Non-resident Ownership of Agricultural Property:

A review of policies from around the world

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The Real Estate Institute of British Columbia

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www.reibc.org/research.html
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Overview

This report provides a review of policies and approaches from around the world aimed at limiting non-resident ownership of agricultural property. Information provided has been gathered from publicly available websites and publications, including academic publications, legal websites, news articles, reports, and government agency communications. The intent is not to evaluate the success or relative effectiveness of the different approaches described, but rather to provide insight into the array of mechanisms and policies that have been established in other jurisdictions to address the challenges that could be faced in BC with regards to foreign investment in farmland.

The review examines policies from jurisdictions in North America, South America, Asia, Europe, and Oceania to ascertain the types of restrictions in place as well as, where available, how they are applied and which regulatory bodies are involved. It includes nations with longstanding systems of control and regulation as well as some that have recently made changes to their farmland ownership regulations. While BC, in comparison, is among the jurisdictions with the fewest restrictions, it is not uncommon, especially in North America but also in South America and some European countries, for states to allow foreign investment under the same conditions as national investors.

The jurisdictions examined in this report can be divided into two groups as shown in Table 1:

(1) Restrictors and Leviers: These restrict foreign ownership of agricultural lands by:

a. restricting foreign ownership; and/or
b. limiting the size of the area that can be acquired by foreign investors; and
c. making it more expensive for foreign investors to obtain farmland.

(2) Restrictors: These restrict foreign ownership of agricultural lands by:

a. not allowing the sale of farmland to nationals or foreigners; or
b. not allowing foreign ownership; or
c. limiting the size of the area that can be acquired by foreign investors.

(3) Open Doors: These do not distinguish between foreign and national investors. This could mean:

a. there are no restrictions on the acquisition of farmland; or
b. there are restrictions or conditions that apply to both national and foreign investors.

This report will begin with the jurisdictions that restrict foreign ownership and levy additional fees. This will be followed by jurisdictions that place varying degrees of restrictions on foreign ownership of agricultural lands, beginning with the most stringent policies. In examining the jurisdictions with open doors policies, this report will begin with those that have equal restrictions and conditions in place for both foreign and national investors before moving on to those where agricultural land is freely accessible for all investors.

Table 1 Approaches to Foreign Ownership

APPROACH TO FOREIGN BUYERS	DEFINITION	JURISDICTION
Restrictors and Leviers	Jurisdictions that restrict foreign owners by restricting foreign ownership of farmland, and/or limiting the area size that can be acquired by foreign nationals, and, under certain circumstances, making it more expensive for foreign investors	Russia, Australia
Restrictors	Jurisdictions that restrict foreign owners by not allowing the sale of farmland, not allowing foreign ownership, or limiting the area size that can be acquired by foreign investors.	China, Ukraine, Israel, Argentina, United States, New Zealand, France
Open Doors	Jurisdictions that do not distinguish between national and foreign investors, effectively placing no restrictions on the acquisition of farmland or applying the same restrictions and conditions on both national and foreign investors.	Japan, Switzerland, Mexico, United Kingdom, Spain, Chile

1 Introduction

Agricultural lands and the policies regulating them are not often featured in news headlines and public debates. However, in the context of national and international food security, the regulations and restrictions surrounding the use of agricultural lands today will determine the availability and affordability of land for food production, the viability of the agricultural sector, and the ability of states to feed their populations in the future. In a 2018 foreword to a white paper on agricultural land use policy,[1] the former chair of the Agriculture Land Commission, Richard Bullock, states that "Agricultural land not only feeds us, it is the heart around which stable communities have and will continue to develop and prosper over the long term." He goes on to point out that the scarcity of farmland in British Columbia means that the preservation of agricultural land will determine food security and food self-reliance.

A worldwide concern in recent years has been "land grabbing," the large-scale acquisition of land by private or public investors, including foreign nationals and foreign governments. A 2015 Library of Parliament publication holds that "In Canada, concerns about farmland grabbing relate to actions by domestic, as well as foreign, investors … the threat of farmland acquisition comes not only from abroad, but also from within Canada via such instruments as investment funds."[2] The consequences include the increasing price of farmland, making farming less financially viable for future generations of farmers.

This leads to the question of how the risk of farmland grabbing is reflected and integrated in federal and provincial legislation. Legal restrictions as to who can buy farmland and how it can be used vary around the world and among the Canadian provinces. "Under the Constitution of Canada, the provinces have jurisdiction over the ownership of Canada's farmland."[3] While foreign investment in Canada is regulated by the Investment Canada Act, foreign investments in Canadian farmland are only subject to related reviews if they are considered a threat to national security, in which case the federal government could deny a foreign investment. Land ownership in BC is regulated by the Land Act. The purchase of Crown land in BC is reserved for Canadian citizens and permanent residents as well as corporations incorporated or registered in BC. However, beyond the regulation of Crown land purchases, ownership of farmland by foreign national individuals or corporations is not limited. The uses of the approximately 4.7 million hectares of land in BC's Agricultural Land Reserve (ALR), established in 1973 to protect land with prime agricultural conditions for farming and ranching, have been regulated by the Agricultural Land Commission.[4]

A side effect of the BC tax regime to date is that it has created incentives for non-agricultural use of farmland by providing benefits to agricultural property owners, including those who use the land solely for residential purposes. The resulting possibility of the future development of farmland has attracted speculation and investment that effectively makes parcels of agricultural land unavailable to farmers. For example, the *Vancouver Sun* reported a surge in farmland speculation in BC's Lower Mainland after the Foreign Buyers Tax was introduced for residential properties throughout the province.[5] However, on November 5, 2018, the BC

NDP announced its plan for legislation that would discourage or prohibit luxury residential use and large developments on ALR lands in order to make those lands more affordable and keep them available for young farmers.[6]

In addition to the above-mentioned risks associated with farmland policies, or the lack thereof, the absence of monitoring and data collection as well as publicly available information on title holders means that there is a lack of transparency when it comes to who owns BC farmland. A 2018 list of recommendations from the Standing Senate Committee on Agriculture and Forestry includes provision of financial incentives to make entry into farming more affordable, improved data collection and communication between all levels of government, and the promotion and protection of agricultural land use. Within this greater context, this report focuses on the issue of farmland acquisition by foreign nationals.

2 Restrictors and Leviers

Of the selection of countries included in this report, two jurisdictions with very different political and policy histories not only restrict foreign ownership of agricultural lands but also levy additional fees under certain circumstances.

Russia is one of the restrictors and leviers whose policies are influenced by post-communist developments, while Australia's land policies appear to be based on recent experiences of large-scale foreign land acquisition. The geographical and physical features of these two jurisdictions are also different. As shown in Table 2, Russia has the largest land mass of all jurisdictions included in this report; however, Australia has a considerably larger proportion of agricultural land and farmland per person. It should be noted that no clear patterns or correlations could be determined between total or proportional farmland size and agricultural land policy approaches, nor does this report aim to identify or speculate about correlations. Farmland size, and related numbers, are simply provided as additional information about each jurisdiction for the reader.

Table 2 Restrictors and Leviers

Jurisdiction	Total land area (km2) (2017)	Farmland percentage of total land area (2015)	Farmland/person (ha), derived
Russian Federation	16,376,870	13.3%	1.51
Australia	7,682,300	47.6%	14.87

Source: World Bank https://data.worldbank.org/indicator

2.1 Russia

RUSSIA

The transfer of state-owned plots to foreign nationals involves additional fees, making Russia one of the jurisdictions that not only restrict foreign ownership of agricultural land but also make it more expensive under certain circumstances.

Russia is the largest country in the world with almost 16.4 million square kilometres, while its 2.2 million square kilometres of farmland make up only 13% of its total land mass. This makes it the jurisdiction with the smallest proportion of farmland among the restrictors included in this report.

To understand the development and current state of land ownership in modern-day Russia, one has to go back to the nineteenth century. Alexander II abolished serfdom in 1861, but the newly emancipated peasants were not granted ownership of the lands they worked; instead, they could buy those lands. Almost six decades later, the Land Decree of the communist party in 1917 banned private land ownership. In 1990, principles of land were adopted that granted lifetime hereditary possession for citizens as well as the possibility to lease land by contract. The 1990 Law on Providing the Economic Basis for Sovereignty declared all land the property of Russia. Since 1993, private land ownership is constitutionally recognized but has faced delays in implementation.[7]

"Russian law places two primary restrictions on land ownership by foreigners. First, land located in border areas or other specifically assigned sensitive territories is restricted from foreign ownership. Second, foreign citizens and foreign legal entities cannot own more than 50% of a plot of agricultural land. As an alternative to agricultural land ownership, foreign companies typically lease land for up to 49 years, the maximum legally allowed."[8]

It should be noted that there are two categories of agricultural lands. Lands of "agricultural designation" can only be possessed by foreign entities under the leasehold right. Lands of "agricultural exploitation," which are farmlands in inhabited areas, are excluded from the foreign ownership restrictions. The transfer of state-owned plots to foreign nationals involves additional fees, making Russia one of the jurisdictions that not only restrict foreign ownership of agricultural land but also make it more expensive under certain circumstances.[9]

Land-use restrictions are another area where Russia limits land ownership; however, there appears to be no distinction between nationals and foreign owners, making this a regulation that is also commonly found among the jurisdictions with open doors policies. "… in Russia the use of the land in conformity with the purpose for which it was originally allocated … is practically a condition of ownership, and the land may be expropriated if it is used for another purpose or not used at all."[10]

There appears to be a recent movement of attracting farmers with financial incentives of inexpensive land and other benefits. Since the Russian embargo on European food, there is a demand for the production of healthy food. Foreigners who want to enter this market, however, still need to find ways around restrictions (for example, by finding Russian business partners).[11]

2.2 Australia

Australia is one of two jurisdictions representing Oceania in this report and is an example of some of the most recent policy changes towards more restrictions for agricultural land ownership.

With almost 15 hectares per person, Australia has by far the most farmland in relation to its population size. "Agricultural land in Australia is land that is used, or that could reasonably be used, for primary production business."[12] In 2015, Australia introduced the Register of Foreign Ownership, which has kept track of land tenure. In 2017, 88% of Australian farmland was completely Australian owned, while around 14% was owned by foreign investors. The United Kingdom held the biggest share of foreign-held agricultural land in Australia with around 27%, followed by China with 25%. The majority of foreign-owned farmland was held by large businesses.[13]

Following developments of significant increases in foreign ownership of agricultural land (for example, in 2017, the area of Chinese-held agricultural land increased tenfold), Australia announced plans in 2018 to restrict foreign ownership of agricultural land for national security purposes and to enable local companies to compete for farm sales. The new policy includes requirements to post sales locally

AUSTRALIA

Australia has an application fee that depends on the details of a proposed purchase, making it likely the jurisdiction with the most significant financial barrier for foreign investors in agricultural land.

for 30 days. This is to inform local farmers and land owners about land that is on the market and improve their chances of acquiring that land. Without this regulation, land transfers reportedly often happened behind closed doors and through direct communication with outside investors, thereby excluding local buyers from the opportunity to bid on the land. Furthermore, foreign government investors always require approval. The threshold for regulatory approval has been lowered from land transfers valued at AUD 252 million to AUD 15 million for corporate or private investors. Notification of the Treasurer is required before a purchase agreement can be entered. The Treasurer may object or impose conditions.

Australia has an application fee that depends on the details of a proposed purchase, making it likely the jurisdiction with the most significant financial barrier for foreign investors in agricultural land. For example, an application to express interest in agricultural land by an individual or entity that is not a foreign government leads to a fee of around AUD 100,000 regardless of the land value.[14] Finally, touching upon the subject of land use designation, agricultural land acquisitions for the purpose of development require that development commences within five years.[15]

3 Restrictors

The most stringent countries among the restrictors are those with communally owned or state-owned farmland. This includes, for example, land ownership systems shaped by communism and post-communist eras. Other restrictors place various limitations on the amount of land that can be acquired by foreign nationals or require an additional fee for foreign investors.

As Table 3 shows, the total land area as well as the size of the farmland as a percentage of the total land area vary greatly among the restrictor countries. China features the largest total area of farmland (over nine million square kilometres), Ukraine has the highest percentage of farmland (over 71%), and Argentina has the largest area of farmland per person (over three hectares).

Table 3 Restrictors

Jurisdiction	Total land area (km2) (2017)	Farmland percentage of total land area (2015)	Farmland/person (ha), derived
China	9,388,211	56.2%	0.38
Ukraine	579,290	71.3%	0.92
Israel	21,640	24.7%	0.06
Argentina	2,736,690	54.3%	3.36
United States	9,158,960	44.4%	1.25
New Zealand	263,310	42.2%	2.32
France	547,557	52.5%	0.43

Source: World Bank https://data.worldbank.org/indicator

3.1 China

It is not surprising that China, a large country of 9.4 million square kilometres, has the largest area of farmland among the jurisdictions included in this report. However, despite 56% of its total area being farmland, China has, in effect, relatively little farmland per person (0.38 hectares) as it has a large population of almost 1.4 billion.

CHINA

It is unclear if foreign developers are allowed to take part in rural land management.

China has a history of state ownership of land. The communist party assumed control in 1949, and the collectivization of lands followed by the late 1950s. Chinese land management is divided into two land ownership systems: urban lands and rural lands.[16]

The government prohibits buying and selling agricultural land. Rural land is traditionally owned by farmer or village collectives. The farmers operate their plots through contracts. The system is reportedly often unclear because it is built on tradition and can involve complicated use-right structures within communities and families. This system has led to a fracturing of the land into many small parcels, often uncultivated as farmers age, and the size of parcels is not enough to make a living.[17]

In 2016, China announced a reform of rural land ownership. Farmers can now transfer their land management rights to government-controlled land banks or investors and developers, receiving an annual revenue in return, while maintaining their contract rights. This aims to consolidate rural land for higher productivity.[18] From the sources available, it is unclear if foreign developers are allowed to take part in rural land management. Foreign investors are not prohibited from acquiring non-performing debt from state-owned asset management firms. However, an article by US Embassies abroad[19] indicates that Chinese officials commonly use bureaucratic hurdles to limit the ability of foreigners to sell assets. Consequently, even if non-performing debt in the agriculture sector could be purchased by foreign investors, it may, in effect, be discouraged by government officials. Since outright land sales of farmland continue to be prohibited, however, and farmland trading is limited to transferring use-rights, it seems unlikely that foreign investors can enter the market via acquisition of non-performing debt.

While farmland sales are still restricted, China's approach to urban land development has changed more significantly. In 1982, a new constitution confirmed that all urban land was state owned. However, focusing on land use rather than property ownership, in the 1990s the state started selling land-use rights to urban land for up to seven decades. By 2007, a new property law introduced automatic renewals of these land-use rights.[20]

3.2 Ukraine

With less than 600,000 square kilometres, Ukraine is one of the geographically smaller jurisdictions among the restrictors. Seventy-one percent of Ukraine's land area is agricultural land, a lot of which is black fertile soil.[21] This makes it the country not only with the largest proportional area of farmland in this report but also puts it in the top 7% of all 255 countries listed by the World Bank. Agriculture constitutes around 40% of Ukrainian exports. Despite fertile soil and agricultural activity, the World Bank notes that yields are well below other European countries due to the present land law.[22]

Individual parcels of land were granted to small-scale farmers after the collapse of the Soviet Union and as part of the move from communism to capitalism in the early 1990s. The government then prohibited the sale of that land. While foreign entities can buy land in Ukraine, agricultural land is excluded by the ban of farmland sales.[23] The reason for the ban, and its continued extension by law makers, is the fear that foreign investors would flood the country as soon as those parcels of fertile agricultural land became available for purchase. The history of the great famine in the 1930s makes land reform so sensitive a topic that it has not been tackled by any recent Ukrainian governments.[24]

Small farm owners have been able to lease their land since the fall of communism but cannot sell, and large agricultural companies are not allowed to buy the land.

UKRAINE

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As a result, the land is being farmed by companies based on short-term leases, which is not conducive to long-term investments. Furthermore, the division into many small parcels and a certain degree of unpredictability in the leasing situation with private owners leads to a "checkerboard" pattern of agricultural activity that is not conducive to the use of large modern machinery.

3.3 Israel

Israel is the smallest jurisdiction among the restrictors at over 21,000 square kilometres and also has the smallest area of farmland per person (0.06 hectares). The political history and the circumstances of Israel becoming a state play a defining role in its land laws. When the state was established in 1948, land matters were regulated under a modified version of the Ottoman laws, which originated in reforms of the Turkish Empire. Today's Israeli property law is largely based on the 1969 Land Law and 1971 Movable Property Law.[25]

ISRAEL

While foreign entities cannot buy land in Israel, lease contracts with foreign individuals or corporations are possible but require approval from the ILA.

Under the current land title registration system, the Land Registry guarantees title and generally allows for easy and reliable urban private land transactions. Meanwhile, whereas private land ownership is common in urban areas, 93% of Israeli land is owned by the state, mostly through quasi-governmental bodies like the Development Authority and the Jewish National Fund, and administered by the Israel Land Authority (ILA). The ILA replaced the Israel Land Administration as part of a reform in 2009. A large part of these lands was abandoned, left by Arab refugees and confiscated from Palestinians by the state via the Abandoned Areas Ordinance and Absentees Property Law of 1948. The state obtained title to these lands via the Land Acquisition Law of 1953.[26]

These state-owned lands are commonly leased to private persons in long-term leases. Urban land leases are usually issued for a period of 49 years and agricultural land leases for up to 99 years. These public domain lands cannot be sold. One of the rationales behind the land ownership policy is to preserve lands for Jewish immigrants and to avoid the transfer of land to undesirable parties. While foreign entities cannot buy land in Israel, lease contracts with foreign individuals or corporations are possible but require approval from the ILA.

"In principle, land that is owned by the Jewish National Fund can be leased to Jews only. The implication is that foreigners, as well as Israeli citizens and/or residents who are not Jewish, are not entitled to lease this land. Nevertheless, the land that is owned by the Development Authority and by the State can be leased to any citizen of Israel, whether he is Jewish or not. Foreigners who are Jews and are entitled to immigrate to Israel under the Law of Return may also lease this land."[27]

In 2009, the Israeli government proposed and introduced plans for a land reform with the intention to privatize parts of the public domain by transferring urban lands to long-term lessees. This was met with strong opposition for various reasons, including the fear of loss of agricultural lands and concerns about national security if lands were to be sold to non-citizens. In 2012, the High Court of Justice confirmed the legality of the reform. The land to be sold was limited to 4% of the public domain, excluded agricultural lands, and restricted sales to foreign buyers with very few exceptions.[28]

3.4 Argentina

Fifty-four percent of Argentina's total area of about 2.7 million square kilometres is agricultural land. While this places Argentina slightly above both median and average percentages among the restrictors, the land size of 3.4 hectares of agricultural land per person is the second highest. A demand for agricultural land, and crops, is leading to an extension of the boundaries of cultivated land in Argentina into undeveloped forest land.

Argentina does not have the same history of communal and state ownership as the previously introduced restrictors. Historically, Argentina had a tradition of equal opportunities for domestic and foreign investment. However, Argentina has had recent substantive changes to its land ownership policies. The acquisition of rural land in Argentina by foreigners has been restricted since the enactment of Act 26,737 in 2011.[29] This was triggered by developments in land ownership regimes and investments. At that time, foreign ownership of rural lands exceeded 10% in some regions.

In a publication sponsored by the International Fund for Agricultural Development (IFAD), the authors explain that "the concentration of land by certain business concerns, purchases of vast parcels of land by urban and external investors, the displacement of small producers in agricultural areas, and new models of agricultural management dominated by leasing … are all issues of critical importance to Argentina, for two major reasons: (a) their scale is such that intervention and solutions are needed to ensure territorial equilibrium, social inclusion and environmental sustainability; and (b) such issues are a clear manifestation of a shift in the way land is organized and developed in Argentina and in the prevailing agricultural model."[30] In other words, an increase in large-scale, non-local investments in farmland led to the restructuring of farmland and a decrease in the number of small producers. The social, environmental, and economic changes seen as a result prompted new regulations and restrictions.

In concrete terms, the restrictions in foreign land ownership refer to percentages and total size of land that can be owned by foreign entities, including a maximum of 15% of rural lands on national and regional levels; only 30% of foreign owners can have the same nationality; and foreign owners cannot own or possess more than 1,000 hectares. Furthermore, foreign investors cannot own border security zones or riparian lands (the interface between land and rivers). Some of these restrictions were loosened in the years following the enactment of Act 26,737 in order to promote investment. In 2016, the Rural Lands Registry found that none of the restrictions had been met or exceeded.[31]

ARGENTINA

The restrictions in foreign land ownership refer to percentages and total size of land that can be owned by foreign entities, including a maximum of 15% of rural lands on national and regional levels; only 30% of foreign owners can have the same nationality; and foreign owners cannot own or possess more than 1,000 hectares.

3.5 United States

At over 9 million square kilometres, the United States (US) is the third largest country among the restrictors. Forty-four percent of that area is farmland, which constitutes 1.25 hectares per person, placing this jurisdiction close to the median in terms of available farmland.

UNITED STATES

Some states have banned the sale of farmland to foreign buyers, while others have limited the number of acres foreigners can acquire. The policies vary greatly.

There are some similarities between farmland ownership policy in the US and Canada in that there is no federal policy; rather, jurisdiction lies with the individual states. Access to and control over farmland includes water, and there is no federal policy on water and water rights. Some states have banned the sale of farmland to foreign buyers, while others have limited the number of acres foreigners can acquire. The policies vary greatly, but since some states completely restrict foreign ownership, and many others implement some form of limitation, the US is grouped with the restrictors in this report.

There is also one significant difference between the US and Canada: the US has a federal reporting system of foreign ownership. The Agricultural Foreign Investment Disclosure Act of 1978 requires all foreign persons holding agricultural land as of February 1, 1979, to file a report of such holdings with the Secretary of Agriculture.[32] This results in relatively detailed statistics on farmland ownership.

Over 60% of US farmland was owner operated as of 2012.[33] A 2016 report based on 2014 survey data found that 30% of all farmland was owned by non-operator landlords.[34] It is noted that the increase in non-farmer investors includes national and international buyers.[35] Investors, including foreign investors, are increasingly interested in US farmland with the result that land prices are increasing and farmland is becoming unaffordable for farmers. Until the economic downturn in 2008, farmland was mostly owned by small property owners and farmers and was difficult to come by as an investment. By the time the stock market collapsed and investors were looking for investment opportunities, an aging farmer population was ready to exit the agriculture business. "Foreign investors held an interest in 25.7 million acres of U.S. agricultural land (forest land and farmland) as of December 31, 2011. This is an increase of 1,490,781 acres from the December 31, 2010, report, and represents 2.0% of all privately held agricultural land in the United States."[36]

Besides restrictions on foreign ownership, land-use regulations are another way to maintain or improve accessibility of farmland to farmers. Since high demand, high prices, and increasing development make farmland difficult to come by, deed restrictions (i.e., restrictions on the development of properties) are one effort undertaken to preserve farmland for agricultural use. "These are often enacted through a conservation easement sold or donated to a nonprofit organization, such as a land trust, or to State or Federal programs such as farmland preservation programs."[37]

The foreign land ownership policies of the individual states can be grouped into four general approaches: open doors, registration requirements, area size limitations, and restrictions. Table 4 identifies 16 states with open doors policies. In some cases, conditions apply. Fourteen states have some form of registration or reporting requirement for foreign land owners, either for ownership alone or for business conducted on or with the land. In five US states, foreign land ownership is limited to a certain size, in some cases in addition to registration requirements. The maximum land area foreign investors are allowed to acquire ranges from 160 to 500,000 acres. Finally, 15 states restrict or completely prohibit foreign ownership. In most of these cases, the population legally allowed to acquire land is either restricted to citizens or includes permanent residents or individuals who are eligible for citizenship. Some states specify the required percentage of US ownership in corporations in order to qualify for land ownership.

Table 4 Four Approaches to Ownership in US States

1. Open Doors

Colorado, Connecticut, Delaware, Florida, Georgia,[a] Indiana, Michigan, Montana, Nevada, New Hampshire, New Jersey,[b] New York, North Carolina,[c] Rhode Island, West Virginia, Wyoming[d]

a Georgia: As long as the country of origin is at peace with the US, an open doors policy applies.
b New Jersey: The open doors policy applies as long as foreign owners are "friends."
c North Carolina: Open doors policy applies only if the country of citizenship allows US citizens to acquire personal property.
d Wyoming: Open doors policy applies only if the country of origin allows US citizens to acquire property.

2. Restrictions Type 1 Ownership or business registration, and/or regular reporting, is explicitly required

Alabama, Alaska, Arkansas,[e] Illinois, Maine, Maryland,[f] Massachusettes, Ohio, Tennessee, Texas, Utah, Vermont, Virginia, Washington

e Arkansas: Has one exception from registration requirements: agricultural land acquired for non-agricultural purpose does not require registration.
f Maryland: In addition to registration requirements, foreign land ownership is allowed as long as land owners are not enemies of the state.

3. Restrictions Type 2	Area is limited and in some cases registration is required
Arizona	Foreign investors can own no more than 160 acres of public agricultural land or 640 acres of state grazing land. Corporations have to be registered to conduct business in the state in order to purchase farmland.
Louisiana	Foreign investors can own no more than 640 acres. Foreign partnerships must register.
Pennsylvania	Resident non-nationals can own up to 5,000 acres. Non-resident aliens can acquire up to 100 acres.
South Carolina	Foreign investors can own up to 500,000 acres.
South Dakota	Foreign investors can own up to 160 acres.

4. Restrictions Type 3	Foreign ownership is partly or completely restricted, and in some cases registration is required or area is limited
California	Only citizens, or people with intent to become citizens, and corporations with at least 90% US ownership can acquire farmland.
Hawaii	At least three years of residence in the state are required to acquire farmland.
Idaho	Only citizens, or people with intent to become citizens, can acquire farmland.
Iowa	Some exceptions apply to restrictions. In case of exception, owners must report to the Secretary of State.
Kansas	Only farming individuals, families, or corporations can acquire land. There are some exceptions. Corporations have to register.
Kentucky	Citizens, persons with intent to become citizens, and corporations with a Kentucky business licence can acquire land.
Minnesota	No aliens can own land. For corporations, at least 80% of class stocks have to be owned by citizens or permanent residents in order to acquire land. Permanent residents have to file annual reports.
Mississippi	Resident aliens can acquire land. Non-resident aliens cannot acquire land. Some exceptions apply.
Missouri	There are a number of restrictions on foreign individual and corporate ownership. There are some reporting requirements.
Nebraska	Aliens and corporations not incorporated in the state can only acquire land for a maximum of five years. Some exceptions apply.
New Mexico	Only aliens eligible for citizenship can acquire land.
North Dakota	Only nationals and permanent residents of the US and Canada can acquire land. Numerous conditions create exceptions.
Oklahoma	Non-citizens cannot acquire land. Some exceptions apply, usually with time limits.
Oregon	Only citizens, or those who have applied for citizenship, can acquire land.
Wisconsin	Companies with more than 20% foreign ownership cannot acquire land. Foreign investors can own a maximum of 640 acres.

3.6 New Zealand

New Zealand is the second-smallest jurisdiction among the restrictors in this report but, at 2.32 hectares per person, it has the third biggest farmland area in relation to population size. New Zealand is generally open to foreign investment and has an open and transparent economy. The government introduced the International Investment Strategy in 2016 to increase business growth. However, farmland transfers are regulated and controlled, and intentions to tighten the rules in the near future have already been voiced.[38]

NEW ZEALAND

New Zealand is generally open to foreign investment and has an open and transparent economy. However, farmland transfers are regulated and controlled, and intentions to tighten the rules in the near future have already been voiced.

The New Zealand Overseas Investment Office screens and controls investment in certain areas, including farmland (i.e., land used exclusively or primarily for agricultural purposes). So although New Zealand is one of the least stringent restrictors, it has outlined regulations and tools to control foreign ownership of farmland. Farmland purchases by foreign investors are regulated via the Overseas Investment Act and Regulations of 2005. Requirements of the sale of farmland include advertisement on the open market for at least 20 working days and within 12 months prior to an application for consent or an overseas investment transaction. This is similar to the local marketing requirement in Australia and is designed to enable farmers to participate in the agricultural real estate market. Purchasing farmland also requires an application for consent from the Overseas Investment Office. Some of the criteria include whether the transaction benefits New Zealand and if the investor intends to reside in New Zealand indefinitely. Applications are assessed on a case-by-case basis. In 2017, New Zealand media reported the government's intention to tighten rules for foreigners interested in buying farmland. The reasoning was, similar to a number of other jurisdictions, that young New Zealand farmers were being outbid by international investors in their attempts to acquire farmland.[39]

3.7 France

With few exceptions, EU countries control their farmland ownership to some degree in order to ensure a fair standard of living for the agricultural community. While old EU member states tend to be open to foreign owners, new member states with relatively low land values fear land grabs and are more likely to resort to restricting foreign land ownership.[40] As an old EU member state, France has a number of restrictions and regulations pertaining to farmland ownership but relatively few specific restrictions on foreign land ownership; however, it does make some distinctions between French nationals and foreign investors when it comes to agricultural lands. Moreover, its government has announced it will aim for stricter regulations in the future, a trend found in New Zealand and that has been implemented in Australia and Argentina. France is, therefore, grouped with the restrictors in this report.

FRANCE

To date, foreign buyers can buy agricultural property at similar conditions to nationals.

With over 52% of its area being farmland, France has a relatively large portion of agricultural land; however, its small area and large population, when compared to the restrictors from the Americas and Oceania, translate to a small 0.43 hectares of farmland per person. As the Eurostat Agricultural Census in France shows, the number of agricultural holdings decreased between 2000 and 2010, while the utilized agricultural area remained almost the same, indicating an increase in holding size.[41]

French president Emmanuel Macron has recently promised to stop foreign investors from buying French farmland after France, like some other jurisdictions, was faced with a Chinese land grab; however, to date, foreign buyers can buy agricultural property at similar conditions to nationals.[42] Domestic buyers need approval from *Societés d'Aménagement Foncier et d'Etablissement Rural* (SAFER), or Land Development and Rural Settlement Companies. They are defined as "a limited liability company founded in 1961 on the initiative of agricultural syndicalism and commended by the government, following the law on vocational guidance for agriculture passed in 1960."[43] They are professional limited companies with professional agricultural organizations as main shareholders. The distinction between national and foreign buyers is that, in case of a foreign buyer, the SAFER in charge also has the first right of refusal, which means the SAFER has the first right to buy a property when it is for sale. The procedure in France is that a *notaire* informs the SAFER once a purchase contract has been made, and the SAFER has two months to answer. SAFER also has a right to claim only a part of the land included in a purchase agreement or estate. Stricter laws introduced in 2014 prohibit previously applied loopholes, such as creating holding companies and transferring shares in order to escape SAFER's first right of refusal.[44]

There are some costs associated with owning property in France, but those costs are equal for nationals and foreigners. Property taxes are based on ownership and derived from the value of possible rental income. Property owners are charged a wealth tax if their personal net assets exceed 1.3 million euros. For foreign owners, this only applies to their assets on French soil. Income from French properties is taxable in France, regardless of the owner's citizenship or residence. Newly introduced since the economic crisis and social reforms, foreign owners have to pay into the social system even when they do not benefit from it, which is not a distinction between nationals and foreigners but puts foreigners at a disadvantage. Finally, the capital gains tax used to be higher for non-EU residents (33.33% for non-EU residents compared to 19% for EU residents) but, since 2015, it is the same regardless of country of residence.

4 Open Doors

Jurisdictions with open doors farmland policies do not distinguish between national and foreign investors. This can mean that they are applying the same restrictions and conditions on both national and foreign buyers or that they are effectively placing no restrictions on the acquisition of farmland. This report will introduce jurisdictions beginning with the most regulated and controlled farmland policies and ending with those with the least regulated farmland. The regulations that can be found in some form in most jurisdictions generally refer to land use and aim for the preservation of farmland for farming use.

As Table 5 shows, the open doors jurisdictions can also be found in a wide variety of regions throughout the world. The examples included here are from Europe, Asia, and the Americas. Their geographical areas are generally smaller than the examples of the restrictors, and while there is a wide range in proportional size of farmland, the farmland per person also tends to be smaller than among the restrictor examples. The United Kingdom (UK) stands out with almost 71% of its total geographical area being farmland, while Japan features just over 12%. Mexico and Chile, the two jurisdictions representing the Americas among the open doors policies have the largest geographical areas and the most farmland per person; however, their 0.83 and 0.87 hectares per person are on the lower end of what can be found among the other countries in this report that restrict and/or levy agricultural property.

Table 5 Open Doors

Jurisdiction	Total land area (km2) (2017)	Farmland percentage of total land area (2015)	Farmland/person (ha), derived
Japan	364,560	12.3%	0.04
Switzerland	39,516	38.2%	0.18
Mexico	1,943,950	54.9%	0.83
United Kingdom	241,930	70.8%	0.26
Spain	500,210	52.5%	0.56
Chile	743,532	21.2%	0.87

Source: World Bank https://data.worldbank.org/indicator

4.1 Japan

Due to its geography of natural borders and mostly mountainous terrain, Japan is a relatively small country with one of the smallest percentages of farmland. Just over 12% of its total area is farmland, which translates to 0.04 hectares per person, the least farmland per person in this report.

Before WWII, Japan had a landlord system in which farmers had to pay rent to the landlords. After WWII, agricultural reform put an end to the landlord system and redistributed land to farmers, many of whom then maintained small-scale farming operations as a means of self-reliance. The new agricultural land law determined that the land could only be owned by farmers themselves. Furthermore, transfers of land or use rights, as well as the conversion of farm land to other land uses, required administrative permission from the agricultural commission. “In Japan, the Agricultural Commission is a unique administrative organization system that manages various agricultural land issues at the local level.”[45] For the following decades, farmers often became part-time farmers while administrative barriers made leasing farmland unattractive. By 1980, the Agricultural Land Law was revised to make lease relationships easier and more intuitive for farming communities: they introduced the agricultural land use-right, meaning the local farmer collective had the power to determine the conditions of the lease. The idea of large corporations gaining control of farmland was still too reminiscent of the landlord system; however, in an attempt to increase agriculture productivity, agricultural land ownership was opened to corporations in the 1990s as long as they were agricultural businesses directly involved in agricultural production. These restrictions were loosened in 2001 to attract capital investment from a broader range of retailers and manufacturers. In 2005, some restrictions were lifted once again. However, corporations not sufficiently involved in agriculture (i.e., the majority of shareholders are not farmers), can only lease land and continue to be prohibited from owning farmland.[46]

With limited land resources and a history of small-scale producers, Japan has a low level of food self-sufficiency. Due to the limited land available in Japan, preventing the conversion of farmland into other uses has been a high policy priority. For the same reason, farmland ownership is restricted but no formal distinction between national and foreign owners is made. Only residents directly engaged in agricultural operations, or corporations meeting the same requirements, can hold rights to agricultural land. While there is no citizenship requirement, the residency requirement for acquiring farmland effectively limits the opportunities for foreign investors to buy farmland in Japan unless they are looking to become farmers in Japan. In other words, foreigners are not more restricted than local buyers when it comes to agricultural land; however, Japan’s multitude of restrictions to buying, leasing, and using farmland, in addition to its limited land resources, make agricultural real estate difficult to obtain.

JAPAN

While there is no citizenship requirement, the residency requirement for acquiring farmland effectively limits the opportunities for foreign investors to buy farmland in Japan unless they are looking to become farmers in Japan.

4.2 Switzerland

SWITZERLAND

Obtaining agricultural land is regulated by the Federal Law on Farming Land Law of 1991 and generally requires authorization as well as proof of agricultural use.

With a territory smaller than 40,000 square kilometres, Switzerland is the smallest of the jurisdictions with open doors farmland policies. Due to its mountainous geography, only 38% of that area is farmland, which leads to a relatively small 0.18 hectares per person. The territorial limitations naturally affect the real estate market, including agricultural land and land use planning, as also seen in Japan and some of the restrictor jurisdictions.

Real estate is regulated by the Swiss Civil Code from 1907. The three forms of real estate ownership are land ownership (owning the ground and any structures on it), ground lease ownership (minimum 30-year lease that allows building and owning structures on the land without owning the land), and condominium-principled ownership (one right of ownership is owned by a community of owners). All properties, with very few exceptions, are registered with the land registry, which holds information title, easements, mortgages, annotations (e.g., selling restrictions), and mentions (restrictions of ownership).

The small size of Swiss territory is the main reason for heavy regulations on change of land use. Planning is regulated by the federal law on planning, while implementation rests with the cantons and can be further regulated by individual communes. Cantons are regional political entities in Switzerland, which is divided into 26 cantons ranging in size from 37 to 7,105 square kilometres. Besides land use planning, most cantons and municipalities levy a property transfer tax of 1%–4% of the purchase price or the taxable value of the property. Furthermore, there are notary fees and land registry fees to be expected in Swiss real estate transactions.

Another side effect of the small area of the jurisdiction is that demand for real estate in Switzerland is generally much higher than supply. A negative interest rate on money in the bank has led to the reluctance among owners of Swiss real estate to sell.

Obtaining agricultural land is regulated by the *Bundesgesetz über das bäuerliche Bodenrecht* (Federal Law on Farming Land Law, or BGBB) of 1991 and, similar to Japan, generally requires authorization as well as proof of agricultural use. While land in agricultural zones is mostly regulated by the BGBB, there are exceptions when land within agricultural zoning falls outside its jurisdiction or land outside of agricultural zoning falls within. Main goals in agricultural real estate regulations aim at maintaining and supporting family-operated agricultural business, strengthening the position of owner-operators and avoiding the overpricing of agricultural land. For the purpose of related legislation, agricultural businesses and agricultural real estate are two separate concepts. Sectioning off of individual property plots from a larger agricultural operation is prohibited, and a certain operational size is necessary to be considered an agricultural business (around 2,800 work hours/year).[47]

4.3 Mexico

Featuring close to two million square kilometres in total land area, Mexico is the largest jurisdiction with an open doors approach to agricultural land ownership. Like some of the restrictor countries, Mexico has a history of communal farmland ownership. As described below, its policy approach to land ownership today differs from those restrictor countries; however, some de facto barriers to land transfers remain.

MEXICO

Foreigners can obtain property under the same conditions as nationals; however, there are procedural and legal hurdles involved in buying agricultural land.

Restrictions for foreign investment in Mexican land are focused on real estate along the borders and coast lines, where foreigners cannot own land outright but have to go through a real estate trust called *fideicomiso*. This commonly affects, for example, seaside vacation properties. Outside of these restricted zones, foreigners can obtain property under the same conditions as nationals; however, there are procedural and legal hurdles involved in buying agricultural land.[48]

Communally owned agricultural lands in Mexico are called *ejidos* and date back to the time after the Mexican revolution. In order to protect peasants from colonial or foreign land grabs, local peasants were entitled to *ejidos* to grow their crops. Reminiscent of China and some of the countries with communist histories, the land could not be sold and was passed down through generations. Today, the protection of local farmers is less of a priority, and since the introduction of the 1992 Agrarian Law, *ejidos* can be sold as long as the entire community agrees. The difficulty lies in the fact that it can be complicated to determine whose agreement is needed, and both national and foreign buyers risk legal battles or loss of land if not all parties with potential ownership rights have agreed. This legal situation means that such a purchase involves considerable additional legal and consulting fees.[49]

4.4 United Kingdom

The United Kingdom (UK) has geographical and climatic conditions that are favourable for agriculture, such as low forestation levels and limited mountainous areas. This is reflected in the fact that 71% of its land area is being actively farmed, the highest proportion in the EU, which translates to 0.26 hectares per person. As in other EU countries, farm holdings declined between 2000 and 2010, while the utilized agricultural area remained stable. The expectation by experts is that there will be a shortage of farmland by 2030 given projected population growth. At the same time, increasing foreign purchases of farmland as investments or lifestyle estates have driven land prices up.[50]

UNITED KINGDOM

Foreign investment in the UK is not being tracked consistently, and England and Wales reportedly have no clear policies to support or prohibit it. Scotland is indicating that it will aim for a more restricted approach in the near future.

Foreign investment in the UK is not being tracked consistently, and England and Wales reportedly have no clear policies to support or prohibit it. Land transfers have to be registered with Her Majesty's Land Registry. Lands that have not changed hands since registration was made compulsory, which make up an estimated 20% of the English and Welsh rural land mass, are not registered.

Anecdotal evidence suggests that national and international investors consider farmland in England and Wales a safe investment and have, since the 2008 recession, sought out agricultural land as a low risk place to put their money. Many international investors are not interested in farming the land and rent it out in contract farming and sharecropping agreements in order to enjoy the fiscal benefits of being active farmers. Most recently, Brexit uncertainties have caused a decline in land for sale and a decline in the price of farmland. According to a *Financial Times* article from February 2018, 60% of all agricultural land purchases are bought by farmers, while lifestyle purchases make up around 20%.[51]

Scotland is indicating that it will aim for a more restricted approach in the near future. The Scottish Land Reform Bill proposed in 2015 suggests limiting non-EU land ownership as well as giving the ministers power to intervene in cases when land ownership patterns and uses are counteracting sustainable development goals. This was met with opposition from Scottish land owners and underwent some modifications, but its implementation continues. In 2017, the Scottish Land Commission came into being as the body dealing with land reform. The Scottish Land Rights and Responsibilities Statement of September 2017 states that the Scottish government will "work towards greater diversity of ownership, including more community ownership, high standards and transparency of land ownership and use, and greater collaboration and community engagement in decisions about land." It underlines the commitment to continued land reform processes. The main emphasis lies in ensuring that communities and individuals have opportunities to own land and benefit from it, demonstrating the goal to secure land benefits for Scotland and its people.[52]

4.5 Spain

Fifty-three percent of Spain's over 500,000 square kilometres are farmland, providing a total of 0.56 hectares per person. As one of the old EU member states, its approach is largely open to foreign investment in land.

Spain was an agrarian country until the 1950s, meaning its economy was based on agriculture rather than industry. The agrarian sector mostly produced for domestic consumption, while the Franco regime effectively closed the doors on international trade and investment. With increasing industrialization, the rural exodus allowed the government to pursue the consolidation of small parcels into single large plots. With the arrival of democracy in the 1970s, the regions gained political power, including over agricultural policy. In the 1980s, Spain joined the forerunner of the European Union, and its agricultural sector was increasingly characterized by European agricultural policy, with a trend towards larger, more productive operations.[53]

Foreign investors have the same right to purchase agricultural land as nationals. The only requirement for land transfers is a tax number, similar to a SIN in Canada. This may take longer for non-EU citizens to obtain but it is not a barrier to foreign farmland ownership.[54]

SPAIN

Foreign investors have the same right to purchase agricultural land as nationals. The only requirement for land transfers is a tax number, similar to a SIN in Canada.

4.6 Chile

"Nature gave the heart of Chile patches of excellent soil and a climate kind to man. But this central valley is isolated, bounded on the north by desert, the east by towering mountains, the west by a cold and tempestuous ocean, and south by the end of the world."[55] This quote by James Becket gives a general idea of agricultural land in Chile. Of its territory of over 740,000 square kilometres, only 21% are farmland. Because of a relatively small population in comparison to its total land area, this still translates to 0.87 hectares of farmland per person.

Chile's policies on land ownership and transfer have undergone many transformations from pre-colonial times through colonial systems and varying political regimes. In traditional Indigenous societies before colonization, agricultural land was farmed based on traditional collective use-right systems. The Spanish colonization process of the sixteenth century superimposed a system called *encomiendas*, in which Indigenous communities owed a share of their crop and/or labour to their colonial superiors. As colonial landlords considered the land their property, this was the origin of large haciendas which formed throughout the eighteenth century. During revolution and political change in the nineteenth century, hacienda ownership and accompanying wealth and political influence remained, even though small parcels of land were granted to the farm labourers. By the beginning of the twentieth century, mining, independent farming, and manufacturing gave rise to a labouring class that led to change, reform, and the drafting of a new constitution. The changes to the constitution laid out procedures and legal frameworks for expropriation to guide a new structure of land ownership while protecting private ownership. The Chilean land reform that followed throughout the 1960s and the early 1970s started out with the distribution of state-owned land to *campesinos*, the farm labourers. The following governments carried out further steps to redistribute land and abolish the hacienda institution.

In recent decades, Chile has taken a path that aims to attract open and secure international trade. After a period of state control and resulting hyperinflation and economic deficits, Chile turned toward liberalized trade and stronger protection of private property rights starting in the 1970s. Their open doors approach to property ownership aims to treat Chileans and foreign investors equally and encourage foreign investment. Laws that apply to the acquisition of agricultural land include the constitution, the Civil Code, the Code of Commerce, Decree No. 993 on the lease of land, and Law No. 20,797. "There are no specific provisions of law for the sale and purchase of agricultural land. Land ownership is allowed and can be freely transferred, subject to some limited restrictions on foreign ownership. [These include positive discrimination in favour of foreign investors as well as restrictions on foreign ownership of land near the Chilean border.] … The general rule is that there is no difference between Chilean and foreign persons. A constitutional mandate prevents the state from acts of discrimination."[56]

CHILE

There is a minimum size requirement for agricultural land transfers. Foreign buyers, whether individuals or corporations, need to appoint a local representative for tax purposes.

In order to avoid land division into many small parcels, as experienced in Ukraine and China, for example, there is a minimum size requirement for agricultural land transfers. Foreign buyers, whether individuals or corporations, need to appoint a local representative for tax purposes.[57]

Chile lacks formal regulations regarding land use. The determination of land use, and land-use change processes, fall in the jurisdiction of county councils. The legal framework for land-use changes is made up of Article 4 of Supreme Decree No. 718/77, the Ministry of Housing and Urban Development and its Joint Commission of Agriculture and Urban Development, and Article 46 of the Law No. 18,755/89.[58] This and the previously described approach to foreign land ownership make Chile the country with the least restrictions on foreign ownership of agricultural lands among the jurisdictions with open doors policies.

5 Summary

Table 6 Restrictors and Leviers Approaches to Non-resident Ownership of Agricultural Real Estate

RESTRICTORS AND LEVIERS	JURISDICTION	APPROACH TO NON-RESIDENT OWNERSHIP OF AGRICULTURAL REAL ESTATE
RESTRICTIONS ON FOREIGN OWNERSHIP AND ADDITIONAL FEES	Russia	Private land ownership is constitutionally recognized in Russia; however, foreign ownership is restricted. Border areas and lands designated as sensitive are banned from foreign ownership. As well, foreigners cannot own more than 50% of any plot of land considered "agricultural designation." Farmland in inhabited areas, or lands of "agricultural exploitation," are excluded from these restrictions. The transfer of state-owned land to foreign nationals involves additional fees.
	Australia	After experiencing increased foreign interest in agricultural land, Australia introduced more stringent restrictions in 2018 in order to support the local agricultural sector. The new policy includes requirements to post sales locally for 30 days. Foreign government investors always require approval. The threshold for regulatory approval has been lowered from land transfers valued at AUD 252 million to AUD 15 million for corporate or private investors. Notification of the Treasurer is required before a purchase agreement can be entered; the Treasurer may object or impose conditions. There is an application fee that depends on the details of a proposed purchase, but commonly amounts to at least AUD 100,000. Finally, agricultural land acquisitions for the purpose of development require that development commence within five years.

Table 7 Restrictors Approaches to Non-resident Ownership of Agricultural Real Estate

RESTRICTORS	JURISDICTION	APPROACH TO NON-RESIDENT OWNERSHIP OF AGRICULTURAL REAL ESTATE
FARMLAND CANNOT BE SOLD	China	For its rural lands, China has a system of communally owned land that is farmed by individual farmers through a use-right structure. With recent legislative changes, farmers can now transfer their use-rights to government-controlled banks or developers in an effort to consolidate lands for higher productivity. The sale of farmland continues to be banned.
	Ukraine	In its post-communist era, Ukraine gave land to its small-scale farmers and prohibited the sale of that land. Today, farmers can lease their land to agricultural companies but the sale of farmland continues to be banned for fear of foreign land grabs of inexpensive fertile lands.
	Israel	Ninety-three percent of rural Israeli territory is state owned. As a measure to preserve these lands for Jewish immigrants, private ownership is not possible. A recent reform has freed up some of the lands for private ownership under certain conditions, but agricultural lands as well as land sales to foreign nationals are excluded.
RESTRICTIONS ON LOCATION, SIZE, AND PERCENTAGE OF FOREIGN OWNERSHIP	Argentina	Argentina has tightened restrictions on the foreign ownership of farmland in the last decade after noticing economic, social, and environmental effects of large-scale foreign investment in its agricultural lands. Foreign entities can own a maximum of 15% of rural lands at national and regional levels; only 30% of foreign owners can have the same nationality; and foreign owners cannot own or possess more than 1,000 hectares. Foreign investors can furthermore not own riparian lands and border security zones.
	United States	The United States does not a have uniform federal policy approach to farmland ownership. Sixteen states have open doors policies pertaining to foreign ownership of farmland. In some of those cases, conditions apply. Fourteen states have some form of registration or reporting requirement for foreign land owners, either for ownership alone or for business conducted on or with the land. In five US states, foreign land ownership is limited to a certain area size, in some cases in addition to registration requirements. The maximum land area size foreign investors are allowed to acquire ranges from 160 to 500,000 acres. Fifteen states restrict or completely prohibit foreign ownership. In most of those cases, the population that is legally allowed to acquire land is either restricted to citizens or includes permanent residents or individuals who are eligible for citizenship. Some states specify the required percentage of US ownership in corporations that qualifies them for land ownership.
REGULATORY APPROVAL; IN SOME CASES, OTHER CONDITIONS	New Zealand	New Zealand has a history of being open to foreign ownership. Requirements of the sale of farmland include advertisement on the open market for at least 20 working days and within 12 months prior to a transfer. Purchasing farmland also requires an application for consent from the Overseas Investment Office. Some of the criteria applied on a case-by-case basis include whether the transaction benefits New Zealand and if the investor intends to reside in New Zealand indefinitely. New Zealand has announced intentions to introduce more stringent restrictions.
	France	Domestic buyers of farmland in France need approval from *Societés d'Aménagement Foncier et d'Etablissement Rural* (SAFER), or Land Development and Rural Settlement Companies. The distinction between national and foreign buyers is that, in case of a foreign buyer, the SAFER in charge also has the first right of refusal, which means the SAFER has the first right to buy a property, in its entirety or in part, when it is for sale.

Table 8 Open Doors Approaches to Non-resident Ownership of Agricultural Real Estate

OPEN DOORS	JURISDICTION	APPROACH TO NON-RESIDENT OWNERSHIP OF AGRICULTURAL REAL ESTATE
RESIDENCY AND FARMING REQUIREMENTS	Japan	While Japan does not distinguish between national and foreign buyers, it places conditions on farmland ownership. Farmland can only be owned by resident farmers. Transfers of land and the conversion of farm land to other land uses require administrative permission from the agricultural commission. Agricultural land ownership has also been opened to corporations as long as the majority of shareholders are farmers.
	Switzerland	Obtaining agricultural land in Switzerland generally requires authorization as well as proof of agricultural use. Main goals in agricultural real estate regulations aim at maintaining and supporting family-operated agricultural business, strengthening the position of owner-operators, and avoiding the overpricing of agricultural land. Sectioning off of individual property plots from a larger agricultural operation is prohibited, and a certain operational size is necessary to be considered an agricultural business (around 2,800 work hours/year).
COMPLICATED OWNERSHIP STRUCTURE	Mexico	Restrictions for foreign investment in Mexican land are focused on real estate along the borders and coast lines, where foreigners cannot own land outright but have to go through a real estate trust called *fideicomiso*. Outside of these restricted zones, foreigners can obtain property under the same conditions as nationals. A history of communally owned farmland constitutes a barrier to farmland transfers as the consent of everyone in a community who may have a use-right is needed for a land transfer.
OPEN	United Kingdom	England and Wales reportedly have no clear policies to support or prohibit foreign investment in farmland. Land transfers have to be registered with Her Majesty's Land Registry. The Scottish Land Reform Bill proposed in 2015 suggests limiting non-EU land ownership as well as giving the ministers power to intervene in cases when land ownership patterns and uses are counteracting sustainable development goals.
	Spain	Foreign investors have the same right to purchase agricultural land as nationals. The only requirement for land transfers is a tax number, similar to a SIN in Canada. This may take longer for non-EU citizens to obtain but is not a barrier to foreign farmland ownership.
	Chile	In recent decades, Chile has aimed for liberalized trade and strong protection of private property rights. Their open doors approach to property ownership aims to treat Chileans and foreign investors equally and encourage foreign investment. In order to avoid land division into many small parcels, there is a minimum size requirement for agricultural land transfers. Foreign buyers, whether individuals or corporations, need to appoint a local representative for tax purposes.

6 Conclusion

This report has reviewed a variety of approaches to foreign ownership of agricultural land. We have not attempted to evaluate the relative effectiveness of the different tools and mechanisms, as their success is dependent on the policy objectives of the respective jurisdictions, which also vary.

The political, economic, and social history of a country and its society shape the approach to farmland ownership. Those histories vary widely, but in all cases, farmland is considered of particular value, whether as a commodity in international trade or as something to keep and maintain for one's own people. The sentiment expressed by Bullock, as mentioned in the introduction, might be an underlying factor felt in various ways around the world: agricultural land feeds the people and is at the heart of a community. Almost all jurisdictions, including restrictors and open doors, have regulations in place to preserve farmland and/or support farming activities. This is also reflected in BC's proposed legislation for stronger restrictions on ALR land use and development. The approaches to foreign ownership of farmland, on the other hand, vary more widely, from outright exclusion of farmland sales to complete absence of restrictions and conditions on farmland transfers and foreign ownership.

As mentioned previously, jurisdictions with a history of communism and/or communal or state-ownership of farmland, such as China, Russia, and Ukraine, tend to restrict farmland transfer more heavily. A fear of foreign control, and of a loss of farmland as a valuable commodity for self-reliance and a viable agricultural sector, seems to be the underlying rationale for policy decisions in those jurisdictions.

Land grabs are a topic in many jurisdictions, either because they have been experienced or because they are expected to happen. A common thread that can be found is that large jurisdictions who have seen increasing land acquisition by foreign governments or corporations, often Chinese buyers, have recently tightened their restrictions and regulations surrounding foreign farmland ownership, or have announced their intentions to do so. Examples of this include Australia, New Zealand, Argentina, and France.

In line with the principles of the European Union, European countries tend to be open to foreign investors. It should be noted, though, that recent developments like Brexit have at the very least caused some uncertainties, and Scotland's land reform is a move towards more restrictions with the goal of protecting local interests in agricultural land.

The variety of approaches offers valuable lessons about the underlying motivations and priorities shaping farmland ownership policies and the risks and benefits of restrictions or the lack thereof. One of the key messages to be taken from this report is the importance that is attributed to agricultural lands in all jurisdictions that have been reviewed. In BC, the establishment of the ALR was a move towards the protection of farmland for farm use in the future. The recent announcement emphasizes a renewed commitment to the protection and preservation of those lands. Foreign investment and speculation has had a significant, and arguably negative, effect on residential real estate markets in BC.[59] Therefore, the next logical step in protecting ALR lands would be the consideration of possible impacts of foreign investment on ALR lands and how they would align with goals and priorities.

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