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Summary of the Report: FOREIGN INVESTMENT IN U.S. REAL ESTATE

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SUMMARY OF THE REPORT: FOREIGN INVESTMENT IN U.S. REAL ESTATE. Gene Wunderlich, Natural Resource Economics Division, Economic Research Service, U.S. Department of Agriculture. Agriculture Information Bulletin No. 400.

ABSTRACT

Findings of 20 papers on various aspects of the expected social and economic impacts of foreign investment in U.S. land are summarized. The papers conclude U.S. policy on foreign investment in land hinges on two questions: Should ownership of U.S. land be conditioned in any way by citizenship status? Should information on the ownership of land, both nominal and beneficial, be readily available to the public?

Several actions are recommended: (1) continuation of current U.S. policy of limited Federal restrictions on alien ownership of land, pending completion of a comprehensive study of the long-term social and economic impacts of such ownership; (2) development of a Federal reporting system for identification of alien owners of U.S. land; (3) adoption of State laws requiring local officials to identify alien interests in land, to make the data available to the public, and to send the information to the State, where it then could be collected by a Federal agency; and (4) creation of a commission with Federal, State, and local representation that would design more efficient landownership information collecting and handling systems.

KEY WORDS: Foreign investment; Alien ownership; Real estate; Land ownership; Land tenure; Information systems.

PREFACE

This report summarizes a larger study "Foreign Investment in U.S. Real Estate," a compilation of 20 papers on various aspects of the alien investment question. Annotations of each of those 20 papers follow the sections summarizing the overall report, its conclusions, and its recommendations. Copies of the overall report are available at a cost of \$10.75 per paper copy and \$3.00 per microfiche copy from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. (Ask for AGERS-5).

The study originated with the Foreign Investment Study Act of 1974. Section 5(6) of the Act, P.L. 93-479, calls for an analysis of foreign direct investment in real property holdings in the United States. The analysis of real estate investment, outlined in a letter of agreement from the Department of Commerce to the Department of Agriculture, in June 1975, is one aspect of the larger study of foreign direct and portfolio investments.

The letter of agreement called for a comprehensive report to include background and history; structure and processes of real estate exchange; effects of investment in land on employment, savings, and land use; special issues such as urban real estate and investment management; legal issues pertaining to disclosure and control of information; methods of inquiry; and shortcomings of current ownership data sources. Each of the 20 contributions to this report represents separate and distinct research of the authors.

National data on real estate are extremely limited. Information on real estate is fragmentary, local, and scattered among local government offices, private industry files, or individual landowners. Ownership is easily disguised and information easily controlled. The ethic and conduct of industry and commerce generally, and the real estate institutions particularly, encourage confidentiality because market advantage runs with secrecy. It is not surprising that the real estate industry does not wish to donate large quantities of its stock in trade—information.

Real estate represents a small portion of international investment. Its importance is not its quantity at this time, but its possible implications for future investment policy. Even more significant as a policy issue is the lack of information on wealth holding. Little is known about who the owners of U.S. land are, foreign or domestic.

The authors of this report solicited information from most of the major national and international organizations, but that effort added little or nothing to the data base on foreign ownership of land. Some contact with brokers, counselors, and financial representatives was helpful for color, viewpoints, and general outlook. However, little or none of the information the authors obtained was better quantitative information than that which is available in reports in newspapers, news magazines, and trade journals.

The real estate investment problem, then, is actually an information problem, and that is the dominant theme of much of this report. The issues most often reduce to contrasts of secrecy and disclosure.

Many of these same information contrasts are found in other aspects of our commercial and industrial life. There are unique features of real estate, such as title recording, but secrecy and disclosure pertain as well to other forms of wealth. In this study, the authors have inquired whether the public has the right to know how much wealth is held, by whom it is held, and how trade in land is conducted.

Rather than compiling fragments of information, the authors stressed policy issues examined from a detached, academic point of view. Despite their common familiarity with land and related resources, the authors represent widely divergent backgrounds and regional identities. They bring analytical talent to the issues. The report does not stress quantitative data for two reasons: (1) there was not sufficient time to obtain the quality of data that would provide a better factual basis than data currently available; and (2) the issues, particularly as they apply to land, had not been refined to a point where policy-oriented research should proceed to data collection. Readers wishing greater depth of discussion on the various topics are encouraged to read the full report.

Parts of this study also appear in the U.S. Dept. of Commerce report, "Foreign Direct Investment in the United States," Vol. 8, Appendix L (1976).

We gratefully acknowledge the financial support of the U.S. Department of Commerce. However, the opinions and conclusions in the papers are solely those of the authors and are not necessarily accepted or approved by either the Department of Commerce or the Department of Agriculture.

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The authors of the overall report acknowledge with thanks the many anonymous persons who contributed insights, hunches, and facts. Several persons in the real estate and financial world helped provide real world information and opinions (not always in agreement with the authors) that are reflected in the report, although the origin of the information is not always cited.

Valuable counsel was received from Hugh Brodkey, Chicago Title Insurance Company, and James McMullin, Real Estate Service, Inc. For their incisive and helpful comments, we thank George Lefcoe, University of Southern California; Philip Raup, University of Minnesota; Maury Seldin, American University; and Michael Sumichrast, National Association of Home Builders. We wish to acknowledge the usefulness of Frank B. Hawkinson's report, "Foreign Investment Inside USA," and the services of the New York Times Information Bank. Appreciation is also expressed for the bibliography supplied by the American Chapter of the International Real Estate Federation.

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SUMMARY OF THE REPORT: FOREIGN INVESTMENT IN U.S. REAL ESTATE

Gene Wunderlich

INTRODUCTION

Legislation authorizing this study was prompted by growing public concern about foreign investment in U.S. land and an apparent substantial lack of information on who owns land in the United States. The original study called for the submission of 20 papers on aspects of the alien ownership of U.S. land, with the goal of providing U.S. policymakers an idea of the expected social and economic impacts of such ownership.

This report summarizes the findings of the 20 papers and draws several conclusions and recommendations from them. Following the summary sections are annotations of each of the 20 papers.

SUMMARY

WHO SHOULD OWN THE LAND

The American's possessiveness of his territory against outsiders has a long history. "[A]s early as 1635 Watertown passed its order that no 'forreiner' coming into town should benefit by the commonage . . ."¹ Prior to 1659, Connecticut forbade sales to outsiders unless the town gave permission.² Even dower rights to land were denied to a widow who had not joined her husband in U.S. citizenship at the time of the American Revolution.³ The existence today of 29 State laws⁴ of varying severity and effectiveness which limit land-holding by aliens is evidence of opposition to ownership of land by outsiders.

¹ S. Livermore, *Early American Land Companies*, p. 25, 1968.

² S. Livermore, p. 27.

³ Discussed with other aspects of the history of citizenship in J. Kettner, "The Development of American Citizenship in the Revolutionary Era: The Idea of Volitional Allegiance," *Am. J. of Legal History*, Vol. 18, p. 230, July 1974.

⁴ F. Morrison, "Legal Regulation of Alien Land Ownership in the United States," *Foreign Direct Investment in the United States, Interim Report to Commerce*, Appendix XI, U.S. Dept. Commerce, Oct. 1975; F. Morrison and K. Krause, *State and Federal Legal Regulation of Alien and Corporate Land Ownership and Farm Operation*, Econ. Res. Serv., U.S. Dept. Agr., AER 284, May 1975; "Council on International Economic Policy, Summary of State legislation affecting alien investment in land and related resources," prepared by Washington and Lee Law School, unpub., 1974; Memorandum on State legislation affecting alien investment summarizing material from Martindale-Hubbell, Econ. Res. Serv., U.S. Dept. Agr., Nov. 16, 1973.

Despite such discrimination against outsiders, landholding in the United States has a history of liberal settlement and sales.⁵ Questions about the legitimacy of past European claims to North America⁶ have never been a serious bar to the free marketing of U.S. land. Nor has a concern for future patterns of land use or landownership in the United States been of much public concern until recently. Therefore, this inquiry into the basis for differential treatment of citizens and aliens in landholding was made in the context of a tradition of relatively unrestricted possession and transfer of land. Sentiments against outsiders have generally been suppressed in favor of perceived economic advantages of an unrestricted market for land.

Although this inquiry was initiated in the context of foreign investment practices and policies, foreign investment is one aspect of the broader issue of land ownership. The foreign ownership of land in the United States is part of a larger question: who should own the land? Correlatively, what benefits and responsibilities should ownership entail? Is citizenship a basis for special benefits and special responsibilities?

The authors of the 20 studies summarized in this report seek answers to these questions. While their approaches vary, the authors touch, in one way or another, three critical features of the foreign investment issues: land, citizens, and information.

LAND, CITIZENS, INFORMATION

Land

Land has physical and economic qualities sufficiently unique to require specific attention among the forms of direct investment policy. Land is scarce in relation to the total potential uses. Each unit of land has but one location. It absorbs, stores, or emits energy. It defines activity. And, it limits the existence of man absolutely.

Land in this report is defined as a resource. The economic value of land⁷ follows directly from its physical scarcity; there are simply more wants from the land than can be supplied without cost (even if the cost is only that of deciding). If land cannot supply man his wants, then man must apply labor (work) or accumulate capital (save). From the product created by a combination of labor, capital, and land, man can pay wages, interest, and, with the remainder, rent. This elementary restatement of Ricardian principles is intended to distinguish land, the resource, from real estate, the paper claim to land that is often merged with capital.

⁵ P. Gates, *History of Public Land Law Development*, 1968; A. Chandler, *Land Title Origins: A Tale of Force and Fraud*, 1945.

⁶ See, for example, M. Price, *Law and the American Indian*, 1973, “. . . The Anglo-Saxon commitment to private property obviously yielded in important ways to the rapacity of the European settlers and the frontier expansionists. . . .” Origin and legal reasoning pertaining to European claims may be found in Chief Justice Marshall’s opinion in *Johnson vs. McIntosh*, 21 U.S. (8 Wheat.) 543, 1823.

⁷ The market approach to real estate shows a 1975 asset value of \$3,361.5 billion for all U.S. real estate. Another approach, more closely related to national wealth, would put the value at \$4,361.5 billion. Land represents about one-third of the total value of real estate.

Increasingly, real estate transactions require mass-marketing techniques, grades, standards, forms, regulations, and controls. "Paper" is replacing territory. The nature of land as a resource in economic processes may be forgotten. Policies to affect international investments may not be effective policies for real estate.

Citizens

The Foreign Investment Study Act implies that citizenship is a crucial ingredient in the national policy of investment. This must especially be true about land, for citizenship is defined, in part, by land. McDougal, Lasswell, and Chen refer to "membership in a territorial community"⁸ and Bickel adopts Holmes' definition of citizenship as "a territorial club."⁹ The concept of exclusion at the heart of property is also the essence of citizenship.

Citizenship connotes an interest in the common property of a nation.¹⁰ The cliché of owning stock in a nation is not without substance. But is owning stock in a nation to be one of the exclusive privileges of being a citizen? The question underlies investment policy. Obviously the answer must extend beyond the simple economics of resource control and international finance.

Why does one invest in the territory of another? Two motivations are monetary return and security of asset but is there another motivation beyond these? Citizenship is an investment of allegiance.¹¹ Citizenship provides "protection against other territorial communities and . . . richer participation in the value processes of (the citizen's) chosen community . . ."¹² Does investment provide some of the amenities (and burdens) of citizenship?

The attraction of citizenship to an individual is the opportunity to gain some advantage, or avoid some disadvantage, as a member of a nation.¹³ Presumably, then, a policy of investment in the land of a nation can be viewed in terms of the benefits of citizens vis-a-vis others. Even the 18th-century liberal arguments for free trade were not based on a one-world philosophy but on the idea that free trade was good for the nation and its citizens.

Citizenship is identified with a place, either directly because one was born there, or indirectly because one's parents were born there. Citizenship may be

⁸ M. McDougal, H. Lasswell, and L. Chen, "Nationality and Human Rights: The Protection of the Individual in External Arenas," *Yale Law Journal*, Vol. 15, Vol. 83, p. 901, Apr.-July 1974.

⁹ A. Bickel, "Citizenship in the American Constitution," *Arizona Law Review*, Vol. 15, pp. 369-387, 1973.

¹⁰ Mason Gaffney points out, however, that some citizens have a greater interest in the common property than others, and, in the extreme, some of the common property is not altogether common. Gaffney also describes the process by which beneficial citizenship is conferred on foreign nationals (*casiques*) through military spending. Mason Gaffney, "Benefits of Military Spending," *Proceedings of 10th Annual Conference, Committee on Taxation Resource and Economic Development*, Madison, Wisc., Oct. 25, 1971.

¹¹ Bickel, p. 383.

¹² McDougal, p. 901.

¹³ Individual advantage is consistent with the notion of citizenship and benefit. The benefits to members of the multinational corporation are extraterritorial to a particular country. Nevertheless, national policies do influence the multinationals and its members, so the ultimate effect of a policy may be determined by the direction of allegiance of the "dual citizens" of a country and a multinational.

termed land's investment in, and claim on, people. "Patriotism is the demand of the territorial club for priority . . ." ¹⁴

A policy on international investment in land must at least imply some vision of the benefits and burdens of citizenship. This inquiry on international real estate transactions recognizes that nations discriminate on the basis of citizenship.

The issue of benefits and burdens of membership in the territorial club is implied in the report but the topic of citizens, subjects, and nations is not treated exhaustively. This inquiry into alien land ownership may, however, be a useful prologue to other inquiries about the nature of man and state.

Information

The Foreign Investment Study Act of 1974 is itself a testimony to the significance of information. Congress passed the Act because it felt the amount of information on foreign investment was inadequate. This report on investment in real estate provides an entry into some basic policy issues of the rights of citizens and governments to know, the nature of property and privacy, and the responsibilities of foreigners to supply information to members of the "territorial club."

Most recently, the policy issue relating to information has centered on personal privacy ¹⁵ and use of Federal ¹⁶ and other institutional ¹⁷ records on specific persons. However, the information issue goes beyond personal privacy and into commerce, industry, finance, and intergovernmental relations. Is it the duty of a government to obtain information in support of commerce, national security, and economic prosperity? Is it the duty of a government to inform its citizens? What is a public record?

Aside from regulation or restriction of foreign holding of real estate, the major policy issue relates directly to information: who should report what to whom about real estate transactions, holdings, and interests? What information about real estate transactions, intentions of transactions, financing, ownership, and lesser interests should be made available to other parties, to government, or to the public at large? Some of the policies relating to information may pertain to any investment, portfolio or direct, and other policies may specify the economic and institutional qualities of land. Our principal concern is information about property in land.

The concept of information is a root of property. The entitlement to a property object such as land is a proclamation of interest to and against the world. To the extent the claim is honored and enforced, the world acknowledges the proclamation. Property is information. ¹⁸

¹⁴ Bickel, p. 383.

¹⁵ See, for example, the discussion of standard universal identifier in *Records, Computers, and the Rights of Citizens*, U.S. Dept. Health, Education, and Welfare, July 1973.

¹⁶ *Ibid.*; also, the Privacy Act of 1974, Public Law 93-579, 93rd Congress, Dec. 31, 1974.

¹⁷ See, for example, Note, "Government Access to Bank Records," *Yale Law Journal*, Vol. 83, p. 1439, 1974; R. Block, "Of Records and Reports: Bank Secrecy Under the Fourth Amendment," *Arizona Law Review*, Vol. 15, p. 39, 1973; and J. Rule, *Private Lives and Public Surveillance*, 1974.

¹⁸ This view of property is examined in G. Wunderlich, "Property Rights and Information," *The Annals*, Vol. 412, p. 80, March 1974.

Muniments of title or registration certificates are written forms of communication essentially between the rights holder and all other persons. They are public documents—they must be public to serve their purposes. Even unwritten evidences of entitlement such as “open and notorious possession” or public exchanges of wealth in preliterate societies are communications to the world—publicity.

Public though they may be in a legal sense, the public land records are not in fact a generally accessible display of land, interests, and interest holders.¹⁹ The character of public records of landholding has been shaped by requirements of parcel conveyancing.²⁰ Public records are suited to assurance of individual interests on a transaction-by-transaction basis. They are generally not suitable for a cross-section display of ownership status, say, of a whole jurisdiction.

Ownership status is further obscured by trusts, nominees, and other devices which veil the beneficial owners of property.

The economic function of information is to reduce uncertainty in the processes of resource allocation or exchange.²¹ By reducing uncertainty in the assignment of benefits and costs to people, information also plays a role in the distributive process.²² From the public's point of view, there should be maximum availability of accurate information, limited only by the cost of collection and dissemination.

From an individual point of view, however, withholding information can provide economic advantage. Much of the commerce of the world is conducted on the basis of private advantage gained by secrecy or release of misinformation. A substantial portion of the real estate trade, for example, is conducted with privileged (restricted) information.

Though helpful to the traders, the advantages of secrecy for the public at large are less obvious. From an economic or social standpoint, the use of a nominee to obscure beneficial ownership is a lie. Whether such lying has overriding advantages to an economy and society, and should be permitted, should be a matter of public policy.

With the possible exception of Iowa, which recently enacted a law that has not yet been tested, no State has a system of recordkeeping capable of identifying the actual owner of land by citizenship. Iowa's modest entry into mandatory ownership disclosure provides an interesting prelude to the inquiry of

¹⁹B. Burke, “Governmental Intervention in the Conveyancing Process,” *Am. Univ. Law Review*, Vol. 22, p. 240, Winter 1973.

²⁰F. Leary Jr. and D. Blake, “Twentieth Century Real Estate Business and Eighteenth Century Recording,” *Am. Univ. Law Review*, Vol. 22, p. 275, Winter 1973; also P. Basye, “A Uniform Land Parcel Identifier—Its Potential for All Our Land Records,” *Am. Univ. Law Review*, Vol. 22, p. 251, Winter 1973; and D. Moyer and K. Fisher, *Land Parcel Identifiers for Information Systems*, 1973.

²¹D. Lamberton, editor, *Economics of Information and Knowledge*, 1971. Contains a number of now classic articles on the economics of information.

²²One form of uncertainty that has received attention of economists in recent years has been in the assignment of liability and appropriation of benefit—the so-called externalities problem—which has dominated the “economics of property rights.” As a broad generality one can say there has been a confusion by economists of an assignment of value problem with an assignment of rights problem.

individual and national rights to wealth encouraged by Alfred Marshall 85 years ago:

Individual and national rights to wealth rest on the basis of civil and international law, or at least of custom that has the force of law. An exhaustive investigation of the economic conditions of any time and place requires therefore an inquiry into law and custom; and economics owes much to those who have worked in this direction. But its boundaries are already wide; and the historical and juridical bases of the conception of property are vast subjects which may best be discussed in separate treatises.²³

AN INQUIRY INTO THE OWNERSHIP OF LAND

Recitation of facts such as 4.9 million acres of U.S. land owned by foreigners and 62.8 million acres leased by foreigners in 1975 is a sterile exercise without an understanding of the processes by which land ownership changes—the forces that have affected and will affect ownership distribution, and the effects of investments in land. The 20 contributions to the full report provide the ingredients of a policy-oriented inquiry into U.S. landholdings, and each of the papers deserves a separate reading. However, the following summary of common, and uncommon, issues attempts to pull these ingredients together.

In their most general form the issues can be summarized simply into one: there is lack of knowledge not only about landownership facts but about their causes and consequences. These causes and consequences form the content of 20 different statements, which are digested and combined below under these topics: real estate institution and investor behavior within the institution; impacts on foreign investment on the economy in general and on particular sectors and regions; formation and administration of Federal, State, and local law; needs and technology for information and limits on the disclosure of information.

The Real Estate Institution

Public policy on foreign investment in U.S. real estate needs research on a continuing basis not only to monitor the facts but to understand and project the public's intentions and interests. John F. Timmons, in his overview of the relation between policy and research, emphasized that data and reliable analysis are needed so that policies will not be fashioned from emotion, myths, and fragments of information.

There is no large volume of foreign investment in land upon which the authors could premise their analyses. Nevertheless, their inquiry has provided useful insights for policy should considerable foreign investment in U.S. land occur. A growing familiarity with U.S. brokerage, financing, and transfer institutions will tend to encourage real estate investment by foreigners. Therefore, according to the reasoning by Barlow Burke, Duane Harris, William Hampel, Folke Doving, and other contributors to this report, though the

²³ A. Marshall, *Principles of Economics*, p. 51, Eighth Edition, 1920; First Edition, 1890.

proportion of all real estate owned by foreigners is small now, the share probably will be increasing.

Research questions arise as much from one's view of the facts as from the facts themselves. One perspective of foreign investment is the flow of capital over time. This flow of capital into the country began long before the United States achieved nationhood.

Land schemes appeared before the American Revolution, and the annals of real estate speculators contain the names of many of the nation's founding fathers. Land promoters such as Robert Morris, Patrick Henry, and Sam Blodgett, first supervisor of the city of Washington, flourished in the early days of the Republic, and appear in America's land legends. Terry L. Anderson, in his historical review, reminds us of the large tracts of West Virginia land purchased by British investors to sell to immigrants.

The story of European investment in U.S. land was repeated across the whole country. Much of the European investment, however, was not channeled into land exclusively. Historical data must, therefore, combine time series of total investment with fragments of information on real estate. Often the type of investment would obscure the element of land. Investments by Europeans in U.S. railroads, for example, were *de facto* investments in railroad lands, granted by the Government and, in turn, sold to settlers.

It would be easy enough to associate the developmental capital which flowed into the United States in the 19th century with speculations and investments in land. As Anderson points out, rarely are capital accounts sufficiently refined in historical data to distinguish the land element.²⁴ Benefits stemming from the development of transportation, manufacturing, and construction could be mistakenly attributed to land purchase, sale, and lease. Before an accurate assessment of the economic effects of foreign investment can be made, the purposes of the investment must be known.

The locally oriented U.S. real estate market extended itself to a national trade during the late 1950's and early 1960's. Then in the early 1970's, the U.S. real estate establishment began to internationalize its perspective. Not only are the foreign buyers undergoing an educational process, U.S. financial organizations, brokers, finders, attorneys, and insurers are learning the international land game.

Early in this inquiry we asked: is there an international real estate institution? Barlow Burke, in his section on transnational conveyancing, concludes "yes," but it is still taking shape.

The lack of uniformity in State land law combined with possibly overriding Federal law create a complex web of doctrines and rules that are difficult enough for those familiar with U.S. conveyancing. To the foreign investor, the rules are even more perplexing.

²⁴ There are few data on private landownership, even on current status. With the exception of the Census of Agriculture of 1900 and a farmland survey in 1945, there are no national statistics on landownership in the United States. See, for example, *Historical Statistics of the United States, Colonial Times to 1957*, U.S. Bureau of Census, 1960. The 1900 Census of Agriculture reported, incidentally, that 1,097 of the 1.9 million rented farms were owned by foreigners (Table 23). The 1945 Census did not identify foreign ownership.

The unique and complicated features of the law may account for some of the conservative approaches to real estate investment in these early stages of the internationalization of the institution. The uncertainty of investors and advisors create a "herd instinct" and causes them to follow regional or sector patterns with which they are familiar. The lack of large-scale, smoothly functioning markets probably permits the one-person, small-firm finders to trade limited information profitably.

The foreign purchaser is likely to have a large equity in real estate, not only because of his financial capability, but because he is apprehensive about the information requirements of U.S. lending institutions. Unless the foreign investor abandons his traditional reticence to disclose information, it is likely that effective reporting requirements would reduce foreign purchases.

The complex rules governing real estate investment by foreign institutions are rooted in, and are implemented in the presence of, an equally complex collection of attitudes and beliefs of U.S. citizens about foreigners. The alien land laws are but reflections of attitudes of exclusion from the territorial club.

Lack of experience, explains Gene F. Summers, is no bar to expression of an attitude. Attitudes may be built from complexes of beliefs, so a farmer's attitude toward Arab purchase of a neighboring farm may have nothing to do with the farmer's experience (or lack thereof) with Arabs. Furthermore, his attitude about farmland may differ completely from his attitude about an industrial site. If policymakers wish to assess public reaction to foreign investment in U.S. land accurately, they need to delve beyond surface opinions and attempt to understand the basic attitudes that underly those opinions.

At the other end of the policy chain are the issues related to the uses of power. Ownership and control of land is a means for distributing and exercising power, so the rules governing the acquisition of title, the application of regulation, the distribution of income, and incidence of taxation are all subject to the political process. Rule making and rule enforcement are political processes and, as Brian Loveman points out, ownership is actually defined in terms of who decides how the land is used and who receives benefits and bears costs of landholding.

The relatively few restrictions on foreign ownership of U.S. land is a reflection of the politically strong position of landowners and the real estate establishment—brokers, attorneys, financial institutions, and others associated with the transfer and management of real estate. This strong position is not unique to the United States. The political power of landownership explains why there have been virtually no successful land reforms that did not involve major shifts of political power.

The basic political question is, according to Loveman: do citizens in general have a right to know who owns U.S. land? His question recognizes directly that information is not only economically valuable but politically powerful.

The answer to the question is by no means simple, because it inquires into the nature of commercial security, privacy of wealth, and the relation between government and citizen. In the case of foreign ownership of land, the answer extends to relations among nations. The answer should express more than textbook clichés on free trade.

The three papers by Arnold Paulsen, by Duane Harris and William Hampel, and by Craig Currie, Michael Boehlje, Neil Harl, and Duane Harris examine the

real estate institution from the point of view of those participating in the investment process. Paulsen's comparison of West German and Iranian investors makes the simple, direct point that investment motivations differ, and these differences will be reflected not only in the type of investment but the manner in which the investment is undertaken.

Paulsen's observations about investment motivations are borne out, partially at least, by the study of real property transfers in Iowa reported by Currie and others. Not only did the Iowa study find the number of completed sales to foreign investors small, the sales were predominately to West Germans. The study confirms, to some extent, what Burke referred to as a herd instinct of investors, what Summers suggested about discriminatory attitudes, and what Paulsen said about the preferences of types of foreign investors. The Iowa study, incidentally, indicates the difficulty in documenting sales to foreign investors.

The investment model by Harris and Hampel rigorously defines the elements of the investor's bidding potential. Their equations state the relation between the bid price and characteristics of the investor, including his risk preferences, value of his portfolio, tax rate of the investor, and expectations about income.

From the model it is possible to deduce relative bidding advantages to a domestic farm operator or to a foreign investor. The biggest advantage to the domestic operator is greater before-tax income per acre; another is lower transaction costs for domestic bidders.

The foreign investor has an advantage because the diversification of his investment portfolio makes his marginal risk lower than the domestic bidder's. The relative risk of investments due to political conditions in other countries may cause the foreign investor to favor U.S. property.

All the foregoing examinations of investor behavior seem to indicate that improved information would lower transaction costs and encourage better investment decisions as a whole. That is not to say, of course, that it is to the advantage of any particular investor or broker for any particular transaction to reveal anything about his investment intentions or actions.

Economic Impacts

Having examined the character of the real estate institution and the behavior of investors within that institution, we turn now to the economic impact of foreign investment in land. Folke Doving and Mason Gaffney seek to answer the question: do purchase and possession of land have the same impact as other direct investments?

Notwithstanding a policy that generally encourages the inflow of capital, we should be circumspect about foreign ownership and control of land. According to Doving, the long-run benefits to the United States of foreign investment in U.S. land are doubtful.

Doving argues that the society and a private entity differ in their perceived discount or interest rate. Individuals tend to prefer present income, in relation to future income, more than society does. This difference is particularly significant in calculating the value of a non-depreciating asset such as land. Society can afford to accept a lower rate of return on the value of an asset. The social account value of land to the United States as a nation is greater than the private market indicates. Therefore, transfers in the private market will not reflect this public interest.

According to several of the authors, foreign and domestic purchasers differ in their perception of land as in investment asset. Some of these differences are attributable to tax laws of various nations. The real property tax is payable by all foreign and domestic owners, but other taxes on income from land, capital gains, or inheritance may not be the same for the foreign owner as they are for the domestic owner.

Dovring and others have noted the relatively low value of real estate in the United States compared to comparable real estate in other countries. Dovring notes that long-term investors, especially institutional or governmental, can sustain relatively low current returns because of expected longer term capital gains. Expectations of such capital gains are supported by experience in other countries and the probable policy of the U.S. Government to continue programs whose effect is to enhance land values. Given the relative states of management and technology in the United States and abroad, there is little likelihood that foreign investment in land, farmland at least, will result in intensification of or increased productivity.

In summary, Dovring sees few positive impacts for the United States from foreign investment in its farmland or forestland. Presumably one could also extend some of his arguments to open land suitable for development. A similar case against foreign investment in real estate which results in construction, development, employment, formation of joint-venture capital, and transfer of technology would be less convincing.

Selling land to a foreign country, according to Gaffney, is equivalent to borrowing from that country. The real issues are the impacts of real property investment, which are conditioned in large part by domestic institutions. Presumably, therefore, problems associated with international land transactions are manageable as domestic policies.

Gaffney enumerates possible advantages of foreign purchases of U.S. land, such as a transfer of capital in time of need; the stability of land purchases over flights of "hot money," which is more likely to depreciate; the economic and political stake of foreigners in the United States; the positive effect on balance of U.S. investment abroad; the infusion of new management; and the lack of any need to police restrictions on foreign landholdings.

The disadvantages include loss of control of resource use by citizens, the possibility for less intensive land use associated with foreign-investor preference for minimum management, nation's loss of sovereignty because of foreign ownership, less concern of a foreign investor for community well being, inability to reach income and consumption of foreigners with U.S. taxes, loss of secondary demand because of absenteeism, and increased ownership concentration.

The net advantage or disadvantage to a nation of direct foreign investment, according to Gaffney, depends upon the structure and operation of the domestic institutions. In particular, he notes that the tax structure generally favors the foreign investor. The exception is the property tax. Gaffney suggests a remodeling of real property taxes as a way to offset disadvantages associated either with foreign investment or with traditional preferences land and land-owners have enjoyed in the economic system. Gaffney and others note that foreign investment in real estate is not in itself a problem but is, instead, a symptom of insufficient domestic capacity for capital accumulation.

The general analyses by Dovring and Gaffney pertain to the abstract qualities of land. However, the impacts of foreign investment will differ widely

depending on land use and region. Analyses were directed to specific uses, namely, farmland in Iowa; forestland; minerals, especially in West Virginia; recreation and other uses in Hawaii; and land ownership in Texas and Colorado.

Both Lloyd Irland and Walter Labys, in examining timber and minerals, respectively, stress the importance to foreign investors of assuring themselves of supplies of natural resources. They note that land ownership is only one of the ways of assuring supply. Land use and income may be controlled by leasing, contracting, and even marketing practices—often through complex systems of subsidiaries and affiliates.

Although land prices are low and growth rates are high in the United States in relation to the rest of the world, the foreign investment in timberland has been small—one-third of 1 percent of U.S. commercial forestland. Irland explains that timberland, with its management requirements and cash flow delay, is unattractive to the foreign investor.

In Alaska, the timber production of interest to the Japanese is on State and federally owned land. Japanese investment, therefore, has gone into processing logs and pulp. With the exception of Alaska, most of the foreign investment in U.S. timber has been to serve the U.S. market. The economic effects of foreign investment in timberland, according to Irland, have not been negative. In part, this may be accounted for by joint ventures with U.S. investors.

Foreign investment in coal has been heaviest in coking coal—mines with foreign investment accounted for 12 percent of the coking coal produced in the United States in 1973 and that portion is expected to rise to 21 percent in 1978. Labys estimates that West Virginia mines with foreign interests would provide 16 percent of the State's production by 1978, a doubling in 5 years. Labys judges the impact of foreign investment in mining on the balance of payments, employment, and income to be favorable. He indicates that the predominant investment is in extraction and processing rather than mineral land-ownership and he does not assign any particular economic benefit to foreign ownership of mineral rights or mineral landownership. He points out, however, the inadequacy of available data and recommends "considerable further work."

Karl Gertel in his study of foreign, largely Japanese, investment in Hawaiian real estate notes that hotels themselves are frequently owned by foreign investors, while the land has remained in Hawaiian ownership.

About one-fourth of the \$512 million of foreign real estate in Hawaii in 1975 was new construction, largely of condominiums, hotels, and office buildings. And this construction has increased income to Hawaiian households by \$178 million. There is no clear way of knowing what effect it might have had on domestic investment or long-run economic well-being as rents and interest are returned to the investor. Foreign investment, according to Gertel, has caused an oversupply of condominiums. He noted especially that Oahu faces problems of traffic congestion and higher prices. Sellers of real estate have generally benefited from foreign investment.

The Colorado real estate market examined by Eliot Waples reveals a familiar problem in identifying current or prospective foreign investors. Colorado law, for example, requires assessors to file annual lists of nonresident taxpayers, but there is no requirement that the identity of beneficial owners be disclosed.

Although some Colorado farm and ranchland had been sold to foreigners

and many more inquiries had been made, the amount of land actually sold was small. Waples could verify only that 1,780 acres had been sold to foreigners, though it is rumored that 38,000 acres more had been sold.

The survey of Colorado bankers, brokers, extension agents, recorders, and assessors revealed no strong opposition to foreign investment by foreigners. According to Waples, the impact of foreign capital is favorably regarded. Two of the reasons given for opposing foreign investment were that absentee owners have no interest in community affairs and outside investment causes land prices to rise.

Ivan Schmedemann divides the real estate market into four distinct markets in terms of the types and objectives of buyers. In addition to two traditional markets based on production income and consumption utility, he identifies inflation markets for foreign and domestic buyers. He found most foreign investment to be disadvantageous to communities and agriculture.

Particularly under the conditions existing in Texas and the Southwest, Schmedemann concludes, the foreign investor, as an absentee, will have little incentive to invest in rural communities. Investments in land by foreigners would have low multipliers and high leakages. Community consolidations and shifts of economic activities to larger centers would result not only in economic changes, but changes in political outlook. Because the proportion of land changing hands is small—probably less than 2 percent annually—a relatively small number of transactions can affect land values.

An increase in foreign investment in agricultural real estate will increase land prices and thus increase the cost of agricultural production. Schmedemann sees a trend toward rising foreign investment in Texas and Southwest rural real estate but little benefit from such investments to the communities or agriculture of the area.

Law of the Land

Law—its foundations, structure, and administration—has a significant bearing on real estate as an investment. U.S. law has a number of features not well understood by foreigners that could influence investor behavior. Some legal issues, such as the strength of State laws prohibiting foreign holdings that may conflict with treaty powers of the Federal Government, have yet to be completely resolved. Law is an expression of policy.

Law affecting land use and development has been more of a factor in urban than in rural areas. Zoning, subdivision controls, building codes, and health regulations are found in both rural and urban areas but they are most relevant in urban land development. Thus, James Brown, in his review of land law impacting foreign investment, focuses on urban land. He notes that the number, complexity, and divergency of local land use regulations reduce the attractiveness of real estate as an investment. For development particularly, the intricacies and inconsistencies of local land laws are a deterrent to investment.

Zoning law does not differentiate between foreign and domestic landowners. The alien investor will not be affected *per se* by his alien status. Within broad guidelines, however, there remain wide areas of discretion by local officials. Brown emphasizes that the zoning game is sometimes played with favoritism and “outsiders,” foreign or domestic, are at a disadvantage. Foreign investors may be advised to joint-venture with those who are locally favored.

Subdivision regulations have increased and subdividers have been required to accept more of the costs of installing utilities, thus increasing costs to the foreign investor more than he might have expected. Community management and control has expanded and, as in the case of zoning, approval and monitoring of subdivision regulations can be exercised in discriminatory ways. Housing and building codes, too, vary widely not only in the provisions of the ordinances but in their application.

One possible source of misunderstanding is the power of eminent domain held by most levels of government. Its significance is lessened somewhat by the infrequency of its use. Nevertheless, foreign investors may be unaware of the ease with which land can be condemned not only by Federal or State governments but by the delegation of this power to private entities. Just compensation must be paid, but courts could, even if they do not now, compensate at considerably less than market value.

Brown also reviews management and control processes exercised by property owners associations, condominium associations, realtors, builders, and other trade associations which impact on development either through their role under statutes and ordinances or through contracts and covenants. At the other end of the government scale are State, regional, and Federal agencies. Environmental and consumer protection legislation will affect not only the ease with which real estate is marketed but the uses to which the land may be put. Alien investors could overestimate the U.S. constitutional protection against expropriation of private property unless they are carefully advised of eminent domain powers or the effects of other controls and taxes.

At the other end of a legal spectrum affecting foreign investment is international law—including customary law, multilateral treaties, and bilateral treaties. Joshua Morse concludes that treaties, coupled with most-favored-nation clauses, severely limit Federal or State laws attempting to restrict alien ownership. However, a registration requirement, either of State or Federal Government, could not be superseded by a previous treaty or violate a treaty.

With the possible exception of land under the sea, neither customary law nor multinational treaties have any important bearing on foreign ownership of U.S. land. Bilateral treaties, however, directly affect the alien ownership of land. Citizens of Denmark and Ireland, for example, may own U.S. land for almost all uses except agriculture and mining. Six other treaties provide most-favored-nation treatment to acquisition and possession of U.S. land. Most countries allow time for disposal of land if alien status is a bar to possession.

Most bilateral agreements are treaties of friendship, commerce, and navigation which contain provisions granting persons or corporations specific rights to own or use land in the United States. Usually the treaty grants levels of treatment pertaining to the specific property right. National treatment guarantees that the national government will not discriminate between aliens and citizens, and States will afford foreigners the same treatment as citizens of other States. Most-favored-nation status assures the alien that he will be treated the same as a citizen of any other foreign country.

The supremacy of treaties and most-favored-nation provisions severely limit State laws restricting inheritance and possession of land. In about half of the 43 treaties currently in force, the United States grants national or most-favored-nation treatment to aliens for ownership or lease of land for residential, industrial, and commercial purposes, with agriculture and mining

The final section of this report focuses on what may be the only fundamental policy issue—information.

Most of the authors in some way touched the information question but Steve Zumbach, Neil Harl, and Robert Cook made it the central focus of their papers.

Because the two most logical sources of land ownership data are the conveying and tax assessment processes, and these processes are within the authority of the States and administered by localities, we look first to these governments. However, it appears that an adequate land ownership information system will require some Federal action or a coordinated Federal-State-local undertaking.

From the standpoint of data on alien ownership, the most advanced State reporting procedure appears to have been designed by the 1975 Iowa General Assembly. Iowa has had restrictions on alien ownership since the 19th century but did not monitor them until this past year. As described by Harl, the procedures under the new act (House File 215) call for all corporations, partnerships, and nonresident aliens owning or leasing agricultural land for farming to report annually to the Iowa Secretary of State. The report requires identification of beneficial owners. County assessors are required to submit lists of names and addresses of aliens, corporations, trusts, and other entities shown on the assessment rolls. Data from the first year's reports were not yet available when this report was written. Experience with the Iowa reporting law will indicate what can be done at the State level.

Zumbach and Harl assume certain ownership information needs and review the implications of State and Federal reporting. State recording acts, as presently written, do not provide a basis for adequate reporting of alien ownership, because: 1) disclosure of the owner's nationality is not required in the recording process; 2) the holder of legal title is not necessarily the beneficial owner; and 3) although there are some risks associated with not recording title, doing so is not a legal requirement.

The problem of beneficial ownership, as Zumbach and Harl write, is likely to be a problem in any reporting procedure, not just title recording. Artificial entities—trusts, corporations, partnerships—may obscure the identity of owners, even if there is no attempt to maintain secrecy, and may prevent identification of the holders of equity interests at any one time. While collection of the information is possible, it is likely to be costly and would be resisted by large firms. Even if all beneficial ownership were identified, the reporting system would not reveal control.

If the reporting requirements rest solely with the States there is little likelihood of consistency of concepts or procedures. Further, the full faith and credit relationships among States probably would not require a State wishing to become an anonymity haven to report investor information to other States.

Zumbach and Harl therefore conclude there is a need for some Federal involvement. They rely on the Constitution's commerce clause for Federal authority to create a reporting system. Their analysis calls for some combination of: 1) existing State and local responsibilities for real property taxation and title recordings and 2) Federal standards, coordination, and collection.

Although some Federal, State and local government involvement may be assumed, there is an important, perhaps primary, role that could be taken by professional and private associations. For example, the titles of the proposed

Uniform Simplification of Land Transfers Act (USOLTA) dealing with recording might be worded to require suitable information reporting. Research departments of organizations such as the National Association of Realtors or the American Land Title Association might generate aggregative data from their membership.

The technical issue of information on alien land ownership is that the data sources are local, oriented to a single transaction such as paying a tax or conveying an interest, and subject to avoidance and evasion; whereas the data needs are national or State, aggregative and unambiguous. Any continuous monitoring procedure by the Federal Government will require a new program and new authorities and even a sample program would probably be extremely costly. A proposal for a specific system may be premature but it is possible to identify some features of an adequate system.

One would expect the land data system to be:

1. Oriented to ongoing functions such as conveyancing and tax paying.
2. Updated regularly and frequently—no less than annually.
3. Comprised of data not only of alien status of landowners but type of owner (government, corporation, individual, etc.), area, and value.
4. A universal system of identifiers.
5. Designed so that there are adequate systems of security for data considered to be outside the scope of public information.

Such features are being discussed by a number of professionals and organizations. The section prepared by Cook reviews the 13 years of organized efforts in land record improvement that led to the formation of the North American Institute for Modernization of Land Record Systems (MOLDS).

The MOLDS Institute, incorporated in the District of Columbia in 1974, is an association of 16 Canadian, Mexican, and U.S. governmental and professional organizations seeking to design compatible land data systems. The general objective of the association is coordination of land recordkeeping functions from the national to the community level, with the view to design a national cadastre.

The U.S. involvement in the MOLDS Institute is heavily influenced by over a decade of work by a committee of the American Bar Association that is seeking improvement of the archaic state of title records and recording. The institute places emphasis on systems that could yield aggregative information while performing regular governmental functions.

In concept, a national cadastre could provide information on alien (or any other) ownership while satisfying the needs for conveyancing, assessing, planning, and other local and community functions. A cadastre could also eliminate duplicative data gathering, lower system overhead, provide better security, and coordinate public and private land requirements. Although a national cadastre may not be the best solution to the problems of missing data on alien land ownership, it is a concept with promise.

The value issue pertaining to information systems is disclosure, that is, publicizing information about land holding. Should the quantity, value, and location of real estate owned by aliens be made public? Should the owners' names and characteristics be identified or related to types, quantities, and location of land?

Negative answers to the two questions would stress privacy—ownership of land should remain a feature of personal anonymity and, therefore, disclosure

is an infringement on personal rights of privacy. Ownership information is also regarded as valuable stock in trade, and to publicize is to expropriate that asset from the brokers. Another argument against disclosure is that reporting takes the time of property owners, is a nuisance, and serves no purpose.

Arguments supporting the reporting and disclosure of real estate ownership (including alien status) are that the transactions of transfer are already a matter of public record—indeed, the act of conveyance and possession are public for the protection of the owner. Disclosure therefore is a matter of efficiency in information handling, not a change in intent or purpose.

A fundamental assumption of the operation of a free market is complete, accurate, and accessible information, and in an exchange economy what can be more basic than knowing who the exchangers are?

Assembling, reporting, and analyzing information require time and resources, it is true, but these transaction costs are characteristic of an organized economy or society. The real issue is: How can these costs be minimized?

The present system of small, duplicative, sometimes counterproductive enterprises seeking to acquire, monopolize, and market information is quite likely, in the aggregate at least, to be far more costly than a single, open system providing unlimited access to ownership information. A completely open system of ownership information would serve not only private commercial interests but also public bodies needing information on national and international capital flows, fiscal and developmental planning, and the management of government services.

The value issue must be resolved in forums other than in this report because the authors represent a small and by no means representative sample of U.S. society. On the basis of the analyses thus far, however, it seems possible to reach some conclusions.

CONCLUSIONS

Formulation of policy on alien investment in U.S. real estate hinges on two questions:

1. Should the opportunity to own U.S. land be conditioned in any way by citizenship status?
2. Should information on the ownership of land, nominal and beneficial, be available to the public?

This report has dealt with many refinements and ramifications of the questions but we now attempt to answer them as simply and directly as possible, though with qualifications.

OWNERSHIP RESTRICTIONS AND CONDITIONS

In some cases, foreign investment may overcome shortages of capital brought about by domestic unwillingness or inability to invest. If capital shortages are impeding development, foreign injections may boost employment and income and stimulate growth. However, there is an economic basis for restrict-

ing foreign ownership of at least some types of land under certain circumstances, particularly from a long-range point of view.

An important issue, beyond the scope of this study, is how foreign investment replaces or stimulates domestic savings and investment. The purchase of raw land is purely an economic transfer with no increase in the quantity of available resources. The exchange of money for land, of course, may have the secondary effect of providing funds to the previous owner who either hoards, invests, or purchases consumer goods. The impact of foreign investment in raw land depends on the use previous owners make of their money and on the later economic use the new owners make of their land and remaining money.

The initial impact of foreign investment in real estate on domestic employment, income, and growth appears positive overall, despite such negative effects as increased land prices. In the long run, real estate investment yields interest or rent with capital flowing out of the country. This capital outflow will have a negative effect on the balance of trade. Both the initial and long-run impacts of real estate investment depend considerably upon forces outside of the real estate market itself.

Perhaps the economic issue is best stated as follows: If the U.S. economy is in need of foreign investment, might there be places to invest more advantageous to the U.S. economy than land?

There appear to be social, political, and legal bases for restricting foreign ownership of land, particularly from a long-range point of view, but these bases do not necessarily provide policy prescriptions. Policies must be decided on examination of fundamental values. As Burke remarked, all arguments pertaining to foreign ownership of land reduce to a concept of national sovereignty.

In place of outright restrictions on foreign ownership of land there are general policies that could lead to desired outcomes. Guidance of land use and development, sharing of returns from land by foreign investor and the U.S. economy (through no-escape income and transfer taxes), and improvement of the structure of *ad valorem* property taxes offer greater promise as land policies.

ACCESS TO INFORMATION

There appears to be a much stronger basis for improving the technical capability of reporting systems, and the public access to systems, than for actual ownership restriction. The bulk of land ownership information is now on public record. The information is not available to the public, however, because of the recording system's awkwardness and inability to aggregate. Relatively few changes in law, such as those in Iowa, could start to draw back the curtains of ownership secrecy.

In an economic system premised on private property and a free market, the efficient allocation of resources calls for availability of, and accessibility to, information. Economically rational allocations depend upon accurate assignment of benefits and costs to owners of resources. High costs of information assembly or monopolistic control of information tend to produce poor economic decisions.

Information assembly and organization is not without cost, however. Economic decisions often must be made without complete information

because the expected benefits of additional information are outweighed by the costs of its collection. Data on land ownership appear collectible only from local government sources. National data most likely must be aggregates of local data. Thus, unless there is Federal involvement, data would be inconsistent and irregular.

But the cost of a single-purpose data system would be excessive. Therefore, the preferred information system would be one that is based on State authority for property assessment and title recording, operated by a local government, and standardized through the Federal Government.

RECOMMENDATIONS

Recommendations correspond to the two basic issues stated above:

1. Continue the current policy of limited Federal restrictions on the alien ownership of land, pending the completion of a comprehensive empirical study of long-run economic, social, and political impacts of foreign purchases.
2. Develop sources and procedures for reporting to a Federal agency or agencies the amount, location, value, and use of all land held by foreign individuals and entities in terms of both nominal and beneficial owners.
3. Encourage States to adopt legislation requiring local officials to identify alien interests in land, and systematically report the information to the State. Such information could then be collected and analyzed by the appropriate agency or agencies of the Federal Government.
4. Promote the design of more efficient landownership information collection and handling systems. Create a commission with representation from Congress, selected Federal agencies, State and local organizations, professional societies, and private industry to recommend system standards.

ANNOTATIONS OF PAPERS IN THE OVERALL STUDY

A Survey of Alien Land Investment in the United States, Colonial Times to Present, Terry L. Anderson, Department of Agricultural Economics, Montana State University.

The author surveys the history of alien investment in U.S. land, discusses the causes of alien investment, and traces out capital flows into the United States. Foreign investment increased throughout the 19th century, with a dramatic upturn in the 1830's.

Along with the steady increase in net liabilities came increases in foreign landholdings. As the level of these holdings reached their peak in the last decades of the 19th century, restrictions on alien land investment began to appear throughout the nation. During the first half of this century alien land investment waned, as did the interest in restrictions.

Legal and Institutional Aspects of Foreign Investment in Urban Land, James M. Brown, George Washington University School of Law.

Though urban areas provide a wider range of real estate investment opportunities than nonurban areas, urban investments are subject to a more comprehensive, complex set of public controls. The controls, applied variously at local, State, regional, and national levels, are inadequately coordinated between the many administering institutions and often overlap.

For the most part the controls were not established with alien investment in mind, but many do circumstantially have a strong influence on alien decisions regarding possible urban investment. The uncertainties and frustrations that can result from a complex set of controls will probably discourage many aliens from making substantial investments in urban real estate.

Transnational Conveyancing, Barlow Burke, Jr., American University School of Law.

The real estate settlement process for transferring title to foreign purchasers is more complicated than a transfer between U.S. citizens. Foreign investors employ both finders and brokers to locate prospective vendors and handle protracted negotiations. Foreign investors also bring relatively high equity positions, and so have not fully utilized U.S. mortgage-lending institutions to finance their purchases. However, U.S. financial institutions have performed intermediary functions.

Foreign intermediaries often broker and arrange financing but U.S. title-assuring institutions are employed to search and assure the title and to advise in finding legal title-holding devices.

Land Information Systems, Robert N. Cook, University of Cincinnati College of Law.

There are parallel systems of collection, organization, storage, and retrieval of information about land in the United States—one is public, the other private. Both systems are fragmented in the extreme, with no central management or unity of either purpose or method within them. They tend to share only the characteristic that they are narrowly organized to meet a specific purpose in each case.

The author stresses the need for Federal, State, and local governments to develop a modern land data system that is coordinated to avoid duplication. He reviews progress that has been made toward development of such a system, and urges Congress to create a Commission comprised of representatives of Federal, State, and local governments, whose responsibility it would be to expedite the process of implementing a multipurpose land data system.

Foreign Investment in Iowa Farmland, Craig Currie, Michael Boehlje, Neil Harl, and Duane Harris, Department of Economics, Iowa State University.

The authors surveyed real estate brokers in Iowa and found that the portion of the State's farmland owned by aliens is small. The number of actual sales is much lower than the number of inquiries because the prospective foreign investors are either not finding land to meet their specifications or are encountering strong local opposition.

The motivation of the investors appears to vary with national background.

West Germans, for example, tend to be more interested in long-term security than in short-term production potential. The Japanese, on the other hand, are apparently motivated by a desire for favorable annual returns on their investment. In the alien acquisition of Iowa farmland, there has been no indication of purely speculative intent or of any desire to secure U.S. agricultural commodities for foreign consumption.

Economic Impact of Foreign Investment in Real Estate, Folke Dovring, Department of Agricultural Economics, University of Illinois at Urbana-Champaign.

Land is more durable and less risky than other forms of wealth and the difference between a social and private rate of interest causes individuals to systematically price land below its social value. Land investment is attractive to foreign investors because of indirect income from capital gains, tax avoidance, and other factors.

Farmland is low-priced in the United States relative to Western Europe and the direct rates of return on investment tend to be more substantial—factors that make U.S. farmland in particular an attractive area for foreign investment.

Among the possible disadvantages to the United States from large-scale land acquisitions are direct loss of tax revenue, less intensive use of the land, loss of employment, and some loss of control over the domestic economy.

Social and Economic Impacts of Foreign Investment in U.S. Land, Mason Gaffney, Institute for Economic Policy Analysis, University of British Columbia.

The effect on the domestic economy of a foreign land sale depends substantially on how the seller invests his new capital and on how the buyer uses the land. The author lists several advantages to selling land to aliens: the nation gains disposal over capital; the capital transfer is relatively stable; there is some increase in international financial specialization; alien owners develop a vested interest in the welfare of country where they have bought the land; it would be difficult and expensive to attempt to exclude alien owners.

Among the disadvantages of foreign land sales, the author mentions the tendency among alien owners to hold their land in large blocks and utilize it less fully than domestic owners, thus generating less taxable activity per acre; the political value of land ownership could cause some intrusion on national sovereignty; alien owners would enjoy the tax rates for land that are lower than citizens' taxes on earned income; absentee owners may be less concerned with harmful local spillovers.

Foreign Investment in Hawaiian Real Estate, Karl Gertel, Economic Research Service, U.S. Department of Agriculture.

Foreign real estate investment in Hawaii surged from less than \$100 million in 1972 to about \$600 million in 1975. The author suggests that though the high prices paid by foreign investors drove up land prices, the overall local impact was favorable. There appears to be little danger of foreign control of the Hawaiian real estate market as the rate of investment is falling off.

The case for controls on foreign investment is not clear cut: consideration needs to be given to the need for a well articulated State and county land use policy, to the problem of enforcing controls, and to the national implications.

The Iowa Reporting Law and Alien Ownership, Neil E. Harl, Department of Economics, Iowa State University.

In 1975, the Iowa General Assembly enacted legislation requiring annual reporting by corporations, limited partnerships, and nonresident aliens. Nonresident aliens "owning or leasing agricultural land, or engaged in farming outside the corporate limits of any city" in the State must file an annual report with the Iowa Secretary of State.

The report includes such information as the alien's citizenship, the type of agricultural activity in which he is involved, the acreage and location of the land owned or leased, the number and type of any livestock, and the acreage and type of any crop being raised. The legislation also requires reports from anyone acting in a fiduciary capacity for a nonresident-alien landowner. The results of the reporting for 1975 were not yet available when this study was compiled.

Bidding Potential of Foreign and Domestic Investors in U.S. Farmland, Duane G. Harris and William F. Hampel, Jr., Department of Economics, Iowa State University.

The authors develop a theoretical framework for analysis of the potential for foreign control of U.S. farmland. The authors assume that, in the absence of statutory restrictions, such control will be held by those foreign or domestic investors with the greatest bidding potential for land. Bidding potential is, in turn, determined by the capabilities, expectations, and other characteristics of investing individuals or corporations.

While the model provides no direct answers, it does outline the scope and the form of the data base necessary to evaluate the ownership question. It also facilitates analysis of various policy prescriptions which may be utilized to control foreign ownership of domestic farmland.

Foreign Ownership and Control of U.S. Timberland and Foreign Industry, Lloyd C. Irland, Bureau of Forestry, Augusta, Maine.

Foreign investment accounts for less than 1 percent of U.S. commercial forestland. Most of it is held by firms that service the U.S. market with processed products and export little raw timber or processed goods.

Foreign firms account for some direct and some portfolio investment in U.S. wood-processing industry, though their market share is small. The authors suggest that baseline data and monitoring of foreign investment in U.S. forestland and forest industry need improvement, but indicate there is no evidence that investment has had material adverse or positive economic effects on the United States.

Impact of Alien Investment on Minerals and Mineral Lands, Walter C. Labys, College of Mineral and Energy Resources, West Virginia University.

Unlike investment in agricultural land or real estate, the scope of investments in minerals cannot be assessed simply by the land area involved. The degree of foreign influence relates instead to production and reserves. Ownership also is often not as important as long-term mineral sales or supply contracts—though financing of an existing firm may not involve purchase of equity, the foreign investor is most concerned that he receive a portion of that firm's output.

A case study of foreign investment in West Virginia led the author to point out the present inadequacies of monitoring systems for foreign mineral investment. He suggests guidelines for a benchmark study at the national level to determine the economic impact of such investment.

Political Implications of Foreign Investment in Land in the United States, Brian E. Loveman, Department of Political Science, San Diego State University.

In examining the domestic and international political implications of foreign investment of U.S. land, the author draws the following conclusions: (1) Their desire to secure their investment will give alien investors reason to participate in U.S. politics. (2) The extent to which foreign investors currently influence U.S. policymaking is unknowable—little legislation exists against foreign lobbies. (3) Identification of foreign investors is often difficult because investors can legally veil their interests in U.S. land. (4) A national registry of foreign investment in U.S. land can legally be implemented, which, by itself, would not be harmful to U.S. traders. If, however, more precipitous action than mere registration were taken to restrict foreign investment in U.S. land, the repercussions for U.S. investors abroad could be severe. (5) A registration system might lead to a comprehensive survey of “who owns American land”—a move that could meet strong opposition from powerful U.S. business interests.

Legal Structures Affecting International Real Estate Transactions, Joshua M. Morse III, Florida State University School of Law.

The author examines the interaction of international law with the U.S. legal structure regarding foreign ownership and use of U.S. land. International law does affect real estate transactions, primarily through bilateral treaty arrangements. Treaties supersede any existing Federal or State law and render null any subsequent State action that conflicts with treaty provisions.

The author recommends no regulatory action on foreign investment in U.S. land until the extent and kinds of foreign ownership can be determined. To this end, the author suggests a national system of registration and information gathering based on the model recently implemented in Iowa.

Goals and Characteristics of Foreign Purchasers of Farmland in the United States, Arnold Paulsen, Department of Economics, Iowa State University.

The author enumerates several factors that motivate aliens to invest in U.S. farmland, including: inadequate home investment opportunities, currency appreciation, domestic inflation, security of wealth, and fear of asset confiscation with political change. The author also lists a number of factors that reduce foreign investment in U.S. farmland in other countries. Among those are: individual State limitations on agricultural holdings by nonresident-alien heads of corporations, low expected return from farmland, high costs of acquisition, and lack of community or Federal receptiveness to alien agricultural investors or immigrants.

Foreign Investment in Rural Land of Texas and the Southwest, Ivan W. Schmedemann, Texas Real Estate Research Center and Department of Agricultural Economics, Texas A&M University.

The author defines two distinct rural land markets in Texas and the Southwest: the traditional agricultural production market, where land values depend

on net returns to the land; and the consumption land market, where nonmonetary factors are more important to the owner than economic returns. The author also notes the development, on the periphery, of an inflation market, where domestic and foreign buyers purchase land to store and conserve wealth during anticipated periods of hyperinflation.

The author points out that the owners of production land are essential to the continued efficiency of U.S. agriculture, but warns that significant expansion of purchases, domestic or foreign, of land for inflation purposes will prove, in the long run, to be detrimental to agricultural productivity.

Social Attitudes and Values Associated with Foreign Investment and Occupation of U.S. Land, Gene F. Summers, Department of Rural Sociology, University of Wisconsin.

Since there are virtually no studies on public opposition to foreign investment in U.S. land, the author suggests that Congress authorize such a study. Because merely labeling anti-foreign-investment attitudes as racism, ethnic resentment, or xenophobia is hazardous, Congress should be encouraged to learn whether opposition is based on prejudice and misinformation or represents a reasoned opinion.

The author suggests that opposition may be expected to be strongest among those who see foreign investors as threatening things they value highly, who generally find life frustrating and stressful, or who live in a social and cultural milieu which emphasizes in-group identity.

Foreign Investment in U.S. Real Estate—An Overview, John F. Timmons, Department of Economics, Iowa State University.

The United States has traditionally maintained a relatively open door policy toward both immigrants and investments from other countries. During the colonial period and the initial century of the nation there was an undercurrent of resentment toward the influx of immigrants and investment, but such resentments were generally subordinated to the investment needs of the developing nation.

Beginning with the 20th century, however, the resentments began to surface as the U.S. economy stabilized and the nation gradually evolved from a borrower to a lender status. Recent decades have witnessed increasing concern regarding foreign investments, with enactment of numerous State laws restricting nonresident-alien ownership of real estate, and the enactment in 1974 of the Foreign Investment Study Act.

Foreign Investment Impacts in the Colorado Real Estate Market, Eliot O. Waples, Department of Finance and Real Estate, Colorado State University.

Alien investment has long been welcomed in Colorado, a capital-deficient area. The amount of foreign investment cannot be measured because there are no restrictions on alien ownership of land and no reporting system to trace alien ownership. Europeans and Canadians have been the most active investors; Latin American and Mideastern investors are showing an increasing interest. Contact for transactions ranges from direct to quite indirect—for example, from a West German investment firm, to a Canadian mortgage bank, to a Denver bank, and finally to a Denver real estate broker. The foreign investors appear to be motivated chiefly by desire for safety of investment, satisfaction

with moderate income, and expectations of long-range appreciation in U.S. real estate.

Anonymity and Disclosure in Land Ownership Recording Systems, Steven E. Zumbach and Neil E. Harl, Department of Economics, Iowa State University.

The authors suggest methods for monitoring the magnitude of alien investment in real property. Any accurate system must produce: (1) the alien status of the owner, including beneficial ownership, and (2) periodic changes of beneficial ownership in artificial entities. To reduce the expense and complexity of such a reporting system, the authors suggest several limitations: (1) recordation of alien status be limited to prospective transfers of real property, (2) resident aliens should not be required to report alien status, (3) only “control persons” of artificial entities should be required to report alien status, (4) there should be no reporting requirement where the artificial entity does not control the use of the real property. The system could be implemented at the Federal level, or by the States with some form of Federal jurisdiction to assure national uniformity of the information gathering.