



CR CECILE DUBART

Decommodifying land

Terre de liens

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France's urban population is reclaiming responsibility for the earth. By participating in Terre de liens (land links), citizens are removing land from the commodity market in order to secure access for ecological farmers.

Terre de Liens is a civil society organisation created in 2003 to address the difficulties faced by organic and peasant farmers in securing agricultural land. Land prices are high and the land market so competitive that access to land has become a major bottleneck for farmers seeking new farms or additional land to maintain their current activities. Terre de liens first supported collective ownership schemes, wherein farmers received contributions from their kin, consumers or local community to set up an investment business to buy their land. Since 2007, Terre de liens has also directly acquired farmland, which it holds in perpetuity for the sake of current and future generations. Terre de liens' land is let to organic and biodynamic farmers. To acquire farmland, Terre de liens has created two financial organisations: *la Foncière*, a citizen-based solidarity investment company; and *la Fondation*, a Land Trust officially recognised as promoting the public interest, which collects donations in cash or kind.

Through the Foncière and the Foundation, Terre de liens raised over €43 millions (≈NZD62 millions) and now owns 131 farm estates, amounting to 2450 hectares, where 164 farmers are working. This has been made possible by the support of 3300 members², 1300 donors, 10200 (mostly individual) shareholders, local inhabitants and local authorities. In just ten years, Terre de liens has made significant progress towards freeing land from the commodity market so that it can be preserved in sustainable agricultural production.

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² Terre de liens is a membership association, composed of one national association and 20 regional associations or offices, with 3300 individuals who have registered as members, and over 700 regular volunteers.

History

Since the 1960s, France has experienced a decline in its total area of agricultural land, due to land abandonment and conversion of farmland to non-agricultural uses³. In addition to the loss of farmland, there has also been a decline in the number of agricultural holdings because the dominant intensive agricultural model has tended to concentrate activity in a declining number of increasingly large farms⁴. As a result land prices have increased dramatically⁵ and young farmers have found it increasingly difficult to buy or rent land.

Access to land is a particular issue for the following groups:

- Newcomers, i.e. starting farmers who do not inherit farmland from their family and therefore have to acquire it. This group is becoming a major challenge as they represent an increasing share of new farmers⁶;
- Farmers who wish to create small farming units, with higher value activities (vegetable growing, organic farming, on-farm processing), which do not require big, intensive production. These projects are often not deemed economically viable, and hence usually fall outside subsidy and support mechanisms, and are not always welcomed by the agricultural community; and
- Farmers who do not wish to buy land, for personal, ethical or political reasons (rejecting private ownership, considering land as a common good), yet seek enough security of tenure to develop their activities.

One response for improving access to land emerged in the 1960s with the development of collective structures of farmland ownership (and management). In such situations, farmers called upon their families and friends to contribute financially to land acquisition and to thus becoming shareholders in small land investment companies. Two main statutes in the French legal system exist to support this type of arrangement: the Société Civile Immobilière (SCI) is the common statute for real estate investment companies; and the Groupement Foncier Agricole (GFA) is specifically for farmland. While SCI and GFA were effective in enabling farmers to settle, they were faced with several limitations:

- Collecting money. It is difficult to create trust beyond an inner circle of relatives and friends. In addition, it is not legal in France to make a public issue of shares without being registered with the Financial Markets Regulatory

Authority and such registration is very difficult to achieve;

- Shareholder turnover. Over time, the challenge is to find new individuals who share the same goals and values as the founding members and are willing to undertake long-term investment in farmland. In the long run, the unavoidable withdrawal of major shareholder(s) endangers the financial viability, or even the very survival, of the SCI or GFA; and
- Maintaining a lively and committed group. Beyond the start-up phase, shareholders tend to become less involved, undermining the purpose of the collective investment structure, or making it dysfunctional (e.g. inquorate General Assemblies).

In 1999-2001, RELIER⁷, a rural development association, convened a series of workshops to explore ways of overcoming the limitations of these collective land ownership models. It also addressed the need for farmland for new entrants wishing to engage in agro-ecological farming or alternative rural activities. These workshops brought together farmers engaged in collective land ownership structures, the organic and biodynamic movements, rural development specialists and the ethical bank La Nef. This collective dynamic led to the creation, in 2003, of the association Terre de liens. As defined by its founding Charter, its principal aims are:

- To preserve farmland and support access to land for economically, socially and environmentally sustainable projects, organic, biodynamic and peasant farming, pluriactivity in rural areas, by establishing new farmers and preserving existing farms;
- To promote solidarity and citizen dynamics to support these projects, including direct consumer-producer relationships, the sharing of capital and experiences between urban and rural, and local groups supporting the establishment of a farmer; and
- To put on the agenda the issue of access to land through concrete actions, including mobilising local authorities, fighting against land and property speculation, enabling citizens to have a say in land planning, or promoting green belts.

Over the years, Terre de liens has developed its local presence throughout France, to gather support and strengthen ties with local partners. It now has a branch in every Region and a network of 3300 members.

³ Between 1960 and 2007, France lost 5,1 million hectares in utilised agricultural area (UAA), i.e. 15% of its UAA of 1960. Source: Pointereau and Coulon, *Abandon et artificialisation des terres agricoles*, *Courrier de l'environnement de l'INRA* n° 57, July 2009.

⁴ From 2000 to 2007, the number of farms decreased by 24% (from 695 000 to 528 000 farms) and the agricultural workforce by 18%. Source: Agreste, French Ministry of Agriculture.

⁵ In 2013, a hectare of arable land cost, on average, €5750, with important discrepancies across regions, type of land, etc., up from

€3330 in 1990, i.e. a 170% increase in 23 years. Source: Agreste, Ministry of Agriculture.

⁶ In 2007, 43% of farmers are over 50 years old (up from 36% in 2000) and about one third of new farmers are newcomers. Source: Agreste, Ministry of Agriculture.

⁷ RELIER is a people's education organisation, whose aim is to promote exchanges between people, from all professional backgrounds, who choose to settle and live in the rural areas.

La Foncière Terre de liens, a citizen-based private company limited by shares

Initially, TDL's main activity was to advise and support farmers wishing to set up collective land ownership structures (largely SCI or GFA). At the same time, it was looking for a means to overcome the limitations of these structures as well as to make a significant impact on the land market to counter the commodification of land. The breakthrough was made in 2006 with the discovery of a little used business status: the 'société en commandite par actions' (SCA) or private company limited by shares, and the creation of such a company, La Foncière Terre de liens, in 2007. As a company, la Foncière can undertake public share issues to raise capital. As a company limited by shares, it creates two categories of participants: the shareholders, who provide capital and are liable only to the extent of the capital provided; and the managing partners who run the company and are jointly and severally liable for the debt. The status of the Foncière thus separates:

- those who own the capital: mostly individual shareholders, as well as few legal entities
- those who decide on how to invest it and run the company: this group is composed of the association Terre de liens, the ethical bank La Nef, and Sjoerd Wartena, co-founder and former President of TDL .

This separation ensures that the land bought by La Foncière is forever owned and managed to serve the long-term goal of the association: preserving agricultural land in good heart and sustainable production for the sake of future generations. The Foncière has two statutory bodies: the Supervisory Board, which is elected by the general assembly of shareholders and oversees the management; and the Investment Committee, a committee of experts appointed by the Supervisory Board, which studies every land acquisition and gives an advisory recommendation.



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La Foncière was created with an initial capital of €57,200, contributed by 47 shareholders. From October 2008 to March 2009, a first public issue of shares exceeded all expectations by raising €4 million from 2200 shareholders in only 5 months (the objective was to collect €3 million in 9 months). A second public issue of shares from October 2009 to June 2010 raised an additional €6 million.

The Foncière continues organising one public issue of shares every year. In addition, it also receives individual subscriptions for shares at any time of the year.

Initially a share cost €100; in 2013, for the first time, the share value was revaluated to take due count of inflation and is now worth €103 (≈NZD150). Shareholders are not remunerated for their investment (at best, they receive an interest rate equivalent to the inflation rate). Up to 2010, the main financial incentive for shareholders was that they were entitled to a tax rebate amounting to 25% of their investment in the Foncière . In 2010, a change in the tax system has nearly eliminated this tax rebate while the public issue of shares was underway. While it has slowed down the pace of share issues, only few shareholders withdrew their investment; while others re-invested, and new shareholders took shares. A lot of fund-raising happens on a local level, through grassroots activities (open days, fairs, farmers' markets, etc.); regular media attention and word-of-mouth also contribute to building the profile and visibility of Terre de liens. As a result, the Foncière's capital is steadily increasing, even without large national communication campaigns.

Since 2010, the Foncière also receives investments from company saving schemes, which has increased substantially the amounts raised, with legal entities now representing a fifth of the capital (€7.2 millions). In any case, a shareholder can, at most, own 5% of the Foncière capital. Half of the capital is owned by a third of shareholders who own between €1,000 and €10,000. This shows that the capital has been raised from a large number of medium-size shareholders who choose to use part of their savings to support the goals of TDL. As of December 2014, the Foncière has a capital of €41 million, owned by 10200 shareholders (the average subscription of individuals is €3,400).

With this capital, the Foncière buys agricultural land and buildings to enable new entrants to gain access to a farm, or to help established farmers maintain or develop their activity. The Foncière bought its first plot of land in February 2007. It now owns, or is in the process of buying, 118 farms, amounting to approximately 2200 ha and 150 farmers . All the farms are organic or biodynamic, or are in conversion. They are very diverse in size, production and organisation: most are small farms (less than 50 hectares), although there are a few large ones (100 ha or more); many are mixed farms or grow vegetables, while a few produce cereals; some are in fertile plains, while others are in less favoured areas or in green belts.

Most often, the Foncière is approached by farmers who wish to start farming and have found suitable land, or by farmers who are already established and have the opportunity to buy (whole or part of) the land they already farm. The Foncière buys land and buildings for projects as long as:



- they match the principles and goals set out in TDL's Charter;
- the farmers are ready to be tenants and do not wish to own the land;
- the farms are economically viable;
- the farms are sustainable, make agronomic sense, and respect the environment; and
- the farmers receive local support (such as local fundraising, the constitution of a group of supporters and/or consumers, or interest from the municipality).

The Investment Committee examines the project twice, first to determine its overall fit with the principles and aims of the Foncière, and then to study in detail how it matches the aforementioned criteria. The review by the Investment Committee is informed by in-depth reports and field visits conducted by the local branches of Terre de liens. The Investment Committee may express a favourable opinion (with or without conditions), reject the project or ask for additional information.

Once it owns the land and/or buildings, the Foncière rents them to the farmer. Initially, it offered a 9-year lease, which is the classic agricultural lease in France; it is more often offering 18-year leases or 'career' leases, to provide more security of tenure for farmers and to establish long-term relationships with them. Because the aim is to suppress speculation, TDL rents the land and buildings according to locally regulated prices. It thereafter maintains contact with the farmers, regularly checking the progress of the project, the development of activities, economic sustainability, and respect for the environment. It also intervenes where necessary to restore or upgrade the farm buildings and houses.

Decommodifying land in perpetuity: the Terre de liens Foundation

In 2009, Terre de liens created a Land Endowment Fund, as a precursor to a fully-fledged Land Trust, which came into being in 2013. While the Foncière collects investments and uses them for social objectives, the Foundation collects donations and resorts to not-for-profit statute and tools to decommodify land in the long run. Its stated mission is to protect agricultural land as a common good and to improve it in exemplary fashion (for example through the protection of biodiversity, soil and water, the management of sensitive areas and the use of renewable energies). It has three main activities: informing and mobilising individuals, local authorities and companies; collecting donations; and managing land and farm properties to protect and enhance them in the long run.

The Foundation receives legacies as well as donations in cash or in kind (land, buildings) from individuals and companies. As of December 2014, it has an endowment of over €1.9 million, brought by 1250 donors. It has acquired 6 farms and is in the process of acquiring 5 more as bequests or donations. As with

investment in the Foncière, individuals and companies who make donations to the Foundation benefit from a tax rebate. The Foundation is a Trust registered as being in the public interest, which requires a minimum endowment of €1 million and complex registration with the Ministries concerned (Agriculture and Environment). This recognition enables the Foundation's donors to be eligible for higher tax rebates. It is also a source of greater public visibility and trust, particularly with companies and public authorities. It is also key to being able to conclude public-citizen partnerships, wherein local authorities give land and/or money to the Foundation to ensure long-term preservation of farmland on their territory.

While the Foncière examines jointly the acquisition of the land and the project of the farmer who will farm the land, the Foundation has to conduct two separate analyses: deciding whether to accept the donation/bequest and on which terms; and finding an adequate rural project and farmer(s) for this specific land. The main questions regarding the donation/bequest are to determine:

- If it covers its costs (including conveyancing fees and major structural works);
- Whether the specific terms expressed in the will can be fulfilled in the long run;
- Whether the land can remain in agricultural use in the long run; and
- Whether it is an economically viable unit (the Fund managers must be aware of the risk of accepting small or disjointed plots of land that cannot be viable for farming).

In some cases, the land acquired by the Foundation is already farmed in accordance with its principles and mission; in other cases, the Foundation has to find new farmers to take over.

The Foundation truly embodies the core vision and long term goal of Terre de liens: freeing the land from the commodity market and speculation, considering the land as our common good and holding it in trust for the next generation, to ensure environmental protection and preservation of the agricultural use of land throughout the country. Albeit much smaller than the Foncière, it is thus a key component of Terre de liens. 😊

Part two of this article, More than a Land Trust: a Social Movement will appear in Earth Matters 15.