

International Biodynamic Association IBDA

Releasing the True Value of Land

The Land Market and new Forms of Ownership for Organic Agriculture

- a Shortened International Version -



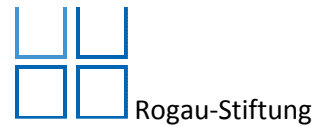
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0 Summary

The following study was commissioned in the summer of 2012 by the International Biodynamic Association (IBDA) based in Dornach, Switzerland and carried out against the background of a growing crisis facing the market in agricultural land.

By way of introduction an overview of the historical development of agricultural land ownership will be presented. The ending of feudalism with its system of peasant bondage and its replacement by the private ownership of land, has been succeeded during the twentieth century with a further restructuring of agriculture. It is a process which has resulted in farm tenancies becoming once more the norm. Within the biodynamic movement initiatives taken to hold agricultural land in trust were aimed at freeing the land from family linked inheritance and market speculation.

In chapter 2 the legal conditions pertaining to the land market will be described with particular reference to inheritance, freehold and leasehold. In chapter 3 a comparison of the land markets operating in Lithuania, France and Denmark will be made along with assessment of the problem of 'land grabbing' in poorer countries.

In chapter four the land ownership situation in Germany is summarised along with the results of a questionnaire that was sent to 78 organic farms concerning the land market in their neighbourhood.

Against this background the fifth chapter shows how the market in land is being affected by demographic changes. The connection between a land owning family and its land begins to loosen the moment one generation wishes to retire. The first generation which has usually grown up on the farm, leases it out and continues to retain ownership of the farm. The second generation (and in some cases also the first generation) have no direct personal connection to the land and sell it off. This 'loosening' process which typically takes place over two generations, means that today we are facing a whole wave of tenanted farm sales – a demographic echo of the restructuring that took place during the 1950s and 1960s.

With chapter 6 the second, solution oriented section of the study begins with an assessment of the ethical investment market which has been growing so strongly in recent years and a description of investors' motives and preferences.

Chapter 7 which is the heart of this study, presents over 20 detailed examples of new forms of agricultural land ownership and investment structures beginning with the charitable trusts that have been founded since 1969 and concluding with the modern partly commercial, agricultural shareholding companies. Examples are also taken from initiatives in France, Switzerland and Holland as well as in Great Britain, Italy and Romania.

At the end there is an evaluation of the criteria for setting up a suitable ownership vehicle. This demonstrates the breadth of possibilities ranging from outright purchase models that are financed by gift money (donations, grants) to those involving a redeemable investment of one form or another.

In chapter 8 of the German edition there is a presentation on the transfer of farms between non-family members and how retirement income can be guaranteed in connection with charitable agricultural land trusts. The traditional family based model for old age provision is not possible in the context of 'neutralised' property ownership. Many farms owned by charitable trusts have had to grapple with the challenges of generational transition. In northern Germany a number of options towards a solution have been worked out.

The ninth chapter looks towards the future and based on structural analyses, simple questionnaires and the evaluation of four decades of case histories, sets out to explore the key elements needed for a modern overarching structure for land ownership and farmland purchase. The legal vehicle provisionally called 'The Farmland Trust' must be able to draw in funding from beyond agriculture so that secure, long term and affordable leases can be offered to organic farmers. It must be able to facilitate links between

investors and the farm and at the same time operate in an objective and professional way. It needs therefore to reflect the requirements of a wide group of landowners.

A possible form for such a legal vehicle is suggested in this chapter: The land owner retains ownership, rent levels are set independently of interest on capital, the land is relieved of its speculative value. The farmer is then granted long term security of tenure in which to operate. Actual land use is separated from the distortions of the land market.

1 Introduction

Organic agriculture has evolved over the last twenty years from an exotic fringe activity to a globally recognised system of agriculture whose fundamental principles and future potential have been acknowledged in the IAASTD (world agriculture) report of 2008. The repeated financial crises are beginning to affect the stability of the agricultural land market. The collapse of American banks due to speculative mismanagement, the currency instability of the Euro-zone due to excessive sovereign debt along with the hope of profiting from worldwide food shortages has led private and institutional investors to buy up agricultural land. The resulting sudden rise in land prices in both poor and wealthy countries is depriving farmers of their land.

Against this background the current study aims to show how the land market currently operates and provides a basis for discussing and agreeing practical ways forward.

Starting point

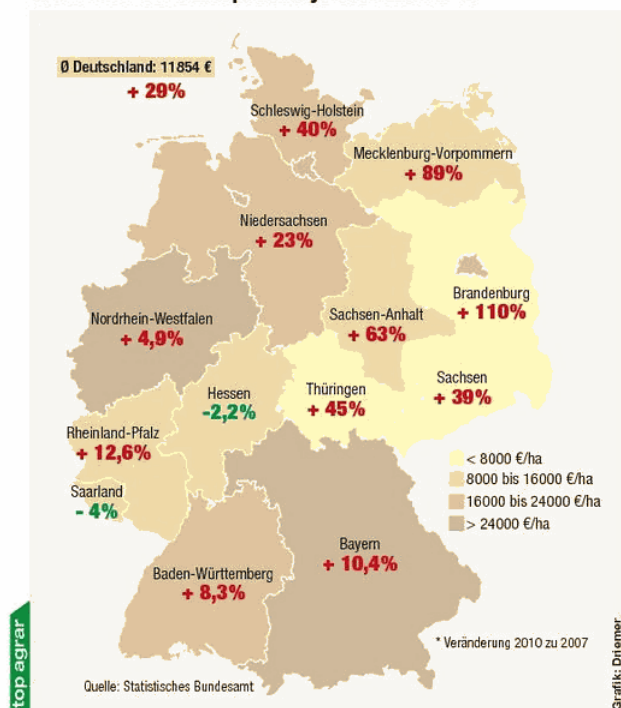
The starting point for this study is a shared recognition that land by nature is not a commodity that can be bought and sold and yet is being traded as if it were (JANITZKI 1989, PP29; HERMANNSDORFER 1997, PP 93F). This inevitably creates a tension that hinders the development of progressive structures within organic agriculture.

Farmers and consumers from several Demeter farms in Germany have worked together on this issue since the 1960s and with the help of lawyers, tax advisers and financiers from the then newly founded GLS Bank, have created new legal forms of land ownership. Land ownership rights were then usually transferred into a charitable trust which then leased the farmland to a farmer or group of farmers. People then come forward to support the farm and take on responsibility for the land on behalf of humanity. This simultaneously severs land ownership from the stream of inheritance and profit orientated investment.

Currently, because of the continuing global financial crisis and the boom in bio-fuels, the price of agricultural land in Germany and in many other European countries has increased dramatically. The adjoining diagram shows the cost of land in different parts of Germany and its percentage change between 2007 and 2010. Prices are rising particularly strongly in the east and north. The highest prices are still in Nordrhein-Westfalen, Bayern and Baden-Württemberg

The rental market has also been affected. Having been relatively stable in Germany between 1985 and 2005 the rental sector has since grown to around 60%. However, since the advent of the biofuel boom, rents have shot up. In some regions they have doubled or even tripled. Stable rental arrangements no longer exist. Those who are unable to buy their rented land are likely to lose it to financially stronger businesses or investment companies. Even the existence of well established organic farms is under threat.

Übersicht 1: Kaufpreise je Hektar 2010*



Besonders im Osten und Norden steigen die Bodenpreise. Das höchste Preisniveau herrscht weiterhin in Nordrhein-Westfalen, Bayern und Baden-Württemberg.

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In countries overseas, but also in Europe, these changes in the global market are leading to the phenomenon of 'land grabbing' whereby non-agricultural financial investors are buying up vast areas of land as a speculative investment and for industrial agricultural production - and in doing so destroying the livelihoods of the local population.

Property and Land

Property ownership plays a central role in the way our society operates. The country's constitution (Germany) declares: "The Right to property and inheritance will be guaranteed".

Property, freedom and the need for security are closely linked in modern life: Property guarantees that we can arrange life the way we want, realise individual initiatives and participate as an entrepreneur in the market place. With this, comes the right to dispose of the property, release its assets or reinvest them in another form of property. Such property rights reflect a condition of soul that is highly individualised and seeks independence from others.¹

On the other hand the German constitution (article 14 paragraph 2) states that with property comes social responsibility: „Property imposes obligations. Its use should also serve the common good“. The state determines what constitutes property: Ownership may be exercised over land but not over slaves. The limits to these rights are also determined in detail (e.g. nature conservation, protection of soil, prohibitions on ploughing permanent grassland). They change over time within the context of political decisions made by democratically elected representatives of the people.

Land ownership is thus a politically desired and legally regulated institution. The landowner can gift property to his/her descendants, sell it or pass it on in the form of a tenancy. The intention is for the resulting property market to serve both the interests of individuals and those of society as a whole.

Of course the way in which the property market has developed is not the result of some carefully thought through and wise design but the outcome of numerous legal amendments agreed over the last two hundred years. Land ownership laws thus bear the signatures of both past and present power structures.

„Freeing the land“

The emancipation of peasants in the 19th century meant that farmers could buy their way out of medieval serfdom and feudal bondage and hold land as private family property. The payments involved burdened the peasant families for two or three generations. The land readjustments that were being carried out at the same time meant that previously dispersed plots could be consolidated and added to the new private properties. The farmer was now free to manage his land independent of both gentry and village community. He could also pass the land on to his children, offer it for sale and use it as security to raise capital.

The reasoning behind peasant emancipation was the desire to make peasants responsible for themselves and to improve and innovate agricultural practice. This was accompanied by the founding of agricultural colleges. By changing these legal arrangements the landed gentry sought to provide their subjects with a better supply of food and enhance the overall economy while at the same time of course increasing their own income.

During the 19th and 20th centuries most family farms were 'freed' and became privately owned. Today when speaking of 'freeing the land' in biodynamic circles what is meant is freeing the land from private ownership: Land should no longer be either inherited or sold but passed on from farmer to farmer as a right to use. Such an arrangement means that farming is no longer undermined by land speculation and development pressures, fields are not sold off and suitable successors, who are not necessarily family

¹ Rudolf Steiner (1904 Theosophy) describes this as an attitude of the 'intellectual or mind soul'.

members, can be found to take on the farm. Removing the possibility of selling the land means that it is taken out of the stream of inheritance and held in perpetuity for organic agriculture.

Seen in this way private property is not a ticket to freedom as it was in the nineteenth century but rather a shackle to be removed. This reflects the soul condition of people whose ego consciousness has been able to extend into their surroundings and find fulfilment in their improvement and in the realisation of far reaching objectives. For such an attitude the concept of private property is too limiting.²

Peasant class, middle ages and the future

Under the feudal system 'being a farmer' was not a profession but a position in society. In the middle ages and at the beginning of the modern era the social order was such that a man born a peasant remained a peasant as did his children and children's children. With the new possibility for inheriting privately owned land another – unintentional – entry threshold was introduced: Inheriting a farm now became a condition for being able to practice farming. Whoever was not born a farmer could never become one unless they were able to buy a whole farm.

Later, with the arrival of the industrial and then the service oriented society, these fixed roles were transformed into professions that could be freely chosen as a basic human right. The farming profession however deviated strangely from this development: The sons and daughters of farmers were able to choose a career of their choice (leaving agriculture was instrumental in bringing about social change), those who were not farmers children however could not become farmers. Thanks to the ownership of land the medieval principle remains in force namely that a farmer must be born a farmer. (BAHNER 1995, BAHNER 2010)

Today, after two generations of social change and against the background of a shortage of motivated successors in both conventional and organic agriculture, the question has grown ever more urgent: How, in a society where entering a profession is a matter of free choice, can those who are not farmers' children find their way into farming? What stands in the way are land ownership and family inheritance rights.

UDO HERRMANNSTORFER (1997, S. 87ff.) has drafted a proposal for a new land ownership law, that allows for land to be transferred without being purchased and sketched out a political decision making procedure for its step by step introduction. It is an inspirational proposal and offers a good basis for discussion. However, since the ownership of land is so widespread across society, a freezing of land prices and their subsequent abolition would disadvantage so many property owners and therefore voters, that political change in Germany is neither likely nor under discussion. An open debate is going on in Switzerland. So long as laws relating to land rights remain unchanged however, practical alternatives can only be developed within the existing system. These need not contradict any future changes in land ownership rules and might stimulate public debate. This is our starting point.

Structure of the study

There are three parts to the study. Part one deals with how the property market operates starting with an exploration of the legal and regulatory framework in Germany. A comparative study is made of the property market in other countries along with the phenomenon of land grabbing. Some statistical data is then presented about the property market followed by some concrete observations concerning the situation facing organic farms. This was achieved with the help of a simple questionnaire sent to Demeter and Bioland farmers. The results are presented in detail. As an interim finding the situation in the property market is described from a somewhat surprising demographic point of view.

Section II opens with a presentation on the market for ecological investments and the motivation of ethical investors. There then follow some working examples of alternative models for owning and fi-

² Rudolf Steiner Theosophy (1904), describes this as a 'consciousness soul' attitude

ancing land and property. These are mainly, though not exclusively initiatives developing in Germany. The focus is expressly not limited to the biodynamic movement but includes the full breadth of organic and also conventional agriculture.

A second interim result is given in the form of a collective evaluation of the case studies with regard to aspects that seemed particularly new and relevant.

There is an additional presentation on the possible solutions to the problem of old age provision in the context of a charitable legal structure and new entrants to agriculture.

Finally in Section III after drawing together the various results, a new approach to the problem of land purchase is sketched out, a solution that builds on the what has already been trialled. It includes a gesture towards the investor as well as the landowner through which the monetary value of the land is retained without the tenant having to forgo his livelihood as a result of a sale.

The aim is to secure the long term rights of the farmer while at the same time having an ownership structure that holds the monetary value of the land in such a way that it can offer the landowner a 'bridge from an I to You approach': A means whereby the land can regain its commons characteristic in a new and modern way.

Opportunity and authors

The authors came together in connection with a specific land purchase situation. 15 hectares of arable land which had till then been rented, came up for sale on Heggelbach-Hof, an established 160 ha biodynamic farm in Baden-Württemberg, Southern Germany. Quick action was needed to secure this crucially placed piece of land for the farm. It was however clear to us that simply squeezing out the last economic resources to convert rented land into private property was not our objective. We had come upon a fundamental problem. What are the appropriate ownership and financing models for taking on formerly rented land? A community model was sought that would meet the needs of farmers, those of investors and the interests of banks as well as meet the legal requirements.

The present study was sparked off by a suggestion from farmer Christoph Simpfendörfer, a board member of Demeter International. The world wide federation of biodynamic associations was keen to address the land question and research the work carried out over recent decades on alternative forms of ownership and the all too common challenges associated with farm succession.

Thomas Schmid (farmer) set the process going by researching the land and property market, organising a simple questionnaire and bringing in a farmer's perspective. Ilsabé Zucker representing Mercurialis e.V., the charitable trust that holds Heggelbachhof, broadened the process through her networks. Matthias Zaiser, a farm consultant in north Germany, brought together a great many experiences relating to old age provision and farm succession. Xaver Diermayr who works in the ethical investment company 'Munich Venture Partners' shared his perspectives on finance and capital investment. Titus Bahner worked on the context of the land and property market from a legal-political point of view, brought in the international and historical aspects, drafted proposed new legal structures and formulated much of the text. Everyone shared case studies.

Alexander Schwedeler then invited the group to meet in the facilities of Triodos Bank in Frankfurt of which he is director and whose attitude inspired them to enter into a free and open-ended process to allow the future to take root on the earth, much in the spirit of Claus Otto Scharmer's Theory 'U'.

Part I: How the Land and Property Market Functions

2 The Legal context of the German property market

To understand the situation surrounding the market in agricultural land it is necessary to first of all know how the property market works. Different aspects of the property market will therefore be described as they apply under German property law.

2.1 Theory of the property market

2.1.1 Meaning and purpose of the agricultural land market

In neo-classical economics – which broadly underpins Western economic thinking – it is agreed that land is a resource that can neither be produced nor increased.

"With the market in land we are dealing with pure real estate. The question most strongly put with regard to this market is whether the distribution of land use can be left to market forces." (EKKHOFF 2006, PP2)

Although the finite amount available leads to higher rents (see below), it does not exclude the possibility of a market process. The purpose of the land market, that is the politically wished for tradability of land and property, is based on a competitive mechanism to optimise the use of the land from a macro-economic point of view.

"This essentially means that the best land use (that with the greatest macro-economic benefit) has the advantage in the free market because the one producing the highest yield from a particular piece of land can demand the highest price. Through this economic incentive plots of land tend to accumulate around the best / optimum user." (EKKHOFF 2006 PP.21)

A 'free market' only functions if there are many sellers and many buyers. Each piece of land is in its place unique, but:

"Nevertheless in sections of the market – for example plots of agricultural land, building land and also plots already built on – a close substitutional relationship exists between different plots of land.... So long as the plots of land owned are widely dispersed, competition to achieve the most productive use of land functions well among owners. There are of course within the land market, as in every other market, errors of judgement, preferences, and irrational behaviour among individual land owners. But because the landowners carry the costs and consequences of their decisions there is nothing (from a macro-economic perspective) to be concerned about". (EKKHOFF 2006 pp212)

Market mechanisms can in principle fulfil their role so long as the prices charged are based on the true overall costs of farming. There is a problem however if for instance prices

- ☞ are distorted by subsidies for biogas production which allow excessively high rents to be charged.
- ☞ or if certain costs are externalised and be picked up by society such as the decline in biodiversity due to the use of artificial nitrogen fertilizer (the price paid for nitrogen fertilizer does not include these social costs).
- ☞ or if land is used as a speculative investment (see below).

2.1.2 Ground rent and the price of land

Ground rent is the net annual profit arising from the use of the land, that is the profit (e.g. income from the harvest) that remains over once all costs including labour, rent and any personal capital investments have been deducted.

On owned land agricultural ground rent represents the maximum possible rent payment – with no profit element apart from the wages. Ground rent is retained on leasehold land once the rent has been calculated – this is what makes leasing the land economically viable.

The most important factor determining the value of a particular piece of land is the cash value (current value) of all future ground rent receipts. (EKKHOFF 2006, PP193). The calculation of future income is based on a discounted rate since future receipts are uncertain and are therefore of less value to the owner than cash in hand.

Thus if for example the expected annual ground rent is 400 €/ha and a calculation is made using a discount rate of 4% in perpetuity the cash value would be $400 / 0.04 = 10,000$ €/ha. That would be the price of land based on the expected income (earnings value).

From a business perspective the earnings value represents for the buyer, under non-inflationary conditions, the highest possible purchase price while for the seller it is the minimum price. (HLBS 2007)

2.1.3 Difference between market values and earnings values

The market value of land by contrast is dependent on current market prices. It is based on comparative values (HLBS 2007).

In many regions of Germany the market value is way above the earnings value. As described below the increasing cultivation of fuel crops and the growing interest from non-agricultural investors in land as an investment since 2007, has brought about massive increases in the market price of land.

How is it possible for the market and earnings values to diverge so strongly in a functioning market? A possible explanation lies in the 'value preservation function' of land. Whenever there is uncertainty concerning the future value of money in the investment market (for example in the financial crisis)

.... "the value preserving function of money is disturbed. In such circumstances anyone wishing to create a hedge against inflation will invest their capital in physical assets that keeps their value such as for example gold, houses (concrete gold) and land. At such times the demand for land becomes much greater than in periods of financial stability or when inflationary pressures are low and the price of land increases accordingly". (EKKHOFF 2006, 199)

The buyer wanting to invest in land takes account not only of the ground rent but also an expected increase in its market value. In the last few decades land values have developed unevenly in Germany but in times of crisis have always increased. The buyer makes use of a downturn and the likelihood of further increases in price – he speculates that land prices will continue to rise. This increases demand still further, makes land even more expensive and produces a self-perpetuating bubble of ever higher land values. The price of land then diverges so strongly from its true earnings value that it becomes unaffordable for agricultural use.

In this process the buyer relies on the belief that land values will remain firm. So long as nothing undermines this belief, prices will remain high: The land can be sold on at a similarly high price because other buyers also believe in it as a stable investment. It is not however backed by any real value. *Land is being treated as if it were money* – just like paper notes whose value is solely a belief that their face value will be redeemed on demand.

If land could not be sold but was for instance only available to rent, its 'value preserving function' would fall away and its market value would be far more closely allied to the earnings value.

2.2 Land markets in a federal system

To understand the functioning of the agricultural land market (both freehold and leasehold) in a more differentiated way, it is useful to consider property as a collection of disposal rights. There is for example the right to plant a crop on a piece of land and reap the harvest, convert arable land into forest or grassland (but not vice versa), fence off a piece of land, rent out or lease the land or sell it.

Land ownership is effectively a legal holding structure for disposal rights that may change during the course of time. On the one hand law makers may alter the conditions of ownership, thus in recent years the ploughing of permanent grassland has been increasingly prohibited. On the other hand regulations pertaining to specific areas can be changed too: It may be designated suitable for wind energy production (an increase in value), as a conservation area or be registered as a protected isotope where for instance the extraction of water is prohibited.

The allocation and defining of disposal rights takes place on a local/regional level. The basic principles regarding allocation and tradability are determined centrally on a national governmental (and partly EU) level. The definition of disposal rights connected to a specific property however follows a decentralised procedure within the context of local planning.

Planning is a political process that takes place on many different levels and has a direct influence on land disposal rights and hence on the price of land. The difference in price between farmland and building land is a direct consequence of planning decisions – the value of a field can increase by a factor of 50 as a result of the planning process without anything on the land having changed while anyone able to foresee or influence a planning decision can pocket the difference in value. Something similar can also happen in reverse if for example a piece of land is designated a conservation area.

The planning process therefore has as great an influence on agricultural land prices as the commodified property market for which it is a key facilitator.

Law making and administrative responsibility in Germany is shared between the federal government, regional states, counties and district councils.

The historical origin of this federal structure (in Germany) can be traced back to the 17th century and the re-ordering of territories at the end of the thirty years war. In the context of European integration all of the central European countries had evolved decentralised state structures and this meant that similar conditions existed in the countries adjoining them.

In the German edition of this study the national laws regulating property rights are described in detail. The principles of property law are determined at a federal level. These rights guarantee the right to own property and the right of inheritance but also emphasise the social responsibility that comes with property ownership. Other laws determine the role of the land registry as a proof of ownership and the requirement to inform it of all land transactions.

Other laws regulate the leasing and sale of land and define permitted uses in the context of local planning and the conservation of nature and the landscape.

Nature conservation

The implementation of EU Regulations and funding programmes are largely the responsibility of the regional states (in Germany) or regional councils in other countries (NUTS-2-level)³ Many of the funding programmes including those within the CAP Second Pillar (agri-environment programme) are implemented regionally in varying ways.

Implementation of the conservation regulations is a matter for the regional states in Germany and partly also for the county and district councils. EU Directives however also play an important role. The Flora

³ NUTS (Nomenclature des unités territoriales statistiques) is a uniform EU classification of administrative levels. In Germany NUTS-2 refers to regional states, NUTS-3 to the counties.

Fauna Habitat Regulation (1992) includes a list of 'priority habitats' (Annex I of the Regulation) and a second list of 'priority species' (Annex II) which are either under threat or limited in occurrence to very few regions. On the basis of these lists a Europe-wide network 'Natura 2000' was established. Protection of these FFH Zones is the responsibility of the various member states. The choice of measures to be taken is in their hands.

The dedication of protected areas has a direct influence on the market price of relevant plots of land. The economic development of an FFH Zone in the form of settlements, traffic or – in so far as it affects the conservation criteria – agricultural intensification, is only possible if it can be proven through an environmental audit that the conservation objectives will not be compromised or that there is some public interest in a particular measure. The creation of EU conservation zones means that land disposal rights are being withdrawn in favour of the wider public interest. The price of land then falls.

The admissibility of such incursions into property ownership is frequently furthered by the courts. It has evolved further as a result of case law with the result that within the context of property ownership responsibility, a loss in land value of around 20% must be accepted.

In conservation areas (national parks) the fall in land values are frequently higher. In several regional states (Germany) a form of legal compensation has been introduced. Areas in protected zones with restricted farming conditions are frequently purchased either by the public purse or by organisations dedicated to nature conservation. The land purchase agenda of a regional state can have a significantly stabilising effect on the price of land. Thus in the Eider-Treenesorge Lowlands of Schleswig-Holstein the price of land during the 1980s and 1990s was stabilised through the purchase by the regional government, of the local water meadows. This pro-active policy was a significant factor in making the designation of larger nature conservation areas more widely acceptable..

Development planning

Planning policy is developed at district and county level. Its purpose is to provide a framework for industrial and housing development as well as special building projects in the surroundings. This frequently results in a massive rise in the market price of the affected land. The value of building plots in the neighbourhood of towns and villages can increase by between 10% and 100%. Land values in the surrounding countryside can also increase – the creation of a wind farm for instance can increase values 100 fold or more. This increase in value of course usually takes place over many years or even decades. But the potential growth of a settlement can be foreseen causing market prices to rise in expectation of future developments.

The huge increase in value caused by this system of land pricing, results in in a great deal of political pressure being brought to bear on councillors to grant planning permission to a particular plot of land.

"The enormous profit making opportunities in the market for building land encourages landowners and investors to bring their influence to bear on municipal decision makers" (ECKHOFF 2006, 217)

On the other side citizens and environmental groups can also use political pressure to prevent planning permission and ensure that land is retained for agricultural use and prevent excessive increases in market value.

To sum up it may be said that the price of farmland (arable and pasture) on the open market is influenced on the one hand by the granting of planning permission that results in massive increases in price and on the other by conservation planning that limits usage rights and tends to decrease market values. Land for development is a double edged sword that takes land out of agricultural use but can provide development opportunities for other farms which can sell their land for a greatly increased price.

Conservation planning by contrast often goes hand in hand with organic management and the lower purchase and tenancy costs create favourable conditions for farm businesses that are keen to include nature conservation as part of their objectives. In many such cases organic farms are pre-destined to take on long term landscape management tasks.

2.3 The context of inheritance, land purchase and tenant farming in Germany

2.3.1 Inheritance

The law of inheritance in the Federal Republic of Germany provides for property to be passed on via a direct line of inheritance (children, but also parents, spouses, grand children). Through a Will signed by a solicitor however, it is also possible to include any other person or organisation in the legacy.

Inheritance tax is due above a certain tax free amount. This means the state takes a share of the assets. The amount of tax due depends on the level of relationship as the following table shows:

Value of assets	Tax class I				Tax class II	Tax Class III
	Partners / Spouses	Children	Grandchildren	Parents	Siblings	other beneficiaries
less tax-free amount of:	500.000 €	400.000 €	200.000 €	100.000 €	20.000 €	20.000 €
Tax rates for an estate						
up to 75.000 €	7%	7%	7%	7%	15%	30%
up to 300.000 €	11%	11%	11%	11%	20%	30%
up to 600.000 €	15%	15%	15%	15%	25%	30%
up to 6.000.000 €	19%	19%	19%	19%	30%	30%
up to 13.000.000 €	23%	23%	23%	23%	35%	50%
up to 26.000.000 €	27%	27%	27%	27%	40%	50%
up to 26.000.000 €	30%	30%	30%	30%	43%	50%

Inheritance and gift tax rates in Germany as from 1.1.2010
(source: de.wikipedia.org)

The tax table shows that the wealth transferred from parents to children and grand children (and in the interim also to spouses) is left largely intact. With sisters and brothers and even more so with beneficiaries outside the family, the state stands to gain a much larger share – up to 50% from an estate worth over 6 million Euros.

The same inheritance tax rates also apply to wealth transfers made during life. It makes no difference with regard to tax whether wealth is transferred before or after death.

This law of inheritance also applies in the context of agriculture. So as not to endanger a farm's existence during succession however, it is possible to place a low monetary value on the land and thereby keep it largely below the tax threshold. A farm can also be assessed for inheritance on the basis of its earnings value instead of its market value. The earnings value is determined from the discounted capital value of the farm's projected future income. The actual price of the land plays no role in this calculation. The pre-condition for assessing its value in this way however is that the farm is passed on undivided and continues to operate as a farm. Siblings receive proportionate financial compensation.

The possibility of inheriting a farm on the basis of its earnings value has for a long time only been possible within the family. Thanks to a reform of the laws on inheritance in 2008, a rule has been introduced whereby a farm can be passed on free of all inheritance and gift taxes on condition that it continues to operate as a business. The aim was to retain work places in small and medium sized and family run businesses.

Because agricultural farming estates also fall under this new ruling, farms can now be inherited by non-family members without their being complicated tax conditions to fulfil.

2.3.2 Farm purchase

The purchase and sale of agricultural land is regulated under its own specific law. Accordingly every completed purchase contract must be presented to a designated committee of the NUTS 3-Region (County Council). In Niedersachsen for example this committee is made up of 5 people elected by the County Council, three of whom are nominated by the agriculture department. This committee has to

ascertain whether or not the agreed sale leads to "an unhealthy distribution of land", that is whether it contradicts "measures to improve agricultural structures". This generally occurs when a non-farmer buys the land despite a farmer being able and willing to sign the contract of sale.

If this is the case, the farmer who is willing to make the purchase can exercise his pre-emptive right and enter into the contract under the agreed conditions.

The manner in which a privileged purchase order is authorised varies in its strictness from County to County. Due to the steady rise in land prices in recent years, the concept of privileged purchase has become the subject of intense discussion. A significant loophole in the law has become apparent through which a limited company can acquire shares in a large farm (mostly in eastern Germany) without needing approval from the committee. This means that the entry of non-agricultural investors into the agricultural property market can no longer be prevented.

Looking across the border it is clear that privileged land purchase is also an issue in other countries. The French land trust *Terre de Liens* can take on land in France if it can prove through its long term tenancy agreements that the land is really being bought for agricultural use. French tenants rights offer greater protection than German tenancy laws and equate with ownership rights even as far as the saleability of the land.

2.3.3 Tenancy

In Germany the law requires tenants to present their tenancy agreements to the County Council within one month of signing the contract. The tenancy agreement can be challenged, if the land is let out to a non-farmer and a working farmer urgently needs the land for his farm or if the lease "is not set at a rate commensurate to a stable level of income that may reasonably be achieved under good management". The regional states (Germany) can waive the requirement to register a tenancy agreement for land areas below a certain size (in Niedersachsen and Schleswig-Holstein it is 2 ha).

In practice however many tenancy agreements remain unregistered since there are no fines for non-registration. The whole thing is toothless. It is being suggested that the validation of a tenancy agreement should be made by registering them with the department for agriculture. That is likely to have the effect of damping down tenancy excesses – for instance the renting of land in order to operate commercial biogas plants. (BLG 2012, SIV 13FF)

2.4 Competitiveness of agriculture in the real estate market

2.4.1 Organic agriculture

To evaluate the competitiveness of organic enterprises and assess their room for manoeuvre on the property market, it is necessary to consider both the current market value of the land as well as its earnings value.

The following example from Schleswig-Holstein serves to demonstrate the relationship between the current price of the land and the hoped for return. In 2010 one hectare of agricultural land in Schleswig-Holstein cost on average 16,923 Euros. The annual cost of servicing an external loan to finance this purchase over a 30 year period would be 838.27 Euros based on an annual interest rate of 3.2%.

Set against this are the results of a survey carried out by the Institute for Agri-Economy at the Christian Albrecht University in Kiel on 53 organic farms across Schleswig-Holstein in the accounting years from 2006/2007 to 2008/2009. In 2011 they evaluated and compared them with similar results from conventional farms. (LATA CZ-LOHMANN ET AL 2011)

The average net profit of both organic and conventional farms was around 43,500 Euros per farm although the return per hectare on the organic farms was slightly less than the conventional ones which tended to operate on large acreages. If direct payments and subsidies are included the income on the

organic farms came to about 410 Euros per hectare while the conventional farms received 485 Euros per hectare.

It is clear from these comparisons how far (already in 2010) the market price of land has diverged from the real projected income from a given area of land. Neither of the agricultural approaches investigated could produce enough to service the original cost of land let alone produce a profit.

The way the land market is developing at present means that these differences can only increase. Organic farms are finding themselves in the situation of being unable to finance the purchase of additional land putting their future development in jeopardy.

2.4.2 Conventional agriculture

The same applies to the majority of conventional farms. Using the example of two well run farms in west and east Germany, the farming magazine "Top Agrar" states:

"The current conditions in Germany make it almost impossible to service the capital used to buy land. Even a farm with the capacity to raise 500 Euros in ground rent, cannot afford to pay 10,000 Euro / ha for land. And this at an interest rate of 3% and a 30 year credit period."

The purchase of a piece of land can only be considered if the capital element (the actual purchase) is cross-subsidised by another branch of the business or comes from the ground rent of an already existing piece of property.

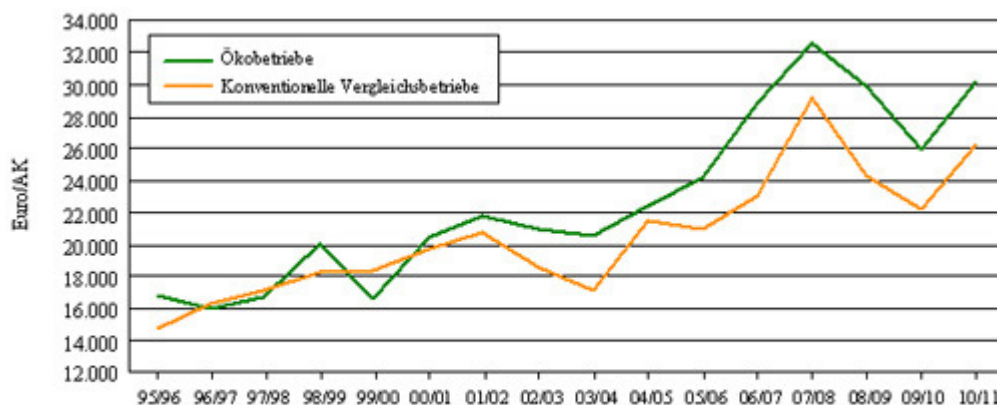
"Whoever would buy land needs to have land already" On well managed land the ground rent from 1.0 – 1.4 ha of owned land can cover the repayment costs of 1 ha of purchased land. Even then however a farm will be stretched to its limits and if interest rates rise during the long mortgage period, repayments will become unaffordable. (TOP AGRAR 2011)

2.4.3 Can organic agriculture compete in the purchase of land?

The available data indicates that the high price of land does not present a bigger problem to organic farms. On the contrary organic farms tend to be better placed economically than conventional ones:

"On average for the years 2005/06 to 2009/10 the income per business from the organic farms surveyed was 27 % higher than their conventional counterparts" (BMELV 2012, PP33)

This seems to be a long term trend. The following graph from the annual agricultural report compares the pre-tax profits of the organic and conventional farms in their testing network. In order to form a true picture the farms chosen were of comparable size and livestock density.



Quelle: Institut für Betriebswirtschaft des vTI auf Grundlage des Testbetriebsnetzes, WJ 1995/1996-2010/2011.

Comparison of the pre-tax profits of organic (green)
and conventionally (orange) run farms in Germany 1995-2011

Source: www.bmelv.de

Most organic farms in Germany are affiliated to producer organisations, primarily Bioland and Demeter (BMELV 2012a).

There is however more of a problem (for both organic and conventional farms) with farms producing bio-gas and which have a clear competitive advantage.

As far as the land market is concerned organic farms face much the same problems as conventional farms.

3 International aspects of the property market

3.1 *Fragmented property rights in post communist societies: Lithuania*

Lithuania, the southernmost and largest of the Baltic states regained independence in 1990 after fifty years of Soviet rule. In 1991 a process of land reform was introduced during the course of which a large number of former property owners had their land returned to them. Twenty years later this redistribution was more or less complete with 22% of agricultural land remaining in public hands⁴

The consequence of this land reform is that most of the land now belongs to landowners who live in towns and cities or who had worked for two generations in the context of state-run collective farms and have lost their true connection to the land. The re-distribution of land resulted – especially in west, east and south-east of Lithuania – in a patchwork of very small disconnected plots. Thus if a village resident was returned three hectares of land one hectare might adjoin the house, the other two however could lie anywhere within the parish boundaries. Between the various allocated plots there were often abandoned ones whose owners had either not yet been identified or else had no interest in managing it. The subsistence farming practices on which the distribution of land had previously been based, no longer exists. The many farmers who reclaimed their small holdings of less than 5 ha in the years after independence and who were interested in subsistence farming, were already over sixty years old.

Despite this very fragmented ownership picture many Lithuanian farmers have been able to create viable agricultural holdings by purchasing or leasing additional land. A large part of the country's agricultural land is now made up of farms of between 5ha and 30ha. Production and also consumption is largely oriented towards the global market and there is virtually no local produce available in the villages. Amongst the conditions included in the 2014 EU Accession Treaty is an agreement to permit the sale of land to foreigners. A wave of external investors can therefore be expected to take advantage of the comparatively favourable price of farmland – currently 1,000-2,000 Euros/ha – in a favourable climate and in a politically stable country. A steep rise in land prices will no doubt follow.

3.2 *Moderate prices in a regulated land market: France*

The price of land has also risen in France during recent years but, at around 5,000 Euros/ha it is still at a level considerably below that of most other European countries. Land rents are also significantly more favourable. The reason for this is a strongly regulated market in agricultural land.

The French rural code has enshrined in law, a right of first refusal for (active) neighbouring farmers to purchase the land at a fixed price based on its earnings value.

The law is implemented via the County (NUTS-3-Regions) agricultural department together with the regional charity for rural planning (SAFER⁵) which was set up in 1960 to promote increased agricultural productivity. SAFER is active in three areas: It develops expertise and makes recommendations concerning the land market; it maintains a detailed database on the price of land; and it purchases, holds and sells land in the context of agri-political objectives. Included amongst these objectives since the foundation of SAFER has been the setting up of new farms for young farmers including those that don't come from a farming background.

In order to put these aims into practice SAFER also has, along with neighbouring farmers, the right of first refusal on all agricultural land. This right however can only be exercised under certain conditions

⁴ The source of all information in this section comes from: Jokubauskas 2011

⁵ Societe d'aménagement foncier et d'établissement rural - Rural Planning Association

and with the agreement of the Ministry of Agriculture. Since 1999 SAFER has been buying land not only from an agricultural perspective but also from an ecological one and with nature conservation in mind.

Whenever land is sold in France it must be registered with and approved by SAFER using a solicitor. SAFER is in this way able to challenge both the sale price and the person buying it. Changes would then need to be made to the sales contract and it could only gain approval when the price is reduced to the level recommended by SAFER and/or is sold to a SAFER approved buyer. This would generally either be an active local farmer or a new, young farmer.

The decision making committee of the regional branch of SAFER that addresses these questions (technical committee) is usually determined by local representatives of the farmers union, who tend to speak for the 'growth orientated' farmers. This means that the operation of the land market is determined by local farmers. The shadow side is that they can also keep access to land within their own narrow circle and stand in the way of for example a young farmer coming from further afield or bringing a non-conventional (organic) approach. "There are many bad examples of this"⁶ The Decision making committee needs to be democratically elected in order to ensure a more objective approach.

The leasing of agricultural land in France can only be negotiated within a prescribed regional framework. Back in the 1950s the productivity of the arable and grassland areas in each County was calculated and from this an appropriate rental charge was determined. Until 1994 the rents charged corresponded to their equivalent in for example a hundredweight of wheat. Translating this into monetary value was carried out on an annual basis using an index that set out the minimum and maximum rent that could be charged based on the increase in price of various agricultural Products. This system was abandoned in 2009 in favour of a uniform national index that nonetheless continued the regional practice of setting maximum and minimum rent levels. This index (Basis year 2009 = 100) takes into account not only changes in the price of agricultural products but also the general rate of inflation with a weighting of 40%. This takes into account the interests of the landlord and ensures that rents don't automatically fall each time the global cereal price falls.

The amount of rent due within the tenancy agreement is adjusted each year in line with the published index. The landlord does not know at the beginning of the tenancy year in October how much rent he will receive over the coming year. The index for the current year is published in July and the tenant then pays the adjusted rent for the year in September once harvest is complete.

3.3 Land market and farm succession in Denmark

The guiding principles of Danish agriculture can be summed up with the words: Independence, Enterprise and Cooperation (TREDE 1984)⁷. Supplying the global market is a matter of course for the Danish farmer especially grain, oil crops and pig meat.

There are no specific agriculture related inheritance laws in Denmark. In the event of there being no Will and Testament a farm will be divided equally among the children. This of course very rarely happens. The general rule is that the one who inherits the farm like will, any incoming farmer, buy the farm. Building societies part finance the purchase by providing a 70% mortgage with the remainder coming from the buyer. Working capital for buildings and machinery comes from bank loans.

The farm is transferred at its market value. Hidden reserves in the form of an accrued increase in land value since the farm was taken on are also included and need paying for by further external finance. On average a young farmer in Denmark starts out with a mortgage and bank loans amounting to a capital debt of 85%.

The positive side is that those from a non-farming background face the same social and financial conditions as the children of farmers. Those who become over indebted, insolvent and terminate their busi-

⁶ Personal communication, Sjoerd Wartena 2012

⁷ Source of all further information in this section: THOMAS ET AL 2006, p. 91 ff.

ness are not socially ostracised. There is no clawing back of wages in the immediate aftermath of insolvency.

Retired farmers like all other pensioners in Denmark are supported by a (small) state pension and a private pension to which they have contributed during their working life. They leave the farm and join the local village or town community to become normal pensioners.

Out of the ordinary farms e.g. organic farms, find it more difficult because banks look primarily at the personal qualifications of the farmer and therefore any concept they don't readily understand causes them to raise the risk factor. It is common for conventional German or Dutch farmers who have sold their farm at home for building to invest in one in Denmark.

3.4 Land Grabbing and the issue of property rights in the developing world

The term 'Land Grabbing' refers to the practice by corporations and governments of buying up land in poor countries to grow food and fuel for the global market. In the process the local population are often robbed of and forced to abandon their land and livelihoods. Particularly strongly affected are Africa and South America. Eastern Europe (Romania, Ukraine) are also subject to land grabbing. In 2012 the amount of land acquired in this way was an area six times the size of Great Britain. Between 2000 and 2010 areas of land the size of London were bought up every six days. (OXFAM 2012) There is very little transparency concerning the contracts of lease or purchase and little reliable data. (MASSMAN 2011)

Land grabbing is made easier in situations where there are either no written land rights for the existing population or – more frequently – the land rights are not enforced due to a corrupt political and legal system. Governments then sell or grant rights to use land that doesn't belong to them.

The industrial countries assist land grabbing indirectly by influencing the countries concerned to strengthen private property rights at the expense of community rights. This occurs for instance within the context of the investment and advice provided by the world bank. Oxfam, the aid organisation is therefore demanding that the world bank terminate all negotiations with regimes intent on selling off land to the detriment of local livelihoods.

At first glance land grabbing appears to have little to do with the situation in central Europe where land use and ownership rights are clearly defined.

A link is created however via the market in food. So long as consumers take no responsibility for the origin of their food and the social conditions under which it is produced and continue to choose according to price, supermarkets will use all means at their disposal to gain market advantage over their competitors by reducing costs. In extreme cases this includes acquiring land without any consideration for the social, cultural and ecological consequences – something they can only do if consumers remain unaware.

In the case of biofuels which the EU requires to be mixed into the fuel, consumers have no say.

This leads to a second causal link between industrial countries and land grabbing in the developing world. The world agricultural report (AASD 2008) commissioned by the World Bank has shown that the globally orientated intensive agriculture based on the import of fertilizer, seeds and machinery, is far less able to secure sufficient food for a growing population, particularly in the poorer regions of the world, than a regionally focused agriculture and food distribution system.

A further aspect connected to the phenomenon of land grabbing is that intensive agriculture is not only technically unable to solve the world's food problem, it is exacerbating it by driving the local populations away from their own food resources. This driving away of people from their land occurs at least in part quite legally through the purchase or long-term leasing of land by for instance Delmonte in Kenya to cultivate pineapples. Then after fifteen years of cropping the land is left impoverished. (MASSMANN 2011 PP.7)

The paradigm of a global market orientated around intensive agriculture applies as much there as it does here. Consumers are supplied through a market that is blind to the social and environmental commons. Through this blindness land grabbing occurs.

The alternative approach offered in the global agricultural report is about the regionalising of economic relationships on a scale that encourages human self determination, transparency and responsibility. Land rights and the structure of society will in future become inseparable. It means however that instead of allowing blind market forces to operate, groups of people will need to consciously associate and work with one another....*this vital step in development is what lies behind today's concept of networking.* (HERMANNSDORFER 2011).

Creating such conditions within a world of global free trade and in which national trade restrictions have (rightly) been lifted, is no easy matter. Within the central European context this means the development of 'Community Supported Agriculture' of farms that are integrated as 'centres of culture' within their social and economic surroundings and which can provide their region with something the global market can never deliver such as environmental conservation or education.

Such farms require an innovative approach to property ownership and finance. These models can prevent the phenomenon of land grabbing but are only in their early stages of development.

4 The agricultural land market in practice

4.1 The land market situation

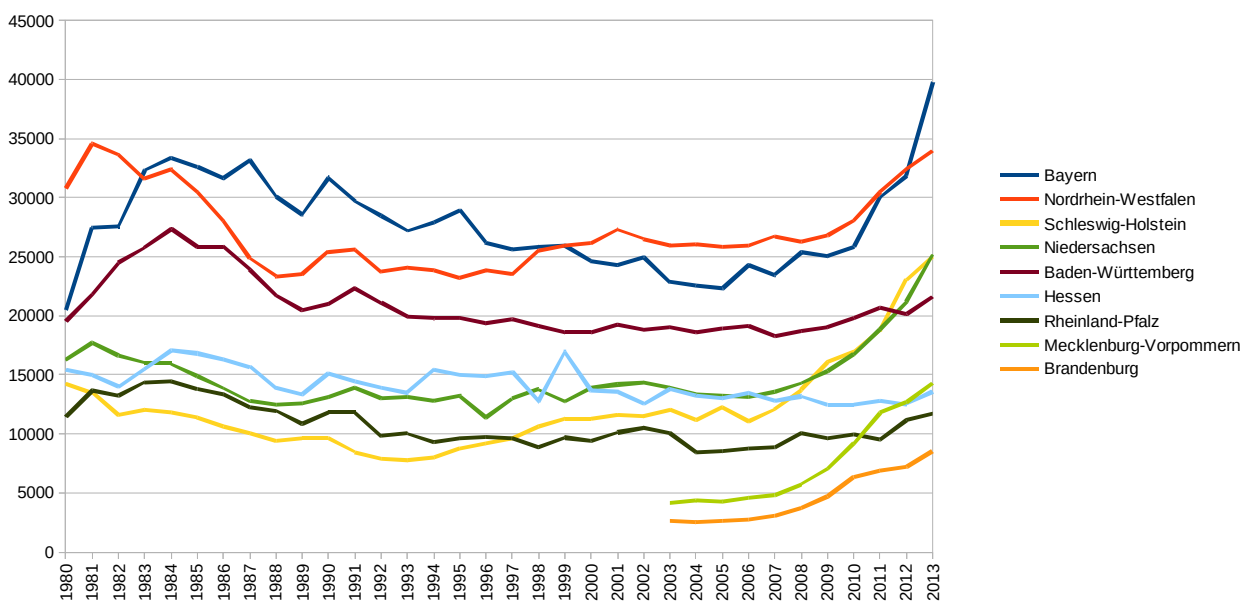
At this point in the German edition there is a sixteen page detailed examination of the current agricultural leasehold and freehold land market in Germany. This is summarised below:

- ☞ Although there is no up to date statistical data to show it, agricultural land makes up around 80% of all personally owned private property. Well over half of this belongs to landowners with no more than 100 ha.
- ☞ As elsewhere in Europe the number of operating farms has fallen drastically over the last decades. The average size of farm in Germany is around 60 ha ranging from 31 ha in Baden-Württemberg to 290 ha in the East. A third of all German farms is found in Bayern. Around 60% of the agricultural land is leasehold.
- ☞ From 1962 – 1976 the price of land rose with inflation but remained constant in real terms. Following the oil crises of 1973 and 1981 and the connected global economic crises, there was a jump in the price of land. There was clearly a move by investors during this time to take their capital out of the stock market and invest it in land and real estate. This increased demand for land drove the price upwards.
- ☞ European integration intensified from 1983 as the EU began preparations for introducing the Euro in 2001. Increasing monetary confidence meant that it was more profitable to invest in the financial market. The demand for land then declined and the next 20 years saw a 15% fall in the price of land.

4.2 Rental and purchase price levels

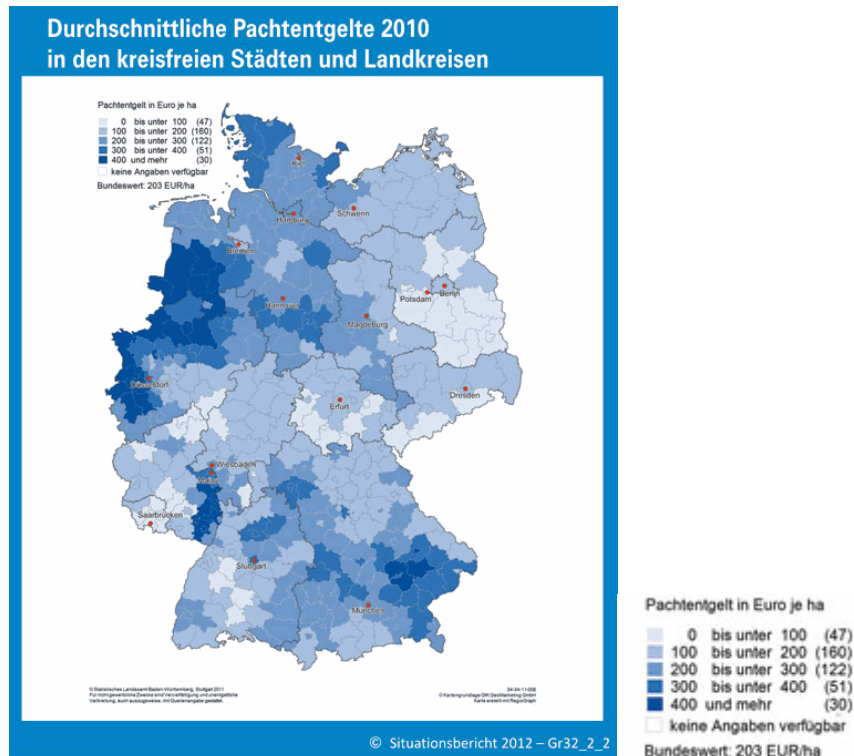
The following graph shows the long term price trends in the western German states in EUR per hectare. Apart of the general development of land prices, regional differences are also quite striking.

Changing land prices in various regional states



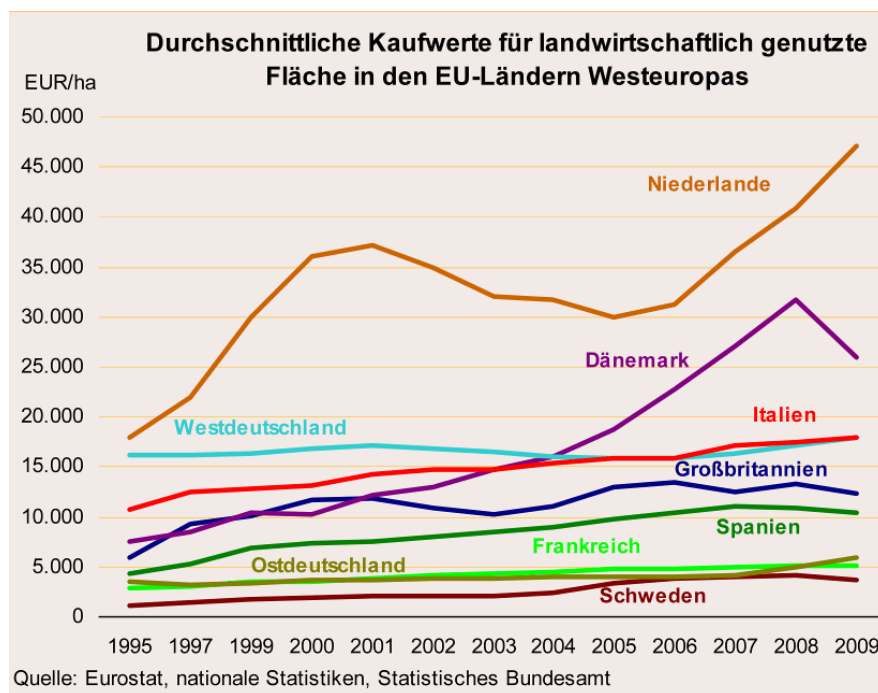
Source: www.agrar.de/de/pachtspiegel_Bodenmarkt.html, Federal Office for Statistics

Rent levels also varied greatly region to region as is shown by the following map:



Average rent levels in the rural districts and counties

Land prices in neighbouring countries have also risen strongly over the past few years. They do however vary quite considerably. This is due to the different ways in which the land market operates for example in France.



Average market price of land in EU countries

Source: www.bodenmarkt.info (Eurostat, Offices for National Statistics)

The rapid increase in land prices since 2007 has been caused – alongside the steady increase in demand for food and fuel plants – by:

- ☞ The allocation of agricultural land to residential and road building projects and the associated compensation measures continues to grow by around 90 ha per day.
- ☞ The levy imposed on electricity consumers in Germany to support the production of electricity through bio-gas, has led to massive rent increases in the vicinity of these plants.
- ☞ A tendering process introduced in 2008 to facilitate the continued privatisation of previously state owned land in east Germany has resulted in steep increases in price.
- ☞ Non agricultural investors are increasingly active in the land market. One third of all the land sold in Niedersachsen in 2011 went to non-farmers.

4.3 Survey of organic farmers

A simple questionnaire was circulated among biodynamic and organic farmers concerning land sales in their area. 78 of them returned detailed information. About half the farms had bought land over the last five years and half of them expected to purchase land in the coming five years. Both freehold and leasehold prices had risen strongly everywhere.

It was interesting to note that the lessors and sellers of land were primarily those who had inherited land and since given up farming. The sale or transfer of land took place locally - an impending sale or lease of land became known via landlords, neighbours and colleagues.

A detailed evaluation of the answers is documented in the annex.

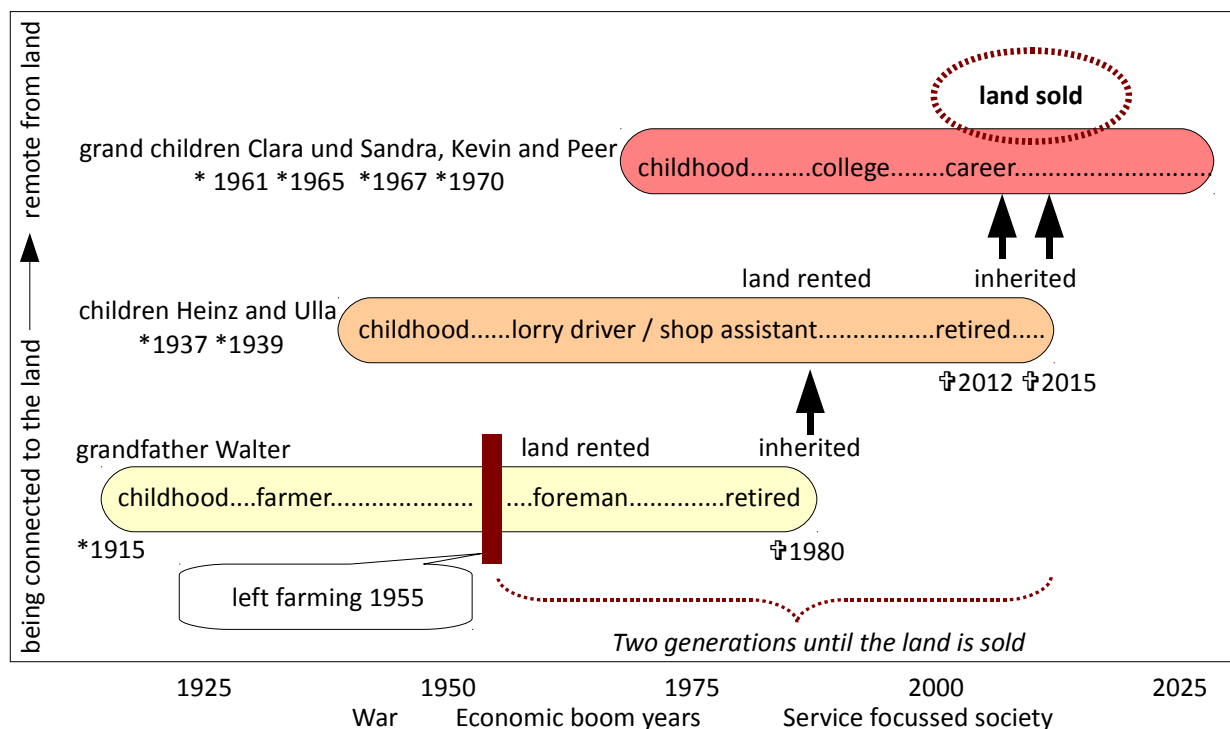
5 Interim result: A changing land market

Following an analysis and evaluation of the available statistics and especially of the survey we undertook, it has become clear that the land market is being affected by underlying demographic changes. The current financial crisis and bio-gas boom, though severe in effect, are nonetheless passing phenomena.

From a historical perspective existing land rights reflect the situation that existed in the second half of the 19th century when farmers were given the opportunity to own their own land. Farmers were then provided with a legal foundation for inheriting their land ('the farmer's land in the farmer's hand').

With the development of the industrial society during the 20th century and later on of a service based one, the right to lease agricultural land changed from being a rare occurrence to a normal state of affairs. It could also be assumed that the tenant and landlord knew one another within the village community and that the landlord had an interest in maintaining and caring for the land which he had himself managed or inherited from his parents.

The generation of those who had left farming and their successors were gradually succeeded by the second generation as the following diagram shows:



In our fictitious family the grandfather gave up farming in 1955 at the age of 40 during the boom years of the young Federal Republic, took up well paid work in the building sector and let out his land. His children Ulla and Heinz had grown up on the farm. They still felt connected with the land and so when grandfather died in 1980 there was no question of selling the land and so the lease was continued.

The four grand children, born in the 1960s went to study in the cities, developed very varied careers and started families far away from one another. What could they do with the land they inherited when their parents died in 2010?

They had not experienced their grandfather's farm themselves, were no longer living near the place, had no personal connection to the land and saw it primarily as a valuable asset that provided a limited rental income. Perhaps in view of this situation the parents had already sold the farm since it is easier to divide the asset amongst their children in the form of money. There is a greater readiness in the grand children's generation therefore to consider selling the property.

The practising farmer is connected to his land. When farming is no longer carried on, the ties to the land start to loosen. Then after about two generations (60 years) all connection with the land disappears and the land is put on the market.

Today's farmers experiencing a kind of in a demographic echo of the structural changes that began during the 1950s, face a wave of former tenant farms coming on to the market in the coming years and decades.

For this scenario however the German land ownership laws are unprepared. A well regulated land market as it exists in France with the right of first refusal for neighbouring farmers and a sales price based on a farm's earnings value, allows fair access by farmers to agricultural land. With the market value of land in Germany often three or four times as much as that of a capitalised tenancy, a farmer has no chance. Tenancy rights offer him no protection in this situation. Non- agricultural capital is then drawn towards the purchase of this land and the question is: What attitude does the new owner have towards the management of the property? As several of the following case studies show, this is usually about the maximising of profit which in turn results in the rationalisation of agriculture and / bio-gas production. A situation arises that did not exist before whereby social and ecological costs are increasingly borne by society as a whole. Non-agricultural capital has no interest in embedding property in the local ethical and social context.

A counterweight to this development can only be created by developing new forms of community participation that make it possible for non-agricultural capital to work in a positive and ethical way in the field of agriculture. Local citizens should be able as stakeholders to take on leasehold land as and when it becomes available and secure the economic foundations of socially and ecologically committed farms in the region thereby underpinning the contribution they make towards the common good.

Many examples of possible community structures have been developed over the last 40 years in Germany and in other neighbouring countries. These will be presented in the following pages. A general lack of imagination on the part of land owners strongly tied to the land makes the development of a more appropriate and progressive approach to land rights more difficult.

Part II: Possible Solutions

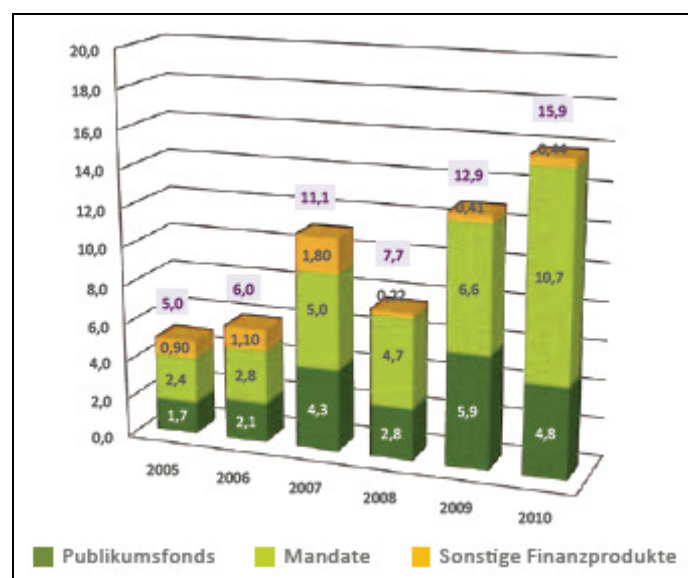
6 Interest of investors in the community financing of land for organic farming

There is currently no direct evidence to suggest a willingness on the part of investors to invest their money in land for organic farming. In order to gather indirect evidence however we will consider more closely the social/ecological and sustainable investment funds, the development of alternative banking in Germany and the investment priorities of private investors as well as some examples of community financing.

6.1 The demand for sustainable investment funds and stocks in Europe and Germany

According to the European Social Investment Forum (EUROSIF 2010), sustainable investment funds on the European market (SRI Socially Responsible Investment) grew from around 2.5 billion Euros in 2002 to 5 billion Euros in 2009, an increase of 100% of which about 75% had a very broad ethical remit (e.g. excluding specific categories, or bringing about ecological and social improvements to a company through the use of shareholder rights). This broad SRI approach is applied principally by institutional investors such as pension funds. Sustainable funds currently make up about 10% of the European investment market – due largely to the Dutch market whose high level of ethical investment (around 30%) drives up the overall average.

The volume of publicly traded ethical stocks and investment funds in Germany is currently close to 16 billion Euros according to the Forum for Sustainable Investment and yet makes up only 0.9% of the total market. The investment criteria are however more strict (ecological-social evaluation of companies, criteria for exclusion, 'best-in-its class' approach). With the exception of 2008, the volume of ethical investment products on the German market has been developing strongly since 2005. It is noticeable however that the volume of public investment funds (primarily private investors) has barely reached pre-crisis levels while charitable funds (mainly churches and trusts) have seen significant growth.



Ethical public investment funds, charitable funds and other financial products in Germany (in billions of Euros) Source: FNR 2012

6.2 The number of customers and amount invested in alternative banks

The GLS Bank and the Umwelt Bank are the two largest alternative banks in Germany and only finance ecologically and socially responsible businesses. The growing number of customers and the increasing amounts being invested indicate how citizens are seeking a more responsible way of managing their money. Between 2006 and 2011 the number of customers in the two banks more than doubled (from 104,000 to 210,000) and the amount invested by customers rose from 1.2 billion to 3.3 billion Euros – nearly three times as much (GLS-BANK 2012, UMWELTBANK 2012). The amount invested in alternative banks also increased significantly on a European level. Triodos Bank with branches across Europe saw investments rise from 1.6 billion Euros in 2007 to 3.7 billion Euros in 2011.

6.3 Priorities of investors when making investments

One result of the financial crisis was that investors in Germany shifted their investment focus from high returns to greater security. Numerous surveys carried out on the attitude of German investors (portfolio-international.de2012/04) have confirmed this. Two thirds of investors place security of investment at the top of their list of their priorities. The second most important issue shared by 22% of respondents, is that of flexibility. Only 8% saw the highest possible return as the most important objective. This figure was twice as high the year before. Private householders take a similar approach by investing heavily in savings accounts (79%) followed by building societies (57%), fixed term accounts (45%), share accounts (34%) and stock trading accounts and pension funds (22% each) (portfolio-international.de2012/05). For this group ethical considerations play only a marginal role when it comes to investments.

6.4 Indicators of the growing interest in community finance initiatives

Community financing is a relatively new arrival in the field of investment and there is as yet no standardised approach. An essential element is that citizens make capital directly available to specific projects without using a bank. Money can be transferred directly by joining a cooperative or specific project association, writing special profit sharing agreements or setting up a normal loan.

There are many reasons for wishing to invest directly in projects: The promotion of specific causes (e.g. renewable energy, organic farming), developing local links (e.g. village shops), knowing where one's money is going etc.

Here are three examples of the new trend towards the direct financing of citizen initiatives:

- Energy cooperatives are the main drivers in the move towards renewables in Germany. Their number quadrupled between 2010 and 2012 and today there are over 500. More than 80,000 people have a stake in community run renewable heat and electricity plants. The majority of these are in solar energy for which only small amounts of investment are needed. Up till now around 800 million Euros have been invested via renewable energy cooperatives. (AEE 2012)
- Crowd funding (for donations) and crowd investing (for investments) are new financing tools arriving from the USA: New businesses or cultural initiatives (e.g. start of new businesses, products, films) are financed through a variety of internet platforms (e.g. kickstarter.com, startnext.de, seedmatch.de). In the USA the volume of investment has already reached 128 million dollars per year. In Germany 460,000 Euros were raised via crowd funding (640,000 Euros in the first 6 months of 2012); with crowd investing 450,000 Euros were raised in 2011 (1.4 million Euros in the first 6 months of 2012).
- Direct financing of farms by customers and supporters: There are no statistics but more and more practical examples. Customers and local supporters are providing capital to their farms via profit sharing arrangements or loans and earn interest on it in the form of farm produce. Other examples of community financing are described in the chapter on case studies.

6.5 Conclusions

The consistent ethical investment of money remains a small niche market. However within this niche market ever larger sums are being invested in ecological and social businesses and projects. The main concern of investors continues to be the security of their investments followed some way behind with that of flexibility (Money invested needs to be easily withdrawn again). The desire for a high return has a lower priority – at least for the time being – than security and flexibility.

The direct financing of ecological and social initiatives by the public certainly has the potential of raising significant sums so long as the afore mentioned investment criteria are taken into account.

7 Existing attempts at solving the land ownership question

The private ownership of land and property is a key aspect of today's social structure and therefore also affects access to agricultural land. Different forms of land ownership are presented in the following chapter. These range from property held in charitable trusts for biodynamic farming communities, to institutions serving the public good through a concern for regional, ecological or conservation issues right through to profit orientated investment companies. The business data of the various organisations are described along with their motivation and activities with regard to land ownership, details of their financial arrangements and the relationships between investors and the farms (in so far as this can be shared).

7.1 Farms owned by charitable trusts

The transfer of a family owned farm to a charitable trust is an idea which continues to engender much discussion. It is an idea however which has enabled organic farms of many kinds – especially in the German speaking world – to grow and develop strongly.

Pioneers of biodynamic agriculture were the ones who developed the idea of the charitable ownership form with the strong support of Ernst-Wilhelm Barkhoff, one of the founders of the GLS Bank and GLS Trust in Bochum. In 1969 after a great deal of effort and legal wrangling, ownership of the first biodynamic farm was transferred to the 'Landbauforschungsgesellschaft' (Agricultural Research Association) that had been specially set up for that purpose.

Rudolf Steiner's suggestions concerning social three folding and particularly those concerning the role of land and property, played an important part in this development (JANITZKI 1998). The fundamental understanding that land cannot be lent or sold as a commodity, but rather provides the existential basis for each and every human being, led to the search for a new way of approaching land and property. The buying out or gifting of farms neutralises ownership and opens the way for community management. This new organisational structure simultaneously opens the door to newcomers, facilitates non-family succession and encourages new links to be developed with the surrounding community. The foundations are thus laid for an agriculture which can be carried by a wider circle of people and be linked in with wider social and cultural tasks.

During the succeeding decades these ideas took hold ever more strongly among biodynamic farmers and today some 80 farms have adopted this organisational form in Germany. (ZSL 2008, S.25).

A wide range of successful practical examples confirm that this organisational structure holds special potential for the development organic agriculture. The principle of ownership by a charitable trust remains as valid today as it was 40 years ago.

7.1.1 Associations for agricultural research: Bauckhof farms/Sottorf

In 1968/1969 the first farms in northern Germany – Buschberghof in Fuhlenhagen, Bauckhof in the Lüneburger Heide and Ehlershof to the north of Hamburg – were transferred from private family ownership into a charitable limited company (gGmbH), a new legal form at the time (GENGENBACH 1989a). The Bauckhof example is described below.

Business data

The Landbauforschungsgesellschaft Sottorf mbH (LBFG Sottorf mbH) is the ownership vehicle for the Bauckhof farms. This charitable limited company currently has 19 members who are constitutionally responsible as trustees for the original capital. LBFG Sottorf mbH had 3,668,000 Euros of fixed assets on its balance sheet in 2011 and an annual turnover of 307,000 Euros from rents, donations and project money coming from research grants and public funding.

The trust was gifted 178 ha of land and three farm steadings from the private property of the Bauck family. The farms in Amelinghausen, Klein Süstedt and Stütensen lie within a triangle between the towns of Lüneburg and Uelzen some 40 km apart from one another. Three independent businesses have been developed on these sites each with a differing focus of activity: Special needs education, general education and food processing & marketing. Eighty people are employed within the eight trading companies of the Bauckhof farms (not including the Bauck Whole Food Mill GmbH & Co. KG) that operate in the fields of agriculture, food processing, trading, social therapy and energy production. Together they generate an annual turnover of several million Euros.

Description of activities

As the name Agricultural Research Association suggests a key objective of the trust is to support biodynamic research. Through the pioneering work of Dr. Nikolaus Remer and since the nineteen nineties that of Dr. Ulrike and Raimund Remer, active farm based research has been carried out bringing benefits to a wide circle of people. Alongside this research the trust has the task of ensuring the prosperity of the farms by managing and developing the assets it holds and, within its charitable objectives, of caring for and conserving the environment and training young people etc.

Financial details

When LBFSG Sottorf mbH was founded shares in the business were bought back at face value and then given out on a trust basis to suitable members of the farm support community. Fixed assets were transferred to the trust in Hamburg. The trustee members are responsible for ensuring that the objectives laid out in the constitution and especially those concerned with biodynamic agriculture are carried out. Care is taken in this process to make sure that the specialist activities on the Bauckhof farms (Social Therapy, Education, Agriculture, Food Processing, Trading and Research) are represented through the circle of members. Because the fixed assets can never be sold, the constitutional objectives can be secured for the long term. In accordance with the constitution the land can neither be mortgaged nor sold unless the money raised is used to purchase further land. The rules precluding the mortgaging of land means of course that the normal security arrangements required of the leaseholder by banks need to be relaxed.

With Joachim Bauck serving as an important organic agricultural representative in northern Germany during the 1980s it was possible to raise a considerable amount of gift money. This, together with private loans offered at a low interest rate and some specific additional grants made it possible to purchase further land and enlarge one of the farms by a further 15 ha.

One of the Bauckhof entrepreneurs also succeeded in finding an investor to join him in buying a holiday house complete with 70 ha of land which in could in future be rented by Bauckhof too.

Relationship between investor and farm

Shareholder meetings providing a full farm report take place twice a year. All investors, customers, parents and friends are invited to farm events and open days. A detailed newsletter (40-50 sides of A4) reporting on the activities and current state of the farm is circulated each Christmas. The procedure for investing in LBFSG Sottorf mbH and the individual Bauckhof businesses is also explained.

Website and Resources

www.bauckhof.de

Matthias Zaiser (co-author) is manager of LBFSG Sottorf mbH

7.1.2 Farm communities: Sophienlust Farm

The aim of the farm community is to make it possible for those wishing to take responsibility for the earth to do so via a concrete piece of land, a farm (GEN-GENBACH 1989). This piece of land can be imagined in the following way: Each person needs air to breathe and land on which to live, work and feed himself. In Germany approximately 4000 sq metres are available per person.

If the areas required for industry, roads and woodland are excluded this leaves 2,500 sq metres. Each person has a right to use this 2,500 sq metres in order to live and also to take responsibility for it. This means in effect that the farm community (LWG) can support as many adults (shareholders) as the size of the farm allows.

A co-responsible and supportive partnership developed between the urban and rural population should help reduce barriers between producers and consumers. Dorothea and Christoph Klemmer worked together with W. E. Barkhoff during the 1970s to develop a farm community model for this farm.

Business data

Hof Sophienlust, D – 24241 Schierensee (near Kiel), is formed of several linked enterprises:

- ☞ The land and buildings are owned by Sophienlust Association e.V – a charity set up to support adult education, agricultural training and social work. The Association acts as the carrying vehicle for a number of specific activities: Social work, work with special needs people, farming blocks for the Kiel Waldorf school.
- ☞ The Sophienlust Association leases the farm to the Agricultural Community Sophienlust (LWG) conditional on its biodynamic management. The LWG is a civil partnership company (GbR under German law). It owns the current assets and machinery. As of 2011 it has 158 shareholders and a turnover of 2,000 Euros/ha. This means that during the financial year 2010-2011 its 80ha had a turnover of 160,000 Euros and in 2012-2013 a turnover of 200,000 Euros on 100ha.
- ☞ The Processing and Distribution GbR Sophienlust runs a market stall, farm shop, cafe and a bakery. The entire trading operation has been separated from the farm for tax related reasons.
- ☞ The Wind Energy GbR operates a wind turbine on the farm.

The total area managed by the farm is 100 ha of which 53 ha are owned by Sophienlust Association e.V. The rest is rented. The Association has only a few members. Their task is to ensure its objectives are adhered to and that it continues to exist. Its purpose in relation to the LWG is to guarantee that the land will be managed along biodynamic lines. While it is the owner of the property the LWG is responsible for entrepreneurial activity. There are also two representatives from the farm businesses on the board of the LWG.

The Association, LWG and business initiatives have a joint capital balance of 2.783 million Euros and an annual turnover of 1.3 million Euros.

Description of activities

The Sophienlust Farm came on the market in 1979. The Schleswig-Holstein Rural Development Association had the right of first refusal. Farmers wishing to buy were given preference. When no farmers came forward the newly founded (1979) Sophienlust Association was able to buy the farm.

The capital required to buy the farm in 1979 came from a grant made by the GLS Trust in Bochum of 2.1 million DM, a further 100,000 DM from the Tiedemann Trust and some substantial loans from shareholders. In today's money this would be the equivalent of 1.176 million Euros.

The farm community pays rent to the Association at the going rate. If it makes an investment – as in the case of the recently built barn – the Association makes sure it can be built and is the project manager. The rent is increased to service capital investment costs. Members of the LWG help to finance the barn together with others by making loans and gifts to the LWG.

New areas of land are taken on by the owner Sophienlust Association e.V. and financed by long term low interest private loans secured on the land which the Association pays back over time out of its rental income. Rent levels are correspondingly increased.

Over the next 2 – 10 years some 29 ha of the currently rented are likely to come up for sale.

Financial details

Every citizen over 18 may become a shareholder of the Agricultural Community (LWG). The idea behind it is what motivates most investors. The LWG is a company (GbR) with an internal system of limited liability: On joining each shareholder takes on responsibility for paying back 1535.88 Euros (originally 3,000 DM) to the GLS Bank. The credit raised in this way is made available as working capital for the farm. The shareholders are agricultural entrepreneurs for tax purposes who share the risks of profit and loss. It forms part of their capital accounts.

Normally under civil law the total personal assets of a shareholder are at risk in the event of a default. Then if a claimant can't be recompensed from one shareholder, he may approach any or all the others in turn. In order to manage this risk and share the burden more widely, liability is limited within the LWG to the amount originally committed by each shareholder. Shareholders secure their loans with each other. Total external liability is then limited to the sum originally committed. The total amount to be repaid will thus not exceed 1533.88 Euros

Managing the farm is a task delegated to the farmers. They are members of the LWG and are therefore required to present their accounts regularly each year. During the annual shareholders meeting a decision is made regarding the distribution of any gains or losses. The process then begins a new for the next year. Shareholders elect authorised representatives from their circle to work with and advise the leadership of the LWG. They are responsible for making sure the credit arrangements with GLS Bank are duly met.

Shareholders can be released from their liabilities if a replacement shareholder is found or if their liability is paid off through an extraordinary payment of 1533.88 Euros

The relationship between shareholders and Sophienlust Farm

The market stall, shop, community gatherings, farm events and individual conversations are all opportunities for finding new shareholders. Each shareholder receives a discount of between 2% and 5% on all farm products.

This co-responsibility of shareholders, the partnership between shareholder representatives and company directors and regular gatherings of the Association, engenders a high level of identification with the development of the shared enterprises. It results in the various professional competencies of shareholders becoming a valuable and diverse resource. The enterprise can then always draw on offers of direct loans and donations to finance investment or the purchase of land. In the course of thirty years many shareholders will naturally wish to step down. Until now however it has always been possible to replace them with new younger shareholders.

Website and resources

☞ www.hofsophienlust.de

☞ Hof Sophienlust, 24241 Schierensee, Tel. 04347 3360

☞ Personal conversation between Ilsabé Zucker and farmer Christoph Klemmer

7.1.3 Associations: Mercurialis e.V / Heggelbachhof

A registered association is a frequently used legal form for community owned farms in Germany. Such a legal form is uncomplicated to set up and makes it possible to share responsibility (at least symbolically)

with a large number of supporters and farm customers (JANITZKI 1989). Associations are usually managed by unpaid trustees and the land is let out to farm communities made up of one or more families and other co-workers who are responsible for the practical management of the farm. The example of Heggelbachhof on the Bodensee will be described as one example.

Business data

The owner of Heggelbachhof is Mercurialis e.V, Association for Therapy, Art and Community, 88682 Salem, Heiligenberger Str. 5.

The association runs three different activities:

- ☞ - Organisation of cultural events related to fields highlighted in the memorandum.
- ☞ - Ambulant social care; home nursing, old age care, family support.
- ☞ - Leasing of 40 ha agricultural land to Heggelbach Farm Community GbR und the guarantee that it is managed biodynamically.

Description of activities

In 1993 it became clear the farm which had existed as Heggelbachhof since 1986 and consisting of three economic partners could not continue in the way it had done. Mercurialis e.V. agreed to purchase and take ownership of the farmland on 25.11.1994. Forming partnerships with farmers had been written into its memorandum as an objective 14 years earlier. This purchase contract concerned an agricultural area of 40 ha. Today the farm encompasses a total of 162 ha. The "economic property" consisting of several erected buildings, the farm's milk quota as well as its live and dead stock, remained part of Heggelbach Farm Community GbR.

The mortgage on the land was incorporated as an ongoing liability by the Association. The terms of the mortgage contract made it possible to finance the farm's working capital. The association was relieved of several rights and responsibilities as a result.

Obligations written into the lease agreement included:

- ☞ Biodynamic farm management
- ☞ Undertake research of various kinds
- ☞ Develop training and further learning
- ☞ Offer practicum and apprentice places

The lease agreement was at first set for 20 years. In 2007 the following sentence was added to article 5 of the contract:

"The period covered by the lease will extend throughout the working life (to retirement age) of the youngest member of the farm partnership (Heggelbach Farm Community GbR). Entry into the farm partnership of a new member necessitates a recalculation of the leasing period."

This means the lease will be automatically extended to the retirement age of the youngest farmer. This gives the farmers a guaranteed right to use the land for as long as they can do so. There have meanwhile been three successive generations of farmer members.

Financial details

The purchase price of 700,000 DM was financed through the agriculture fund of the GLS Trust, Bochum (see p.40), private donations and long term interest-free loans. The farm is paying a market rent. Today the Association has an asset value of 640,000 Euros.

The Association can make use of loans (long term, interest-free) and gifts to finance new initiatives. Long term interest-free loans used to purchase land are serviced through the rental income. An increase in asset values benefits the Association.

In 2012 a further 15 ha of land was purchased by a farmer member of the Heggelbach Farm Community GbR because the Association, Mercurialis e.V has no preferential access to land. Rented land that may come on to the market in future can be bought by the Association but at some considerable risk. This is because the regional rural development association is obliged by law to allow a farmer the right of first refusal on agricultural land.

Relationship between investors and the farm

Investors in the co-financing Agriculture Fund of the GTS Trust receive interest on their investment at around 2% per year. There are some investors who also forgo their annual interest. In the course of time many investors convert their loans to gifts or leave them to the farm in their will.

One of the farm's shareholders serves as a trustee on the board of Mercurialis e.V. The Association's general members meetings, public Sunday breakfasts and many farm events serve to create a good relationship with the surroundings, shareholders, friends and interested persons.

Website, resources

- ☞ Website: www.heggelbachhof.de
- ☞ Farmer, Thomas Schmid, Heggelbach 8, 88634 Herdwangen-Schönach
- ☞ Contracts between Heggelbachhof and Mercurialis e.V.
- ☞ Co-author Ilsabé Zucker is a trustee of Mercurialis e.V.

7.2 Charitable Trusts

A charitable trust is legally constituted to administer a fund that can be used solely to further the objectives defined in its founding document. It is administered by trustees within a Council of management and subject to statutory regulation.

In Germany there are a number of trusts whose purpose is to hold the ownership of land in trust for organic agriculture. In contrast to other charitable trusts which invest their capital in the stock market and support projects through the interest received, they invest directly in agricultural land (real estate investments) to ensure the land is managed in accordance with their memorandum objectives. The main purpose is to remove land from the market place, prevent speculation and make it permanently available for organic agriculture.

7.2.1 Aktion Kulturland

Aktion Kulturland based in Hamburg was founded in 1988 to administer an industrial inheritance for the benefit of organic agriculture. The trust was particularly concerned to link organic farming with nature conservation. The trust's estate is currently valued at around 2 million Euros and was built up from the original funds and subsequent donations including EU and regional grants given to support the purchase of land for nature conservation.

The trust now owns the farms of Hof Löstrup, Hof Neuseegard and Hof Bremholm in Schleswig-Holstein, Mirandahof near Bremen as well as Untermühlbachhof / Mathislehof in the Black Forest and encompassing a total area of around 140 ha. The farms are rented and managed by farm communities or families (they also rent further land in addition to the trust owned land). Four of the farms are Demeter certified and one is with Naturland.

The trust also carries out nature conservation projects above and beyond these farms and has become the owner of a further 200 ha of grassland and woodland in Schleswig-Holstein. This is managed for conservation in partnership with some mainly organic but also some conventional tenant farmers. About 25 ha is farmed directly by the trust.

Alongside this it also serves as a vehicle for specific conservation projects on other farms, for example the conservation of wild plant species on arable land. It assesses plant populations, works out plans and funds individual initiatives out of the income from its capital.

The trustees work in a voluntary capacity. There are ten trustees on the board representing the various farms and projects.

Funds gifted to it are either invested in land or offered to participating farms in the form of favourable loans to support productive developments.

Donors and farms are kept up to date via a website as well as an annual newsletter that comes out each December called "Kulturland Aktuell". The trust farms and the projects it partners are encouraged to work with the board. The trust also keeps in touch with the farms through a "farm sponsor" who accompanies the farms' development with regular conversations.

For further information see www.aktion-kulturland.de

7.2.2 *Stiftung Edith Maryon*

The Swiss based Edith Maryon Trust located in Basel is an active property owning trust primarily concerned with dwellings and promoting community and trans-generational projects. It does however own four farms in Switzerland with a total area of 68 ha, another in Niedersachsen (Weidenhof) with 60 ha as well as the Pretschen estate in Thüringen with 480 ha plus 95 ha of forest and lakes.

The trust which was founded in 1990, is currently responsible for assets amounting to 137 million CHF (110 million Euros) of which 39 million CHF (31 million Euros) is its own capital. The work of the trust is carried out by ten mostly full time employees. The trust frequently receives donations especially from within the anthroposophical movement and acquires land with them. It has also had occasion to take over farms belonging to charitable trusts who have found themselves in economic difficulties.

For further information visit: www.maryon.ch

7.2.3 *Stiftung trias*

The Trias Trust based in Hattingen (Ruhrgebiet) focuses on the development of cooperative housing projects and acts as an ownership vehicle for rental property of this kind in towns. It seeks actively to promote new social and legal forms and anchor them in the German public mind. It runs a website www.wohnprojekte-portal.de that brings together housing projects and people seeking somewhere to live and provides information and advice regarding suitable legal structures.

It is particularly interested in working with leasehold rights as an alternative to the private ownership of land. By granting a 99 year lease on a plot of land, a dwelling can be built and sold without ownership of the site being transferred. In this way housing can be built and let out much more cheaply. The land itself remains the property of the trust, preventing speculation on the value of its land.

The trust is currently working with assets of 5.7 million Euros and is managed by three full time staff. It also supports the provision of farm accommodation so long as aspects of community living are included. It has a good working relationship with Stiftung Aktion Kulturland (see above), and so can choose the legal structures that most closely fit with the specific conditions and intentions.

Further information at www.stiftung-trias.de

7.2.4 *Rudolf Steiner Stiftung e.V.*

Rudolf Steiner Stiftung is based in Altleiningen (Rheinland-Pfalz)⁸ It is a legally constituted association which as a property owning vehicle functions as a trust. The association owns four Demeter farms, Neurone (Altleiningen), Obsthof (near Freiburg), Wendengarten (near Hannover) and Grasdorf (near Bremen). Together they have an area of 61 ha.

Its foundation dates back to preliminary work carried out in Switzerland during the 1960s. The intended founding of a 'Rudolf Steiner Stiftung' could not be realised at the time and so the decision was taken to create a simpler version in Germany in connection with the newly converted Demeter farm of Neuhof.

The purpose of the trust is to free the land from speculation and remove it from the market place. The farmland is leased to farm cooperatives or families, and all the rights and responsibilities connected with them are passed on to the tenant via 'transfer contracts'. The trust consciously plays no part in the development of the farm and sees its role purely as an ownership vehicle. The farmers can develop the farm as if it were their property – apart from selling or passing it on to their children. They must of course fulfil the objectives of the Association – training, therapy, general education – on the farm in order to retain the charitable status.

Supported by its limited rental income, the association arranges an annual biodynamic conference together with the biodynamic group of Rheinland-Pfalz.

Until a few years ago a fifth farm in the Hunsrück region also belonged to the trust. It was a farm that struggled with the issue of succession. No one could be found to replace the retiring farmer. Ultimately the farm had to be sold and the proceeds were used to improve the remaining four farms.

How to accompany the farms in their development has become a serious issue within the trust especially as regards farm succession. The experience made by this association and shared with other charitable trusts, is that in making the transition to a new legal structure the issue of old age provision must be addressed.

7.2.5 *Stichting BD Grondbeheer*

The Dutch Foundation "Grondbeheer Biologisch Dynamische Landbouw" manages (as of 2011) 82 ha of owned and 106 ha rented land which is let or sub-let to 13 farmers.

The commitment to farm the land biodynamically is written into the memorandum and also that the land and buildings belonging to it may only be sold or mortgaged in exceptional circumstances and with the full agreement of the Council of management.

Stichting BD Grondbeheer was founded in December 1978 in order to provide continuity and support for biodynamic farms and market gardens. Following a long pioneering phase and several uneventful years, the trust began around 2007, to develop a whole tranche of new initiatives designed to professionalise its work as part of its "organisational phase".

Using gifted money, the trust purchases land for farmers who want to establish a new farm, enlarge an existing one or else reduce their debt burden. It also takes out long-term leases on land from land owners who have insufficient trust in either the prospective tenant or the biodynamic approach and then sub-let it to biodynamic farms. It also provides support by helping farmers to find a successor who can continue to farm with biodynamic agriculture.

The administrative costs are met from interest and rent receipts so that all gifts and donations can be used for purchasing land.

The level of rent charged is related to the economic productivity of the land, especially the soil quality and type of land use (garden, arable, grassland). The trust has with the support of the Louis Bolk Institute, developed a model for calculating how much rent to charge.

⁸ Information source for this section: Telephone call to Georg-Markus Goyert (Trust manager) 28.08.2012

The rental value of the buildings is not included in the lease. The land on which the buildings stand form part of the lease, the buildings themselves however are transferred to the farmer as an inherited right on condition that at the end of the lease these fixed assets are further transferred and that he forgoes any benefits arising from an increase in market value. The tenant must therefore purchase the house and farm buildings at the outset (without the land) using his own or loaned capital to do so. At the end of the tenancy they can be sold to his successor at a rate that recognises any increase in material value. This means the tenant takes full responsibility for the buildings while any potential successor can always afford the costs of farm transfer.

The most recent acquisition came in 2011 with the purchase of Kraaybeekhof in Driebergen with its biodynamic training, vegetable and herb gardens, and restaurant. The purchase was pre-financed with a 75% loan to be paid back through donations over the next five years.

Since available resources were now tied up for a few years, the trust looked for another way of responding to requests from farmers. This led to the idea of founding a farm "Entry Trust" (Wachtkamerstichting) that could buy land with credit (as with the Kraaybeekhof) and then pay it back via donations from individuals and businesses. The interest charged on the loan is then paid by the tenant – that is what makes it feasible. (SGB 2011, pp 3).

Once the loans are successfully repaid the land can be transferred to Stifting BD Grondbeheer, the local "Entry Trust" dissolved and the social network continued through an association.

Members of the trust's board had earlier participated in the founding of "Biogron" a land fund set up to support organic farms (many of whom subsequently converted to biodynamic) by purchasing land and increasing the amount of private capital available to Biogron. Biogron was managed for several years as part of the Triodos Green Fund but then found itself facing dissolution because (according to one of the trust's employees) its non-commercial set up did not fit with the way banks work. The land belonging to the fund was mostly taken on by the farm tenants..

The trust has more recently been occupying itself with the issue of old age provision for its tenants and in 2010 developed a plan (SGB 2011a) in which the issue was primarily seen as a matter for the tenants themselves. The trust however is willing to offer its assistance in finding individually appropriate arrangements.

The trust receives gifts and legacies from many private individuals – several hundred up till now. The number of donations is growing slowly but steadily and some donors make regular payments. In 2011, 61,000 Euros were received as donations. Since these contributions came mainly from single, older donors, a renewed effort has been made to approach many smaller potential donors as well as grant giving bodies like the Dutch lottery fund.

The trust developed a new fund raising concept in 2011. To increase public visibility, the trust had a presence on the Demeter stand at the Dutch BioVak, extended the circulation of its annual newsletter via email, set up a more focussed database of contacts, developed a presence on various fund raising websites and published articles in a number of local and professional magazines. The website received twice as many hits in 2011 as in previous years.

Strategic partners were also sought in order to broaden the donor base. Thus an agreement was made to work more closely together with the nature conservation organisation 'Natuurmonumenten'. Since 2009 it has been in a partnership with the Avalon Trust but the idea of an actual merger has been dropped.

An application for the state sponsored CBF symbol is currently under way so that it can be recognised as a small-scale public benefit organisation. This will in future mean that the accounts and annual reports will need to comply with its symbol requirements.

Each year a day meeting is arranged for trust donors and supporters. In 2011 it was linked to the annual biodynamic conference and 70 people participated in the workshops. A tenants day was also arranged for the first time in 2011 on one of the farms.

An informative newsletter is brought out each year and there is a well presented and up to date website.

Website and resources

- ☞ www.bdgrondbeheer.nl as well as the documents described above
- ☞ Conversation between Titus Bahner and Jan Diek van Mansvelt (trustee) on 5.9.2012 in Osnabrück

7.3 Types of Fund**7.3.1 GLS Bank Agriculture Fund I and II**

The Agriculture Funds I and II were set up in 1992 and 1994 by the GLS Trust (formerly GTS – Charitable Trust) in Bochum in cooperation with the GLS Bank and regional initiatives such as for example Stiftung Aktion Kulturland. In 1992 1.3 million DM were received and distributed among nine farms. In 1994 the Agriculture II fund was able to share out 2.3 million DM among 25 farms distributed across the north, middle and south regions. The annual share out was based on a basket of commodities and corresponded to an interest rate of about 2%. It must be remembered however that during the period of high interest rates in the early 1990s market rates were 6-8%.

The funds were managed as a product of the GLS Bank. Its participation in Agriculture Funds I and II meant that charitable organisations supporting organic agriculture could have access to resources via the GLS Trust or Stiftung Aktion Landwirtschaft in order to buy land, erect buildings and launch organic or other similar initiatives.

Financial details

Investment in the Agriculture Funds (LWF) was possible in units of 5,000 DM subject to a minimum of 2,500 DM. Personal gain was not the main motive for being a stakeholder. Only in exceptional circumstances of hardship and in line with the German Civil Code (§ 528 BGB) can a payment be recalled. This means that the investment is in the nature of a gift. It does however grant the donor a life-long right to food drawn either as goods or money and a right to participate and be informed according to the conditions set out by the fund.

On the death of a donor the funds invested are converted to a gift which is passed on directly to the charitable trust that owns the farms being supported by the fund. The fund itself is managed separately as a special asset of the relevant trust (GLS Trust, Stiftung Aktion Landwirtschaft).

The lifetime drawing rights per 5,000 DM stake are calculated annually using the food price index for organically grown produce and are made up of:

10L milk, 5Kg bread, 5Kg potatoes, 10 eggs, 5Kg carrots, 5Kg apples.

The amount is set by a trustee stakeholder group (a self managing organ of the fund consisting of subscribers and supported farms) and agreed with the fundholders (GTS or Aktion Kulturland) at the end of August/early September each year on the basis of the current price index. Each stakeholder is given a share voucher that can be redeemed directly against goods or used to buy the equivalent value in a health food shop. The shop then redeems the used vouchers from the farm.

It has been found over time that this basket of produce corresponds in a real way to an interest rate of 2-3% on the capital invested. The fund's administration was for a while carried by the GLS stakeholder society which levied an administrative charge of 0.75% on the fund's value. This effectively meant that the farms paid between 2% and 3.5% in interest on the invested capital each year.

Relationship between investors and farms

Because the fund is self-managing and there is a written commitment to share information with subscribers, an intensive exchange takes place between investors and the farms. All stakeholders are invited to the annual meetings of the fund's supporters to join in events on one of the farms and contrib-

ute to discussions. Most funds (south, middle, north) prepare a full annual report which is sent out by post. The number of subscribers attending these gatherings has declined over strongly the years and today a new and more appropriate information sharing strategy is being sought.

As a result of a questionnaire circulated among subscribers after 15 years it became clear that for most stakeholders receiving information about the development and progress of the farms far outweighs any pecuniary interest in their financial holding.

After 15 years it has become possible thanks to an agreement with all the stakeholders, to develop a new and more extensive form of fund administration. The Agriculture funds are now in the middle of this process. The aim is to achieve long term engagement (for life – the youngest subscriber inherited her stake from her grand parents when she was born!) and a sustainable level of administrative intensity.

When the Agriculture Funds were set up in the 1990s they were able to activate gifts of around 3.6 million DM. According to those involved it is no longer possible to collect money in this way for organic farming. For this reason the GLS Bank set up the organic land fund in 2008.

Website and resources

- ☞ Stiftung Aktion Kulturland, prospectus of Agriculture Fund (Landwirtschaftsfond) II north, 2.
- ☞ Stiftung Aktion Kulturland, Stakeholder agreement, Landwirtschaftsfond II north, December 1994
- ☞ www.GLS-Truehanstelle.de (GLS Trust)
- ☞ www.aktion-kulturland.de

7.3.2 Organic Land Fund

The Organic Land Fund (Bio-Bodenfonds GmbH & Co.KG) is an initiative of GLS Bank. GLS Bank together with GLS Trust and Evidenz Trust are Limited Partners to the tune of 100,000 Euros in the Organic Land Fund. Limited Partners can only be charitable bodies. The Land Fund Management and Shareholding Company Ltd (Bio-Fonds Verwaltungs und Beteiligungs GmbH) complements the Land Fund which is its only shareholder (unitary company). Capital is received through the sale of bonds. At the end of 2011 the Land Fund had a balance of around 18 million Euros and to date has taken on 3,000 ha.

Description of activities

The aim of the Organic Land Fund founded in 2009 is (apart from the classic financing of credit) to provide organic farmers with the means to secure their land in perpetuity. In contrast to the stakeholder model an instrument is made available to the farmer without affecting his independence. To this end areas of farmland and forest as well as conservation areas are obtained with the express purpose of making them permanently available for organic agriculture.

To begin with there was a regional emphasis with the purchase of 2,500 ha of farmland in the Schorfheide district of Uckermark (Brandenburg), now it is possible to buy land throughout Germany and even beyond. Already there are farms in Brandenburg, Sachsen, Sachsen-Anhalt, Niedersachsen, Hessen, Baden-Württemberg and soon also in Nordrhein-Westfalen, Schleswig-Holstein and Mecklenburg-Vorpommern. The farms are not managed directly but are exclusively rented by organic farmers. Rent is the only income of the Organic Land Fund and a land sale is permissible only under exceptional circumstances (public interest).

Tenants must agree to farm all their land to at least the minimum EU Organic Standards. The Organic Land Trust has the power to evict any tenant who ceases to manage the farm organically. No conditions are otherwise attached to the way the land is managed.

The law currently permits tenancy agreements of no longer than thirty years. By renewing the agreement every ten years, the 30 year tenancy can be extended ever further into the future.

The initial rent level was set at 3.2% of the purchase price. The ongoing level of rent was determined by evolving consumer prices, those paid for farm produce and the cost of raw materials.

The procedure is for the farmer to meet with a GLS Bank credit advisor and analyse the farm's business potential. If a farmer is unable or does not wish to enter into a credit agreement or if local financing arrangements are not possible, the Organic Land Fund can make its own assessment. Occasionally land may be bought from a farmer in order to reduce indebtedness. Representatives from the circle of stakeholders then audit and agree the conditions of sale.

The GLS Bank eG is the main stakeholder of the Organic land Fund.

Financial details

In order for land to be secured in perpetuity its refinancing potential must be made permanent. The Organic Land Fund is thus essentially built on capital that is not time limited.

There are several financing routes: Personal capital, credit, capital without voting rights. The company started with personal capital, funds from charitable organisations and a few private individuals. Private individuals have in addition made 10 million Euros available in 2010 and 2011 by purchasing open-ended bonds. The original bonds yielded interest at a fixed rate of 2.5% plus a profit based component and ran for an unlimited period. The dependency on profit arose out of the linkage between the lease agreements and various indices. Its purpose was to at least partially counteract inflation. The bonds are transferable and redeemable; the GLS Bank operates an internal secondary market. The Organic Land Fund addresses itself towards people who want to support organic agriculture, are looking for a secure home for their savings and are willing to make their capital available for an unlimited period.

Relationship between investors and farms

The Organic Land Fund is not involved in any activities that link its investors to the farms on its land.

Future perspectives

After the first phase when land was bought and made available to specific farmers, the Land Fund started to help reduce the debt of existing farms by taking on ownership of additional farmland. The next thing it did was to take on entire organic farms which had found neither a successor nor anyone to inherit it. The procedure for taking on land which is currently owned by charitable organisations is in preparation. Another important step will be the taking on of farms which are under conventional management and making them available to young farmers.

Resources

- ☞ GLS Bank, Organic Land Bonds, Schorfheide 2010, prospectus created 25th June 2010
- ☞ Telephone contact Xaver Diermayr with Johannes Prah, Organic Land Fund – representing managing director Herr Greff.

7.3.3 Northeastern Uckermark Land Fund

The Land Fund *Bodenfonds I GmbH & Co.Kg* based in Penzlin (Mecklenburg-Vorpommern) had assets of 20.7 million Euros at its foundation in 2006 and at the end of 2010 23.1 million Euros.

Wolfgang Jaeger the owner and manager (since 2010) of the *Northeast Land Management Company* (Nord Ost Bodenmanagement GmbH) is the main shareholder with a personal liability of 25,000 Euros. 11 farmers (who are mostly legal persons) are shareholders in the business and between them have 34 farms that rent the land from the Land Fund.

The land acquired up to February 2008 amounted to 5,500 ha at an average price of around 4,000 Euros / ha (NL 2009). Of this 75% is arable land and the rest grassland, forest etc. The geographical area is that of eastern Mecklenburg-Vorpommern and the north-east of Brandenburg.

Description of activities

The aim of the Northeastern Land Fund, like that of the Organic Land Fund of Schorfheide, is to give tenants economic security by setting up long term tenancy agreements. The difference however is that it focusses on conventional farms. It was founded in 2006 by Wolfgang Jaeger as a model for providing farmers with security of land tenure. Jaeger had been the leader of the Mecklenburg-Vorpommern Farmers Union from 1991 and 2005.

The Land Fund purchased land from the BVVG (agency for the disposal of state owned land) using 100% bank loans. The direct purchase of land by farmers was not possible at that point since the land itself served as security for the loans and individual farmers could not have access to 100% loans for new purchases. The joint liability of the farms via the Land Fund made it possible for the bank to offer 100% credit.

With the land purchase of 2007 the Land Fund was essentially closed and there were only a few small acquisitions later. In the context of the planned Land Funds II and III an agreement was made with the BVVG to take on a further 19,000 ha for 80 farmers during 2007/2008. The contract was however abandoned by the BVVG at the end of 2008 with the introduction of a new law on privatisation. A legal challenge to this decision is still pending.

Financial details

The Northeastern Land Fund was conceived as an intermediary vehicle for financing the purchase of land for farmers. The owners of the capital are simultaneously the users of the land. The issue of first refusal for farmers presented no problem in this situation.

The farmers (as partners) committed a sum amounting to 250 Euros / Ha. The purchase of land took place directly with the BVVG without any prior tendering process. Capital was invested directly in the land.

The land is let out to pre-existing tenants on 15 year tenancies – a time span reflecting the credit period. Interest, a principal repayment of 1.5% / year and the minimal administrative costs are covered by the rental income. The capital repayments increase the share capital of the partner farmers and mean that once all external loans are repaid they will collectively have full ownership of the land. When the bank loan is paid back in 2021, some 30% of the external capital will have been paid back.

Relationship between investors and farms

The founding objective of the fund was not the long term ownership of land but rather to offer farmers an interim solution and ensure that they would not overreach themselves economically through having to buy large areas of land at ever increasing prices. Who holds the land once the tenancy agreements have run their course is not yet decided. Ownership could be taken on by the individual farms but then they would be liable for land sale tax and in some cases where this involved the release of reserves from the Land Fund, also income and corporation tax. On the other hand the land could remain with the Land Fund and with farmers continuing as tenants.

Today the participating farms are pleased with the arrangements even though at the time when new land was taken on many farmers found the procedure too risky. Working together within the legal partnership seemed to present few problems.

Contact addresses and resources

- ☞ Nord Ost Bodenmanagement GmbH
Neubrandenburger Chaussee 14, 17217 Penzlin, Tel. 0 39 62/21 02 31
- ☞ Telephone conversation between Titus Bahner and Wolfgang Jaeger

7.4 Joint Stock Companies**7.4.1 Regionalwert AG**

Regionalwert AG (RWAG) - a community shareholding company established in the district of Freiburg, has assets worth 2 million Euros and around 500 shareholders. RWAG is connected with 6 agricultural holdings and 7 organic food suppliers. Up till now 9 ha of land have been purchased. The Regionalwert AG provides a means to finance and build links between ecological, social and economic enterprises operating in the Freiburg area in the field of agriculture and food production. It aims to include businesses throughout the entire food chain (primary agricultural production, food processing and marketing) as well as the purchasing and leasing of land. RWAG does not see itself managing the farm land and woodlands but leasing them as independent businesses (tenancies).

Financing possibilities for RWAG come from 1) silent partnership (a form of long term loan equity) 2) ordinary voting shares and 3) the leasing and renting out of land and buildings. In addition RWAG facilitates direct investment into the farming and food processing businesses.

All the wholly or partially financed businesses are seen by RWAG as partners and form a network under its umbrella. Using the contacts provided by the network, RWAG seeks to provide its businesses with know-how, experience and marketing opportunities.

Description of activities

RWAG was founded in 2006 by Christian Hiss and its area of activity is limited to the Freiburg and Black Forest region. The RWAG model was set up in order to be transferable. At the end of 2011 an umbrella organisation was established to support regional initiatives by offering a "social franchise" for developing new RWAGs. The newly founded Regionalwert Trust Ltd (Regionalwert Treuhand UG & Co, KG) holds the users rights for the protected trademark "Regionalwert AG"; All existing and future RWAGs are shareholders of the Regionalwert Trust Ltd and can make use of the available know-how and the trademark. In the autumn of 2011 a second Regionalwert AG was founded in the Munich region.

The outcome of this association of financed businesses is to be a regional network for producing, processing and marketing organic food and other agricultural products. Income should in this way start to flow towards RWAG through its shareholdings, rents and tenancies. Further sources of income come from its consultancy work in social-ecological business development and raising capital as well as facilitating direct investments by investors.

RWAG has developed its own ecological, social and economic investment criteria and published them on its website. Businesses which are financed are obliged to produce a report using pre-determined sustainability indicators. Organic conversion within four years is a condition for participating.

The buying of land is possible only in cooperation with the RWAG partners. Up to now the land which has been bought came on the market by chance without any pre-emptive right to buy. Any larger purchases of land will need to be undertaken with a partnership company connected to an existing farm via a limited partnership. The land would then be made available to the farmer under the usual conditions (ca. 1-1.5% of the purchase price)

The Executive is responsible for the administration and implementation of the participation and management processes (identifying of projects, preparing the ground for Council decision making, finance agreements, controlling and reporting) and for coordinating the networking activities of the RWAG

partners. The Executive is overseen by the Council. The Investment decisions of the Executive must be approved by the six members of Council.

The Executive team of three is part time and until a profit is achieved the Council works on a voluntary basis; Thereafter they will be remunerated.

Financial details

Investors approached in the first instance are those living in the region and who are specially concerned about developing a regional economy – and in particular with organic food and agriculture. Their primary investment objective is to maintain and possibly increase its value over a long time period.

To raise capital the RWAG produces a share prospectus in accordance with the legal requirements of the German Financial Services Authority.

Investors buy shares and have voting rights in proportion to their shareholding. RWAG has clearly stated that no dividends will be paid in the immediate future. Shareholders can only dispose of their shares to a third party (informal secondary market) - Redemption of shares by RWAG is not possible.

Shares are sold direct (without any intermediary) through regional publicity and networking channels. The high media profile of Regionalwerk AG is a big advantage (Christian Hiss) as is the professional approach.

In line with legal requirements shareholders have the right to a say in the RWAG. There is an Annual General Meeting of shareholders each year to which the financed businesses are also invited. The RWAG reports on the economic as well as the socio-ecological increase in value of the businesses and the RWAG as a whole. There is no direct involvement in the management of the participating businesses but each one of them carries a label "Partner of Regionalwert AG" thereby strengthening the sense of identity between investors (and consumers) and the specific businesses.

Website, resources, contact addresses

☞ www.regionalwert-ag.de

☞ Regionalwert AG (2012): Share Prospectus for Regionalwert AG, Community Shareholder Company

☞ Christian Hiss, Regionalwert AG, Hauptstraße 140, 79356 Eichstetten am Kaiserstuhl
Tel. 0049 7663 942401, Email: kontakt@regionalwert-ag.de

7.4.2 L'Aubier

L'Aubier is an association of business enterprises in Montezillon near to Neuchâtel in the French speaking part of Switzerland. L'Aubier consists of a biodynamic farm with a food processing arm as well as a tourism enterprise in the form of a Hotel – Restaurant in the neighbouring town and an inter-generational housing project.

☞ Aktiengesellschaft L'Aubier SA (company limited by shares) owns the land and buildings

☞ The Association 'L'Aubier Partenaires' upholds the organisation's aims and objectives and has a majority stake in the limited company.

☞ The 'L'Aubier Foundation' was set up in 1984 to promote new initiatives, research and training. It has been recognised as a charity since 2004.

The farm 'Hof L'Aubier' was removed from the limited company in 2001 in order to benefit from the direct agricultural subsidies provided by the Swiss state. It is run as a partnership and has full ownership of its live and dead stock including the dairy equipment. The land and buildings continue to be held by the limited company.

L'Aubier manages a 35 ha farm, a 120 seat restaurant, an eco-hotel with 25 rooms plus meeting rooms as well as a café and hotel with a further nine rooms in Neuchâtel, a farm shop, living accommodation for families and elders as well as a small anthroposophical therapeutic centre. Some 1300 people are linked financially in various ways within the whole set up.

Description of activities

L'Aubier came into being as a small farm whose aim was to sell milk directly to consumers. The circle of friends and customers that came together as a result of this direct marketing initiative created a warmth body round the farm that eventually led to the taking on of a nearby restaurant that had come on the market and the founding of a limited company limited to facilitate participation. Further developments then followed without their being any pre-conceived grand plan: After the restaurant came hotel, shop seminar, cafe-hotel and eventually also the inter-generational 'Eco Housing Project, les Murmures'

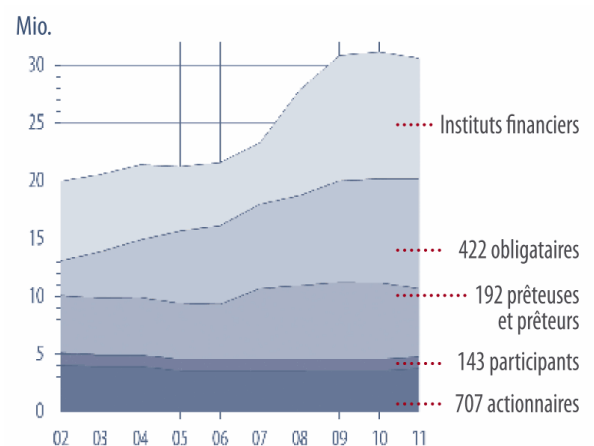
The financial and legal structures that evolved in the course of time meant that those responsible were given the freedom to act creatively by their circle of supporters. Each individual business is economically independent. Great store is laid on transparency and collegial working. The shareholders and lenders make working capital available without any significant voting rights and allow the charity 'Idée L'Aubier' the majority vote on the board (HURTER 2009).

The organisation feels it has a responsibility to share the experiences it has made over the last few years with a wider public by for instance arranging conferences and running seminars.

Financial details

Apart from bank loans, the working capital of around CHF 30 million (24 million Euros) was raised using the various financial instruments described in the following graph (L'AUBIER 2011):

- ☞ 707 shareholders hold 7,600 shares with a face value of either CHF 100 or CHF 1,000. The total share capital is valued at CHF 4 million.
- ☞ 143 people (subscribers) own stakeholder vouchers with a face value of CHF 5,000 each and a total value of CHF 1 million.
- ☞ 192 lenders have paid a total of CHF 5.2 million into the L'Aubier direct loans account at an interest rate of 1.51%. Three quarters of these lenders are simultaneously also shareholders.
- ☞ 422 people have invested in fixed term five year bonds issued by the 'Association L'Aubier Partenaires' each year at an interest rate fixed at 2% (2006 – 2008 2.5%). At the end of each term they are replaced by a new and updated issue. The total value of these bonds is currently around CHF 9.5 million. The bonds are sold in units of CHF 10,000. This loan capital is lent on to 'L'Aubier SA Ltd' as a secured mortgage at a rate of 2.7%.
- ☞ The remainder are mortgage secured loans from various ecological/ethical banks and pension funds.



The special way the share capital is distributed means that the 'Association L'Aubier Partenaires' always has the majority vote. The shares are either preference shares with a face value of CHF 100 or ordinary shares valued at CHF 1000. Both kinds of share have one vote. The price of an ordinary share is CHF 1111 and this includes the price of a preference share which is handed to the association. This ensures that the Association always retains a majority stake in the company. Membership of the Association is limited to those carrying the initiatives or those economically responsible for the various enterprises.

The Association is simultaneously the manager of the limited company and of the 'L'Aubier Foundation'. (DESAULES 2010)

Relationship between investors and farms

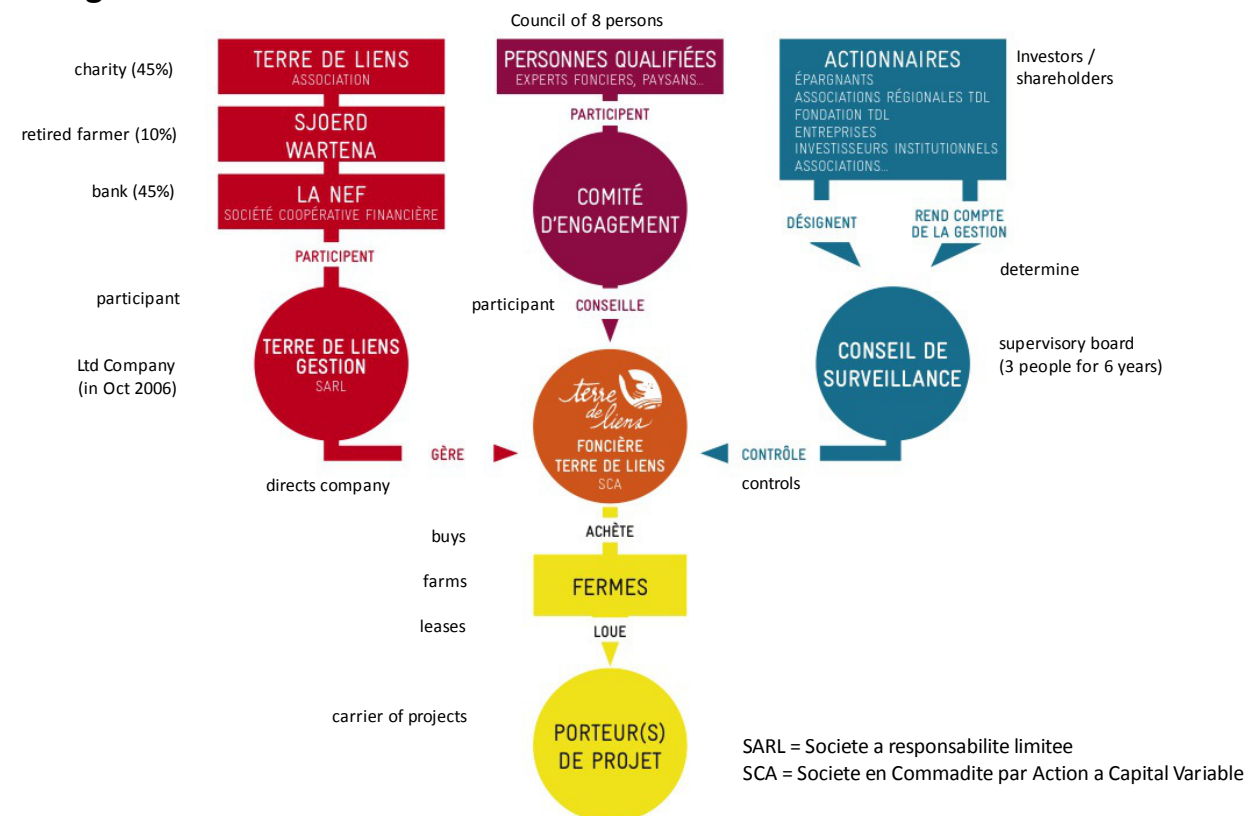
The communication between investors and friends in the surroundings is of central concern to L'Aubier. A newsletter of between four and ten pages called 'L'Aubier Nouvelles' is circulated twice a year. The Annual Report provides detailed and easily understandable financial reports on the four connected enterprises each year. The well structured website presented in two languages (French/German) contains a lot of up to date information.

Further information see www.aubier.ch.

7.4.3 Terre de Liens

Terre de Liens is an association of several legal bodies and is based in Crest near Grenoble in France. The following diagram shows how the organisation is structured.

Organisation chart



- ☞ Association Terre de Liens is a charity that embodies the aims and objectives of the whole organisation.
- ☞ SARL Terre de Liens Gestion (societe a responsabilite limitee) founded in 2006 is a company limited by shares. 45% of the shares are owned by Association Terre de Liens, 45% by the bank La NEF and 10% by a private investor Sjoerd Wartena.
- ☞ La Fonciere Terre de Liens is a partnership company with the legal form of SCA (societe en commandite par actions a capital variable) equivalent to the German GmbH & Co. KGaA. It complements SARL Terre de Liens. The limited partners are investors (private persons, institutional investors, associations and public purse). The partners elect a supervisory board (conseil de surveillance). There

is also a council of management (comite d'engagement) which advises the organisation on strategic issues. The legal structure of a SCA was chosen because a partnership company allows for a distinction to be made between running the business and managing investments. Unlike with a company limited by shares, direct shareholder influence on the direction of the business can be prevented. The three company shareholders ensure that the operation accords with its founding objectives. As regards capital the legal structure limits the financial liability of investors and makes it possible to raise unlimited amounts of capital via public subscription (appels publics à l'épargne).

- ☞ Finally Le Fonds Terre de Liens is a charitable fund (fonds de dotation – not shown in the above graph) that serves as an interim structure for a trust in the process of being developed that will eventually own land and buildings that are bequeathed to it. This trust Fondation Terre de Liens, is due to be registered with the French authorities by the end of 2012.

At the close of the last share offer at the end of September 2011 the partnership capital stood at 22.3 million Euros. A new share offer for a further 7 million Euros was made at the end of December 2011 that was intended to run until 26th December 2012.

In the period 2011/2012 – after five years of activity – Terre de Liens had ownership of 2,300 ha of land on 102 farms being run by around 180 farmers. The Association had a membership of around 1700 and there were approximately 6,500 shareholders.

Description of activities

The Dutchman Sjoerd Wartena managed a 25 ha Demeter certified milking goat and market garden operation for many years in the vicinity of Grenoble. After handing on the farm to his successor he devoted himself to the issue closest to his heart, namely the freeing of land from the vagaries of the market place and set about founding Terre de Liens in the form described above.

Collective legal structures have existed in France since the 1960s. The SCI (societe civile immobilier) and GFA (groupement foncier agricole) were set up to facilitate agricultural cooperation and farm succession as well as make it easier for lateral entrants to farming. They allow for joint ownership of land between farmers and non farmers (deferred inheritance for example) and are also used as an ownership vehicle on organic farms to enable consumers to participate. Many decades of experience using this legal structure however led the founder of Terre de Liens to begin researching a new form in 1999:

- ☞ It was increasingly difficult to keep the co-owners actively involved in the life of the farm.
- ☞ If the founder died or moved away the share capital would be dissolved and it was difficult to replace the capital which had been raised through personal connections.
- ☞ SCI and GFA were not allowed to raise capital via a public share offer.

This exploratory work led in 2003 to the founding of the Association Terre de Liens. To start with the association focussed on providing advice to farmers on the development of community land ownership and financing structures. In 2007 activities focussed on the direct purchase of land within the context of the newly founded Fonciere Terre de Liens. This would enable capital to be raised on a larger scale and allow the objectives of the Association to be carried out more fully. Meanwhile the Association had created active regional groups in 16 French regions. About 60% of the of the budget of these regional groups came from local authorities who were keen to support the aims of the Association.

The Fonciere TdL was founded with partnership capital amounting to 57,200 Euros drawn from 47 shareholders. An initial public share offer launched in October 2008 brought in 4 million Euros from 2,200 shareholders during a period of six months (the expectation was 3 million in nine months). A second share offer between October 2009 and June 2010 raised a further 6 million Euros. Since then the company has made a new share offer each year. Apart from the share offers, individual share purchases are possible at any time.

In 2009 Fonds TdL was founded as a forerunner to the trust. Its aim is to free land in the long term from being a saleable commodity. The Fonds is a registered charity and has three areas of activity: Information and promotion, receiving gifts and donations as well as managing land and farms to maintain their

long term value. By the end of 2011 the Fonds had received 690,000 Euros as capital from 800 donors. It became the owner of six farms with a further four under negotiation. The official registration of the charitable trust was planned for 2012. This requires capital of minimum 1 million Euros and a detailed validation procedure.

Land bequeathed to or bought by the trust is wherever possible leased out to the existing farmers. The trust however also arranges new tenancies and helps the further development of the gifted farms and land areas. Although the trust currently holds only one twentieth of the capital of Terre de Liens, it is the vehicle through which the long term goals of the organisation will be achieved.

Financial details

One Foncier TdL share can be bought for a fixed price of 100 Euros. The investment pays no interest. Shares can be offered back to the company for sale at any time after a minimum period of six months. The company will accept them so long as the reserve of 25% of the invested capital has not been used up.

The book value of the investment (the capital account of the shareholding partners) can be adjusted to inflation subject to agreement at a general meeting of shareholders. During the shareholder meeting held in 2012 such a decision was taken for the first time and the share price was adjusted from 100 to 102 Euros per share. This meant that from then onwards shares would have to be bought back by the company at the new higher price. Nowhere in the constitution, the share contract or the share offer documentation however, is there a requirement to regularly review or index link the book value and this means that there is no guarantee that such an increase in value will occur.

Within certain limits investors can offset their investments against tax (TDL 2011 p.30 and p.99F.). Terre de Liens is registered with the local tax office as a 'social enterprise business' (entreprise solidaire). Registration must be renewed every second year. On this basis investors were able in 2011, to offset as an investment in 'ecological and social businesses', 22% of a maximum 20,000 Euros (40,000 Euros for married couples) against income tax' (Loi Madelin), or an effective maximum 4,400 / 8,800 Euros against annual taxable income. The offset level was reduced in 2012 to 18% and the top limits raised to 50,000 / 100,000 Euros. Until October 2010 investments had to be held in the company for at least 5 years for there to be such a tax benefit, thereafter it was extended to 10 years (TDL 2011 p.31). This tax benefit also applied to donations made to the land fund of the Terre de Liens Trust. There are also tax benefits in relation to wealth tax (ISF-impôt de solidarité sur la fortune): 50% of an investment up to 45,000 Euros can be offset against wealth tax (TDL 2011 p.103).

From 2011 a change in the law meant that the sum total of donations received by Terre de Liens over a twelve month period that could be offset against either tax, was capped at 2.5 million Euros. This meant that at some point during the year the organisation had to declare that no further tax certificates could be given out. This caused in a certain reduction in subscriber activity. Very few shareholders however wanted to get rid of their shares.

Since 2010 investments have been accepted from companies wishing to invest their money in order to provide security for their own businesses. It is written into the constitution however that no shareholder can hold more than 5% of the total capital.

25% of the capital raised via public share offers is held as a liquidity reserve by the local cooperative bank (Credit Cooperatif), the remainder is invested in land. The shares are redeemable within the context of this reserve and can be bought back by the company at their current face plus the accruing share of the current business profit or loss. The investor retains liability to the company for the amount of repaid investment for a period of five years.

The average shareholder investment is 3,610 Euros. A shareholder typically invests an easily overseen portion of his savings to support Terre de Liens.

Most of the farms owned by Terre de Liens occupy a few hectares of usable land. All are organic, biodynamic or in conversion even though the constitutional criteria would support small family farms in general. There are very few large farms (over 100 ha). The farms are distributed right across France.

Relationship between investors and farms

At the beginning of the land buying process there are farmers who are wanting to start a farm and have some land in mind or who would like to secure the land they are currently renting by having it purchased. Apart from the economic viability of a proposal, a pre-condition for purchasing land is evidence of local support from an initiative group or circle of consumers or the positive encouragement of the local parish. The investment committee considers the land purchase proposal based on the report provided by the regional group of Terre de Liens.

Once the land is purchased a nine year and increasingly also an 18 year tenancy agreement is signed. Rents are set according to local norms and at the levels that are institutionally regulated in France.

Accompanying its landlord-tenant relationship Terre de Liens also follows the project's progress, its economic sustainability and the farm's environmental activities. The Association will where necessary also invest in farm buildings and accommodation.

Website, sources

- ☞ www.terredeliens.org and the documents referred to in the text
- ☞ Conversations with Titus Bahner and Sjoerd Wartena

7.5 Conservation Trusts

Nature conservation as an issue of public concern can be put into practice on privately owned land by setting up voluntary contracts, designating it a conservation area and offering financial compensation or else purchasing the whole area through a conservation organisation or with public funds. The last option is the most expensive since the right to use the land for other than conservation purposes – for example the land's asset value – must also be purchased. This is the course which has been widely followed however since the 1980s when the state first started taking an interest in nature conservation. It offers the best means for controlling and putting the conservation objectives into practice while the generous compensation paid makes it acceptable to land owners.

Since the mid 1990s the ownership of land bought for conservation has increasingly been transferred to trusts. The land in question becomes an asset of the trust whose objective is its ongoing care, development and management in the interests of conservation.

The German law on charitable trusts distinguishes between public trusts in which the state dedicates some of its assets towards a specific objective and private trusts which are managed independently. Most trusts concerned with nature conservation are private trusts even when they have been founded with public money or provided with land.

Schlesinger-Holstein for example has followed a relatively consistent policy over the last 25 years for buying up land for conservation (mostly supported from EU funds) and placing it in "Stiftung Naturschutz Schlesinger-Holstein" a private trust founded for this purpose. Owning 27,000 Ha of land it is arguably the biggest regional trust and the largest landowner in this German Region. Mecklenburg-Vorpommern, Brandenburg, Rheinland-Pfalz, Sachsen as well as several counties in Nieder-Sachsen have founded conservation trusts. The 'Stiftung Naturschutz Baden-Württemberg' was founded as a public trust (VDS 2009).

Other conservation trusts have been founded by nature conservation organisations. The NABU Stiftung Nationales Naturerbe for instance holds 12,100 ha of conservation land (as of 2012). Apart from this nationwide trust there are nine others in various German Regions that are part of the 'NABU family

of trusts'. The executive committees of these trusts are populated exclusively by active members of NABU.

As part of privatising the state property of the former GDR the then red-green coalition led by Chancellor Schröder decided, after years of pressure from the conservation movement, to transfer free of charge 50,000 ha to the regional conservation departments and conservation organisations under the title 'Nationales Naturerbe' (national natural heritage). The black-red administration of Chancellor Merkel that followed continued this policy and transferred a further 120,000 ha of land previously belonging to the military. In 2011 it was agreed to transfer another 25,000 ha of military land.

46,000 ha of this land – mostly abandoned barracks and troop exercise yards – were transferred to the DBU Naturerbe GmbH, a daughter charity of the national Deutsche Bundesstiftung Umwelt (DBU).

The various conservation trusts generally have responsibility for many thousands of hectares of land some part of which must be extensively farmed if the conservation aims are to be met. These areas of farmland as well as conservation land belonging to public authorities is frequently made available rent-free to farms willing to cooperate. For an organic farm this can provide a welcome extension to their holding and sometimes an important means for supporting the whole farm.

7.6 Case studies from the project "Access to land for community connected farming"

In 2011 the European network organisation Forum Synergies put together a series of case studies together with the French land fund Terre de Liens under the heading 'Access to land for community connected farming'. Using the examples of seven projects from five European countries it was shown how innovative farming projects arise from local communities and how they can provide themselves with land. Along with Terre de Liens and Regionalwert AG, the following further examples were also presented:

Hamburger Staatsgüter (Hamburg municipal estates), Gut Wulksfelde, Gut Wulfsdorf and Wohldorfer Hof (BAHNER 2011) manage between 250 and 350 ha of land belonging to the City of Hamburg. Following a public tendering process in 1989 / 1994 the City Council let out the estates to farmers who were interested in developing multi-functional organic agriculture. Thanks to the long term tenancies agreed, Gut Wulksfelde and Gut Wulfsdorf have developed into thriving and diverse farms with around 100 people working there. The farms are noted for their food processing, local marketing efforts (farm shop, box scheme) and the welcome given to visitors and school classes. Over and above this Gut Wulfsdorf has become the focus for an extensive ecological housing project in its vicinity. By contrast the Wohldorfer Hof lying between them has grown into an intensive dairy farm and horse stabling facility managed by only 4.5 people.

Cooperativa Agricoltura Nuova just outside Rome (FRATICELLI 2011) started during the 1970s when young people were campaigning against the continuing urban encroachment of the countryside surrounding the Italian capital. To make productive use of the land they occupied they began farming it, at first conventionally but soon changing to become a many sided organic enterprise that from the very beginning sought to integrate marginalised people. In 1996 the City of Rome granted them a long term tenancy and designated the surrounding area as a regional park. In 1996 the group added to its original 180 ha by renting a further 70 ha from a nearby monastery to support its social activities. The cooperative employs 50 staff. Apart from arable, livestock and vegetable production there is also a lot of food processing (dairy, bread, pasta). The products are sold locally. The cooperative is much visited by school classes and also has an information centre about renewable energy. These two examples demonstrate that publicly owned land can also play a key role in bringing new farms into existence.

In England the transfer of land to an independent trust (land trust) has a long tradition. The National Trust, the largest land owner after the Queen, looks after and manages conservation areas, coastline, country houses and monuments in the public interest.

The 'community land trust' form in which a group of local people purchase land and place it in community ownership forms the basis of many biodynamic farms. An example of this is provided by the Plaw Hatch and Tablehurst Community farms, two diverse farm businesses with 300 ha land between them

situated near to Forest Row in East Sussex and an hour's journey away from London (RAVENS CROFT /HANNEY 2011). Nearby are Michael Hall School and Emerson College, two long established Steiner educational institutions. The land which the two farms manage is largely owned by St Anthony's Trust originally set up to secure old age provision for the teachers of Michael Hall School. Its pension fund was used together with specific gifts to purchase the land.

The surrounding community participates via the legal structure of the tenanted farm. A cooperative formed of around 600 stakeholders raise the capital and employ the 20 farm workers (14 full time equivalents).

In *Lithuania* the association "Viva Sol" has been working since 2006 to establish the concept of direct consumer-producer relationships among small-scale organic farms (JOKOBAUSKAS 2011). By 2011 the association, which had been started by two newly founded farms producing sheep milk cheese and two cheese customers, had accompanied the development of 10 farms complete with food processing and direct marketing arrangements, a course and seminar centre and several farmer's markets. The founders had previously been working abroad and returned with new ideas inspired by for instance the French direct marketing culture. Despite its small size the Association enjoys a lot of public awareness and was able persuade the Agriculture Ministry to extend subsidy provision to subsistence farmers. The Association is very aware of the land ownership problem but doesn't yet have the capacity to start a land fund. Their main focus is to re-establish a self-sufficient and regional food network in Lithuania. Many interested people do however attend events that are put on by the affiliated farms and there is a great deal of local interest in attempts to start new farms.

In *Romania* the case study is of the Jaglea family operating a modern form of small-scale agriculture in the Carpathian mountains (LE CROUHENNEC 2011). The certified organic farm keeps costs down by working with horses, employing a lot of hand work and by processing and marketing their products themselves. The family which had been farming in that area for generations now opened the first cooperative health store in Romania not far from the regional capital of Sibiu.

The Jagleas started farming in 2006 with an inherited farm house, 3 ha of land and a cow received as a dowry when they got married. By 2011 they were working 17 ha with 12 cows. In order to grow to 45 ha (20 ha grass, 25 ha arable), keep 40 cows and grow vegetables they needed more land.

This presented them with several problems: Although the surrounding pasture land belongs to the parish, it is only let out to farmers who have at least forty cows. Since the EU pays out 200 Euros / ha in this designated conservation area, demand for land is very high. It is made use of as a source of income by sheep herders who don't really bother about their flocks. Marauding sheep present a continuing threat to vegetable and arable crops.

On the other hand arable fields are rarely available either for sale or to rent. This is because following the return of collective lands during the 1990s, ownership now belongs to inheritance communities and the land cannot be sold due to a lack of registry documents, or because the landowner wants to receive EU subsidies himself and so won't officially let the land. The plots of land also tend to be small and widely spread out thanks to the way it has been divided up. This makes it very impractical too due to the widespread theft of tools and crops thanks to the poverty and unemployment in rural areas. It only makes sense therefore to obtain new fields in close proximity.

7.7 KTG Agrar AG

The following is not being presented as a possible ownership model for organic farming but is a structure that while pursuing EU baseline organics is everything but regionally based form of agriculture. It is presented here in order to understand the strategy of the 'opposition'.

KTG Agra AG is a holding company for conventional agriculture with assets of 191.3 million Euros (2010) mostly made up of shares or donations from the 70 affiliated businesses.

KTG Agrar AG is active in eastern Germany and Lithuania. At the end of 2010 the company was responsible for 32,500 ha of which 25,700 ha were in Germany (25,000 owned, the remainder long term lease) and 6,800 ha in Lithuania (3,900 ha owned).

Description of activities

The first business activities of the more recent KTG Agrar AG began in Brandenburg in 1994. The brothers Siegfried and Werner Hofreiter who had grown up on a strawberry farm near Munich, took on the management a former collective farm (SPIEGEL 2007). From 1996 they developed an organic soft fruit enterprise. In 2000 KTG Agrar GmbH was founded and converted to a company limited by shares (AG) in 2004. The company expanded to Lithuania in 2005 and in the same year started producing biomass and developing its own biogas production. In 2010 the amount of land under its management exceeded 30,000 ha. In recent years the rate of expansion and turnover has been increasing in double figures.

KTG Agrar AG sees itself as a 'good' large investor:

" As agricultural enterprises our farms have become a permanent feature of the local community. We are conscious of our responsibility and it determines our day-to-day activity. We are committed to a socially responsible acquisition of land: KTG Agrar AG acquires land for agriculture and not speculation. We never take on arable land for other farmers to manage or lease. All the land we own or rent is managed by ourselves on a long term basis. For us the goal of agriculture is the production of healthy food. Apart from this we produce environmentally friendly energy from renewable raw materials, increasingly from waste materials (grass, straw) and catch crops (such as millet) grown after the main crop" (WWW.KTG-AGRAR.DE).

The company buys and rents agricultural land and preferably whole farms in the new German 'Länder' (eastern German states) and in Lithuania. The purchase is made by acquiring the shares of an existing farm corporation (such as the successor to collective farms).

The business model includes the production and marketing of agricultural crops (cereals, maize, rape), processing them into convenience products (for the deep freeze) and oil as well producing energy in the form of bio-gas. Roughly 50% of the land is used for organic production.

The organic products are grown to EU organic standards and marketed under the "Bio-Farmers" brand. The company claims to be the largest organic producer in Europe.

KTG Agrar sees great potential in the organic convenience food sector. This is why along with fresh and frozen potatoes Bio-farmers also offers potato pulver and the speciality dessert known as "Quarkäulchen" (a German speciality made from cream cheese, mashed potatoes, eggs and flour). The aim is to sell these new products via independent grocers, supermarkets and organic health food shops. Another option is to supply large-scale users such as canteens. In response to the increasing prevalence of two person households more small and medium sized portions are being produced. Siegfried Hofreiter comments: "We are following the trend with our new products" (KTG 2012).

The local perception of KTG Agrar's activities stands in stark contrast to this. For example to the north of Frankfurt a.d.Oder an extensive area of land is managed by the company with a further 10,000 ha in Oderbruch. Many small plots are frequently purchased too with the view to realigning farm boundaries.

Following the collapse of East Germany the managers of collective farms frequently used their own money to buy a large stake in the farm business. When the assets of the collective were pooled, its members became shareholders of a limited company and could draw in external investors. The shareholdings were also a source of retirement income when they were sold back to KTG Agrar.

If a branch of the business was deemed unprofitable it was closed down, employees were made redundant and the work put out to contract labour. Romanian tractor drivers worked intensive shifts and then returned home. Much of the economic value that had been created left the region and the local community reaped very little benefit.

The successors to the collective farms had been responsible for managing land covering a whole district and it seemed particularly important for the business to be managed locally. When it was taken over by KTG Agrar however everything was directed from its head office in Hamburg. This meant that any influence the local community previously had on the management of its land through a personal connection to the local community almost entirely disappeared. There is a growing tendency throughout eastern Germany for large areas of land to be under the control of some distant investment company.

The reasoning behind this development is to be found within the international context. The profitability of its agri-business makes shares in the company interesting for international investors. If the company found itself unable to pay the high interest on its loans or meet the expectations of its shareholders for increasing returns, it would face economic difficulties. The investment funds and globally active stock holding companies would then simply take over the businesses themselves rendering the above mentioned commitment null and void.

The KTG is thus the logical consequence of a development that began with the transfer of capital from regionally tied collectives to corporations trading on the stock market. Conversely the only way to secure regional interests is by anchoring the capital of a business in the region.

Financial details

KTG Agrar finances its growth through ordinary and preferential share offers. In 2007 it was the first German agricultural corporation to be listed on the Frankfurt stock market.

At that time the share capital consisted of 5.68 million ordinary shares with a nominal value of 1 Euro. The business was owned by Beatrix Ams the gardener, sole shareholder and partner of Siegfried Hofreiter. When it entered the stock market in November 2007 1.8 million shares were taken up, 1.3 million of which constituted an increase in capital. 54% of the shares are anonymously owned (primarily by institutional investors), 46% remain the property of Frau Ams who also sits as a member of the supervisory board. The flotation price in 2007 was 17.50 Euros.

In September 2010 a bond offer (partial debenture bond) of 50 million Euros was floated (KTG organic bond I) with a fixed term of 5 years and yielding interest at 6.75%. In June 2011 there was another bond offer this time of more than 100 million Euros (KTG organic bond II), with a fixed term of six years and an interest rate of 7.125%. In June 2012 KTG Energie AG was separated off as an independent business. This opportunity allowed further capital to be raised through the sale of 1 million shares at a flotation price of 13.80 Euros.

The primary target for bond issues are institutional investors who are looking for a good return on their investment while accepting the risk of failure. The target group for share offers are investors who wish to benefit from the good prospects for conventional and organic agriculture in the European market. The profitability of KTG Agrar depends partly on the system of EU premiums. The management emphasises however that KTG would also be profitable under a reformed premium system.

Shares are traded freely on the Frankfurt stock market. The bond issues are time limited and can't be traded. The financial products are made available via the usual market mechanisms – KTG bond I in Stuttgart, the remainder in Frankfurt.

Ethical investors such as the Umweltbank also hold capital bonds in KTG Agrar AG. This raises the question as to whether the self-confessed and socially compromised local reality of the KTG businesses has been considered when assessing them as sustainable investments.

Relationship between investors and farms

The 30 or so farm businesses belonging to KTG Agrar (of which 3 are in Lithuania) largely operate as wholly owned subsidiary limited companies. There is a 51% and 80% stake in some of the agri-industrial and processing businesses and some are franchised. This somewhat opaque holding structure is frequently criticised by investors (WO 2112).

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7.8 Concluding evaluation

The key findings of the above case studies are summarised in the following table.

7.8.1 Criteria for evaluation

The information selected from these case studies has been chosen to show the essential elements of agricultural land ownership today:

- ☞ Foundation: The year the legal body was founded
- ☞ Area in ha: The amount of agricultural land held as of 2012
- ☞ Type of financial stake: What kind of financial involvement does the investor have – ranging from "I" to "You"? Explanation below.
- ☞ Returns: The level of financial return an investor can expect.
- ☞ Exit option: Can the investor redeem his holding or convert it into cash some other way?
- ☞ Administration: How is it administered and how much input does this legal form require? The levels are subjective and estimated in relation to the amount of business activity. An association is considered low management, the average for Aktion Kulturland for instance is about 20 administrative hours/week to manage 350 ha land, 5 farms and their projects.
- ☞ Privileged access: Does the ownership structure respect the principle of preferential access by working farmers to agricultural land? If not what provision is there to help them obtain land?
- ☞ Legal conditions: How great are the legal hurdles when founding an ownership body and how much annual documentation is required? Levels:
 - Low – no specific legal requirements
 - Medium – Requirement to submit annual reports
 - Medium – Production of a BaFin⁹ approved share prospectus
 - High – Production of a share prospectus and an annual report.
- ☞ Saleability of land: Every owner of land can in principle sell the land. The question is whether the owner considers this an option (yes) or has made a legal commitment not to sell land and provide long-term security to his tenants (no).
- ☞ Secured objectives: Does the legal structure provide protection against an internal or external 'hostile takeover' in the event of a business becoming highly profitable?
- ☞ Geographical reach: On what geographical level does the legal structure operate?
- ☞ Warmth: Does the legal structure encourage a direct human relationship to develop between investor and farm? Is the financial supporter able to experience how land is made available to the farmer, what is happening on the farm and what the farmer is contributing to the surroundings and – whether this is supported through communication?

⁹ Bundesanstalt für Finanzdienstleistungsaufsicht (Financial Services Authority)

7.8.2 Evaluation table

Case studies evaluation

Foundation	Area in ha	Gift money (donations/grants)	Type of financial stake					Returns	Exit options	Administration	Administrative input	Privileged access	Legal conditions	Saleability of land	secured objectives	Geographical reach	(invest or farm-relationship)
			Personal capital	M ezzanine capital	Shareholdings	loans (private loans)	loans (private loans)										
farms owned by charitable trusts																	
1968	180						up to 1,5 %	none	Voluntary, expenses paid	high	no/connected with personnel	low	no	yes	local	average	
1979	53						up to 2 %	none	voluntary	average	no/highest offer (Schweiz)	low	no	yes	local	high	
1979	35						up to 2%	shares transferable, limited loans	employed	high		very high	no	yes	local	high	
1994	60						0	none	voluntary	low	no	low	no	yes	local	average	
charitable trusts																	
1988	350						0	none	Voluntary, expenses paid	average	no/own farm	average	no	yes	D	average	
1990	700						0	none	employed	average	no	average	no	yes	CH, D	average	
1960 er	61						0	none	voluntary	low	no	average	no	yes	D	average	
1978	82						0	none	expenses paid	low	(Holland)	average	no	yes	NL	average	
types of fund																	
1992/94	*						-2%	none	voluntary	low	yes	low	no	yes	D	high	
2008	1.900						2,5 %	transferable (secondary market)	employed	high	no/case by case	hoch	nein + Rückkauf mögl.	yes	EU	low	
2006	5.500						increase in market value	limited buy back option	voluntary	low	yes	average	yes	yes	regional	average	
joint stock companies																	
2005	9						no dividend, but internal/secondary market?	transferable (secondary market)	Voluntary, expenses paid	high	no, indirect via KG	very high	yes	yes	regional, regionally transferable	high	
2006	2.100						up to 1% fiscal advantage	limited buy back option	employed	high	yes, rental agreement (Frankr.)	very high	no	yes	Frankreich	high	
2000	32.500						6 %	shares listed on stock exchange, limited loans	employed	high	yes, purchase of shares	very high	yes	no	EU	low	
	ca. 100.000						0	none	employed	high	yes	average	no	yes	D	average	
conservation trusts																	

7.8.3 The type of financial involvement

On the idealistic road leading from "I" to "You" there are different ways of making capital available. These can be placed in a certain sequence.

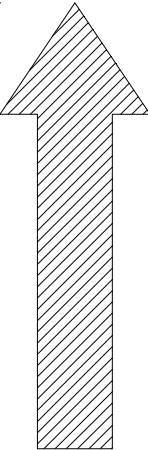
The most radical form is that of gifting whereby the capital provider ("I") relinquishes control over his money and transfers it entirely to the receiver ("You"). This gesture comes closest to the idea of freeing the land.

At the other end of the scale is the loan. With a private loan the money remains entirely the property of the giver. He can demand his money back and a fixed rate of interest is agreed for the term of the loan.

In contrast to both these forms widely used by charitable organisations there is also share capital. In this case the giver makes capital available to the business, becomes its co-owner and has a say in its development. He gives it support but also wants to participate in decision making and have a share in its risks and benefits.

A further step towards gifting appears in the concept of mezzanine capital. Here the investor continues to participate in the success or otherwise of the business but has no say in its management. The transition between personal capital and mezzanine capital is fluid. Where it stands depends on the conditions of the agreement.

These different arrangements make it possible for an investor to connect with a business in various degrees of intensity.

 <p style="text-align: center;">You</p> <p style="text-align: center;">I</p>	<p style="text-align: center;">Gift money</p> <p style="text-align: center;">- Money freely given</p>	<p style="text-align: center;">Donations Grants</p>
	<p style="text-align: center;">Mezzanine Capital</p> <p style="text-align: center;">- share in profit and losses - long term (min 7 years) - secondary security - loan with personal capital characteristics - no voting rights</p>	<p style="text-align: center;">Quiet participation Right to enjoy</p>
	<p style="text-align: center;">Personal Capital</p> <p style="text-align: center;">-- shareholders-Co-owner - voting rights - liability according to holding</p>	<p style="text-align: center;">Shares kjk cooperative shares partnership shares</p>
	<p style="text-align: center;">Loan Money</p> <p style="text-align: center;">-- limited period, possible to cancel - independent of results</p>	<p style="text-align: center;">private loans</p>

7.8.4 Evaluating the case studies

In summarising a number of different tendencies can be discerned.

Between the first Landbauforschungsgesellschaften in 1969 and the GLS Land Fund in 2008 is a forty year period of development. It is particularly noticeable that during the 1970s and 1980s many organisations were founded (including some eighty farm community associations not been mentioned individually in the table) and later on significantly fewer. Since 2000 a new wave of foundings has occurred.

There are significant differences between the "older" and the "newer" foundations. The Land Trusts of the 1970s and 1980s – Landbauforschungsgesellschaft and Agricultural Communities, associations and trusts – worked primarily with gift money in the form of donations and grants. Their goal was to 'free the land', the appropriate gesture for this was gifting. The more recent foundations by contrast make more use of stake holding capital of various kinds. This allows the capital owner to co-create the project

to some degree: Regionalwert AG issues shares, GLS Land Fund issues bonds, Terre de Liens partnership shares. In the conventional examples KTG Agrar AG works with shares and bonds and the Nord Ost Bodenfonds with partnership shares and private loans. Most common is the use of mezzanine capital – long term loans with an investment character but without voting rights; in the case of Regionalwert AG also with voting rights.

Holding the land in perpetuity remains an objective of the newer holding bodies but it is not demanded of the capital providers that they separate themselves completely from their capital. Apart from this all the examples work with unsecured private loans – in this there is no difference.

It is also striking that the "older" foundations are local in outlook and relate to one or more farms. The "newer" wave of foundations are frequently active on county-wide, regional (Interregional AG) or national level (Bio-Bodenfonds, Terre de Liens) and encompass many farms and large areas of land as well as working along the entire food chain (Interregional AG).

It is also interesting to note that the attainment of charitable status has tended to recede into the background. This may have to do with the fact that stake holding capital receives no tax benefits (except in France with Terre de Liens) and that since the reform of the inheritance tax law in Germany in 2008 there is no basis for a tax free transfer of land to non-family members.

An interesting in-between position is occupied by the GLS Bank Landwirtschafts Fonds I & II from the 1990s. It laid the groundwork for an inter-farm process of capitalisation without at the time having its own financial vehicle. The money was made available as a conditional gift to an association of farms. This financial structure based on a further development of the gift money used by the "older" foundations was at the time unable to meet the twin demands of local connectedness and the investment needs of the wider farm network – the comparatively high administrative costs could be carried neither by the donors nor the farms. The initiative was therefore not developed any further. Only with the creation of the Bio-Bodenfonds in 2008 was the bank able, after years of preparation, to pick up the theme once more and solve the problem by no longer seeking to anchor itself locally.

This development is also reflected in relation to the "warmth criterion" - the possibility for a financial model to facilitate an emotional link between farm and investor. The earlier foundations achieved this to a considerable degree. The charitable vehicles owning individual farms and to a lesser degree the supporting trusts, were an expression of and were largely equivalent to the community surrounding each farm. The structures evolving since 2000 are not so strongly linked to individual farms. The relationship between investor and farm is developed in various ways: Terre de Liens works with regional centres and these in turn work with the local farm support groups or the local parish council. Interregional AG promotes itself through the public media and cooperates with others throughout the food chain works within a clearly defined regional context. The Bio-Bodenfonds sees itself primarily as a financing instrument and does not aim to invest financially in a specific enterprise.

In the field of conventional agriculture the Nord-Ost Bodenfonds is essentially a farmers' self-help organisation that is financed by the banks and has no external donors. KTG Agrar AG turns to anonymous investors on the stock market for its capital and what happens on the individual farms is of no relevance. The motivation behind its participation arises not out of warmth but the rate of interest.

8 Non-filial farm succession and old age provision

In the German edition of this study there is an eight page analysis of the issues connected with the transfer of farms to non-family members and possible solutions as well the related issue of old age provision.

When land is placed in common ownership or in a trust, it can no longer serve as a source of rental (or sale) income for the farmers when they retire. Agricultural old age provision in Germany still follows the model of family farm succession whereby the elders stay on the farm, live in the main farm house or specially built cottage and help out as long as they are able. Pension payouts are then limited to a monthly amount of 440 Euros.

There are several ways to organise old age provision when land ownership has been neutralised. The following are possible in the German context:

- ☞ Social provision for old age (a pension supplement for people over 65 whose income or personal pension is insufficient to meet daily living costs).
- ☞ Private provision through an ethical life insurance.
- ☞ Renewable energy investments on the farm such as solar and wind plants.
- ☞ The building of holiday cottages or a retirement home which can be used to house farm staff in the interim and build up a source of income for later life.

Ideally the money invested for old age provision does not leave the farm but rather serves as an additional business activity.

Part III: A new approach

9 Future prospects and outline of a new ownership vehicle

In this concluding chapter we will address future possibilities. In evaluating the current situation motifs for a new land holding structure start to emerge as well as the ground principles for such a structure.

9.1 *Developing new approaches to the purchase of land for organic farming*

Several different factors have brought about the need to develop new land holding structures at the present time.

9.1.1 *Non-agricultural capital*

In the first place rented land is coming on the market in a great wave as a result of demographic changes. Some of this land is indispensable to the existence of the farm due to its situation or size. Under present and prospective market conditions the return in yield from this land can be expected meet interest payments but not pay off the principal capital. This means the farms need access to non-agricultural capital.

There is also the question as to whether the purchase of land by a farmer is the right approach today. For personal and financial security a certain amount of directly owned land is necessary as long as an appropriate common ownership structure is not in place. From a business perspective there is nothing to be said against having a large proportion of rented land. In the face of high land prices it makes more sense to invest any available capital in buildings or farm machinery. It is not the amount of rented land which is important but the level of rent and especially the security and length of tenure.

Finally, it is more in keeping with a modern associative economy when it is not the farmer who owns the land but the customers, supporters, friends or shareholders who make the land available for him to farm. In a sense the farmer is freer than when he farms his own property. He works for a community which in return provides the land and guarantees his livelihood.

The land holding structure must therefore be able to mobilise capital from beyond agriculture to purchase land for returning to organic farms.

9.1.2 *Setting rent levels independently of financial markets*

A second thing is that a new holding structure must be able to keep the management of land separate from developments on the finance and capital markets and set a rent based not on the land's market price but on the prospect of real and sustainable yields.

9.1.3 *Stake holding capital and a bridging function*

A third motif can be found in a changed attitude among investors. During the 1980s and 1990s when charitable land holding trusts were being developed, large donations were made to purchase land out of idealism. Today we have the impression that the person with capital does not wish to give it away but instead is interested in developing a relationship to the project. This expresses the nature of stake holding capital.

The letting go (gifting) can also be the result of long term involvement. Current models present capital owners with the choice of "giving away" or "retaining". An in-between option of stake holding would mean the "donor" had a link to the farm or the new land holding structure, could develop the connection, become a member of the cooperative or association and eventually gain the confidence to con-

sider donating the capital. For people who do not (yet) wish give away their money there is no holding structure with a "bridging function" leading from "I" (loan money) to "You" (gift money) (pp.57).

9.1.4 Transparency and warmth

Stake holding capital means in connection with an associative network that the holding structure must be transparent and accessible. The land holding entity is orientated around the idea of connecting farms in the region (heritage farms, community supported farms) and in this way supports their further development. For the investor a "warmth" relationship must be possible: He must be able to experience quite concretely how the land is made available to the farmer, what is happening on the farm and what the farmer is contributing to his surroundings. This means that regular communication is necessary through for instance reports and farm visits.

Communication is also necessary between the land holder and the farmer. "Freed" (neutralised) land requires conversation – freedom means responsibility and for this, discussion is essential.

9.1.5 Professionalism

Finally, today's situation demands a professional holding structure that is capable of purchasing land over a wide area and meeting the ongoing demand. The structures developed so far have mainly been focussed on individual or small groups of farms. Following on from the model projects developed in previous decades the challenge now is to broaden the approach.

This joint 'umbrella' type structure can be seen as a possible solution to the problems facing existing small-scale land trusts. Many of the single farm land trusts have made the experience that when they were founded there was a lot of interest, involvement and also professionalism. As the farms became more established over the next 10, 20, 30 years, involvement by association members in the farm gradually declined and it was hard and in some cases impossible to replace the founding members when they retired. Caring for and maintaining the circle of support around the farm increasingly fell to the farmer as the natural focal point of the farm. It was an additional task however that he was not always able to fulfil.

This was the context in which farmers started suggesting that the assets of existing trust owned farms should be administered centrally and more professionally so that tenants would have reliable speaking partners having the role of the "Klosterkammer" (equivalent to the UK Church Commissioners).¹⁰ Ownership needs to be practised in an active and consciously aware manner. The small charities owning individual farms and run by volunteer trustees are frequently unable keep it up over the long term. In summary therefore we perceive the need for a new land holding structure which

- ☞ seeks capital from non-agriculture related sources
- ☞ leases land to organic farms over the long term
- ☞ sets rent levels in relation to soil fertility
- ☞ works with stake holding capital
- ☞ operates in a transparent and communicative way
- ☞ is professional and has a wide geographic remit

9.2 Key aspects of a holding structure

The core aim of a holding structure is to separate the value of land from the use to which it is put using a land fund. We are calling this "Farmland Society" (Kulturlandgesellschaft) for the time being.

¹⁰ A suggestion arising from discussions during the conference "Forwards to the Roots" organised by GLS Treuhand on 3.3.2012 on Dottenfelderhof

The Farmland Society obtains land and lets it out to associated farms on a long term, though not unlimited period for a rent calculated against a **basket of produce**. Certain conditions pertaining to a "Farmland Society" farm are written into the rental agreement.

The investor buys shares in the Farmland Society to finance the purchase of land. Shares cannot be redeemed but may be traded internally.

Dividends are calculated at zero (theoretically a small dividend is possible). The share value is adjusted according to changes in the land value. A change in value can be realised via the secondary market.

Because the land value function has been separated from land use, the land is no longer a trade-able commodity. Only the value of the land itself can be traded in the form of shares. It however no longer affects the practice of agriculture. The land is made available on a long term basis under the condition that the farm develops in the interests of the community and its common wealth.

There are three simultaneous objectives:

Promotion of Farmland Farms. The aim is to encourage organic farms to take a leading role in developing an agriculture for the future not only with regard to production but also through their social and legal responsibilities. They bring a social impulse into their surroundings over and beyond their organic practice. Criteria for this include:

- ☞ Inclusion of food processing and direct marketing
- ☞ Taking responsibility for nature conservation and the care of protected areas.
- ☞ Holding the farm open for educational, therapeutic and inter-generational living
- ☞ A high labour input per area.
- ☞ A good relationship among co-workers and the colourful development of social forms
- ☞ Opening the farm to the public within the context of farm visits, cultural events or share issues

Such Farmland Farms direct their development towards their region (community connected farming). This focus on the promotion of Farmland Farms provides the ethically motivated investor with an enhanced value.

Regional integration. Against the background of wafting globalised finance the Farmland Society seeks to integrate capital within a regional context. The floating investor can use his money to find an anchor point in the region and connect himself with primary agricultural production, the most concrete part of the real economy. By cooperating and communicating with regional partners (farmers or organisations close to agriculture) in a transparent way a true grounding in life can be achieved.

Capital investments with a stable value. There is no return on investments made via the farming activity but there is stability and a possibility of their value increasing. This is because there is on the one hand a tendency for agricultural land prices to rise over time. On the other agricultural land remains a food producing resource and organic farming is acknowledged as the best way to maintain its fertility. The added requirement that Farmland Farms are integrated into the region means the farm becomes a place for creating further value (processing, marketing, social provision) thereby stabilising the value of the land in both an ideal and monetary sense and making the farm financially sound and forward looking.

The Farmland Society thus enables investors to have a stake in a stable and potentially increasing land value. For the farmer long term security of tenure with achievable conditions is essential. This is guaranteed by the legal structure of the Farmland Society.

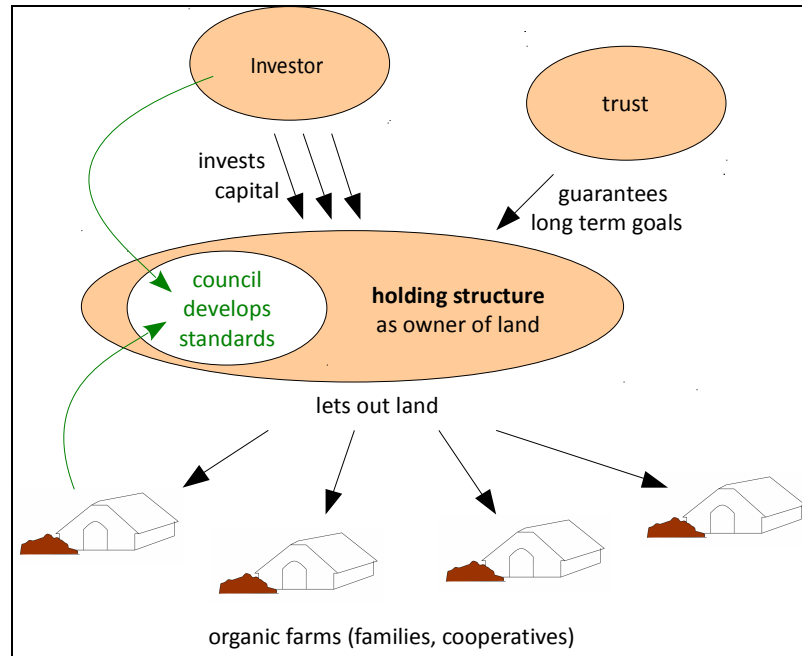
To summarise the participation of investors provides:

- ☞ ethical and transparent nature of the investments
- ☞ high level of stability in land value (no decline in yield expectations))
- ☞ possible return on investment through an increase in land value.

9.3 Practical implementation

9.3.1 Basic structure

The basic structure is indicated in the following diagram:



Basic structure of proposed "Farmland Society"

The basic principle is that the Farmland Society adopts a suitable legal form (share company, partnership company, cooperative, association) so as to become the vehicle to take ownership of the land in question. This owning body then leases the land to farmers on a long term basis and receives its capital through investment (ordinary shares, partnership shares, cooperative shares, member subscriptions).

A defined minimum share of the capital (golden share) is held by a trust whose constitutionally determined voting rights serve to protect the land fund against a hostile takeover bid. The trust simultaneously acts as a collecting point for donations to the land fund and a vehicle through which shareholders can at a later date if they so wish, convert their holdings into donations.

The executive committee of the owning body nominates a management team. A Council, made up of representatives of both investors and farmers, ensures that the fund's objectives are upheld and has a say in any decisions.

9.3.2 Issues around investments

Shareholders receive 0% interest on their investments. Shares are non-redeemable. A secondary market however organised by the society, offers a re-sale opportunity and a chance to benefit from any increase (but also decrease) in land value. The land is accounted for as a fixed asset whose value is assessed according to the regional agricultural land price index.

Apart from this the price offered depends on secondary market demand. If there is no demand for shares then they cannot be sold. The risk is carried by the investor just as it is in the financial markets when trade is temporarily suspended.

Whether an investment holding which for a limited period cannot be exchanged for cash, still has 'value', is a question that each individual investor must answer for himself. In any case the long term productive potential of organically managed agricultural land can guarantee almost continuous stability of value in

the real economy. The degree to which this value can be realized in cash at a given moment in time by the Farmland Society varies. Investors need to plan this in.

How well the secondary market functions depends firstly on the changing financial situation of the investor and how attractive he assesses the fund to be when others buy and / or sell their shares. Secondly an actual sale of the fund's land at its market value and a corresponding increase in its value is envisaged. This might occur should the tenant want to purchase his own land or if organic agriculture or the criteria of a Farmland Farm are abandoned. Any decision in this regard is the responsibility of council.

9.3.3 Tenancy agreements

The council determines the nature of the tenancy agreement. A proposal is given below:

The term of the tenancy is 18 years. The rent is based on the average farm rents in the region and on the soil the quality of which determines the productivity of an organic farm. It is currently between 200 and 400 Euros per ha. Rents are reviewed every six years and set in relation to the price of a basket of organic commodities or else against the cost of living index. Linking rent levels to the price of an organic food basket removes agriculture from the vagaries of increasing land values.

The tenancy agreements can only be terminated by the Society if the farm develops or employs practices that run counter to its objectives. In addition to organic farming methods these objectives include developing the farm as a Farmland Farm. It is possible to terminate the lease every six years subject to one year's notice. To be a "Farmland Farm" requires that certain minimum criteria (presented on page 61) are observed. Doing so will guarantee the farmer long term security of tenure. These criteria can be amended by the council with the participation of the farmers.

The relationship between the farm and the Farmland Society is to be understood as a form of partnership. The society supports the farmer by making land available. The farmer supports the society by developing the farm along the ethical lines wished for by the investors. The partnership is supported by regular communications. The society reports on activities at least once a year via a newsletter. The farmer likewise reports to the society each year presenting results and his perspectives on the farm's development. Beyond this the relationship between society and farmer is supported through personal contact and a trusting connection. In the event of difficulties arising, the society employs the services of a local agricultural advisor or enters into a mediation procedure before any steps are taken to terminate the lease. Notice can be given of this. Problematic cases are worked through together with farmers who sit on council. Procedures need to be followed in such a way that the number of problematic cases never exceeds 2% of the cooperating farms.

9.3.4 Organisation and viability

The activities of the Farmland Society include the acquisition of investment capital, the purchase of land, communicating with farmers and shareholders and public outreach.

Purchasing land is a potential bottle neck for the society. No more money should be raised than is likely to be spent on purchasing land within two years. Land is always bought in connection with a farmer who takes up contact with the seller and then takes on the lease of the land. On its own the society would not be able to identify what is regionally available.

The income of the Farmland Society is rents received, interest from not yet invested capital and a service charge. The running expenses include the cost of administration as well as external consultants taken on to support farm development.

9.4 Conclusion

After thousands of years of subsistence farming and two hundred years of industrial and service based structures, a new cooperative approach to the economy is beginning to take shape. Against the background of global markets, economic partners are organising flexible and direct relationships to ensure

mutual fairness and reliability (associative economy). For this a new legal and communications structure is needed.

All interested people could in principle buy a stake and participate directly in the Farmland Society thereby becoming co-responsible for agriculture. The land is made accessible to society once again. The consumers – customers, landscape lovers, idealistic supporters – make land available to organic farmers and thereby support farm development in the interests of the common good. Then on the basis of organic farming such farms become anchored in their region and provide services for their immediate social surroundings. This makes them more independent of the global market.

A partnership within the framework of the society replaces the agricultural land market by accompanying the development of the farm (rented areas) rather than the "movement of land towards the highest bidder" which is not in the interests of the common good.

As regards investment, the society offers ethical investors the opportunity to participate in an organic agricultural enterprise on a personal level without having to give up their property. This financing instrument builds on stake holding options that already exist in the context of a charitable vehicle or via grants and donations. The investor does not make a gift but participates. In doing so he connects himself with organic agriculture. At a later date he may decide to convert his share into a gift.

In this way the legal structure offers a three step reversible bridging function to the investor: To invest, participate or donate. By following this path and inwardly connecting himself he can use his capital to support the valued objectives in an ever more free way. The process is at the same time reversible.

As well as opportunities for investment, loans, debentures or the purchase of land for individual farms, it also operates on behalf of all its enterprises with the advantage that risks can be distributed more widely and external professional support provided to farms. The cost to investors of providing information and processing investments is reduced. The possibility for re-sale with an increased value within the context of the secondary market is attractive to ethically oriented investors wishing to invest their money long term without losing their right of recall. There is a clear and transparent way for them to participate and help develop the farmland farms.

Land usage and market value are kept separate. Tenancy payments are independent of capital interest and the land cannot be cashed in. The farmer wishing to develop his farm as a Farmland Farm has a reliable and long term foundation for his work, his land cannot be sold.

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Annex Results of the questionnaire – the purchase of organic land

	responses	% of total	average of responses
In which region of Germany is your farm?	78	100%	
Have you bought grassland in the last 5 years? How much (ha)?	21	27%	4,19 ha
Have you bought arable land in the last 5 years? how much (ha)?	33	42%	13,81 ha
The price per ha was between	38	49%	18.161 €
and	38	49%	22.316 €
Would have bought land in last 5 years. ha	34	44%	16,44 ha
Price/ha (if possible to indicate)	25		30.979 €
Not purchased, no interest	6		18%
- No available capital	27		79%
- Too expensive	27		79%
By whom was the land offered?	55	71%	
Farmer (neighbour)	10		18%
1 st generation non-farmers	22		40%
2 nd generation non-farmer	14		25%
Town, public authority	5		9%
Repossession	6		11%
Other	6		11%
How did you hear about the offer?	55	71%	
Agricultural journal/newspaper	9		16%
The land I had been renting	23		42%
Friends, neighbours, colleagues	26		47%
Institutions, societies, bank	3		5%
Other means	9		16%
Possible land purchases in the coming 5-10 years, if funds allow			
Possibility 1 ha	39	50%	13,00 ha
Probability	38	49%	71 %
Possibility 2 ha	18	23%	15,11 ha
Probability	17	22%	58 %
Rental situation			
Whole large farm	69	88%	87,00 ha
A rented sections	70	90%	56 %
Average rent / field 5 years ago	63	81%	291 €
Average rent / field today	63	81%	423 €
current contracts cover an average of	65	83%	7,5 years
Percentage of land secure for next 10 years	58	74%	54 %
From whom is the land rented?	67	86%	
Farmer (neighbour)	36		54%
1 st generation non-farmers	39		58%
2 nd generation non-farmers	25		37%
Town, public authority	14		21%
Other	20		30%
Concerning succession			
Age of the farmer	62	79%	47,0 years
Do land purchase / ownership issues play a role? (1=min, 3=max)	51	65%	2,1
Do tenancies / area improvements play a role? (1=min, 3=max)	52	67%	2,3
Do capital improvements play a role? (1=min, 3=max)	54	69%	2,3
I am interested in financing instruments	47	60%	81%
I can accept the following conditions when considering a possible land purchase:	58	74%	
Rent review every 5 years based on cost of living index	31		53%
Take on to pay land purchase tax (5% of purchase price)	22		38%
Condition in lease agreement: Organic husbandry	52		90%
Condition in lease agreement: Additional public benefits (conservation)	29		50%
Maximum rent	55	71%	432 €
Do you have other comments and suggestions?	19	24%	
I am interested in further information	42	54%	