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New decision of Eurostat on deficit and debt

Treatment of public-private partnerships

Eurostat, the Statistical Office of the European Communities, has taken a decision on the accounting treatment in national accounts of contracts undertaken by government units in the framework of partnerships with non-government units. The decision specifies the impact on government deficit/surplus and debt. It results from work undertaken in 2003 in cooperation with experts from European countries and different international bodies.

The decision is in line with the European System of Accounts (ESA95), and is consistent with the opinion of the Committee on Monetary, Financial and Balance of Payments Statistics (CMFB), as described in the annex.

Eurostat recommends that the assets involved in a public-private partnership should be classified as non-government assets, and therefore recorded off balance sheet for government, if both of the following conditions are met:

1. the private partner bears the construction risk, and
2. the private partner bears at least one of either availability or demand risk.

If the construction risk is borne by government, or if the private partner bears only the construction risk and no other risks, the assets are classified as government assets. This has important consequences for government finances, both for the deficit and the debt. The initial capital expenditure relating to the assets will be recorded as government fixed capital formation, with a negative impact on government deficit/surplus. As a counterpart of this government expenditure, government debt will increase in the form of an "imputed loan" from the partner, which is part of the "Maastricht debt" concept. The regular payments made by government to the partner will have an impact on government deficit/surplus only for the part relating to purchases of services and "imputed interest".

Why is Eurostat taking this decision now?

Public partnerships with private units have been observed for a long time in EU Member States. Such arrangements take various forms, including concessions which normally do not raise difficulties as regards their treatment in national accounts. Recently however, new kinds of arrangements have been made in a few Member States, and a significant increase in these arrangements is expected for various reasons such as efforts to increase efficiency of public expenditure and to improve the quality of public services. Moreover, the European Growth Initiative, approved by the European Council in December 2003, sets as one of its objectives to promote the use of such partnerships, notably in order to develop growth-related infrastructures.

As the Statistical Authority of the Commission, Eurostat does not examine the motives, rationale and efficiency of these partnerships, but has to provide clear guidance on their treatment in national accounts, as regards their impact on data for the general government sector. Furthermore, an important part of Eurostat's mission is to ensure homogeneity of government statistics in all Member States, including the 10 Acceding Countries, under ESA95, such that deficit and debt figures are fully comparable.

Which partnerships does this decision cover?

The decision will apply to long-term contracts in areas of activity where government normally has a strong involvement. These contracts often (but not always) correspond to what is referred to as "Public-private partnerships", concluded with one or several partners, directly or through a special entity set up on purpose, and possessing expertise in the content of the contract over its lifetime. An important feature is that the contract mentions both the output of some specifically-designed assets, needing an initial capital expenditure, and the delivery of agreed services, requiring the use of these assets and according to given quality and volume standards. This decision applies only in cases where government is the main purchaser of the services supplied by the partner, whether the demand originates directly from government itself or from third party users (as seen notably for health and education services, and the use of some transport infrastructures).

What is the key issue relating to public-private partnerships as regards their treatment in national accounts?

The key issue is the advance classification of the assets involved in the partnership contract - either as government

assets or recorded in the balance sheet of the partner. In national accounts, the assets involved in a public-private partnership can be considered as non-government assets only if there is strong evidence that the partner is bearing most of the risk attached to the specific partnership. Therefore, this analysis of risks borne by the contractual parties is the core element of the assessment of a partnership project, as regards classification of the assets involved in the contract, in order to ensure the correct accounting of the impact on the government deficit of public-private partnerships.

However, this assessment does not consider risks that are not closely related to the asset and can be fully separated from the main contract, as is the case where part of the contract might be periodically renegotiated, and subject to performance and penalty payments that do not significantly depend on the condition of the main assets.

What is the Eurostat analysis of risk in partnerships?

Many risks may be observed in practice in such arrangements. The wording used may be in addition diverse and confusing. This is why, for the purpose of this decision, Eurostat has selected three main categories of "generic" risks. Therefore, "bearing a risk" for one party means that this party bears the majority of the risk.

A first category is "construction risk" covering notably events like late delivery, non-respect of specified standards, additional costs, technical deficiency, and external negative effects. Government's obligation to start making regular payments to a partner without taking into account the effective state of the assets would be evidence that government bears the majority of the construction risks.

A second category is "availability risk" where the responsibility of the partner is quite obvious. It may not be in a position to deliver the volume that was contractually agreed or to meet safety or public certification standards relating to the provision of services to final users, as specified in the contract. It also applies where the partner does not meet the required quality standards relating to the delivery of the service, as stated in the contract, and resulting from an evident lack of "performance" of the partner. Government will be assumed not to bear such risk if it is entitled to reduce significantly (as a kind of penalty) its periodic payments, like any "normal customer" could require in a commercial contract. Government payments must depend on the effective degree of availability supplied by the partner during a given period of time. Application of the penalties where the partner is defaulting on its service obligations should be automatic and should also have a significant effect on the partner's revenue/profit, and must not be purely "cosmetic" or symbolic.

A third category is "demand risk" covering variability of demand (higher or lower than expected when the contract was signed) irrespective of the behaviour (management) of the private partner. This risk should only cover a shift of demand not resulting from inadequate or low quality of the services provided by the partner or any action that changes the quantity/quality of services provided. Instead, it should result from other factors, such as the business cycle, new market trends, direct competition or technological obsolescence. Government will be assumed to bear the risk where it is obliged to ensure a given level of payment to the partner independently of the effective level of demand expressed by the final user, rendering irrelevant the fluctuations in level of demand on the partner's profitability. However, this statement does not apply where the shift in demand results from an obvious government action, such as decisions of units of general government (and thus not just the unit(s) directly involved in the contract) that represent a significant policy change, or the development of directly competing infrastructure built under government mandate.

How will the decision be implemented in practice?

The analysis of the risks in such partnerships will be carried out in all Member States and Acceding Countries (as this decision is applicable for the next notification on 1 March 2004), under the responsibility of the National Statistical Offices.

Eurostat is of the opinion that information about such risks can easily be obtained by statisticians and that the burden of the different risks is generally identifiable in the contracts. Eurostat is also of the opinion that the assessment of risk according to the process described above would allow for a straightforward classification of the assets either "on" or "off" government balance sheet in most cases.

However, it may happen in some cases that the risk analysis, as mentioned above, might not give clear conclusions (for instance if at least for two categories the share in risk may be estimated as balanced or based on very fragile hypotheses). In these cases, some additional elements in a partnership contract should also be taken into consideration. Apart from an analysis of the nature of the partners (notably in specific cases where the partner is a public corporation), the importance of government financing, the effect of government guarantees or provisions relating to the final allocation of the assets could be in some cases appropriate supplementary criteria.

In this respect, if the assets remain the property of the partner at the end of the project, and if they still have a significant economic value, then it is normally classified on the partner's balance sheet. This also includes contracts where government has merely an option to buy the asset at the current market value. On the other hand, if government has a firm obligation to acquire the assets at the end of the contract at a pre-determined price that does not reflect the economic value of the assets at that time (such as expected on the basis of conservative hypothesis at the time the contract was signed), or has paid for the right to acquire the assets throughout the contract through regular payments that were higher than they would have been without that right, then there can be a reason to

record the assets as government assets if the other tests do not give a clear answer.

Finally, Eurostat considers that this decision is not in contradiction with the usual business approach to such issues. In any case, specific and complex borderline cases should be closely examined according to the agreed procedure, including at a first stage the assistance of Eurostat.

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CMFB opinion
on the treatment in national accounts of assets related to “public-private partnerships” contracts

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The CMFB Chairman, with the assistance of the Executive Body, invited the CMFB Members on 23 December 2003 to give an opinion on the above-mentioned subject. Fourteen (14) national statistical institutes and thirteen (13) national central banks from the Member States returned the questionnaire. A total of twenty-seven (27) national institutions thus participated in the consultation. The ECB also provided a reply.

The result of the consultation was the following:

On the question: *Do you agree that PPP assets should be considered as non-government assets if there is strong evidence that the non-government partner bears most of the risk, according to the assessment of risks proposed in the guidance note?*

Twenty-six (26) national institutions responded **Yes**, among which three (3) asked for minor corrections to the numerical examples and three (3) requested clarifications on some parts of the guidance note. One (1) national institution answered **No**.

Accordingly, the CMFB endorses the guidance note of 23 December 2003 relating to the classification of assets in the context of "Public-Private Partnerships". The CMFB recommends that the suggested clarifications should be incorporated in a revised version of the ESA 95 Manual on Government Debt and Deficit, in so far as they do not change the substance.

In addition to this opinion, a document summarising the replies and all the original answers from the CMFB Members have been transmitted to Eurostat and will be kept in the records of the CMFB secretariat.

Jean CORDIER
CMFB Chairman

(Signed)

Paris, 30 January 2004