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PUBLIC VERSION

WORKING LANGUAGE

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**Subject: State aid N 53/2009 – Incentives for engaging redundant workers
from the toy sector**

Sir,

1. PROCEDURE

1. The Spanish authorities notified the measure on 2 February 2009, registered by the Commission on the same day.
2. The Commission requested clarifications on 6 April 2009, to which the Spanish authorities replied by letter dated 30 April 2009 registered on the same day.

2. DESCRIPTION OF THE MEASURE

3. The Spanish authorities notified the measure for legal certainty. The present measure¹ aims at facilitating the return to employment for workers recently made redundant in the toy sector².

¹ The measure was notified together with N 51/2009 Maintaining employment of aged workers in the Spanish toy sector and N 52/2009 Training measures for the Spanish toy sector. The three measures form a comprehensive programme destined at the Spanish toy sector. Similar measures have been adopted in the past for the Spanish footwear, tanning and leather sector (N 244/2008, Commission Decision adopted on 10.12.2008, OJ C 52, 5.3.2009, p.1) and for the Spanish textile sector (C 52/2007, Commission Decision adopted on 24.3.2009, not yet published).

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4. Beneficiaries are all enterprises, cooperatives and worker-owned companies independently of their location or of the sector willing to employ a redundant worker from the toy sector. It concerns the first recruitment, although the worker might have had some temporary contacts before.
5. The measure is based on a Royal Decree (*Real Decreto por el que se establecen medidas para facilitar la adaptación laboral del sector del juguete a los cambios estructurales en el comercio mundial*), in particular its Article 7. It shall be applicable once the Royal Decree is enforced (after the Commission's approval) until 1 June 2011.
6. The incentives consist of applying top-ups to the increases of reductions from social security contributions available in Spain in general for certain categories of workers (the general regime is based on Law 43/2006, 29 December 2006). The increases are as follows:
 - a) for female workers, the annual top-up reduction from social security contributions shall amount to 1.000 EUR per year applicable for a period of four years;
 - b) for disabled workers, the amount established by the Programme for the Promotion of Employment (*Programa de Fomento del Empleo*) will be increased by 5% for a period of two years;
 - c) for workers aged between 35 and 45 years and not falling into any of the categories contemplated by the general regime the top-up reduction shall be of 500 EUR per year for a period of two years.
 - d) for workers aged between 35 and 45 years falling into a categories contemplated by the general regime the top-up reduction shall be increased by 5% for a period of two years.
 - e) for workers aged between 45 and 55 years, the top-up shall be of 1.200 EUR per year during the first year of contract and 1.296 EUR during the rest of it. For female workers, it will be of 1.400 EUR for the first year and 1.500 EUR per year during the remaining period of the contract.
 - f) for workers aged over 55 years, the annual top-up shall be of 1.200 EUR during the first year and 1.320 EUR during the remaining period. For female workers, the amount will be of 1.400 EUR for the first year and 1.550 EUR for the remaining period of the contract.

² As redundant workers are considered workers of the toy sector, whose contract has been terminated for economical, technical, organisational reasons or due to the procedure of employment regulation as established in articles 51 and 57 of the Law for the Statute of workers' rights approved by Royal Legislative Decree 1/1995, 24 March 1995. As well, the working contract might have been terminated for the objective reasons contemplated in Article 52 c) Statute of workers' rights. In the last case, a worker needs to have worked for a minimum three years in the company. The redundant worker may have, nevertheless, been engaged in some temporary contract two years after the extinction of the long-term contract. The extinction of the contract must have happened from the 26 December 2008 until 11 June 2011. Workers older than 55 years, however, are freed from this restriction.

g) for workers aged over 55 years and being beneficiary of unemployment benefits at least for with a remaining period of a year, the annual top-up shall be of 1.680 EUR during the first year and 1.800 EUR for the remaining period.

7. If employed part time, the reductions from the social security contributions will apply in the proportions established in Article 2.7of Law 43/2006, 29 December 2006.
8. The overall budget allocated for this measure is of 0,13 million EUR.

3. ASSESSMENT

3.1. Existence of State aid

9. Article 87(1) EC Treaty declares incompatible with the common market any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, and affects trade between Member States.
10. The Commission notes that the measure does not fulfil one of the four cumulative conditions for the existence of state aid: the selectivity ("the favouring of certain undertakings or the production of certain goods"). The incentives for hiring workers redundant from the Spanish toy sector is made available to all firms irrespective of their size, scope of activity and location. However, if the measure is *de iure* not selective, a *de facto* selectivity cannot be excluded, as qualified workers may tend to seek employment in the same or related sectors. On the other hand, it is unlikely that the toy sector, which is declining, will be able to benefit a lot from the measure. In any event, the mere fact that a measure benefits more to a sector than other is not sufficient in itself to consider it as State aid³.
11. Therefore, the Commission considers that the scheme is non-selective and does not involve State aid in the sense of Article 87(1) of the EC Treaty.

4. DECISION

In view of the above, the Commission has decided to raise no objections to the proposed measure, considering it compatible with the common market under Article 87(3)(c) EC Treaty.

The Spanish authorities indicated that the notification does not contain any confidential information. The Commission will therefore disclose this letter to third parties by publishing its full text in the authentic language on the Internet site: http://ec.europa.eu/community_law/state_aids/index.htm.

Yours faithfully,

For the Commission

Neelie Kroes

Member of the Commission

³ See point 14 of the Commission Notice on the application of State aid rules to measures relating to direct business taxation, OJ C 384, 10.12.1998, p.3.