARKET DEVELOPMENTS IN CHINA

2

During the 1990s, China introduced a series of economic reforms that were designed towards modernization and economic restructuring through the infusion of higher technology, greater efficiency and competitiveness. Thus, the reforms had opened up the economy to undertake international transactions, and to attract technology transfers and inflows of foreign investments and advanced management experiences.

These reforms, in order to be effective, also implied that necessary developments took place at the national level. In particular, the infrastructure and market environment needed to be improved. The compulsions of globalization and international competitiveness, especially in attracting FDI, required that industries be restructured and upgraded. In China, this meant, first and foremost, the restructuring of the state-owned enterprises (SOEs), which would, as foreseen, have a massive impact on the labour market. The market-orientation of the reforms programme also required that the Chinese labour market would equally develop characteristics of a socialist market economy. In other words, the economic reforms were intricately linked with various employment and labour market reforms, both in order to cushion the adverse impact of the restructuring process, as well as in fostering the development of the new labour market.

The reform policies that had a great impact on the labour market covered the following areas: (i) implementing an employment contract system to reform the recruitment system; (ii) carrying out a re-employment scheme in order to support structural adjustment and SOE reforms; (iii) implementing a migration programme to address the employment of the migrating rural labour force; and (iv) implementing active employment policies to address the transition from a planned to a market economy system.

2.1 REFORM OF THE EMPLOYMENT SYSTEM IN SOEs THROUGH IMPLEMENTATION OF AN EMPLOYMENT CONTRACT SYSTEM

The State Council issued four provisions, in July 1986, which required the SOEs to implement an employment contract system with appropriate revisions of the recruitment system, the termination of employment system and unemployment insurance. The provisions on the employment contract system defined clearly the rights and liabilities of the employer and the employee. The provisions on the recruitment system abolished the internal recruitment practices of SOEs; the provisions on termination of employment regulated the approaches to dismissals; and those on unemployment insurance provided measures to address unemployment. The Labour Law of China, promulgated in 1995, which reiterated the implementing of labour contract system in all types of enterprises, guaranteed the rights of enterprises in recruitment policies. These reforms laid the foundations for the subsequent labour market regulatory framework.

The State Council, in 1992, issued a regulation on transforming the operations of the publicly owned enterprises entailing major reforms of the enterprises. It defined the freedom of decision-making by the enterprises in a number of areas, which included: the right to hire employees on their own, right to human resources management, wage setting, bonus distribution, promotion, and the right to decide how many employees are to be hired, when to hire, how to hire, and so on. The regulation also provided provisions on termination of labour contracts, dismissal and the replacement of redundant labour. Regarding human resources management, a mechanism of personnel promotion was established, and the existing lifelong entitlements were removed. Further, the enterprises could decide whether to promote and increase the salaries of their employees based on working skills, labour intensity, responsibility and various other working conditions, instead of being guided by the principle of egalitarianism that had existed in the past. The measures had the following effects:

1. The past employment system of the SOEs was abandoned; increasingly the employment status was changed from being employed by the state to being employed by enterprises. The management mechanism of employees was transformed through implementation of the employment contract system (that is, all the employees should sign a contract with the enterprise) and the responsibilities and the rights of both sides were defined through a regulatory framework.
2. Reform of personnel management followed market principles, which included workforce management, fair competition and promotion policies. The enterprises were classified as large, medium and small based on their

2. Economic reforms and labour market developments in China

economic scale instead of administrative grades. The salary scales were adjusted according to economic conditions and the performance of enterprises.

3. An efficiency- and productivity-based wage system was set up, which was linked to the restructuring of operation mechanisms, productivity and the profits of enterprises. Labour remuneration was closely linked with performance.

The concept of “labour market” was used formally in a government circular, issued in November 1992, on the “Decision on the establishment of a socialist market economy system”. The concept of “service market”, which had been used for ten years, was replaced by the concept of “labour market”. It was a significant breakthrough that the labour market was recognized as an important cornerstone of the evolving market economy and, with it, the labour market in China entered a new stage of development.

2.2 IMPLEMENTATION OF A RE-EMPLOYMENT SCHEME TO FACILITATE THE STRUCTURAL ADJUSTMENT AND REFORM OF SOEs

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

As noted earlier, the reform of SOEs was a critical component of China’s economic reform programme. It aimed at setting up a modern and competitive enterprise system. A serious constraint was that the enterprises were saddled with redundant employees. With deepening reform of the enterprises, technology innovation and economic restructuring, it was unavoidable that workers would be laid off. A key consideration at the time was maintaining social stability, which would rely on how the re-employment of the laid-off workers was solved. Therefore, the employment issue of the laid-off and unemployed workers from the SOEs through a re-employment project was extremely significant. The reform of SOEs and economic restructuring in general also meant changing the rules of markets and the government with regard to the establishment of a new social security system, including old age insurance, unemployment insurance and medical insurance.

The SOEs had hitherto taken on several functions of social services for the government and the workers for a long time. Moreover, while the reforms meant that the enterprises could no longer retain redundant workers unconditionally, these enterprises were, however, under obligation to protect their basic livelihood over a transition period. For example, internal arrangements were made through labour reallocation and the adoption of flexible employment. There were mainly three types of arrangement: enterprises changed their job structures to promote internal movement; enterprises set up a sales company internally to place some redundant workers; enterprises supported market-oriented service companies to be set up to employ workers. Many enterprises helped such service companies until they could run by themselves and take full responsibility for their own profits and losses.

The implementation of a re-employment scheme brought about not only the reform of the labour and social security system but also set the basis for the labour market formation in China. Some of the details of the re-employment scheme, and their role in the labour market development are examined in a later section.

2.3 IMPLEMENTING AN ORDERLY MIGRATION PROGRAMME FOR THE RURAL LABOUR FORCE

The scale of trans-regional migration since the 1990s has expanded vastly with the rapid economic development in the south-eastern areas where there was a rapid increase in employment opportunities. However, the so-called “migrants tide”, pre- and post-spring festival every year put great pressure on transportation facilities and impacted the cities greatly, as quantities of migrants come back and forth. This phenomenon has not only brought a series of social problems but serious damage to the migrant workers themselves, which was also noticed by international society.

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

The Chinese government also initiated rural development and employment programmes from 1991, for the surplus labour force in agriculture. The (former)

2. Economic reforms and labour market developments in China

Ministry of Labour, Ministry of Agriculture and the Development and Research Centre of the State Council jointly set up and implemented pilot projects for the absorption of the rural labour force. The pilot projects also focused on coordinating employment in urban and rural areas, organizing training for labour transfer, promoting development and employment in the western region and supporting business start-ups for those who returned home. The projects sought to carry out the following: first, to build and improve organization systems for planning and managing employment in urban and rural areas as a whole; second, to establish a vocational training system which covered both urban and rural areas in order to provide efficient services on vocational skills improvement; third, to establish a public employment service system in both urban and rural areas; fourth, to intensify regulations to protect the rights and benefits of the urban and rural labour force; and fifth, to improve the social insurance system and extend social security to the rural labour force.

2.4 IMPLEMENTING AN AEP TO FACILITATE THE TRANSFORMATION FROM A PLANNING TO A MARKET SYSTEM

The central government's decision in September 2002, to strengthen the re-employment service for the laid-off workers, entailed the introduction of a series of supporting policies such as: tax exemption, micro-loan guarantees, social insurance subsidies, job subsidies, employment services and vocational training. All these formed the framework of an AEP with so-called "Chinese" characteristics (box 2.1).

Box 2.1 Background considerations on the active employment policy (AEP)

1. The economic system was being transformed from a planning to a market-based system. The Chinese government had put forward that the main task in the first two decades of the twenty-first century was in consolidating the socialist market economy. An important consideration was on making the transition on ownership systems. The decision was to push the shareholding system in public ownerships to develop the basis of modern property rights, and to accord equal treatment to the private non-public ownership economy.

2. The government attached great importance to employment, and recognized that employment was the foundation of people's livelihood. A "people-oriented" reforms programme gave more explicit guidance on the development of labour and social security, and placed employment as central to economic and social development. The government formulated and implemented an AEP to provide a strong framework for realizing full employment, protecting workers' legal rights and enhancing labour quality and workers' income.
3. The employment policy coverage was being expanded gradually from initial coverage of the laid-off workers and unemployed from SOEs to all labour. This was necessary to cope with the process of rapid industrialization, urbanization and market-orientation, and with the coordinated social and economic development in urban and rural areas.

2.5 THE LAID-OFF WORKERS: A PROFILE

As we have noted, the rapid restructuring of the SOEs inevitably led to massive lay-offs and labour displacements. Since the SOEs were shedding labour in their bid to gain efficiency and international competitiveness, there emerged significant imbalances in labour supply and demand, especially in the secondary, manufacturing sector. This was a huge challenge for the Chinese authorities, that is on how to address the imminent issue of re-employing the laid-off workers.

It was difficult for the laid-off workers to become re-employed, not only because their number was so great, but also because their skills were either low or very specific. Some of the characteristics of these workers, as found through sample investigations, are given below.

1. *The majority of laid-off workers were women and older people with a lower education level.* Statistics in 1999 showed that there were 2.65 million female laid-off workers, that is, nearly 44.6 per cent of the total number of redundant workers (table 2.1). According to figures recorded in 1999, 42.3 per cent of the laid-off workers were between 36–46 years old, 21.7 per cent were more than 46 years old, that is, 64 per cent of the laid-off workers were more than 35 years old (table 2.1). Among the laid-off workers, 50 per cent had low levels of education with less than nine years of schooling, that is, without entering high school; 38.4 per cent had a high school or similar academic education and only 7.9 per cent had junior college or higher-level education.

2. Economic reforms and labour market developments in China

Table 2.1 Characteristics of laid-off workers at the end of 1999

	Quantity (10 000)	Proportion (%)
Total number of laid-off workers from all enterprises	937.0	100.0
Total number of laid-off workers from SOEs	652.0	69.6
Age structure		
Less than 35	234.1	35.9
Between 35 and 46	275.8	42.3
Older than 46	141.5	21.7
Gender structure (year 1998)		
Male	329.4	55.4
Female	265.2	44.6
Education structure		
Junior college or higher level	51.5	7.9
Secondary vocational school or high school	250.4	38.4
Middle school or lower level	350.1	53.7

Source: data published by the MoHRSS.

2. *The majority of laid-off workers came from SOEs and had worked in the production line, especially in the manufacturing industry.* As we observe from table 2.1, the redundant workers from SOEs in 1999 constituted nearly 70 per cent of workers that were laid off by all enterprises. In June 2000, based on a random sample survey of laid-off workers in Shenyang and Wuhan, a study showed that 82.9 per cent of laid-off workers were employed in the manufacturing industry, 4.3 per cent worked in the wholesale, retail, trade, repair and catering industries, 3.6 per cent worked in the transportation, storage, post and communication industries and 2.5 per cent were in the construction industry (table 2.2).

Table 2.2 Industry sources of the laid-off workers

Types of industry	Proportion (%)
Agriculture, forestry and animal husbandry	1.2
Fishery	0.1
Mining and quarrying	0.5
Manufacture	82.9
Production and supply of electric power, coal gas and water	1.6
Construction	2.5
Wholesale, retail, trade, repair and catering	4.3
Transportation, storage, post and communication	3.6
Financial and insurance	0.3
Real-estate and business	0.5
Public administration	0.5
Education	0.2
Community, social and individual service	1.8

Source: survey conducted in June 2000 by the Labour Science Institute, MoHRSS.

It was also observed by the same sample that most of the laid-off workers had worked as operational employees before they became unemployed, 33 per cent of whom were assembly workers, 20.8 per cent were craftsmen and 11.6 per cent were clerks (table 2.3).

3. *The income level of the laid-off workers' families was relatively low.* The average monthly income of a redundant workers' family, as revealed in the survey, was only ¥847, that is, ¥269 per person (table 2.4), which was barely ¥70 more than the minimum living standard of urban citizens in Shenyang

2. Economic reforms and labour market developments in China

Table 2.3 Occupation structure of the laid-off workers

Types of education	Proportion (%)
Administrative staff	4.9
Professional staff	4.0
Technical staff	10.9
Clerk	11.6
Service, shop and marketing staff	6.4
Agriculture and fishery workers	0.1
Craftsman and other workers	20.8
Operational and assembly workers	33.0
Primary occupation	8.3

Source: survey conducted in June 2000 by the Labour Science Institute, MoHRSS.

and Wuhan.¹ Thus, the laid-off workers generally belonged to relatively poor income groups. Besides, the laid-off workers were largely responsible for various expenses such as looking after the old-age people and providing tuition fees for children.

The average number of family members of the laid-off workers was 3.2, which was similar to that of urban residents.² The survival of their family depended on major contributions made by the income of other family members as well as from “hidden” employment. According to the survey, 11 per cent of the family income of laid-off workers came from the basic living standard allowances; 28.1 per cent came from their hidden employment while 60.9 per cent of family income was contributed by other members in the family (table 2.4).

¹ The minimum living standard of urban citizens in Shenyang and Wuhan was ¥195 in 2000.

² The average number of family members in urban in China was 3.14 in 1999.

Table 2.4 Family and income characteristics of redundant workers

Items	Quantity
Average number of members of the laid-off workers family (persons)	3.2
Average monthly family income (¥)	874.3
Average monthly family income per capita(¥)	269.2
Proportion of family income (%)	
Other family members' income	60.9
Basic living standard allowance	11.0
Hidden employment income	28.1

Source: survey conducted in June 2000 by the Labour Science Institute, MoHRSS.

4. *Almost half of the laid-off workers became re-employed.* The sample survey brought out a profile on what was happening to the job placements of the workers who lost their jobs in the SOEs. According to the survey, 46.8 per cent of the laid-off workers were re-employed. The mode of their employment could be classified as of three types: 67.2 per cent of them were arranged by the service agencies, 31.3 per cent of them found jobs on their own and 1.5 per cent of them were engaged in self-employment (table 2.5).

Table 2.5 Employment modes of the laid-off workers

	Proportion (%)
The proportion of laid-off workers who were re-employed	46.8
Employment modes	
Arranged by service agencies	67.2
Find jobs on their own	31.3
Self-employed	1.5

Source: survey conducted in June 2000 by the Labour Science Institute, MoHRSS.

2. Economic reforms and labour market developments in China

5. *Gender differences in re-employment were marked.* The men's re-employment rate (57.6 per cent) was higher than that of the women's (38.8 per cent). The proportion of men creating their own businesses was 20 per cent higher than that of women.
6. *The young workers had some advantage in getting a job in an enterprise while the older ones were inclined towards creating their own business.* The survey reported that there appeared to be an inverse relationship between age of the workers and their re-employment rates. The re-employment rate for those under the age of 35 years was 48.2 per cent, while for those who were older than 45 years it was 44.7 per cent. A main reason for this concerned the workers' health and social insurance as the older workers were likely to incur health care costs more frequently. The social security system was still under review and it would make the enterprises bear higher costs if they hired the older workers because of the social insurance contribution.

On the other hand, the older workers fared relatively better in creating their own businesses. Based on the survey taken by the Labour Science Institute, the group between 35 to 40 years had a higher proportion in seeking self-employment, 5.6 per cent higher than the average of the same. The group above the age of 45 years had a business start-up rate that was 7.45 per cent higher than the average of the sample.

7. *The re-employment rate of the laid-off workers varied with different education levels.* Generally speaking, the laid-off workers with an education level above junior college had the highest re-employment rate, recorded at 56.3 per cent. The reason was mainly because the vocational skills standards had not been universally recognized by enterprises and hence the education level became the important standard by which enterprises could assess the employees. In fact, the workers with education levels of less than middle or primary school were inclined to become self-employed, or create start-ups.
8. *Most of the workers appeared to be re-employed in the private sector tertiary enterprises.* As shown in table 2.6, a large proportion of workers were re-employed by individual or private enterprises; 28.7 per cent and 32.9 per cent respectively. In addition, 19.7 per cent of laid-off workers were re-employed in SOEs. Another 6.5 per cent were engaged in other types of enterprises.

Table 2.6 Re-employment of laid-off workers

Types of enterprises	Proportion (%)
SOEs	19.7
Government units	3.9
Private enterprises	32.9
Joint ventures	6.5
Household business	2.2
Individual enterprises	28.7
Other	6.1

Source: survey conducted in June 2000 by the Labour Science Institute, MoHRSS.

The laid-off workers were predominantly in the tertiary sector industries, accounting for nearly 73 per cent of the re-employment. The secondary, manufacturing sector could only absorb 27 per cent. This is understandable given that the manufacturing sector was undergoing a rapid restructuring process.

RE-EMPLOYMENT OF THE LAID-OFF WORKERS: THE ORIGINS OF CHINA'S EMPLOYMENT POLICY

3

While the enterprise-level restructuring entailed massive reductions of workers, the prospects of redundant workers gaining back jobs were, at that time, difficult. Besides, the profile of the redundant workers, as we noted in the previous section, showed that they were a relatively disadvantaged group, largely because of the higher incidence of older workers, or workers with inadequate skills. Although the SOEs were acting under state guidance to improve efficiency through mergers and shedding of labour, they were also advised to seek ways of rehabilitating the redundant workforce and implementing various re-employment projects. Meanwhile, a basic living standard guarantee scheme was devised in order to protect the workers. The government was indeed confronted with a market-based employment system, and had to undertake measures towards a stable labour market.

3.1 THE ORIGIN AND DEVELOPMENT OF THE RE-EMPLOYMENT SCHEME

The re-employment scheme was a measure taken by the Chinese government when the social security system and labour market mechanism were not in perfect order to protect the rights and benefits of workers. The government resorted to “social mobilization” and urged all stakeholders to extend support to this special group in terms of finding jobs. The policy included jobs placement, unemployment insurance, skills development, advancing employment services and so on. The inherent aim was to let the market play fully the role of absorbing the labour force, facilitating the reform of SOEs and enhancing the employment system, as warranted in a socialist market economy.

In early 1994, the re-employment project was first piloted in more than 30 cities that had a fair share of unemployed workers, such as Shenyang. To some extent, the project made use of the economic lever of unemployment in-

insurance in order to motivate both the employers and the employees. The experiences from pilot cities showed encouraging achievements in re-employment and diversion and jobs placement for redundant workers in enterprises. For instance, in 1994 more than 3,000 workers in Shenyang who had been unemployed for more than six months were re-employed within the year, while more than 40,000 workers were diverted and reinstated elsewhere. Meanwhile, the government also encouraged and supported workers to find jobs by themselves, and organized various training for that.

Based on the experiences of the pilot programmes, the (former) Ministry of Labour issued a policy on implementing a re-employment scheme in April, 1995. Nearly 300 cities were engaged in the re-employment project in 1995, and about 1.4 million long-term unemployed and redundant workers were re-employed with the support from the re-employment scheme.

The central government also sought to guarantee a basic living standard for the laid-off workers from SOEs, together with efforts to promote their re-employment. Thus it was planning to set up a social security system and an employment mechanism which would accommodate the requirements of a socialist market economy, within a period of five years. Other departments of the State Council also issued various kinds of re-employment measures: in 1996, a women's committee put forward a proposal for helping 1 million female workers to become re-employed during the Ninth Five-Year Plan, with a strong focus on business start-ups by female workers through various kinds of support; in 1998, the (former) Ministry of Labour announced an implementation plan for training 10 million workers in three years, that is, organizing 10 million laid-off workers to join vocational guidance and training from 1998 to 2000 in order to develop practical skills and to enhance the capacity of creating businesses; the Central Communist Youth League and the Ministry of Labour and Social Security³ jointly implemented a programme on "business start-ups by young laid-off workers".

3.2 THE MAIN CONTENTS OF THE RE-EMPLOYMENT SCHEME

The re-employment project was effectively a social programme aimed at rehabilitating the unemployed in a short time, and helping the enterprises to arrange their redundant workers through making use of policy support and various employment services. It involved a combination of measures such as: jobs placement by enterprises, self-employment by individual workers and assistance by

³ The Chinese government underwent institutional reform in 1998; the Ministry of Labour changed its name to the Ministry of Labour and Social Security, which strengthened the function of social security.

3. Re-employment of the laid-off workers

the government and society. A significant aim of implementing the re-employment scheme was in exploring the whole function of the employment service system and in reforming means of solving redundancy without depending purely on relief from enterprises. There were several aspects of the re-employment scheme, some of which are as follows:

1. *Vocational guidance workshops.* During the workshops, the unemployed were introduced to jobs information, means of finding jobs, the employment situation, policy and ideas, and to designing re-employment plans.
2. *Participation in transition training.* The government supported the enterprises in organizing training activities and mobilizing social resources for the workers to improve their vocational skills and employability through various means. The training fee was mainly provided by the enterprises, with some subsidies from the unemployment fund.
3. *Incentives to enterprises for setting aside jobs for the unemployed.* The tertiary enterprises could enjoy “favourable policy” if they arranged to set aside a proportion of jobs for the unemployed and redundant workers. Such enterprises could get a production assistance fee from labour administrative departments.
4. *Encouraging employers to hire the unemployed and redundant workers.* Those enterprises which provided unemployed workers with an employment contract of more than one year could enjoy a wage subsidy equal to their unemployment insurance fund.
5. *Supporting workers to find jobs by themselves or create their own business.* Workers could apply to the relevant departments for coordination, especially if they needed a venue, booth, facility or logistics to create a business. They could also apply for start-up funds from the unemployment insurance fund.
6. *Encouraging the enterprises to coordinate and adjust vacancies amongst themselves regarding re-employment and to provide the necessary services such as employment guidance, jobs information and consultation.*
7. *Encouraging employers to hire redundant workers on a probation period of 3–6 months.* During the probation period, the redundant workers could retain their contract relation with their former enterprises and could return if they were not qualified for the new jobs.
8. *Incentives to set up dedicated labour-service enterprises or agencies.* These enterprises could enjoy a “favourable policy” and incentives if they arranged a proportion of jobs for redundant workers. These enterprises could also apply for a development fund from the unemployment fund when necessary.

3.3 IMPLEMENTING A BASIC LIVING GUARANTEE SYSTEM FOR THE LAID-OFF WORKERS FROM SOEs

In 1998, the reform of SOEs in China entered an important stage, when the government decided to create conditions to allow large- and medium-sized SOEs to step out of a difficult business situation. These included measures aimed at achieving efficiency and greater competitiveness. Retrenchments were foreseen, and hence the government adopted soft-landing measures to solve the issue of laid-off workers. The basic plan, as stated earlier, included two aspects, that is, ensuring the basic living standard and facilitating re-employment. The government mobilized all departments and social groups to conduct re-employment services jointly. The (former) Ministry of Labour was mainly responsible for formulating policy and the implementation of the basic living guarantee, social insurance and re-employment of laid-off workers, and for guiding local labour and social security departments. The Ministry of Labour and Social Security had to cooperate and coordinate with various other departments since the services for the laid-off workers were linked to the functions of many other departments. For instance, the (former) State Economy and Trade Commission was responsible for the process of the reform of SOEs and the scale of the laid-off workers at that time. The Ministry of Finance was in charge of the appropriation and management of funds for the basic living standard guarantee scheme and re-employment. The banks were responsible for providing support to small enterprises for their loans. The industry and commerce departments were responsible for support to individual business ventures. The taxation departments were responsible for tax deduction and exemption on individual business initiatives or work for enterprises which hired laid-off workers. In addition, the central government required all democratic parties, associations of industry and commerce, trade unions, women's federations, the Youth League and other social groups to advance their services for the redundant workers. The associations of industry and commerce mobilized individual and private enterprises to hire displaced workers. The trade union established 800 job placement agencies all over the country which helped 500,000 unemployed to get jobs.

The fund which was used to guarantee the basic living standard and social insurance contribution came from three channels: one-third from budgetary outlays, one-third from enterprises and the remaining one-third from social pooling. For those enterprises in the central and western regions, or in the old industrial base, and which had difficulty in acquiring financing, central government finance would provide additional support. The government also adjusted the unemployment insurance policy at that time, allowing the unemployment insurance fund to be used in guaranteeing basic living standard

allowances. The so-called social pooling channel of funding largely depended on the unemployment insurance fund.

Since the workers' difficulty in finding jobs was also related to the imperfections of the social security system, the central government put forward proposals to carry out reforms of the social insurance and housing systems in all enterprises, including individual and private enterprises as well as foreign enterprises. This was seen to be consistent with the requirements of a socialist market economy and a modern enterprise system, to create conditions for labour allocations and labour mobility. It was stipulated that the years of service and pension contributions in the past would be recognized irrespective of where and how the laid-off workers were re-employed. Thus when the workers reached the legal retirement age, they could enjoy pension benefits.

Regulations sought to deepen the reforms of the pension systems of enterprises in 1998, through mobilizing social pooling at the provincial level for a basic pension, setting up a regulatory system of pension funds, and through systematic management of social insurance operating agencies in provinces, autonomous regions and municipalities. For a smooth functioning of the labour market in a socialist market economy it was imperative to understand and monitor the evolving labour market. The central government required the governments at all levels to vigorously enhance the construction of information systems that were standardized and modern. The public employment placement agencies should open special services window for the workers and provide free vocational guidance and jobs placement.

3.4 ESTABLISHMENT OF RE-EMPLOYMENT SERVICE CENTRES AT THE ENTERPRISE LEVEL

As stated earlier, the central government regulated that all SOEs which had re-trenched workers should establish re-employment service centres. The re-employment service centres came to be recognized as the principal carriers of policies concerning the basic cost of living allowances for redundant workers and the unemployed, as well as their re-employment. The enterprise-level re-employment service centres were organizations for administration and service, established by enterprises under the instruction of the government, to safeguard the basic living of their laid-off workers, to pay social insurance contributions on their behalf and to facilitate their re-employment. The first centre was founded in Shanghai in July 1996, the experiences of which were then disseminated nationwide. By September 1998, almost all SOEs which had to shed labour had established such a centre.

When Shanghai took the initiative and established the first re-employment service centre, its textile and electronic apparatus sectors had been experiencing problems of excess production capacity and less-advanced technology. Their large revenue deficit made the restructuring imperative. Meanwhile, some poorly performing enterprises were then put on the list of bankruptcy, closure or mergers. For the textile sector, this implied that there would be nearly 126,000 redundant workers accounting for one-third of the total number of textile workers.

Re-employment service centres for the textile and electrical apparatus sectors were set up in July 1996, in order to accommodate these laid-off workers, maintain social stability and promote the smooth progress of structural adjustment. In the same year, 100,000 workers entered the centres, among which 70,000 were from the textile sector and 30,000 from the electrical apparatus sector. In 1997, another five centres were established for the light industry, metallurgy, electro-mechanical, chemical, medical and pharmaceutical, and the building materials sectors, respectively, covering almost all sectors and industrial enterprises undergoing restructuring in this municipality. By the end of 1998, the total number of redundant workers entering the centres reached 583,000, of which 420,000 had left under various arrangements. The exit ratio was 72 per cent. The establishment of the centres was thus an effective cushion for the adverse employment effects of restructuring and downsizing. The sector soon returned a profit of ¥350 million.

The practice of Shanghai proved that the establishment of re-employment service centres was seen as an innovative and effective arrangement to ensure the basic living standard of the redundant workers, help them become re-employed and promote enterprise restructuring. The workers were not pushed out into the community, nor were they fully handled by the state as in the planned economy. The arrangements of re-employment service centres also provided a buffer time for both the community and the workers, so that various measures could be explored.

In summary, the re-employment centres had three functions. First, there was the payment of the basic living allowance to redundant workers. For those who entered the centres, the allowance, in principle, could be higher than the unemployment benefit. Second, there was the payment of the social insurance contribution on behalf of the redundant workers. Centres were required to pay the contributions of various social insurances for laid-off workers. Third, there was the organization of vocational guidance and re-employment training to help and facilitate the workers' re-employment.

The re-employment centres were characterized by an exit strategy, that is, the laid-off workers would not stay in the centre for a period of more than three years. If they were unable to gain re-employment within that period, their relationship with the enterprises would be severed. They would then be categorized

as unemployed and be eligible for unemployment benefit for a maximum period of two years. Those who were still not able to find a job in these two years could apply for social relief in compliance with rules and regulations, as long as their incomes were below the minimum cost of living for urban residents. The redundant workers, when leaving the centres, were entitled to compensation for retrenchment from their former enterprises and severance of their labour contract, according to the provisions of the Labour Law.

3.5 THE RE-EMPLOYMENT SCHEME IN COMMUNITY SERVICES

While a specific re-employment programme was deemed necessary to address the immediate concerns of the redundant workers, the government had articulated these concerns into its overall development strategy, to maintain the necessary economic growth, employ active fiscal policies, enhance domestic demand, and increase investment in infrastructure and fundamental industries. The re-employment scheme was fostered through multiple policy channels.

The tertiary industry was seen as having a large employment potential, especially the community services that were closely linked to the daily life of residents, such as catering, repairs, domestic service, homecraft and many others. To this end, the government brought forward a series of policies and measures concerning the tertiary industry, including: to strengthen the construction of the tertiary industry's facilities, increase investment in it, reform its pricing policies and improve urban planning and construction policies; and to ease constraints on private and small enterprises engaged in the tertiary industry. In addition, the state-holding banks were required to set up a special credit department for small businesses, and to enhance their credit support to small and medium-sized enterprise (SMEs).

In order to facilitate the development of the community service sector, the financial departments of the government at all levels were required to subsidize some of the community service projects, according to their local financial situation.

3.6 THE RE-EMPLOYMENT ASSISTANCE PLAN FOR WORKERS LEAVING THE CENTRES

In order to overcome the difficulties faced by the workers who were leaving the centres, the Government organized a Re-employment Assistance Plan to provide timely and effective services (box 3.1).

Box 3.1 The Re-employment Assistance Plan

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

1. On-site counselling and policy assistance to ensure that each laid-off worker participated at least once in counselling activities before leaving the centre.
2. Vocational guidance assistance to help laid-off workers analyse their own conditions for identifying proper jobs that fitted in with their personal situations, or for achieving self-employment.
3. Employment information and job assistance to provide employment information to the laid-off workers and the unemployed who were willing to find re-employment.
4. Skills training assistance to ensure that each laid-off worker who wished to have access to skills training received training at least once either free or at a discounted cost.
5. Assistance for continuation of the social insurance relations. The social insurance administrative agencies should help the re-employed (including those engaged in individual businesses) with continuation of their social insurance relations and collect the social insurance contribution.
6. Assistance with the basic living guarantee. The unemployment insurance administrative agencies should review the application of the unemployed and provide benefit to the qualified applicants in accordance with the regulation.
7. Assistance to the most vulnerable groups. Priority should be given to the most vulnerable to help them get a community service job. The community and neighbourhood officials should regularly visit these families and collect first-hand information about this condition.

3.7 LAID OFF AND THEN UNEMPLOYED: SHIFTS IN WORKER STATUS

The safeguarding of the basic living standard of laid-off workers has always been understood as a temporary policy used in the transition period of Chinese economic development. It was essentially a social security measure, with Chinese characteristics, for collectively solving the difficulties of the laid-off workers, while the overall social security system was under review. Therefore, right from the moment the re-employment service centres were established it was envisioned that the basic cost of living allowances provided by the re-employment service centres and the basic cost of living allowances provided by the unemployment insurance would converge, and be merged.

In order to protect workers leaving the re-employment service centres, China established a so-called “three guarantees” system: basic cost of living allowances to laid-off workers; unemployment benefits to unemployed persons; and a minimum living guarantee to urban residents. The three guarantees system came to be tested when large numbers started leaving the centres. The unemployment insurance fund was under increased pressure in some localities, and in some places the fund was in deficit. Therefore, the concern was on how to improve the unemployment insurance system, and enhance the capacity of the unemployment insurance fund. The results of many surveys showed that the key concern of laid-off workers who were leaving the centre was about their old-age pensions and health care when falling sick, that is, the continuation of social insurance relations. According to a sample survey conducted by the Ministry of Labour and Social Security in ten cities in 2001, 78 per cent of laid-off workers mostly worried that their pension and medical insurance relations would not continue once they left the centres.

On the other hand, there were concerns too from the disadvantaged enterprises, who could not afford to pay full compensation for severance pay to workers. Based on the average monthly salary in SOEs (¥550 in 1998) and average years of service of redundant workers (20 years), the payment for serving a labour contract would be ¥11,000 on average. As there were 5.4 million workers in the centres, the compensation due would be nearly ¥59.4 billion.

Generally speaking, the nationwide convergence of protection for laid-off workers with the unemployment protection scheme made big strides from 1999. This achievement can be illustrated by the change in the ratio of the number of unemployment insurance beneficiaries with those with access to the basic cost of living allowances. By and large, the number of unemployment insurance beneficiaries increased, while the number of laid-off workers entering the re-employment service centres declined (see table 3.1).

Table 3.1 The two categories of protection in the initial years of the AEP

Date	Number of unemployment insurance beneficiaries (10,000 persons)	Number of laid-off workers protected (10,000 persons)	Ratio of two forms of protection (laid-off workers referred as 100)
Apr. 1999	77.4	562.1	14:100
Dec. 1999	108.7	623.8	17:100
Dec. 2000	190.0	613.5	31:100
Jul. 2001	247.6	568.4	44:100

Source: Ministry of Labour and Social Security, MoHRSS.

While the convergence had shown progress at the national level, there were significant differences between various regions and provinces. To facilitate laid-off workers to leave the centres and to unify the two forms of protection will continue to be a difficult process. Only with expanded employment, increased re-employment rates, as well as more permanent solutions to a better livelihood of laid-off workers, will there be faster convergence.

CHINA'S ACTIVE EMPLOYMENT POLICY: THE FRAMEWORK

4

4.1 THE BACKGROUND AND CONTEXT

As we observed in the previous sections, it was the initial reforms of the SOEs that appeared to usher in major structural changes in the various economic sectors, the regions and the labour markets. Against the backdrop of China's accession to the World Trade Organization, the SOEs had to undergo sweeping reforms, reorganization and restructuring to enhance their efficiency and productivity to be able to adapt to global competitiveness. The reforms towards greater participation in the global economy also contained various measures to promote the private sector ("non-public economy") towards China's building up of a "socialist market economy". While reforms helped to improve the quality of SOEs, this was, as we observed earlier, a period of massive lay-offs of workers. However, thanks to the rapid growth of the Chinese economy, and various public interventions, nearly 16.8 million out of the 25.5 million laid-off workers obtained re-employment in different forms, and overall employment increased tangibly in the national economy, especially during 1998–2001.

Re-employment of the laid-off workers from SOEs did not come about simply through growth; as we saw in the previous section, various government initiatives and special measures were undertaken to support the redundant workers. Despite its rapid economic and job growth, during the 1990s China confronted a mixture of labour market developments that needed immediate redress: re-employment of the laid-off workers, especially from the SOEs; job opportunities for the unemployed in general and the new additions to the urban labour force; and addressing the huge influx of rural migrant workers. The employment challenge at that time was seen as how to move towards "full employment" of the labour force in a situation of excessive over-supply of labour, with variable, and often incompatible, skills quality. Evidently, during the Tenth Five-Year Plan (2001–05) there were concerns over how far the total volume of employment could be increased to meet the employment challenge. At that

time, an estimated 22–23 million people, in addition to the laid-off workers, were seeking job opportunities in the urban areas when only 8 million jobs were being created each year. Meanwhile, another 150 million surplus rural labourers were potentially seeking employment in the urban centres. Furthermore, the employment challenge was not simply one of quantity. The economic and firm-level restructuring that was taking place implied that large numbers of the workforce were laid off from traditional industries and were experiencing difficulties in being reinstated in the increasingly modernized industries. There was indeed a growing imbalance of labour demand and supply, and skills mismatches across different regions and sectors. In addition, those who were elderly among the workforce, or those with a single skill, were found to be particularly vulnerable. Various facets of the employment challenges, and the great importance China attached to employment for all, required a comprehensive understanding of, and approach to, employment policy in the economy.

A significant step towards the articulation of a comprehensive employment policy was the concept of “employment is the root of people’s livelihood” (Jiang, 2006). This proposal, made in September 2002, marked a fundamental shift in employment policy focus, that is, from one largely devoted to re-employment and containing of unemployment, to one that stressed the promotion of employment as a strategic development goal. Such employment promotion, within the overall objective of achieving a socialist market economy warranted a closer investigation and thorough analysis of the following:

1. the mutual interaction and impact between economic growth and employment expansion, and the embedding of employment as a significant consideration in development planning;
2. the careful balancing of economic restructuring and employment expansion, especially through appropriate emphasis on labour-intensive SMEs and technology and innovation in a multi-ownership production system;
3. the impact of increasing policy reforms on expansion of employment, such as to balance industrial efficiency with labour market adjustments, that is, redundancies and labour market flexibility that may emerge out of industrial mergers, amalgamations, downsizing and bankruptcies;
4. the coordinated development of the urban and the rural economies to promote employment, and to better manage the mobility and fair treatment of surplus rural labour that may migrate to urban centres;
5. the enhancements and improvements of the social security system in the process of employment generation, through (i) providing allowances to ensure that the unemployed and laid-off workers can meet the basic cost

of living and (ii) establishing guarantees toward pensions and medical insurance, and an appropriate legal framework.

In consideration of the above issues, a comprehensive set of economic and social policy measures was introduced by the State Council (Document No. 12), especially in strengthening the efforts towards the redeployment of the laid-off workers and the unemployed (Zhang, 2002). Among others, the following were emphasized. First, the expansion of employment opportunities would be explored through multiple channels, for example through ownership restructuring (private sector, FDI, shareholding and self-employment, public sector and so on); through a focus on SMEs, labour-intensive and tertiary sector industries; through a degree of labour market flexibility such as part-time or flexible work. Second, steps were needed for the development and extension of the support and incentive structure that would encourage: (i) independent job-seeking by individuals; (ii) business start-ups; (iii) existing enterprises to re-employ or absorb the unemployed in exchange for a number of tax incentives and insurance and employment subsidies; and (iv) the employment of the relatively vulnerable groups, especially female laid-off workers aged 40 years or above and males aged 50 years or above (the so-called “4050” interventions in Document No. 12). Third, it was necessary to carefully establish the public employment service system, and develop and expand the system’s mandate for better job placement, training and retraining facilities. A systematic LM database and information system was required to facilitate the above and monitor the unemployed and job growth in the economy.

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

4.2 CHINA’S AEP: THE FUNDAMENTAL ELEMENTS

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

sary policy measures and incentive structures are further strengthened by an appropriate regulatory framework and legal and institutional support. Thus, the AEP not only consolidates the initial, preliminary and ad hoc measures that were undertaken in the 1990s to mitigate redundancies and lay-offs, but encompasses such considerations as making employment an objective of macroeconomic policies, as well as various labour market policies to reduce frictions in labour supply and demand, and social security measures to protect the unemployed and/or the vulnerable workforce. Some of the key elements of the AEP are listed below.

Re-employment: defining targets and preferential policies

As stated earlier, Document No. 12 formed the basis of the formulation of the AEP and the development of policies and institutions to support its implementation. The first consideration of Document No. 12 was persistently the re-employment of the targeted workforce that were laid off (and unemployed) from the SOEs – those who were seeking re-employment because of the closures and bankruptcies of enterprises.⁴ In addition, the target included the urban unemployed who were beneficiaries of the minimum living wage and had been unemployed for more than one year. These target groups would be the beneficiaries of various affirmative policies and interventions, stipulated by China's AEP, towards their re-employment. For this, the government issued a so-called “concession card for re-employment” to guarantee them access to the re-employment benefits.

The target groups, as defined above, are the ones that were most likely to be in poverty and/or vulnerable, needing urgent support. According to a survey conducted by the Ministry of Labour and Social Security, nearly 90 per cent of this group came about due to the declining profits and closures of enterprises, nearly 50 per cent of them remained without re-employment for more than three years, and about 75 per cent had a family income of less than ¥300. Furthermore, the bulk of the workforce was vulnerable either due to their older age, or due to a lack of adequate professional skills. For instance, the average age of the laid-off workers, according to a sample survey, was 40 years, and nearly 50 per cent were unskilled or had only primary-level skills. Apart from the 11.5 million laid-off workers and the unemployed from SOEs, estimated at the time of introducing Document No. 12, the AEP anticipated a further increase in the number owing to further deepening of reforms, firm restructuring and technical progress. Re-employment of this increasing target group, based on preferential policies, was thus an imperative of the AEP. This was seen as necessary to maintain

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

social stability, as well as that of the enterprises. The AEP through its re-employment objective also sought to improve the country's social security system through encouraging and supporting the growth of jobs in the private economy, where employers and employees could manage their social insurance fund.

A re-employment fund

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

The re-employment fund was to be used mainly: to promote re-employment; as a social insurance subsidy; as a guarantee fund for microcredit and interest subsidies for small guaranteed loans in low-profit projects; to subsidize training and job placement; as public welfare job subsidies; and as expenditure for building the labour market information system.

The re-employment fund would adhere to the principle of targeting. It would be managed and used in strict accordance with provisions concerning its scope, standards and procedures. This fund was strictly prohibited from being used for any other aspects than expenses related to re-employment.

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

Job placement and vocational training

According to Document No. 12, the scope for applying for free job placement and free vocational training policies covered mainly⁵ laid-off SOE workers and the registered unemployed people in urban areas. The public job-placement agencies would provide job-placement and vocational guidance services to the registered urban unemployed people and the laid-off SOE workers free of charge. The "one-step" employment service that was established included: registration of job seekers (employment registration), vocational guidance, job placement, training application, skills appraisal and certification, documentation, administration and the continuation of social security participation. All types of

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

employment agencies, which provided free employment services in accordance with the provisions, could apply for job placement subsidies from local labour and social security departments by submitting the relevant documents, based on the actual number of successful placements.

In addition, Document No. 12 also stipulated that governments, at all levels, should provide free re-employment training to urban workers who also happened to be unemployed and laid off from SOEs. This training should be funded mainly by local resources, whereas the central government would provide appropriate subsidies to the poor regions. All types of education and training institutions in the society, as long as they had the credentials, could provide free training to the abovementioned groups and, in turn, be entitled to financial subsidies. A working mechanism was set up that linked financial subsidies directly with the acquired skills of the trainees, the re-employment rate in a certain period of time after training, and/or the rate of successful start-ups of businesses, so that the actual results of this training could be monitored.

Tax incentives for self-employment and business start-ups

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

The government's tax incentives to promote self-employment and entrepreneurship, especially for the laid-off and unemployed, were pervasive and detailed, including:

1. the individual business registration fee, market administration fee and appraisal fee for economic contracts – feasibility preparation costs that were charged by departments of industry and commerce;
2. the cost of the tax registration certificate charged by the tax authorities;
3. the administration fee for private medical institutions, the fee for hygiene supervision and inspection, the fee for examination of sanitary quality, the fee for physical examinations, the labour costs for vaccination and preventive measures, and the cost of the sanitation certificate that were charged by the health departments;
4. registration fees (including the fee for documentation) for private non-business organizations charged by civil affairs departments;

5. the appraisal fee for the labour contract and the fee for the vocational qualification certificates that were charged by labour and social security departments;
6. the cost of the permit for running businesses in special industries charged by the police department;
7. the license fee for monopoly tobacco retail, charged by the tobacco administration departments and so on.

Microcredit guarantees

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

1. *Micro-credit for self-employment.* The AEP, in order to promote entrepreneurship for self-employment, designed and formulated an expanded programme to extend credit and other support services (for example guarantees, discounted interest rates and so on) to ease the constraints on workers setting up their own business. The programme also expanded its beneficiaries from the initial target group that possessed the “concession card” for re-employment to others such as retired army personnel, rural migrants attending the “start and improve your business” (SIYB) training, as well as college and university students. Box 4.1 provides some operational details of the microcredit programme of the AEP, formulated jointly by the People’s Bank of China, Ministry of Finance, National Economy and Trade Commission of China and the Ministry of Labour and Social Security.
2. *Microcredit for small labour-intensive enterprises.* Microcredit lending was also offered towards the development of small, labour-intensive enterprises. The amount of such loans could go up to a maximum of ¥2 million. The AEP attached great importance to providing support capital for the growth of small enterprises which had a significant role in employment generation. Thus, preferential policies were offered to those small labour-intensive enterprises which would have 30 per cent of their workforce as new employees; the latter being given an employment contract for at least one year. The lending banks were also offered incentives through a subsidy on the interest rates (up to 50 per cent of the lending rate issued by the People’s Bank of China), as well as on the commission fees. Further, in the event that the lending banks incurred losses on account of the microcredit programmes, they could recover 10 per cent of such losses from the government.

Box 4.1 The microcredit programme initiative

Eligibility of loanees

Those laid-off and unemployed workers under the age of 60 years who, individually or in cooperative groups, wished to start their own business but were unable to collect adequate capital, were eligible to apply to commercial banks for microcredit loans. They were required to produce their “re-employment certificate” issued by the labour and social security authorities.

Processing the loan

The individual loan applications, before these reached the commercial banks, needed to be recommended by the community and examined by the labour and social security institutions. Also, a promise of guarantee needed to be procured by some guarantee organizations approved by the local government. The lending banks, upon receipt of the loan application, would be required to respond within three weeks.

Size of loans

The amount of microcredit lending was usually limited to ¥20,000, although the limit could be moderately expanded based on the number of workers engaged in such business start-ups. The repayment methods and the interest charges were negotiated by the lender and the loanee.

Interest charges

Usually, the rates of interest charged to microcredit lending could not exceed the lending rates as issued by the People's Bank of China. However, there were discount subsidies on interest charges that were usually paid back to the commercial lending banks, whether these were state-owned or shareholding commercial banks. In fact, for microcredit loans that were engaged in a “marginal project”, the government would pay back the entire interest charges to the lending authorities. Examples of such businesses are: catering, repair business, and “petty” services such as typing, haircutting, home cleaning, old-age nursing services and so on.

Guaranteeing the loans

Document No. 12 prescribed that governments at the provincial and municipality levels and in autonomous regions and cities (at or above the prefecture level) would have to generate and establish funds to act as guarantees to the borrowers of microcredit. The government's finance authority, at the respective levels, would collect these funds to be saved in special accounts with the commercial banks. Credit guarantee organizations, as approved by the local government, would then be allowed to operate the guarantee funds and facilitate loan guarantees for microcredit borrowers.

Tax exemption for enterprises that provided re-employment

As part of its preferential policy programme, the AEP provided various tax exemptions to enterprises that were dedicated to absorbing laid-off and unemployed workers. Such a policy was introduced during the 1990s when preliminary measures were drawn up during the early period of the restructuring of SOEs, but the thresholds were relatively high for the enterprises to qualify for such tax exemptions. The AEP rationalized the threshold and the procedures, and extended policy support in order to expand the re-employment programme.

The tax incentive structure was elaborately defined, and the threshold of business taxes, value-added taxes and so on was raised significantly. Further, the conditions that would need to be met by the enterprises were also eased. In general, Document No. 12 stipulated that enterprises which offered an employment contract to the laid-off or unemployed workers for at least one year would be entitled to an income tax rebate of ¥2,000 each year for each additional re-employment. Detailed tax incentives and a tax regulatory framework were drawn up by the Ministry of Finance and State Administration with respect to various types and sizes of enterprises. For instance, the newly set up service industries, barring a few, would be exempted from a range of taxes (for example business tax, urban maintenance and construction tax, educational surcharges, income tax) for three years if they re-employed laid-off and unemployed workers for at least three years, and these workers constituted at least 30 per cent of the total workforce of the respective enterprises. The provisions were very similar for the newly set up commerce and trade enterprises, although certain categories were barred from such tax preferential policies. Other specific tax policies were also established for self-employment businesses as well as large- and medium-sized SOEs, especially those whose secondary lines of business had been separated from the core businesses to form independent companies (see below).

Subsidies on social insurance contributions

The significance of the impact of social insurance contributions on employment promotion is often overlooked. Important lessons have been learnt from the experiences of the re-employment service centres that have fostered employment and re-employment through the provision of social insurance contributions for the laid-off workers. First, the policy appears to have been conducive to lowering non-wage labour costs for the enterprises, and hence to increased job creation. Second, for the individual workers, the subsidy policy helped to maintain the continuation of their social insurance contribution records, and eased their concerns about gaining re-employment. The government, on the other hand, not only sought to enhance employment creation, but also to channel the subsidies to social insurance agencies, to be added to the social insurance funds.

Employment assistance for people with difficulties in employment

The AEP defined people with employment difficulties in the labour market to include the following: female workers over 40 years of age, males over 50, the long-term unemployed and jobless households, that is, those whose members had no employment. These groups had much less opportunity to be employed by enterprises, and lacked the necessary capability to seek jobs by themselves. These were also the groups of people who shared the heaviest burdens in their households. Thus, the active employment policy decided to prioritize people with employment difficulties as specific targets in providing assistance for their re-employment. The policy stipulated that an employment assistance system should be established covering all workers with difficulties in employment, especially through creating public service jobs, formulating policy on special support and through providing specific assistance. These groups of people were subsequently identified as “Older people with difficulties in employment”, and were stated as such in the “favoured” re-employment certificate issued to this category of workers.

Re-employment assistance targeting the older people with difficulties in employment was to be conducted at local levels. Public service jobs created by local governments were to be prioritized for these older workers, and governments at grass-roots levels were advised to provide a list of those people who required priorities in assistance. Public job centres were asked to draw up an annual plan to provide specific employment services targeting these people and to cooperate closely with labour and social security agencies at the grass-roots levels.

In addition, the following subsidies were stipulated to promote employment of these vulnerable groups of workers:

1. *Social insurance subsidies on public service jobs.* For enterprises that recruited people with difficulties in employment and signed a labour contract with them for the duration of one year, subsidies would be granted to them for a period of time based on the actual number of workers recruited. The amount of the subsidies would be calculated based on the amount of contributions of pension, medical and unemployment benefits to be paid by the employer. Local governments could also provide subsidies for vulnerable groups of workers employed in public service jobs; the standards of the subsidies being determined by local government. The practice that people in public service jobs be granted social insurance subsidies would contribute to keeping a continuity of social insurance records and to easing the worries of these workers for their future social security. Further, the AEP decided to extend the coverage of enterprises that enjoyed this favourable policy, from the initial trade and commerce and service enterprises, to all kinds of enterprises. Also, the coverage of beneficiaries was expanded from laid-off workers and the unemployed from SOEs to all categories of people with difficulties in employment.

2. *Social insurance subsidies for flexible employment.* In order to protect jobs for these targeted groups, the AEP also stipulated that those engaged in flexible employment would be granted a certain amount of social insurance subsidies. As people with difficulties in employment were usually those of an older age who encountered difficulties in re-employment, a special policy was adopted to allow the period of social insurance and job subsidies to be extended until these people reached their legal retirement age.
3. *Employment assistance services provided.* Specific employment assistance was designed to help people with difficulties in employment raise their employability and explore job placement. The public employment services pursued a distinct process of registration, providing guidance and assistance, conducting skills training and providing follow-up services.

Absorbing laid-off workers in the unemployment insurance scheme

A long-term perspective of the restructuring process of SOEs was that at some point in the future the SOEs would no longer be required to sustain the re-employment service centres, and that the laid-off workers would no longer have to remain attached to these centres. Provisions were stipulated that the “basic living security system” that was paid to the laid-off workers would now be subsumed under the unemployment insurance scheme.

In 2003, the State Council clearly put forward that the provisions of basic living security, unemployment insurance and a minimum wage should target laid-off workers. Issues on the basic living security system to be included in the unemployment insurance scheme needed to be addressed. Newly unemployed and laid-off workers should be covered in the unemployment insurance schemes. Urban residents who were eligible for minimum living security should be included in this system. For the laid-off workers who had exited from the re-employment centres and had severed their relationship with their enterprises, local governments and enterprises should collect funds through various kinds of channels to secure their basic living standards.

Separating subsidiary businesses from the core business of SOEs

While the SOEs were being substantially restructured and modernized to attain efficiency and competitiveness, these enterprises were also being advised to undertake various measures to support the employment and protection of the laid-off workers. Among others, an innovative measure was in the undertaking of the subsidiary businesses of the SOEs and separating these from their core businesses. Such a move would allow the SOEs to concentrate on the efficiency and productivity of their core business, while the subsidiaries could be turned

into separate independent units that would support the re-employment of the redundant workers. An incentive structure and a preferential policy were designed to promote such a measure under the AEP programme.

There were two aspects of policy that were most attractive to enterprises: the tax exemption policy and capital compensation. The economic entities established by large- and medium-sized SOEs, which were separated from the main business and arranged jobs for redundant employees (except for restricted industries), could get income tax exemption for three years. Regarding capital compensation, it was stipulated that the enterprises could use state-owned net assets to pay for economic compensation to redundant workers. Thus the asset account would decline, which would be compensated for and offset according to set procedures.

The following four conditions had to be satisfied if the economic entity wanted to enjoy the preferential policy:

1. The newly established unit would make use of non-main business capital and idle capital from former enterprises, or valid capital from bankrupt enterprises.⁶
2. The reformed enterprises would define their property rights in a multi-element framework, through joint stock operations, cooperation or selling according to Cooperation Law and other laws and regulations.
3. The enterprises were required to show that 30 per cent of their employees were redundant employees from the former enterprises.
4. The enterprises that implemented measures to separate their subsidiary businesses from their main business should sign a contract with the employees diverted from the former main business within 30 days of their registration in industrial and commercial departments.

Flexible employment policy

Flexible employment was an important instrument of the AEP to help re-employ redundant workers and the unemployed. Flexible employment is also known as non-standard or informal employment. In China, flexible employment refers to the economic activities involving those who work in unstable workplaces, with unstable employers, with no steady income and without a stable work time in

⁶ Non-main business capital referred to the capital of the subsidiary businesses required to be separated from the main business according to the requirement of enterprises reform; idle capital meant the enterprises' capital which was set aside for more than one year; the valid capital of bankrupt enterprises referred to the capital of those enterprises which were closed and/or declared bankrupt.

exchange for remuneration. In China, flexible employment exists in the following forms: first, part-time employment; second, dispatched employment; and third, employment in micro enterprises. With intensifying reforms of the Chinese economy and continuous adjustment of industry structures, an increasing number of employees were resorting to flexible employment such as part-time jobs, and temporary and other forms of flexible work. These flexible employees, however, faced serious health insurance problems. The former Ministry of Labour and Social Security issued guidance on basic health insurance for flexible workers as follows:

1. The flexible workers were to be covered by a basic health insurance system. All regions were asked to review their health insurance administration ability based on a count of flexible workers and an identification of their basic medical demands. The flexible workers were required to acknowledge their rights and obligations and that their contributions and benefits would be linked if they joined the health insurance system.
2. If the flexible employees signed an employment contract with an employing unit, they could follow the same policy as those who participated in the insurance system as full-time employees. Alternatively, they could participate in the insurance system as private individuals, and could have individual accounts with a relatively large quota of medical insurance assistance if certain conditions were fulfilled. The contribution rate of medical insurance for the flexible workers was defined according to the local level, often based on the average wage level of local employees in the previous year. The benefit level was defined according to their contribution time, contribution levels and the local level benefits for all insurance participants.
3. As the flexible workers were often engaged in various jobs without a fixed place and time, local regions had to improve their management measures, such as formulating individual application and registration methods, individual contribution assessment methods and methods of qualification examination. The flexible workers were encouraged to participate in social insurance through labour and social security representation agencies at the local or community level. It was required that social insurance operating agencies should open a specific window for flexible workers in order to facilitate their contributions, and settlement of accounts.

THE AEP: IMPLEMENTATION AND ADJUSTMENTS

5

The implementation of China's AEP essentially took effect in 2002 with the promulgation of Document No. 12. During the initial phase of its implementation, the AEP remained overwhelmingly focused on the re-employment of the workers laid off by the SOEs and the unemployed in the urban areas. Nevertheless, even during this phase, the government was not only concerned with the monitoring and implementation of the AEP, but also in reviewing its progress and constraints such as to enhance its effectiveness and to adjust to various other developments in the employment and labour market structures.⁷

5.1 THE AEP AND THE IMPLEMENTATION AND MONITORING OF THE RE-EMPLOYMENT POLICY

In view of the immediate goal of the AEP, that is, the re-employment of the laid-off workers and the urban unemployed, the Chinese government issued instructions and directives to all regions and departments to enforce the various policies and programmes. Further, the regions and the departments were all required to establish monitoring mechanisms, including daily inspections based on ad hoc sampling, in order to overcome errors and constraints. The monitoring process was strengthened through labour inspection by the labour and security departments, as well as by the use of publicity and raising awareness by the mass media.

The monitoring and implementation of the AEP's re-employment programme were not only strictly enforced, but also were reviewed at the highest levels of the government (for example the inter-ministerial conferences in May

⁷ For instance, in March 2003, the central government organized a workshop on China's employment policies, attended by the President, the Premier, Vice Premiers and Ministers. The workshop brought to focus the emphasis that the Chinese government placed on employment promotion.

and August 2003 and the State Council's national meeting on re-employment in August 2003). These reviews not only placed high priority on the AEP and the re-employment issues, but also on the changing labour market developments and the reality of the labour market. Hence, concerted attention was paid on how to enhance employment generation through economic growth, and the increasing role of the market mechanism which was being fostered through a range of economic reforms.

In light of the outcomes of the various reviews mentioned above, the General Office of the State Council and the members of the inter-ministerial conference on re-employment organized 13 monitoring teams to carry out an overall investigation on employment and re-employment in 25 provinces (autonomous regions and municipalities) for a comprehensive assessment of the policy implementation and work progress in different regions. The major targets of this monitoring campaign included, inter alia: (i) the implementation of the outcomes of the National Employment Meeting; (ii) the progress on new job creation, the re-employment of laid-off and unemployed workers, the re-employment of relatively senior groups and the control of the registered unemployment rate in urban areas; (iii) the implementation of all support policies (such as the reduction and waiving of charges, favourable tax policy, small-scale credit, business registration, arrangement of business venues, social insurance subsidy, job subsidy and the separation of mainstream business from subsidiary business); (iv) the allocation and use of the re-employment fund; (v) the implementation of intensifying public employment services; (vi) the progress on transition from basic living allowances for laid-off workers to unemployment insurance and the implementation of the so-called "three guarantees" policy; and (vii) various other policies related to re-employment. The elaborate monitoring system not only helped the government to better understand the AEP progress and basic experiences but also the dynamics of employment and re-employment in the Chinese labour market. The monitoring also identified several problems and difficulties in the implementation of the re-employment policy. For instance, the staff of grass-roots departments did not appear to have a clear understanding of the policies and the procedures to implement them, and some policies were difficult to carry out due to different situations in different places. Moreover, since different places and groups had different demand profiles, the current policies needed further improvement.

5.2 ADJUSTMENTS TO THE AEP DURING IMPLEMENTATION

Even before the monitoring campaign at the end of 2003, the State Council had already made several adjustments on related AEP policies, as warranted by lessons at the grass-roots level. First, social insurance subsidies and tax reductions

5. The AEP: Implementation and adjustments

were provided to the laid-off and unemployed workers and those who started their own household businesses, and the enterprises which provided jobs to these workers were entitled to various incentives. Second, the favourable policies for enterprises hiring laid-off and unemployed workers in the service and trade sectors were extended to manufacturing enterprises and small enterprises run by communities. Third, the fund allocated for the payment of basic living allowances was not only sustained until 2005, but the balance of the fund was available either for payment of economic compensation when enterprises in difficulty had to terminate employment contracts, or to promote re-employment.

In line with the outcomes of the national meeting on re-employment (August, 2003), the Ministry of Labour and Social Security and other departments adopted various measures to foster continuous adjustment of the AEP to the emerging realities of the labour market needs. Some of these included:

1. The validity period for the favourable tax policy was extended. The qualified laid-off and unemployed workers who started their own household businesses, enterprises which provided jobs to laid-off and unemployed workers, and economic entities which came about through the separation of subsidiaries of SOEs were entitled to a three-year favourable tax policy.
2. The incentive policies intended for enterprises which hired laid-off and unemployed workers in the service and trade sectors were extended to manufacturing enterprises and small enterprises run by communities. With each employment contract issued for one year or more to laid-off and unemployed workers, they were entitled to a reduction of ¥2,000 of income tax.
3. The period of an employment contract that would entitle enterprises to favourable tax policies was reduced from more than three years to one year or above.
4. The target group of re-employment policies was expanded to include laid-off and unemployed workers in collective enterprises.
5. The coverage of the small, guaranteed credit programme was extended. The programme initially covered laid-off and unemployed workers who started their own business as individuals. The policy henceforth allowed more than one of the laid-off and unemployed workers to team up and start their business together.

5.3 CONDUCTING ASSESSMENT OF AEPs

The (former) Ministry of Labour and Social Security, together with relevant departments, initiated the conduct of assessment reports on the impact of AEP support on employment and re-employment, and on analysing the various problems and constraints encountered in order to make further adjustments to the AEP framework. There were specific parameters laid out in the contents of the assessment.

Methodology

The assessment of AEP was largely conducted through a combination of conclusions made by local governments and assessments by relevant departments, through the use mainly of qualitative methods together with quantitative techniques. There was no unified assessment method. It was only required that local departments should widely solicit and fully reflect the opinions and recommendations from relevant departments, enterprises, laid-off workers and unemployed people, job centres, training institutions, government agencies at grass-roots levels and various social groups. The assessment report should include facts, data, analysis and recommendations. For policy effectiveness it was required that each narrative on policy should contain an explanation on implementation, the relevant data should be listed and a statement on the results of policy implementation should be given. For problems arising from policy implementation, reasons should be analysed objectively and recommendations and views on the improvement of policies and operational methods should be put forward.

The assessment was conducted in three phases. During the first phase, it was the local governments, together with the relevant departments, who provided feedback from the grass-roots level on the effectiveness and coverage of the AEP vis-à-vis the goals of employment and re-employment. In the second phase, the Ministry of labour and Social Security, together with the State Council, constituted joint investigation teams to conduct field visits and to articulate the various responses from different localities and social groups. During the third phase, the Ministry of Labour and Social Security, jointly with relevant departments of the State Council, coordinated the findings in order to formulate further revisions and recommendations.

Major findings of the assessment

Based on local-level experiences and assessments, the local departments unanimously submitted that since 2002, with efforts by various regions and departments, the AEP programmes on employment and re-employment had

made remarkable progress. With job numbers increasing over time, confidence was expressed on the effectiveness of the policy. A large number of laid-off workers and unemployed people were re-employed through policy support, which in turn played an important role in strengthening achievements from the SOE reforms and in promoting economic development and maintaining social stability. The results were mainly reflected in the following:

1. A positive link between economic development and employment promotion had begun to take shape, which contributed to jobs creation at a rapid pace. Local governments combined economic development and restructuring with employment promotion, enhancing the tertiary industry, especially through the development of labour-intensive SMEs. The number of newly employed people was steadily increasing and the set targets on employment and re-employment were reached for two consecutive years. In addition, employment composition also improved with tertiary industry and non-state-owned sectors becoming the main channels for creating jobs. In 2004, the workforce engaged in the tertiary industry reached 230 million, representing an increase of 14 per cent compared with that in 2001. By encouraging and providing guidance for various kinds of ownership sectors for development to create more jobs, the number of people employed in private enterprises and the self-employed reached nearly 96 million, an increase of 29 per cent compared with that in 2001.
2. Various support policies on re-employment played an active role in promoting self-employment and job creation by enterprises. From 2003 to the first half of 2005, there were a total of 12 million laid-off and unemployed workers who were re-employed through various channels. Policies on tax reduction or exemption and guarantee of microcredit lending loans were implemented, which helped and promoted workers to become self-employed or start up their own business. From 2003, there were a total of 3.92 million people finding a job by themselves, among whom 250,000 people started their own businesses through support from the guaranteed loan policy. The second channel was the array of policies on tax reduction or exemption and social security subsidies that were provided to encourage enterprises to create additional jobs for laid-off workers and the unemployed. From 2003 to the first half of 2005, there were 4.31 million people recruited by enterprises, thanks to this policy. The third channel comprised policies on providing employment assistance, especially social insurance subsidies and job subsidies for public service jobs, which brought significant benefits to people with difficulties in finding a job. A total of 3.26 million of the so-called “4050 targets” (that is, women over 40 years old and men over 50 years old) were re-employed. The fourth channel consisted of

policies on separating secondary businesses from the core business in the SOEs, and turning the secondary businesses into private companies. Through this, nearly 1.31 million redundant workers were absorbed. As the majority of redundant workers found a job during the restructuring of enterprises, the burden on the SOEs to address re-employment was eased considerably.

3. The public employment service system was gradually institutionalized and progress was made in various ways, especially in terms of increasing vocational training for promoting employment. The professionalism, systemization and socialization levels of the public employment service were improved. From 2003, public employment services were provided free of charge to nearly 13 million laid-off workers and unemployed people. Meanwhile, a work platform on labour and social security was established at the grass roots level where staff members were recruited and trained to provide re-employment services for laid-off workers and unemployed people, as well as services for retired people. Vocational training was conducted through mobilizing social resources. Subsidies for training were linked to results of re-employment and SIYB training was linked to micro-credit programmes. From 2003, among the total of 11 million laid-off workers and unemployed people who attended re-employment training, the employment rate after training reached 60 per cent. Among the people who attended SYB training, nearly 55 per cent had successfully started their own business.
4. Various efforts were made to keep unemployment under control. The registered unemployment rate in urban areas nationwide was maintained at 4.3 per cent, which contributed to a stable employment situation. In addition to the efforts made on the re-employment of laid-off workers and unemployed people, employment guidance and services for graduates were also strengthened, leading to a graduate employment rate of over 70 per cent. Achievements were also made in terms of the improvement of working conditions for rural migrant workers in urban areas, conducting organized labour export to other regions, conducting training for migrants and safeguarding the legitimate rights and interests of rural migrant workers.

Some limitations of AEP implementation

The assessment report also cited limitations in the implementation of the various support policies under the AEP.

First, the coverage of policies was not large enough and their duration was too short, which affected the results of implementation of these policies. For

instance, initially the policies only applied to the laid-off workers and unemployed people in SOEs, and the workers in collective enterprises were not eligible to receive support from the policies. Another example is that the policy on the social insurance subsidy only applied to enterprises providing services, while those made redundant from other types of enterprises and those who were engaged in flexible employment were excluded initially. Moreover, the social insurance subsidies only included retirement insurance and unemployment insurance, while a lot of concern was expressed regarding medical insurance.

Second, the operational procedures of some of the AEP policies were too complex, and the requirements for eligibility or thresholds for access to these policies were too high. For instance, applications for receiving microcredit guarantees and loans involved reviews and checks by many departments such as labour and social security, finance, banking, and so on. The procedures were very complex and the time taken to receive approval was too long. Often, collateral was required in some regions, but as the majority of workers were unable to provide such a kind of guarantee, they failed to obtain loans.

Third, some policies had loopholes or biases in implementation. For instance, following the relevant rules, if an enterprise recruited sufficient laid-off workers or unemployed people to reach 30 per cent of its total workforce, it was eligible for exemption from four kinds of taxes. This kind of tax exemption had some loopholes. The small-sized enterprises would recruit a small number of laid-off workers on low wages, but still reach the recruitment threshold of 30 per cent of the total number of workers in the enterprises, and enjoy exemption from taxes. On the other hand, even if some large-scale enterprises recruited a large number of the laid-off workers and unemployed people, they could still not get exemption from taxes if the number recruited accounted for less than 30 per cent of their total employees.

5.4 BROADENING THE AEP CANVAS: IMPROVEMENTS AND ADJUSTMENTS

The numerous investigations, assessments and analyses pointed to the need for improvements and adjustments to the AEP framework, and to the strengthening of the institutional and operational mechanisms. It was also emphasized that a forward-looking, longer-term employment policy needed to be embedded in the national economic and social development agenda in order to safeguard the stability of reforms and development, and foster a socialist market economy. It was recognized that the formulation of an employment policy was still in a state of transition, and continuous adjustments were necessary to articulate a comprehensive framework. Meanwhile, the policies in the interim should be

formulated based on the so-called “One priority, three combinations” approach. “One priority” was to address the problems left by the economic system in transition, especially laid-off workers and unemployed people in state-owned and collective-owned enterprises. The “three combinations” referred to: (i) providing direct assistance programmes for redundant workers while a market-orientated employment mechanism was being established; (ii) the combination of promoting employment with livelihood guarantee programmes; and (iii) the alignment of policies and programmes at the central and local levels.

AEPs should thus continue to be implemented and kept consistent and stable. It was, however, necessary to extend, enlarge, adjust and enrich these existing re-employment policies. In November 2005, based on its investigation, assessment and conclusions, the State Council issued Policy Document No. 36 on strengthening the work of employment and re-employment. Document No. 36 is considered a milestone in policies concerning China’s AEP.

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

Target coverage expanded

The targets supported by the policy in the Document No. 12 included the laid-off workers in SOEs, unemployed people in SOEs, workers made redundant by closures or bankruptcies, the unemployed people in urban areas receiving minimum living security, and those unemployed for more than one year. The policy in Document No. 36 enlarged its targets coverage as shown in table 5.1.

Policies on tax and social insurance subsidy revised to encourage enterprises to create more jobs

For those individuals involved in self employment and start-up businesses, individual income tax, business tax, city maintenance construction tax and additional educational fees would be reduced or exempted within set quotas (¥8,000 per year per household), and various kinds of administrative fees in management, registration and licensing were waived for a maximum duration of three years. Compared with the original policy, there were revisions in two aspects in the new policy: first, the coverage of policy targets was expanded, adding the laid-off workers in collective enterprises run by SOEs into the category. Second, methods on favourable taxes were changed to prescribed quotas for four kinds of tax exemption to avoid loopholes in the collection of tax. Those involved in individual businesses with no ability to gather sufficient funds could apply to commercial banks for micro-guaranteed loans. Projects belonging to

Table 5.1 Key differences between Document No. 12 and Document No. 36

Main aspects	Document No. 12	Document No. 36
Targets	Laid-off workers, the unemployed, workers made redundant by closures or bankruptcies in SOEs, the unemployed with a minimum living guarantee and those unemployed for more than one year in the urban areas	In addition to the targets in Document No. 12: <ul style="list-style-type: none"> the workers made redundant by closures or bankruptcies in the affiliated collective companies un or approved by the SOEsar the long-term unemployed people with a minimum living guarantee in the urban areas
Deadline of the preferential policies	Until 31 December 2005	Extended until the end of 2008
Tax preferential policy for individual businesses	Exemption or reduction of certain taxes and administration fees for three years without a limit on the amount	Exemption or reduction within a set amount (¥8,000 per year per household)
Tax exemption for enterprises that provide re-employment	Enterprises which offered an employment contract to the laid-off or unemployed workers for at least one year would be entitled to an income tax rebate of ¥2,000 each year for each additional re-employment	Enterprises in certain industries that recruited people holding a Favourable Certificate of Re-employment for more than one year, and based on the number of people recruited, would enjoy exemption of four kinds of taxes within prescribed quotas (see paragraphs below for details)
Social security subsidy	Only applied to the laid-off workers and the unemployed in certain sectors ^b who had signed a contract for a minimum of three years	Extended to the vulnerable groups of workers who get flexible jobs and pay social security insurance

Notes:

^a Collective enterprises that were approved or run by SOEs in the 1970s and 1980s to place returned urban youth from rural areas and children of workers of SOEs. These collective enterprises were subcontracted by the SOEs to produce various inputs for them. For people needing to be placed because their enterprise faced being closed or becoming bankrupt, provinces with suitable conditions could issue them with the Re-employment Preferential Card.

^b Excluded sectors: commerce and trade, catering, service-oriented and other nationally restricted industries.

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those industries under the national promotion plan, such as the service, catering, industrial and commerce industries, were to be financed by re-employment funds, with fully discounted interest rates.

Assistance provided to people holding a Favourable Certificate on Re-employment

Enterprises in the commerce and services industries, processing enterprises and small-scale community-level enterprises that recruited people holding a Favourable Certificate on Re-employment for more than one year, and based on the number of people recruited, would enjoy exemption of four kinds of taxes within prescribed quotas (the standard was ¥4,000 per person each year with a 20 per cent adjustment for fluctuation). Further, enterprises would also be entitled to a social insurance subsidy based on the actual number of people recruited by the enterprises. The duration of the subsidy was the same as that of the labour contract, and could not exceed three years. The subsidy amount should be calculated based on the amount of pension, medical and unemployment insurance paid by enterprises for the people recruited.

Policy on supporting people with difficulties in employment.

The policy on supporting people with difficulties in employment included two main aspects:

1. Public service jobs created through the government investments should be provided on a priority basis to target groups with difficulties in employment. For “4050” targets, whose service length was more than three years, the duration of the social insurance subsidy should be extended, with additional funds to be provided by local finance.
2. An appropriate proportion of the job subsidy could also be provided by local governments based on their local conditions, with the subsidy standards determined by the local authorities.

Document No. 36 also called for local governments to extend the coverage to include laid-off workers in collective enterprises in urban areas. The funds required by this extension should be channelled from local finance.

In the light of evolving labour market situations, Document No. 36 made various additions in terms of developing a unified employment market in urban and rural areas, through controlling unemployment, improving the social security system and through strengthening capacity building.

Targeting households with no employment

From 2004, local departments focused on measures to support workers with difficulties in employment as a key concern. They launched various social inclusion initiatives and began to establish pilot programmes on a “full employment community” and conducted activities on employment assistance, which made initial progress on supporting “households with no employment”. In line with new directives from the central government on “improving the re-employment assistance system, and targeting and helping households with no employment and people with difficulties in employment”, several provinces, autonomous regions and municipalities throughout China had, by the middle of 2007, issued policies targeting households with no employment.

Specific interventions were needed to support employment assistance for households with no employment and it was imperative to maintain a job in the household through support policies. Helping people with difficulty in employment to find a job or flexible employment was just the first step; it was equally important to ease future worries, like participation in social insurance schemes. For instance, some local practices stipulated that if public service jobs were provided for households with no employment, a certain amount of social insurance subsidies and job subsidies would be granted; others designed training subsidies and internship subsidies for young people from households with no employment. In some regions, government agency staff provided employment assistance for these households through a “one on one” method during the whole assistance process. In some regions, children in households with no employment were organized to attend skills training to create conditions for these families to be lifted out of poverty.

Subsequently, the Ministry of Labour and Social Security issued a comprehensive policy on pushing forward employment assistance for households with no employment, which stipulated that local governments must make full arrangements on implementing assistance for households with no employment prior to the end of July 2007, and by the end of 2007 the incidence of households with no employment in urban areas should basically be eliminated.

Thus, the policy made it a requirement to push forward assistance for households with no employment: first, a through a registration and identification system of households with no employment, jobs should be created through multiple channels; second, coverage of the re-employment expansion policy should be extended. Local governments should implement various kinds of employment policies for households with no employment, including through expansion of re-employment policy coverage; third, relying on platforms at grass-roots levels, employment services should be strengthened; fourth, a minimum living security system and an integrated mechanism of assistance for households with no employment should be set up. The investigation and registration system

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should be improved, and strict management be exercised. Proactive measures on immediate assistance should be established to make sure swift assistance was provided to households with no employment.

CONSIDERATIONS TOWARD THE DESIGN OF CHINA'S EMPLOYMENT PROMOTION LAW

6

From 2003, employment generation and the reduction of unemployment came to be regarded as key goals in national-level planning, alongside three other indicators, namely: economic growth, inflation and the volume of trade. Employment was embedded in the macroeconomic policy framework, and the attainment of “full employment” was considered as one of the key objectives towards building a harmonious society. Thus, employment promotion, as a strategy, emerged strongly in the country’s process of socioeconomic planning. This was gradually reflected in the policy and incentive structure towards the promotion of labour-intensive industries and services, especially the SMEs, in order to create jobs in the private, non-state sector. Fiscal and monetary policies were being reviewed to accommodate the goal of employment promotion. These were features in employment planning, beyond the ongoing public interventions in the labour market, that were being carried out through the expanded and adjusted AEP.

6.1 THE IMPACT OF GROWTH AND AEP ON THE LABOUR MARKET

Since 2002, with the rapid and continued economic growth of the economy, together with the implementation of the AEP, employment in China grew significantly and the composition of employment gradually followed the usual trends. Major achievements were obtained in terms of the re-employment of laid-off and unemployed workers in the SOEs. At the same time, the labour markets also experienced huge changes with jobs in individual private sectors growing rapidly and those in SOEs declining significantly. Since the early 1980s, economic restructuring and reforms boosted economic growth, which helped to create conditions for job creation. Thus, in 2007, the total number of employed people in urban and rural areas reached 786 million, of which 293 million were in urban areas and 476 million in rural areas. Between 2001 and 2007, there were 56.2 million new jobs created, that is with an average of 9.36 million jobs per annum (table 6.1)

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Table 6.1 Number of employed people in rural and urban areas in China, 2001–07

Years	Number of employed people	Employed people in urban and rural areas	
		In urban areas (in 10 000 persons)	In rural areas (in 10 000 persons)
2001	73 025	23 940	49 085
2002	73 740	24 780	48 960
2003	74 432	25 639	48 793
2004	75 200	26 476	48 724
2005	75 825	27 331	48 494
2006	78 244	28 310	48 090
2007	78 645	29 350	47 640

Source: China Statistical Yearbook (2002–08) (the number of employed people in rural areas includes migrant workers and people involved in non-agricultural employment).

The registered urban unemployment rate reached its peak of 4.3 per cent in 2003 and then started a steady decline, year by year, standing at 4 per cent in 2007 (table 6.2).

Table 6.2 Registered urban unemployed and the unemployment rate, 2001–07

Years	The number of registered urban unemployed people (in 10 000 persons)	The registered urban unemployment rate (%)
2001	681	3.6
2002	770	4.0
2003	800	4.3
2004	827	4.2
2005	839	4.2
2006	847	4.1
2007	830	4.0

Source: China Statistical Yearbook (2002–08).

Through the implementation of an enhanced AEP from 2003 to 2006, a total of nearly 20 million laid-off and unemployed workers from state-owned and collective enterprises were re-employed. Through creating public service jobs, nearly 5 million people with difficulties in employment were helped to become re-employed.

Meanwhile, quarterly data on labour supply and demand obtained from selected cities by the Monitoring Centre of China Labour Market Information Network showed that new entrants into the labour market had become an important category of job seekers. From the first quarter in 2005 the share of new entrants to the workforce was on an increasing trend, reaching 24 per cent in the first quarter of 2007. Similarly, graduate unemployment was also growing. The number of graduates between 1996 and 2005 increased from 840,000 to 3.06 million, and their employment rate declined from 90 per cent to 70 per cent. Thus, new features and challenges began to emerge in the fast-changing labour market of China. With the rapid development of industrialization and economic restructuring, the employment structure was also shifting. Thus, workers engaged in agriculture gradually declined, with the proportion of the workforce in the primary industry falling from 50 per cent in 2001 to 40.8 per cent in 2007. The decline in agricultural jobs was associated with rural farmers migrating to non-agricultural sectors. The proportion of the workforce engaged in the secondary industry stood at 32.4 per cent, registering a net increase of 43.45 million between 2001 and 2007. The proportion of workers engaged in the tertiary industry increased steadily from 27.7 per cent in 2001 to 32.4 per cent in 2007, a net increase of 46 million.⁸ While the tertiary industry was a predominant source of job creation (table 6.3) in China, it was still much lower than observed in developed countries (nearly 75 per cent), and also lower than the average of 40 per cent in developing countries.

The private sector (non-state economy) was rapidly developing in China during its reform process, and was emerging as a main force for national economic growth. Although state-owned and collective enterprises were still the dominant source of total jobs, the non-state or private sector had become a key source of new job opportunities. From 2001 to 2007, people engaged in private sectors in urban areas increased from 36 million to 78 million, a net increase of 42 million. People engaged in SOEs declined from 76 million to 64 million in the same period. People engaged in collective enterprises also decreased from 12 million to 7 million (figure 6.1).

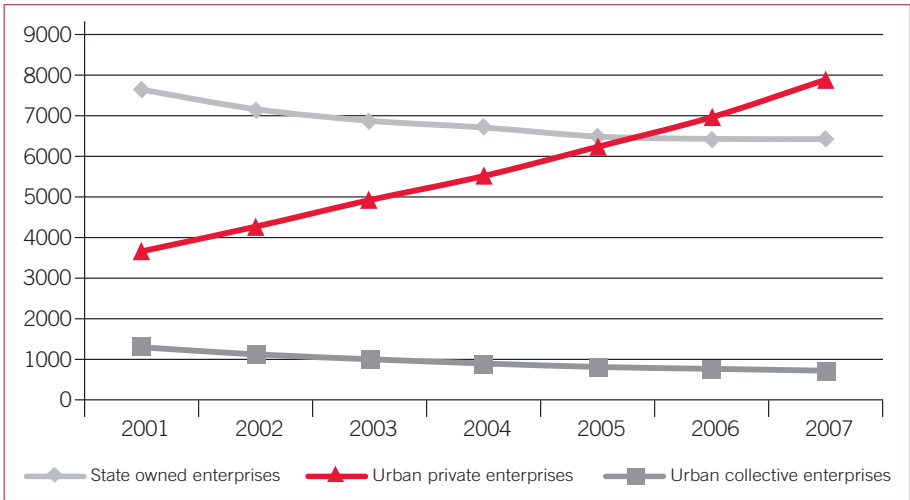
⁸ Compare these figures with those of the previous period of the 1990s (section 1 of this report).

Table 6.3 Structural composition of employment

Years	Proportion of people employed by industry (%)		
	Primary industry	Secondary industry	Tertiary industry
2001	50.0	22.3	27.7
2002	50.0	21.4	28.6
2003	49.1	21.6	29.3
2004	46.9	22.5	30.6
2005	44.8	23.8	31.4
2006	42.6	25.2	32.2
2007	40.8	26.8	32.4

Source: China Statistical Yearbook (2002–08).

Figure 6.1 Employment growth in enterprises under different ownerships in urban areas



Source: China Statistical Yearbook (2002–08).

While there was an impressive increase in the quantitative expansion of employment, the overall quality of the labour force in China was still relatively low. Although the educational levels and vocational skills of labourers had risen significantly in China, the level on the whole was still inadequate, especially in the field of vocational skills. According to some key data from the Fifth National Census of the Population in 2000, there was a total of 33,961 persons with junior high education per 100,000 persons, an increase of 45.5 per cent, compared to 23,344 in 1990; the number of people with senior high education increased from 8,039 to 11,146 per 100,000 persons, an increase of 38.6 per cent since 1990; and those with tertiary education rose from 1,442 to 3,611, an increase of 150.4 per cent since 1990. China's economic development and the changes in the patterns of its growth and exports has placed heavy demand on the quality of skills. In particular the newly emerging industries, high-technology industries and skilled services faced a big shortage of skilled workers and senior technicians. Paradoxically, large number of labourers could not find jobs due to their low vocational skills.

6.2 TOWARDS A LEGAL FRAMEWORK ON EMPLOYMENT PROMOTION

Globally, legislation on employment promotion is not uncommon, especially when governments wish to take major responsibilities in promoting employment and in controlling unemployment. Employment has often been a key element in the political agenda of governments. Legislation varies according to specific issues and the legal system of the countries. Some examples of specific laws on employment promotion are: the Employment Law for Russian Residents (1996), Peru's Employment Promotion Law (1993) and the Korean Fundamental Law on Employment Policy (1993). Other countries have an overall labour code, in which employment promotion is embedded. Some countries also have separate laws focussed on different aspects of employment.

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

Chapter Two of the 1995 Labour Law of the People's Republic of China lays down several principles of employment promotion; for example, promoting employment through economic growth; creating various kinds of job centres to provide employment services; employment without discrimination –that is, regardless of nationality, race, sex and religious belief; equal rights to employment; prohibitions on recruiting workers under 16 years of age; and protection of special groups, including disabled people, ethnic minorities and demobilized soldiers, and so on.

The process of employment generation and the functioning of the labour market is complex. Legislations in this regard would most likely require a set of principles stipulated through general laws, as well as legislation on specific provisions. In China, various employment promotion policies which proved to be effective and feasible in practice were being considered to be upgraded into laws through employment legislation. Stipulations were sought to make certain measures on employment promotion legally binding, so as to offer a security system in the process of employment promotion. Further, there was the conviction that it was only through legislation that the government's obligations towards employment promotion would be best defined. Indeed, efforts on employment promotion involved many institutions and stakeholders, including decision-makers as well as all employing units and workers. These, and various other considerations, have been important elements in the gradual evolution of the specific EPL in China.

It must be emphasized that the implementation of the AEP in China and the establishment of various mechanisms of employment also facilitated conditions for employment promotion legislation.⁹

With the full implementation of the AEP since 2003, the annual targets set for employment and re-employment were achieved for four consecutive years.¹⁰ Despite the pressures on the labour market created by an expanding number of new entrants, the AEP succeeded in maintaining a stable employment situation and in safeguarding the process of reform and developing a harmonious society. The success of AEP thus led to the extension of its duration and an increase in its coverage. It is against this backdrop that China began to consider upgrading the AEP into laws, and placing some of the employment promotion mechanisms into a legal framework.

⁹ See Document No. 12 and Document No. 36.

¹⁰ From 2003 to 2006, the Central Government set an annual target of 8–9 million new jobs, and 8.5–11.8 million jobs were actually created. The target for the urban registered unemployment rate was 4.6 per cent, but in fact this figure was controlled below 4.3 per cent.

6.3 INITIAL THOUGHTS ON EMPLOYMENT PROMOTION LEGISLATION

Drawing on the experiences of employment legislation in various countries in the world, and considering the current conditions in China, the authorities held that legislation needed to be based on the following principles.

First, the obligations of the government on employment promotion needed to be defined, and its responsibilities strengthened. In this regard, the government should adopt an economic development pattern that would create more jobs, and design and implement an appropriate employment-friendly growth strategy. This would, in turn, require embedding employment promotion in the agenda of the national socioeconomic development framework. This would entail encouraging industries that were conducive to creating more jobs and making full use of labour resources. While increasing productivity, the focus should be on promoting growth by fully utilizing human resources.

The employment performance would be closely associated with how the government addressed and “controlled” the unemployment rate. As a priority, a system of labour force survey statistics and of registration on employment and unemployment should be established to obtain precise information and analysis to conduct targeted employment interventions. This would also allow setting up an early warning system on unemployment. When there are significant international and domestic shocks that could have a big effect on employment, a pre-warning should be issued in good time. In this context, the Chinese government had already conceptualized the need to enhance the unemployment insurance scheme, which could be used as policies and measures in promoting employment and reducing unemployment.

Formulating and implementing an employment policy needed close co-operation between the relevant government ministries and departments. In 2003, the State Council established the Inter Ministry Joint Conference working mechanism. Later, the State Council decided to rename it the Inter Ministry Joint Conference on Employment. This inter-ministerial platform strengthened co-operation and coordination between the relevant departments, and played a key role in the formulation of policy and in the supervision of policy implementation. Due to the complexity and challenges of employment, a coordination mechanism on employment promotion at the national level was to be set up through legislation. In addition to legislating a coordination framework, a system on accountability and responsibility was to be set up under the supervision of the People's Congress, to which the government would report progress toward the achievement of employment objectives.

Second, the legislation process needed to accommodate the development of a market-oriented employment mechanism and a unified labour market. In

a market economy condition, the distribution of labour resources is mainly conducted through the labour market. Employment promotion is also largely realized through the market. A market-oriented employment mechanism was considered by the Chinese government as a necessary precondition for establishing and improving China's socialist market economic system. Hence employment promotion legislation needed to establish the principles of market-adjusted employment growth; the government's role in promoting employment; the labourers' rights to choose a job and start up a business by their own determination, as well as the employers' rights to recruit workers of their own choice. Recruitment practices by enterprises, and labour market relations, should be regulated. Segmented markets caused by different regions, identities, industries and sectors should be abolished, and a unified, open, competitive, orderly and dynamic labour market needed to be pursued to promote free movement and optimal use of labour. In this context, the need for an integrated employment market in rural and urban areas was deemed a precondition.

CHINA'S EMPLOYMENT PROMOTION LAW 7

7.1 THE LEGISLATION PROCESS OF THE EPL¹¹

The Chinese government had long been paying attention to building a legal system for employment promotion. As early as in 1996, the Legislation Bureau of the State Council had already included the drafting of an employment promotion law into its legislation arrangements. However, emerging issues in respect of enterprise restructuring, as well as a large swell of redundancies, led to a complex situation regarding policies and to a postponement of employment legislation. As stated previously, the implementation of AEP and its successes laid a solid foundation towards drafting the EPL. Starting from 2002, the Ministry of Labour and Social Security entrusted two of its organs to conduct research on legislation of employment promotion. In 2004, the Institute for Labour Science and Institute for International Labour Studies completed a research report on the *Feasibility of employment promotion legislation*. The Ministry of Labour and Social Security organized the relevant departments to draft the EPL in April 2005 and submit the draft to the Legislation Office of the State Council for review. Later, the Ministry, together with the State Council's Inter Ministry Joint Conference on Employment, set up a joint team to conduct field studies and solicit opinions from local departments. In October, the draft EPL was completed which was submitted to the State Council. The Legislation Office of the State Council solicited views and opinions from the relevant departments of the State Council, local governments, public institutions and enterprises, as well as experts.

In January 2007, the State Council submitted the draft EPL to the National People's Congress (NPC) Standing Committee for its review. In February, the draft EPL was submitted for the first time to the 26th Session of the Tenth NPC Standing Committee for its review, and was initially approved by the Session.

¹¹ The EPL was finally approved by the 29th Session of the Tenth NPC Standing Committee on 30 August 2007. On that day, President Hu Jintao signed Order No. 70 to issue the Law and it took effect from 1 January 2008.

Considering that employment was the basis of people's livelihood, and that it concerned the fundamental interests of millions of workers, the NPC Standing Committee followed the principles of democratic legislation and decided to open the draft law to public debate.¹² The NPC Law Committee and Legislation Committee reviewed the feedbacks presented by the various stakeholders. Meanwhile, the relevant legislatures distributed the draft law to the relevant departments at central and local levels to solicit opinions. The Law Committee and Legislation Committee also communicated with the relevant departments on key issues of the draft law, and the draft law was reviewed, article by article, based on the opinions expressed by members of the Standing Committee and others.

After a series of meticulous scrutinies and reviews, meetings held by the NPC Standing Committee and many discussions by special committees, the EPL was finally submitted to and approved by the 29th Session of the Tenth NPC Standing Committee, in August 2007. The Law was to take effect on 1 January 2008.

7.2 THE SIGNIFICANCE OF THE EPL

The EPL was a significant legal framework for the promotion of employment and safeguarding of basic rights and values toward the building of a harmonious society. This was mainly reflected in the following aspects:

1. The EPL was an important law in promoting the construction of a socialist harmonious society. Employment was not only a basic security for workers' livelihood, but was also a basic condition for them to integrate into society and share the outcomes of development. Issues on employment have long been among the core considerations of China's new reforms toward socioeconomic development. Employment promotion has evolved as a major long-term strategic task in China. In fact, the Central Government has now placed "full employment" as one of the priority goals in building a harmonious society, and has provided a legal framework to foster a balanced development between economic growth and employment promotion. It may be noted that China is pursuing the attainment of full employment as a key goal in building a harmonious socialist society in 2020. The EPL is thus considered as key to people's livelihood and harmony.

¹² From March to April, a total of 11,020 feedbacks were received, which were mainly from the grass-roots level, including workers in enterprises and public institutions, migrant workers, university graduates, farmers, and so on.

2. The EPL has provided a legal basis for implementing an active employment policy in China. As we have noted in the previous sections, the design and implementation of the AEP, and the continuous revisions and expansion of the various policy elements, had an enormous catalytic role in the EPL initiative. It not only enabled the immediate success of the EPL in addressing re-employment and containing unemployment, but also its extension to employment promotion policies and programmes. In this regard, the AEP programme found itself strongly interlinked with various ministries, sectorial policies and incentive structures that provided the broader canvas and the feasibility to move towards a national, legal framework on employment promotion. In fact, the AEP facilitated the safeguarding not only of the vulnerable and redundant workers, but also of overall economic and social stability. Indeed, rapid restructuring and economic growth also facilitated the absorption of labour and the success of the AEP. The current AEP is reflected in the EPL in the following four aspects: (i) the legal status of the AEP was strengthened; (ii) the policy framework was expanded; (iii) the coverage of targets and contents of the policy were extended; and (iv) the policy was further refined. The AEP was also linked to various other elements of the EPL. The EPL upgraded AEP into law that made the employment promotion mechanism more systematic; policies, measures and financial inputs were given a legal cover, which was conducive to establishing a long-term mechanism on employment promotion and was an important instrument of employment policy in China.
3. The EPL further ensured improvements in China's labour and social security system. While there were provisions on employment promotion and employment rights in the Constitution and the Labour Law in China, specific laws on concrete provisions were necessary on employment promotion and social security. With the rapid development of urbanization, industrialization, market-orientation and increasing global integration, there emerged new conditions and problems in terms of employment relations and social security, which urgently needed a legal framework. With the EPL as the first basic law on employment labour relations and security, China made an important leap in the construction of a legal system on employment.
4. The release of the EPL symbolized China's march toward a socialist market economic system.

7.3 THE MAIN CONTENT OF THE EPL

Establishing the guideline for employment

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

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

The EPL, further, has provided guidelines in respect of individual workers' entitlement to freely-chosen employment, market-regulated employment and the government's promotion of employment. The EPL thus provides clear provisions for the appropriate mix of public and private sector initiatives toward employment promotion. It specifies:

1. That workers should retain their individual initiative when choosing jobs, which implies that they would need to develop their potential and improve their professional skills based on which they could find jobs on their own, or start up their own businesses.
2. That "employment is regulated by the market", that is, that the market would regulate the supply of and demand for labour. The enterprises were also entitled to recruit new employees at their own discretion. The price of labour (that is, wages and earnings) would also be market-determined.
3. That the government would also continue to promote employment; that is, it would carry out active employment policies and devise policies to encourage the creation of more job opportunities. The government would also take the significant responsibility of promoting decent employment, improving the employment environment and providing employment assistance. The government should keep on encouraging and supporting more workers to choose jobs on their own and enterprises to increase job opportunities; creating employment conditions by improving public employment services and strengthening vocational education and training; and helping vulnerable groups to find jobs by providing employment assistance.

Promoting "fair employment"

The EPL lays down clear provisions for promoting fair employment, prohibiting employment discrimination and protecting the workers' rights to equal employment. Workers are entitled to enjoy the right to employment on an equal footing and to a choice of jobs on their own initiative in accordance with law. In seeking employment, the workers shall not be subject to discrimination because of their ethnic backgrounds, race, gender or religious beliefs, and so on. The provisions on fair employment in the EPL include, among others, the following:

1. Underscoring the government's obligation to ensure fair employment for all workers in the labour market, with particular focus on the vulnerable groups. This is fundamental to constructing a harmonious society, and is a reflection of the government's commitment to the workers. It is regulated in Article 25 of the EPL that governments at all levels shall create an environment for fair employment, eliminate discrimination in employment, and formulate policies and take measures to support and aid the persons who have difficulty in finding jobs.
2. Regulating the behaviour of employing units and job intermediaries
3. Guaranteeing women equal rights to those of men. Equal treatment of women in the labour market is a fundamental element in the national policy framework. It is regulated in Article 27 of the EPL: "The State guarantees that women enjoy equal rights to work as men. When an employing unit recruits persons, it shall not refuse to employ women or raise recruitment standards for females by using gender as an excuse, except where the types of work or posts are not suitable for women as prescribed by the State. When an employing unit recruits female workers, it shall not have such provisions as restrict female workers from getting married or bearing a child included in the labour contract."
4. Guaranteeing workers from all ethnic groups equal rights to work. As a multi-ethnic country, China's ethnic policy has not only been recognized by the ethnic minorities in China, but also won praise from the global community. Guaranteeing workers from all ethnic groups equal rights to work further strengthens and maintains the principle of social fairness and harmony. It is regulated in Article 28 of the EPL: "The peoples of all ethnic groups must enjoy equal rights to work. When an employing unit recruits persons, it shall give appropriate considerations to person of ethnic minorities in accordance with law."
5. Guaranteeing the disabled persons' right to work. The disabled persons, because of their physical and/or mental handicaps, are a particularly

vulnerable group in human society. Specific policies and programmes, within a non-discriminatory regulatory framework, are needed to entitle disabled persons to a decent living and social status. It is regulated in Article 29 of the EPL: “The State guarantees the disabled persons’ right to work. People’s governments at all levels shall make overall plans for the employment of the disabled and create conditions for their employment. When an employing unit recruits persons, it shall not discriminate against disabled persons.”

6. Guaranteeing the rural workers who migrate to cities for employment equal rights to work. Migrant workers are a new and rising labour force strongly associated with the process of China’s industrialization and urbanization. Their *hukou* (registered residence) is in the rural regions. From the perspective of aligning rural and urban labour markets, guaranteeing migrant workers equal rights to work as urban workers is a significant element in Chinese social and economic development. As regulated in Article 31 of the EPL: “Rural workers who go to cities for employment shall enjoy equal rights to work as urban workers do. No discriminating restrictions may be placed on the rural workers who go to cities for employment.”
7. Regulating access to legal aid when the workers are discriminated in employment. This empowers the workers to have access to protect their rights. As regulated in Article 62 of the EPL: “Where anyone practices discrimination in employment in violation of the provisions of this Law, the workers concerned may lodge a lawsuit in the people’s court.”

7.4 LEGISLATION ON THE GOVERNMENT’S OBLIGATION TOWARD EMPLOYMENT PROMOTION

Employment generation is a complex phenomenon. This is particularly so for China which has undertaken massive economic and social reforms towards greater integration into the global economy and, equally, in establishing a socialist market economy. Balancing the roles of the state and non-state sectors has been continuously reviewed. While the stipulations of the EPL with regard to active employment policies and labour market regulations are fairly evident, establishing a legal framework for employment promotion, especially the role of the government, is much more complex. Nevertheless, the EPL has articulated certain obligations and responsibilities that the government would have to discharge in the promotion of employment.

Foremost, it is the government’s responsibility to foster economic development in a manner that would enhance job opportunities. This would warrant

placing employment generation at the heart of national and local economic and social planning. Some related measures would be to balance industrial policies with employment policies; encourage the development of the labour-intensive industries and the service industries; support SMEs; and encourage, support and guide the development of the non-public sectors of the economy in order to expand employment. The stipulations further encourage the government to design and formulate an economic development model which is employment-friendly.

Second, the government's conduct in promoting employment and reducing unemployment would mainly embody formulating and implementing a systematic and proactive policy framework. The EPL (from Article 11 to Article 24 of Chapter II), stipulates the formulation of policies favouring employment promotion in the fields of industry, fiscal administration, revenue, finance, investment, trade, and so on. The provisions also require a comprehensive alignment of employment policies in urban and rural areas, and for different regions and different groups. These provisions would be supplemented by the AEP, which is incorporated within the EPL framework.

Third, the government has an obligation towards the overall development of human resources, and in regulating the "human resources market" vis-à-vis the development of a socialist market economy. The human resources market is the notion that China adopted to include the current labour force, various skills, the employment market for graduates, and other skills markets. It is prescribed in the EPL that governments at or above the county level shall foster a unitary, open, competitive and orderly market for human resources, intensify the development of information networks and relevant facilities for human resources development and improve the system for dissemination of market information to facilitate their employment. "Unitary" policies were aimed at unifying the urban and rural labour markets; "open" policies meant removing obstacles in the way of the free flow of labour across regions; "competitive" meant establishing a fair market environment by eliminating discrimination; and an "orderly" approach was needed to establish sound market management mechanisms, to strengthen supervision and to guarantee the normal operation of the market.

Fourth, public employment services were considered a critical aspect of AEP, and developing a public employment service is an important responsibility of the government. It has a significant function in promoting the supply-demand balance in the labour market, and establishing a flexible and effective human resources market that would support job-seekers, especially the vulnerable group, in gaining employment. The EPL has clear prescriptions in a chapter on strengthening the public employment service. It is prescribed in the Law that governments at or above the county level shall establish public service agencies for employment

and provide free services to the workers. The EPL makes clear the precise responsibility of the public employment service, and also prescribes that funds shall be incorporated into the government budget so that guaranteed funds are available for the public employment service agencies. In order to differentiate between public and profit-oriented firms, the law prescribes that a public service agency for employment shall not engage in any profit-making activities, and no local government at any level may collect fees from people who attend job fairs held by them.

Fifth, strengthening the vocational education and training system is stated in the EPL as a major government responsibility towards human resources development, and in enhancing the quality of the labour force. The EPL prescribes the specific responsibilities and functions of the state, enterprises, workers and all kinds of vocational training institutions focused on improving workers' quality to meet the changing labour demand and to stabilize employment

Sixth, the EPL prescribes that the governments at all levels shall establish a sound employment aid system to support, in particular, the more vulnerable groups in society. According to the provisions in the Law, these groups, entitled to employment aid, would include persons with difficulty in finding jobs because of their physical condition, level of skills, family factor, loss of land and so on, or who cannot find re-employment for a continuous period of time.

The provisions on employment aid also require governments at all levels to establish a sound employment aid system: to support the exemption and deduction of taxes and fees, and to discount interest loans; and to provide social insurance subsidies, job subsidies, public welfare jobs, and so on. The provisions particularly prescribe the employment aid to urban families with no employment.

7.5 THE GLOBAL FINANCIAL CRISIS: A TEST CASE FOR THE EPL

The EPL, with its promulgation by the NPC, came into effect in January 2008, the year which saw the Chinese economy hit by various internal and external shocks. A series of natural disasters caused major disruptions and affected the economy adversely. Nevertheless, the AEP, within the broader framework of the EPL, helped China to mitigate the negative impacts on the labour market and to sustain employment stability. As a matter of fact, over the entire year in 2008, the Chinese economy registered a higher job generation than was initially targeted for the year, both in terms of new jobs as well as the re-employment of displaced workers.

The external "shock", in the form of the global financial crisis, hit the Chinese economy early in 2009. It may be noted that the crisis broke out mainly

in the second half of 2008, which coincided with a declining growth trend of the Chinese economy. Moreover, the existing constraints in the economy, such as overcapacity, an undue reliance on foreign demand, a weak environment for growth of SMEs and weak risk resistance, all had an adverse effect on the economy and employment.

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

Rural migrant workers were the most vulnerable group during the crisis. They comprised 58 per cent of the working staff in the secondary industries, while a large number of them worked in export-oriented enterprises in coastal areas. Many of these workers lost their jobs, waited for job placement or went back to their rural areas. According to an investigation by the National Bureau of Statistics, by the Spring Festival of 2009, more than 12 million rural migrant workers lost their jobs and returned home, that is, nearly 8.5 per cent of the total rural migrant workers.

Similarly the urban registered unemployment rate kept rising, although not sharply; but it was more difficult for the vulnerable groups to find jobs. By the end of 2008, the urban registered unemployment rate rose by 0.2 per cent compared to that of 2007. During the financial crisis, enterprises sometimes got rid of workers who were engaged in flexible forms of employment.

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

To deal with the serious impact of the financial crisis on Chinese employment, the state rapidly issued an economic stimulation plan. In terms of employment, the State Council and relevant departments formulated and adopted a series of policies and measures on stabilizing and expanding employment. These included, apart from general policies, specific measures to counter negative employment effects. Particular attention was given to rural migrants, college and university graduates, and those wishing to set up their own businesses and so on. Special training programmes were set up and public employment services were stepped up.

One observes that the meticulous and unique labour market mechanism as reflected in the EPL and AEP played an important role in this regard. The

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Chinese government used it to its advantage fully, and embarked on policy actions as quickly as possible. The EPL and the fully functioning AEP, with its elaborate and tested implementation mechanisms, helped China to cushion the adverse employment effects of the crisis.

CHINA'S FUTURE EMPLOYMENT CHALLENGES

7

China has made rapid strides over the past three decades in terms of economic growth, employment generation and a rise in the living standards of its population. Nevertheless, the country will continue to face an enormous employment challenge, given the large size of its population and the working-age population. The working-age population is expected to peak at 930 million in 2014, and possibly remain at that level over the next couple of decades. Regarding new entrants to the labour force, an estimated 10 million people are likely to enter the labour market every year. This, together with the 8 million unemployed and 6 million redundant (laid-off) workers, would warrant the need for employment generation to the tune of nearly 24–25 million each year, especially in the urban cities. Given current trends and employment elasticities, the growth of new jobs is likely to be around 8 million per year, implying a major gap between labour supply and demand.

8.1 THE EMPLOYMENT CHALLENGE

The employment challenge is not simply about matching the workforce supply and job opportunities. China also faces major anomalies in the employment and labour market structure. First, there are emerging skills matches in the economy, which has been a key constraint in the re-employment scheme discussed earlier. The increasing demand for professional and technical skills in the intensified pace of industrialization and modernization is unmet by the existing skills structure, especially those who have been made redundant in the restructuring process, or the labour force migrating from the rural areas. On the other hand, there is a large proportion of the workforce with low-quality skills for whom jobs are not in adequate supply. Second, the tertiary sector, which is being strongly encouraged to create more job opportunities, has not developed adequately; its share in total employment is still less than the average

observed in the developing countries. Third, there are unequal job opportunities in different regions, and also between rural and urban sectors. Rural labour migration so far has been administratively managed, especially in order to provide unlimited labour supply to the growing cities and urban industrial centres. A unified rural–urban labour market, as envisioned in the AEP and the EPL, is yet to evolve such that there is a free, market-determined, process of labour allocation and labour mobility. Moreover, the migration flow cannot be predicted smoothly because there are many disadvantaged groups with different abilities for mobility. Thus, it is argued that there can be a coexistence of both a shortage and a surplus of a rural migrant workforce destined for employment in the industrial centres. Despite an apparent estimate of 150 million surplus workers in the rural areas, analysts argue that China’s future growth and modernization process may face a “structural” lack of labour supply (Bruni and Tabacchi, 2011).

Various constraints, both on the supply and demand sides of the labour markets, would continue to underlie the debate on how far China has progressed on its employment performance to reach at least the Lewisian turning point, on its path to achieving full employment (Teng, 2009).

8.2 THE TARGET OF “FULL EMPLOYMENT” IN CHINA

As stated at the outset, China’s employment and labour market policies have been formulated and continuously reviewed in the light of achieving a socialist market economy and building a harmonious society. Hence, the target of full employment has been a constant pursuit in China’s attempts to grow within a people-oriented development strategy. While the concept and definition of full employment has tended to vary, some economists point to three important characteristics: (i) achieving a basic balance between labour supply and demand; (ii) workers’ skills and their quality is relatively fully developed so as to influence their employment; and (iii) stability in the labour market relationships. China is fully committed to these goals, and to the ILO’s Convention on full employment, as well as the campaign for full, productive employment and decent work.

It may be noted that China is among the very few developing countries that are pursuing the goal of full employment with full vigour. Moreover, China has not only developed a comprehensive policy and programme framework, but also now has a detailed legal framework in the form of an EPL. The Sixteenth National Congress had for the first time officially underscored the target of full employment (with Chinese characteristics) as a key index of the society. Under Chinese conditions, the blueprint for the pursuit of full employment rests on: ensuring that all the workers who are able and willing to work can

find an employment opportunity; developing a mature, market-oriented employment and labour-market mechanism whereby workers are free to choose jobs or set up businesses; fully developing and utilizing labour resources in the urban and rural areas; ensuring the stability of jobs, and enhancing workers' earnings through improving the quality of employment.

8.3 CHINA'S COMPREHENSIVE EMPLOYMENT-FRIENDLY DEVELOPMENT STRATEGY

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

These concerns would need to be addressed through a range of development and intervention policies, many of which are encapsulated in the EPL. The full-employment target, as defined by the country, is not only in realizing a reasonable quantitative balance between labour supply and demand, but also in enhancing labour's quality, productivity and income. The EPL equally upholds the promotion of full employment. Owing to the complexity and scale of the employment challenge, there would need to be a continued pursuit of a comprehensive social and development strategy, duly revised, in order to fulfil the goal of employment. This would entail, inter alia, the following:

1. Careful planning needs to be done to ensure that economic and social policies are beneficial to employment promotion. In particular, there needs to be a coordinated industrial and employment policy, incorporating support to SMEs and to the development of labour-intensive industries. Continuous incentives and guidance need to be given to the private (non-public) economy to increase employment opportunities. The government must develop domestic and foreign trade and international economic co-operation policies that bring into play the role of investment and major infrastructure and construction programmes in promoting employment.
2. Employment promotion must be an important objective of public investments. Governments at national and local levels should, according to

provisions in law, include special employment funds in their financial budgets to promote employment. They should establish a security mechanism for government financial investments, and regulate the use and management of employment funds.

3. As seen in the practice of the AEP, preferential taxation policies are one of the most effective and important methods of employment promotion. The state, in accordance with law, offers preferential taxation policies to enterprises and persons who satisfy the conditions as prescribed by the law and exempts the unemployed and disabled persons who engage in self-employed businesses from administrative fees. The state should continue to encourage enterprises to promote such employment through preferential taxation policies.
4. Extending financial credit support is a key to promoting SMEs and to start-up businesses. The state should add more financing channels for SMEs, encourage financial institutions to improve their services, enhance the credit support to SMEs and provide microguaranteed loans to business starters.
5. The foreign trade policies need to be designed towards employment promotion and unemployment reduction. The state should place employment promotion as a key reference when establishing and adjusting the import and export policy, adjusting the interest mechanism, and dealing with trade frictions. For those industries or enterprises which are adversely affected by trade and disputes, the government must adopt mitigating measures such as taxation discounts or exemption as necessary, to reduce unemployment as much as possible.
6. The government needs to continue to develop comprehensive employment policies for urban and rural areas, different regions and disadvantaged groups of workers. The state needs to establish and improve equality in employment between workers from urban and rural areas, and guide rural surplus labour to orderly transfer and employment. The state must devise policy support towards regional development, cooperation among regions and to support minority regions.
7. The state must strengthen and improve the vocational skills training system and human resources development policy for all workers. It needs to conduct job-oriented training for new entrants to the labour force, encourage on-the-job training in enterprises and provide retraining for redundant and unemployed workers.

8. The programme of employment aid to vulnerable groups has been designed as a fundamental requirement to guarantee citizens to realize their right to employment, to protect and improve their livelihood, and to promote social fairness and harmony. The state should both continue and improve the employment aid mechanism, especially to provide support to groups with difficulties in finding jobs, and to guarantee at least one family member gains employment.
9. The state would need to accelerate establishing the social security mechanism as well as policies and measures covering workers in both urban and rural areas, and to extend its coverage and scale. It needs to develop measures that would better link social security with employment promotion. The state should take measures to gradually improve the labour and social insurance policies that match flexible employment arrangements.
10. The unemployment insurance mechanism plays its role in guaranteeing a basic livelihood and the promotion of employment, and strengthens the prevention, regulation and control of mass unemployment. The state comprehensively uses laws and the necessary administrative measures to try to reduce the number of long-term unemployed persons and prevent the sudden growth of the unemployed. The state should regulate enterprises when they lay off workers to avoid pushing large numbers of unemployed persons into society at the same time. The unemployment supervision system and unemployment alert system should be established and improved.

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

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