

**Spain: Report on the Observance of Standards and Codes—
Fiscal Transparency Module**

This Report on the Observance of Standards and Codes on Fiscal Transparency for Spain was prepared by a staff team of the International Monetary Fund as background documentation for the periodic consultation with the member country. It is based on the information available at the time it was completed on January 26, 2005. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of Spain or the Executive Board of the IMF.

The policy of publication of staff reports and other documents by the IMF allows for the deletion of market-sensitive information.

To assist the IMF in evaluating the publication policy, reader comments are invited and may be sent by e-mail to publicationpolicy@imf.org.

Copies of this report are available to the public from

International Monetary Fund • Publication Services
700 19th Street, N.W. • Washington, D.C. 20431
Telephone: (202) 623 7430 • Telefax: (202) 623 7201
E-mail: publications@imf.org • Internet: <http://www.imf.org>

Price: \$15.00 a copy

**International Monetary Fund
Washington, D.C.**

INTERNATIONAL MONETARY FUND

SPAIN

Report on the Observance of Standards and Codes (ROSC) Fiscal Transparency Module

Prepared by the Fiscal Affairs Department

Approved by Michael Deppler and Teresa Ter-Minassian

January 26, 2005

EXECUTIVE SUMMARY

This report provides an assessment of fiscal transparency practices in Spain in relation to the requirements of the IMF *Code of Good Practices on Fiscal Transparency* (FTC), as requested by the authorities in early 2004. It is based on discussions with the authorities and other organizations, the authorities' response to the IMF fiscal transparency questionnaire, and other sources of information. The IMF *Manual on Fiscal Transparency* (<http://www.imf.org/external/np/fad/trans/manual/>) should be consulted for further explanation of the terms and concepts discussed in this report.

Over the last several years, Spain has made major progress not only in macroeconomic and fiscal adjustment, but also in modernizing and strengthening its fiscal institutions and in disseminating information about the government's operations. As a result, it now fully meets or exceeds the FTC's standards in many areas. There remain, nevertheless, certain aspects in which further progress would be desirable. In particular:

- The publication of timely information on the fiscal accounts of the subnational levels of government is urgently needed to improve fiscal transparency in a highly devolved system. The provisional quarterly information on fiscal outturns on a national account basis, already compiled by the General Controller and Accounting Directorate (IGAE), should be regularly published.
- The criteria utilized to delineate the boundaries between general government and public enterprises, the nature of the transfers between them, and the quasi-fiscal activities (QFAs) carried out by some nonfinancial public enterprises should be more transparently explained in individual cases.
- Medium- to long-term fiscal costs and risks associated with various forms of private-public partnerships at all levels of government should be systematically quantified, transparently disclosed in budgetary documentation, and taken into account in fiscal scenarios and long-term projections.
- A detailed reconciliation of data on general government operations on a budget basis with those on a national accounts basis should be regularly published. The inclusion of such a reconciliation of the national accounts and budgetary presentations for central administration accounts in the 2005 budget documents is a welcome step in this direction.
- Methodologies and assumptions underlying budget projections should be explained in detail in the budget documents, and their independent scrutiny should be encouraged.
- As called for by the recent General Budget Law, a detailed medium-term budget framework (MTBF) should be developed, along with improved indicators of results of budgetary programs, needed for the progressive introduction of performance budgeting in Spain; this would also facilitate a progressive increase in the focus of internal controls on the cost-effectiveness of government spending, and finally,
- Efforts should be made to accelerate external audits by the Court of Accounts, with a view to enhancing their effectiveness.

Contents	Page
I. Detailed Description of Practice.....	4
A. Clarity of Roles and Responsibilities.....	4
B. Public Availability of Information.....	17
C. Open Budget Preparation, Execution, and Reporting.....	24
D. Assurances of Integrity.....	33
II. IMF Staff Commentary.....	35
A. Clarity of Roles and Responsibilities.....	35
B. Public Availability of Information.....	37
C. Open Budget Preparation, Execution, and Reporting.....	39
D. Assurances of Integrity.....	41
Tables	
1. Overview of Main Documents for Fiscal and Budget Reporting.....	18
2. Organization and Reporting Responsibilities.....	30
Boxes	
1. Public Entities included in the Public Enterprise Sector in Spain.....	5
2. Financial Arrangements Between the Autonomous Communities and the State.....	12
3. Public-Private Partnerships (PPPs) in Spain and their Treatment in the Fiscal Accounts.....	15
4. Public Availability of Subnational Governments Fiscal Data.....	21
5. Treatment of Privatization Proceeds and Turnkey Projects in Spain's Fiscal Accounts.....	23
6. The Budget Preparation Process.....	25
7. The Budgetary Stability Laws (BSLs).....	29

ABBREVIATIONS AND ACRONYMS

ADIF	Administrator for Railroad Infrastructure (<i>Administrador de Infraestructuras Ferroviarias</i>)
AEAT	State Agency for Tax Administration (<i>Agencia Estatal de Administración Tributaria</i>)
AENA	Spanish Airports and Air Navigation (<i>Aeropuertos Españoles y Navegación</i>)
BOE	Official State Gazette (<i>Boletín Oficial del Estado</i>) (www.boe.es)
BOS	Bank of Spain (www.bde.es)
BSLs	Budgetary Stability Laws
CCAA	Autonomous Communities (<i>Comunidades Autónomas</i>)
COA	Court of Accounts (<i>Tribunal de Cuentas</i>) (www.tcu.es)
DGB	General Directorate of the Budget
EMU	European Monetary Union
EPEs	Empresarial Public Entities (<i>Entidades Públicas Empresariales</i>)
ESA-95	European System of Accounts, 1995
ESFs	European Structural Funds
EU	European Union
EUROSTAT	Statistics Office of the European Commission
FFPC	Fiscal and Financial Policy Council (<i>Consejo de Política Fiscal y Financiera</i>)
FTC	Fiscal Transparency Code
GBL	General Budget Law
GDPS	General Directorate of the Patrimony of the State
GFMIS	Government Financial Management Information System
GFS	Government Finance Statistics
GIF	Railroad Infrastructure Management Enterprise (<i>Gestor de Infraestructuras Ferroviarias</i>) (www.gif.es)
GTC	General Tax Code
HUNOSA	Northern Coal Mining Company (<i>Hulleras del Norte Sociedad Anónima</i>)
IGAE	General Controller and Accounting Directorate (<i>Intervención General de la Administración del Estado</i>) (www.igae.minhac.es)
INE	National Statistics Institute (<i>Instituto Nacional de Estadística</i>) (www.ine.es)
ITE	State Tax Revenues (<i>Ingresos Tributarios del Estado</i>)
LOFCA	Organic Law on the Financing of the Regional Governments (<i>Ley Orgánica de Financiación de las Comunidades Autónomas</i>)
MAP	Ministry of Public Administration (<i>Ministerio de las Administraciones Públicas</i>) (www.map.es)
MAYASA	Mining Company of Almadén and Arrayanes (<i>Minas de Almadén y Arrayanes</i>)
MOEF	Ministry of Economy and Finance (<i>Ministerio de Economía y Hacienda</i>) (www.mineco.es/mineco)
MTBF	Medium-Term Budget Framework
OCEX	External Control Entities (<i>Organos de Control Externo</i>)
PFs	Public Foundations
PPPs	Public-Private Partnerships
QFAs	Quasi-Fiscal Activities
ROSC	Report on the Observance of Standards and Codes
RENFE	Public Railways Entity (www.renfe.es)
RTVE	Spanish Radio and Television (<i>Radio y Televisión Española</i>)
SDDS	Special Data Dissemination Standard
SEPI	State Industrial Holding Company (<i>Sociedad Estatal de Participaciones Industriales</i>) (www.sepi.es)
SGA	State General Accounts
SMs	Commercial Corporations (<i>Sociedades Mercantiles</i>)
SP	Stability Program

I. DETAILED DESCRIPTION OF PRACTICE

A. Clarity of Roles and Responsibilities

1. **Spanish legislation includes a broad definition of the public sector and a legal distinction between the administrative (general government) and public enterprise sectors.** There are three levels of government: the central government, the regional governments (*Comunidades Autónomas, CCAA*), and the local governments (*Ayuntamientos* or *Municipios, Diputaciones Provinciales, Cabildos, and Consejos Insulares*).¹ The central government includes the state or central administration (*Administración General del Estado*), the social security funds, autonomous administrative bodies, public funds without legal status (*sin personalidad jurídica*), consortia between public administrations, and any other public entity that redistributes income, does not provide goods and services at market conditions, and is mainly financed with transfers from the central administration. The public enterprise sector includes public enterprises that are not corporations (*entidades públicas empresariales*), public corporations (*sociedades mercantiles*), and public foundations (Box 1). The central government and its public enterprises together form the state public sector (*Sector Público Estatal*). This distinction between the administrative and public enterprise sectors is repeated in the CCAAs and the local governments, with the exception of the social security funds, which are administered by the Spanish unitary social security system.

2. **The division of the public sector between general government and the public enterprises in the national accounts is in line with the 1995 European System of Accounts (ESA-95).** General government, on a national accounts basis, includes all public units, regardless of their legal status, that carry out administrative functions of the general government. All public entities that do not produce marketable goods, or for which such sales do not cover 50 percent of operating costs, are included in general government. This implies that some entities that are classified as public enterprises in Spain's budgetary accounting are included in general government in the national accounts.² Following criteria developed by the Statistics Office of the European Commission (EUROSTAT), capital injections to public entities outside the general government can only be classified as the purchase of a financial asset (and thus with no effect on government expenditure) if such investments are expected to yield a positive rate of return.

¹ Article 137 of the Constitution states that the Spanish public sector is territorially organized into municipalities, provinces (with these two constituting local government), the autonomous communities, and the state. Through the *Diputaciones Provinciales*, the primary task of the provinces is to provide technical assistance to municipalities and coordinate the provision of local public services in their jurisdictions. All these entities enjoy autonomy in the management of their respective interests. In 2004, following the full devolution of health care expenditure, the central government is estimated to have accounted for less than 30 percent of general government expenditure (excluding social security), autonomous communities for slightly over 50 percent, and local governments for the remaining 20 percent. At present, there are 17 CCAA and 8,100 municipalities, 80 percent of which have a population below 20,000 inhabitants.

² As an example, in 2004 EUROSTAT ruled that Spanish Radio and Television (*Radio y Televisión Española, RTVE*), the public TV and radio station, should be included as part of the general government (see paragraph 6).

Box 1. Public Entities included in the Public Enterprise Sector in Spain

Entidades Públicas Empresariales (EPEs). According to Law 6/1997 on the Organization and Functions of the General State Administration, the purpose of EPEs is to produce, provide, and manage public goods and services in exchange for a charge that is set to cover operation costs, including amortization. They are created by law and placed under the authority of a sectoral ministry (e.g., the Public Railway Entity, *Red Nacional de Ferrocarriles Españoles* (RENFE), that is under the authority of the ministry of public works). EPE workers are not civil servants. However, EPEs must observe public procurement, recruitment, and budgeting laws. With a few exceptions, EPEs are subject to the same tax regime as the private sector. The government authorizes EPEs' hiring, wage-setting, and contracts for infrastructure projects above a certain threshold. EPEs have autonomy, however, in managing their own assets and liabilities. EPE final accounts are audited by the General Controller and Accounting Directorate (*Intervención General de la Administración del Estado*, IGAE) and by the Court of Auditors. Their financing can come from capital injections and transfers from the central government, user fees, European Structural Funds, or borrowing from financial markets or multilateral institutions (e.g., European Investment Bank). In some cases, EPEs have been created to provide infrastructure that was formerly provided by the general government (e.g., railways). If these capital injections to EPEs are expected to yield a positive return, they are not classified as government expenditure.

Sociedades Mercantiles (SMs). According to Law 33/2003 on the Assets of Public Administrations, SMs are corporations in which public ownership is above 50 percent. They are fully subject to commercial law, although their budget must be presented to congress together with the state budget. Their creation must be authorized by the cabinet of ministers. Some of them are under the authority of the ministry of economy and finance (MOEF), either by the State Industrial Holding Company (*Sociedad Estatal de Participaciones Industriales*, SEPI), or by the General Directorate of the Patrimony of the State (GDPS). The rest of the SMs are under the authority of a sectoral ministry (e.g., the public company in charge of air traffic controllers' training, *Sociedad para la Enseñanza Aeronáutica Civil*, that is under the authority of the ministry of public works). Most of SEPI's corporations operate in the industrial and service sectors. Public corporations under the GDPS's authority mainly operate in the provision of water and environmental infrastructure, postal service, land management, insurance, and tourism. As in the case of EPEs, some SMs are providing infrastructure that was previously provided by the general government (e.g., water) and receive capital injections that are not classified as part of government expenditures, provided the investment is expected to be profitable. SMs are subject to the same tax and regulatory regimes as private corporations, with very few exceptions (see paragraph 6).

Public Foundations (PFs). Although not strictly involved in the selling of goods and services, PFs are considered, under Spanish legislation, as part of the enterprise sector. The PFs are nonprofit organizations in which, according to Law 50/2002 on Foundations, public participation is above 50 percent. They are involved in social activities such as the promotion of cultural, educational, and sports activities, development and research, restoration and conservation of the historical and artistic heritage, and conservation of the environment. They are placed under the authority of a ministry or SM authority (e.g., the SEPI Foundation) and are financed with transfers.

Public entity for the provision of television and radio services (RTVE). According to Law 4/1980 on the Status of Radio and TV, the state is allowed to create a public entity for the universal provision of TV and radio services. The 12-member Board of this entity is appointed by congress, while the general director is appointed by the government. Financing comes from government subsidies and advertising revenues. RTVE is subject to commercial laws, although its budget must be presented to parliament together with the state budget.

3. **At the same time, the growing importance of the public enterprises in providing infrastructure, and questions regarding their proper treatment in the fiscal accounts, have blurred the boundary between the general government and the public enterprise sector.** Historically, the bulk of investment in infrastructure has been carried out by the general government, either at the central or subnational government levels. Since the mid-1990s, however, infrastructure at all levels of government has been increasingly built and managed by public enterprises (either *entidades públicas empresariales* or *sociedades mercantiles*). Most of them have been created by the central government, although these entities have also mushroomed at the regional and municipal levels. Many are engaged in long-term infrastructure projects that are expected to yield a positive rate of return. Investments of these enterprises, at the state level, have been presented in the last few years in the yellow book (the Presentation of the Budget of the State, or *Presentación del Proyecto de Presupuestos Generales del Estado*), which is used to present the budget to the public.³ In 2003, those investments amounted to 1.4 percent of GDP. As some of these enterprises are not able, at present, to generate income from leasing their infrastructure, or to generate other operating income, judgments regarding their inclusion or exclusion from the general government sector must be based on expectations of future revenues and costs, which are fraught with uncertainties. In practice, EUROSTAT has decided the status of these enterprises on a case-by-case basis, with some related uncertainty regarding the definition of general government.⁴

4. **Government holdings of fully or partially publicly-owned corporations are moderate.** After the substantial downsizing of public enterprises in the 1990s, the contribution to GDP of industrial public enterprises held by the State Industrial Holding Company, SEPI fell from 6.9 percent in 1983 to 0.1 percent in 2003. In the same vein, SEPI's share in stock market capitalization fell from 10.9 percent in 1996 to 0.4 percent in 2002. Most SEPI stakes are majority holdings in industrial state-owned or controlled enterprises, although SEPI still maintains minority stakes in strategic sectors. SEPI has financial autonomy and is self-sufficient. In line with the EU's directives on state aid (see Royal Law Decree 15/1997), neither SEPI nor its affiliate companies receive financial support from the state budget, except the Northern Coal Mining Company (HUNOSA—*Hulleras del Norte Sociedad Anónima*).

5. **The circumstances under which the government can use its special voting powers or veto rights (golden shares) on certain former public enterprises are clearly specified by**

³ These include the Railway Infrastructure Management Enterprise (the previously called *Gestor de Infraestructuras Ferroviarias*, GIF, which has been renamed the Administrator for Railroad Infrastructure, *Administrador de Infraestructuras Ferroviarias* (ADIF) after absorbing the RENFE investment operations), State Companies for Water Works (*Sociedades Estatales de Agua*), Land Management Companies (*Sociedades de Gestión Inmobiliaria*), Irrigation Modernization and Construction Companies (*Sociedades de Modernización y Construcción de Regadíos*), the Public Railway Entity (RENFE), Spanish Airports and Air Navigation (*Aeropuertos Españoles y Navegación Aérea*, AENA), and Ports of the State (*Puertos del Estado*).

⁴ For instance, the public entity of the autonomous community of Madrid for building and managing transportation, (MINTRA, Transport Infrastructures of Madrid) was originally classified as part of the general government. In 2001, the autonomous community of Madrid submitted to EUROSTAT evidence of MINTRA's prospects for yielding a positive rate of return. Subsequently, EUROSTAT allowed a reclassification of MINTRA as part of the public enterprise sector.

law. Spanish legislation establishes⁵ that the boards of companies involved in providing essential public services, or operating in regulated markets, must seek authorization on matters such as the voluntary dissolution of the firm and mergers. Golden shares have expiration dates,⁶ mainly affect foreign companies under state control, and are subject to court review.

6. Some public nonfinancial corporations carry out quasi-fiscal activities (QFAs). Public and private entities in some sectors are required by the government to provide services at below-cost prices. The fiscal burden of these policies has been largely captured by explicit subsidies in the state budget to public enterprises with social or public interest objectives (the railways, postal services, and coal mines). In the case of *Radio Televisión Española* (RTVE, the state's public TV and radio enterprise), subsidies from the state have not—until recently—fully covered the costs arising from the obligation of providing universal TV and radio services with minimum advertising revenue. This “quasi-fiscal deficit” was reflected in the operating balance of RTVE and financed with debt. RTVE's operating losses were described in an annex to the budget. In the context of the excessive deficit procedure, EUROSTAT has recently ruled that RTVE must be classified as part of the general government. Therefore, its 2005 deficit (about 0.1 percent of GDP) and stock of debt (around 1 percent of GDP) must be consolidated within the general government on a national accounts basis. Other QFAs stem from the tax benefits received by *Correos and Telégrafos* (e.g., exemption from the VAT and corporate income tax) on its operations related to the provision of the universal postal services. In addition, operations related to restructuring processes carried out by the holding company SEPI of public enterprises are exempt from some taxes. The State Companies for Water Works (*Sociedades Estatales de Aguas*) are also engaged in some investment projects where charges for services are not expected to recover costs. The 2005 budget documentation (the yellow book) contained a summary exposition of selected public enterprises' possible future impact on the state budget.⁷

7. QFAs are also undertaken in regulated industries. Enterprises in the electricity sector are required to provide electricity to the islands at below-cost prices. They are encouraged to purchase domestic coal at above-market prices, with compensation explicitly indicated in the determination of its regulated price. In addition, Telefónica is obliged to provide universal service, reduced rates for pensioners, and provide phone booths in all municipalities.⁸

⁵ See Ley 5/1995 on the Legal Regime of the Sale of Public Stakes in Certain Enterprises and subsequent legislation in 2003.

⁶ For instance, in Repsol (oil), they expire end-2006; in Telefónica (the telephone company), end-2007; and Endesa (electricity), end-2008. Based on legislation enacted in January 2004, investors are now able to acquire more than 10 percent of the shares in Telefónica, Endesa, Indra (information technology and defense), and Iberia (airlines) without the government's authorization.

⁷ The enterprises covered included RTVE, GIF (renamed ADIF since January 2005), the State Waterworks Companies, AENA, two mining companies (HUNOSA and the Mining Company of Almadén and Arrayanes, *Minas de Almadén y Arrayanes*, MAYASA), and the shipbuilding company IZAR.

⁸ The dominant position of Telefónica in the provision of this universal service may more than compensate for its costs in fulfilling this obligation.

8. **Profit transfers from state-owned enterprises to the budget, as well as wage-setting and hiring, are determined by the executive branch.** Profit remittances are decided by the cabinet of ministers on a case-by-case basis. Usually, public enterprises need to meet some minimum performance requirements (in terms of rate of return, service provision, etc.) which are spelled out in performance contracts. With the exception of *Correos y Telégrafos*, public enterprises are subject to the same tax and regulatory regime as private enterprises.

9. **Privatizations are conducted in accordance with a clear legal framework.** The legal framework for privatization was updated by the Cabinet Agreement of May 1996 on the Modernization of the Public Enterprise Sector and is currently contained in Law 33/2003 on the Assets of the Public Administrations. This legal framework, which has been fully applied in practice, established that SEPI would act as the government's executing agency for privatization. Based on the assessment of external consultants hired through a competitive bidding process, SEPI prepares proposals for the privatization of public enterprises and advises the government on the techniques and procedures to be followed. In certain sectors, the government can require the privatized enterprises to seek government authorization for certain operations and to follow an investment and employment plan. The Consulting Council for Privatization (*Consejo Consultivo de Privatizaciones*, www.ccp.es) provides a nonbinding report on the transparency, competitive conditions, and efficiency of the privatization process. SEPI also must seek the assessment of the Spanish antitrust authority (*Tribunal de Defensa de la Competencia*) and the European Union (EU) on the effect of the proposed sale on competition. The council of ministers has the final responsibility for choosing the sale method and deciding on the final agreement for each operation. Within a three-month period after the completion of a privatization operation, the General Controller and Accounting Directorate (IGAE) must conduct an audit of it.

10. **Government regulation of the nonfinancial private sector is fully consistent with EU legislation.** The antitrust authority, the *Tribunal de Defensa de la Competencia*, is an autonomous body that regulates and enforces competition policy under the authority of the ministry of economy and finance (MOEF). Investigations of potentially anticompetitive behavior are undertaken by the *Servicio de Defensa de la Competencia*, an administrative body of the MOEF. The CCAA may also establish competition authorities with competency for their territory, but must fully abide with EU and national legislation. In addition, the government has established specialized agencies for the regulation of former government monopolies (e.g., telecommunications and energy).⁹ These agencies are led by a board appointed by the government for a six-year period. The board of the Commission for Capital Markets consists of five members: the head of the treasury, the Deputy Governor of the Bank of Spain (BOS), and three members appointed by the government that serve a four-year term. The appeal and consultation processes, as well as independence to establish tariffs and issue fines, are clearly established by law.

⁹ This includes the National Commission for Energy (www.cne.es) and the National Commission for the Telecommunications Market (www.cmt.es).

11. **The BOS is independent and does not carry out QFAs.** Public financial corporations are small and carry out only limited QFAs (e.g., through the *Instituto Nacional de Crédito*). Spain is a member of the European Monetary Union and the BOS is part of the European System of Central Banks, whose main objective is to maintain price stability within the euro area. BOS retains its role as lender of last resort for Spanish banks and banker for the government. Government deposits with the BOS are not remunerated. Services provided by the BOS to the government are also not remunerated, excluding a fee that the treasury pays to the BOS for public debt auctions. As most of public debt operations are now carried out by a clearing house (IBERCLEAR), the treasury is negotiating with the BOS a reduction of these fees.

12. **The fiscal roles of the executive, judicial, and legislative branches are clearly defined in the Constitution.** Article 97 states that the government exercises the executive function and regulatory power. Article 117 states that justice is administered by members of the judicial power, who are independent, irremovable, and subject only to the rule of the law. Articles 66 and 117 state that the parliament shall exercise the legislative power of the state. In particular, parliament shall approve and control the budget of the government, and authorize it to contract public debt or obtain loans. Article 134 states that it is incumbent upon the government to prepare the state budget (*Presupuestos Generales del Estado*) and to present it to parliament at least three months before the expiration of the previous year. The state budget shall be of an annual character and include the totality of expenditure and revenues of the state sector (*Sector Público Estatal*), including the tax expenditures that affect state taxes. The parliament shall examine, amend, and approve the budget before the first day of the corresponding fiscal year (January 1). Any amendment which involves increased expenditures or decreased revenues shall require the agreement of the government. If the budget is not approved before December 31, the budget of the previous fiscal year will automatically be considered extended until the approval of the new one. Once the state budget has been approved, the government may present to parliament bills increasing or reducing revenues corresponding to the same budget year.

13. **Parliamentary procedures for examining and amending the budget are governed by strict rules.** The budgetary impact of parliament's legislative initiatives is limited. Although the state budget is considered a formal law, parliamentary by-laws establish specific rules for the examination of the budget, and restrict parliament's powers to amend the draft budget. In particular, budget discussion and approval procedures take the form of a two-stage process, according to which the legislature first votes on the total amount of revenue and budget expenditure, before voting on specific appropriations. In addition, any amendment which involves increased expenditures in one budgetary line-item (*concepto*) must also include a proposed reduction in the same amount in another line-item of the same budgetary subchapter (*sección*). Moreover, fast-track approval of expenditures is expressly prohibited. Parliamentary by-laws establish that any draft law, or amendment to a draft law, that involves increased expenditures or decreased revenues shall require the agreement of the government. Furthermore, there is also an obligation to send to parliament, on a quarterly basis, information on the execution of the Contingency Fund. This provides parliament information on any unforeseen expenditure approved by the council of ministers.

14. **The expenditure responsibilities of different levels of government are clearly defined in the Constitution.** According to Article 149 of the Constitution, the functions in which the state has full exclusive responsibility to legislate and execute include, inter alia, justice, defense, foreign affairs, the monetary system, constitutional rights, national infrastructure,¹⁰ academic degrees, meteorological services, mining and energy, health service standards, arms and explosives, and the control of air and marine spaces. The matters in which the state has full responsibility for developing the framework, but which may be implemented in tandem with the CCAA include, among others, labor, civil rights, procurement and civil service, social security, maritime fishing, environment, communications, public security, and culture. Article 148 lists the responsibilities over which the CCAA may assume regulatory and executive responsibilities not included within the state's exclusive area of responsibility. These include urban regulation, housing, regional infrastructure,¹¹ inland water fishing, health, social assistance, environment, culture, and tourism, within the limits established by state legislation. With the purpose of eliminating grey areas and conflicts, Article 149 states that: (i) any matter that is not defined by the Constitution as reserved to the state belongs to the CCAA as stipulated in their respective Statutes of Autonomy (*Estatutos de Autonomía*); (ii) all matters not envisaged by the Statutes of Autonomy shall belong to the state; and (iii) state legislation shall be supplementary to CCAA's laws and prevail in cases of conflict. Over the 24 years since the enactment of the Constitution, conflicts on the devolution of expenditures have usually been resolved either bilaterally or by the Constitutional Court. Finally, the law¹² establishes the list of basic expenditure responsibilities that all local governments must implement, including public lighting, cemeteries, drinking water supply, sewer, waste management, paved roads, urban planning, and building control. The mandate to provide other services, such as public libraries, firefighting, public parks, and public transportation, are decided on the basis of a municipality's size.¹³

15. **Financial arrangements with CCAA differ across types of regions, incorporate elements of fiscal co-responsibility, and are based on a comprehensive and detailed legal framework.** The legal framework of the financial arrangements between the central and regional governments is contained in the 1978 Spanish Constitution¹⁴ and the Organic Law 7/2001 on the Financing of the Regional Governments (*Ley Orgánica de Financiación de las Comunidades Autónomas*, LOFCA). In Spain, two CCAA (the Basque Country and Navarre)

¹⁰ Defined as transportation and water infrastructure that crosses through more than one region, ports, and airports.

¹¹ Defined as railways and highways which run completely in the territory of the region and within the same boundaries carried out by these means or by cable, ports of refuge, recreational ports, airports, and other means in its own territory.

¹² Legislative Royal Decree 2/2004 on the Compiled Text of the Law Regulating Local Finances (*Texto Refundido de la Ley Reguladora de las Haciendas Locales*).

¹³ In particular, the law states that municipalities with a population over 5,000 inhabitants must provide public parks, a library, a market place, and waste processing; municipalities with a population over 20,000 inhabitants shall also provide social services, firefighting, sports facilities, and slaughterhouses; and municipalities with a population over 50,000 inhabitants must also provide urban public transportation and environment protection.

¹⁴ The Constitution does not establish a clear and precise model for the allocation of the state's revenues among levels of governments. The Constitution allows for tax-sharing and transfers from the central government.

have almost full fiscal autonomy (*régimen foral*), while the other 15 CCAA have more limited fiscal autonomy (*régimen común*). CCAA have direct access to financial markets, subject to several restrictions.¹⁵ CCAA (and municipal) borrowing is not guaranteed by the central government. At the same time, the law does not explicitly prohibit the state from bailing out subnational governments in case they experience difficulties in servicing their debt. The CCAA must formulate and execute their budget in line with the “balanced budget or surplus” rule enshrined in the Budgetary Stability Laws (BSLs).¹⁶ The Fiscal and Financial Policy Council (*Consejo de Política Fiscal y Financiera*, FFPC)¹⁷—co-chaired by the ministers of economy and finance and public administration and composed of regional governments’ representatives—is responsible for coordinating the CCAA’s fiscal policy with that of the central government and negotiating the financial arrangements between the central government and the *régimen común* CCAA. In 2001, the central government and the *régimen común* CCAA negotiated a financial arrangement to replace the previous five-year arrangements, starting in 2002.¹⁸ The new arrangement encompasses all devolved expenditure responsibilities (previously, health expenditure was financed separately) and makes the CCAA less dependent on discretionary transfers from the central government, as they now receive a large share of national tax revenues (Box 2). The arrangement also grants tax powers to the CCAA, and includes an equalization fund to ensure the solidarity of the system. These arrangements are currently being re-examined, as the government has committed to revisit the issue of health care financing in the course of 2005.

16. Details on the negotiations involving financial arrangements with CCAA have not always been fully disclosed to the public. In particular, in the negotiation of the current financial arrangements, there have been unexplained discrepancies between the agreements reached within the FFPC (which are published in the official gazette) and the final laws approved by congress. These discrepancies involved both the total amount of resources to be devolved to CCAA and the criteria for its distribution.

¹⁵ CCAA long-term debt must be used for capital expenditure; the debt burden, defined as the sum of interest payments plus long-term debt redemption, must not exceed 25 percent of current revenue; and the issuance of foreign currency-denominated debt must be authorized by the state. The state’s authorization is conditional on the CCAA’s compliance with the BSLs. The laws do not clearly establish who has the authority to verify the CCAA’s compliance with borrowing constraints, and—until September 2004, when summary data on fiscal balance outcomes for 2003 was published—no information is published on such compliance.

¹⁶ In its first year of operation (2003), however, 11 of 17 regions had budget deficits, albeit in many cases quite small.

¹⁷ Legally, the FFPC is an advisory body; in practice, it has become a decision-making body on all aspects of CCAA financing. The vote of the regional Finance Councilors of the 17 CCAA (combined) and the ministry of finance and ministry of public administration (combined) have the same weight.

¹⁸ See Law 21/2001 on the Regulation of the Fiscal and Administrative Norms of the New Financing Arrangements with Regions of the Common Regime and Autonomous Towns of Ceuta and Melilla.

Box 2. Financial Arrangements Between the Autonomous Communities and the State

Common Regime 1/

Under the current financial arrangement, devolved responsibilities of CCAA under the common regime, including education, health, and administrative and social services, were computed on the basis of the actual cost of services transferred in 1999. In order to ensure a minimum level of provision, CCAA expenditures on health care and social services must at least equal their 1999 level, updated in line with state tax revenues (*Ingresos Tributarios de Estado*, ITE). To finance their expenditure responsibilities, common regime CCAA were given exclusive power to tax gifts, wealth, legal documents, and winnings from gambling. In addition, CCAA were to retain, with limited taxing autonomy, 33 percent of the personal income tax and 100 percent of the tax on retail sales of hydrocarbons. They also could retain, but without any taxing autonomy, 35 percent of the VAT, 40 percent of excises, and 100 percent of taxes on electricity and on vehicle registration. Other CCAA revenues include fees and special contributions. As total tax revenues, including shared state revenues, financed only half of common regime CCAA expenditures, they were also provided with resources from a sufficiency fund. This fund, which draws on state revenues, was computed in the base year 1999 as the gap between CCAA's expenditures needs and devolved tax revenues, and is indexed each year to the ITE. The sufficiency fund is allocated among CCAA according to indicators of relative need, computed on the basis of 1999 data, the weights of which are clearly established in the law. There are also some funds—the so-called *Asignaciones de Nivelación*—that compensate those CCAA that experience population growth above the national average. In addition, there exists an interterritorial compensation fund, also funded with the state revenues, which equals 30 percent of state investment expenditures. This fund must be allocated to investment in infrastructure, including the related maintenance outlays. The fund is distributed according to social and economic indicators that are clearly established by law. Only the low-income CCAA—those defined by the EU as “Objective 1”—are eligible. Finally, according to the “institutional loyalty” principle, the state shall compensate CCAA for increases in expenditures or decreases in revenues derived from legislative or administrative decisions adopted by the state.

Special or Foral Regime 2/

Foral CCAA have their own personal and corporate income tax systems, and are responsible for setting the conditions, managing, inspecting, and collecting all taxes, except for custom duties, social security contributions, and some excise taxes. In particular, VAT rates and exemptions are set by the state, but collected by foral CCAA's tax administrations. Most expenditure responsibilities have been devolved, except pensions, which are still implemented by the Spanish unitary social security system. For other spending programs carried out exclusively at the state level (foreign affairs, defense, and some network infrastructure such as airports and ports), foral CCAA make transfers to the state, the so-called “*cupos vasco y navarro*.” The “*cupos*” are computed according to the ratio of foral CCAA's GDP to national GDP.

1/ Includes all Spanish CCAA except Basque Country and Navarre.

2/ Comprises Basque Country and Navarre.

17. **The financial arrangement between the state and local governments are clearly established by law.** The recently reformed municipal arrangements, which do not apply to municipalities in the Basque Country and Navarre, establish several financing modalities, according to the municipality or province's size and economic structure. Large local governments (more than 75,000 inhabitants) are financed by a share of state tax revenues

collected in their jurisdictions,¹⁹ and complementary transfers funded with state resources. The latter are indexed each year to the state revenues that are not shared with the CCAA. Small municipalities are financed exclusively with transfers from the state, based on needs-based criteria. Municipalities with significant tourist business and with a population above 20,000 inhabitants obtain additional financing provided through participation in excises collected in their jurisdictions. Financing for municipal infrastructure is also provided from capital gains—often paid in the form of land transfers—provided by private constructors that benefit from changes in zoning status.²⁰ As regards borrowing, municipal long-term loans must be earmarked for capital expenditure (although no sanctions are specified for failure to comply with this rule). In addition, municipalities require state authorization, conditional on municipalities' compliance with the BSLs, for the issuance of debt and/or the contracting of loans with nonresident financial institutions. Debt is not allowed to exceed 110 percent of current revenues.

18. **Fiscal management is defined by a clear legal and administrative framework that must be observed by the central and subnational governments.** The CCAA have also used this framework as a model to enact their own budget legislation. The legal framework for fiscal management is contained in framework legislation, including the 47/2003 General Budget Law (GBL) and the BSLs, annual budget laws, and annual budget formulation decrees. The GBL was reformed in 2003, with some articles implemented in the context of the 2004 draft budget (see Section C below for details).

19. **Extrabudgetary funds are partially consolidated into the budget.** At present, the state budget only captures capital injections to these funds. With the full adoption of the GBL in 2005, all extrabudgetary funds will be fully consolidated into the budget.²¹ All resources from the European Structural Funds (ESFs) are included in the budget, along with the expenditure financed by them. All fees and charges of autonomous administrative bodies are fully integrated into the budget and shown in gross terms.

20. **The legal framework for concessions and Public-Private Partnerships (PPPs) is satisfactory, although there remain concerns regarding these arrangements at the subnational level.** The new law on concessions (i) defines a concession as a contract in which the risk (construction, maintenance, and management) is borne substantially by the private

¹⁹ In particular, large municipalities receive 1.6875 percent of the personal income tax, 1.7897 percent of the VAT, and 2.0454 percent of excises collected in their jurisdictions. For provinces, the respective percentages are 0.9936, 1.0538, and 1.2044.

²⁰ By law, municipalities are entitled to receive up to 15 percent of the capital gains generated by zoning operations (e.g., the reclassification of rural land as urban land). These resources must be earmarked for capital expenditures. In some cases, the private investor benefiting from this change in zoning status is requested to provide land, rather than cash, as payment. In these cases, the fiscal accounts of the municipality do not record these transfers of land as revenue.

²¹ Fund for Development Assistance (*Fondo de Ayuda al Desarrollo*), Fund for External Investment (*Fondo para la Inversión en el Exterior*), Fund for External Investment of Small- and Medium-Sized Enterprises (*Fondo para Operaciones de Inversión en el Exterior de la Pequeña y Mediana Empresa*), and funds for microcredit (*microcréditos*).

sector; (ii) extends the use of concessions for all kinds of infrastructure (roads, railways, airports, ports, etc.) and activity (construction, maintenance, management, etc); (iii) stipulates that the project's approval requires a financial viability report that sets both minimum and maximum returns on the investment; and (iv) provides that, whenever returns fall outside such a range of returns, the contract's terms and conditions can be revised. PPP contracts at the state level have limited fiscal risks (Box 3). The scope of PPPs in CCAA and local governments, and the fiscal risks they pose, however, have not been systematically monitored. Thus, while the legal framework for monitoring PPPs is sound, there is nevertheless significant scope for better measuring their fiscal implications.

21. **Taxation has an appropriate legal base and is clearly allocated among levels of government.** The legal base for taxation is described in Article 133 of the Constitution that states that the original power to establish taxes by means of law belongs exclusively to the state. Municipalities enjoy limited powers to modify local taxes, which must be approved by law.²² The CCAA also have some limited tax authority within their jurisdictions, but only on assets and economic activities not taxed by the state (see Box 2 above for details). By law, CCAA must compensate municipalities for any regional tax that could be levied on assets and economic activities already taxed by municipalities, and the state must compensate municipalities for any tax exemption granted by the state on municipal taxes.²³ Any tax exemption which affects state taxes must be established by virtue of law. As indicated in Article 134 of the Constitution, the state budget cannot create new taxes. Thus, any change in the tax system underlying the budgetary revenue projections must be made through another law.²⁴ The pre-constitutional General Tax Code (GTC) of 1963 (Law 230), which describes the general principles and procedures relating to self-assessment, tax exemptions, and tax liabilities, was replaced on July 1, 2004, by the revised 2003 General Tax Code (58/2003). The main changes pertain to the adaptation of tax administration to new technologies, the reinforcement of taxpayers' rights, and the introduction of new mechanisms for reducing litigation. Tax laws and norms are published in the official gazette, the *Boletín Oficial del Estado (BOE)*, and are readily accessible at the MOEF's web site.

²² According to Legislative Royal Decree 2/2004 for the compiled text of the Regulatory Law of Local Entities, there are two kinds of municipal taxes. First, taxes that municipalities *must* levy on their jurisdictions, such as the tax on buildings, the tax on economic activities, and the tax on vehicles. Second, taxes that municipalities *may* levy in their jurisdictions, such as the tax on construction, works, and facilities, and the tax on the increase in the value of urban land.

²³ As an example, the 2003 state budget included compensation to municipalities on account of the exemption of small business from the tax on economic activities.

²⁴ From 1993 to 2004, tax changes underlying budgeted revenues were made through the so-called *ley de medidas* that usually accompanied the annual budget. This law did not present a detailed description of the tax changes it included, leading to some ambiguity regarding the tax system. These changes in taxation were also not subject to the usual process of consultation with civil society and the calendar of discussion with parliament. This practice has been interrupted in 2005 with the enactment of separate laws for the tax changes included in the budget.

Box 3. Public-Private Partnerships (PPPs) in Spain and their Treatment in the Fiscal Accounts

PPPs have been utilized in Spain since the 1970s by the central government. In more recent years, they have played an increasing role in building and operating infrastructure for CCAA and municipalities. The most popular forms of PPPs have been regular concessions, “shadow toll” concessions (where no toll is imposed on users, but the government compensates the private sector provider, depending on the level of use of the infrastructure), and “low-toll” concessions in which there is some toll for users, but also a contribution by government, depending on the level of use. According to available information, investment equaling 6 percent of GDP (at current prices and 2003 GDP) has been executed through PPPs since the mid-1990s. Incomplete data hamper, however, a full assessment of the size and scope of these operations.

Regular concessions have been used for the construction of toll roads by the central government and CCAA, for train stations by the railway enterprise (RENFE), and for the subway system of the Madrid region. In cases where traffic was judged to be insufficient to generate enough revenues through tolls, or where tolls were fixed at a low level, the government has developed other mechanisms to share risk with the private concessionary. One such instrument is the “*préstamo participativo*,” which consists of a subsidized loan given to the concessionary at the beginning of the concession. If toll revenue is higher than expected under the project, the concessionary would need to pay higher interest rates (including, in some cases, rates above those prevailing in the market) by sharing the higher-than-expected toll revenue with the government. Shadow tolls have been employed more frequently by regional governments (Madrid, Cataluña, Navarra, Castilla-La Mancha, and Murcia). PPPs, in the form of management contracts, have also been used by local governments for the provision of water, electricity, and street-cleaning services.

The recent law of concessions (13/2003) provides a satisfactory framework for the contracting and monitoring of PPPs. The law consolidates existing legislation that was previously fragmented. The law generalizes the principle of “economic equilibrium” in these concessions, meaning that the public sector must assume the risks from *force majeure* or actions taken by the public sector that adversely affect the profitability of the concession. In the case of these events, the public sector must compensate the private concessionary by either raising tolls or extending the concession period. To help quantify such risks, each new concession should be accompanied by a long-term economic and financial plan provided by the concessionary, which must include floors and ceilings on revenues. The “economic equilibrium” concept must be applied symmetrically, implying that when revenues are higher than expected in the financial plan, the government will also receive a share of these additional revenues. The government is also required under the new law to undertake a study of the viability of any proposed concession, which should be made available to the public for two months before the contracting process begins. Another potential fiscal consequence of PPP contracts arises from the guarantee that the public sector must purchase infrastructure assets, at their residual value, in the case of bankruptcy on the part of the private operator.

The fiscal implications of PPPs are not captured in Spanish budget formulation and fiscal reporting. At the state level, these risks are limited, since there are no minimum revenue guarantees or borrowing guarantees. At the regional level, however, the fiscal risks from PPPs are unclear. The absence of a comprehensive registry of the long-term commitments under PPPs hampers such an assessment of these risks.

The accounting of PPPs in Spain’s budgetary accounting differs from ESA-95 and the national accounts presentation of fiscal data. Investments related to PPPs at the state level are always registered as private investment. EUROSTAT has recently ruled that the PPPs in which the private operator receives most of its revenues from the public administration must be classified as private investment if the private operator bears most of the construction, and most of either the performance or demand risks. Spain’s submission of fiscal data on a national accounts basis is expected to adjust to EUROSTAT’s recent ruling.

22. **Tax compliance is facilitated by the pervasive use of withholding and extensive efforts to assist taxpayers in fulfilling their tax obligations.** The State Agency for Tax Administration (*Agencia Estatal de Administración Tributaria*, AEAT) publishes annually updated booklets containing the laws and norms pertaining to all state taxes explaining how taxpayers should calculate their tax liabilities. The AEAT provides assistance and information to taxpayers through its website (www.aeat.es), special phone lines, prearranged meetings in

customer service offices, personal correspondence,²⁵ and user-friendly and free-of-charge software applications for the self-assessment of tax liabilities. Taxpayers' inquiries must be answered within a six-month period, and responses of general interest are published on the AEAT's website. CCAA and municipalities have their own units for the administration of their own taxes. Collaboration with subnational governments takes place through bilateral agreements (e.g., by exchanging information on taxpayers), and through different councils and committees comprised of representatives of the central and regional governments.²⁶

23. The rights and obligations of taxpayers and the tax administration are well defined in the law. Taxpayers' rights are described in the new 2003 GTC (58/2003). The statute is comprehensive and observed in practice. These rights include the right to obtain all relevant information and receive correct and effective assistance from tax officials, with a guarantee of confidentiality, and the right to appeal tax administration decisions through a three-stage complaint process. First, taxpayers can appeal to the MOEF and seek the intermediation of the Council for the Defense of Taxpayers, an advisory body established in 1996 comprised of tax administration officials, academics, and tax experts. Second, taxpayers can appeal to the *Tribunal Económico Administrativo*, a special tribunal for administrative procedures on taxation. Third, taxpayers may, as a last resort, seek recourse in the legal system. The new GTC makes all advice provided through consultations with taxpayers binding for the tax agency (previously, this applied only to certain areas) and reduces taxpayers' obligation to pay tax liabilities and sanctions before the appeal process has ended.

24. Legislation on public servants, contained in various laws, helps define and enforce ethical behavior. There are three types of civil servants: *laborales* with rights and duties comparable to those in the private sector, *funcionarios* with special status, and *eventuales* or advisors. There is not a code of conduct for the civil service as such. However, civil servants are subject to numerous laws and administrative norms,²⁷ as well as to the provisions of general laws, that pertain to conflict of interest and ethical behavior. This legislation applies to the civil servants of the state and municipalities, and constitutes the legal framework for the CCAA's laws on the civil service. It establishes the principles of integrity, impartiality, efficiency, confidentiality, and responsibility in carrying out the management of public resources and in relation with the public. It also establishes a disciplinary regime and sanctions in case of nonobservance. In addition, regular penalties under criminal law apply to civil servants. Law 53/1984 on the conflicts of interest of civil servants forbids the exercise of private activities in the same field as that of the post held by the civil servant. It also limits the

²⁵ In 2003, the AEAT published 19,885,000 booklets, sent 32,616,773 pieces of personal correspondence, and answered 7,212,250 phone calls.

²⁶ These entities include: the Superior Management Council (*Consejo Superior de Dirección*), which is an advisory body, the Joint Commission for Tax Administration (*Comisión Mixta para la Gestión Tributaria*), which proposes tax administration improvements to the AEAT, and the Territorial Councils on Tax Collections (*Consejos Territoriales de Dirección*), which prepare technical analysis for the Joint Commission.

²⁷ Article 103 of the Constitution states that the law shall regulate the civil service, in particular with regard to recruitment for the civil service on the basis of merit and ability; civil servants' rights to form unions; conflicts of interest; and the safeguards for political impartiality in the exercise of their functions.

holdings of civil servants in public enterprises or in private enterprises contracting with the public administration to 10 percent of the firm. Some categories of civil servants (military personnel, police, diplomats, health service providers, teachers, and employees of the constitutional and regulatory bodies) have separate specific regimes. For instance, high-ranking officials of the regulatory entities of the financial markets (such as the BOS and the Commission for Capital Markets), as well as their immediate family members, must contract a financial intermediary for managing their private portfolios. Provisions for the compulsory declaration of assets apply only to high-ranking officials.

25. **There are legal and institutional mechanisms in place to ensure the ethical behavior of civil servants and open recruitment.** In each line ministry there is a unit, the Service Inspection Unit (*Inspección de los Servicios*), that plays a watchdog role for the observance of legislation on civil servants conduct. Law 12/1995 establishes that the government must report biannually to parliament on the observance of this legislation. This report is not made public. Most civil service positions, except *eventuales*, are filled by open competition based on merit. The Interministerial Executive Commission on Public Servant Remuneration (*Comisión Ejecutiva de la Comisión Interministerial de Retribuciones*), made up of representatives of the MOEF and the ministry of public administration, authorizes public employment at the central government level. The Superior Council for Public Functions (*Consejo Superior de la Función Pública*), made up of representatives of the central and regional governments, is the forum for the coordination of central and regional public employment policies. However, this Council has not held a meeting in the last three years. There exists a special attorney, the Anticorruption Attorney (*Fiscalía Anticorrupción*), in charge of prosecuting corruption cases.

B. Public Availability of Information

26. **Budget documents cover fiscal activities comprehensively.** A consolidated budget for the central government is prepared and presented to the legislature which encompasses the state administration, social security, and autonomous institutions that depend on central government budget support. Separate budgets for these groups are also provided. The budgets of other entities owned by the state (including the *entidades públicas empresariales* and *sociedades mercantiles*) are also presented. The central government accounts are prepared on a modified accrual basis, that is, in terms of claims and obligations, but with some exceptions, including interest expenses, while public enterprises accounts are recorded on an accrual basis. An exhaustive set of budget documents is presented, comprising approximately 50 volumes, including a breakdown of spending by program. This structure is repeated at the regional and municipal level, although in some cases with less detail. The timetable for provision of these documents for the state budget, as well as the availability of other fiscal data, is indicated in Table 1.²⁸

²⁸ For an overview of budget documentation in Spain and the differences between the different budget documents (the red, green, yellow, and grey series), see the MOEF's *Presupuestos Generales del Estado 2005: Introducción y Estructuras Presupuestarias*. This is referred to as the *Libro Azul* and is available at <http://www.igae.minhac.es/presup/LibroAzul05/LibroAzul05.htm>.

Table 1. Overview of Main Documents for Fiscal and Budget Reporting

Timing	Document	Purpose
Annual Documents		
March (year T-1)	Presentation of expense ceiling for the state	Provide maximum level of the state's expenditure for next year's budget
December (year T-1)	Finalized version of the state budget for year T	Publication of the state budget
December (year T-1)	Stability Program for years T to T+3	Compliance with the Excessive Deficit Procedure (EDP) regulations
September	State budget (draft) for year T+1	Presentation of the draft budget to parliament, including report on expected execution of the current budget, and execution of the previous year's budget
Periodic Documents or Provision of Data		
Monthly	Website on state budget execution of the MOEF	Monitoring of budget execution of the state administration
Monthly	Monthly Bulletin on Social Security of the ministry of labor and social affairs	Monitoring of contributions and expenditures
February and August	EDP notifications	Compliance with the EDP regulations for submission of general government deficit and debt of previous years and projections for the current fiscal year
Quarterly	Bank of Spain Statistical Bulletin	Monitoring of assets and liabilities of all levels of government and the public enterprises
Quarterly	Report to parliament on the use of the Contingency Fund	Informing parliament of unforeseen spending approved by council of ministers

27. **Data on capital transfers, capital injections, and subsidies from the state to public entities are fully captured in the detailed budget documents.** Data on subsidies (Chapter IV), capital transfers (Chapter VII), and purchases of financial assets (which includes equity injections into public enterprises) (Chapter VIII) are presented by ministry and program, and indicate the public entity that will receive the support. However, the economic and

financial report that accompanies the draft budget (the 560-page *Informe Económico y Financiero*), which is the document most widely read by the public, provides less detailed data. In particular, a disaggregation of capital injections by enterprise is not provided.

28. **Defense expenditures are comprehensively reported in the budget.** Detailed data on defense spending are included in the budget documents. At the same time, details regarding future spending commitments in this sector are not included in the budget. Future commitments are especially extensive in this sector; in particular, between 2005 and 2021, they are estimated to increase roughly tenfold. Intelligence spending is included in the state budget, and is regulated by law 11/1995. Only the ministries of interior, foreign affairs, and defense can be assigned reserve funds related to intelligence spending. These funds are controlled by the Parliamentary Committee for Official Secrets.

29. **The relationship between the fiscal targets established in the Stability Program (SP) and fiscal targets in national budget documents has been further clarified in the 2005 budget.** Since the enactment of the BSLs in 2001, the economic and financial report that accompanies the budget has included a table with some information on the reconciliation of the SP and budget targets. Starting with the 2005 budget, the budget documentation includes a more detailed table and explanatory text reconciling the budget and national accounts (ESA-95) presentations of the state's accounts. The table is included in the yellow book. The most significant adjustments pertain to revenues and interest payments. While this table is a further step in the right direction, it still only refers to the central administration (state) and its autonomous administrative organisms (i.e., social security is not included) and does not include an historical series.

30. **Frequent and insufficiently explained changes in the boundaries of general government have reduced the clarity of budgetary data.** A working group comprising National Statistics Institute (*Instituto Nacional de Estadística*, INE), IGAE, and the BOS has been charged with determining the proper classification of these public entities. The working group does not disseminate reports on its decisions regarding the proper classification of enterprises, and changes in the classification of enterprises are not disclosed to the public (except, most recently, in the 2005 budget). In the last few years, the frequent changes in the classification of certain public entities (see paragraphs 2 and 3) as part of the general government has hampered the comparisons of budget figures over time.

31. **Data on fiscal outturns for the state administration and public enterprises are provided through a variety of publications.** Monthly data on fiscal outturns for the state administration are published on a cash and national accounts basis. These data are available on the website of the MOEF with a three-week lag. This information is made public by the vice-minister of finance in his monthly meeting with the press. Similarly, the AEAT publishes a monthly report of tax collection that is distributed to about 250 users in the third week following the reported month. For social security, monthly data are also available on the web with approximately the same lag as other fiscal data. In-year data on the performance of the administrative autonomous bodies or the state's public enterprises are not available on a timely

basis. With respect to annual data for the state, a number of publications are produced with rich detail on tax revenues, although some are produced with a lag of over one year.²⁹ Detailed information of the performance of the state's enterprises is also provided by IGAE in its *Empresas Estatales: Informe Provisional*, but with a lag of over a year.

32. **Data on the fiscal outturns of individual CCAA are not timely and of mixed quality.** There is a large quantity of information available on the websites of a number of CCAA (Box 4). However, summary files are often not provided. Data on aggregate fiscal outturns for individual CCAA are also subject to delays. For example, data for 2003 were not published until September 2004, and only in terms of aggregate outturn, even though more detailed data have been compiled and reported to IGAE. Provisional quarterly fiscal data have also been compiled by IGAE for some years, but have not been published, due to concerns about the quality of the data and the need for prior agreement from the CCAA.

33. **Comprehensive data on fiscal outturns for the general government and its enterprises, on the basis of ESA-95 are published by IGAE (the *Cuentas de las Administraciones Públicas*), but with a two-year lag.** Less aggregated data on a national accounts basis are provided and analyzed in IGAE's *Actuación Económica y Financiera de las Administraciones Públicas*, but with a lag of over one year. The report on the *Cuentas de las Empresas Públicas*, which covered all general government enterprises, has not been published for four years.

34. **The availability of data on budget execution in previous years and of medium-term projections falls short of the requirements of the Fiscal Transparency Code (FTC).** Detailed information in the budget documents—for example, in the red series—covers only the budget outturn for the previous year, the current year's budget, and the proposed budget.³⁰ Complementary documentation in the grey series also provides data and analysis of the projected execution of the current budget. A memorandum on the performance of some programs, in terms of physical indicators, covers the previous two years under the yellow series. Medium-term information, however, is limited to a forecast of three-year expenditure commitments under ongoing investment programs, which can be found in a volume in the green series. Summary documents meant to explain the budget to the public in the yellow series (e.g., the *Informe Económico y Financiero* and the yellow book) have focused only on the current and proposed budget.

²⁹ See, for example, Report on Tax Administration (*Memoria de la Administración Tributaria*) (latest version is 2002); Annual Report on Tax Collections (*Informe Anual de Recaudación Tributaria*, 2003); Taxation and Statistics on the Spanish Tax System (*Recaudación y Estadísticas del Sistema Tributario Español 1991–2001*), and the Annual Report on the Activities of the AEAT (last version is 2003). AEAT's Annual Report on Tax Administration is especially useful, as it provides information on actual collections relative to projections, volume and kind of assistance provided to taxpayers, and actions taken to improve tax compliance. The AEAT does not publish estimates of the compliance cost of proposed tax measures.

³⁰ The FTC indicates that best practice involves dissemination of data on the outturns of the two preceding fiscal years, together with forecasts of the main budget aggregates for two years following the budget.

Box 4. Public Availability of Subnational Governments Fiscal Data

In a number of regards, the publication and contents of subnational governments' budget documents are comparable to that of the central government:

- Subnational budget documents are published and contain detailed information on expenditures and revenues. The revenue projections therein reflect the tax-sharing mechanism and transfers from the central government. These are available on the internet, with the exception of Cantabria and the autonomous cities of Ceuta and Melilla.
- Consistent with the practice of the central government, subnational governments' budget documents compare the current year budget with that of the previous year. Comparisons with budget outcomes are rare.
- Some subnational budget documents include the financial statements of subnational public enterprises. For instance, the documents of Cataluña and Valencia include the budgets of all public enterprises.
- Quarterly subnational debt data are published in the Bank of Spain's Statistical Bulletin (see paragraph 38). This is the only source of information on subnational government debt, with the notable exception of Cataluña, which publishes (monthly) up-to-date debt data on the internet.

Still, putting together an overall picture for subnational budget proposals with the available sources of information is a daunting task. Although most information is downloadable from the internet, summary files (e.g., those including the overall fiscal balance) are not readily identified. Instead, the relevant data are dispersed throughout numerous files. Printed documentation, however, is more user-friendly, but obtaining these for the 17 individual subnational governments is impractical, as it involves literally tens of thousands of pages. Furthermore, consolidating the hundreds of subnational public enterprises with their respective government constitutes a major exercise.

In contrast with the central government, *annual fiscal outcomes for individual subnational governments are published with substantial delays, and in-year fiscal outcomes are not made public:*

- The 2003 fiscal outcomes for individual subnational governments (on a national accounts basis) were made available in September 2004, in terms of the aggregate balance only. Preliminary outcomes compiled and used to fulfill the reporting requirement to EUROSTAT under the Protocol for the Excessive Deficit Procedure have not until now been made public.
- Quarterly in-year outcomes are not made public either for the subnational government as a whole or for individual subnational governments. This information is available, however, and is submitted to IGAE.

The timeliness and availability of the budget execution data for the subnational governments and subnational public enterprises is expected to improve following the accord reached in the Fiscal and Financial Policy Council in July 2003. This agreement—in observance of the Regulation No 1221 of the European Commission and the Code of Good Practices approved by Council in February 2003—establishes that subnational governments should submit quarterly and annual information to IGAE, as well as a comprehensive list of subnational public enterprises, all of which should be published.

35. **Fiscal risks and contingencies related to off-budget activity are not fully disclosed in budget documents.** The GBL clearly regulates the granting by the central government of guarantees for credit operations. The annual budget law authorizes the total amount of guarantees to be provided during the budget year. In special circumstances, the guarantees may be approved by the council of ministers. A list of all the guarantees provided during the budget year is published together with the final accounts for the year. However, data on the stock of

loan guarantees—which are compiled by the treasury—are not published.³¹ Final account documents in some CCAA provide information on the stock of debt guarantees (e.g., Asturias, Castilla y Leon, Valencia).³² Information on fiscal risks related to pending judicial decisions is not disclosed. Summary projections for pension expenditures over the longer term are included in the SP documents, but not in the budget. With respect to PPPs, a comprehensive registry of these contracts of the state is maintained by the ministry of public works (*Ministerio de Fomento*) for toll road concessions, but not for other PPPs. The fiscal risks for PPPs, while limited at the state level (Box 3), are not disclosed.³³ There is no registry of the PPPs undertaken by the CCAA and local governments, and the potential fiscal risks of these contracts are not disclosed in subnational government budget documents.

36. Tax expenditures are rigorously estimated, included in budget documentation, and approved by law. Article 134 of the Constitution establishes that the state budget shall include the amount of tax expenditures that affect the state's taxes. A 1994 law³⁴ established the obligation to incorporate in the state's budget documentation a report containing an explanation of estimated tax benefits. The law does not specify the content of the report. The report describes criteria for the definition of tax benefits (e.g., tax rebates, tax credits, and tax deductions), the tax changes that affect the estimates (e.g., tax changes introduced during the previous fiscal year or in the *ley de medidas*—an omnibus provision abolished in the 2005 budget). An explanation is also included of the methodology, and an economic (by type of tax) and functional classification (e.g., for health, housing, etc.) of tax benefits. No ex post assessment of actual tax benefits is undertaken. Starting with the 2004 budget, the estimated tax benefits included in the state's budget documents only include the effects on the state's tax revenues (that is, the effects of tax expenditures that affect subnational tax revenue through co-participation are excluded). In some CCAA (e.g., Madrid), an estimation of total tax benefits (including both tax benefits related to own region taxes and the region's share in state's taxes) is included in regional budget documentation.

37. In contrast, no information is provided in the budget on the costs of QFAs. The cost of these activities that are not already captured by explicit subsidies is relatively small, given the limited size of the public enterprise sector. Information on the costs of QFAs carried out by regulated private industries is provided on the websites of the regulatory bodies.³⁵

³¹ The stock of these guarantees to public enterprises—which comprise the bulk of these guarantees—is modest (0.9 percent of GDP as of end-2003).

³² Cataluña will also be providing this information from 2004 onward.

³³ Some ex-post analysis of PPPs is undertaken, as the ministry of public works audits compliance with contracts involving state toll road concessions.

³⁴ Law 41/1994 on the state budget.

³⁵ For instance, the cost of Telefonica's below-market prices in 2004 is projected at € 110 million and is clearly disclosed on the National Commission for the Telecommunication Market's website (www.cmt.es). As indicated in footnote 6, the dominant position of the company may provide adequate compensation for these costs. The costs to electricity enterprises of their QFAs (see paragraph 7) are clearly reflected in consumers' electricity bills (see the website of the National Commission for Energy at www.cne.es).

38. **Information on public debt is fully disclosed and published by the BOS.** The statistical bulletin of the BOS provides quarterly data on debt of the central administration, the social security fund, the CCAA, and local governments. Data for the CCAA are included for both individual communities and the group as a whole. A disaggregation of short- and long-term debt is provided. Data on consolidated general government debt are also provided on a quarterly basis, as well as a reconciliation of annual changes in the stock of general government debt with the net borrowing of general government on a national accounts (ESA-95) basis. Data on public enterprise debt are also reported on a quarterly basis, both for the central government and the CCAA. Looking forward, the BOS will also start publishing, in the near future, data on public enterprise debt of individual CCAA and some of the largest local governments.

Box 5. Treatment of Privatization Proceeds and Turnkey Projects in Spain's Fiscal Accounts

The treatment of privatization proceeds in Spain's budgetary accounting differs from ESA-95 in some respects. For direct privatizations, the book value of the asset is registered as the sale of a financial asset (Chapter VIII) and thus has no effect on the budget deficit. If the price of the asset is above its book value, however, the difference is registered as a dividend under Spain's budgetary accounting (Chapter V), increasing nontax revenue and reducing the deficit. Under ESA-95 (and Spain's fiscal accounts prepared on a national accounts basis), on the other hand, the entire value of privatization proceeds is registered as the sale of a financial asset.

For indirect privatizations—that is, those that take place through the holding company SEPI—there are also differences. If SEPI transfers to the state the proceeds related to the sale of a financial asset, under Spain's budgetary accounting, those proceeds, including the related capital gains above its book value, are recorded as dividends (chapter V). In addition, taxes paid by SEPI on the capital gains related to the sale of a financial asset are recorded as tax receipts. Under ESA-95, both the proceeds from the sale of the asset and the tax receipts owing to related capital gains are treated as part of the privatization proceeds, and thus do not reduce the deficit. If SEPI keeps the privatization receipts, under Spain's budgetary accounting, the privatization receipts will not affect the fiscal balance. However, under ESA-95, any non-transferred privatization receipts from SEPI to the state will be recorded on a national account basis as a subsidy of the state to SEPI, and consequently increase the fiscal deficit.

The treatment of turnkey projects also differs from ESA-95 (as interpreted by recent rulings from EUROSTAT). Under these projects, the private sector contractor agrees to receive payments after the completion of the work. Under Spain's budgetary accounting, spending on these projects is only registered when payments are made. This allows the government to undertake spending on infrastructure projects without registering it until a later date. The commitments to pay for these projects are indicated in budget documents in the green series annex on future investment spending commitments. These figures cover the three years following the budget year. Under ESA-95, expenditure on investment projects or other government projects, is registered every year, corresponding to the year in which the product is delivered, or to the level of work completed on the infrastructure project. This form of financing has become less prominent at the state level, perhaps owing to the recent ruling of EUROSTAT described above.

39. **Information on gross and net government financial assets is also published by BOS.** These data are also provided in the BOS Statistical Bulletin for the units of government mentioned above.

40. **Spain fulfills a number of international commitments to the regular publication of fiscal data, including timetables for the release of such data.** Spain subscribes to the Special Data Dissemination Standard (SDDS) and meets the timetable for providing data on state administration and general government operations.³⁶ Monthly data are provided on state revenue and expenditures (except for debt data, which are quarterly), and on general government operations on an annual basis. Spain also adheres to its commitments to provide annual general government fiscal data to the European Union in the context of the excess deficit exercise and SP updates (Table 1).³⁷ Article 136 of Law 47/2003 establishes the legal requirement, starting in 2005, for IGAE to report on the execution of the budget on a monthly basis in the BOE, although without specific requirements for the timeliness of this reporting. Commitments to timely reporting on subnational government data on a quarterly and annual basis have also been made as part of the July 2003 accord within the Fiscal and Financial Policy Council, but their implementation is still underway (Box 4).

C. Open Budget Preparation, Execution, and Reporting

41. **The annual budget process is open, and budget presentation is partly consistent with international standards.** The main steps in the preparation of the budget are described in Box 6 below. The dates are indicative. The budget process is clearly regulated in the GBL and in an annual order of the MOEF describing guidelines for the preparation of the budget. Budget information is presented in gross terms. Revenues are presented in both administrative and economic classifications; expenditures are presented in institutional, economic, program, and functional classifications. The economic classification is in line with international standards.³⁸ However, the functional classification is not, as it is based on policy areas, which differ from the functional specification followed in the IMF's Government Finance Statistics Manual (GFS 2001). The economic classification used for the public enterprises is not the same as that used for the government, and the functional classification is not applicable to them. According to the LOFCA (article 21), the budgets of the CCAA should be prepared following criteria that are homogeneous with those used by the central government, to make possible their consolidation. In this respect, the law provides that functions and subfunctions, in the case of the functional classification, and chapters and articles, in the case of the economic classification, should be the same as those used by the central government.³⁹ In practice, the CCAA use economic classifications very similar to that of the central government. Differences are more significant in the case of the functional classification, complicating the consolidation process.

³⁶ See the IMF's Dissemination Standards Bulletin Board at <http://dsbb.imf.org/Applications/web/dsbbhome/>.

³⁷ See "Reporting of Government Deficit and Debt," Council Regulation (EC) No. 3605/93 as amended by Council Regulation (EC) No. 475/00.

³⁸ Using an economic classification, spending is disaggregated by chapter, article, concept, and subconcept.

³⁹ See Article 167 of Legislative Royal Decree 2/2004 on the Compiled Text of the Law Regulating Local Finances (*Texto Refundido de la Reguladora de las Haciendas Locales*).

Box 6. The Budget Preparation Process

The fiscal year is set on a calendar-year basis by the Constitution. The main steps in the process are as follows:

Due dates (Indicative)	Activities
December 11–12	Meeting with the budgetary offices of the ministries to coordinate the budget process
January 2	Order of the Ministry of Economy and Finance (MOEF) for the preparation of the Medium-Term Budget Scenario (MTBS)
January 7	Decision of the General Directorate for the Budget (DGB) establishing the expenditure policies to be incorporated into the MTBS
January 20	Preparation of the draft agreement setting the budgetary stability targets for the following three years
January 27	Submission of the draft agreement to the Fiscal and Financial Policy Council (FFPC) and the National Committee of Local Administrations (in preparation of the FFPC meeting one month later)
January 28	Letter of the minister of economy and finance to the secretary of the FFPC proposing the budgetary stability targets for the CCAA
February 15	Deadline for the spending units to send the proposed MTBS to the MOEF
March 6	Plenary session of FFPC to prepare the report on the draft agreement on budget targets
March 14	Approval by the Council of Ministers (COM) of the draft agreement setting the budgetary stability targets, and the limit on nonfinancial expenditure of the state for the next budget year. The agreement and the expenditure limit are sent to parliament
March 27–April 8	Approval by the parliament (first by congress and then by the senate) of the agreement and the expenditure limit
April 10	Approval by the FFPC of the deficit target for the CCAA
March–April	Preparation by the DGB of the MTBS
April 24	Order of the MOEF providing guidelines for the preparation of next year's budget
April 29	Meeting of the Expenditure Policies Committee
June	Approval by the COM of the MTBS
May–June	Meetings of the Program Review Committees
July 25	First review by the COM of the draft budget
September 30	Deadline to send the draft budget to parliament

42. **The overall balance of the general government is the main indicator of the fiscal position and is monitored during the year.** The overall balance of the general government, defined according to ESA-95, is the main indicator of the fiscal position, as both the fiscal targets included in the annual rolling updates of the SP, and the budgetary stability targets approved by the parliament are expressed in these terms. In addition, the parliament approves a spending limit for the state, consistent with the budgetary stability target for the following year, in terms of budgetary accounting.

43. **The budget documents also contain information on the operating and capital budgets of the public enterprises,** and summary forecasts of their balance sheets. This information is not consolidated with that on general government, and therefore, the financial situation of the public sector as a whole is not documented.

44. **The macroeconomic assumptions underlying the budget forecasts are presented at a fairly aggregate level,** in the annual updates of the SP and in the annual budget documents. Macroeconomic forecasts are prepared by the Directorate General for Economic Policy. Revenue forecasts are prepared by a Revenue Commission, comprising representatives of the General Directorate of the Budget (DGB) and AEAT. However, the technical underpinnings and assumptions of these forecasts are not made public, making it difficult to assess their realism. The BOS also prepares macroeconomic projections, but does not publish them, nor share them with the Directorate General for Economic Policy.

45. **External scrutiny of macroeconomic forecasts and assumptions is not actively promoted.** Macroeconomic forecasts, and the models used for their preparation, are not made public, nor are comments sought on them from outside the government during the budget preparation process. In the last few years, real GDP growth has tended to be overestimated and the inflation rate underestimated in the budget forecasts. The underestimation of the inflation rate has led to an underbudgeting of social security pension expenditures, that has been offset by the underestimation of revenues from social security contributions, with the result that the outturn for the balance of the system has been broadly in line with its projection in the budget.

46. **The sensitivity of budget estimates to changes in economic variables is not assessed.** A sensitivity analysis to changes in GDP and interest rates is included in the updates of the SP, but not in the annual budget.

47. **The GBL clearly regulates the granting by the central government of guarantees for credit operations.** These guarantees are generally approved by law. The annual budget law authorizes the total amount of guarantees to be provided during the budget year. In special circumstances, the guarantees may be approved by the council of ministers. The treasury maintains a register of all the loan guarantees that have been approved, cancelled, or honored. A list of all the guarantees provided during the budget year is published together with the final accounts for the year. There is little information on other contingent liabilities.⁴⁰

⁴⁰ The 2005 budget, however, does provide a qualitative assessment of potential future risks arising from certain public enterprises (see paragraph 6).

48. **Medium-term fiscal policy targets are published twice a year, but they are not included in the budget documents. Fiscal sustainability issues are only discussed in the update of the SP.** In line with EU regulations, once the budget has been approved, the government submits to the European Commission an update of the SP, including a medium-term macroeconomic framework, overall balance targets for each level of government in terms of ESA-95, and a sensitivity analysis of fiscal sustainability. The BSLs require the government to decide on the three-year budgetary stability targets for the different levels of government in the first quarter of every year, and to submit them to the parliament for approval.⁴¹ The proposed aggregate target for the CCAA is discussed and endorsed by the FFPC, prior to its presentation to parliament. The budgetary stability targets should be prepared based on the macroeconomic framework used in the latest update of the SP. In addition, the GBL requires the government to prepare a medium-term budget scenario, once the stability objectives have been approved, and before the preparation of the annual budget. There are, therefore, three different documents required by different regulations, and partly for different purposes, which have common economic and fiscal underpinnings.

In relation to the medium-term forecasts, it is worth noting that:

- In practice, a constant (trend) growth has been assumed for the macro-fiscal variables after the first year of the updates, with the assumption that the output gap is closed by the end of the projection period.
- The rationale for the selection of the specific medium-term targets is not clearly explained; neither are the criteria on which the distribution among the CCAA of the aggregate stability target should be based. There is no requirement to publicize this distribution.
- The fiscal sustainability analysis included in the updates of the SP is largely qualitative, although medium-term scenarios for the general government debt-to-GDP ratio are included in the updates.
- The sensitivity analysis in the SP is limited to an assessment of the impact of changes in GDP and interest rates.
- The medium-term budget scenarios are not published, and their role in the preparation of the annual budget is not clear.

49. **Fiscal rules are used in the budget process, but their interpretation and implementation are not completely clear.** There are several fiscal rules, in addition to those imposed by the Stability and Growth Pact. The first, the budgetary stability rule, is applicable to all levels of government. The BSLs provide that the preparation, approval, and execution of the budgets will take place in a framework of budgetary stability, defined as a situation of

⁴¹ The 2005 annual budget law extends the deadline for the final approval of the stability targets to June. This provision will be applied for the first time in the elaboration of the 2006 budget.

overall balance or surplus (Box 7). The central government is obliged to present an adjustment plan when the initial budget is presented with a deficit, or when the final budget is closed with a deficit. Subnational governments are required to do this when they present or liquidate a budget which is not complying with the approved budgetary stability targets (which could be surpluses). Deadlines for the central government to present a required adjustment plan are not specified in the BSLs. However, the deadlines for the subnational governments to present their adjustment plans to the FFPC are quite strict. Some provisions of the BSLs need to be developed, and better coordinated with other existing legislation and rules on CCAA's financing of investment with debt (see paragraph 15).

50. **The costs of new policy initiatives and of multiyear programs are not clearly identified in the budget documents.** The latter only include comparisons between the initial budgets, and explain changes by entity, economic categories, and functions. These explanations do not distinguish clearly between present policies and new initiatives, although ministries are required by the DGB to provide this information when preparing the medium-term scenarios referred to above.

51. **The assignment of responsibilities for programming and coordination of budget execution is not well defined.** The execution of the budget is a responsibility of the spending entities, under the supervision of the MOEF. The DGB is responsible for budget modifications. The Directorate General for the Treasury is responsible for cash and debt management. And finally, IGAE is the unit in charge of internal control, audit, accounting, and reporting.

52. **Coordination between budget execution and financial management could be strengthened and made more systematic.** There is no program for control of expenditure commitments that assigns quarterly ceilings to the spending units, in order to control the flow of payments in a way that is consistent with the forecast of revenues and minimizes the financial cost of short-term borrowing. The treasury prepares a cash plan to guide the flow of payments, but this is disconnected from the flow of commitments and obligations. There is a treasury single account in the BOS, covering the state general administration. Treasury account balances are consolidated at the end of the each day and invested overnight. Autonomous bodies currently have their own treasuries, but they are scheduled to be integrated in the single account soon. The social security fund is expected to remain outside the treasury single account.

53. **Internal control and internal audit focus mainly on legal and financial compliance.** The functions related to internal control and internal audit of the central government and its enterprises are undertaken mainly by IGAE. IGAE is integrated within the executive branch through the MOEF and is independent from the controlled entities. The fact that IGAE is the main entity responsible for internal control does not preclude the creation by different entities in the public sector of their own internal control and audit bodies, in accordance with the provisions of their own legislation. Table 2 indicates the organization and reporting responsibilities for internal control.

Box 7. The Budgetary Stability Laws (BSLs)

With a view to ensuring the sustainability of the fiscal consolidation effort of the last decade, and in a context of growing decentralization, the Spanish authorities enacted in late 2001 a *budgetary stability law* (Ley 18/2001), complemented by an organic law (Ley 5/2001) which extended its precepts to the CCAA. These laws, which apply to all components of the general government, as well as for certain aspects to the public enterprises, set out *four basic principles* to guide the formulation and implementation of fiscal policy in Spain:

- *budgetary stability*, to be interpreted as the achievement of balance or surplus (in national accounts (ESA-95) terms) in every year and at each level of government, and financial equilibrium (not specifically defined) for the public enterprises;
- a *medium-term budget horizon*, implying that annual budgets have to be framed within rolling multi-year scenarios, consistent with the annual updates of the government's stability programs submitted to the EU;
- *transparency*, requiring each government entity to present in its budgetary documentation the information needed to verify compliance with the stability principle; and
- *efficiency* in the allocation and utilization of budgetary resources, a principle paving the way for a progressive introduction of performance budgeting in Spain.

To promote the achievement of budgetary stability, the BSLs envisage a detailed process involving, among other things:

- the presentation by the government to parliament, by the end of April of each year, of a rolling three-year fiscal framework, agreed with the Fiscal and Financial Policy Council in which the regional as well as the central governments are represented, and consistent with *budgetary balance or surplus at each level of government*;
- the simultaneous proposal of an *overall expenditure ceiling* for the next state budget of the central government, consistent with the framework above, and with the corresponding revenue forecast; and
- subsequent to the approval by congress of the fiscal framework, the negotiation within the FFPC of the *allocation of the overall regional fiscal target among individual CCAA*. Any region arguing for a deficit would need to present a detailed justification for it, as well as a credible three-year fiscal adjustment program to bring the budget back to balance. Similar requirements are stipulated for *local governments* presenting budgets which are not in balance or surplus.

The BSLs also stipulate that the *verification of compliance* by each government entity with its approved budget target be entrusted to IGAE, which is to inform the government and the FFPC of its findings by September 1 of the following year. Compliance with fiscal targets is assessed according to the standards established under ESA-95. Although not specified in the BSLs, fiscal performance in 2003 has been assessed in terms of budgetary outturns as a share of national (rather than individual CCAA) GDP. Any noncomplying jurisdiction is required to present a corrective program for the next three years.

The BSLs do not envisage specific *sanctions for noncompliance*, except in the event that a deficit of over 3 percent of GDP were to be recorded for the general government as a whole, leading to the application of EU sanctions to the country, in which case noncomplying jurisdictions would be required to contribute to the payment of the fines in proportion to their contribution to the excessive deficit. The BSLs stipulate nevertheless that, in deciding whether to grant authorizations to individual regional or local governments to issue bonds or contract foreign currency (i.e., non-euro) denominated debt, the central government should take into account the jurisdiction's compliance with the budgetary stability precept.

Finally, the BSLs mandate that surpluses realized by the central government in the state budget should be used to reduce the public debt, and surpluses realized by the Social Security System should be accumulated in the reserve fund of the system, to pre-finance its projected long-term deficits. The laws are silent on the utilization of possible surpluses of regional and local authorities.

To promote fiscal discipline during the execution of approved state budgets, the BSLs introduce a *general contingency line item* in the budget, equivalent to 2 percent of the annual spending ceiling, to meet unforeseen nondiscretionary spending during the execution of the budget, and stipulate that any increase in budgeted appropriation can only be funded by drawing on this reserve, or by reducing other appropriations (within specific limits). This innovation aims to curb the hitherto pervasive resort to supplementary appropriations.

The basic principles set out in the BSLs have been incorporated into the new GBL, approved in November 2003 and scheduled to come into full effect in 2005, which outlines revised procedures for the formulation, execution, reporting, and control of the state budget. This law in particular sets the foundations for multi-year program budgeting, and for performance budgeting, which will need to be developed in subsequent regulations, and translated into practice in the years ahead. Nonetheless, the new government that took office in April 2004 is in the process of considering modifications to the fiscal framework embodied in the BSLs.

Table 2. Organization and Reporting Responsibilities

Agency/Unit	Coverage	Type of control	Reports to
IGAE	All entities of the state public sector (central government and its public enterprises)	-Legal -Financial -Performance -Budgetary -Investments	Maximum authority of the entities and bodies subject to control
Inspection of services of the MOEF	MOEF, except the Tax Administration (AEAT)	-Legal -Administrative	As above
Inspection of services of the ministry of public administration	All ministries, except MOEF	-Legal -Administrative	As above
Internal audit office	AEAT	-Legal -Financial -Administrative	As above
Internal audit offices in the ministries and autonomous entities	Ministry or autonomous entity	-Legal -Administrative	As above

54. **The rules and regulations for internal control and audit operated by IGAE are clearly specified.** This is not the case for the internal control undertaken by the internal audit offices of individual ministries. Only the internal audit office of the MOEF is well regulated. The internal control operated by IGAE is of three kinds:

- ex ante control of the legality of the different stages of expenditure, limited to significant transactions;
- ex post control (so-called financial control) of legality, accounting regularity, and performance of all state public sector entities using audit procedures; and
- ex post control of subsidies and public grants.

In practice, audits focus on legality and financial compliance. Performance audits are limited to a few spending programs for which proper objectives and performance indicators are available. The conclusions and recommendations of the audit reports are not made available to the public.

55. Public procurement procedures are well developed, adequately publicized, and consistent with EU regulations. Legislative Royal-Decree 2/2002 on the Compiled Legislation on Contracts of the Public Administration must be observed by all public entities of the state and municipalities. Regional laws on public procurement must be consistent with the national legal framework. General principles underlying procurement rules include publicity, transparency, and nondiscrimination. As a rule, public entities may use open or closed tender. They also may use negotiated tenders under certain circumstances clearly specified in the law. Large contracts are awarded by collegiate bodies (*Juntas de Contratación, Mesas de Contratación*). The calls for bids, including the requirements, deadlines for the bid submission, award dates, and the awarded bidder must be published in the BOE and, for contracts above a certain threshold, in the EU official gazette. The determining variables in the case of open tender are a combination of economic and technical criteria, while closed tender are awarded to the low-cost bidder. The GDPS maintains a register of all contracts awarded by public entities at all levels of government. It also makes available on its website detailed information on procurement procedures and the catalogue of goods routinely purchased by the state, for which an e-procurement system is being developed.

56. The officials of the tax administration agency enjoy technical independence over the interpretation of the tax laws. While the design of tax policy is entrusted to the General Directorate of Taxes, tax administration is implemented by the tax agency—AEAT—which is an autonomous body under the authority of the MOEF. AEAT’s resources derive from the state’s general revenues (85 percent), a share on tariff collections (6 percent)—for collecting them on behalf of the EU— from a share of fines (4.5 percent) collected by the agency, and fees (4.5 percent). It manages, inspects, and collects all taxes, except those collected by the foral CCAA, Basque Country and Navarre. The AEAT head is appointed by the minister of economy and finance.

57. The accounting system is capable of producing accurate in-year reports on the central government budget outturn. The GBL contains a complete regulation of the division of functions and responsibilities on public accounting. In addition to its control and audit functions, IGAE is also responsible for the accounting system of the state administration. Public accounting is based on the 1994 National Public Accounting Plan, whose norms, as mentioned, deviate from ESA-95. The accounting system records the different stages of expenditure: authorization, commitment, obligation, order of payment, and payment. Therefore, the system allows the monitoring of payables and arrears. The accounting system is operated through an integrated government financial management information system (GFMS) covering the central government, capable of providing information in real time on budget execution, and timely fiscal reports. The social security has its own information system with a similar capacity.

58. The legislature receives timely in-year reports on the budget outturn. A number of monthly reports are available to the legislature and the public (see paragraph 31). In addition,

on a quarterly basis, the vice-minister of finance voluntarily reports to the budget committee of the lower house on the execution of the budget. The AEAT also reports quarterly to parliament on tax collections in the fourth week following the end of the quarter. All these reports are not required by law. Starting in January 2005, the new GBL provides that the IGAE will send to the budget committees of parliament, on a monthly basis, information on budget execution. With the same periodicity, the general controller for social security will send similar information on the corresponding budget outturn.

59. **The final accounts, audited by the Court of Accounts, are not available within twelve months of the end of the fiscal year, as called for by the FTC.** Public entities have a six-month deadline to send to IGAE their final accounts. IGAE must, by law, send the State General Accounts (SGA) to the Court of Accounts (COA) before October 31. The COA has six months to prepare the reports. The law allows for a period of two to three months for the government to present allegations, and two additional months for internal processing and approval by the COA before the accounts are sent to parliament. There is no deadline for the review of the SGA by parliament.

60. **The objectives and expected results from government activities are discussed only in general terms.** In accordance with the GBL,⁴² the annual budget presented to parliament is to be accompanied by descriptions of the expenditure programs and their annual objectives. This provision, that was already included in the previous GBL (1988), is complied with in practice. However, these documents focus more on the missions of the entities responsible for the programs, qualitative descriptions of their functions, and some quantification of their activities than on the specification of the objectives of these programs in terms of outputs and/or outcomes. The objectives set for the activities of the programs for the budget year are compared with indicators of performance in the previous two years.

61. **The number of spending programs with well-defined objectives, on which an appropriate performance audit could be carried out, is quite small.** According to information provided to the mission, less than 20 programs a year are audited for results; the outcome of these audits is communicated to the COM and parliament. There is, however, a monitoring of the objectives assigned to the programs and included in the budget documents. The minister of economy and finance approves the guidelines that spending units are to follow in reporting on the achievement of these objectives, and the forms they have to utilize in such reporting. In addition, the annual budget law contains a list of programs that are subject to special monitoring and financial control.

62. **The new GBL⁴³ requires the authorities to make progress towards performance budgeting.** In particular, it indicates that the annual state budget should be consistent with the MTBS; should aim at fulfilling the objectives of the medium-term programs; and that the resources allocated to the spending entities should take into consideration the degree of

⁴² Article 37.

⁴³ Article 31.

fulfillment of program objectives in previous years. These provisions have not yet been regulated by the executive.

D. Assurances of Integrity

63. **The consistency of budget forecasts with the underlying macroeconomic framework, and the deviations of actual outturns from forecasts, are not explained to the public.** The reports produced by MOEF on budget execution (e.g., *Actuación Económica y Financiera de las Administraciones Públicas*) do not include an economic analysis of the reasons for the deviations between the fiscal and macroeconomic forecasts and the actual outcomes. Revenue outturns, especially as regards social security contributions, have tended in recent years to exceed forecast values, although nominal GDP growth was broadly in line with the projections. As regards expenditure, outturns have been closer to projections in recent years, owing to the imposition of the limit on state spending required by the BSLs. However, this has not been the case for social security, due to higher-than-envisaged inflation rates. The inclusion in the budget of a contingency fund (equivalent to 2 percent of state spending) to cover unexpected and non-discretionary expenditures has reduced considerably the recourse to supplementary budgets.⁴⁴

64. **Statements on accounting policy are not included in the budget and final accounts documents.** Budget transactions are recorded on a modified accrual basis, that is, in terms of claims and obligations. Revenues are recorded both at the accrual and the collection stage. As mentioned in Section C above, expenditures are recorded when they are authorized, committed, accrued, and paid. In light of the fact that the General Accounting Plan is publicly available, it has not been viewed as necessary to include a statement of the accounting basis of the budget or the final accounts in these documents. The 1994 Accounting Plan deviates significantly from ESA-95 accounting conventions (e.g., in the treatment of privatization proceeds and interest payments). There is a full correspondence between the budget classification and the account classification. Budget and accounts classifications are largely homogeneous among levels of government, although in practice, there is some difference in functional classification. The accounting plan for the local governments is approved by the MOEF.

65. **The process of accounts reconciliation and fiscal reporting is effective.** Budget execution reports are properly reconciled with budget appropriations. So is the reconciliation between accounting reports and bank statements. Accounting statements and bank accounts in the BOS are systematically reconciled. Finally, reconciliations of annual data above the line and below the line are carried out by the IGAE, in terms of the 1994 General Public Accounting Plan, and by the BOS in terms of ESA-95. Such reconciliations are published, with varying degrees of delay.

⁴⁴ The explanation of the deviations between budget forecasts and actual outcomes included in yellow book for the Presentation of the 2005 Draft Budget of the State (*Presentación del Proyecto de Presupuestos Generales del Estado para el 2005*) represents a welcome first step, but it only pertains to revenue and only covers the state.

66. **The COA is independent of the executive branch and its mandate covers all public sector activities.** According to the Constitution and relevant laws,⁴⁵ the COA is the supreme audit institution of the public accounts and the economic management of the public sector. It consists of 12 members that are elected by parliament (six by congress and six by the senate) with a qualified majority of three-fifths of the members, for a period of nine years.⁴⁶ The COA has budgetary and organizational autonomy, and its members enjoy the same independence as members of the judicial branch. They are also subject to the same incompatibility rules as the judiciary. The COA prepares its own annual budget, which is included in the state budget for approval by parliament. The main functions of the COA are to prepare audit reports on the accounts of all components of the public sector, as well as on the contracts of the central public sector. To carry out these functions, the COA utilizes relevant available reports, mainly those prepared by IGAE, and by private audit firms for some public enterprises. In addition to the audit function, the COA has jurisdiction on accounting responsibilities.

67. **Fiscal and financial management of the CCAA and the municipalities can be subject to double external audit.** Nine CCAA have created their own external control entities (*Órganos de Control Externo, OCEX*).⁴⁷ Some of them are responsible for auditing the municipalities within their jurisdiction. In the CCAA with OCEX, audits of the economic and financial management of the regional public sector are carried out by the OCEX. In these cases, the COA receives the corresponding report and includes them in its own reports. This does not preclude the COA from auditing individual regional entities ex officio or upon the request of the parliament. In CCAA with OCEX and responsibility for the municipalities, the audit function is again carried out usually by the OCEX and the reports used by the COA. Audits of the municipalities are carried out with significant delays, due to frequent noncompliance by the municipalities with the legal deadlines to present their final accounts. The law provides that OCEX should coordinate their activities with those of the COA so as to avoid duplication and the use of different auditing criteria. In appropriate circumstances, the COA can request the OCEX to undertake specific audits on central government entities and enterprises in the corresponding region.

68. **The scope of auditing is narrow.** The audit functions of the COA focus mainly on compliance with legislation and financial targets. The capacity to carry out performance auditing is constrained by the low quality or absence of performance indicators. For the type of functions the COA currently undertakes, the number and capacity of its staff is appropriate.

69. **Parliament discusses external audit reports and systematically follows up on audit findings.** It is the responsibility of the president of the COA to present to parliament the court's finalized reports. There is a standing committee of the parliament, including members of both chambers, responsible for the relations with the COA (Joint Committee of Congress

⁴⁵ Article 136.1. The COA is regulated by Organic Law 2/1982, of May 12, of the COA and in Law 7/1988, of April 5, on the Operation of the COA.

⁴⁶ This autonomy from the executive branch is somewhat weakened by the fact that an attorney appointed by the general attorney participates in the collective decision-making body, with voice and vote.

⁴⁷ These OCEX are usually referred to as *Sindicaturas de Cuentas* or *Cámaras de Cuentas*.

and the Senate for Relations with COA) and for examining the reports prepared by the COA. Based on these reports, the committee votes on the resolutions presented by parliamentary groups. The report containing the approved resolutions is presented to the chambers' floors for a final decision. Compliance with the recommendations approved by the parliament is followed up by the COA. The reports are published in the BOE. The deadline for the COA to send the reports to the parliament depends on the type of report. As mentioned, the approval by parliament of the SGA usually takes more than two years. The SGA for 2001 have not been approved yet by the parliament. The last report on the autonomous and municipal public sectors corresponds to 2000.

70. **The INE is an autonomous administrative body responsible for the national statistics system, and utilizes fiscal information to prepare the national accounts.** The INE is an administrative body. Its head is nominated by the minister of economy and finance and appointed by the council of ministers. Law 12/1989 on public statistics (Article 30 and 35) provides that the INE shall act on the basis of "objective and scientific neutrality" in carrying out its functions. The INE elaborates a multi-annual national statistics plan, delegates some of its functions to other public entities, and establishes a calendar for the release of statistics. In particular, according to the GBL, IGAE has the delegated mandate of compiling general government revenue and expenditure. Issues on accounting and reporting pertaining to the fiscal accounts of the general government are discussed in informal meetings of a working group including representative of the three entities. INE's limited authority is evidenced by the fact that, although it regularly receives information on the quarterly outturn of the CCAA, it does not have the authority to publish it. INE has some advisory bodies, such as the Superior Council of Statistics (*Consejo Superior de Estadística*), which consists of representatives of the civil society, experts, researchers, and the Territorial Council of Statistics (*Consejos Territoriales de Estadística*), for the coordination with the regional institutes of statistics.

II. IMF STAFF COMMENTARY

A. Clarity of Roles and Responsibilities

71. **The legal framework for delineating the scope and responsibilities of the general government and its subsectors, as well as their relations with the public enterprises, is in principle clear, and in line with ESA-95 criteria.** In practice, however, the application of these criteria in individual cases, frequently using projected values of future revenues and costs, has tended to blur the boundaries between the government and public enterprises sectors, and has led to uncertainties about the appropriate classifications of budgetary transfers to various public entities. The rationale for the accounting treatment of these issues in individual cases should be more consistently and transparently publicized.

72. **The legal framework for intergovernmental fiscal relations in Spain has been evolving in recent years, to reflect a marked trend towards increased decentralization, and is generally clear.** Respective expenditures responsibilities of the different levels of government are relatively well defined, overlapping and duplication of functions do not appear significant, and mechanisms exist for the resolution of disputes in this area. Revenue assignments, systems of revenue sharing, and intergovernmental transfers are also based on a

detailed and largely formula-driven legal framework. Constraints on subnational borrowing are clearly specified in existing laws.

73. **The BSLs, promulgated in late 2001, have established the principle of budgetary equilibrium as the cornerstone of fiscal management at the regional and local, as well as the central, government levels.** However, information on subnational government budget execution is not adequate to allow full and timely control of the application of this law. The government is now considering a revision of the BSLs. In this revision, it will be essential to strengthen reporting and transparency requirements, and to better coordinate its provisions with other relevant prior legislation (e.g., on borrowing limitations).

74. **Spain appears to broadly meet the FTC's standards as regards the government's involvement in private sector activities, notably through regulation and equity ownership.** The central government's role in productive activities has been substantially reduced over the last two decades through extensive **privatizations**, which have been conducted in accordance with a clear legal framework. However, the accounting of privatization receipts in the budget has deviated in some instances from national accounting (ESA-95) criteria, requiring some reclassifications which blur the relation of budgetary statistics with national accounts data. The government's retained powers in partially privatized enterprises (e.g., through golden shares) are clearly delineated in the law.

75. **The regulatory framework for privatized utilities is generally clear, and regulatory authorities are provided adequate independence by the relevant laws.** Some (but not all) **QFAs** carried out by public or privatized enterprises are compensated through budgetary transfers. In other cases (e.g., the electricity sector), the cost of QFAs is met through cross-subsidies from profitable lines of activity. It would be desirable to show transparently in budget documents the cost of such activities, and the extent to which they are compensated by the budget.

76. **The recent Law of Concessions (13/2003) has strengthened and clarified the legal framework for concessions and other PPPs,** at the same time that it has broadened the scope for their application. These operations are not reflected in government budgets. Their treatment in national fiscal accounts is expected to conform to the recent EUROSTAT ruling, which classifies them as private investments when the private sector bears most of the construction risk, and of either the performance or demand risks. **These treatments do not make clear the known or potential future budgetary costs of such operations** such as "shadow toll" arrangements, minimum revenue guarantees by the government to the private concessionary or subsidized borrowing (*préstamos participativos*). The fiscal risks from PPPs in the state sector appear to be small at the present time. However, this has not been disclosed to the public. At the regional and local levels, the size and scope of any fiscal risks are unknown, given the paucity of information on these contracts. To address these concerns, it is recommended that the following be undertaken at both the state and subnational level:

- concessions and PPP contracts continue to be fully disclosed, but in addition, their financial analysis (with appropriate sensitivity tests) by the relevant government agencies be duly publicized;

- any known future costs associated with these contracts be disclosed in the budget documentation and taken into account in the medium-term fiscal scenarios. In cases where there are no fiscal costs expected from these contracts, a statement in the budget indicating this would facilitate fiscal transparency;
- assessments be made of the expected value of any guarantees and other contingent liabilities associated with these projects, and they be taken into account in the analysis of medium- to long-term fiscal sustainability;
- an annual report on concessions and PPPs, including the analyses above, be prepared by the MOEF, in consultation with the relevant sectoral ministries, for inclusion in budget documentation. This should also be undertaken by individual CCAA (including for municipalities within the CCAA). The MOEF should also compile these data from both sources to provide a report to the public on the fiscal implications of PPPs at the level of general government.

77. **The legal framework for taxation in Spain is transparent.** The revenue costs of **tax benefits** in existence at the time of presentation of the budget are comprehensively and transparently disclosed in the budget.

78. **The tax administration has made over the last decade substantial progress in the modernization of its systems and procedures,** and in particular in taxpayer services, which are now of a high standard in an international perspective. It is currently in the process of adapting its operations to the requirements of the new GTC (*Ley General Tributaria*, 58/2003) which came into effect on July 1, 2004, which among other things, further strengthens taxpayer's rights in the tax collection and enforcement process. The standing and effectiveness of the tax administration would be further enhanced by strengthening the legal basis for its protection from political interference, including by establishing fixed-term mandates for its highest officials.

79. Although there is no unified **code of conduct for civil servants**, the legal framework contained in various laws defining ethical standards for civil servants, is clear and comprehensive, and applies throughout the national territory.

B. Public Availability of Information

80. **Public availability of information on government operations in Spain could be improved in certain respects.**⁴⁸ Specifically:

⁴⁸ A welcome step has been the agreement reached within the Delegated Commission for Economic Affairs (*Comisión Delegada para Asuntos Económicos*) on January 13, 2005, establishing the obligation of all ministries to publish, in an electronic format, all the economic and financial data they produce, according to specific calendars, as well as all information related to methodologies used to produce the data.

- **the coverage of government operations in budget documents** is relatively comprehensive. The central government budget presents detailed information on projected operations of the state, its autonomous entities and enterprises, and social security funds. Similar information is presented in the budgets of regional and larger local governments. However, this information is quite dispersed, and not always easily accessible to the general public. A consolidation of subnational government budgets is not compiled;
- **the central government budget includes comprehensive information** on, among other things, defense expenditures, tax expenditures, and transfers to public enterprises and regional and local authorities. In contrast, QFAs are not comprehensively reported in the budget documents;
- **information on budget outturns at the central government level** only partly meets the FTC's standards. Specifically, while monthly data on budget execution (both on a cash and national accounts basis) are disseminated on a timely basis, the publication of final accounts, audited by the COA, is delayed for more than two years;
- **public information on budget outturns of regional and local authorities** is in need of substantial improvement. Although regional and most local governments report to IGAE on a quarterly basis, these reports are not published. Annual data on budget outturns are only published with substantial delays by individual jurisdictions and are not compiled into a single, easily accessible document. These lags in the production of subnational government have complicated the application of the BSLs, and need to be corrected in any revision being contemplated to the laws.
- Information on **long-term expenditure commitments** is not published.

To address these deficiencies, it would be desirable that:

- regional and larger local governments begin soon to publish, including on their websites, their preliminary quarterly budget outturns, and their final accounts, in as timely and detailed a manner as possible; and
- IGAE establish a website with links to those of the regional and larger local governments, and post on it consolidated accounts for these levels of government.

81. Similarly, **provisional consolidated national accounts for the general government are compiled on a quarterly basis by IGAE, but are not published.** The publication of annual consolidated general government accounts is also subject to long lags. It is recommended that the authorities move as quickly as possible to publish the quarterly preliminary data on general government compiled by IGAE, and to shorten the delay in publication of final annual data to under one year.

82. In contrast, **the statistics published by the BOS on debt and financial assets of various components of the public sector** (including public enterprises), are of high quality and timeliness.

C. Open Budget Preparation, Execution, and Reporting

83. **Budget formulation in Spain is significantly influenced by requirements associated with its European Monetary Union (EMU) membership**, in particular the preparation, and annual updating, of rolling multi-year SPs submitted to the EU.

To increase **transparency in the formulation of budgetary policies**, it is recommended that:

- a clearer and detailed **explanation of rationale for the specific fiscal targets** be provided in each annual budget, along with a discussion of how current cyclical developments in the economy are expected to affect the fiscal position; and
- over the longer run, a comprehensive **revision of the government accounting plan** be carried out, to closely align it to ESA-95.

84. **Transparency could also be enhanced in the formulation and presentation of budget forecasts**. Specifically:

- the **technical methodologies and assumptions** underlying the main macroeconomic and budgetary forecasts should be better detailed (e.g., in an annex to the budget document). In particular, greater detail should be provided on how the budget forecasts for the main revenue and expenditure items are arrived at, along with an explicit quantification of the impact of new policy initiatives;
- the reporting of **results of sensitivity analysis** of main assumptions underlying the macroeconomic and budgetary forecasts should be expanded;
- the **analysis of fiscal risks and contingencies** in budget documents should be improved, e.g., by systematically reporting on the stock of government guarantees, calls on these guarantees, and risks associated with pending judicial decisions;
- information on **long-term expenditure commitments** should also be disclosed;
- to facilitate the **comparison of budgetary projections with past outturns**, the latter should be included in the budget document for previous years, along with estimates for the current year; and
- the detailed **reconciliation of data on central government operations** on a budgetary basis with those on a national accounts basis, included in the 2005 draft budget, should be extended to cover social security. A reconciliation of historical data should also be provided.

85. **The functional classification in the budget should be brought fully in line with international (i.e., GFS 2001) standards**. Also, the usefulness of the **program classification** should be enhanced through the progressive development of **improved, monitorable indicators of results** for as broad a range of budgetary programs as possible. The development

of such indicators is an essential condition for the effective introduction of **performance budgeting**, as mandated by the recent GBL (47/2003).

86. **The medium-term fiscal scenario should be progressively developed into a full-fledged rolling medium-term budget framework (MTBF)**, including multi-year projections for main revenue categories, and for expenditures disaggregated on a functional or program classification basis. In this framework, which should be published along with the annual budget, it would be important to quantify the multi-year effects of new policy initiatives. The budget documentation could also usefully include (at least every few years) **long-term projections** of expenditure categories which are especially sensitive to demographic trends (notably pensions and health expenditures), detailing the methodology and assumptions utilized in the projections. Independent reviews of these projections by qualified professionals should be encouraged.

87. **Central government budget execution and control systems are generally clear, and in line with good international practice.** In particular:

- **information on revenue developments** is monitored on a timely basis by the tax administration;
- all **stages of the expenditure process** are appropriately recorded in the GFMS; thus, information on each stage is available on a timely basis;
- the new GBL clearly sets out **required procedures for, and limitations on, changes in budgeted appropriations during the year**. The requirement that all increases in such appropriations, resulting from unforeseeable spending necessities, be funded through the use of the **contingency fund** in the budget, or through reductions in other spending lines within the same budget chapter, has significantly strengthened fiscal discipline;
- there is an effective **treasury single account**, covering all the central administration (ministries) and soon—in line with the requirements of the GBL—the autonomous entities as well;
- **procurement rules** are clear, and appear to be in general transparently applied; and
- **civil service employment procedures** are also clear and well publicized.

88. **Possible areas for improvement in budget execution and control** include:

- the introduction of **commitment programming and control**, and closer coordination of the activities of the Budget and Treasury Directorates, with a view to **optimizing cash management**;
- publication of the annual government procurement program, and increased use of **electronic auctions** for purchases of goods and services;

- a progressive redirection of the focus of IGAE **from generalized ex ante controls** (mostly of legality and financial compliance with budgetary appropriations) to **ex post and performance-oriented controls**, as improved indicators of results of budgetary programs are developed. Ex ante controls should be carried out for most transactions automatically, through the GFMIS; and
- a clearer delineation of the functions of the **internal audit offices of individual ministries**, to minimize overlap and duplications with the functions of IGAE. Also, consideration should be given to whether a separation of the accounting and control functions of IGAE would help eliminate potential conflicts of interests inherent in the current arrangements.

89. **Accounting and reporting practices for the most part meet the FTC's standards. There is, however, scope for improvement in certain areas.** Specifically:

- the **central government's accounting standards** are comprehensively documented in the General Accounting Plan of 1994;
- given the modern GFMIS, IGAE is capable of producing **timely and accurate in-year reports on central governments budget outturns**, which are transmitted regularly to the parliament. However, as indicated above, **the final accounts, audited by the COA**, are only published with a lag of more than two years;
- regional and local governments are required to prepare their budget, and report on their execution, in a manner that facilitates the reporting by IGAE to the EU on fiscal developments for the consolidated general government. However, lingering inconsistencies in the functional classifications utilized by the state and some CCAA contribute to the **substantial delays in the compilation of the final accounts of the general government**. Efforts should be made to eliminate such inconsistencies, and to reduce these delays; and
- the **reconciliation of budgetary (above the line) and financial (below the line) data** is regularly carried out by IGAE for the central government, in terms of the government accounting plan, and by the BOS for the general government in national accounting terms.

D. Assurances of Integrity

90. **Deviations between budget forecasts and outturns are not systematically and clearly explained in budget documents.** Especially since the enactment of the BSLs and the introduction of the contingency fund in the budget (with consequent limitation of the scope for expenditure overruns), spending outturns have tended to be closely aligned with initial budgets. On the revenue side, outturns have tended to exceed forecasts—sometimes against a background of lower-than-projected GDP growth—partly reflecting a cautious attitude in the preparation of these forecasts. The explanation of the deviations between budget forecasts and actual outcomes of state revenue included in the yellow book for the Presentation of the 2005

Draft Budget of the State should be extended to cover other budgetary items as well as social security.

91. **Transparency and reliability of budget forecasts could be enhanced by systematically subjecting them to independent scrutiny**, e.g., by academic experts. The publication by the BOS of its internal forecasts would also be helpful in this respect. Finally, consideration should be given to the early creation in parliament of **a nonpartisan budget office**, responsible for providing an independent analysis of the government's budget proposal, as well as of the costs and benefits of new policy initiatives.

92. **External audit arrangements are broadly in line with international standards**. The COA, responsible for the external audit of government operations and accounts, is independent of the executive branch of government. It has budgetary and organizational autonomy, and its members are elected by parliament with a nine-year mandate. However, its competencies are not clearly delineated vis-à-vis those of regional courts of accounts. Also, its audits still mainly focus on legal and financial compliance, rather than on the cost-effectiveness of government spending. Also, the present over two-year lag with which audit reports are sent to parliament, and published in the official gazette, reduces their effectiveness in promoting needed changes in government procedures and operations. A concerted effort should be made to **reduce these lags; to focus external audits on value-for-money considerations; and to more effectively publicize their results**. Strengthened requirements for response and follow-up by government units and agencies on the COA's findings and recommendations would also be desirable.

93. **The independence of the INE from political interference is clearly established in the law**. However, INE has only a limited role in the compilation and disseminations of fiscal statistics, since its functions in this area have been largely delegated to IGAE and, for financial data, to the BOS.