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# FOREIGN OWNERSHIP OF U.S. REAL ESTATE IN PERSPECTIVE

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## FOREIGN OWNERSHIP OF U.S. REAL ESTATE IN PERSPECTIVE

Gene L. Wunderlich

Recent reports about foreign acquisition of U.S. real estate touch on several important economic, social, and political questions:

Do farmland purchases by foreign investors limit opportunities for American farmers to buy land? Do foreign purchases overheat the real estate market? Will U.S. land resources be exploited for foreign benefit? Do treaties and tax havens operate to the advantage of foreign investors? Will foreign control of resources eventually influence U.S. Government policies? Will foreign firms be unresponsive to employment, community development, and national security needs?

Unfortunately, these questions cannot be answered adequately with available facts about the quantity and form of foreign ownership of U.S. real estate.

### What We Can Say About Foreign Landownership

The most recent national data on foreign ownership are from the Benchmark Survey of the Department of Commerce, which in 1975 surveyed all 6,000 foreign firms and individuals with direct investments in the United States. Those owning at least 200 acres each owned a total of 4.9 million acres. This estimate may be low because owners of less than 200 acres were not included and because some investors buying directly through small brokers may have been missed. On the other hand, some of the reporters may have included some off-shore lands, in which case the survey would have overstated the foreign owned land as part of the United States. We have no accurate way of knowing how these factors net out.

However, even if all deductions are ignored and the 4.9 million acres were doubled to make a substantial allowance for owners with less than 200 acres and other investors not included in the Commerce survey, foreign ownership in 1975 would still have been less than 1 percent of the 1.3 billion acres of private land. Even if all that foreign owned land had been farmland (and it was not), it would have represented only slightly more than 1 percent of the farmland in the United States, since most of the privately held land is in farms.

Of course land purchases may not be evenly distributed among States, and not all land is of equal economic significance. Thus, foreign ownership of land, although it represents a small proportion nationally, may be of greater significance in certain States and regions.



Since the Benchmark Survey, there have been a number of highly publicized purchases of farmland by foreign investors--6,000 acres in Utah, a 12,000-acre farm in Illinois, a 23,000-acre ranch in Wyoming, and 17,000 acres in Georgia, for example. Some accounts are specific, such as the 453-acre Locksley estate in Virginia sold to a German family. Other accounts are more speculative, such as the estimate that 100,000 acres in Montana are owned by foreigners. One State, Iowa, requires alien owners to report their holdings of farmland; in 1977, the State reported 6,779 acres were owned by aliens--only a small fraction of the 33 million acres of farmland in that State.

### The Need for Facts

The lack of adequate facts is a basic problem in analyzing the foreign ownership issue. The International Investment Survey Act of 1976 recognized the importance of getting good data on investment in U.S. real estate. That Act provided for a special study of the feasibility of monitoring investment in real estate, and directed the President to

conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the feasibility of establishing a nationwide multipurpose land data system. 1/

Proposed amendments to the original legislation require the President to submit

an interim report of his findings and conclusions to the Congress not later than two years after the enactment of this Act and a final report not later than three years after the enactment of this Act. 2/

The Economics, Statistics, and Cooperatives Service (ESCS) of the U.S. Department of Agriculture, in cooperation with other Federal agencies, will investigate several means of monitoring foreign ownership of U.S. real estate, rural and urban. This study, planned for completion in late 1979, will consider various methods of assembling ownership data. It will examine such problems as the means by which ownership identity can be cloaked; the usefulness of public title and tax records in providing aggregative data; the adequacy, timeliness, and accuracy of various public and private sources of information; and comparable methods of reporting in other countries. One important issue is whether foreign ownership data should be collected separately or as part of a more extensive ownership information system that will improve data on both foreign and domestic landownership.

### Data Collection Underway in ESCS

Other efforts are underway in ESCS to get good information about U.S. landownership.

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1/ 22 U.S.C. Sect. 3103 (d)(1976).

2/ S. 2928, 95th Cong., 2d Sess. Sect. 2 (1978).

The Resource Economic Survey of Ownership, being done now, is the first national survey of all private lands. First results are expected in late 1978 or early 1979. This sample of 50,000 places will determine landownership, including residence and citizenship. However, it was not designed for foreign ownership, nor is it designed to penetrate the veil of nominal ownership. So if the named owner is a cover for another person or entity, beneficial ownership will not be revealed. The survey will provide information on land transfers, including information on land use patterns.

#### Other Existing Ownership Data Sources Have Serious Limitations

There are several other available sources of data on landownership, but none is adequate to answer questions about foreign ownership. They include the Census of Agriculture, other U.S. Government censuses, local recorders of deeds and tax assessors offices, some Federal offices, and a study by the General Accounting Office.

The Census of Agriculture offers some ownership information on land, but its scope is limited to land in farms, and the statistical unit is based on farm operation, not landownership. Other censuses, such as Business, Housing, or Population, focus on items and activities other than land. With supplemental surveys these censuses could provide some useful information, such as on details of production, if foreign owners were separately identified. The Federal censuses (Agriculture, Housing, etc.) must report data on foreign ownership strictly statistically, and cannot identify particular persons or organizations.

Most land transfers are a matter of public record in recorder of deeds offices of local governments. But there are 3,600 such offices in the United States, and most of them require manual steps to recover the facts on a transfer, so they are not a practical source of information beyond the local jurisdiction. Also, names in deed records may be only nominees, trusts, or other standins for the beneficial owners.

Tax records kept by local assessing offices often show the quantity and value of land on which taxes are paid. Taxpayers are usually, but not always, owners. There are over 65,000 taxing and assessment jurisdictions, many at the lowest level of government--township, municipality, district, or town--and practices in them are not consistent. With improvements, tax records may be a good source of ownership information.

Some Federal offices also contain information on ownership, but usually as it applies to a particular group subject to a Government regulation or service.

In short, there are no ready made sources available today that can provide accurate, periodic, consistent, aggregative information on foreign real estate ownership in the United States, though it is possible to run down a hot tip on a particular transaction, finger through a county's deed records, or dig through a Securities and Exchange Commission report. The various ESCS efforts to gather information on landownership will help remedy this situation.



## GAO Report Forthcoming

The General Accounting Office is developing a report at the request of the Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry for release in June 1978. It will provide:

- Information on the various State laws that place constraints or reporting requirements on nonresident alien ownership of U.S. farmland;
- A summary of any information accumulated by States on alien ownership as a result of State reporting requirements;
- Information on the availability of data in selected counties on foreign investments in farmland; and
- Any suggestions that might have surfaced regarding possible approaches for obtaining usable nationwide data on foreign investment in U.S. farmland.

## Toward a Foreign Investment Policy

The monitoring of foreign ownership of land and control of foreign investment in U.S. real estate are issues worthy of careful public attention. Presently, there are neither data nor analyses to support either 1) the current uncritical encouragement of all foreign investment, with land treated as any other object for sale or 2) the rigid prohibition of foreigners from holding land generally or any particular type of land. Although the Constitution and tradition reserve much of our land law in the States, there is a need to examine national tax laws, treaties, regulations, reporting requirements, and service programs.

For more information relating to foreign ownership of U.S. real estate, see:

1. GAO report (forthcoming).
2. Kenneth R. Krause. "Reports on Foreign Investment in the United States," Agricultural Finance Review, Vol. 38, May 1978, USDA, ESCS, p. 59.
3. Fred L. Morrison and Kenneth R. Krause. State and Federal Legal Regulation of Alien and Corporate Land Ownership and Farm Operation. AER-284. USDA, ERS, 1975.
4. U.S. Dept. Commerce. Foreign Direct Investment in the United States, especially Vol. 8, Appendix L, "Foreign Investment in Land" and Appendix M, Fred L. Morrison, "Legal Regulation of Alien Land Ownership in the United States." Apr. 1976.
5. U.S. Dept. Agriculture, ERS. Summary of the Report: Foreign Investment in U.S. Real Estate. AIB-400. Dec. 1976.
6. U.S. Dept. Agriculture. Foreign Investment in U.S. Real Estate, available from National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161. Ask for PB 258 073. July 1976.



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