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**LABOUR IMMIGRATION POLICY IN BRITAIN AND
FRANCE: SEEKING FUNCTIONAL ALTERNATIVES?**

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1. Introduction

Fieldwork carried out in the Spring-Summer of 2013 in London and Paris had the aim of further exploring British and French labour immigration policy, with a particular focus on policy developments since mid 2012¹ as regards the regulation of labour immigration and policy on 'functional alternatives' to labour immigration. The latter refers to government attempts to 're-nationalise' occupations where migrant workers concentrate, a policy which has been recently identified in Britain and Ireland (Devitt 2010). An important aim of the research was to investigate how significant this re-nationalisation policy is in the British labour immigration policy arena and whether the economic crisis had led French policymakers to re-activate this policy, dormant in France since the 1970s.

Interviews were conducted with government ministry officials in the two states and in the case of France, employer organisation and trade union officials. Some of the interviewees had already been interviewed in 2011 and 2012; others were interviewed for the first time (see Annex with list of interviews). In this report, the main findings of the fieldwork are set out according to three main areas of investigation: 1) Organisations involved in labour immigration policymaking; 2) Immigration and immigration policy; and 3) Re-nationalising migrant jobs.

2. Britain

2.1 Organisations involved in labour immigration policy-making

According to government officials in the Home Office (HO), the Department for Work and Pensions (DWP) and Business Innovation and Skills (BIS), the Migration Advisory Committee (MAC) is the pivotal organisation in terms of labour immigration policy-making in the UK. The MAC is an independent advisory body of economists, created in June 2007 by the Labour government and maintained by the current coalition government. As a high-ranking official from the Home Office stated, 'We rely on the MAC' (Interview HO). It provides government with an overall analysis of migrant labour across sectors and its brief has expanded to include the impact of immigration on wider public services provision. Since 2010, the MAC's remit has expanded to include European Free Movement (Interview DWP). Government departments with an interest in labour immigration include the Home Office, BIS, UK Trade and Investment (UKTI), the Treasury, DWP and Department for Environment, Food and Rural Affairs (DEFRA). The Departments engage with the largest employers' organisation, the Confederation of British Industry (CBI), and business more generally, in formulating policy. There has been a big change over the last few years as government departments have become

¹ The first Lab-Mig-Gov reports on the governance of labour immigration in the UK and France were published in 2012.

more outward facing and concerned with policy impact (Interview HO). The Departments respond to MAC recommendations and engage in cross-departmental discussions. Each department has a migration expert/s.

Strategic immigration policy-making takes place in the Home Office in London, while operational policy (i.e. guidance rules and advice to case workers) takes place in the Home Office in Sheffield. The London policy team consists of twenty people, four to five of which are responsible for work migration from outside of the EU (i.e. the Points Based System (PBS)). There is also a Free Movement team with responsibility for policy on intra-EU mobility within the Home Office (Interview HO).

2.2. Immigration and immigration policy

One of the coalition government's main policy objectives is to reduce levels of immigration. As a high-ranking official from the Home Office asserted, 'This objective drives all policy thinking (in the area of immigration)' (Interview HO). However, at the same time, government must ensure that employers get the workers they need and it does not want to cut off the supply of foreign workers too drastically. Indeed, the conflicting priorities of reducing levels of immigration and ensuring a labour supply for employers make for complex policy-making (Interview HO).

Since in government, the Conservative-Liberal Democrat coalition have made some qualitative changes to the largest Tier of the PBS, Tier 2 (for highly skilled migrant workers with a job offer in the UK), in order to reduce the number of applicants; raising the job skill, language and the minimum pay thresholds. Furthermore, the list of occupations on the shortage occupation list was also reduced in September 2011.

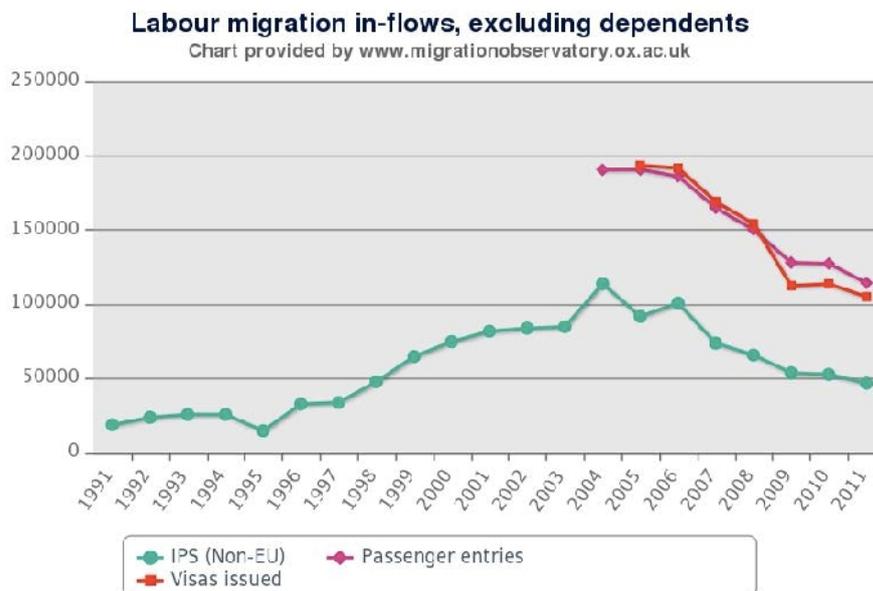
Most controversially, in line with the Conservative electoral commitment to reduce net migration to the "tens of thousands, not hundreds of thousands", the government introduced an annual cap on some categories of non-EEA economic migrants. Since April 2011, the annual cap for Tier 2 has been set at 20,700. The government also decided to limit Tier 1, the entry-channel which does not require a job offer in the UK prior to entry, to investors, entrepreneurs, and people of 'exceptional talent' (for whom there are a maximum of 1,000 permits).

There has, however, been a general acceptance of the Conservative restrictions on immigration among the main parties and stakeholders. Only a few employer associations, which are affected by the restrictions, in particular the ethnic catering industry, have been vociferously critical of current policy. The trade unions have also tempered their pro-migrant perspective and have begun to put more emphasis on the need to upskill local workers (Interviews HO).

This is partly explained by the fact that various categories of labour immigrants are not subject to the cap or other restrictions like the RLMT. For example, Intra-Company Transfers (ICTs), workers moving within multi-national companies (MNCs), are not

subject to the cap due to the MNC employer lobby and diplomatic pressure from the Indian and Japanese governments. This is significant as the ICT route is the most used route of the PBS system (about 70% of Tier 2 applications) and it is the only one, which does not necessitate an assessment of whether there are suitable candidates in the resident labour force (MAC 2009). The government has been responsive to business due to concerns that if policy becomes more restrictive, big business might leave the UK (Interview HO). Furthermore, the cap on Tier 1 and Tier 2 routes introduced in April 2011 was set at a relatively high level; indeed, the number of permits available under Tier 2 for 2011-12 was greater than the number of certificates issued under Tier 2 (excluding ICTs) in 2009 (Migration Observatory 2011).

Figure 1: Work-related migration to the UK 1991-2011



Source: Migration Observatory Oxford 2013 Note: IPS - International Passenger Survey

Indeed, the number of work-related entry visas issued fell from just over 150,000 in 2008 to just below 106,000 in 2011 (see Figure 1), demonstrating a persisting demand for migrant workers in Britain despite the crisis.²

² It is, however, important to note that while British governments emphasise the need to prioritise highly skilled labour migration and have protected these inflows, a significant proportion of non-EU work-related inflows is composed of people coming to take up low-medium skilled work in Britain (56 % in 2012) Scott Blinder, 'Non-European Labour Migration to the UK', (Oxford: Migration Observatory Oxford, 2013).

When asked if there might be a return to a more open immigration policy when the economic situation improves in Britain, an official from the DWP asserted that he did not predict a change in approach on the basis that attitudes to migration and welfare receipt had fundamentally changed amongst the British public. This attitudinal change was not just a response to the recession; it was also a response to globalization and a rising sense of insecurity (Interview DWP).

2.3. Re-nationalising migrant jobs

The main substitute for labour immigration discussed in the UK is the training and 'upskilling' of the resident labour force in order to provide employers with the skills they need and reduce demand for foreign skills. Other alternatives, in particular raising wages and improving working conditions, have been less emphasised in the public debate. The focus on skills as opposed to wages can be explained by growing concern about human capital competitiveness in the UK over the past thirty years and an entrenched preference for wage competition.

As numbers of migrant workers grew over the past decade, concern about a reduction in opportunities for the resident labour force led to a political emphasis on producing the skills needed by employers within the UK rather than importing them. This emphasis developed as the approach to immigration shifted from positive to negative from around 2007-8 (Devitt 2010). The restrictions imposed on recruiting non-EEA foreign workers from 2010 have given further impulse to efforts to produce skills domestically.

The MAC is charged with ascertaining when it was 'sensible' to open up to migrant workers by the Labour government (since late 2007). In producing the shortage occupation list the MAC approach to the concept of 'sensible' is to consider each occupation with reference to whether employers have explored feasible alternatives to employing immigrants such as training resident workers, raising wages and working conditions or changing production processes. It is underlined that not all options are feasible at all times and that the economic and regulatory environment can make certain responses to labour shortages difficult; for example public budgets can limit wage increases. However, despite this in-depth labour market analysis, only a handful of occupations are kept off the list if they have already been deemed skilled and in shortage.

New qualifications were designed for ethnic catering at the end of Labour's period in office in order to attempt to fill chef skill shortages – which accounted for a large proportion of inflows through the shortage occupation route - with resident workers. This policy has been further strengthened since all but the most highly qualified chefs have been taken off the shortage list in 2011.

According to a high-ranking official from the DWP, the UK has a strong 'work-first' approach to active labour market policy (ALMP). The basic aim of British ALMP is to meet employer demands for labour and reduce inflation. Distinguishing the British approach from that of Germany and Holland, the official asserted that the British government does not want job seekers to be too selective in terms of what jobs they take up. If someone cannot find a job within three months, s/he is expected to get back into any job and continue looking for a job, which matches his/her skills and expectations, while gainfully employed. The official maintained that due to this policy, only 10% of jobseekers are still unemployed after a year in the UK. Furthermore, it was asserted that there is a political consensus on 'work-first' ALMP and on the aim to reduce levels of immigration amongst the main political parties in the UK (Interview DWP).

As noted above, one of the government's overarching aims is to reduce pressure on the 'migration system' i.e. to reduce numbers of immigrants, including EU citizens. According to the DWP official interviewed, there are certain sectors, which employ large numbers of migrant workers, like agriculture and care, where there is the potential to fill vacancies with unemployed resident workers (Interview DWP). Furthermore, the DWP seeks to encourage 'informed migration decisions' by asking EURES³ advisors to inform prospective migrants to the UK of the negative realities of the UK labour market. The implicit aim of this policy is to disincentive EU citizens from moving to the country (interview DWP).

As noted above, while the previous Labour government introduced qualitative restrictions on non-EU labour immigration, the coalition government also introduced further qualitative restrictions and controversially introduced a cap on certain categories of non-EU economic immigrants. The coalition government has furthermore pledged to reduce levels of free movement to the UK (Interview DWP). Indeed, regarding the latter, a high-ranking official from the Home Office maintained that the focus of government has shifted from non-EU labour immigration to reducing levels of intra-EU mobility to the UK. Indeed, the government appears satisfied with the PBS and non-EU work migration. Employers were also exhausted by continuous policy reforms of the PBS system over recent years so home office officials expect relative stability in that area (Interview HO).

There is a degree of continuity with the previous government as regards the long-term objective of 'upskilling' the resident labour force in order to reduce demand for migrant workers. Nonetheless, the coalition government puts more emphasis on encouraging more recruitment of 'UK workers' (Interview DWP). For example, pilot schemes have been introduced in the agricultural sector; training in agricultural techniques is provided and UK job seekers are persuaded to take up low skilled jobs as well (Interview DWP). These pilot schemes were introduced in anticipation of the closing of the Seasonal

³ European Employment Services (<https://ec.europa.eu/eures/home.jsp?lang=en>).

Agricultural Workers Scheme⁴ on the 31st of December 2013. While Romanians and Bulgarians can still work in agriculture, the British government would like to encourage more 'UK people' to work in this sector (Interview DWP). Furthermore, more generally, the DWP aims to 'disabuse people's misconceptions regarding certain sectors' in order to encourage 'UK people' to take up jobs in sectors such as care, catering and agriculture, where there are large concentrations of migrant workers (Interview DWP). The government maintains that employers should be able to get low skilled workers from within the resident labour market, there should be more training of resident workers and migrants should be the 'last port of call' (Interview HO). However, government officials maintain that it can be difficult to get employers to take the current policy of substituting immigrants with resident workers seriously. Employers argue that unlike migrant workers, British school leavers do not have the required skills and are unreliable, for example, they change jobs all the time (Interview HO). Furthermore, a high ranking official from BIS Labour Market Directorate maintained that although there has been an increasing governmental emphasis on training up resident workers in skills which are in shortage, thereby reducing demand for migrant workers, this is a relatively marginal policy. Most of the government attempts to reduce immigration have been carried out by directly restricting inward migration rather than by attempting to impact demand for migrant workers via the training system. Moreover, it was asserted that the 'response is a little fragmented in terms of different departments; while the Home Office, which is responsible for immigration and BIS, which works on the Skills Strategy, do talk together, it is not completely seamless' (Interview BIS).

3. France

3.1. Organisations involved in labour immigration policy-making

The Interior Ministry Office for Labour Immigration (OLI) has primary responsibility for labour immigration in France and works closely with the Labour Ministry. The Labour Ministry provides firms with work authorisations for foreign workers, while the Interior Ministry is responsible for residency issues. The Ministry for Higher Education aims to attract more students, while the Interior and Labour Ministries are more cautious about immigration. According to officials from the Interior Ministry, ministries also engage the main employer organisation, Medef, large employer federations and the trade unions in formulating immigration policy (Interview OLI). However, a representative from Medef maintained that since 2008 employers are not consulted much by government (at most once a year) and immigration policy does not take into account the needs of business, partly due to the fact that 5 million people are unemployed (Interview Medef). A representative from CGT trade union asserts that differently from the previous centre

⁴ The Seasonal Agricultural Workers Scheme (SAWS) allowed fruit and vegetable growers to employ migrant workers (latterly from Bulgaria and Romania) as seasonal workers for up to six months at a time.

right government, the current socialist government is proud to declare that the government is engaged in social dialogue with employers and trade unions in formulating immigration policy (Interview CGT).

3.2. Immigration and immigration policy

Immigration is a very sensitive, contentious issue in France (Interview Medef) and levels of official labour immigration are comparatively low (Ministère de l'Intérieur 2013). Levels of non-EU economic immigration have fluctuated between 12,126 and 21, 792 between 2006 and 2012 and economic immigration represented less than 9% of immigration flows in 2012 (Ministère de l'Intérieur 2013). This is partly due to a relatively low level of demand for migrant workers and partly due to a highly restrictive immigration regime. Employers in certain sectors, for example hospitality and construction have an appetite for low-skilled foreign labour. Indeed, small firms like to hire face to face and often recruit irregular migrants (Interview CGT). Higher skilled sectors are able to find workers in France or hire ICTs (Interview OLI, CGT). The Resident Labour Market Test is relatively hard to pass and officials from the Interior Ministry assert that if the test were eased, demand for foreign workers would rise (Interview OLI). However, at the same time, France produces lots of skilled workers, for example engineers, and French employers have a preference for workers with French qualifications and knowledge of French culture and language. Employers also prefer to already know the candidate before hiring her/him (Interview Medef, CGT). Indeed, there are very few requests for foreign workers who are not already in France (Interview OLI); in 2012 half of the non-EU citizens issued with permits for professional motives were already present in France either as students or irregular migrants (Ministère de l'Intérieur 2013). For this reason, a representative from CFDT trade union stated that 'economic migration to France does not exist, the government manages the stocks not the flows' (interview CFDT).

There is a report on immigration each year, followed by a discussion in Parliament (Interview Medef). The rhetoric of the previous centre right government to labour immigration shifted towards restrictiveness in 2011 due to a rise in unemployment and perhaps more significantly, opinion polls which showed Marine Le Pen (FN) as a serious contender for the 2012 Presidential elections, with a few polls even suggesting that she could win the first round of the election (The Economist 2012). The centre-right government was undoubtedly attempting to co-opt FN votes as it has been known to do in the past. Claude Géant, Minister for the Interior declared that total immigration inflows were to be reduced by 20,000 and labour immigration by 50% in late May 2011. He emphasised the economic crisis and rise in unemployment from 7.7% at the end of 2007 to nearly 10% and maintained that 'contrary to myth, France does not need skilled foreign workers. Last year, 730 foreign masons entered the territory; yet when

Pôle Emploi (public employment agency) advertises 20 mason jobs, 100 jobseekers in France apply' (Le nouvel observateur 2013). A decree of the 31st of May 2011 from the Ministers of Interior and Labour aimed to reduce the numbers of permits issued (*d. l. o.-m. Ministère de l'Intérieur, des collectivités territoriales et de l'immigration et Ministère du travail, de l'emploi et de la santé, 2011*). Prefects were instructed to be particularly restrictive regarding those without highly skilled job offers as well as students applying for a temporary residence card in order to search for a job or changing status from student to labour migrant. Furthermore, the shortage occupation list for non-EEA nationals was reduced from 30 occupations, defined on a regional basis, to 14 occupations for the entire country, by means of a decree from the Interior Ministry (11th of August 2011). However, the Socialist government annulled the circular of the 31st of May 2011 in May 2012 and eased the conditions for students changing to worker status. Furthermore, the list of 30 shortage occupations was re-established by decree on the 26th of December 2012 (Ministère de l'Intérieur 2013).

In any case, the numbers of first work permits issued to non-EU nationals did not fall sharply between 2010 and 2012. They decreased just slightly from 18,759 in 2010 to an estimated 17,354 in 2012 (see Table 1) (Ministère de l'Intérieur 2013), suggesting that the hardening of the RLMT criteria did not have a huge effect on inflows.

Table 1: First work-related residence permits issued to non-EU nationals 2006-2012 (in thousands)

2006	2007	2008	2009	2010	2011	2012
12,126	12,154	21,792	20,607	18,759	18, 303	17, 354 (estimate)

Source: Ministère de l'Intérieur 2013 p. 23

According to officials from the Interior Ministry, the current Socialist government under the Presidency of Francois Hollande⁵ shows signs of shifting immigration policy towards facilitating certain categories of highly skilled labour immigrants and students, for example by providing pluri-annual permits (Interview OLI). A parliamentary debate on immigration took place in April 2013 based on a Ministry of the Interior report on economic and student immigration (Ministère de l'Intérieur 2013). This was the first large debate on economic immigration and student immigration involving the social partners (Interview CFDT). This Ministry of the Interior report notes the low level of highly skilled migration to France, queries whether the RLMT might be made less onerous and different work permits rationalised and discusses the benefits of student immigration; demonstrating that the Socialist government has an expansive approach to economic immigration. The Ministry of Interior report also queries the maintenance of country specific shortage occupation lists (For example 16 occupations for Benin, 64

⁵ On the 6th of May 2012, the Socialist candidate Hollande won the presidential elections runoff with a vote of 51.63% to Sarkozy's 48.37%.

for Burkina Faso), which are not the direct output of the labour market analysis working groups which establish the general shortage occupation lists (see above) (Ministère de l'Intérieur 2013). One of the policy aims of the current government highlighted by a CFDT trade union representative was that students should be seen as a resource, like labour immigrants (Interview CFDT). The same representative from the CFDT asserted that differently from President Sarkozy, President Hollande discusses immigration in terms of rights rather than numbers (Interview CFDT).

The Ministry of Interior report on economic immigration also asserts that it would be 'unconstitutional' to limit the labour market access of non-economic migrants such as family and humanitarian immigrants (Ministère de l'Intérieur 2013 p. 41). The report furthermore recommends carrying out more research on the employment conditions of non-economic migrants as currently very few studies have been done on this. A representative from the CGT trade union maintained that government has only recently begun to view non-economic migrants as indirect labour immigrants. The problem, according to the CGT representative, is that many of the family migrants are exploited at work, for example receiving wages below the national minimum wage (SMIC) (Interview CGT). On the other hand, according to officials from the Interior Ministry, family migrants can access the labour market but they often have difficulties finding work (Interview OLI).

CGT had been campaigning for the possibility for irregular migrants with contracts to be regularized since 2008; in November 2012, the government published a decree setting out the conditions under which individual regularisations could be permitted. The trade union has since turned its attention to irregular migrants working informally. CGT also maintains that there are increasing numbers of temporary migrants such as posted workers, intra-company transfers and services workers, whose contracts are signed outside France (Interview CGT). However, the CGT representative does not argue that there is a particularly high level of migration to France, partly because this would be playing into the hands of the extreme right (interview CGT).

3.3. Re-nationalising migrant jobs

According to a representative from CFDT and officials from the Ministry of the Interior, the migration and welfare debates are not linked in France (Interview CFDT). This is partly because direct labour migration to France is, as we have seen above, comparatively limited and as such there has been less pressure, than in the UK case for example, to reduce it. Indeed, the policy of reducing demand for migrant workers by means of upgrading and revalorising jobs refuted by domestic workers or providing domestic workers with the skills required by employers has been dormant in France since the failed attempt made by Lionel Stoléru, Secretary of State for manual labour and immigration, in the 1970s.

However, direct labour immigration doubled between 2006 and 2008 and, as noted above, the centre-right government began to emphasise domestic alternatives to migrant workers in 2011 in the context of the current economic downturn. According to the decree of the 31st of May published by the Ministries of Interior and Labour based on an estimate of 23% unemployment among non-European nationals resident in France, “The priority has to be given to the employment of jobseekers, of French or foreign nationality, already resident in France.” Among other controls, the prefects were instructed to examine whether it would be possible to quickly train jobseekers resident in France in an occupation for which an employer has requested a work permit for a foreign worker (d. l. o.-m. Ministère de l’Intérieur, des collectivités territoriales et de l’immigration et Ministère du travail, de l’emploi et de la santé, 2011). Moreover, the constitution of the shortage occupation list for non-EU workers in 2011 took into account not just the relationship between job offers and job seekers in particular occupations but also whether workers could be trained in France in particular occupations.

According to trade union representatives, however, the unemployed in France often do not accept the wages and working conditions on offer i.e. there is a qualitative mismatch between the supply of jobs and labour (Interviews CFDT, CGT). Furthermore, the CGT official argued that the integration of the welfare benefits agency and public employment services into *Pôle emploi* carried out by the Sarkozy government in 2008 has not been successful; for example, there are not enough counselors for the unemployed and people are insufficiently guided (Interview CGT). *Pôle emploi* is not used by large firms and the unemployed are often young school leavers or middle-aged people who are ill-equipped to take up available jobs. (Interview CGT, OLI). Taking a rather different slant, a representative from Medef maintained that the high levels of social protection in France do not facilitate returns to work, which seems to imply that the unemployed in France have little incentive to return to work due to the generosity of welfare benefits. Furthermore, it was asserted that there is a low level of job creation i.e. that there is a quantitative mismatch between jobs and labour in France (Interview Medef). Consequently, the representative of CGT argues that ‘expelling immigrants won’t create jobs for the unemployed.’(Interview CGT). While French immigration policymakers assert that the priority is to train unemployed foreign people before bringing in more foreign workers, officials from the Interior Ministry also maintain that there is not always a direct link between unemployment and immigration as unemployment is a long-term structural problem. Furthermore, officials from the immigration directorate in the Interior Ministry assert that they do not work with those responsible for active labour market policy. Indeed, generally speaking, the various departments engaged in labour supply policies – interior, labour, education - do not engage with each other (Interview OLI).

French officials assert that, unlike the UK government, they are not making efforts to reduce levels of intra-EU mobility to France due to their view of the EU as an integrated labour market (Interview OLI). Indeed, a representative from Medef asserted that the

end of transitional restrictions on mobility from Romania and Bulgaria at the end of 2013 was a non-issue in France (Interview Medef).

4. Conclusion

Fieldwork carried out in London and Paris in the Spring-Summer of 2013 has provided further evidence that the policy of attempting to find functional alternatives to labour immigration is more developed in Britain than in France. This can be accounted for by various factors noted above, including different levels of labour immigration and consequently differing levels of pressure to reduce levels, differing perspectives on the feasibility of substituting incoming migrant workers with resident workers and varying welfare traditions.

As noted above, Britain receives about 100,000 more official labour migrants each year than France does. This means that French governments can be expected to feel less pressure to reduce levels of labour immigration in the context of the economic downturn than British governments can. Moreover, a failed attempt to re-nationalise migrant jobs was made in France in the 1970s, as noted above, which may caution policymakers from endeavouring to do so again. However, this does not explain why British governments have chosen to attempt to reduce demand for migrant workers by means of education and training and active labour market policies, rather than simply restricting numbers of migrants entering each year. This approach of attempting to reduce demand for migrant workers by training domestic workers in skills which are in deficit and by encouraging welfare recipients to take up jobs in occupations where migrant workers concentrate is, I posit, in line with the development of British policy on education and training and active labour market policy over the past couple of decades. British governments have placed increasing emphasis on the need to upskill the resident workforce in order to compete in human capital terms in an economically integrated world (Devitt 2010). Moreover, labour market policy has become increasingly 'active' over the past thirty years, with a strong emphasis on getting the unemployed back into work, thereby reducing government expenditure and maintaining a flexible labour market (Bonoli 2008; King 1995). The policy of encouraging welfare recipients to get back to work, thereby reducing demand for migrant workers is not a controversial policy in the British context and nor is its feasibility seriously questioned by policymakers and stakeholders.

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Annex: List of referenced interviews

Organisation	Place & time of interview
Home Office (HO)	London, April 2013
Department for Work and Pensions (DWP)	London, April 2013
Business Innovation and Skills Labour market division (BIS)	Phonecall, June 2013
Office for Labour Immigration, Ministry of the Interior (OLI)	Paris, May 2013
Medef	Paris, May 2013
Confédération générale du travail (CGT)	
	Paris, May 2013
Confédération française démocratique du travail (CFDT)	
	Paris, May 2013