

Multi-use of Land and Use of Survey – A New Tool: Exchanges and Transfers of the Forest Lands

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SUMMARY

Formerly essentially agricultural or sylvan, the rural space became multifunctional. To allow a better management and avoid the conflicts between users, it becomes indispensable to conduct preliminary studies to any project. Entrusted to multi-field teams, they must be regularly updated.

The projects of organization, realized to obtain a durable development of the territory will have to join coherent territorial policies, taking advantage of resources and wealth of territories.

A land policy allowing the realization of projects is indispensable. Among tools set up by the legislator, the *General Governing Law* on the forest of July 9th, 2001, created a procedure for exchanges and transfers of forested lands, allow to obtain structures of property adapted to a durable management of the forest.

RESUME

Autrefois essentiellement agricole ou sylvicole, l'espace rural est devenu multifonctionnel. Afin d'en permettre une meilleure gestion et d'éviter les conflits entre usagers, il devient indispensable de mener des études préalables à tout projet. Confiées à des équipes pluridisciplinaires, elles doivent être mises à jour régulièrement.

Les projets d'aménagement, réalisés en vue d'obtenir un développement durable du territoire devront s'inscrire dans des politiques territoriales cohérentes, tirant parti des ressources et richesses des territoires.

Une politique foncière permettant de réaliser les projets est indispensable. Parmi les outils mis en place par le législateur, la loi d'orientation sur la forêt du 9 juillet 2001, a créé la procédure des échanges et cessions d'immeubles forestiers, qui doit permettre d'obtenir des structures de propriété adaptées à une gestion durable de la forêt.

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1. INTRODUCTION

The summit of Rio of 1992 expressed what is durable development: “development which meets the needs of the present without compromising the capacity of the future generations to answer in theirs ”.

We can consider that in France, the reflection is in progress, and, for the urbanized parts of the territory, lead to the application of the law solidarity and urban renewal, which aims at limiting the mindless expansion of the city and the infringement on the agricultural, forested spaces or of ecological interest. The plans of territorial coherence which arise from this law, are imperative in a perimeter of fifteen kilometers of the suburb of towns of more than 15000 inhabitants. In the absence of such plans, the natural zones cannot be opened to urbanization. This new incitement to intermunicipal decision-making, imposes that municipalities think about their future.

L’Ordre des géomètres-experts wished that this notion of plan of territorial coherence be widened to the whole territory. Indeed, It is not conceivable that the territory be split between the city and the country. The inhabitants of the city have more and more need to meet in the country, and the rural inhabitants also need, for economic motives, inhabitants of the city. It does not doubtless go without generating conflicts, notably in the usage of grounds, the inhabitants of the country admitting with difficulty that the inhabitants of the city impose them their vision of the country. They however have to admit that this space must now be shared, and that, from agricultural or forested, it became multifunctional.

2. THE MULTI-USE OF LAND

2.1 The Users of the Rural Space

2.1.1 The farmers

They were for a long time the only actors of the non- wooded agricultural space. Their activity strongly contributed to the creation of the landscapes. The agricultural landscape, created by man, has gone through numerous modifications. It is the reflection of the economic activity: plantation of hedges as fence in cattle-rearing areas, and protection against climatic changes, but also as source of heating. The maintenance of hedges is then useful and indispensable to their object. Fruit trees, walnuts, sweet chestnut trees, apple trees, pear trees, and the vineyard are indispensable to feed people and animals. The modern agriculture, on the contrary, found obstacles in these hedges and these trees, and abolished what had become useless and a burden.

2.1.2 Foresters

As for the farmers, they contribute to the creation of the landscape. The objective is always the same: the economy. The magnificent oak forests planted under king Louis XIV, for the construction of vessels, left the place to forests of pines or spruces, faster growth. The desolation by the agriculture of zones of low mountains also contributed to a radical modification of the landscape of valleys. The forest erased any notion of landscape.

2.1.3 The Inhabitants of the City

They are the descendants of an important rural population, and try to find their roots. They preserved the image of the rural life of their childhood. Sometimes disappointed, they are in conflict with the farmers. They participate more and more in the local life, and force their ideas in town councils where the representatives of the agriculture are less and less numerous. Nevertheless, their contribution allows to preserve and to renew villages, and maintain local architectural characteristics.

2.1.4 The Tourists and the Walkers

Among them, many inhabitants of the city. They are attracted by nature and the authenticity: the milk in the farm, the farmer cheese, the crop of vegetables and fruits. They are also wanderers, always in search of new circuits, those who pick up mushrooms, fishermen or hunters. The space belongs to them, they don't easily allow to be deprived of the freedom to circulate there, but without realizing that to be pleasant to them, this space must be maintained. They however constitute a clientele to be developed, eager to discover or to rediscover the peasant life, and can be considered as a new resource.

2.1.5 The Defenders of the Environment

Often inhabitants of the city or wanderers, they want to be conservatives of spaces and species which risk to disappear. The dialogue is difficult with the actors of the rural world: their concern of conservation is often set against the immediate interests of the farmers or the foresters.

2.1.6 Local Governments

The municipalities, the associations of communes, have more and more needs to maintain an activity on their territories, but also to allow to serve cities, notably in drinking water. The city is itself an important producer of waste which has to be handled. The importance of rural space with regard to the urban, made space that the city turns quite naturally to the campaign so that its waste is handled, turn maintaining everything (lead the city to quite naturally use the rural space for its waste disposal and to maintain) a quality water and a pleasant landscape. The exercise is difficult to realize.

2.2 The Indispensable Conciliation Between the Users

2.2.1 The Awareness

The farmers became aware of their interest to enhance the value of their rural space. The agricultural production allows to feed a population which is in search of nature and authenticity. The biologic agriculture still too widely dependent on the large-scale distribution, delays developing. More and more farmers try to value directly their production: then they also become butchers, cheese makers, and ensure a direct selling. Farms-inns and guest houses are more and more asked by tourists who alternate winter sports, stays by the sea and in the country. It is necessary to accommodate and welcome this new clientele.

2.2.2 The Rural Space Supplier of the City

The economic approach, which modelled the landscape, is always present. The numerous cases of floods, the quality drinking water requirements, can find answers inside the rural space, which has to take them into account, but with an economic counterpart. The partnership city-country became unavoidable, and it is indispensable to abandon this artificial and conflicting zoning. It is thus the relations between the people that it is now necessary to improve. It is the people who made the landscape, who made the city, without thinking too much about their relations. It is on them that it is necessary to lean, by collecting them and not by setting them.

2.3 The necessity of a Global Approach

The number and the importance of the stakes make it understandable that the approach is global, the projects can be aroused only from a territorial policy accepted by the decision-makers and the populations. It is necessary to mutualize the ideas of the people and to organize the projects. Economically, it became unrealistic that every municipality builds its village hall, its swimming pool. The reflection must be extended on the contrary to a coherent territory. The definition is difficult there, the notions of communities of municipalities, of country, are still too often artificial. It is however advisable to leave an existing administrative situation, and to envisage a global study which will then allow to determine better the public interests between the various communities. It is what we propose through the preliminary studies of global organization.

It is important that this notion of global study be totally untied(removed) from any project of organization. The preliminary studies in the realization of a project exist, but they are specific studies, bound(connected) (tied) to this project.

3. THE PRELIMINARY STUDIES OF GLOBAL ORGANIZATION

3.1 The Objectives

3.1.1 To Allow the Public Decision-Makers to Implement the Territorial Policies

It is a question of providing municipalities, communities of municipalities, countries or departments with a set of documents which will allow them to define a strategy of development of their territories. From this overall policy of organization, departments, countries, communities of municipalities, municipalities, and individuals, will be able to set up their own strategies of development.

3.1.2 To insure that the Decision-Makers Participate with all the Actors

The approach of the organization of a territory can be made only by the people. They must be not only associated, but also be actors and decision-makers. It is necessary to convince them of their mutual interest to choose and adopt a common policy. The dialogue is indispensable and shall be present in every stage of the studies.

3.2 The Means

3.2.1 The Speakers

Except the elected members and the local actors, professionals have to work together, within a team constituted according to the needs.

If it seems to us that the land surveyor is one of the professionals the most capable of piloting the team, there is no reason why he should be the only one. The name of the pilot must be adapted to the specificity of each territory.

Supporting the land-surveyor, the multi-field team may included town planners, architects, landscape painters, hydrogeologists, geologists, biologists, naturalists, sociologists, economists, etc. ...

3.2.2 The Method

Any preliminary study begins with an analysis of the initial state of the territory and of the people who live in it, maintain it, and manage it. A cartography is indispensable, limited, for a vast area, to maps and existing documents. In France, these are maps drawn up by the National Geographic Institute (IGN), the scale of the 1/25000th, possibly cadastral plans, for a study to the level of a municipality. Air photos, satellite images must also be obtained.

From this common cartographic support, the members of the team will work in their respective fields, in the collection of the information, often rich and numerous, which are in the various services and the administrations. It is also the occasion to get in touch with the population, through meetings and questionnaires. The natural distrust of the decision-makers

and the inhabitants must then be diminished. The decision-makers often think that this study is useless, because everything is known, and the inhabitants are reluctant to give an information about which they do not know how it will be used.

A constant relation between the various members of the team is indispensable. The role of the pilot is then essential. The cartography is completed, and the associated documents are drafted. Dialogue and report meetings must be regularly organized.

3.3 The Results

3.3.1 The Plan of Territorial Cohesion

At first, the inventory of features thus established will be presented to the decision-makers, by insisting on assets and weaknesses of the territory. Even there, the diplomacy is rigorous: the inventory of features must be objective, the results can upset certain elected members. It is indispensable to obtain from them that they agree and confirm this inventory.

The second phase is more complex, It shall lead to propositions of regional development. It is the moment of choices about the communication way to be favoured, the interesting sites to be developed, the zones of different uses, areas and environment to be protected for their ecological interest or for the protection of the resources in water, for the agriculture, or for the forestry. It is also the period when it will be necessary to define the solutions for the protection of the risks of flood, avalanches, the places of the concentrating mills (plants) of waste water or cremation, the places of manuring muds of water-treatment plants, etc. ...

The defined orientations must be presented to the population, for a dialogue which shall lead to a definitive choice. This choice, which is the application of a common policy for the territory, or to a portion of the concerned territory, must then be formalized under the shape of a plan of territorial coherence, such as those implemented for the towns. It is this plan which will have to be the frame inside which the actions will be led to the level of the municipalities, even of the inhabitants.

3.3.2 The Follow-up

When a study is finished, we can consider that it became obsolete the next day. It is indispensable to protect the investment which it represents. The means exist, notably through the systems of geographic information. The study must also be handed under this shape, so that the updating of the information can regularly be made. The plan of territorial coherence can then be modified according to criteria defined by the decision-makers.

4. THE OPERATIONAL STUDIES

4.1 The Pre-Study of Global Organization

4.1.1 The Context

When the plan of territorial cohesion is adopted, it becomes possible to intervene at the level of the municipality, which appears to be the level the closest to the inhabitants.

It is thus with the advice of the town council that the multi-field team is going to intervene. He can involve the same persons as those who realized the study on the territory, but it can also be another team.

4.1.2 The Objectives

They are now said operational: they have to end in the realization of the projects. The study has to end in a project of organization and durable development.

It is about a synthesis, obtained after a very wide dialogue with the City Council, the owners, the developers and the various municipal committees, among which the municipal committee of land management.

The actions to be engaged must then be estimated in account with those appraisals and the decision-makers will have to define their priorities, through notably this calculated information, and choose a general guideline of intervention.

It will also be the occasion to prepare financial plans, and to look for subsidies, with files perfectly supported by the results of the studies, and precise calculations. Economies of scale then have to begin to intervene: partners' intervention who will know the nature of their financial commitments, programming of topographic works, programming of interventions on networks and ways, etc.

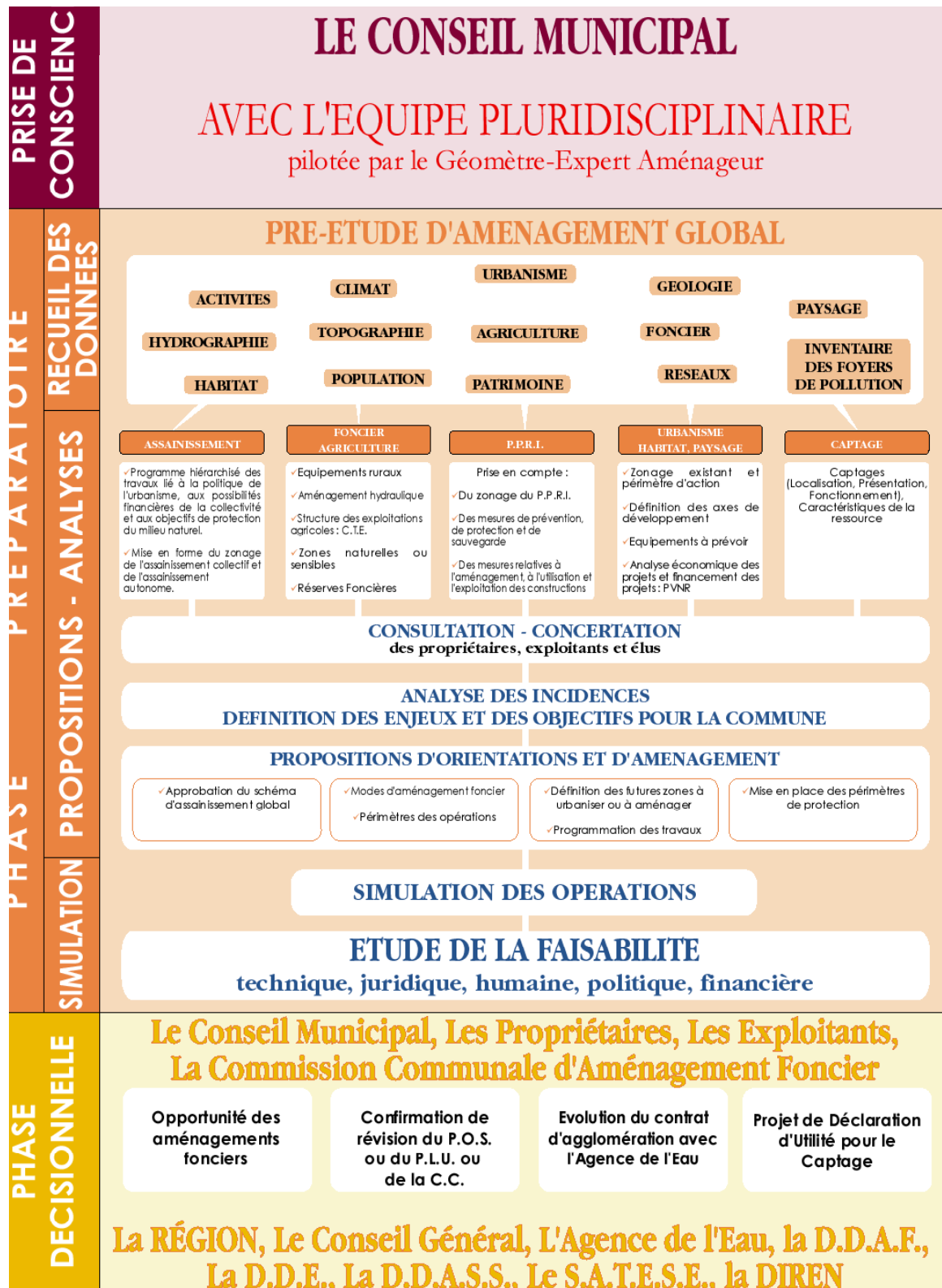
4.1.3 The Realization

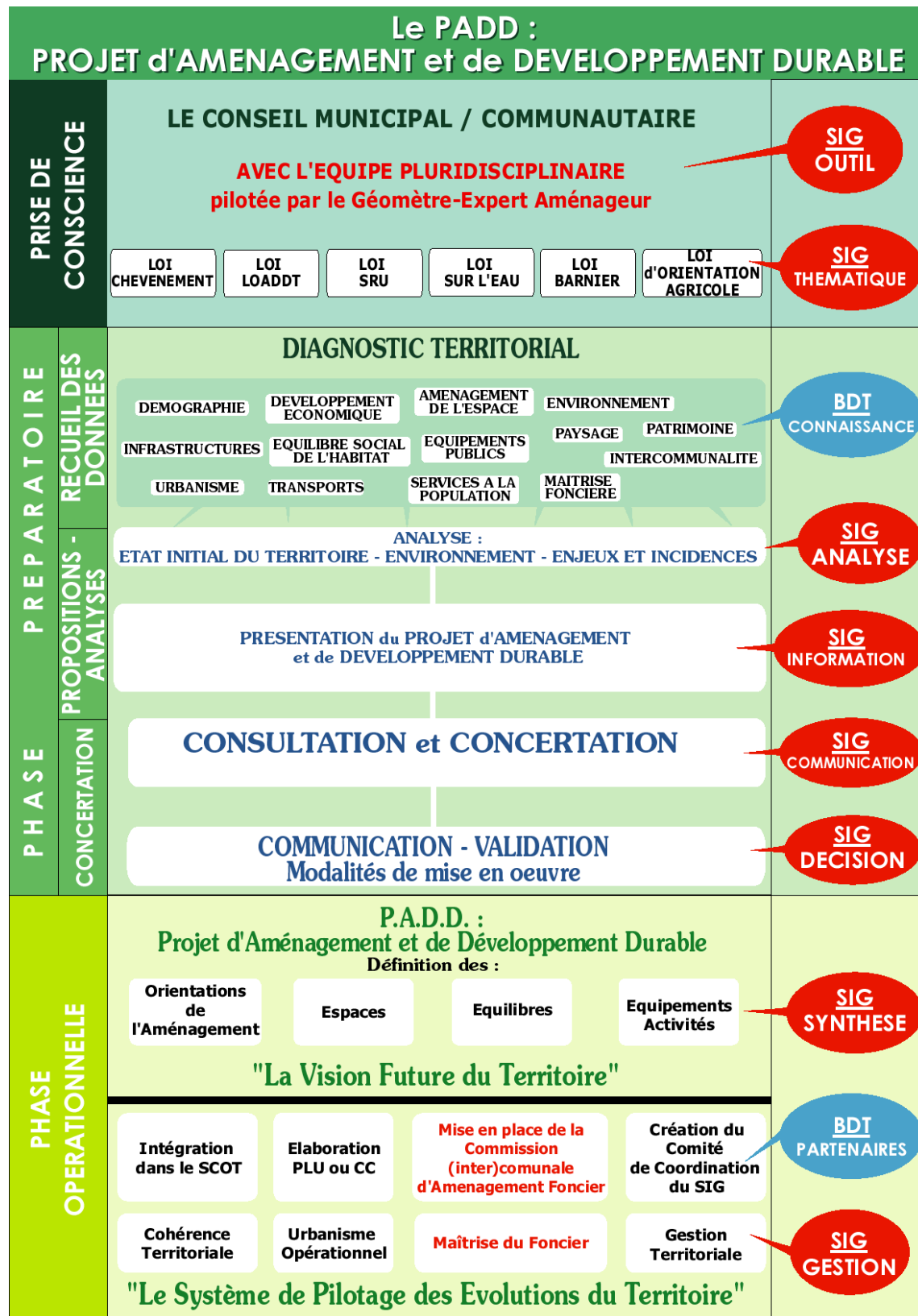
The members of the multi-field team then have to intervene in their specialized field. The architect is going to implement the rehabilitations of the constructions foreseen in the project of organization and local development, the town planner is going to prepare the local plan of town planning, the community is going to be able to intervene on the market of the land tax on defined grounds, either according to opportunities, but according to place chosen during the project.

In the rural part, the mastery of the land tax can be conducted through operations of land management, by a land-surveyor, under the responsibility of the municipal committee of land management. It will then be simpler to intervene on the garbage dump, but also on the landscape, by foreseeing places, collective or deprived for the realization of plantations.

The implementation of perimeters of protection of harnessing of drinking water can be also integrated on the occasion of the land management.

Finally, in sectors with risks of flood, the tool of the land management can be usefully operated, at the same time as the realization of the local plan of town planning. It will be a question then of transforming building zones situated inside the easily flooded zones in not building zones, or of insuring protections by the realization of works of lopping of the floods or zones of expansion of waters





5. THE EXCHANGES AND TRANSFERS OF FORESTED LANDS – A NEW TOOL OF ORGANIZATION OF THE TERRITORY

5.1 Why a New Tool

The general law on forest of July 9th, 2001, created the procedure of the exchanges and transfers of forested properties, which should enable to obtain structures of property adapted to a durable management of the forest.

Indeed, the rural land organization has been confronted for some years to a problem which the initiators of the regrouping of lands and its variants had not foreseen: the decline of land pressure.

In certain rural areas there are real estates available, for sale without buyer or detained in patrimonies without any development, even forgotten.

The consequence is that a part of the territory (*finished estate and non-renewable*) is outside the economic process or even simply excluded from the society and thus not participating any more in the durable development.

If we want to recycle these plots of land (areas) of the territory, the classic land organization is not any more sufficient because it operates only by exchanges intended to re-configure the fragmented structure of the properties. The French private forest is particularly split, while a durable management of the forest has to lean on big entities.

Besides, the French feel reluctant to merge their property and not to be more than a bearer of parts. Finally, the foresters accept with difficulty the obligations bound to a land organization based on regrouping of lands. It was nevertheless necessary to increase the size of the forested exploitations, and there was only one solution: decreasing the number of owners.

5.2 Evolutions which Allowed the Abolishment of Very Small Properties

These last years operations were endowed with new functions allowing to try to (handle) the scorias of the rural land tax.

- Possibility of conveyance duty-free and with a facilitated transfer of right (by administrative way as for the exchanges) for properties of little importance in area and in value.
- Possibility of operating exchanges on plots of land belonging to "absent" owners, that is to say whose identity is known but who lost interest in the property.
- And, more anecdotal but strongly symbolic, within the framework of the above-mentioned consolidation, the possibility of noticing the transfer of property by the thirty-year prescription reaffirming an important principle of ownership in France, that land has to go to the one who "takes charge" (uses it) to the detriment of an entrusted holder who "neglected" it.

5.3 A new Procedure

On the occasion of the law dealing with the forest, the legislator confirmed his will to change some aspects of ownership, in this sector where the land pressure is sometimes particularly weak because of a non-attractive profit and a long-term return on investment. This mode of organization emphasizes the importance of sales as much as of exchanges from its title "Exchange and Transfer of Forested Lands".

This mode has for peculiarity to be totally based on voluntary dealing :

Abolishment of the small owners not motivated by the possibility of simplified transfer, duty-free and without technical conditions up to a 7 500 € amount by transfer, what notably opens very important horizons in forest.

Big theoretical flexibility on the land reorganization by exchanges favoured by the possibility of balance of the same important 7 500-€ proportion.

Consolidation of rights and management of land scorias by the delivery in the land circuit of the vacant possessions and without an owner or presumed such, and by the representation of the "absentees" which thus participate nevertheless in the operation.

5.4 Limits in the Voluntary Organization

These very interesting headways which take into account this important decrease of the land pressure in certain rural zones is regrettably opposed by the desolation, in this specific procedure, of great principles which had nevertheless evolved from fifty years of practice of regrouping lands.

It is in particular about the absence of consideration for the general interest which has to chair over the establishment of these projects of land organization. These projects are indeed financed by some public funds and have to allow, within the framework of guarantees brought by the law, to reach minimum objectives of reorganization.

Indeed, the possibility of constraint present in different degrees in the other various modes of land organization was abandoned here, making lose in the good initial intentions a big part of their potential.

It would thus be necessary to manage to merge the power and the aptness of the various modes of land organization. Then the collective exchanges of forested lands, which knew how to abandon with good reason the aspect strictly exchanger of the land organization will have participated in the application of a mode of powerful and relevant land organization.

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