



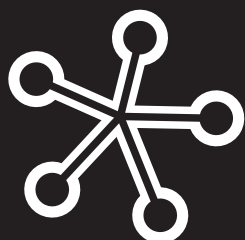
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From Policy to Practice

Assessing sectoral flexicurity
in the Netherlands

Hester Houwing & Trudie Schils



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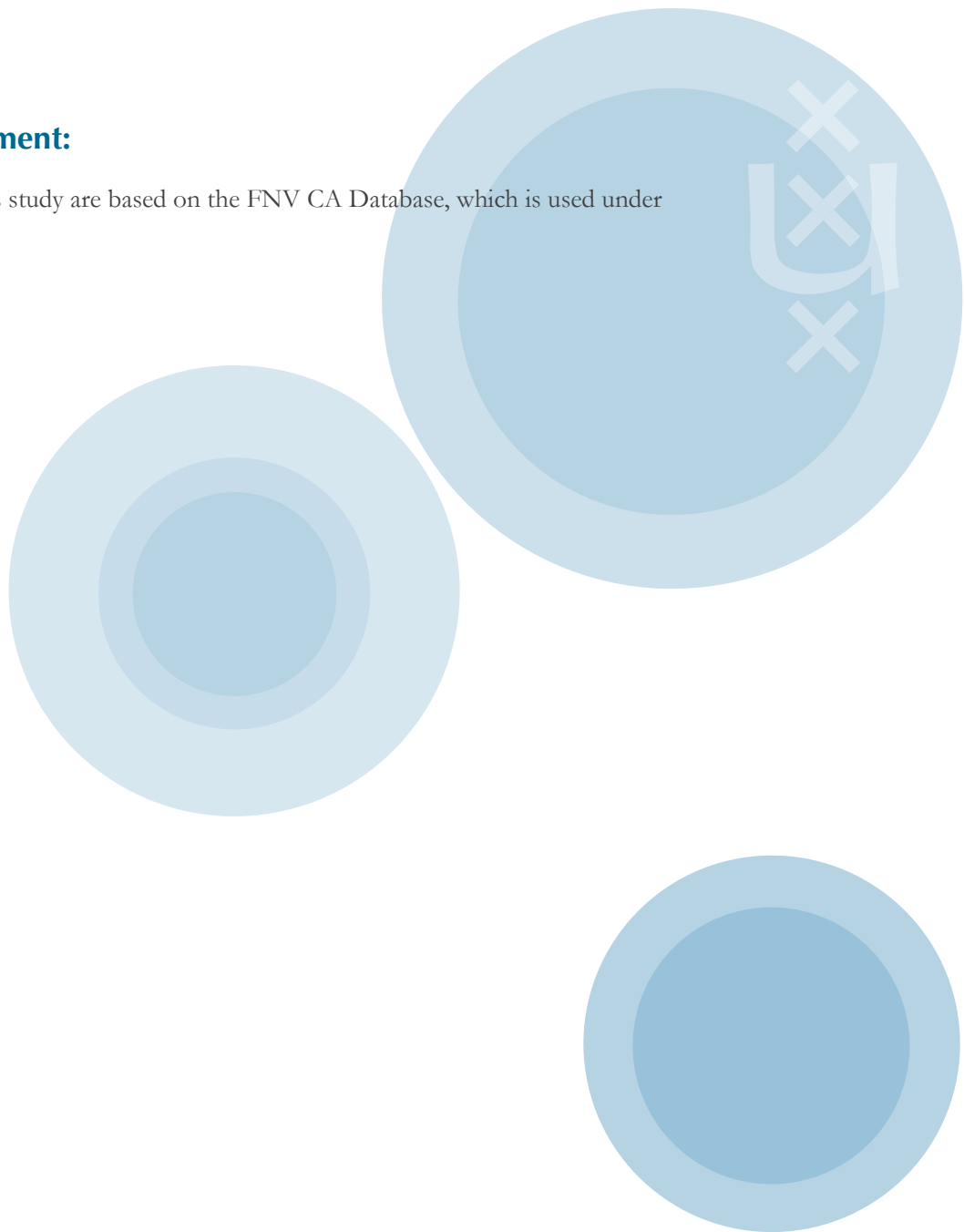
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From Policy to Practice

Assessing sectoral flexicurity in the Netherlands

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Abstract

The combination of flexibility and security (i.e. flexicurity) in labour markets has become a pivotal feature of the European Commission's view on the reform of labour markets across Europe. In this view, the Netherlands is seen as an 'example of flexicurity', mainly because of its adoption of the 1999 Law on Flexibility and Security. Because this law allows for deviation within collective agreements, we argue that this is the most appropriate unit of analysis when analysing flexicurity outcomes. We focus on three aspects of the F&S Law: notice periods, trial periods, and the use of fixed-term contracts. We analyse collective agreements at sector-level and find that the flexicurity-balance in these three aspects tilts towards the flexibility side. As a next explorative step we use some sector-characteristics to explain the flexicurity balance within sectors: business cycle sensitivity, openness to competition, scarcity of labour, and union strength. These four factors show a more diffused impact on the flexicurity balance than we hypothesize.

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1. Introduction

The combination of both a flexible and secure labour market has gained importance in policy debates since the 1990s. Employers must be able to adapt their workforce to remain competitive players on the international market, while workers must be provided with appropriate levels of income and employment security, i.e. the concept of ‘flexicurity’ (Wilthagen 2002). A recent report of the European Commission in this field states that there is no single ‘flexicurity pathway’ that fits all countries, but that countries should learn from each other and their own past experiences (European Commission 2007). Empirical research has confirmed these divergent patterns across Europe (Muffels and Luijkx 2008). The Netherlands are considered as an ‘example of flexicurity’, mainly because of the introduction of the Law on Flexibility and Security (F&S Law) in 1999 (European Expert Group on Flexicurity 2007). This law is only three-quarters mandatory, which means that deviation within a company or sectoral level collective agreement is allowed for, even at the expense of the worker’s protection. This latter is a relatively unique feature of the Dutch ‘flexicurity approach’, shared by only a few countries (e.g. Germany). It implies that collective bargaining plays a pivotal role in the shaping of flexicurity at the sectoral level and that the social partners can adjust the regulations to the specific needs in the sector.

The aim of this paper is two-fold: First, we extend the discussion on flexicurity from the national level to the sectoral level. Whereas most studies on flexicurity take the national level as their starting point, we show that there are considerable differences across sectors within a country. We show how flexicurity is implemented in collective agreements (CAs). Second, we scrutinise the role of social dialogue. The European Commission points to the importance of “active involvement of social partners” as “key to ensure that flexicurity delivers benefits for all” (European Commission 2007, p.18). The F&S law is designed to accord a strong role to the social partners; a study of the Netherlands could therefore serve as a benchmark case for other countries as a ‘pathway’ into flexicurity (Wilthagen 2008).

Taking the Dutch F&S Law as the starting point, the analysis centres around three aspects in this law that are allowed to vary within collective agreements: notice periods, trial periods, and the use of fixed-term contracts (hereafter FT-contracts). The social partners can negotiate provisions deviating from these elements of the F&S law, altering the levels of flexibility and security. Using data from a unique dataset, the analysis first explains between-sector variation with respect to these three aspects of flexicurity, and whether

or how this sector variation has changed over time since 2000. In addition, the analysis reveals the factors that cause the diversity in the bargaining outcomes with respect to flexicurity, i.e. whether the social partners either focus more on flexibility or on security. To test this, four sector characteristics are distinguished: sensitivity to the business cycle, openness to competition, scarcity of labour, and the position of unions.

The paper proceeds with an overview of the policy debate on flexicurity and the Dutch F&S Law (section two). In section three we discuss the four characteristics that are relevant to flexicurity and how these are expected to vary between sectors. Section four discusses the data and the methods used for the analysis. Section five presents the results of the analysis of the balance between flexibility and security for the three aspects delineated above and the effects of the sectoral characteristics. Finally, section six concludes.

2. Flexicurity in the Netherlands

The combination of flexibility and security in labour markets has become a key issue in the policy debate across Europe since the early 1990s. The notion to combine flexibility with security developed in response to the deregulatory efforts of the 1980s and found its first expression in the European Commission's 1993 *White Paper on Growth, Competitiveness and Employment*. It was formulated more explicitly in the Commission's 1997 *Green Paper on Partnership for a New Organisation of Work*, and the 2006 *Green Paper on modernising labour law to meet the challenges of the 21st century*. It is furthermore a central issue of the Adaptability pillar of the European Employment Strategy (Wilthagen and Tros 2004).

In a recent publication, the European Commission has again forcefully argued in favour of flexicurity, in order to deal with a globalising economy while at the same time reinforcing European social models (European Commission 2007). The Commission distinguishes between four components of flexicurity (ibid. p. 12): flexible and reliable contractual arrangements, lifelong learning strategies, effective active labour market policies, and modern social security systems. This paper focuses on the first element, flexible and reliable contractual arrangements that are embedded in “modern labour laws, collective agreements and work organisation” (ibid. p.12). The idea behind these contractual arrangements is “to help outsiders, (...) to find work and to move into stable contractual arrangements” (ibid. p. 13).

The Netherlands are considered by the European Commission as an example of flexicurity. The reason for this is the introduction of the F&S Law in 1999, mainly the new regulations it entailed for fixed-term contracts (European Commission 2007, p.37). During the 1990s, the policy debate in the Netherlands focussed more and more on increasing the flexibility of the Dutch labour market, resulting in the 1995 White Book *Flexibility and Security*, calling for a new balance between flexible and regular employment and asking the social partners to find a compromise. The Labour Foundation (STAR) — a private foundation combining the central union and employers' organisations for the purpose of mutual coordination and advice to the government — responded by negotiating an agreement. This Flexicurity Agreement of 1996 was the basis for the F&S Law of 1999. This law contains a series of adjustments of Dutch labour law aimed at redistributing flexibility and security over various groups in the labour market. This roughly entails decreasing the security for people with a strong position in the labour market, i.e. people with permanent, full-time jobs (the insiders), while on the other hand increasing security for workers with flexible, small, temporary

contracts (the outsiders). The F&S Law was negotiated against the background of the Dutch system of dismissal protection, which was, and still is, considered quite restrictive by employers (Houwing, Verhulst and Visser 2007).

The F&S Law not only established a new balance between flexibility and security, but also fostered collective dialogue because of its semi-mandatory nature. In this way, the social partners are encouraged to renegotiate existing rules and regulations in case these are too restrictive or too permissive. This increases the possibility to find customised solutions on a decentralised basis and is in line with the principles agreed in the ‘New Course’ central agreement of 1993, also negotiated within the STAR. This agreement advocated a trend in the direction of “organised decentralisation” and “negotiated flexibility” (Visser 1998). From a flexicurity perspective, The European Commission points to the importance of involving social partners to ensure that flexicurity is beneficial to employers, workers, and society at large (European Commission 2007, p.18). This is in line with other findings that “decentralisation appears to be having a beneficial effect on the introduction of flexicurity” (Wilthagen, Tros and Van Lieshout 2004).

In this paper we focus on three elements regulated in the F&S Law: FT-contracts, trial periods, and notice periods. Regarding FT-contracts, the F&S Law extends the possibilities for using such contracts. Before 1999, a second consecutive FT-contract was treated as a permanent employment contract that could not be ended without prior permission from the public employment service. However, when 31 days or more lapsed between two contracts, they were not considered consecutive. In order to circumvent offering a worker a permanent employment contract after one FT-contract, employers made creative use of this 31 days-period between two FT-contracts. When the first FT-contract had expired, the worker often continued doing the same job in the same workplace, but now dispatched by a temporary work agency. After 31 days, the worker was again hired on a FT-contract by the employer. The F&S Law aimed to accommodate the flexibility needs of employers by increasing the possibilities for using FT-contracts, but restricting this ‘revolving door’. At the same time, the total duration had to be limited, and contracts with employers that could reasonably be considered the same (i.e. including temporary work agencies) had to be considered as consecutive contracts. The F&S Law now states that FT-contracts can be concluded for a period of maximum 36 months, or a maximum of three consecutive FT-contracts, with a maximum period between two

FT-contracts of three months. After these three years or three contracts, the following contract is a permanent one.¹

These provisions for FT-contracts were drawn up in direct relation to provisions on trial periods. Before the introduction of the F&S Law, the trial period was also set at two months. However, these trial periods were considered insufficient by many employers. To accommodate their need for longer trial periods they often resorted to FT-contracts or hired people via temporary work agencies. Nevertheless, no agreement could be reached on revising the trial periods and only some minor revisions were implemented. Trial periods were deliberately left almost unchanged at two months as the increased possibilities to use FT-contracts could perform the function of a trial period. Trial periods were now related to the duration of the contract: for contracts shorter than two years the trial period is one month, and for longer FT-contracts and permanent contracts the trial period is similar as before the F&S law, i.e. two months.

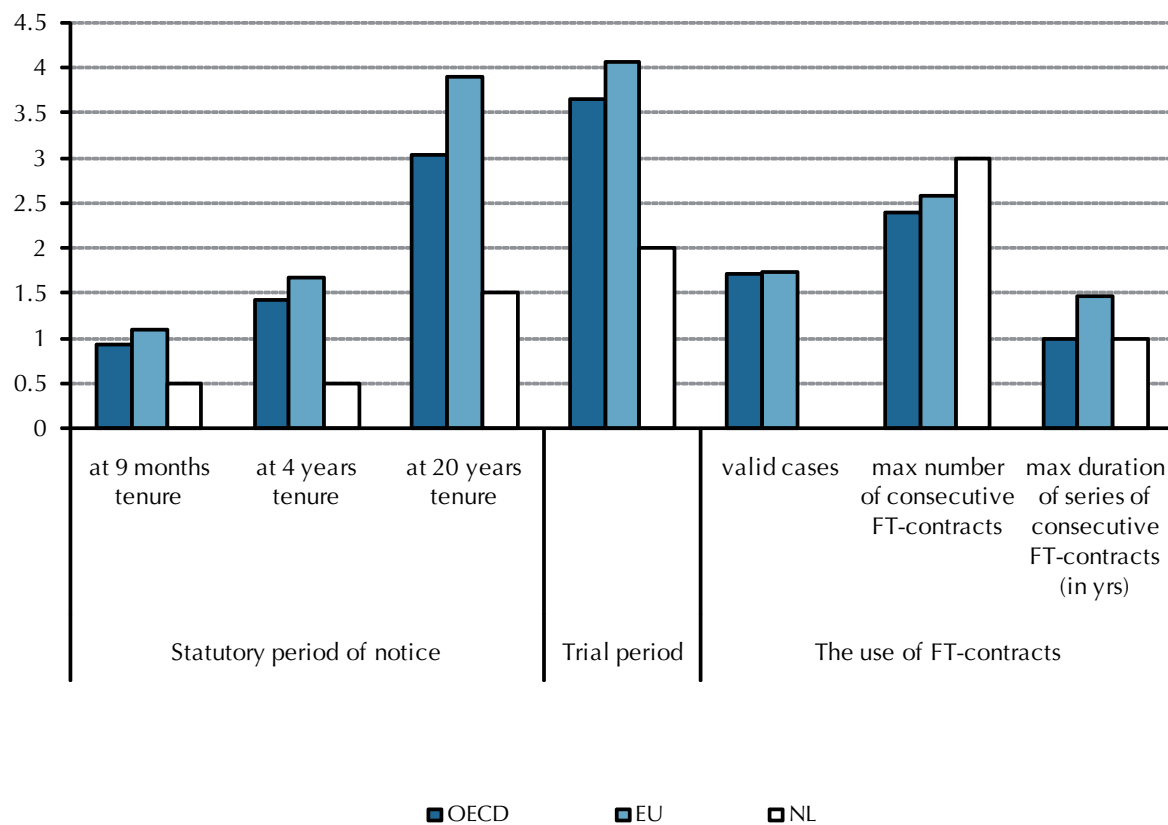
The reasons to amend the notice periods by means of the F&S Law were twofold: first, the system of notice periods was considered unclear and complex, with various yardsticks to determine the notice period, e.g. the worker's age, the duration of employment etc. Second, the notice periods were considered too long, hampering employers to make timely adjustments in their work force. With the F&S Law the system of notice periods entailed that for the first five years of employment the notice period is one month. For every consecutive period of five years, the notice period is extended with one month, up to a maximum of four months. The notice period for FT-workers is one month.

It is illustrative to see how these provisions in the F&S Law compare to those in Europe. Figure 1 shows that compared to the EU or OECD average, the Netherlands have lower than average notice periods, but a more strict trial period. Regulation with respect to the use of FT-contracts is mixed. Most striking is the fact that no justification is required to use FT-contracts, unlike in most EU/OECD countries. Moreover, the maximum number of consecutive FT-contracts is higher, whereas the total duration is shorter than other EU countries but the same as the OECD countries.

1 Taken up in article 7:668a CC

Figure 1: Elements of flexicurity compared between the Netherlands and the OECD/EU, 2003

		OECD	EU	NL
Statutory period of notice	at 9 months tenure	0.93	1.1	0.5
	at 4 years tenure	1.42	1.67	0.5
	at 20 years tenure	3.04	3.9	1.5
Trial period		3.66	4.07	2
The use of FT-contracts	valid cases	1.71	1.74	0
	max number of consecutive FT-contracts	2.39	2.58	3
	max duration of series of consecutive FT-contracts (in yrs)	1	1.47	1



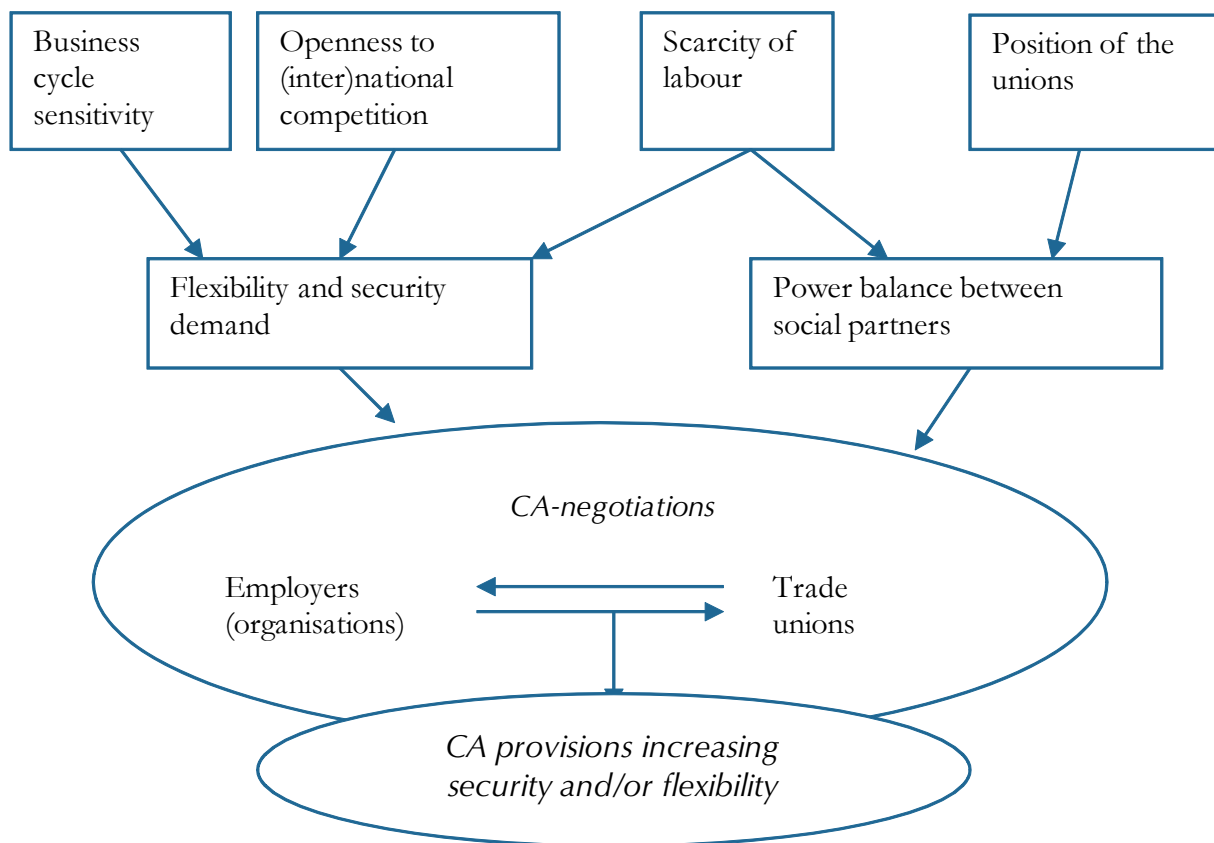
Source: OECD Employment Outlook 2004

As mentioned, the F&S Law only provides the national level regulations in the Netherlands. As deviations by CA are possible, we now elaborate on the reasons why different outcomes across sectors can be expected.

3. Expected sectoral differences in the demand for flexicurity

As Figure 2 shows, we argue that the main inputs for collective bargaining on flexibility and security issues are the demand for flexibility and the power balance between the social partners. These inputs, in turn, are affected by at least four characteristics that can vary between the sectors, i.e. business cycle sensitivity, openness to (inter)national competition, scarcity of labour, and the position of unions.

Figure 2: Conditions affecting flexicurity strategies



3.1. The demand for flexibility

The demand for labour flexibility by employers is to a large extent driven by economic motives (Goldschmeding 1998). It closely responds to developments in the business cycle of an economy, and the exposure to international competition. Fluctuations in the business cycle do not affect all sectors equally. For example, in sectors where product demand depends highly on the state of the economy, such as trade, industry, and construction, labour demand is more cyclical compared to sectors where the product demand is more constant, such as in government, education and health care. A more cyclical labour demand is likely to increase the need for a flexible workforce, and thus, *ceteris paribus*, increases demand for flexible labour.

Another element affecting the demand for labour flexibility is the exposure to international competition. When firms are more subject to (international) competition, the demand for their products becomes more unpredictable, which translates into a higher use of flexible labour (Rubery and Grimshaw 2003; Stone 2007). In addition, stronger international competition disciplines firms operating in so-called exposed sectors to keep production costs, and hence labour costs, as low as possible. Examples of exposed sectors are agriculture, industry, construction, transport and communication while the sheltered sectors include government, education and services to some extent. Permanent workers can therefore be a financial burden for such firms, since there are firing costs involved when these workers are dismissed. Instead, firms operating in the exposed sectors might therefore prefer workers on flexible working arrangements.

A third element affecting the demand for labour flexibility is the scarcity of labour in certain sectors. Scarcity of labour can have various causes. First, labour supply in general can be too low because of low female participation rates, generous social welfare systems (e.g. unemployment trap), or a shortage of workers who are willing to work fulltime. This can affect some sectors more than others. Second, there might be a mismatch between the required skill level in a sector and the skill level of the labour supply, which is currently present in the Dutch technology sectors. Third, a sector can have a bad image, possibly related to bad employment conditions. Currently, the education sector is facing such problems, largely because of the low pay that teachers receive. Fourth, it might be that the demand for the product or service is growing faster

than labour supply. For example, this latter was witnessed in the information technology sectors during the late nineties in many European countries.

The general hypothesis is that strong sensitivity to the business cycle, high exposure to international competition, and a high scarcity of labour are all positively related to the employer's demand for labour flexibility.

3.2. Security demand and the power balance between the social partners

The outcome of the bargaining process does not only depend on the firm's preferences and demand for labour flexibility, but also on the preferences of workers. Trade unions act as agents for individual workers and represent their interest on a (de)central level in the debate with employers and government on work issues. They want to secure favourable wages and working conditions for the workers, including employment protection and income protection after involuntary dismissal (Faith and Reid 1987; Freeman and Medoff 1984). Employers are generally willing to share their profits in return for provisions in collective agreements to avoid industrial conflict, which might be more costly (Booth 1995). In general, unions take a critical stance towards flexible labour, because their constituency is predominantly made up of workers with permanent contracts. Flexibilisation and flexible workers often pose a threat to the position of these 'insiders' in the labour market (Gryp et al. 2004; Lindbeck and Snower 2001). The union's stance against labour flexibility also depends on the sector's sensitivity to the business cycle and the exposure to international competition. In the exposed and highly sensitive sectors, where the layoff risk is relatively high due to fast changing demand in output (and labour), unions have a stronger preference for good protection of the workers compared to that in the sheltered sectors, where such protection is more 'naturally provided'.

Union power is weaker in sectors where the non-unionised market is larger and non-union workers can 'easily' replace union workers. The bargaining power of unions depends largely on the number of union members. In sectors where the unions hardly have any members, they have a weaker bargaining position compared to sectors where union density is high. However, the scope of the union's bargaining power is wider than its density in most countries and is also related to collective bargaining coverage (Visser 2006). When a CA applies in a firm, it covers contracts of both unionised and non-unionised employees. Consequently, trade unions thus bargain for both union and non-union members. In addition, some collective

agreements are legally extended to all workers in a given sector, regardless of whether the employer is a negotiating partner. We do not take collective bargaining coverage into account in this article but we will include it in the analysis in a later version. Finally, the scarcity of labour affects the union's bargaining power, i.e. when labour is relatively scarce, the unions have a stronger bargaining position.

The general hypothesis is that strong union power (high density, high coverage or high labour scarcity), strong business cycle sensitivity, and high exposure to international competition are positively related to the union's demand for security. When combining this with the earlier discussed preferences of the employers, the following can be hypothesised. When sensitivity to the business cycle is high and/or openness to competition is high and/or there is scarcity of labour and/or unions have a weak position the outcome of collective bargaining will be increased flexibility. When these conditions are reversed, the outcome will be increased security. When there is a mixed pattern, this can lead to flexicurity, i.e. higher flexibility in some respects and higher security in others.

4. Data and approach

4.1. Data on collective agreements

The Federal Trade Union Confederation (FNV), the largest trade union confederation in the Netherlands, has set up a databank on collective agreements in the early 1990s consisting of all agreements of which the FNV is a negotiator, which is 92 percent (Schreuder and Tjildens 2004).² Coverage of collective agreements is about 85 percent in the Netherlands, partly due to legal extension of collective agreements. By the end of 2006 about 1,100 different collective agreements were stored in the databank, including those that have expired. The first step in our analysis was the selection of about 500 collective agreements, all with a term ending after January 1, 2005. We then searched for the earlier version of these collective agreements, those with a term ending before 2002, which resulted in about 400 collective agreements for this first wave. The actual text of these collective agreements was scanned and the information on the relevant flexicurity indicators has been put into a coding frame. This is explained below. The flexicurity variables that are scanned include the period of notice, the trial period, and the use of FT-contracts. Regarding notice periods, only information for workers aged under 45 is used, because of the many different provisions for the older group of workers which goes beyond the scope of this study.

The FNV databank also provides other information, such as the number of workers covered by a specific collective agreement. By combining this information with the number of workers in a certain sector, provided by Statistics Netherlands, the coverage rate or weight of each collective agreement can be determined. In this way we can establish the share of workers in a sector covered by a specific regulation. The data for all collective agreements in a sector are aggregated using the weights of the collective agreements, so the level of analysis here is the sector-level. The overall coverage ratio of the analysed collective agreements is 71 percent³. In addition, using the SBI code of the collective agreement, the observations are matched with the sectoral characteristics used as explanatory variables in our analysis.

2 The FNV CLA databank is used under contract of the Amsterdam Institute of Advanced Labour Studies.

3 Temporary agency workers in the Netherlands have their own collective agreement, which is in the FNV databank headed under the commercial services sectors. We have split this collective agreement over the relevant sectors in which the temporary agency workers are employed, using the distribution of temporary agency workers over the sectors of Tjildens et al. (2006). By doing so, our data match those of Statistics Netherlands on the number of workers per sector.

4.2. Data on sector-characteristics

For our four sectoral characteristics, we use data from the OSA labour demand panel and Statistics Netherlands (CBS). The OSA dataset is designed to gain more insight into the nature and size of demand for labour by organisations with at least five employees. We used two waves, i.e. 1999 and 2003-2004, enabling us to assess the sectoral characteristics at the start of the CA negotiations. A wide range of information is available in the dataset and we selected the following variables. To measure business cycle sensitivity we use a categorical variable that shows whether the organisation is sensitive to the business cycle. It ranges from 1 (not or hardly) to 3 (yes, strongly). To measure the exposure to international competition we could rely on a dummy variable that indicates whether there is competition with other suppliers, however, no distinction can be made between national or international competition. In addition, we observed a very high correlation between the business cycle sensitivity and this competitiveness dummy (correlation ratio of 0.9296). To avoid multicollinearity problems we therefore used the share of exports in total production as a proxy for international openness. To assess labour scarcity we use the number of vacancies as a percentage of total workers in the organisation, from Statistics Netherlands. Finally, the measure of union density is taken from the Labour Force Survey (Enquête Beroepsbevolking) of Statistics Netherlands. Union density is measured as the share of union members out of the total group of workers aged 15-64 working more than twelve hours a week.

The OSA-data is available at the establishment level although our analysis concerns the sector-level. Therefore we have taken the means of the sector characteristics by sector. We corrected for differences in the size of establishments by using weighted means. Furthermore, in the OSA panel only nine sectors are distinguished, whereas we have 13, so we clustered some of our subsectors into larger sectors. In the clustering, we used the relative size of the subsectors to calculate the flexibility and security indicators for the new sectors. For example, agriculture, mining and industry are grouped together in the OSA sector-clustering, trade and hotels and catering are grouped together and financial and commercial services are grouped into one cluster. However, earlier it was shown that these sectors are dissimilar with respect to the observed flex-

ibility and security indicators. To control for this heterogeneity, we constructed a variable that measures the heterogeneity in the clusters that include multiple subsectors. This variable is constructed simply as:

$y = \frac{1}{N} \sum_{i=1}^N |\bar{x} - x_i|$ where N is the number of subsectors within the cluster, x_i is the level of flexibility/security of the relevant subsector and \bar{x} is the average level of flexibility/security within the cluster. This indicator ranges from 0 to 1 with 0 implying perfect homogeneity and 1 implying perfect heterogeneity.

Table 1 presents summary statistics on the sectoral characteristics, showing the average figures for the two waves. We show the averages here to give insight into the characteristics of the sector and it is not our aim to explain changes over time. As expected, we observe a dichotomy when it comes to business cycle sensitivity. Sectors such as agriculture/mining/industry, construction, trade/hotels and catering, transport and services show high sensitivity, whereas public administration, education and health care are least sensitive to economic fluctuations. As for the share of export in total output, this is highest in agriculture/mining/industry, and transport and lowest in the sheltered sectors public administration, education, health care and also construction. The indicators for labour scarcity show that the number of vacancies is on average highest in construction, trade and services and lowest in health care and education. It cannot be seen in the table that the number of vacancies have declined between 1999 and 2003, reflecting a general change in the business cycle. The figures on trade union density show that most sectors have density figures of over 30 percent. These averages hide the general decline in union density, visible in all sectors.

Table 1: Summary statistics on sectoral characteristics, averages 1999 and 2003-2004

	Business cycle sensitivity	Share of export in output	Number of vacancies	Trade union density
Agriculture (A) Mining (C) and Industry (D)	2.14	16.96	3.50	44
Construction (F)	2.17	1.03	5.25	39
Trade (G) and Hotels and catering (H)	2.07	6.05	4.17	29
Transport (I)	2.19	12.70	3.35	35
Financial (J) and Commercial services (K)	2.03	3.80	4.77	30
Health care (N)	1.34	0.02	2.16	24
Public utilities (E)	1.79	1.67	3.32	26
Public administration (M)	1.27	0.17	2.48	41
Education (L)	1.20	0.00	1.23	37
Overall	1.80	4.72	2.81	30

Source: OSA Labour demand panel, Labour Force Survey of Statistics Netherlands, Tijdens et al. 2006

4.3. Measuring flexibility and security

Next we explain our approach to measuring the level of flexibility and/or security by sectors, following from the CAs. In general, for all CA provisions that are evaluated for this study, three coding categories are distinguished: ‘according to national law’ or the default, ‘less strict compared to national law’, or ‘more strict compared to national law’. From this we conclude whether the CA provisions lead to increased flexibility or security in the following way. First, for FT-contracts we argue that flexibility for employers is increased when the CA provisions on FT-contracts are less strict compared to national law, i.e. they either lengthen the period during which FT-contracts can be concluded to more than three years; extend the maximum number of FT-contracts that can be offered to more than three, and/or; shorten the period between two FT-contracts to less than three months. We have assigned scores of one in the flexibility index for each of these elements that is present and a zero when they are absent i.e. equal to national law. Similarly, security for workers on FT-contracts is increased when CA provisions are more strict compared to national law, or when the maximum duration that the employer can offer FT-contracts is shorter than three years; the number of FT-contracts that can be offered is less than three, and/or; the interval period between two FT-contracts is longer than three months (i.e. a longer time span does not prevent workers from building up the right to a permanent contract). Again, we have assigned scores of one in the security index for each of these elements that is present and a zero when they are absent, i.e. equal to national law.

Second, for trial periods, the scores are as follows: trial periods longer than one month for FT-contracts up to one year yield a flexibility score of one.⁴ Shorter trial periods than those stated in national law, yield a security score of one. When trial periods are in line with the law, they score a zero, both on flexibility and security. Third, shorter notification periods compared to national law score a one on the flexibility scale and entail an increase in flexibility for employers. Longer notification periods than those stated in national law entail increased security for workers and score a one on the security scale. Again, when provisions are in line with the law, they score zeros in both dimensions.

The overall flexibility or security score for a given provision is calculated by adding the CA scores, using the weights as explained before. Consequently, a flexibility score of, for example, 0.6 in construction implies that for 60 percent of workers in the construction sector the level of flexibility due to collective bargaining is higher than that based on the national provisions laid down in the F&S Law. Note that at the level of a

⁴ Trial periods longer than two months are legally forbidden.

specific CA provision there is a trade-off between flexibility and security; there can not be a simultaneous increase in flexibility and security in one and the same CA-provision. However, when considering multiple provisions, or the aggregated sector level (i.e. multiple CAs), this trade-off does not necessarily exist. A win-win situation can result in which both flexibility and security are increased.

4.4. Estimation method

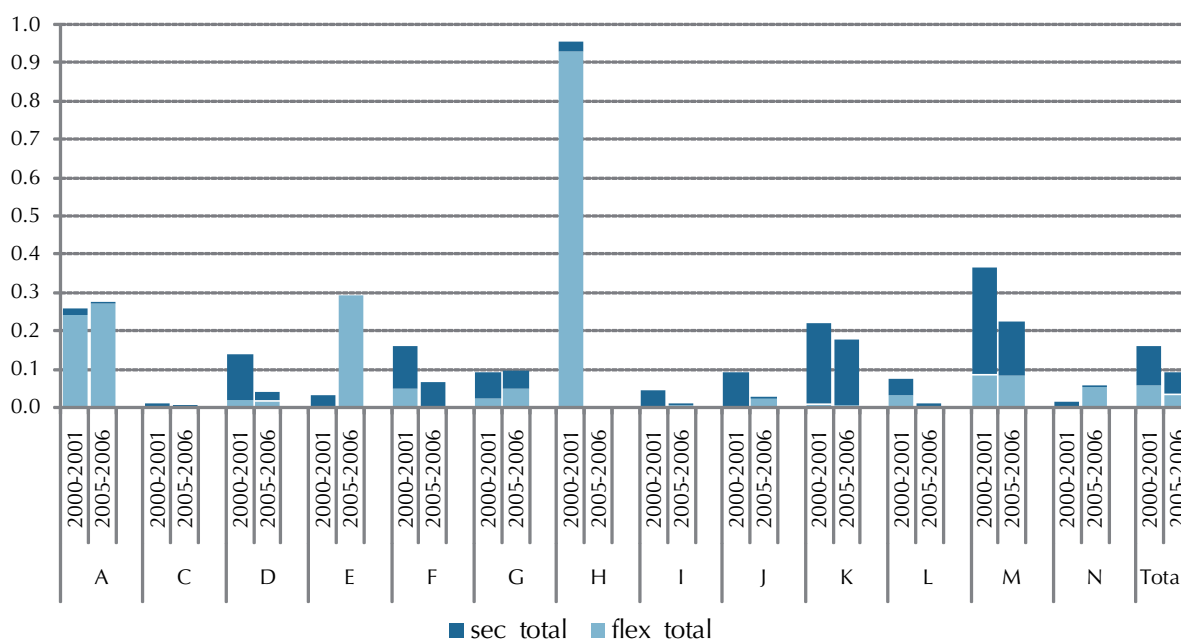
To determine the impact of our four sector characteristics, we estimated fixed-effects panel regression models, since we have two time periods available. Because of the limited number of observations (n=18 over two waves), we decided to run separate models for the various sector characteristics, with the models always including the above mentioned heterogeneity indicator and union density, as well as a full model containing all sector characteristics together. The dependent variables are the observed levels of flexibility/security with respect to (1) notice period, (2) trial periods, (3) flexibility/security with respect to the use of FT-contracts, and (4) the overall observed flexibility/security index.

5. Results

5.1. Flexicurity across sectors

Starting with the developments in the flexibility-security balance in CAs for FT-contracts, Figure 3 shows that in most sectors the room to deviate from the F&S Law is used, with large variation between the sectors. Note that the lower the bars (in all figures), the more the CA-provisions are in line with the F&S law. Overall, the extent to which deviations are observed has declined between 2000/2001 and 2005/2006, mainly at the expense of worker security.⁵ It could be argued that the provisions in the F&S Law with respect to FT-contracts already match the employer’s demand for flexibility and security. Alternatively, it might be the case that social partners are increasingly less able to reach an agreement on how to deviate from the F&S law. Note that figure 1 showed that the Dutch provisions on FT-contracts are already rather flexible within a European context.

Figure 3: Flexicurity in the use of FT-contracts

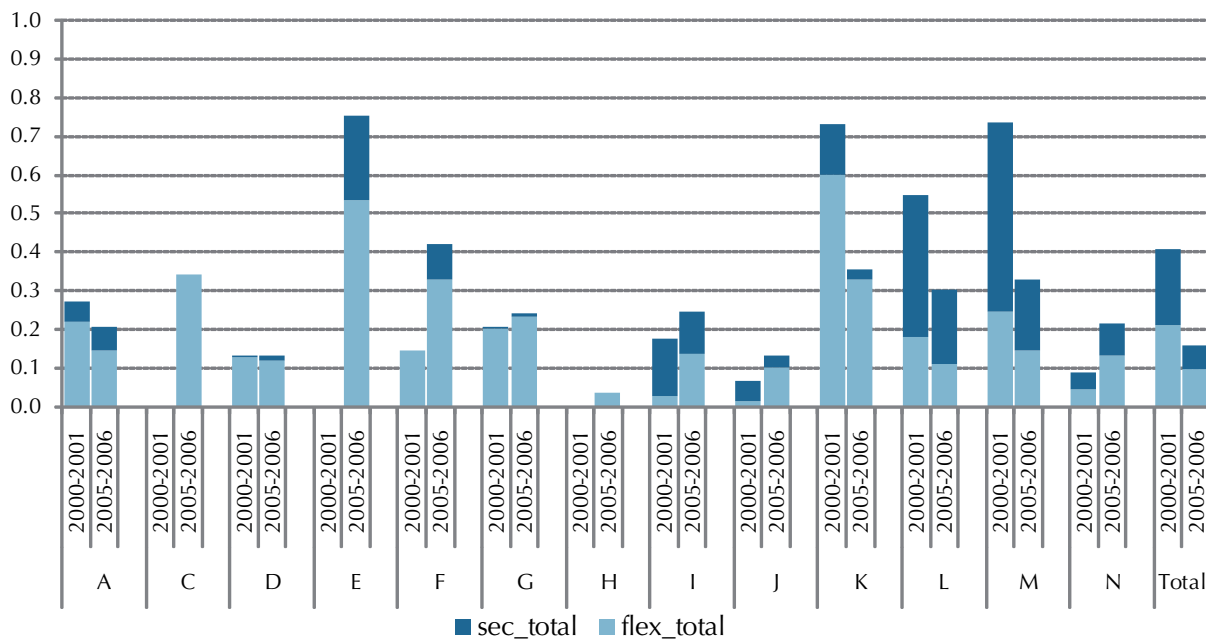


Source: Authors’ calculations using FNV CA Database (2008)

⁵ The total effect is a weighted average of the sector effects, with the weight being equal to the sector size.

In agriculture and hotels and catering, as well as in public utilities in the period 2005-2006, the room to deviate has been used to extend the employer’s flexibility. Whereas in agriculture, this has remained practically unchanged between 2000/2001 and 2005/2006, in hotels and catering the increased flexibility is only observed in 2000-2001, while it was only observed in ‘public utilities’ in 2005-2006. A reason for this can be that after initially expanding the possibilities that the F&S law offered, the social partners in the hotel and catering sector realised the provisions of the law sufficiently met their flexibility needs and negotiated provisions more in line with the law. It might also be the case, however, that no consensus could be reached between employers and unions in later years. In construction, public administration, and commercial services, mainly an extension of worker security is observed in both waves. Although a combination of both increased flexibility and security is rarely observed with respect to the use of FT-contracts, in education it does occur. In some CAs within the education sector flexibility is increased while in others, worker security is increased.

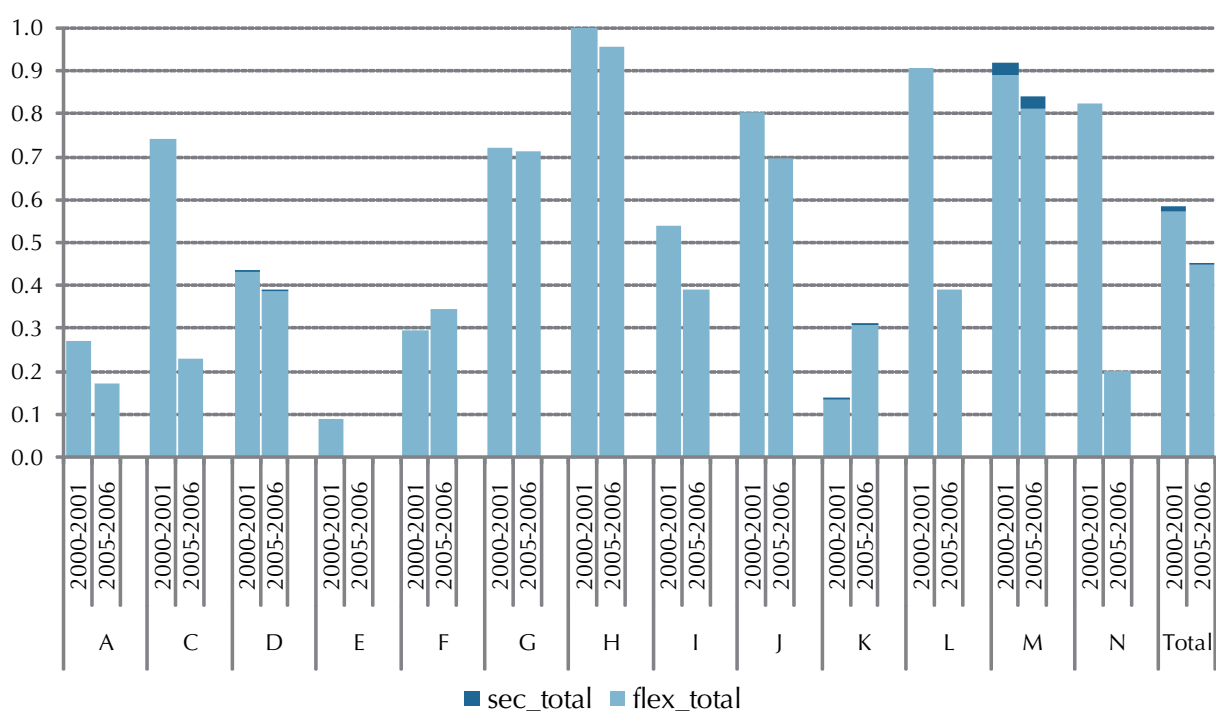
Figure 4: Flexicurity in notification periods



Source: Authors’ calculations using FNV CA Database (2008)

Figure 4 presents the observed flexicurity with respect to notification periods and shows increased flexibility in CAs compared to the provisions on FT-contracts. Again, we observe an overall decline in the deviations from the F&S Law. Both security and flexibility have decreased between 2001 and 2005, with the first declining fastest. It is interesting to note that in this same period, the percentage of dismissals that was brought to court has increased from 45 percent to 53 percent (Ministry of Social Affairs and Employment 2000-2006). In these cases, no notification period applies, but usually a severance pay is determined by the court. Both increased flexibility and security are observed in public administration, and education. While the overall level of flexibility in CAs has decreased between 2000 and 2005, in some sectors it increased, e.g. in mining, construction, trade, transport, financial services, public utilities and health care. The observed level of security increased between 2001 and 2005 in some of the same sectors as in which flexibility was increased, i.e. public utilities, construction and health care. Finally, Figure 5 reports the observed flexicurity with respect to trial periods in CAs. Interestingly, in both time periods predominantly an increase in flexibility is observed, in nearly all sectors. This confirms the earlier mentioned claim of employer's that the existing trial periods are too strict. Trial periods are extended the most in trade, hotels and catering, financial services, and public administration.

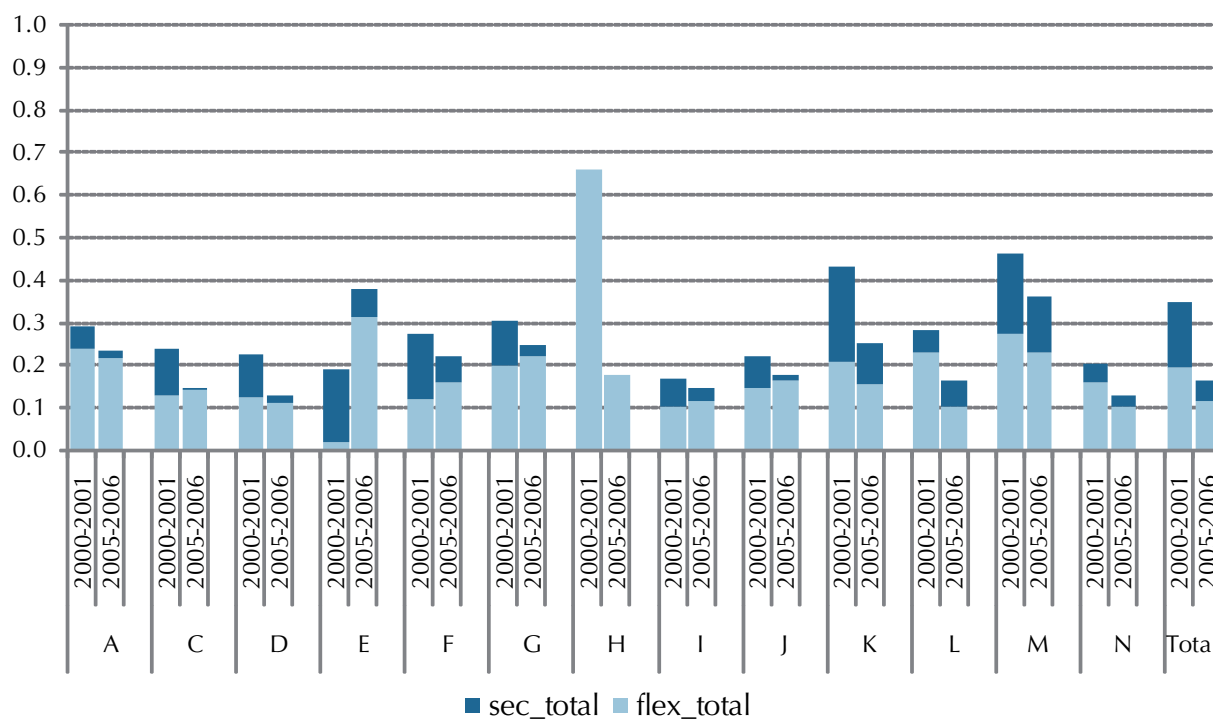
Figure 5: Flexicurity in the trial periods



Source: Authors' calculations using FNV CA Database (2008)

To assess the overall level of flexicurity by sector, we added the above explained components together, using similar weights as those given by the OECD in the calculation of their EPL indicator (OECD 2004).⁶ Figure 6 shows this overall indicator and nicely summarises the above mentioned patterns. In general, deviation from the F&S Law has declined over time, mainly because of declined worker security. As mentioned above, this might be the result of a view among social partners that the F&S law provides an adequate balance between flexibility and security, or that negotiations on how to deviate somehow were not fruitful. The more substantial decrease in security however points to a situation in which the flexicurity-arrangements at sector-level have become more unbalanced in relation to the F&S law, in favour of flexibility. This could be the outcome of an economic downturn that occurred in the Netherlands between roughly 2002-2004. This might have impacted sectors according to the sector-level degree of business cycle sensitivity and labour scarcity; These and two other characteristics are reviewed in the next section.

Figure 6: Overall flexicurity observed in Dutch collective agreements, by sector



Source: Authors' calculations using FNV CA Database (2008)

⁶ This means that the flexibility or security score for notification period is assigned a weight of 3/10, the score for trial periods 7/40 and the score for the use of FT-contracts 21/40. Using no weights does not change the conclusions.

The established level of flexibility in the F&S Law seems unsatisfying in most sectors, and unions appear to agree with higher flexibility provisions in CAs. Most likely, these are traded off against other provisions in CAs, such as higher wages, or other improvements of working conditions. Unions and employers apparently agree on higher flexibility in certain aspects in return for higher security in other aspects. In some of the more sheltered sectors, such as, public administration, commercial services and education, worker security provisions are highest. In agriculture and hotels and catering, on the other hand, mainly increased flexibility provisions are observed, probably reflecting the higher seasonal sensitivity of production in these sectors. This too is examined more formally in the next section.

5.2. Flexicurity and sector characteristics

Table 2 shows the results of the regression models. Only a limited number of significant effects are found. This can either be due to the limitations of the data and the small number of observations, but it might as well be that the sector characteristics do not affect the flexicurity outcomes of collective bargaining that strongly and that other factors are at stake. Nevertheless, the table shows some interesting relations.

Table 2: Results fixed-effect panelregression of observed level of flexibility/security in Dutch CAs

	Flexibility				Security			
	[1]	[2]	[3]	[4]	[1]	[2]	[3]	[4]
Business cycle sensitivity	0.01 (0.13)	0.31* (1.82)	-0.03 (0.69)	-0.11* (1.83)	-0.18** (2.56)	-0.00 (0.41)	-0.03 (0.62)	-0.00 (0.13)
Union density	-0.34 (0.80)	-0.68 (0.92)	0.18 (0.89)	-0.28 (1.08)	0.32 (1.03)	-0.08* (1.84)	-0.21 (0.98)	0.09 (0.69)
International openness	-0.01 (1.01)	-0.01 (0.70)	-0.01 (0.62)	-0.01 (1.35)	-0.01 (1.13)	-0.00 (0.51)	-0.00 (0.70)	-0.00 (1.41)
Union density	-0.39 (0.98)	-0.48 (0.60)	0.19 (0.97)	-0.23 (0.85)	0.42 (1.20)	-0.08* (1.84)	-0.20 (0.96)	0.08 (0.62)
Number of vacancies	0.01 (0.18)	-0.10*** (3.09)	-0.00 (0.27)	-0.03** (2.77)	-0.04** (2.58)	0.00 (0.81)	-0.00 (0.28)	0.01 (1.65)
Union density	-0.34 (0.81)	-0.62 (1.01)	0.20 (1.00)	-0.26 (1.13)	0.38 (1.27)	-0.07 (1.73)	-0.29 (0.90)	0.12 (0.98)
Business cycle sensitivity	0.11 (0.78)	-0.11 (0.50)	-0.02 (0.33)	-0.01 (0.10)	-0.11 (1.15)	-0.01 (0.64)	-0.01 (0.17)	-0.00 (0.10)
International openness	-0.01 (1.25)	-0.00 (0.16)	-0.00 (0.25)	-0.00 (1.00)	-0.00 (0.19)	-0.00 (0.08)	-0.00 (0.40)	-0.00 (1.29)
Number of vacancies	-0.00 (0.15)	-0.09** (2.20)	-0.00 (0.00)	-0.03 (2.19)	-0.03 (1.59)	0.00 (1.03)	-0.00 (0.08)	0.01 (1.66)
Union density	-0.34 (0.79)	-0.70 (1.06)	0.18 (0.82)	-0.29 (1.25)	0.31 (1.02)	-0.08 (1.76)	-0.21 (0.91)	0.10 (0.82)

Notes: *t*-values tussen haakjes, $N = 18$ in all models. Further controlled for within-sector heterogeneity in all models. [1] In terms of notification period; [2] in terms of trial period; [3] in term of the use of FT-contracts; [4] Overall.

First, we observe that a stronger business cycle sensitivity is related to a higher level of flexibility in terms of trial periods (i.e. longer trial periods), a lower overall level of flexibility, and a lower level of security with respect to notification periods (i.e. shorter notification periods). The first and the latter effect increase the ease with which a firm can fire workers, which is according to our expectations, but the decreased overall level of flexibility might seem strange at first. However, the relationship between the demand for flexibility and flexible labour and the economic cycle is not straightforward. In fact, demand for flexible labour goes

down as the business cycle reaches its peak, due to rising scarcity of labour and more certainty about product demand. When the economy slows down, fixed-term workers are the first to be laid off (Zijl 2006). An alternative explanation is that the unions position themselves stronger against increased flexibility in the use of FT-contracts in sectors with higher business cycle sensitivity (while this effect is not picked up by the union density rates). In the full model, the effects of business cycle sensitivity disappear.

International openness does not appear to be significantly related to any of our dependent variables. The number of vacancies, on the contrary, does have an effect on flexibility and security outcomes at the sectoral level. First, it reduces the flexibility in terms of trial periods, i.e. when there are more vacancies there is a lower tendency to increase the trial period in collective agreements, and the overall level of flexibility. One can argue that, because of the shortage of work, the organisations want to hire the worker, rather than extending the trial period. The effect on trial periods remains significant in the full model. Second, the number of vacancies reduces the security in terms of notification periods. This implies shorter notification periods in sectors with more vacancies, which is contrary to what we expected. Employers might not be willing to agree upon longer notice period for the new hires, because of the risk of a mismatch and resulting costly dismissal. On the one hand, it is likely that it is a trade off against the observed lower flexibility in terms of trial periods. On the other hand, when there are more vacancies, organisations expect to hire relatively many workers. The future job match of these new workers is uncertain and the employers are not willing to increase the notification period, but want to be able to dismiss the new hires in case of bad performance.

In the majority of models, union density is insignificant, however in some models a small negative effect is observed on security in terms of trial period. It is either true that the effect of labour union strength is reflected in other provisions in CAs, that it has no effect or that the union density measure is incomplete (due to legal extension of collective bargaining results).

6. Conclusion

In this paper we have looked critically at the implementation of the Dutch ‘flexicurity policy’: the 1999 Law on Flexibility and Security (F&S Law). The level of analysis we used is that of the collective agreement (CA), because it is at this level that social partners can negotiate provisions that deviate from the law. By analysing provisions on FT-contracts, trial periods, and notice periods, we found that most deviations in CAs increased flexibility. The increase in flexibility was overall larger in 2001-2002 than 2005-2006, possibly caused by the fact that the room to deviate was initially used as much as possible, whereas over time, social partners found out that the F&S law sufficiently matched their flexibility needs. Another explanation could however be that the negotiations on the issue became more difficult and social partners were not able to agree on how to deviate from the law. Increases in security in CAs were smaller than increases in flexibility, especially in the case of trial periods. As with flexibility, deviations expanding security decreased after 2002. The same mechanisms as for flexibility could provide answers here: either the F&S law sufficiently met security-needs, or negotiations failed. When looking at flexicurity, we found a rising imbalance between flexibility and security compared to national law, caused by a relative decline in security. This initial descriptive analysis manifested large differences between sectors in the Dutch economy. Our next question therefore centred on explaining these differences by means of four sector-characteristics: business cycle sensitivity, openness to competition, scarcity of labour, and union strength.

We hypothesized that when the flexibility demand in a sector is higher and the balance of power between social partners favours the employers, CA-provisions would be geared towards extending flexibility. Flexibility demand increases slightly when openness to (inter)national competition and business cycle sensitivity is higher, and decreases with high labour scarcity. The power balance between social partners is also affected by labour scarcity and by the strength of the unions in the sector: high labour scarcity and strong unions should lead to increases in security. Our explorative analysis of the sector-characteristics, however, yields a more diffused pattern that stated in this hypothesis.

The different effects for these three elements of flexicurity show that just looking at the overall flexicurity indicator hides the flexibility/security trade-offs and balances that are made within different aspects of a collective agreement. Flexicurity is no homogenous concept, nor is the preferred flexicurity strategy similar across sectors. We have shown that for both flexibility and security elements, there can also be a simultaneous increase or decrease, pointing to the possibilities of win-win situations or ‘positive-sum games’, and not (just) trade-offs.

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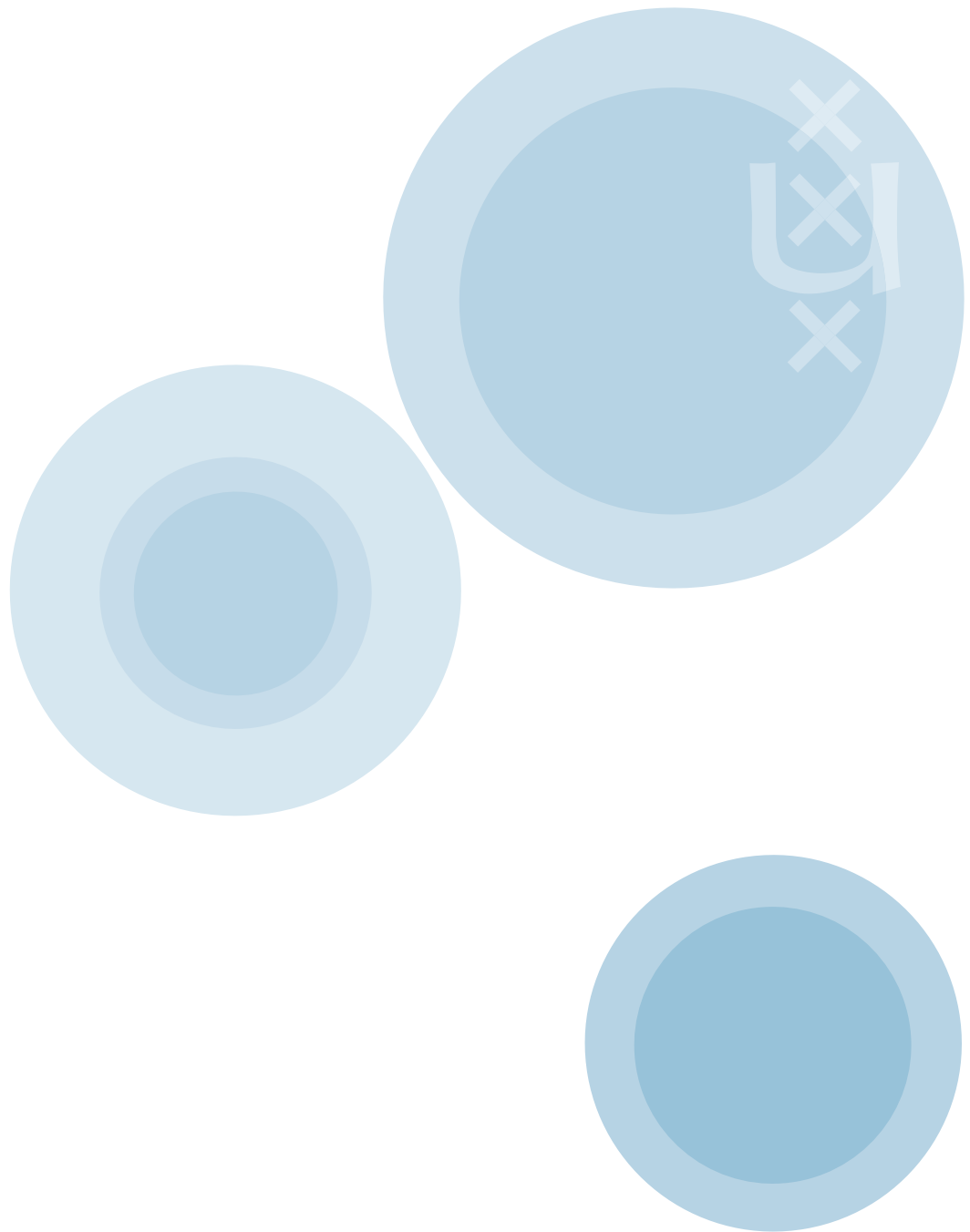
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