

UNDERSTANDING FRENCH LOCAL INSTRUMENTS FOR THE REGULATION OF AGRICULTURAL LAND

SAFER, Control of Farm Structures, SDREA, and the Sempastous Law

DEFIBIO project note | N°7 | December 2024



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This note outlines the role of local instruments regulating agricultural land markets in France. It provides the essential background needed to understand how complex agricultural land policies are implemented. It will be followed by a second note exploring how these instruments might be used to promote organic farming and environmental preservation.

AGRICULTURAL LAND : A FINITE RESOURCE

Land is a finite stock, a limited resource. The agricultural use of land faces competition from other uses, notably land take and other forms of soil sealing. To preserve land for agricultural purposes, the French State introduced, in the early 1960s, several instruments restricting free competition. These include the SAFER, which regulates the purchase and sale of agricultural land, and 'control of farm structures', which regulates the right to farm and covers all land operations (purchasing, leasing, setting up, enlarging, etc.).

SAFER OVERVIEW

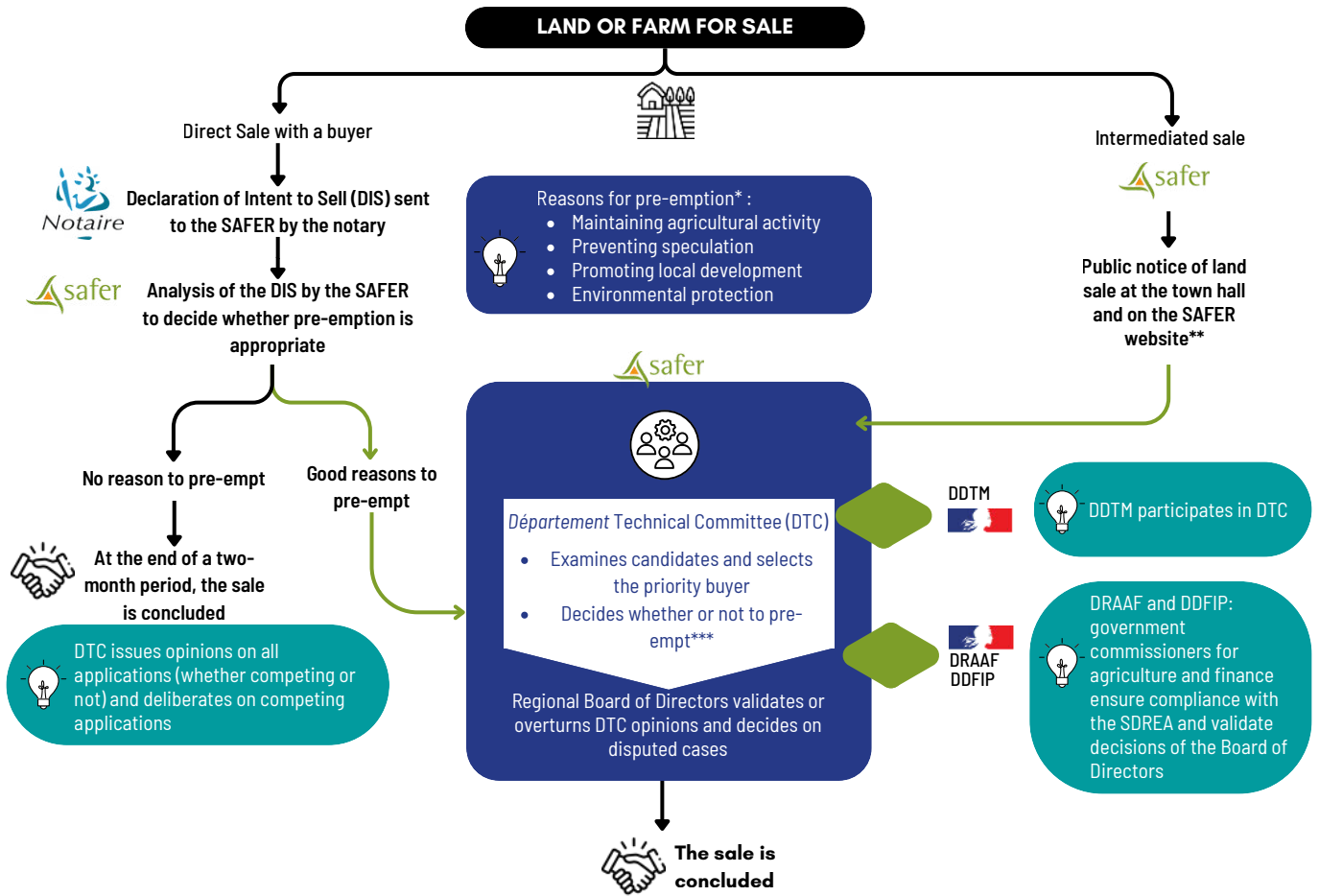
SAFER are private limited companies operating on a non-profit basis, entrusted with missions of public interest: "revitalizing agriculture and forestry, supporting local development, contributing to environmental protection, and ensuring transparency in the rural land market" (FNSafer, 2022a). Their role involves observing, ensuring transparency, and controlling the sale of agricultural and rural properties, whether built or unbuilt (Sanglier et al., 2017). They notably hold a right of pre-emption, allowing them to purchase properties ahead of the initial buyer and allocate them to another buyer. SAFER allocation decisions are mainly based on the advice of their technical committees convened at the level of the French *département* (NUTS2).

Which Market Are We Talking About?

Sales agreements for agricultural properties are reported to the SAFER by notaries in the form of a Declaration of Intent to Sell (DIS). Although the SAFER has oversight of all agricultural property sales, it can only intervene via pre-emption in the so-called accessible market. Exempt from its intervention are purchases by tenant farmers who have occupied the property for over three years, certain intra-family sales, the majority of share transactions, and very small plots (depending on zoning type). In 2021, the accessible agricultural market accounted for 46% of rural land transactions in Occitanie region. Within this accessible market, one hectare out of two was transferred through the SAFER (Safer Occitanie, 2022b).

SALE OF AGRICULTURAL PROPERTIES: SAFER'S ROLE

Land can be sold on the accessible market in two ways, as illustrated below :



*Simplified version. See art. L143-2, CRPM
 **Websites <https://candidature.saferr.fr/> and <https://www.proprietes-rurales.com/>
 *** The process of transferring property following a pre-emption has not been detailed in this diagram.

Figure 1: SAFER's Action on the Accessible Market

Direct Sale

On the left side of the diagram, the seller and buyer voluntarily sign a preliminary sale agreement at a notary's office. The notary forwards the Declaration of Intent to Sell (DIS) to the SAFER, which then analyses pre-emption requests from public or private parties interested in the property. It verifies whether pre-emption is justified based on public interest, agricultural land preservation, local development, or preventing land speculation. The SAFER presents this analysis to the Département's Technical Committee (DTC). The DTC issues an opinion on whether it is appropriate to pre-empt, subject to confirmation by the Regional Board of SAFER (RB). If no pre-emption occurs within two months, the sale proceeds with the original buyer.

Intermediated Sale

On the right side of the diagram, the sale is intermediated. This means the SAFER acts as a land agent. In some cases, it acquires land, holds it, and resells it, enabling plot restructuring or adjustments. More often, it intervenes by substitution, obtaining a promise to sell and then substituting a buyer of its choosing. SAFER publishes properties for sale on its website. All purchase offers, whether competing or not, are systematically reviewed by the DTC.

SAFER's Right of Pre-emption

The SAFER exercises its right of pre-emption on less than 1% of the Declarations of Intent to Sell (DIS) received (FNSafer, 2022b). In Occitanie region, 327 sales were pre-empted out of 41,000 notifications in 2023. When pre-empting, the SAFER can request a revision of the selling price to align with market values observed for local similar properties. If the price is revised, the seller retains the right to withdraw the property from the market. Properties acquired through pre-emption must be resold within five years, though the SAFER usually seeks a substitute buyer within two months to avoid holding the property.

THE ROLE OF THE SAFER DÉPARTEMENT'S TECHNICAL COMMITTEE (DTC)

The Departmental Technical Committee (DTC) is the SAFER's principal advisory body. Its role is to issue opinions on candidates wishing to acquire an agricultural or rural property. Where applicable, it arbitrates between candidates. The DTC's opinions are subject to validation by the Regional Board of SAFER, which may review contested cases. The sale is then concluded accordingly.

The composition of the SAFER Département's Technical Committee (DTC)

Like the Regional Board, DTCs are composed of three groups : farmers, local authorities, and civil society representatives. The DTC is chaired by the SAFER president (or their representative) and includes :

- Shareholders in the SAFER,
- Representatives of agricultural unions,
- A representative of the mayors' association,
- A representative of the *Département's* Directorate of Territories and the Sea (DDTM),
- A representative of the *Département's* Directorate of Public Finances (DDFIP),
- A representative of an accredited environmental protection NGO,
- A representative of the *Département's* hunting federation.

The precise composition varies by *Département* and is defined in internal regulations established by each SAFER at the level of *Département*, approved by the Regional Board and the State representatives (Government Commissioners).



CONTROL OF FARM STRUCTURES AND THE CDOA

Control of farm structures is the term covering public policies that grant the right to farm. It reflects how public authorities define the necessary conditions for what they consider a desirable model of agricultural holding. A person wishing to farm a plot of land (whether leased or owned) must, in certain cases, apply to the DDTM for the right to farm. Various criteria determine whether a person needs to comply with this control system, either through a simple declaration or an application for farming rights. Declaration consists of submitting documents to the DDTM. The procedure for obtaining the right to farm is detailed in the diagram below ([figure 2](#)). The DDTM monitors all applications for farming rights within its territory. Once the application is submitted to the DDTM, it is posted for one month at the town hall of the municipality where the land is located and published on the prefecture's website. This window of time may allow another candidate to submit a competing application, after informing the owner.

- In the absence of competition, the right to farm is granted implicitly, except in certain cases deemed excessive expansion (Article 5, Law No. 2021-1756).
- In the event of two competing applicants (for example, for the transfer of leased farmland), the DDTM may convene the *Département's* Agricultural Guidance Commission (CDOA) to assess and either approve or reject the various applications. The Regional Prefect subsequently issues one right to farm and one or more refusals, based on the priority criteria set out in the SDREA, and where applicable, taking into account the opinion of the CDOA. In exceptional circumstances, the Prefect may issue multiple farming rights for the same property.

The Composition of the CDOA

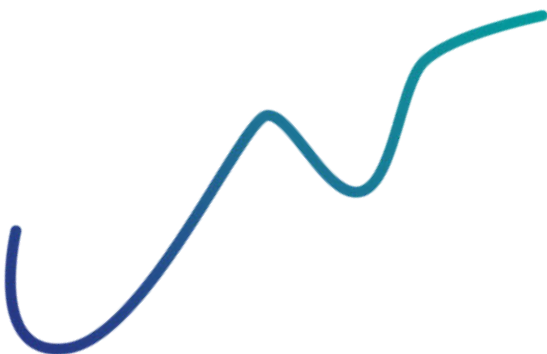
The composition of the CDOA is the same across *Départements* (with a few exceptions) and is defined by Article R313-2 of the Rural Code. It is chaired by the Prefect of the *Département* or their representative and includes around thirty members :

- Public sector actors at various levels (representatives of inter-municipal cooperation bodies, the authority of the *Département*, the regional authority, etc.)
- Devolved state services (DDTM, DDFIP)
- Agricultural organizations (chamber of agriculture, unions, etc.)
- Civil society actors (environmental NGOs, representatives of the agri-food chain, etc.)

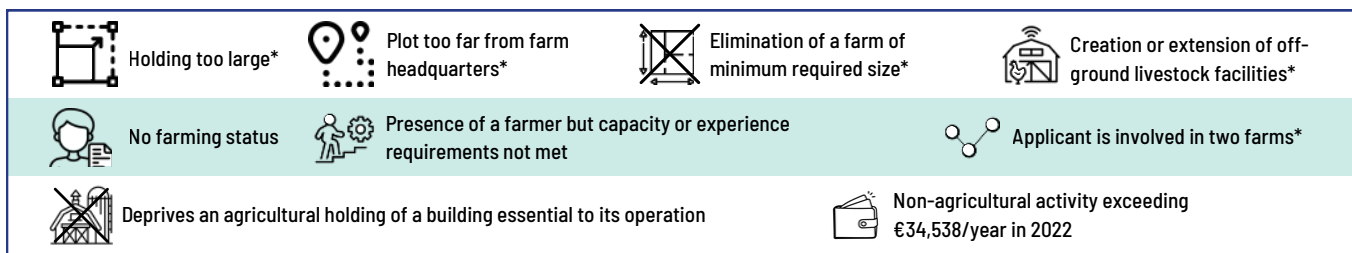
Refusal of the right to farm

The right to farm can only be refused in four specific cases :

- When a candidate ranks lower in priority compared to another under the SDREA;
- When the operation compromises the viability of the farm ceding the land;
- When the operation results in a reduction of salaried or non-salaried jobs on the farm;
- When the operation leads the acquiring farm to exceed the threshold for excessive enlargement (except if there are no competing candidates).



TO ACQUIRE OR LEASE AGRICULTURAL LAND, APPLICATION FOR THE RIGHT TO FARM IS REQUIRED IF :



*With regard to the surface area thresholds set out in the SDREA

Requests submitted to the DDTM

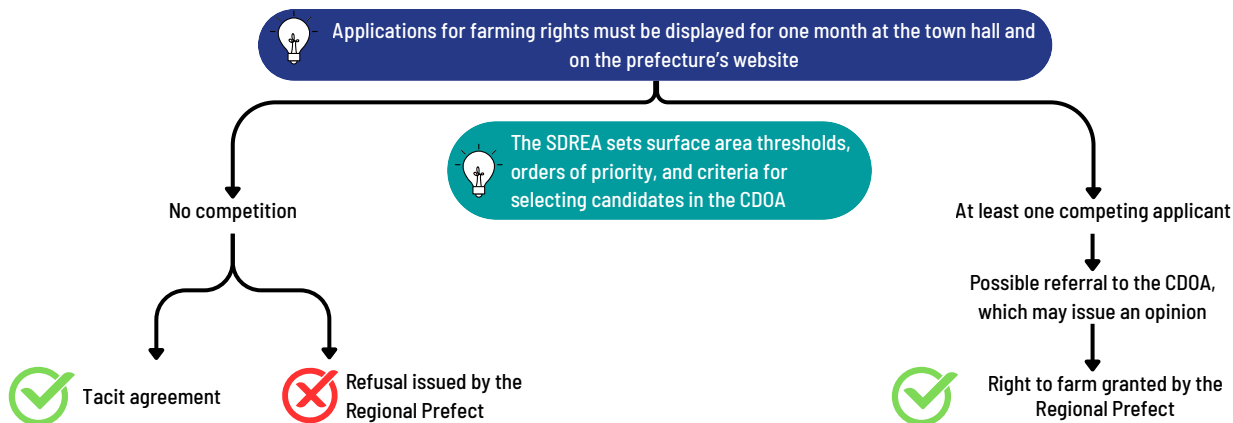


Figure 2 : Process for Granting Farming Rights

THE ROLE OF THE SDREA IN REGULATORY BODIES

The SDREA (Regional Agricultural Holdings Scheme) is a document that frames the actions of the regulatory bodies previously described: it defines the criteria both for deciding between candidates in the SAFER technical committee and for decisions on farming rights, known as the order of priority. According to the Rural Code (Art. L331-1), SDREAs must promote the establishment and transfer of economically viable farms, preserve the agricultural use of land, develop diversified agriculture, and support local development.

However, the specific criteria for achieving these objectives vary from one region to another, as the SDREA is published by the DRAAF (regional Prefectoral decree) following regional consultations between state services and agricultural representatives. In Occitanie region, when there is competition for land access, a candidate is given priority over another if, in the following order :

- Taking over the plot after having been expropriated elsewhere,
- Setting up under a young farmer's government grant (the french dja) or restructuring their land within certain limits,
- Consolidating by increasing land surface area for viability or setting up without a dja,
- Acquiring the plot to reduce the number of isolated plots composing the farm,
- Acquiring the plot to enlarge the farm,
- The new development of this plot is requested by a company part of whose share capital is not held by the farmers.

SDREA: DIFFERING TERRITORIAL LAND REGULATIONS

The SDREAs vary in their level of stringency across different regions ([Guéringer, 2023](#)). One key function of the SDREA is to set a land area threshold above which a candidate seeking to expand is subject to the control of farm structures.

This threshold differs between regions and, within each region, may vary depending on the type of agricultural production and geographical location. The lower the threshold set by the SDREA, the greater the visibility that has to be provided to the authorities regarding transactions leading to land concentration, thereby increasing their regulatory capacity. Some SDREAs may also incorporate environmental criteria, such as maintaining land under organic farming, to decide between two candidates of equal priority (as is the case in Brittany, for example).

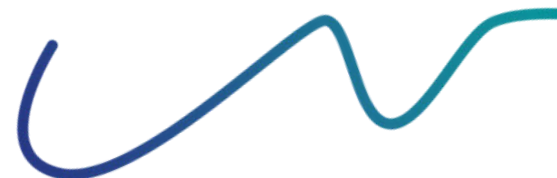
Thus, the SDREA establishes a legal framework around priority in access to agricultural land, although some flexibility remains within local regulatory bodies. In principle, the SAFER DTC must adhere to the SDREA's order of priority when selecting candidates, as must the CDOA. However, a SAFER can depart from this order of priority, provided that its decision is duly justified. The same applies to the Prefect, who decides on the legal compliance of the CDOA's opinion. A transaction conducted through the SAFER is not subsequently subject to the control of farm structures by the DDTM, as a favorable opinion from the State representative (Government Commissioner) during the SAFER Regional Board's proceedings constitutes the right to farm the land.

THE REGULATION OF THE SHARE MARKET BY THE SEMPASTOUS LAW

Set up in 2023, a new administrative system for farming rights (known as Sempastous) now regulates the agricultural land stock market, previously outside the control of the SAFER and Prefects. There are two sets of circumstances that make a transaction subject to this new authorization :

- When a private individual or a legal entity acquires the majority of the capital or voting rights of a target company,
- When the transaction causes the company to exceed a threshold of agricultural surface area set at regional level, by agricultural zone and crop type, based on the thresholds defined in the SDREA.

Certain transactions are exempt (those that are free, intra-family, between partners, or managed by a SAFER under certain conditions). Applications are referred to the SAFER for an opinion. The SAFER publishes the application on its website for one month, then has two months to issue an opinion that takes into account the observations of interprofessional organizations, any pending applications to set up new farms, the consolidation needs of existing farms, as well as regional development and diversity of production systems. The final decision rests with the Prefect who, if refusing, may require compensatory measures to facilitate the setting up or consolidation of farms, based on the thresholds set in the SDREA. Transfers of shares are only subject to the SAFER's right of pre-emption in cases where all the shares in an agricultural company are being transferred, and solely where a new farm is being set up. Consequently, SAFER's control over the share market remains limited ([Bosse-Platière & Sahut, 2023](#)).



SUMMARY

- Farm structure control is intended to support the development and establishment of economically viable farms and to combat land concentration.
- The SAFER and the Prefect are the two main bodies responsible for agricultural land regulation at the Département level. The SAFER oversees and may pre-empt property sales, while the CDOA issues opinions in cases of competition for farming rights.
- Their actions are framed nationally by the Rural Code and regionally by the SDREA, although there is room for local discretion.

TO GO FURTHER

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TO CITE THIS DOCUMENT

Felgerolles A., Perrin C., 2024. *Understanding French Local Instruments for the Regulation of Agricultural Land SAFER, Control of Farm Structures, SDREA, and the Sempastous Law*. DEFIBIO project note, 7, TETRAE-Occitanie program

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