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Ms Aija Žīgure President Central Statistical Bureau of Latvia Lāčplēša Street 1 Riga, LV - 1301 Latvia

Subject: Ex-post consultation on the statistical recording of the Latvian mandatory electricity procurement scheme

Ref.: Your request for formal advice of 22 December 2022; Statistics Latvia's clarifications submitted in the context of the EDP notifications of 2017-2022; Final Findings of the EDP dialogue visits of 2017 and 2019; Discussions held during the EDP dialogue visit of 2022.

Dear Ms Žīgure,

Following your letter requesting an advice on the subject above and the different related discussions under reference, Eurostat would like to provide you with its opinion on the statistical recording of the Latvian mandatory electricity procurement scheme (from now on, *the scheme*) and of the associated lump sum settlement arrangement that took place in 2017-2018.

Description of the case

The Mandatory Procurement Scheme

In line with the energy policy of the European Union, the Latvian scheme (introduced in 2005) aimed at promoting deployment of Renewable Energy Sources (RES) and high efficiency cogeneration (CHP). The scheme has been amended on several occasions since its adoption and is set to expire on 23 September 2028.

The mandatory procurement scheme consists of an energy and a capacity component. As part of the energy component, RES producers acquire the right to sell the electricity to a public trader, the State-owned Energijas publiskais tirgotājs AS (hereinafter EPT, a fully owned subsidiary of Latvenergo) at a price calculated according to Cabinet Regulation. The capacity component covers fixed costs of CHP producers and consists of monthly payments approved by the Public Utilities Commission (the energy regulator, within S.13). The financial support to its beneficiaries is capped at an Internal Rate of Return of 9% for the whole lifetime of the investment. EPT is classified within the general government sector, while Latvenergo is classified in the public corporations sub-sector.

The costs of the scheme are covered by a levy collected in two complementary parts: through charges proportional to electricity consumption, and through a fixed fee depending on the grid connection voltage level. At the inception of the scheme, the costs were covered by a levy solely on consumption of electricity. As the scheme became operational its costs steadily increased, leading to the government's decision of capping the contribution from electricity users to 26.79 EUR/MWh from 2014 onwards.¹ The difference between this cap and the actual costs was then to be financed from the State budget. At the same time, government foresaw to cover the costs to the State budget through a similar influx of funds from Latvenergo, via the payment of (additional) dividends.

Finally, in a new recent development, government has decided that, from March 2023 onwards, the contributions paid by users would be abolished and thus the costs of the scheme would be exclusively born by the State budget.

The lump-sum payment

As a further measure, government decided on August 2017 to offer to certain scheme participants (producers) the option of receiving a one-time payment in exchange for giving up 75% of their future capacity mechanism payments. These producers would however still be required to maintain the same level of generation capacity throughout the duration of the scheme and continue to receive 25% of their original capacity mechanism payments. Because only this 25% component would then be considered in the calculation of the costs of the scheme, the measure was intended to lower the direct impact on the mandatory procurement component of electricity bills for consumers. In order to qualify for this offer, which came into effect on January 2018, a producer needed to have an installed capacity of at least 100 MW. Only Latvenergo met that eligibility criteria.

In October 2017, Latvenergo applied for the one-off compensation from the State, in relation to its plants CHP-1 and CHP-2 and obtained a government compensation in the amount of EUR 454 m, corresponding to the present value of future subsidies abandoned, discounted at 9%. This amount is divided into two parts:

- 1. An unconditional part in the amount of EUR 140 m, recognised as 'other income' in Latvenergo's statement of profit or loss in 2017.
- 2. A conditional part in the amount of EUR 314 m recognised as 'deferred income' in Latvenergo's statement of financial position (liability side) and to be allocated to income on a straight-line basis till the end of the support period 23 September 2028.

¹ From an associated cost of 9.30 EUR/MWh in 2008, the scheme was forecasted to have reached 36.16 EUR/MWh in 2017 and 40.98 EUR/MWh in 2020, in the absence of any corrective measure.

On September 2018, the Cabinet of Ministers decided to change that division, stipulating an additional amount of EUR 52 m as unconditional (thus reducing the remaining conditional part of the compensation).

Settling of the compensation

It's important to note that the one-off compensation entailed no actual cash payment, despite of being referred to as *"lump-sum payment"* in various documents and in your request for advice, as the compensation was actually settled by way of decapitalisation of Latvenergo.

In November 2017, government, Latvenergo, and EPT indeed reached a trilateral agreement for the settlement. Under this agreement, EPT acknowledged a receivable from the State amounting to EUR 454 m. In turn, Latvenergo granted a loan to EPT for the same amount, with maturity in April 2018.

In March 2018, Latvenergo reduced its share capital by EUR 454 million (to the benefit of government, its sole shareholder), in the form of a cancellation of the loan receivable against EPT. EPT simultaneously redeemed its receivable against the State. The State redeemed its liability against EPT via a reduction of its equity stake in Latvenergo (decapitalisation).

Methodological analysis and clarification by Eurostat

Applicable accounting rules

Various rules are relevant for analysing the scheme. In terms of its design, it is important to decide whether all the transactions that form the basis of the scheme should be fully reflected in government accounts or not, and which accounting categories should be used to record them. With regards to the lump-sum settlement, the key consideration is the timing of its recording, which depends on the nature of the settlement and its legal form, structured to occur in two separate accounting periods.

In general, the following rules are applicable:

ESA 2010 §1.72 and MGDD 1.2.4.5, on re-arranged transactions.

ESA 2010 §4.33 and §20.165, on the accounting categories.

ESA 2010 ESA 2010 §4.39, §20.164, §20.174 and MGDD 2.2, on the time of recording.

The accounting issue and Eurostat view

I. The mandatory procurement scheme

EPT is a trader that purchases energy under the mandatory procurement scheme, at a price determined by government and sells the same energy in the market at the prevailing price. The (positive) difference between the producer's output and EPT's market resales should be recorded as a subsidy of government towards the producers, D.39, on the basis that it is a specific production process (i.e., RES, CHP) that is intended to be subsidized.

At the same time, the surcharge to the electricity bill paid by the final consumers should be recorded as taxes on products except VAT, D.214, as it is billed to all consumers.

The scheme results, *de facto*, in a redistribution of income and wealth, which requires rerouting when implemented by a corporation not classified in S.13 in order to bring out the underlying economic relationships more clearly (ESA 2010 §1.72 and MGDD 1.2.4.5.4). In this case, no rerouting is necessary, as EPT is itself classified inside general government.

The subsidy and tax components exist irrespective of whether the State budget is bearing the cost (by providing grants to EPT, which is classified inside general government) or if these

costs are instead passed through to final consumers. In this second case, reportedly not applicable anymore from September 2022, Latvenergo *de facto* collects the tax revenue on behalf of EPT and transfers it to EPT, but Latvenergo has no control or influence over this pass-through process. Latvenergo is just a government agent involved in these transactions.

In relation to the time of recording, the subsidy to the producers accrues when the electricity is generated, since ESA 2010 §4.39 defines the time of recording of subsidies as when the transaction or the event (production, sale, import, etc.) that gives rise to the subsidy occurs. Similarly, the time of recording of taxes must focus on economic substance, i.e., when the economic activity that generates the tax liability takes place or, in the case of some income taxes, when the amount of tax due is determined. In practice, the issue is often straightforward, because electricity cannot be meaningfully stored and the adoption of the relevant law is generally done in advance of the implementation of the scheme.

In periods of abnormal market behaviour, the market price of electricity may be higher than the price guaranteed by government to the RES producers. In these cases, the difference is to be recorded as tax on production (D.29) revenue of government, rather than as negative subsidy/expenditure of government, although flexibility may be acceptable in some specific circumstances (for instance, when monthly or quarterly payments to and from government alternate within a year). If this difference is then passed through to the consumers, reducing their electricity bills, it entails a government expenditure (e.g. subsidy on product).

II. The lump-sum settlement

The economic nature of the lump-sum: problem statement

Following the agreement between Latvenergo and government of November 2017, the Cabinet of Ministers accepted granting a one-off compensation to Latvenergo in the amount of EUR 454 million, financed by the capital release of Latvenergo AS. The compensation was calculated based on two flows of abandoned future subsidies discounted at 9%, as detailed in Annex 1.

As indicated above, the compensation was originally split, from a presentational point, into two parts: 140 m was deemed unconditional and 314 m conditional. Later, in September 2018, the Cabinet of Ministers decided to increase the unconditional part by a further 52 m.

The main questions in relation to the one-off compensation are what accounts to use in the recognition of government expenditure, and the time of recording. Your letter states that both matters depend on whether government defines the compensation as unconditional or not. If yes, you propose to consider a capital transfer (D.9) at the time the compensation is paid. Otherwise, a subsidy (D.3) spread over the time of validity of the scheme is to be recorded.

The economic nature of the lump-sum: assessment

It is commonly agreed that a lump-sum payment to settle in advance subsidy payment obligations cannot be recorded as an expenditure at time of payment, because this constitutes a mere financing modality of an expenditure, which is then to be viewed as paid in advance. This is in application of the accrual principle, which requires that the expenditure is recorded at time the benefit is conveyed and not at time the payment is made (in advance, or in delay).

As such, any payment in advance of subsidies leads to an entry in AF.8 asset of general government and a corresponding AF.8 liability of the beneficiary. This approach is preferred because, otherwise, government may be able, by 'timing' their payments, to increase their deficit in a given period of their choosing and reduce their deficit in subsequent periods. This would obviously not be appropriate.

At the same time, it is also commonly agreed that gifts that are unconditional are to be recorded at time they are provided, raising the problem of how to exactly assess the Latvenergo case. Four elements specific to this case attract the interest of Eurostat, which could suggest that the conditional/unconditional criteria may not be particularly relevant here: 1) the gift is not actually paid in cash, 2) the compensation offer is *de facto* restricted to Latvenergo, which is itself not private but 100% public, such that a question mark may exist on the real motivation of the transaction, 3) Latvenergo energy assets must remain available, given their strategic nature for Latvia, such that a distinction between the conditional and unconditional parts may be seen as somewhat futile, 4) the delineation between the conditional and unconditional parts seems difficult to justify.

Indeed, it can first be noted that the compensation cannot be recorded as a capital transfer of government to Latvenergo without difficulty, because no cash is provided and in fact Latvenergo is being decapitalised. A capital transfer normally increases the own funds of the beneficiary, which is not the case here and which therefore is something that challenges this recording.

Second, we note that Latvenergo was the only company that met the conditions defined by government to participate in the program to decrease the guaranteed payment for the installed electric capacity of CHPs in return for receiving a one-time settlement. This, together with the fact that Latvenergo is fully owned by government, that the transaction is non-cash (previous point) and that Latvenergo cannot meaningfully change its energy capacity (following point), raises some questions about the economic purpose of the transaction itself and also about the economic benefits for Latvenergo to enter into this program. The arrangement may also question the level of autonomy of decision of Latvenergo.

Third, Eurostat notes that Latvenergo must keep all its energy assets available, which are crucial to Latvia – given the preponderance of the Latvenergo operator, such that the conditional part seem not materially different from the non-conditional part. The scenario where Latvenergo would close its factories and keep the conditional part (and repay to government only the unconditional part accrued to date) does not appear very realistic to us and should probably not be driving the statistical recording in this case, also in consideration that Latvenergo is 100% public.

Fourth, during the different exchanges held with the Latvian statistical authorities, Eurostat has not been able to obtain a clear understanding of the criteria for defining the split between the conditional and unconditional parts. In the absence of this information, some more analysis would be needed to determine the economic nature of the compensation and to determine whether the conditional and unconditional parts are materially different. The fact that in 2018 the unconditional part was increased by EUR 52 m would seem to illustrate that the borderline is somewhat artificial.

Cabinet order and Latvenergo financial statements

Government first distinguishes the unconditional part from the unconditional part, in the Cabinet of Ministers Order No. 685, of 21 November 2017 (free translation), in the following way:

According to Cabinet of Ministers Regulation No. 221, a one-time payment consists of two parts, the amount of which is determined by the Cabinet of Ministers. The first part does not exceed one-third of the total amount and is paid to the merchant as compensation for expenses incurred during the year. It is recorded in the merchant's accounting documents as income for the relevant year. The remaining part is paid as an advance payment and is recognized in the merchant's accounting as income in proportion to the fulfilment of obligations until the end of the support period.

We note that this Order does not explicitly distinguish the unconditional part from the unconditional part, but only implicitly and, instead, organises the distinction by reference to Latvenergo financial statement recording.

Following the agreement, Latvenergo also recorded an impairment of 117 m in relation to the two power plants covered. This impairment figure was calculated by projecting the expected future cash flows for the period 2018-2028 and discounting them at a rate of 7.5%. The impairment reflected the fact that part of the cash flows expected from the operation of the two power plants are obtained from capacity payments, which after the agreement are deemed to be reduced by around 25% (25% of the initially planned payments continue, while approximately 2/3 of the 75% remainder are considered deferred income -25%+2/3*75%=75%).²

In this context, a comparison may be made between the impairment expenditure and the 'unconditional' part received and recognized as income by the company. From an accounting perspective, the payment to be received from government was already partially accounted for, in the forecasted cash flows used to determine the assets' fair value. Upon the receipt of the lump-sum, the relevant amount may be subtracted from the fair value of the assets and hence an impairment is recognized. The 23 m difference (between 140 m received and 117 m impaired) can perhaps be considered as a windfall for the company.³

The comparison between the lump-sum and the impairment is presented for illustrative purposes and in the absence of an economically sound criteria for dividing the lump-sum into a conditional and unconditional parts. The comparison is made also regardless of the fact that the valuation of fixed assets in national accounts follows in principle the PIM (Perpetual Inventory Method).

An alternative rationale would be to merely follow the legal form and constrain the accounting presentation to reflect the government decision. However, this approach may not fairly capture the economic substance of the agreement and be subject to arbitrary decisions in relation to the year of impact in government accounts (as illustrated by the further increase in the non-conditional part by EUR 54 m decided in 2018).

Summary

Following the economic substance of the agreement, it would be appropriate for government to acknowledge, at inception in 2017, a receivable from Latvenergo for an amount of 454 m, which should be spread in equal annual instalments during the validity of the scheme (as D.3) in application of the accrual principle. The lump-sum represents an expenditure of government that should accrue only over time, and not at once.

² Although the bulk of the CHPs revenues will likely come from the selling of electricity, since their production is sold to JSC Rigas Siltums (another public corporation) at regulated prices, the capacity mechanism payments are typically significant in these type of power plants. This is illustrated by Latvenergo in its 2018 financial statements: "If the annual electrical capacity payments for cogeneration power plants CHP–1 and CHP–2 would be discontinued, then impairment of approximately EUR 80 million would be recognised. Impairment is estimated by assuming that capacity payment revenue decrease would be partly offset by higher revenues from electricity production."

³ This difference may be augmented by EUR 10 m, taking into account the difference in discount rates applied (9% for the compensation estimate, 7.5% for the fixed asset impairment).

One may recall here some other well-known cases of lump sums that are similarly spread over time, although on the revenue side of general government. This is the case for pensions, as ESA 20.273-20.275 indicate that such a lump sum is not government revenue at inception. The proceeds are recorded as a government payable (F.89), as a financial advance (ESA 20.275) or a type of pre-paid contributions (ESA 17.148). The resulting government revenue is spread over time, "*in proportion to the related payments of pensions*" and is associated with a reduction of the corresponding AF.89 liability. Similarly, lump-sums may be paid for leasing non-produced assets (e.g., mobile phone licences). The lease payments are to be recorded as rent revenue, also spread over time.

Measurement of the Latvenergo profit

It should be noted that Eurostat would expect the Latvian statistical authorities to correct (i.e., disregard) the impairment charge when using the depreciation of fixed assets as reported in Latvenergo's business accounts as a proxy of consumption of fixed capital for the relevant national accounts' calculations (most notably: super-dividend test), although they would also reinstate the subsidy revenue for their full amount.

The notion of the discount rate

An aspect to consider is the possible accruing of interest as a result of using the present value of future payments in the calculation of the compensation to Latvenergo. This approach is in line with SNA 2008, which explicitly recommends considering a discounting approach for long-term AF.8. SNA 3.144 states, in case of long-term arrangements:

A less obvious mingling of transactions occurs when the provision of an asset and the related money payment or payments do not take place simultaneously. When the time gap becomes unusually long and the amount of trade credit extended is very large, the conclusion may be that implicitly an interest fee has been charged. In such extreme cases, the actual payment or payments should be adjusted for accrued interest in order to arrive at the correct value of the asset transferred. Such adjustments are not recommended for normal trade credit.

An alternative way of explaining the concept is to remark that the liability of Latvenergo (deferred income) should be accruing some sort of 'interest', to reflect the fact that the gradual unwinding of the discounts mitigates the liability decreases (in each accounting period) arising from the gradual recognition of the income hitherto deferred. For calculating this interest, it has to be determined first whether the B.9 profile of the transaction over the lifetime of the agreement should be set equal to the B.9 profile without discounting (thus, leaving the discounting question to be a pure GFS issue), or not (e.g. keeping the D.3 component constant aside with an interest component). When discussing this issue in the framework of the EDPS WG, a majority of the participants that favoured the unwinding of a discount in this context, expressed their preference for keeping B.9 constant.

This approach of recognising an interest revenue (falling with time) while keeping the B.9 impact constant is closer to the economic reality of the transaction, as the subsidy component recorded is higher (compared to the option where no interest is accrued), and closer to the future streams of nominal subsidies.

No interest accrued												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
AF.8	454	413	372	330	289	248	207	165	124	83	41	0
D.3		41	41	41	41	41	41	41	41	41	41	41
B.9		-41	-41	-41	-41	-41	-41	-41	-41	-41	-41	-41
Interest accrued - constant B.9												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
AF.8	454	413	331	330	289	248	207	165	124	83	41	0
D.3		82	78	75	71	67	64	60	56	52	49	45
D.41		41	37	33	30	26	22	19	15	11	7	4
B.9		-41	-41	-41	-41	-41	-41	-41	-41	-41	-41	-41

III. The trilateral agreement

The trilateral agreement between government, Latvenergo, and EPT, signed in November 2017, simply organises the financial arrangements that support the government decision mentioned earlier. The operation was closed in 2018.

Under the trilateral agreement, in 2017:

- a) EPT disburses EUR 454 m to the benefit of Latvenergo, which recognizes EUR 140 m as income of the year and EUR 314 m as deferred income (liability).
- b) Latvenergo provides a short-term loan to EPT for an amount of EUR 454 m (as the disbursement of a) was not actually cashed).
- c) EPT records a receivable from the State budget, for an amount of EUR 454 m, while transferring the EUR 314 m receivable held against Latvenergo to the State. The difference is interpreted as EPT expense, compensated by the State.

Then, in 2018:

- a) EPT nets-off (*repays*) the loan liability towards Latvenergo by cancelling the receivable against government.
- b) Latvenergo reduces its capital (*buys back* own shares) netting-off the loan receivable against EPT.
- c) Government nets-off (*pays*) its payable towards EPT by reducing its equity holdings in Latvenergo. This reflects the fact that the one-off compensation is financed by applying the rights of government, as the sole shareholder of Latvenergo, to carry out a share capital reduction of the company.

A first consideration about this somewhat complex arrangement is that it seems to include borrowing by government, through EPT, from Latvenergo, which is then cancelled via a decapitalisation. One wonders if, statistically, showing a non-cash redemption of debt would be the best way to represent reality, and if a government debt to Latvenergo should not instead, and preferably, continue to be recognised over the years (thus with no decapitalisation). This debt is in recognition of the fact that, although government had to prepay for the future subsidies, it did not, thus borrowing instead the said amount from Latvenergo.

Should the Latvian statistical authorities consider, on the contrary, that recognising a decapitalisation event would be more appropriate, a second consideration relates to its appropriate timing. Although the settlement was actually closed in 2018, it is important to highlight that it was designed to be neutral in terms of cash disbursements or remaining stocks after its completion. There is a difference between considering the legal reflection of the transaction (beginning in 2017, ending in 2018) and its economic substance, i.e., agreeing the terms of settlement in 2017, structuring it to be closed when the capital decrease in Latvenergo could be formally voted and approved.

Reporting the economic reality where it is different from the legal form is a fundamental accounting principle to give consistency and to make sure that transactions of a similar type

will produce similar effects on the macroeconomic accounts, irrespectively of the legal arrangements. This is of particular importance for transactions involving the general government (see ESA §20.174).

The accounting example in Annex 2 clarifies the recording of the trilateral agreement, using the decapitalisation approach.

Conclusions

In relation to the accounting presentation of the mandatory electricity procurement scheme, Eurostat considers that the underlying transactions must be reflected in government accounts, as a tax and subsidy scheme, irrespectively of whether the implementation is already transiting through a government unit or a public corporation. In the case under review, EPT being classified in general government, the subsidies granted are S.13 expenditure of EPT while the users' contributions should be recorded as S.13 tax revenue of EPT.

In relation to the lump-sum settlement to Latvenergo, Eurostat considers that the amount should be recorded as an advance payment in full at inception, with no capital transfer in 2017/2018. This amount should then be progressively reduced throughout the lifetime of the agreement by recognising a stream of subsidy on production while also considering the interest revenue accrued by government as a consequence of the unwinding of the discount rate used to calculate the lump-sum. The overall impact of this accounting approach in the B.9 of government of EUR 454 m is spread in generally equal instalments during the duration of the agreement.

Finally, regarding the so-called trilateral agreement that organises the lump-sum settlement, Eurostat considers that the accounting recording should be established in relation to its economic substance, rather than over its form. A possible interpretation, closer to the substance of the operation, is that a debt of government is deemed to exist towards Latvenergo, government having afforded itself not to pay the compensatory payments due on the prepayment of subsidies. Another interpretation would be to analyse this case as a simple decapitalisation of Latvenergo. In this latter context, it would seem reasonable to record the full operation in 2017, when government decided to provide the compensation to Latvenergo and finance it by means of a capital reduction in the company.

Procedure

This view of Eurostat is based on the information provided by the Latvian statistical authorities. If this information turns out to be incomplete, or the implementation of the operation differs in some way from the information presented, Eurostat reserves the right to reconsider its view. In this context, we would like to remind you that Eurostat is committed to adopt a fully transparent framework for its decisions on debt and deficit matters in line with Council Regulation 479/2009, as amended, and the note on ex-post advice, which has been presented to the CMFB and cleared by the Commission and the EFC. Eurostat is therefore publishing all official methodological advice (ex-ante and ex-post) given to Member States on its website.

Yours sincerely,

e-signed Luca Ascoli Director

Annex 1. The lump-sum settlement

Following the agreement between Latvenergo and government of November 2017, the Cabinet of Ministers accepted paying out a one-off compensation in the amount of EUR 454 million. The compensation was calculated based on two flows of abandoned future subsidies discounted at 9%, using the formula:

$$M = \sum_{i=1}^{n} G_i \times \frac{3}{4} \times \frac{1}{(1+0,09)^{i}}$$

Where:

M - Amount of the lump sum (euro);Gi - annual capacity component payment (in euro);i - a year in a row, considering 2018 as the first year;n - number of calendar years in the remaining support period.

The discount rate used reflects the conditions imposed in the regulation enacting the capacity mechanism payments, which specified that 'the rate of return on the capital investment of the power plant shall not exceed 9%'. The result of the calculation, for each power plant, was the following:

$$M_{RTEC1} = \left(\sum_{i=1}^{2} 14\,731\,776,00 \times \frac{3}{4} \times \frac{1}{(1+0,09)^{i}}\right) + \\ 14\,731\,776,00 \times \frac{304}{366} \times \frac{3}{4} \times \frac{1}{(1+0,09)^{3}} \\ = 26\,522\,584,52\,euro$$
$$M_{RTEC2} = \left(\sum_{i=1}^{10} 85\,147\,619,20 \times \frac{3}{4} \times \frac{1}{(1+0,09)^{i}}\right) \\ + 85\,147\,619,20 \times \frac{267}{366} \times \frac{3}{4} \times \frac{1}{(1+0,09)^{11}} \\ = 427\,890\,165,38\,euro$$

 $M_{LE} = 26\ 522\ 584{,}52 + 427\ 890\ 165{,}38$

The compensation was then originally split into two parts: 140 m was deemed unconditional and 314 m conditional. Later on, in September 2018, the Cabinet of Ministers decided to increase the unconditional part by a further 52 m.



Annex 2. Illustration of the T accounts for the lump-sum settlement