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The regulation of agricultural land markets in France

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Summary

- I Access to the right to use the agricultural lands
- II The regulation of the access to the right to use the agricultural lands in France
- III SAFER : (rural land development company)
- IV Recent evolution in farming units in France
- V Prospect : beyond transparency

I Access to the right to use the agricultural lands

The right to use agricultural land is granted :

- by inheritance :

- of free agricultural land
- and of leases (with the family transfers of leases because the lessor does not take over the property for personal use)

- by land markets:

- (not rented) agricultural land
- (and land rented when the farmer purchaser can give the farmer leave at the end of the lease)
- leases
- the shares of farming companies.

To settle in agriculture or grow, it is necessary to be able to access the land markets

I-II the logic of land markets

The fundamental nature of land markets

The price of land is always too high, when the prices are going up or when the prices are going down

“all people” are running, but only “one” wins; the price is always too high for everybody except for one person

it is so when the market is not regulated because the quantity of land is limited; we don't make new agricultural lands.

So, the agricultural land markets are markets of exclusion, of selection, of marginalization of little peasants

In this context, in Europe, very often, States have established a system of regulation for the access to the right to use agricultural lands

the regulation of the land markets is based on a political vision

- up to the second world war :

the agricultural policy is built around the **landowner** who is either a landlord, with sharecroppers or tenants, or a farmer

- at the end of the Second World War:

the food production is at the center of agricultural policy with the introduction of the **tenancy status**

- 1960 : food production by **family farms** (young farmers' project) is at the center of the agricultural policy (the family holds the operating capital (buildings, equipment, livestock) and provides the majority of the work; the family can rent the land),

- 2006 **farm company** replaces family farm in a law

In 2014 a new french law aims to promote agroecology and family farms

(the family owns buildings, machines, livestock and provides the major part of the work), the family is not necessary owner of the land



II The regulation of the access to the right to use the agricultural lands in France

II The regulation of the access to the right to use the agricultural lands in France

II-1 The tenancy status

II-2 Control of the market in agricultural estates

II-3 the authorization to use land for the biggest farms

II-4 overview on agricultural land market

II-5 Impact of regulation

NB: tax, social and economic support systems also influence very much the evolution of farms

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III OUTILS DE REGULATION FONCIERE EN EUROPE

II-1 The tenancy status

The tenancy status specifies :

- the minimum term of the lease: 9 years

(9 years in Belgium and France, 15 years in Italy, 5 years in Spain)

- the right to renew the lease, unless the lessor resumes for personal use (Belgium, France)

- the right to transfer the lease between parents and children (Belgium, France)

- the compensation for the improvement of the fund due by the owner at the end of the lease, (Germany, France)

- the right of preemption of the farmer, (Belgium, Spain, France, Hungary, Italy, Lithuania, Poland)

- the level and the annual indexation of the rent are defined per region by the state

This status has favored the expansion of farms, small farms and mostly largest farms.

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II-2 Control of the market in agricultural estate :

II-2-1 Real estate

Since 1962, pre-emption right is given to the SAFER (rural land development company)

The pre-emption right must be motivated by precise objectives (to make better than the market):

- The settlement of farmers
- The farm enlargement and the land consolidation
- The compensation in case of public utility projects
- The safeguard of the familial farm
- The struggle against land speculation (right of preemption with price revision)
- The protection and development of forest areas
- The protection of the environment : natural resources (water, land, biodiversity, forestry) , landscapes



The modality of the use of pre-emption right

To put in practice the pre-emption right, every notary must warn the local SAFER of every sale project

- Then the SAFER has 2 months to use (or not to use) its pre-emption right
- The SAFER may ask for a lower price if it is really much more than the estimated market value ; then the saler can decide to sale to the SAFER at the lower price, or decide to cancel his sale, or decide to ask the Tribunal to fix the price
- Each pre-emption requires the Government commissioners' agreement (agricultural and finance commissioners)

NB: The pre-emption right is not an expropriation, which only State and public collectivities can expropriate.

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The limits to use of pre-emption right

The pre-emption right can't be used when the buyer is:

- A close relative
- A leaser or owner who has been previously excluded from his farm
- A leaser who rents the land since more than 3 years
- A farm or family worker
- The State or local authorities

And in case of local development projects, in case of pure forest areas, family gardens, etc.

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the right of preemption applies on sales of :

- agricultural real estates
- shares of a farming company when all the shares are sold

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II-3 the authorization to use land for biggest farms

the control is organized between the State and the agricultural profession (representative trade unions and elected representatives of Chamber of Agriculture

it has been organized for a long time at the department level (now at regional level) with a differentiated application according to the departments

The base : applicants for big installations and expansions must apply for an authorization to use land

The system was effective early in the 1960s and 1970s, when the commission could prohibit or allow a project. Thereafter, it has lost its effectiveness:

- when there is only one candidate, the commission can not forbid the project of settlement or grow),
- when there are several candidates, the commission has the possibility to give permission to exploit to several candidates, it is then the lessor who chooses

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II-4 overview on agricultural land market

II-4 overview on agricultural land market

Year 2016

	The markets	The markets of the enlargement and installation			the markets of consolidation land (leased land)		
		area	ha	billions euros	Including legal persons	area ha	billions euros
Individual farms and companies	real estates	130 000	1,9	30%	126 000	0,8	24%
	Shares of farming companies	~262 000	0,8	> 43%	X		
lessors	real estates	71 000	1,3	44%	35 000	0,6	34%
	Shares of land companies	X			13 000	0,1	> 33%
Ensemble		~463 000	4	> 37%	174 000	1,5	> 29%

To grow or settle, farmers, whether natural or legal, bought 130 000 ha and leased 71 000 ha to donors who acquired free goods. In addition, natural or legal persons acquired 40% of the capital of farming companies operating 655 000 ha; so they took control of 262,000 ha.

Données France 2016 (Source : Terres d'Europe-Scofr d'après SAFER)



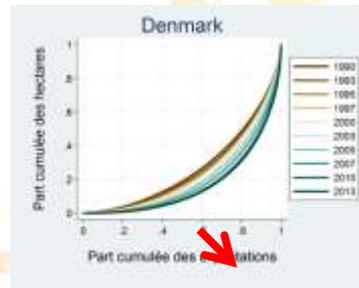
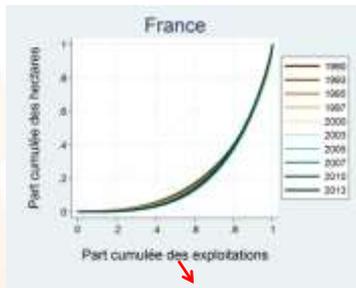
II-4 overview on agricultural land market

The market of farming company shares allows the concentration of agricultural holdings and the arrival of non-agricultural capital of natural or legal persons

II-5 Impact of regulation

An inequality which, in France, increases a little

- A Gini index almost unchanged between 1990 and 2010
 - 1990 : $G = 0,58$ (« 20% of the farms cultivate 60% of the hectares »),
 - 2010 : $G = 0,62$ (« 20% of the farms cultivate 63% of the hectares »)
- **trong contrast with, for example, Denmark**
 - 1990 : less inegalitarian than France ($G = 0,47$ - « 20%-50% »)
 - 2010 : more inegalitarian than France ($G = 0,65$ - « 20%-70% »)



Source : Structures, Eurostat – calculs INRA SMART-LERECO

The liberalization of the land market in the early 1990s in Denmark leads to a rapid concentration. Structural policies have an impact.

SAFER

A French rural land agency



- Non profitable private company
- Under control of administration (Ministry of agriculture, Ministry of finances)



III SAFER : (rural land development company)

III-1 SAFER missions

III.II Structure and governance

III-III Modalities of Safer interventions

III-IV Rural land market transparency

Today SAFERs have 4 public service missions

→
Development and protection of agricultural and forest areas

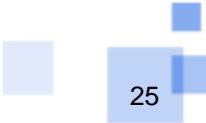
→
Environment, natural resources, landscape protection

→
Local development, in close relation with local authorities' projects

→
Land market transparency, publishing price references and analysis every year



III.II Structure and governance of the Safer



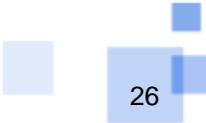
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Legal status

Distinguishing features:

- Non-profitable companies
- Under control of Administration:
 - Ministry of Agriculture
 - Ministry of Finances



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Legal status

Region-scaled companies administered by a 3-college board of directors:

- 1) representative farmers' unions, elected farming organisations (Agricultural Chamber)
- 2) Local authorities,
- 3) State (ASP), Scafr, environmental organisations, banks, forests owners' unions, hunters unions, president of the Safer...

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Governance

State's role in SAFERs activity

The state:

-  Agrees their legal status, their presidents and their directors
-  LONG-TERM Agrees their long-term program (5 years)
-  75 000 € Agrees every pre-emption and every friendly land acquisition over 75 000 euros
-  Has a veto power on every SAFERs' sale project
-  Takes part in the board of directors
-  Gets a regular overview of SAFERs' activity

Governance of land allocation

- 1) For each sale or lease of lands, the Safer **has to appeal for applicants (candidates) on local newspapers, in the city hall and on internet**
- 2) The **Departmental technical Safer committee** examines all applications and give a recommendation

Members:

- **Farmers' organisations** : chambers of agriculture, farming union representatives, farming banks and farming insurance companies,,
- **Local authorities** : regional and departmental councils and town hall associations,
- At least **2 environmental protection associations**
- **State** : departmental director for agriculture and the director of the tax office.

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Governance of land allocation

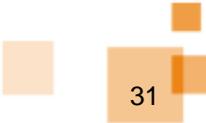
- 3) **The Board of Directors** decides
- 4) The **Government commissioners** (Ministries of Agriculture and Finances) validate every decision, and have a veto power

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III-III Modalities of Safer activities

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The Safer:

- purchase agricultural, forestry, rural estates and agricultural company shares, **mainly by mutual agreement** or by use of its pre-emption right
- store and temporarily manage the real estates they own (temporary leases up to 5 years, renewable once)
- exchange real estates
- **sale agricultural lands :**
- organize the transfer of rural leases between landlords and farmers (rental intermediation)
- provide rental management of agricultural estates which are made available to the Safer by the owners (private or public) (CMD not exceeding 6 years, renewable once)
- assist the local communities (studies, collection of promises of sale, monitoring of land, ...)
- publish, with the Ministry of Agriculture, the land price references by region



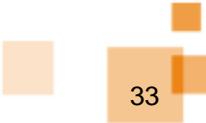
III-IV Rural land market transparency

The law gives a mission of transparency of the land market.

The notaries must to send all sale projects :

- of agricultural real estates
- and of company shares (total or partial sale)

Each year, SAFER receive between 250 000 and 300 000 sale projects from the notaries (or from sellers of company shares).

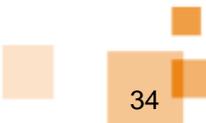


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III- Rural land market transparency

- SAFER and Scafr publish, with the Ministry of agriculture, the official data about land prices, from local to national scale.
- All the sales (since 1970) have been published on a website
- **Vigifoncier** is a dynamic “land watching” website for the local authorities



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The screenshot displays the Digifoncier web application. The interface includes a search bar at the top, a list of parcels on the left, and a map on the right. The map shows several parcels highlighted in green, indicating they are the focus of the search. The number 35 is visible in the bottom right corner of the screenshot.

IV Recent evolution in farming units in France

IV Recent evolution in farming units in France

IV-1 Continuous concentration of land in France:

- the number of farms decreases
- larger farms grow faster than small farms, notably thanks to renting

IV-4 farming companies increase their superficies, when individual farms decrease their superficies

In France, the surface areas of SCEAs and EARLs with several co-operators increase the fastest

Evolution of agricultural areas according to the status of farms in France

	2000	2010	2013
Exploitations individuelles	57,9 %	42,0 %	37,7 %
GAEC (et sociétés de fait)	18,5 %	20,5 %	21,0 %
EARL unipersonnelles	9,5 %	14,3 %	15,3 %
EARL à plusieurs co-exploitants	7,7 %	12,7 %	14,8 %
Autres dont SCEA et SA-SARL	6,5 %	10,5 %	11,3 %
ENSEMBLE	100 %	100 %	100 %

30% of the areas are operated by EARLs, 50% of which can be financed by non-operating individuals

More than 11% of the land is operated by SCEA or other companies whose capital can be financed by non-agricultural capital and by legal entities

IV-5

IV-5 Family labor declines in farming companies as wage labor increases

The family workforce is a minority in the SCEA and other commercial companies

Année 2010	Nombre d'exploitations	SAU (ha)	Part de la main d'œuvre salariée dans l'exploitation
individuelles	339 872	11 556 979	15 %
EARL	78 610	7 478 922	34 %
GAEC	37 205	5 489 793	15 %
SCEA	23 160	2 053 576	61 %
sociétés commerciales	6 129	257 471	82 %
autres	5 001	126 510	72 %
Total	489 977	26 963 252	29 %

I-7 increase of the superficie
of cereal and beef-cattle systems
with low value added per hectare

I CONTEXTE

In France, between 1989 and 2012:

- an increase in the area of

- field crop systems,

- beef cattle systems

with a low added-value per hectare

- and a reduction in the area devoted to :

- dairy farming,

- production of vegetables

- the vineyard

with a high added-value per hectare

The heavy trend is driven by the search for the best return on invested capital with the farming companies but the added-value and the jobs are more important by hectare with small and medium farms. It is more interesting for the collectivity.

I CONTEXTE

Les « COP » et « bovins viande » augmentent en surface avec des valeurs ajoutées à l'hectare faible

Moyennes annuelles « 1988-1990 » et « 2011-2013 »	Part de la surface agricole nationale par OTEX		Valeur ajoutée en € par hectare	
	Part en 1988-1990	Part en 2011-2013	Sans subvention	Avec subvention
Ensemble des orientations technico-économiques	100,0%	100,0%	891	1 251
OTEFDD 15 : Céréales, oléagineux, protéagineux (COP)	19,3%	24,5%	507	822
OTEFDD 16 : Cultures générales	8,3%	8,7%	1 130	1 504
OTEFDD 28 : Légumes et champignons	0,3%	0,2%	11 354	12 141
OTEFDD 29 : Fleurs et horticulture diverse	0,2%	0,1%	19 569	19 989
OTEFDD 35 : Viticulture	5,1%	4,1%	5 684	5 857
OTEFDD 39 : Arboriculture fruitière et autres cultures permanentes	1,0%	0,9%	3 730	4 232
OTEFDD 45 : Bovins lait	22,9%	15,9%	721	1 096
OTEFDD 46 : Bovins viande	8,5%	13,2%	138	556
OTEFDD 47 : Bovins mixtes	4,2%	4,2%	482	873
OTEFDD 481 + 482 + 483 : Ovins et caprins	5,0%	4,6%	193	633
OTEFDD 484 : Autres herbivores	1,4%	1,5%	448	831
OTEFDD 51 : Porcins	1,1%	1,4%	1 926	2 240
OTEFDD 52 : Volailles	1,4%	2,2%	1 639	1 994
OTEFDD 53 + 74 : Granivores mixtes	1,8%	1,9%	925	1 319
OTEFDD 61 + 73 + 83 + 84 : Polyculture, polyélevage	19,6%	16,6%	632	989

- V Prospect : beyond transparency

V PERSPECTIVES

The heavy trend is driven by the search for the best return on invested capital with:

- specialization, simplification, standardization, mechanization and automation of production
- agricultural space is primarily considered as a biomass production area;
 - agricultural territories become places of production of raw materials; added-value is achieved outside rural areas; (human desertification)
- decision centers move away from the rural territories

Family farms are gradually marginalized on the less mechanistic lands;

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V PERSPECTIVES

The heavy tendencies are in contradiction with:

- societal demands (organic products, local production,...)
- the multifunctionality of (natural) agricultural areas: reception of biodiversity, storage of carbon (fight against global warming) (remuneration for work to maintain and / or improve ecosystem functions)
- more resilient systems (agroforestry, agroecology) that require more investments
- the interest of the community to increase added value and employment per area unit (because agricultural areas are limited)

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V PERSPECTIVES

- How to get out of the contradictions? Some tracks, we must
- recognize that agricultural areas are multifunctional spaces (biomass production, reception of biodiversity, storage of carbon, water and minerals); to consider the agricultural areas as a Common;
 - review the remuneration of agricultural workers (cf. the foundations of common agricultural policy), in particular for the maintenance of ecosystemic functions,
 - prepare the transition towards sustainable food, sustainable agriculture (without non renewable resources)
 - we need **better regulation of land markets**: projects to sell lands or shares of farming companies, projects of new leases should be approved or not according to objective criteria.

A regulation of the land markets is linked at a political project.

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Thanks for your attention

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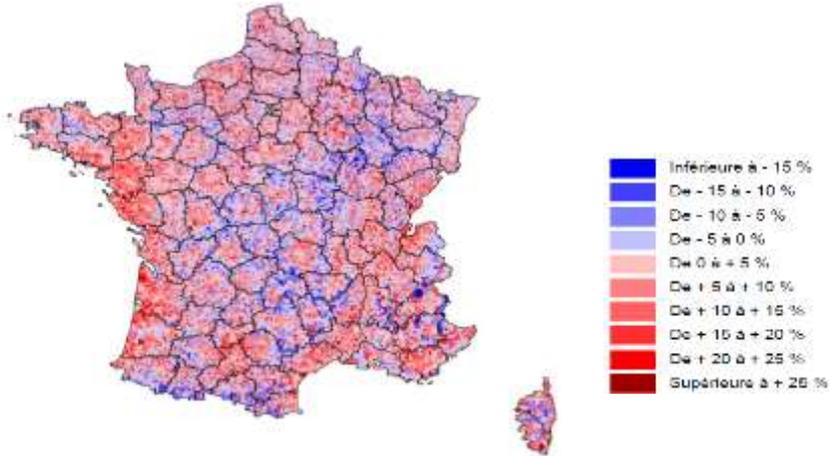
FNSafer: www.safer.fr/

AEIAR: www.aeiar.eu/

<https://www.clubdemeter.com/fr/les-cahiers-demeter/article/6741> La question foncière renouvelée : pour une alimentation durable de l'humanité et une souveraineté alimentaire européenne

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Carte : évolution de la population par commune entre 2008 et 2013



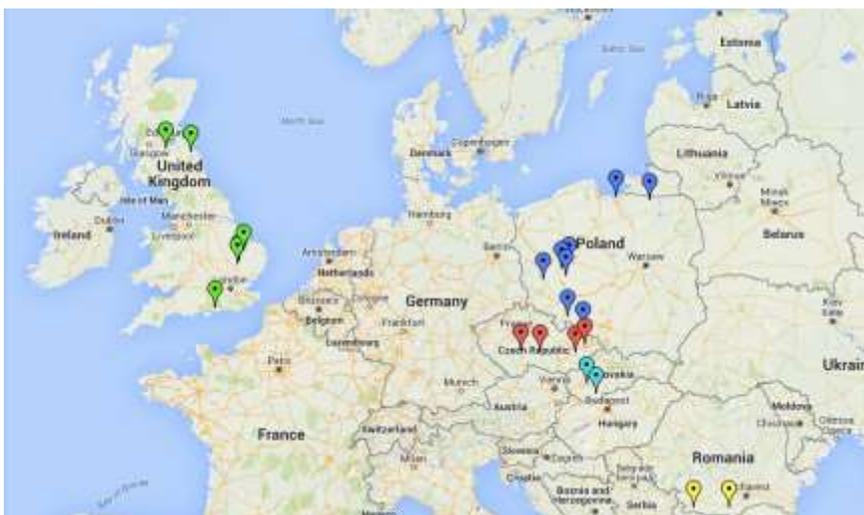
Evolution en %. Population municipale d'après les recensements de la population 2008 et 2013.

Source : Terres d'Europe-Scafr d'après INSEE

Evolution de la population entre 2008 et 2013. Terres d'Europe-Scafr d'après INSEE. 30 mai 2015

CONTEXTE

L'émergence de multinationales agricoles Implantation de Spearhead International : 84 300 ha



Source : Spearhead International et Google Maps

III-5 Commentaires

Each European country has set up a more or less efficient system of regulation

The regulation tools were designed for family farms in mixed tenure (owned and leased)

They have not been designed for member farms (except for licenses to exploit when we can know the "managers"),

The control of land ownership has a limited influence on the control of the exploitation

The prohibition of the purchase of land by foreigners did not prevent the establishment of agricultural enterprises with foreign capital to the east of the European Union. The ban on the market of land in Ukraine did not prevent the establishment of farms several tens of thousands of hectares

Selling back

Tax concession for the buyer:

Safer's sale are free from registration tax, that represents ~ 5 % of the resaling price.

=> This reduction commits the buyer to maintain for at least 10 years the rural activity (farming, environmental protection,...) he has declared to the technical committee.

Selling back

As SAFER get fewer public subsidies, the buyers have to pay fees for Safer's service. The selling back price includes the following elements:

- SAFER initial purchase price
- Notary, land surveyor, and land registry costs
- Financial costs calculated on the 2 first elements and for the stocking period
- Management costs to preserve the real estate's potential and quality
- Safer's wages which varies between 5% and 10% of the initial purchase price

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Purchasing farmland or forest real estate

(2015)	Number	Area (in ha)	Value (in K€)	Average value (in K€)
TOTAL area purchased by the Safer	10 270	83 850	1 040 030	101
Non-built real estate	8 210	50 700	390 225	48
Built real estate	2 060	33 200	649 800	315
<i>Use of the pre-emption right</i>	1 260	6 000	54 570	43



The Safer buy 14,9% of total rural land market area

Approximately 1% of sales projects are pre-empted. Just over 0.5% of transactions are pre-empted with price revision and are frequently the real estates are removed from the sale.

Source : Terres d'Europe-Scafr d'après Safer

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Stocking and looking for applicants

SAFER national stock: 43 000 hectares (0,16 % of French farmland)

SAFER manage its stock through precarious and provisional Occupancy Conventions or sub-contracting with local farmers

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Selling back

	Number	Area (in ha)	Value (in K€)
TOTAL area sold by the Safer (2015)	12 180	87 400	1 129 221
Mission 1: Farm and forest developpement	10 620	79 300	935 254
farmers setting-up	2 660	31 200	440 897
expanding farms	3 670	24 400	314 677
land consolidation (plot exchange)	1 880	3 600	35 488
farmers conservation	1 542	13 300	100 058
forest operations	700	6 000	33 963
others	170	900	10 171
Mission 2: local development	1 230	6 100	177 606
Mission 3: environmental protection	330	2 000	16 361

Source : Terres d'Europe-Safer d'après Safer

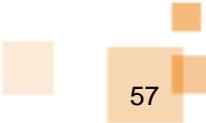
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Selling back

Farmers' setting up represents 19 % of the total number of SAFER sales, and 35 % of the total area.

More than 50% of these sales deal with « out of family » context setting up, ie. new farmers originating from non-agricultural families



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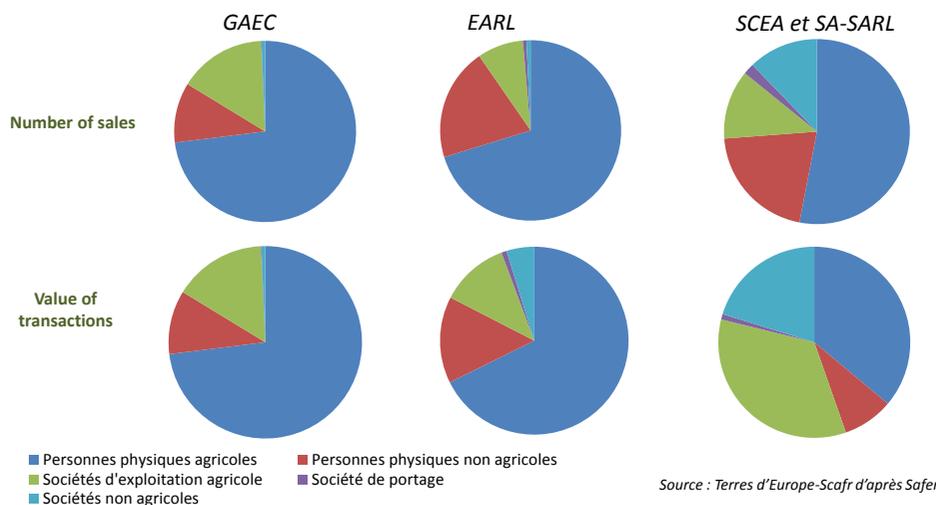
II-4 overview on agricultural land market

Concentration of agricultural holdings is mainly through land markets

Settlement and grow of farms are :

- much more effected by new leases and purchases of company shares
- than by land market
(see next slide)

Breakdown of purchases of company shares by type of buyers in 2016



In terms of value, natural persons in agriculture are the majority in the market of shares in GAEC and EARL but not in the market of SCEA and other companies.

The schemes show the arrival of non-agricultural investors, natural or legal persons in agricultural companies. The purchase of company shares results in a change in the status of the companies. (no agricultural) Individuals who can not be a shareholder of GAEC, at the time of the purchase of units, the GAEC must be transformed into EARL or SCEA. EARLS, having only natural persons in their capital, they will change their status to become SCEAs or adopt a different status.

I-6 The concentration is stronger than the figures indicate:

- A production unit may include several "official" farms
- the use of agricultural service providers
- The emergence of agricultural multinational companies

IV-1 Continuous concentration of land in France as in Europe

- Number of farms decreasing in France since
1890
From 1956 to 2005, the number of holdings was
divided by 3

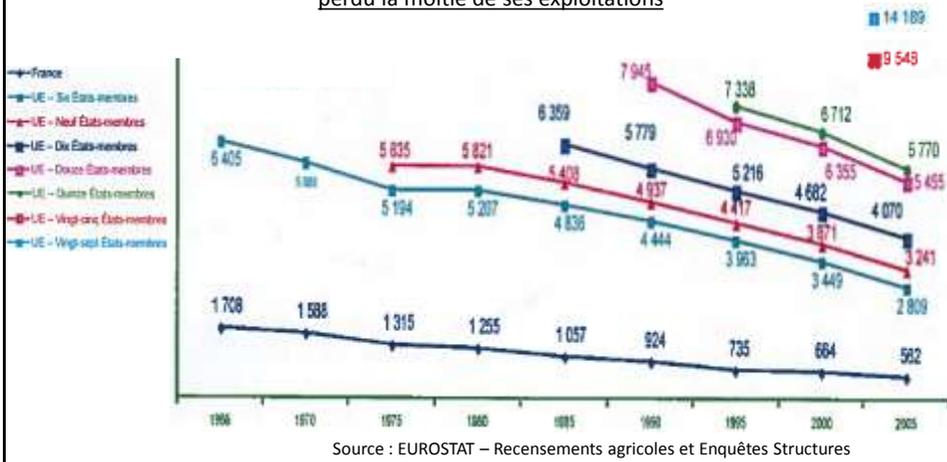
(indicate the evolution of the number of
holdings between 2000 and 2013)

From 1966 to 2006, in forty years, Europe with six member states lost half of its farms
From 1990 to 2010, the Europe of the Twelve lost a third of its farms; the labor force has
decreased in the same proportions

I CONTEXTE

La concentration des terres en France et en Europe est une tendance lourde

Evolution du nombre d'exploitations: En quarante ans, l'Europe à six Etats-membres a perdu la moitié de ses exploitations



Data for Europe for six, nine, twelve and fifteen Member States refer to the territory of the FRG until 1990 and to Germany reunited after 3 October 1991

IV-2 An uneven distribution of areas

less than 18% of the farms exploit 60% of the land

Répartition des 12 millions d'exploitations européennes et des 176 millions d'ha

	En nombre	En surface
Moins de 2 ha	50%	< 3%
de 2 à 10 ha	30%	10%
de 10 à 30 ha	10%	13%
de 30 à 100 ha	7%	25%
Plus de 100 ha	< 3%	50%

Part des exploitations de plus de 100 ha dans quelques pays

	En nombre	En surface
UE 28	< 3%	50%
Bulgarie	1,5%	82%
République Tchèque	19%	89%
Allemagne	11%	55%
France	18%	60%
Hongrie	1,3%	65%
Roumanie	0,4%	49%
U.K.	21%	74%

Europe des 28, recensement 2010

I-3 Land capital separates from operating capital

Renting is the preferred method of expansion of larger farms. It goes hand in hand with a division of land ownership in relation to the farm

I-3 Land capital separates from operating capital

Figures on the evolution of French farms

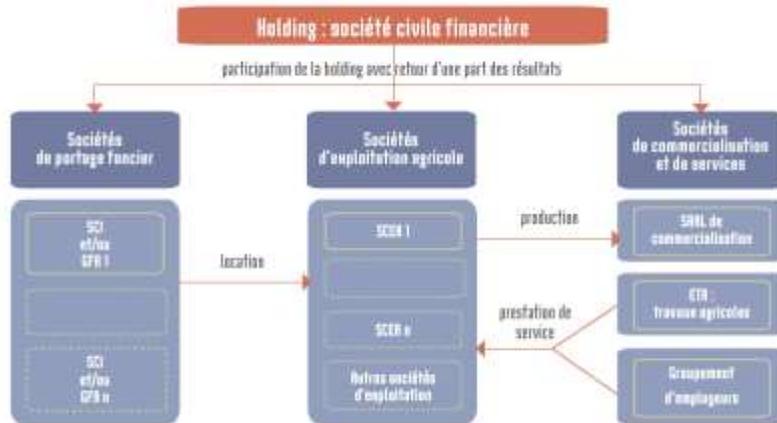
I CONTEXTE

A production unit may include several "official" farms

La France :
cf study in Haute-Normandie (Lands of Europe-Scafr,
Safer of Haute-Normandie 2016)
48 farms in less than 20 production units

I CONTEXTE

Schéma d'une holding type



Source : Andrieu, Cornu, Levesque, « Note étape sur les grandes exploitations en Haute-Normandie », 2016.

I CONTEXTE

the use of agricultural service providers

(ex Agriland: 13 000 hectares between Belgium and France)

(in France: 10% of the arable farms exploited from "A to Z" by agricultural contractors)

Cf wine sector in Champagne

the holder of the capital of the farming company, who has the equipment and controls the workforce, is the key person

I CONTEXTE

The emergence of agricultural multinationals

Agricultural production units are developing in several countries:

between different European sites

Cf map of Spearhead international

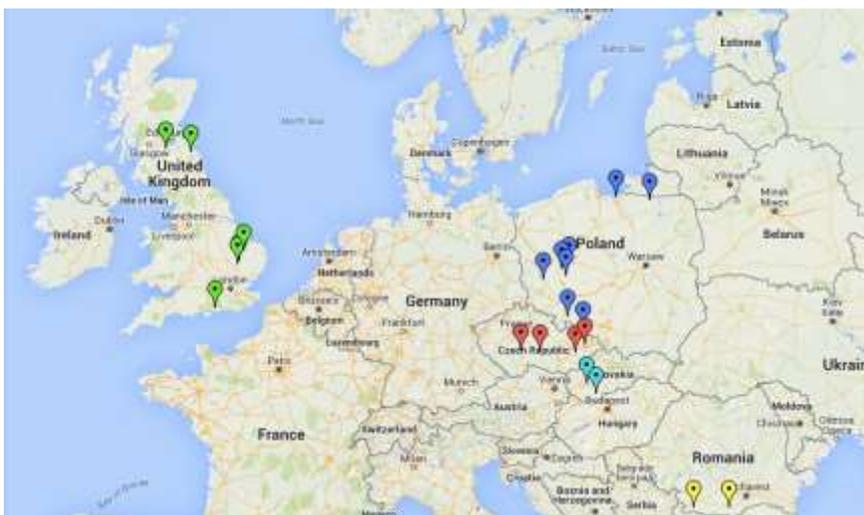
between European and non-European sites

(Africa, Asia, ...)

I CONTEXTE

L'émergence de multinationales agricoles

Implantation de Spearhead International : 84 300 ha



Source : Spearhead International et Google Maps