

# Foreign Ownership of U.S. Agricultural Land: Outlining the Biggest Problems and Potential Solutions

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## THE PROBLEM

- According to the U.S. Department of Agriculture (USDA), at the end of 2021, “approximately 40 million acres of U.S. agricultural land (forest land and farmland)” were owned by foreign investors. At this pace, foreign ownership of American agricultural land will surpass 100 million acres within the next three decades.
- Although USDA reports just 3.1 percent of all U.S. agricultural land is owned by a foreign interest, there are numerous reasons to be deeply concerned by foreign ownership, including because:
  - Average land prices are dramatically increasing, and foreign investors are driving prices higher.
  - Ag land ownership is very high in some states. In Florida, it’s more than double the national average. In Maine, more than 20 percent of ag land is foreign-owned.
  - Some ag land purchases pose serious national security threats.
  - USDA reporting requirements do not capture all foreign investment.
  - Foreign investors typically target the highest-value land and natural resources.

## THE SOLUTIONS

- Policymakers should consider strict limits and/or reporting requirements for foreign purchasers of agricultural land.
- The National Agricultural Law Center notes that as of July 7, 2023, “Approximately twenty-four states specifically forbid or limit nonresident aliens, foreign businesses and corporations, and foreign governments from acquiring or owning an interest in agricultural land within their state.”
  - Among the states that already impose limits are Florida, Idaho, Iowa, and Pennsylvania.
- Foreign purchasers of agricultural land should be required to submit to state authorities all owners who are not U.S. citizens, if they own at least a 1 percent share in the purchasing business.
- States should also consider reporting requirements that mandate that U.S. purchasers with significant foreign investments in countries that pose a national security threat, such as China, report those interests if they surpass an established threshold.

In recent years, America has experienced a remarkable trend: foreign individuals and corporations have been amassing millions of additional acres of U.S. agricultural land. Although some organizations have downplayed the significance of this development, there are substantial economic, national security, and freedom-related reasons policymakers should be deeply concerned.<sup>1</sup>

According to the U.S. Department of Agriculture (USDA), at the end of 2021, “approximately 40 million acres of U.S. agricultural land (forest land and farmland)” were owned by foreign investors.<sup>2</sup> The USDA further notes, “This is an increase of over 2.4 million acres from the December 31, 2020 report.”<sup>3</sup>

Additionally, the Biden administration reports, “Since 2015, foreign holdings have increased an average of 2.2 million acres annually, ranging from 0.8 million acres to 3.3 million acres per year.”<sup>4</sup> At this pace, foreign ownership of American agricultural land will surpass 100 million acres within the next three decades.

### Skeptics’ Arguments

Some analysts have suggested that foreign ownership of U.S. agricultural lands presents few, if any, major problems.<sup>5</sup> They note that although the amount of land purchased by foreigners has risen over the past two decades, total ownership remains relatively small. Just 3.1 percent of all agricultural land is owned by a non-American interest.<sup>6</sup>

Skeptics also say policymakers shouldn’t be worried because the nations with the largest land holdings, according to the USDA’s reports, are generally friendly to the United States. For example, Canadians hold the most amount of foreign-owned U.S. land, totaling 12.8 million acres in 2021.<sup>7</sup> Comparatively, owners from China held 380,000 acres, 18th most among all nationalities.<sup>8</sup>

However, despite these statistics, important reasons remain for why policymakers should consider strict limits on foreign ownership of agricultural land.

### Reasons for Concern

First, data about foreign ownership are flawed and almost certainly underestimate foreign investment in agriculture. The USDA reporting guidelines state that foreign ownership occurs when there is “a significant interest or substantial control in the title owner.”<sup>9</sup> Further, “The regulations define ‘significant interest or substantial control’ to mean a 10-percent or more interest in the entity if held by a single foreign person or a group of foreign persons acting in concert, or a 50-percent or

more interest if held by a group of foreign persons not acting in concert, none of whom individually holds a 10-percent or greater interest in that entity.”<sup>10</sup>

In other words, the USDA’s reporting guidelines do not actually capture all foreign interest in agricultural lands—far from it, in fact. It’s highly likely that total foreign investment is much greater than what the USDA reports.

Interestingly, the national classifications used in the USDA’s reports are also misleading. The USDA notes, “When the foreign person is an individual from, or an entity created under the laws of, for example, Germany, the report is processed as ‘Germany.’ When persons from many different countries hold direct and indirect interests in one piece of land, an attempt is made to identify the predominant country as the country of origin.”<sup>11</sup>

This means that foreign interests in U.S. agricultural lands involving countries such as China or other geopolitical rivals are also understated in the USDA’s reports.

A second reason for concern is that foreign interests in agricultural land vary by state. In some regions of the United States, foreign ownership is much higher than the national rate of 3.1 percent. For example, in Hawaii, more than 9 percent of agricultural land is controlled by foreign interests. In Florida, it’s 6.3 percent. In Maine, it’s an astonishing 20.1 percent, due to the high level of foreign interest in Maine’s valuable timber industry.<sup>12</sup>

Third, foreign investors generally target high-value agricultural land, with a special emphasis on natural resource allocation. Land with water rights, timber, and minerals are especially valuable to many foreign investors. This poses significant concerns about long-term national security and economic stability. Historically, a country that controls increasingly less of its own valuable natural resources is one that’s on the road to ruin.

Fourth, owners from countries considered geopolitical rivals have been caught purchasing or attempting to purchase land with significance for military or intelligence operations. For example, a Chinese company purchased land in Grand Forks, North Dakota in 2021 that was strategically located near a U.S. Air Force base, causing substantial concern.<sup>13</sup>

Fifth, the USDA doesn’t investigate foreign purchases, making it likely that many foreign land purchases are being made without officials taking notice. NPR reports, “USDA has a strict reporting requirement for land purchases 90 days after a transaction. But it doesn’t have the authority to investigate these purchases, and can only assess penalties for late, incomplete or false filings.”

Further, penalties imposed for failing to report are highly uncommon, in part because of limited staffing.<sup>14</sup> NPR reports, “Only one penalty was assessed between 2015 and 2020.”<sup>15</sup>

Sixth, foreign investors help drive up the cost of agricultural land for domestic farmers, who already face extremely high prices. Reuters reported in July 2023, “The average price of an acre of farmland was \$3,800 in 2022, a record high and up 75% from 2008, according to USDA data.”<sup>16</sup>

Seventh, although total known foreign ownership of agricultural land, about 40 million acres, amounts to just 3.1 percent of the available private agricultural land available, it’s still a massive amount that has a notable impact on industry and small family farms. For perspective, the average farm in the United States is 445 acres, which means that 90,000 averaged-sized farms could fit into the area currently controlled by foreign investors.<sup>17</sup>

## Policy Recommendations

Lawmakers interested in slowing or halting the purchase of agricultural land by foreign interests have a range of options.

The National Agricultural Law Center notes that as of July 7, 2023, “Approximately twenty-four states specifically forbid or limit nonresident aliens, foreign businesses and corporations, and foreign governments from acquiring or owning an interest in agricultural land within their state.”<sup>18</sup> Among the states that already impose limits are Florida, Idaho, Iowa, and Pennsylvania.<sup>19</sup>

The Council of State Governments (CSG) reports, “Statutory language varies from state to state — for example, how farmland is defined, the types of foreign investors who are restricted under the law (nonresident aliens, foreign corporations, foreign governments, etc.), and the acreage limit set for foreign owners or investors.”<sup>20</sup>

CSG further notes, “Iowa, Kansas and Wisconsin have among the strictest prohibitions on foreign ownership of agriculture land. (Iowa is widely considered to have the nation’s toughest ban.) But even in these states, a foreign investor can use a trust, create a tiered entity, or enter into a partnership with a U.S. business or investor and establish a domestic company that acts as the purchaser.”<sup>21</sup>

In 2022, multiple states introduced bills to limit foreign ownership, but only Indiana successfully imposed restrictions. The legislation in Indiana, S.B. 388, sponsored by state Sen. Mark Messmer, “does not completely prohibit foreign business entities from owning all agricultural land, just that used for crop or timber production.”<sup>22</sup> CSG reports, “Livestock, poultry and research facilities are exempted [from the Indiana bill], thus ensuring the measure wouldn’t impact existing research and genetic seed stock investments.”<sup>23</sup>

Although two dozen states already have limits in place, *all* states should strongly consider introducing or increasing their restrictions, enhancing reporting requirements, and/or closing loopholes.

In states where lawmakers are struggling to get first-time limits across the finish line, policymakers should consider starting with increased reporting requirements. Foreign purchasers of agricultural land should be required to submit to state authorities all owners who are not U.S. citizens, if they own at least a 1 percent share in the purchasing business.

States should also consider reporting requirements that mandate that U.S. purchasers with significant foreign investments in countries that pose a national security threat, such as China, report those interests if they surpass an established threshold—perhaps as little as \$10 million in value. This would help to limit the practice of foreign entities establishing U.S.-based corporations or nonprofits to escape scrutiny.

Policymakers seeking to impose restrictions on agricultural land ownership could limit unnecessary regulatory burdens by putting a floor on the value or amount of land that must be involved in a purchase before reporting requirements kick in. It is vital, however, that lawmakers ensure that all forms of agricultural land are included in any law governing rules—including timber, land with water rights, cropland, and lands used to raise livestock or poultry.

# Endnotes

- 1 For an example of an analyst downplaying the problems associated with foreign land ownership, see Scott Lincicome and Ilana Blumsack, “Chinese Ownership of U.S. Farmland: Separating the Wheat from the Chaff,” Cato Institute, cato.org, April 3, 2023, <https://www.cato.org/blog/chinese-ownership-us-farmland-separating-wheat-chaff>
- 2 Mary Estep et al., “Foreign Holdings of U.S. Agricultural Land, Through December 31, 2021,” Farm Service Agency, U.S. Department of Agriculture, 2022, [https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/EPAS/PDF/2021\\_afida\\_annual\\_report\\_through\\_12\\_31\\_2021.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/EPAS/PDF/2021_afida_annual_report_through_12_31_2021.pdf)
- 3 Mary Estep et al., “Foreign Holdings of U.S. Agricultural Land, Through December 31, 2021.”
- 4 Mary Estep et al., “Foreign Holdings of U.S. Agricultural Land, Through December 31, 2021.”
- 5 Scott Lincicome and Ilana Blumsack, “Chinese Ownership of U.S. Farmland: Separating the Wheat from the Chaff.”
- 6 Mary Estep et al., “Foreign Holdings of U.S. Agricultural Land, Through December 31, 2021.”
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- 8 Mary Estep et al., “Foreign Holdings of U.S. Agricultural Land, Through December 31, 2021.”
- 9 Mary Estep et al., “Foreign Holdings of U.S. Agricultural Land, Through December 31, 2021.”
- 10 Mary Estep et al., “Foreign Holdings of U.S. Agricultural Land, Through December 31, 2021.”
- 11 Mary Estep et al., “Foreign Holdings of U.S. Agricultural Land, Through December 31, 2021.”
- 12 Mary Estep et al., “Foreign Holdings of U.S. Agricultural Land, Through December 31, 2021.”
- 13 Ximena Bustillo and Connie Hanzhang Jin, “China owns 380,000 acres of land in the U.S. Here’s where,” NPR, npr.org, June 26, 2023, <https://www.npr.org/2023/06/26/1184053690/chinese-owned-farmland-united-states>
- 14 Ximena Bustillo and Connie Hanzhang Jin, “China owns 380,000 acres of land in the U.S. Here’s where.”
- 15 Ximena Bustillo and Connie Hanzhang Jin, “China owns 380,000 acres of land in the U.S. Here’s where.”
- 16 Leah Douglas, “Lawmakers seek to limit corporate and foreign ownership of US farmland,” Reuters, reuters.com, July 27, 2023, <https://www.reuters.com/world/us/lawmakers-seek-limit-corporate-foreign-ownership-us-farmland-2023-07-27>
- 17 Adam Savit and Royce Hood, “Targeted State Restrictions Are Required to Protect U.S. Agricultural Land from the CCP,” America First Policy Institute, americafirstpolicy.com, November 28, 2022, <https://americafirstpolicy.com/latest/20221128-targeted-state-restrictions-are-required-to-protect-u-s-agricultural-land-from-the-ccp>
- 18 Micah Brown and Nick Spellman, “Statutes Regulating Ownership of Agricultural Land,” National Agricultural Law Center, nationalaglawcenter.org, last accessed October 2, 2023, <https://nationalaglawcenter.org/state-compilations/aglandownership>
- 19 Micah Brown and Nick Spellman, “Statutes Regulating Ownership of Agricultural Land.”
- 20 “Citing food and national security concerns, legislators mull new limits on foreign ownership of farmland,” Council of State Governments, csg.org, February 1, 2023, last accessed October 2, 2023, <https://www.csg.org/2023/02/01/citing-food-and-national-security-concerns-legislators-mull-new-limits-on-foreign-ownership-of-farmland>
- 21 “Citing food and national security concerns, legislators mull new limits on foreign ownership of farmland,” Council of State Governments.
- 22 “Citing food and national security concerns, legislators mull new limits on foreign ownership of farmland,” Council of State Governments.
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