The financing of the extra cost opex (and opint...)

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L'Armée de Terre dans la société

The issue of financing the additional costs of OPEX and OPINT is a burning and yet unavoidable political issue; recent events have made this clear, and no solution can fully satisfy all parties. However, an improvement of the system could be decided on, and there is no shortage of ways of doing so.

The attacks that hit France on 7, 8 and 9 January and 13 November 2015 led to a significant increase in the activity of the armed forces in OPEX (Operation Chamall among others) and OPINT (Operation Sentinel). This unplanned over-activity led to additional costs that were only partially taken into account in the Initial Finance Act (LFI) of 2015.

In January, the budgetary priority given by the executive to the fight against terrorism was reflected in the decree of 9 April 2015 on the cancellation and opening of payment appropriations and commitment authorisations. However, this solution is effective "only at the margin", as the amounts of appropriations and commitment authorizations opened must be less than or equal to those cancelled. The result is a zero or positive sum for the government's budget, and reallocations between departments can only be moderate because they are made during the fiscal year. Moreover, in this particular case, the Ministry of Defence, while it did not experience any cancellations of appropriations, did not receive any additional resources either. The conversion of exceptional resources into payment appropriations, even if it is a reassuring measure, cannot in fact be equated with an increase in the budget. It simply aims to maintain consistency between the military programming law and the actual budget year. The internal redeployment of its expenditure is therefore the only solution that has been offered [1] to the Ministry of Defence (MINDEF).

In November, in the aftermath of the attacks, the President arbitrated in favour of the security pact to the detriment of the stability pact. However, just as in January, in the absence of an amending finance law (LFR) and before the BIA for 2016 is known, the problem of financing the additional OPEX and OPINT costs remains unchanged for the armies. The political announcement remains without effect until it is translated into law. This leads us to deal here with the issue of financing these additional costs in the same terms as we could have done before the November attacks in Paris.

At present, however, this method of financing the additional OPEX costs, refined over the years and subject to a status quo between ministries, is the subject of recurrent criticism.

The main remarks come from the Court of Auditors, which criticises the lack of sincerity in the budgeting of the defence mission in the initial finance law (LFI), supported in this analysis by the Ministry of Finance and Public Accounts. The Ministry of Defence, for its part, notes that this process makes the implementation of its equipment programmes permanently fragile.

The issue of this financing is eminently political. Recent events have made this clear, and no solution can fully satisfy all parties.

After presenting the mechanism for financing the additional cost of OPEX, then the issues at stake, a few possible avenues for improvement will finally be discussed.

A financing mechanism subject to the status quo. ..

Faced in the mid-2000s with the problem of the very significant increase in the additional costs of external operations and the impossibility of taking them into account without placing too heavy a burden on P146 (which is the only one in the European Union), the Commission has decided to maintain the status quo.s equipment) by cancelling payment appropriations, the MINDEF was able to obtain from 2008 onwards that part of this additional cost be divided between the different missions in the State budget, as part of inter-ministerial solidarity.

This process has a real advantage compared to the previous situation, even if it can still be improved. Indeed, the burden of this additional cost no longer falls solely on the MINDEF budget, but is now shared in part with the other ministries.

This method of financing is based above all on a consensus on the definition of the scope of the OPEX additional cost, presented at the end of the year by the MINDEF's DAF[2] to the Bercy budget directorate.

In the initial finance law, a provision for additional OPEX costs is included in the MINDEF budget. This variable amount is part of the nation's defence effort. It is currently set by the 2014-2019 LPM (article 4) at 450 million euros per year. The table below shows the evolution of this provision since 2008.

During the course of the budget year, as additional costs systematically exceed the provision, the Bercy budget department unfreezes the Ministry's reserve and P178 advances from the cash position to finance this expenditure vital to operations.

At the end of the financial year, all the ministries declare to the Bercy budget department their overruns eligible for financing via interministerial solidarity. OPEX overruns, beyond the provision, belong to this category and are therefore paid into it. An advance decree, followed by an amending finance law, then sets out in detail the cancellations and appropriation openings for each mission in order to finance the share of this mutualized deficit that each ministry is entitled to. The distribution key used by Bercy then leaves between 15 and 20% of these additional costs to be borne by the MINDEF. This means that the MINDEF pays for the OPEXs the provision to which is added 15 to 20% of the excess noted, depending on the present value of the distribution key.

… however not without major stakes …

- In programming: the legal issue of insufficient compliance with certain principles laid down in the LOLF.

Article 32 of the Organic Law on Budget Acts (LOLF) has stipulated since 2001 that "the budget acts shall present in a sincere manner all the resources and charges of the State. Their sincerity shall be assessed in the light of the information available and the forecasts that may reasonably be derived therefrom". The provision for financing the additional OPEX cost has increased from €24 million to €630 million (M€) between 2004 and 2013. However, the recent opening of new theatres (Mali, CAR) has cancelled the expected savings following the French disengagement from Kosovo and Afghanistan. Consequently, in the absence of an additional national defence effort, the reduction of this allocation to 450 million euros in 2014, while the anticipated additional cost of OPEX over the coming years seems to remain at a high level, raises the question of the budgetary sincerity of the programming of appropriations covering that expenditure.

While a margin of error can be accepted due to the complex and evolving nature of these expenses, the gap between the provision and the expenditure recorded in management is increasing, rising from €243 million in 2012 to €620 million in 2014. The Constitutional Council certainly recalled in a decision of December 2014 that "the sincerity of the Finance Act for the year is characterised by the absence of any intention to distort the broad outlines of the balance it determines". However, it is not impossible that in the future it will make its case law more demanding, by refining its control up to the evaluation of the provision relating to these charges.

Article 7 (2) of the LOLF also states that "the appropriations made under the staff costs title of each programme shall constitute the ceiling for expenditure of that nature". Although this principle of asymmetrical fungibility prevents operating or investment appropriations from being used for staff costs, the financing of the extra OPEX cost in Title 2 that is not budgeted for is nevertheless to the detriment of P146 [3].

- In management: the capability issue linked to the impact of the additional OPEX costs on programme 146 of the defence mission

The current system for financing the additional cost of OPEX, even if it is generally favourable to MINDEF, nevertheless generates significant risks for its already very limited budget:

- Reimbursement via interministerial solidarity takes place at the time of the advance decree and the amending finance law, both of which are generally taken at the end of the year. This expectation generates additional cash requirements

during the management process. These are partially met by the unfreezing of the reserve and by advances made by the P178, which then finds itself under very strong pressure;
- although the interdepartmental precautionary reserve covers most of the additional unbudgeted OPEX costs, the Ministry of Defence contributes to its financing to the extent of its budgetary weight (approximately 20%);
- certain expenses arising from the deployment of French forces abroad are not included in the scope of the additional OPEX costs (destruction of buildings, etc.).Some expenses resulting from the deployment of French forces abroad are not included in the scope of the OPEX surcharge (final destruction of fleets and equipment, free sales to foreign armies, purchase of specific equipment in operational emergencies, etc.). As such, they remain entirely financed by the BOPs (operational programme budgets) of the armies, directorates and services.

This additional funding requirement is in the end largely taken from the resources of programme 146, the only adjustment variable within the defence mission. 471 M€ in CP[4] resources from the 146 programme were thus cancelled in 2014 under the advance payment decree and the amended finance act to finance solidarity. solidarity (including the additional OPEX cost) as well as expenditure generated by OPEX and not included in the scope of this additional cost.

The armies' capability modernisation programmes thus find themselves trapped in a vicious circle. Each year, while OPEXs wear out equipment prematurely, part of the equipment appropriations is thus transferred to Title 2 or OPEX operating expenditure instead of being used to meet this increased need for replacement.

... and which can be optimised

- A sustainable financing system which should however remain under strong constraint

The interministerial precautionary reserve mechanism introduced by the 2009-2014 MPA, although imperfect, has shown its general effectiveness since 2009. This new mode of operation, which marks an improvement over the previous LPM, is therefore unlikely to be called into question in the short and medium term. Indeed, this system allows the MINDEF not to bear the entire cost of OPEX alone, while allowing the Ministry of Finance and Public Accounts to allocate only a well-defined part of this expenditure (some of the costs incurred remain the responsibility of the defence mission).

As part of the more general framework of a government budget under stress, this mechanism is, however, likely to be subject to increasingly severe constraints. The high level of OPEX, the cost of which has exceeded € 850 million a year since 2008, is unlikely to fall, as recent events have shown. The end of operations in Afghanistan and Kosovo will only bring limited gains (€172 million in 2014) compared to the overall budget (€1,118 million in 2014). Furthermore, the growing share of OPINTs (in particular Operation Sentinel), which for the time being are funded under an envelope by the Ministry of Defence (approximately €270 million per year), could also be a source of fragility for the current system.

The share of funding provided at the interministerial level should therefore remain at a particularly high level in a context where all the ministries are under pressure. The dichotomy between the MINDEF's vision, which does not take into account all of the additional OPEX costs, and that of the other ministries, which consider that the BIA provision does not take into account the additional costs of the OPEX, could also be a source of fragility for the current system.450 million in 2014), could therefore increase (budgetary sincerity versus real additional costs).

- Making forecasts more reliable, easing constraints without calling into question the foundations of the system

The improvement of the current system requires greater sincerity in both programming and execution. By adhering more closely to a principle of reality and transparency, the current uncertainties of the mechanism could be significantly reduced.

An increased provisional envelope, more in line with the reality of OPEX costs (which could be calculated by averaging the last 10 years), would simplify the management of MINDEF, particularly at the end of the management period.In fact, the advance decrees opening credits for additional costs (excluding the initial envelope) are promulgated in November/December, whereas the corresponding expenditure takes place throughout the year (difficulties described by Deputy Charles de la Verpillière in his opinion on the 2015 Finance Bill No. 2234).

This exemption could be accompanied by an exemption from the MINDEF's contribution to the interministerial solidarity mechanism (€390 million in 2014, excluding the T2 slippage), to the same extent as the contribution to the interministerial solidarity mechanism (€390 million in 2014, excluding the T2 slippage).This exemption could be accompanied by an exemption from the MINDEF's contribution to the interministerial solidarity mechanism (€390 million in 2014 excluding the Q2 slippage), as for example certain missions considered as priorities (school education, justice and security), or be compensated by an equivalent increase in its budgetary appropriations.

Integrating the now significant cost of OPINTs into this scheme could also help to make the Ministry's budget more reliable, as could a clearer and shared definition of what should be considered as additional OPEX costs.

This development would limit the cancellation of end-of-year appropriations (excluding self-insurance), which are borne for the most part by OPEX appropriations.(P146 is the only real source of budgetary margin), and would also lead to a reduction in the department's already significant carry-over of charges. Finally, even if it initially reduced the investment credits, the financing of the remaining (less significant) additional costs at the end of the year at interministerial level would be facilitated by less forecasting uncertainty.

As the second current source of funding for the additional OPEX costs (€55 million in 2014, mainly from the UN), income from reimbursements from third countries and international organizations for France's participation in certain operations could also be made more reliable and optimized.

An improvement in the invoicing of services provided by France in the framework of multilateral (non-UN) operations through a systematization and a different calculation method (the evaluation is currently based on the marginal cost principle) could provide additional revenues. The use of "MoU" [5] or "LoA"[6], as in UN operations, could help to formalize such procedures.

The latest operations also seem to endorse a certain complementarity and simultaneity between external operations (undertaken by France alone or in the framework of ad hoc coalitions but under UN resolution) and peacekeeping operations (under UN responsibility). Mali (Serval/MINUSMA) or the CAR (Sangaris/MISCA) are perfect examples of this. France, while paying its contribution to the UN, therefore benefits little or nothing from its cost-sharing system since its operations are not under UN command but are conducted in advance of or in parallel with the UN. Even if this solution seems very delicate to promote, because above all political, a renegotiation of reimbursement conditions with the aim of sharing costs could perfectly well be envisaged.

Finally, the withdrawal of all or part of the defence mission's expenditure from the calculation of the deficit in the State accounts in the sense of "... the State's deficit".Maastrichtian" meaning of the term "Maastricht", which has now been mentioned, has already been presented to the European Union in the past. At the time, France was rejected by its partners. For the time being, there are no clear signs of a positive development on the subject. Moreover, this solution, even if it might improve the army budget somewhat by creating additional debts, would not in any way improve the overall real balance of the State budget. And it is reasonable to estimate that once the emotion of the post-attack days is over, the question of balancing the budget will not be resolved.Once the emotion of the post-attack days has passed, the question of balancing the budget will inevitably return to the heart of the State's priorities and the problem will then return with the same acuity for the defence mission.

The current system, which is generally favourable to MINDEF, therefore still generates many management uncertainties that lead to substantial carryovers of appropriations for P146, which could potentially increase the overall volume of carryovers each year. This state of affairs makes it difficult in the long term to replace the major equipment of the various armies in time and according to the targets currently set. In the worst-case scenario, this could even lead to capability shortfalls. Only greater sincerity in programming, which must be accompanied by an increase in the overall resources of the MINDEF, or at the very least by making them more secure in terms of management, will make it possible to preserve investment credits, which is the real issue in this matter.

1] In the "Report on decree No. 2015-402 of 9 April 2015 on the opening and cancellation of credits as an advance": "Opening for the financing of expenditure related to the implementation of the anti-terrorism plan presented by the Government on 21 January 2015: The actions carried out by the Ministry of Defence will amount to €150 million and will be financed by redeployment, without the need to open appropriations".

2] Directorate of Financial Affairs

3] More specifically, the financing of the additional OPEX cost in Title 2 not budgeted under sub-Action 59-01 of Programme 212 is partly covered by appropriations for the defence mission under P146.

4] Payment appropriations

[5] Memorandum of understanding

[6] Letter of assist

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