

# European Union accession and land tenure data in Central and Eastern Europe

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# Glossary

<b>Accession countries</b>	Countries with which the EU has an Accession Treaty and are due to join the EU on 1 January 2007 or 2008 – Bulgaria and Romania
<b><i>Acquis communautaire</i></b>	The body of EU legislation that has been built up since the Treaty of Rome, including the regulations and directives passed by the Council of Ministers and the judgements of the European Court of Justice
<b>Candidate countries</b>	Countries given candidate status by the EU – Croatia and Turkey
<b>CAP</b>	Common Agricultural Policy
<b>ESU</b>	European size unit – a measure of the size of farms. 1 ESU equals 1 200 euros of standard gross margin
<b>EU</b>	European Union
<b>FADN</b>	Farm Accountancy Data Network
<b>IACS</b>	Integrated Administration and Control System for the payment of subsidies under the Common Agricultural Policy
<b>LPIS</b>	Land Parcel Information System
<b>Member State</b>	Country that is a Member of the European Union
<b>New Member State</b>	Countries that joined the EU on 1 May 2004 – Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia
<b>NPAA</b>	National Programme for the Adoption of the <i>Acquis</i> adopted by each EU applicant
<b>RLR</b>	Rural Land Register
<b>SAPARD</b>	Special Accession Programme for Agriculture and Rural Development

<b>SGM</b>	Standard gross margin – an estimate of the income generated by a farming enterprise; equals the value of the output less the variable costs directly attributable to the enterprise
<b>UAA</b>	Utilized agricultural area

# Summary

On 1 May 2004, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia joined the European Union (EU) in its largest and most significant expansion to date. On 1 January 2007, the two accession countries, Bulgaria and Romania, are expected to join the EU, though this can be postponed until 2008. Other countries from Central and Eastern Europe are likely to be admitted to the EU in due course. Croatia has been granted the status of candidate country. A process has started that could eventually lead to EU membership for Albania, Bosnia and Herzegovina, The former Yugoslav Republic of Macedonia, and Serbia and Montenegro (including Kosovo). The EU has a long tradition of offering membership to countries with the intention of strengthening democracy and the rule of law in them, and the present expansion into Central and Eastern Europe should be seen in this context.

EU membership has profound implications for all parts of a country's economy, as well as for its relationships with the other countries in Europe and its internal political structures. Members of the EU must be democracies governed by the rule of law and which guarantee human rights. They must have functioning market economies able to withstand the competitive pressures that EU membership brings, and governmental structures capable of discharging the wide range of obligations imposed on EU Member States. Countries joining the EU are obliged to adopt a wide range of laws in order to harmonize their legal structures with those of the EU.

This note is concerned with only one limited aspect of entry into the EU, namely, the impact on land tenure. The EU is a single market in which citizens and companies in any Member State are free to work, invest or set up businesses in any other Member State. No Member State, therefore, may place discriminatory restrictions either on where its citizens and companies are permitted to invest or on the investments made in it by citizens or companies from elsewhere in the EU. Such restrictions can also impede the free mobility of workers and businesses. Therefore, membership of the EU is not compatible with discriminatory constitutional or other restrictions on the assets that can be owned by foreigners from elsewhere in the EU.

A number of the new EU members from Central and Eastern Europe had restrictions on the ownership of agricultural land by foreigners, and sometimes also on its ownership by domestic companies. The countries that joined the EU in 2004 and those that will join in 2007 have generally been granted transitional arrangements with respect to the opening up of their land markets. However, it is likely that there will be profound changes in land ownership and land tenure when these transitional arrangements expire. Persons and companies from elsewhere in the EU may seek to acquire farmland, forests and rural housing. EU membership will add further pressures on the rural land markets to those that have resulted from the transition from centrally planned to market economies. The new Member

States will need appropriate land tenure policies with which to respond to these pressures as well as tools that will enable them to formulate an accurate picture of what is taking place in their land markets.

Applicant countries must adopt the body of EU law known as the *acquis communautaire*. This contains obligations across the range of government activities. There are three specific requirements that have a direct bearing on land tenure. Under Chapter 7 of the *acquis*, which is concerned with agriculture, Member States must contribute data to the Farm Accountancy Data Network (FADN). This requires them to establish a survey of farm-level accounts of revenue, expenditure, inputs and outputs. Chapter 12 (Statistics) requires Member States to conduct a comprehensive survey of agricultural holdings – an agricultural census – once every decade, with three interim surveys per decade, to produce data on the structure and typology of agricultural holdings. The data collected for both FADN and the agricultural census must include information about the amount of the utilized agricultural area (UAA) under owner occupation, sharecropped and tenanted.

Member States of the EU are responsible for administering the Common Agricultural Policy (CAP). This has recently changed from being a system for supporting agricultural production to one of providing direct income support for those working the land based upon the amount of land. Central to CAP payments is the Integrated Administration and Control System (IACS), which is intended to ensure that the payments made are correct and traceable. This requires Member States to establish Land Parcel Information Systems (LPISs) that identify each parcel of farmland. These systems contain data about the location and size of each parcel so that it can be checked whether only one claim has been made for each parcel, that the claim is for the correct amount, whether it has been made for eligible land, and whether it has been made by a farmer who is entitled to receive the payment.

Both FADN and the agricultural census produce information based on farm holdings. The FADN data are particularly useful for analysing the relationship between land tenure and agricultural costs, revenues, production and finances. Because FADN data are derived from a sample, comparisons of land tenure over time and between areas are better achieved through the agricultural census data. IACS is capable of generating parcel-level information on farmland, but does not produce land tenure data, and hence the information about parcels has to be merged with tenure data from other sources. However, IACS is of particular value in spatial planning because of its ability to provide georeferencing of farmland parcels. While membership of the EU is likely to create problems for the land markets of the new Member States, it also provides some powerful tools to monitor and understand the changes that are taking place and to inform the development of land tenure policy.



# The transition process and European Union accession

Land tenure is an important aspect of the workings of the land markets. The durable nature of land enables different forms of tenure to develop because access to land can be granted by an owner for a limited period of time and then recovered. Legal interests in land of different durations can be created by dividing the freehold into a series of shorter leases or licences, which can be held under a variety of different terms and conditions. Investment markets in land can exist alongside markets for purchase and renting. Certain tenures may be better suited to particular economic and social conditions than others. Optimal tenure patterns take time to evolve, for example, because of the duration of leases or the time taken to achieve changes in ownership. There is a potential role for governments to intervene in land markets and encourage appropriate tenure patterns using such instruments as taxation and grants, as well as changes in tenancy, ownership and inheritance laws.

The Central and Eastern European countries that have achieved, or are in the process of preparing for, EU entry, have been going through a transition from centrally planned to market economies. Accession to the EU could be regarded as the culmination of the transition process, since membership should only be possible if a country is regarded by the EU as having a functioning market economy and is able to open up its markets to foreign competition by adopting the EU's laws concerning the single internal market.

A cornerstone of the transition process has been the creation of private ownership of land and the development of markets in which land can be bought, sold or rented. Private

land markets have been created through the privatization of state land and the restitution to its previous owners of land expropriated by Communist governments. This has been associated with the creation of secure land tenure and property rights (Rembold, 2003). Different countries have used different policies to create private property rights. For example, in Albania, land use rights on former state lands were converted into full ownership (FAO, 2004), while in Bulgaria restitution has been used to restore land to its former owners and their heirs (FAO, 2003b). The consequence of these policies has been significant changes in land tenure. In Hungary, land in state ownership fell from 32 percent in 1990 to 20 percent in 2001, and that owned by cooperatives declined from 61 percent to 7 percent. During the same period, land in private ownership increased from 7 percent to 64 percent (FAO, 2003c). Even in Poland, where private ownership of farmland was the dominant tenure during the Communist period, the proportion of arable land in privately owned farms increased from 77.5 percent in 1983 to 91.2 percent in 2000 (FAO, 2003d).

Privatization of land has created millions of new land titles, many for small badly shaped parcels of land unsuitable for commercial exploitation, as land that was restituted has been further divided among the heirs of the original owners (FAO, 2003a; Rembold, 2003). Among the consequences of this has been underinvestment in agriculture, rural poverty, rising rural unemployment and an ageing rural population as the young migrate to urban areas in search of work. The situation has varied among different countries. For

example, in the Czech Republic, there has been a high level of leasing because many of the new owners either lacked the skills to farm their land or were no longer connected with agriculture and so were willing to rent their land to large farming businesses (Ciaian, 2002). By contrast, in Bulgaria farm sizes were lower in 1998 than at the end of the nineteenth century, and subsistence farming has increased (Rembold, 2003; Kostov and Lingard, 2002). In Hungary, leasing has become the dominant form of tenure, accounting for 57 percent of arable land in 1999, as owners have rented out land to form viable units (FAO, 2003c), but there has also been net in-migration to remote villages by what appear to be “industrial refugees ... seeking lower costs of living and opportunities for self-provisioning in rural locales” (Brown and Schafft, 2002, p. 243).

Security of property rights plays an important part in rural development by, for example, encouraging investment and allowing land to be used as collateral for loans, particularly from financial institutions. However, it is only one aspect of a land tenure policy. It is also important for there to be flexibility in land markets so that efficient farm units can be created. This may require a balanced land-tenure policy that not only provides for security of property rights by owners, but also encourages the leasing of land, so that holdings of an efficient size can be created. It must also support security of tenure for tenants so that they undertake investment. The problems of unbalanced land tenure and the need for flexibility are not confined to the countries of Central and Eastern Europe, but are also to be found in pre-2004 EU Member States with high levels of owner occupation. Lack of flexibility can make it difficult for farmers to put together holdings of the size needed to compete internationally or to undertake diversification if they are not able to gain access to land through the rental market as well as by purchase. In Ireland, for example, where owner occupation accounts for over 80 percent of agricultural land, the

agriculture sector is characterized by ageing farmers, many of whom are unmarried, and underemployment on farms. The land market is relatively inactive, with a small rented sector. During the 1990s, the annual volume of land coming on to the market fell by over 70 percent. Farmers were reluctant to sell land, and inheritance became one of the main means of gaining access to land. Since it is difficult to develop viable holdings, farm families are obliged to derive increasing proportions of their income from non-farm sources, such as employment in the construction industry (Commins, 2000; Frawley and Phelan, 2002). The Irish Government’s response has been to try to increase transfers of land from current farmers to younger ones by means of early retirement schemes and tax relief on land sales and leasing to unconnected farmers (Department of Agriculture, Food and Rural Development, 2002).

The transition process has brought a number of challenges for land administration, including the management of privatization and restitution programmes, the creation of the infrastructure for efficient property markets (such as land registration and titling), the need to create an appropriate legal system and problems from upheavals in the market, such as rural depopulation, land fragmentation and the growth of subsistence agriculture. Membership of the EU will bring further challenges because the EU is a single internal market without barriers to trade, investment or the migration of firms and people. Countries joining the EU must adopt and implement the EU single internal market laws and must dismantle any remaining barriers to the free mobility of trade, labour, capital and enterprise with the EU countries. Such barriers were an integral part of their centrally planned economies and included restrictions on foreign ownership of land. EU entry is therefore likely to bring additional pressures on rural areas in the new Member States, for example as farm businesses and individuals from elsewhere in the EU seek to acquire land

and rural housing, encouraged by lower prices. The countries joining the EU will therefore need effective data-monitoring systems about

land tenure and land ownership that can be used to develop appropriate policies.

# The process of European Union accession

The Maastricht Treaty of 1992 states that any European state that respects the principles of liberty, democracy, human rights and fundamental freedoms, and the rule of law may apply to join the EU. This was reaffirmed at the European Council held in Copenhagen in 1993, which declared that the associated countries in Central and Eastern Europe “that so desire shall become members of the Union” (EU, 2001). The basic criteria for membership to be achieved by applicant countries are:

- stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities (the *political* criterion);
- the existence of a functioning market economy and the ability to cope with competitive pressures within the EU (the *economic* criterion); and
- the ability to take on the obligations of membership, including political, economic and monetary union (the criterion concerning adoption of the *acquis*).

Applicants must also have the ability to transpose EU legislation into national legislation and implement it through appropriate administrative and judicial structures, which implies that they shall have effective systems of governance.

In 1997, the EU decided to begin negotiations on enlargement into Central and Eastern Europe, initially with the Czech Republic, Estonia, Hungary, Poland and Slovenia (which with Cyprus made up the Luxembourg group). In 1999, enlargement negotiations were expanded to include Bulgaria, Latvia, Lithuania, Romania and Slovakia (which with Malta comprised the Helsinki group). With the exception of

Bulgaria and Romania, negotiations with both groups were completed and accession took place on 1 May 2004. Bulgaria and Romania are expected to join the EU on 1 January 2007 but the Accession Treaty does allow entry to be delayed until 2008.

Since 2000, the countries of the Western Balkans have been recognized as potential future members of the EU. Croatia has been granted candidate status and in 2004 European Partnerships were entered into with Albania, Bosnia and Herzegovina, The former Yugoslav Republic of Macedonia, and Serbia and Montenegro (including the territory of Kosovo as defined by United Nations Security Resolution 1244 of 10 June 1999). The Thessaloniki Agenda of 2003 set out the process by which the Western Balkan countries might achieve EU membership. The methodology has similarities to that applied to the accession of the new Member States. The key difference is that the process is one of stabilization and association. The Western Balkan countries have to commit to *stabilization* as a condition of receiving the benefits from *association* with the EU. This reflects their recent turbulent histories and the need to consolidate peace through commitment to the inviolability of international borders, peaceful resolution of conflicts, cooperation with the International Criminal Tribunal for the former Yugoslavia, and condemnation of terrorism, violence and extremism. As a result of this history, the land tenure problems of the region have an additional dimension to those of the Central and Eastern European countries joining the EU in 2004 and 2007. The issues involved concern the return of refugees and internally displaced persons, resolution of lost property

and occupation rights, and the reconstruction of destroyed property.

Each would-be applicant enters into a Europe Agreement, or a Stabilization and Association Agreement in the case of the Western Balkan countries, with the EU and its Member States. These agreements provide the legal basis for bilateral relations between the EU and the applicant and are intended to establish free trade in industrial products; free movement of services, investment and workers; and the approximation of legislation to that of the EU. They provide for asymmetrical reciprocity, with more rapid liberalization on the part of the EU than the applicant country. Consequently, the applicant country derives many of the benefits of EU membership early in the application process so that there will be very limited transitional arrangements allowed after accession.

The issue of ownership of agricultural land and natural resources by foreigners is a contentious one for many of the applicant countries. There has been the fear that individuals and companies within the EU will take advantage of their greater wealth to buy up relatively inexpensive farmland so that nationals of the applicant countries could find themselves priced out of their own land markets. For example, the Hungarian Government (2002) argued that lifting the ban on the purchase of agricultural land by foreigners “would lead to speculative land purchases and impede the development of viable family farms”. Consequently, the Europe Agreement for Hungary in 1993 included a five-year transition period before EU companies established in Hungary were to be given the right to acquire, use, rent or sell real property, or the right to lease agricultural land. The establishment by EU companies and nationals of Hungarian companies for the purposes of dealing in real estate was specifically excluded from the Agreement.

The Accession Partnership assesses the priority areas for progress and how EU assistance programmes will support such

preparations. The assistance programmes include those funded by Phare, and the Special Accession Programme for Agriculture and Rural Development (SAPARD). In due course the Instrument for Pre-Accession Assistance will incorporate these. Many of the Accession Partnerships contain provisions relevant to land tenure, which are designed to overcome restrictions on land ownership and occupancy that are unacceptable within the EU. For example, the Accession Partnership for Lithuania (adopted in 2001) included the commitment to constitutional amendments so that access to farmland by foreigners would be permitted. The Partnership for each country is complemented by a National Programme for the Adoption of the *Acquis*. The *acquis communautaire* is the body of EU legislation that has built up since the Treaty of Rome, including the regulations and directives passed by the Council of Ministers and the judgements of the European Court of Justice. The Commission produces annual regular progress reports on applicant countries to determine their progress in achieving the *acquis*. Accession negotiations are concerned with the terms under which the applicant adopts and enforces the *acquis*. The results of the negotiations are incorporated into an accession treaty, which sets out the conditions for accession, amends EU legislation in areas such as representation on EU bodies and qualified majority voting, and enacts any transitional arrangements. After approval by the European Council and the Parliament, the treaty has to be ratified by the EU Member States and the applicant countries.

# The liberalization of land markets

The aim of the European Union is political union through economic means. It has progressively achieved a closer economic union among the Member States through the creation of a customs union; a common market with free mobility of labour, capital and enterprise; a single internal market with harmonized systems of regulation; and common policies. One of the principal criteria for accession set by the Copenhagen Council is that each applicant shall have a functioning market economy. Given that the Central and Eastern European applicants had, until recently, centrally planned economies, the Copenhagen Council's decision about whether these countries should be permitted to become EU members raises the question of whether an applicant's transition from a centrally planned to a market economy has developed sufficiently for membership.

A market economy requires that prices should normally be set by market forces rather than by government. It implies that there should be private ownership of the means of production, with individuals and companies deciding how these are to be used, and a legal system that enables property rights to be enforced. There must be competitive markets and well-developed private capital markets in which finance can be raised and collateral taken in the event of default. A functioning market economy requires an efficient property market in which real estate can be purchased, sold, rented and used as collateral for loans. This includes agricultural land and natural resources as well as residential, commercial and industrial land and buildings. Otherwise, there can be no free movement of labour or enterprises or free mobility of capital. Restrictions on the ownership or renting of real estate limit the movement of people, businesses and investment.

Chapter 4 of the *acquis* is concerned with the free movement of capital. Restrictions on the movement of capital among Member States (and in many cases with countries outside the EU) are prohibited. The 1988 directive that established free mobility of capital does, however, contain a safeguard clause that enables a Member State, with the consent of the Commission, to restrict real estate transactions in the event of disruption of its monetary and exchange rate policies by short-term capital movements of exceptional magnitude.

Free movement of capital is not just about allowing free transfers of investment among Member States by individuals and companies or the free convertibility of currencies. It also means the removal of restrictions on the ownership of assets and liabilities by individuals and corporate bodies from elsewhere in the EU. It implies that they must be able to acquire or rent all forms of real estate, including agricultural land and secondary residences. Freedom of enterprise means that farm businesses from one part of the EU must be able to relocate or acquire farm businesses elsewhere in the EU. Individuals and companies from elsewhere in the EU cannot be prevented from owning land and thereby obliged to rent land in order to establish their business in the country. Nor can discriminatory restrictions be placed on the amount of land that can be owned or rented as these undermine essential elements of the EU's internal market, including the free mobility of labour and investment and freedom of establishment of enterprises. The only restrictions that could be tolerated are ones that apply equally in a non-discriminatory manner to citizens of, and enterprises registered in, the country applying them, and not just to those from other EU countries. In any case,

such restrictions are likely to receive approval only in very exceptional circumstances.

Among the countries in Central and Eastern Europe joining the EU in 2004 and 2007 that had restrictions on foreign ownership of land were Estonia, Hungary, Lithuania and Romania. The countries of the Western Balkans will also have to remove such restrictions if they are to become EU members. The lifting of restrictions on foreign companies acquiring agricultural land also implies that any barriers to domestic companies purchasing land must also end. For example, a Hungarian Act of 1994 limited the ownership of arable land by private individuals to 300 hectares in size.

At issue is whether the applicant country's property markets, including its agricultural land markets, are adequately prepared for accession – in particular, whether the processes of privatization and restitution are complete,

whether there is adequate protection of property rights, and whether the legal framework for the buying and renting of real estate and the infrastructure to support the property market (such as land registration systems) are adequately developed. Table 1 illustrates the types of concerns raised by the EU about the efficiency of the land markets in Central and Eastern Europe.

The EU does not have an absolute standard for determining whether a country has a functioning market economy, particularly in relation to real estate markets, which largely operate outside the *acquis*. It can also be argued that the EU's monitoring and evaluation of the real estate markets of applicant countries have not been consistent or measured against precise criteria, probably because they are largely outside the *acquis*. This could mean that countries may become members of the EU

**TABLE 1**  
**Examples of the efficiency problems encountered in relation to rural land markets**

Country	Date of report	Efficiency problems
All countries	2000–02	Lack of security of tenure in agricultural leases and lack of ability by tenants to offer potential lenders collateral, preventing the restructuring of agriculture into more viable units and depressing agricultural land values.  Low take-up rate of SAPARD funds for land improvement and reparcelling.  Need to conclude the process of agricultural land reform.
Bulgaria	2002	Low number of transactions, low prices of agricultural land, fragmented plots, shared ownership, insufficient documentation of ownership in land registries and slow resolution of legal disputes, resulting in unused farmland and impediments to increasing productivity.
Estonia	2001	Delays in privatizing unclaimed arable and forest lands.
Lithuania	2002	Slow pace at which outstanding land restitution issues are being resolved.
Poland	2002	Need to improve land registration so as to facilitate the use of property as collateral for loans.  Uncertainties about restitution.
Romania	2002–03	Slow pace of restitution.  Need to complete cadastre reform, registration of property titles in the land book offices and issuing of land titles.  Development of a policy for agricultural land consolidation.

Sources: Commission of the European Communities, 2001; 2002a, p. 42; 2002b, pp. 17, 19; 2002c, p. 30; 2002d, p. 37; 2002e, pp. 39–40; 2002f, p. 69; 2003, p. 10; Estonian Government, 2001, Ch. 1; Pouliquen, 2001.



before their land market problems have been fully resolved, even though they have brought about the formal legal changes required by the *acquis*. They may, therefore, have further work to do on improving the functioning of their land markets after EU accession.

It has been recognized that the sudden liberalization of the rural land markets of countries joining the EU could be extremely destabilizing. Therefore, one of the areas in which transitional arrangements have been permitted after entry has been rural land markets. It should be noted that these issues do not just apply to the countries of Central and Eastern Europe. Cyprus was permitted to retain restrictions on the ownership of secondary residences by non-residents for a five-year period after accession. Malta has been permitted to retain indefinitely its controls over the acquisition of secondary residences by those who have not been resident for five years, in recognition of the limited land on the island available for residential development. Nor do such derogations just apply to the new EU Member States. Denmark has the right to maintain its controls over the acquisition of second homes, provided that EU nationals residing in Denmark have the same rights as Danish nationals. In the Åland islands of Finland, there are restrictions on who can acquire and hold real estate, but these apply to natural and legal persons from all Member States and do not give special rights to those from Finland. The key to all of these restrictions is that they cannot confer any special rights and privileges on the citizens or legal persons of one Member State over those from elsewhere in the EU. Controls over land markets may be necessary in certain circumstances, but they cannot be discriminatory.

The Accession Treaties governing the entry of the ten Central and Eastern European countries to the EU in 2004 and 2007 provide for three types of transitional arrangements with respect to real estate markets.

- **Secondary residences.** The Czech Republic, Hungary and Poland have been

permitted to retain restrictions on the ownership of secondary residences by EU nationals who are non-residents, and by EU companies neither established in the country nor having a branch or representative agency, for five years from accession. This arrangement will also apply to Bulgaria and Romania when they join the EU in 2007.

- **Agricultural land and forests.** All the Central and Eastern European countries that joined the EU in 2004, except Slovenia, have been granted transition periods during which they can restrict the ability of non-residents to acquire agricultural land and forests. The Czech Republic, Estonia, Hungary, Latvia, Lithuania and Slovakia were granted seven-year transition periods during which they are able to maintain restrictions on non-resident EU nationals and companies from other EU Member States acquiring agricultural land and forests. This transitional arrangement will also apply to Bulgaria and Romania when they join the EU in 2007. Hungary is also allowed to maintain restrictions on the acquisition of agricultural land and forests by legal persons during this transition period. Poland has been granted a 12-year transitional period. EU nationals who have established themselves as self-employed farmers in these countries are excluded from the restrictions. There is to be a review of all the transitional arrangements within three years of accession and they can be terminated or shortened by the EU. If there are serious disturbances in the agricultural land markets of the countries, or a threat of serious disturbance, the transition periods can be extended for up to a further three years.
- **Use of the general economic safeguard clause.** Slovenia has not been granted any specific real estate transitional arrangements, but is permitted to use



the general economic safeguard clause in the Accession Treaty to protect its real estate market for up to seven years after accession. Under Article 37, the safeguard clause permits a new Member State to apply for authorization to take protective measures in the event of serious difficulties that are liable to persist and “could bring about serious deterioration in the economic situation of a given area”. The general safeguard clause normally applies for three years after accession, but its duration has been extended for Slovenia’s real estate market.

Appendix 1 sets out the transitional arrangements in more detail on a country-by-country basis.

Although most of the Central and Eastern European countries have been granted transitional exemptions from opening up their rural markets to purchasers from other Member States, eventually rural land and secondary residential markets will become accessible. The transitional periods are relatively short and, as they come to an end, the countries are likely to experience an influx of Western European farming businesses buying or renting farmland, attracted by lower production costs and land prices. They may also be attracted by historically lower levels of herbicide, pesticide and artificial fertilizer use, which reduce the costs of conversion to organic farming. It can be expected that farmhouses and housing for rural workers, as well as housing in coastal and scenic areas, border regions and areas with winter or water sports, fishing or hunting, will be purchased as secondary residences by citizens from elsewhere in the EU or by companies and investors for tourist use. Many Western European countries experience similar pressures on residential property in rural areas, which can result in local workers being priced out of housing markets. The eventual granting of rights to foreign companies to acquire agricultural land implies that any remaining obstacles to their domestic companies purchasing agricultural

land must be lifted. The phenomenon of larger farming businesses being obliged to rent land on a short-term basis because they cannot own it will disappear. The use of devices such as options to purchase at a future date and the registering of purchases in the names of nominees may mean that these changes will be anticipated towards the end of the transition periods, even though the interests acquired may not be officially registered or appear in official statistics. There is some limited evidence of such practices already occurring.

## European land tenure tools

Countries joining the EU are obliged to put in place three tools that are of considerable value in collecting data about land tenure: the Farm Accountancy Data Network (FADN), the survey of the structure of agricultural holdings or agricultural census and the Integrated Administration and Control System (IACS) for the payment of agricultural subsidies. It is important to note that none of the three tools is specifically concerned with land tenure data. Rather, land tenure data are collected as a by-product of collecting other information about agricultural production for use in the Common Agricultural Policy (CAP). Both FADN and the agricultural census collect data about the amount of the UAA that is under owner-occupation, tenanted or sharecropped. They collect information at the level of the agricultural holding. IACS can provide the link between agricultural data and parcels of farmland, because it provides area and location data for the parcels. The information generated by these three tools can also be used in other contexts than the CAP, including the monitoring of land tenure trends and the development of land tenure policy.

In 2003, in what the Commission has described as the most radical change since the policy was founded in 1958, the CAP became a device by which agricultural subsidies are paid primarily on specific pieces of land rather than being in return for agricultural production. Direct payments are now made to farmers, with subsidies for production largely disappearing. These payments are conditional on compliance with animal and plant health, environmental and food safety standards, and on keeping farmland in good condition for farming and the preservation of the countryside. The development of the

CAP reflects a change in priorities from the need to maintain production and secure food supplies to a desire for production to be safe and environmentally sustainable.

The future of the CAP has come under discussion as a result of pressures both from within and outside the EU. The enlargement of the EU from 15 to 25 members in 2004 included new members with a greater reliance on agriculture and with lower per capita incomes, and raised questions about future budgets and who would benefit from future aid to agriculture. In addition, the related questions of agricultural protectionism and export subsidies have been important factors in the G8 discussions about world poverty and in the World Trade Organization's Doha Round of tariff reductions. All these discussions have raised fundamental questions about the future of the CAP, which, in turn, raises questions about the future of the tools used to support it.

A number of Member States meet their obligations to supply data to FADN and the agricultural census using instruments that predate the CAP. This would suggest that the instruments are robust and versatile, and would continue to be used by governments even if there was no CAP. Information about the economic viability of agriculture, productivity, farm structures and land tenure is of considerable value to governments in staying informed about agricultural conditions and formulating agricultural, environmental and rural development policies. Governments also need to undertake spatial planning in rural areas. They need a system that identifies farmland parcels and the activities being carried out on them, which IACS does. Therefore, the future of these instruments is

not directly bound up with that of the CAP. The governments' need for the information generated by these instruments will remain

whether or not there is a CAP and regardless of what form it takes in the future.

# The Farm Accountancy Data Network

The Farm Accountancy Data Network (FADN) forms part of Chapter 7 (Agriculture) of the *acquis*. It has existed since 1965. Data are collected at the holding level on sources of revenue, costs, inputs, outputs and employment for a single accounting year of 12 consecutive months. Box 1 identifies the principal data collected. This is used to generate standard gross margins (SGMs). The SGM is an estimate of the income generated by farming enterprises and is the value of the output less the variable costs directly attributable to the enterprise. In other words, it measures the contribution the enterprise makes to the payment of overhead costs and farm profits. Farm income can be derived from this by deducting overheads,

payments for external resources, depreciation and taxes, and adding in grants and subsidies, using the model set out in Figure 1. The data exclude any non-farming activities of the holder or the holder's family, other than forestry and tourism connected with the farm. This exclusion means that FADN does not provide information on standards of living of agricultural households, except where those households derive their entire income from the holding.

FADN is concerned with commercial farms. Regulations define the minimum size of holding considered to be commercial, rather than part-time or subsistence. These vary between Member States and currently range

## BOX 1

### Principal information collected by FADN

- Production of crops
- Labour input
- Number and value of animals and livestock purchases and sales
- Grants and subsidies
- Taxes
- Interest and finance charges
- Costs of paid labour, contract work, fuels, feedstuffs, seeds, insurance, electricity, water
- Land and buildings
- Investment and depreciation
- Machinery and equipment
- Stocks and working capital
- Debts
- Quotas
- Area under different land tenures

## FIGURE 1

### Income model in FADN

<b>Total output by product</b>	
<i>(changes in agricultural stock + sales + farmhouse consumption + farm use)</i>	
-	Intermediate consumption of inputs produced on the holding used in the production of other outputs
+	Farm subsidies
-	Balance of taxes and value added tax
=	<hr/>
<b>Gross farm income</b>	
-	Depreciation
=	<hr/>
<b>Farm net value added</b>	
+	Investment grants and subsidies
-	Wages, rents and interest paid
=	<hr/>
<b>Family farm income</b>	

from 1 European size unit (ESU) in Cyprus to 16 ESU in the United Kingdom (excluding Northern Ireland). One ESU equals 1 200 euros of SGM. The Central and Eastern European countries that joined the EU in 2004 were given thresholds of 2 ESU, except for the Czech Republic (4 ESU) and Slovakia (6 ESU).

A substantial amount of accounting data and information about inputs and outputs is required by FADN from each farm, so that detailed analysis of farm accounts is necessary. Data can only be collected from a sample of farms because of the complexity of the information required. The sample is stratified by region, economic size and type of farming to try to ensure that it is representative. It is intended to represent more than 90 percent of the agricultural production in the EU. Although FADN is managed by the Commission, the actual data collection is undertaken by a liaison agency in each Member State. They are responsible for the selection of the farms in the sample, the accuracy of the data recorded and the transmission of data to the Commission.

FADN collects data about the UAA and the proportion that is owned, rented and sharecropped (see Box 2). The UAA comprises land under arable, grassland and permanent pasture, and permanent crops.

The analyses that are possible include those between land tenure and farming incomes, types of production, sizes of farm, the amount of bank borrowing undertaken and net worth. For example, Figure 2 makes use of data from the British *Farm Business Survey* to show that owner-occupied and tenanted farms in the sample had similar monetary values of crops and trading livestock in their closing balance sheets for 2003/04, but the external liabilities of the tenanted farms represented a significantly higher proportion of their total assets. The reason for this was the amount of land and buildings in the closing balance sheets of the owner-occupied farms. This shows the greater potential for raising external loan capital of owner-occupied farms and

#### BOX 2

#### Definitions of land tenure used in FADN

##### UAA in owner occupation

Includes owned land, land for which the partners are tenants for life or leaseholders and land leased to others ready for sowing.

##### Rent UAA

Land worked by a person holding a tenancy for which the rent in cash or kind is generally fixed in advance and does not normally vary with farming results.

##### UAA in sharecropping

Land farmed on the basis of a sharecropping agreement or farmed jointly with the grantor on similar terms.

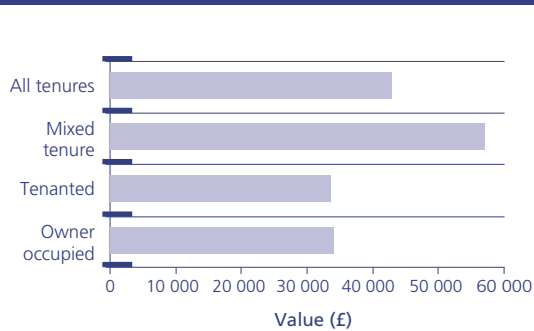
their consequential ability to take advantage of opportunities for growth and diversification. The detailed information collected from each farm makes FADN a very rich source of data that permits analyses that would otherwise not be possible.

A number of issues have arisen with FADN and the data derived from it, which have implications for the extent to which the data can be relied upon. They are not exclusive to the countries of Central and Eastern Europe, but are applicable to the whole of the EU. The quality of FADN has been reviewed by the EU's Court of Auditors (2003). The United Kingdom and Denmark have also examined the quality of the statistics they provide for FADN (MAFF, 2000a; University of Hull, 2000; Sørensen, 1999). The main issues are concerned with how representative the sample is and the quality of the sampling process. Specifically, there are questions about:

- the size of the sample and whether it is capable of producing reliable information at a subnational level;

FIGURE 2A

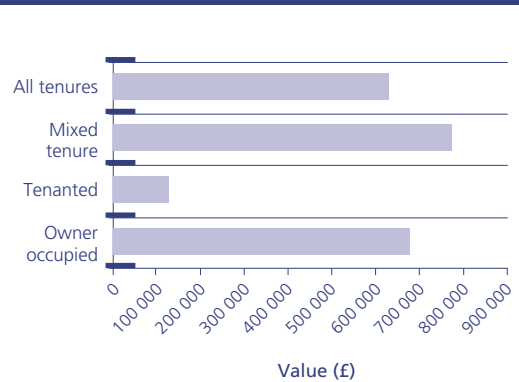
Value of crops and trading livestock in United Kingdom farm closing balance sheets, 2003/04



Source: Defra, 2004.

FIGURE 2C

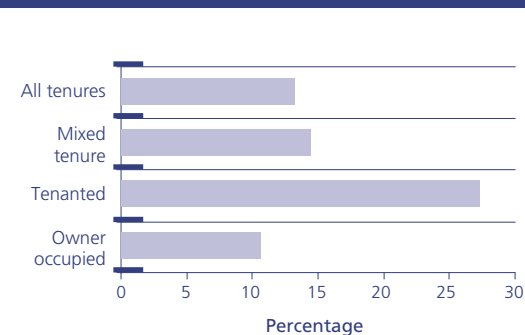
Value of land and buildings in United Kingdom farm closing balance sheets, 2003/04



Source: Defra, 2004.

FIGURE 2B

External liabilities as percentage of total assets in United Kingdom farm closing balance sheets, 2003/04



Source: Defra, 2004.

- how the data are collected and by whom, and whether the methods employed introduce bias;
- how the sample is drawn and renewed and whether the sample is representative;
- the use of different accounting years by different Member States; and
- the type of accounts used to generate the data.

Table 2 shows the FADN sample as a proportion of the population of farms in each country in 2002/03. Four of the new Member States (Cyprus, Malta, Poland and Slovenia) did not contribute to FADN in that year. Most Member States used samples of under 3 percent and these are likely to be too small to provide robust data at the regional level. Therefore, FADN is likely to be of more value in producing data at a national level than at a subnational one.

The reliability of the data depends not only upon the sample size but also upon the frame from which the sample is selected. Many of the variables about which data are collected are highly skewed. The Court of Auditors discovered that different Member States use different methods for drawing samples, and has questioned whether the samples are drawn randomly. Participation in the survey is voluntary. In the United Kingdom, it has proved difficult to get farmers to take part; there is a 70 percent refusal rate and only 10 percent of the sample is replenished each year. Renewal rates differ among Member States. The commitment to provide data is demanding, and participants may need to gain

TABLE 2  
Farm Accountancy Data Network sample,  
2002/2003

Country	Sample (percent)
Austria	2.3
Belgium	3.1
Cyprus	...
Czech Republic	10.2
Denmark	4.4
Estonia	6.3
Finland	1.8
France	2.0
Germany	3.0
Greece	0.8
Hungary	2.1
Ireland	1.0
Italy	2.6
Latvia	2.0
Lithuania	3.9
Luxembourg	25.9
Malta	–
Netherlands	1.7
Poland	...
Portugal	1.1
Slovakia	14.9
Slovenia	...
Spain	1.2
Sweden	2.5
United Kingdom	2.3
EU	1.9

Note: ... = not available.

experience of what is required before they are able to supply data of the requisite quality. Farmers tend to remain in the survey for long periods of time because of the difficulties in finding replacements. There may be biases in terms of those who are willing to participate – for example, the length of time a farm is in the sample could create an age bias. There may also be an element of self-selection in the sample, in which the individuals in the sample select themselves rather than being selected randomly.

Different types of farm accounts exist and could be used as the basis for FADN. The British survey, for example, uses business rather than tax accounts. This has the advantage of avoiding distortions introduced by tax avoidance strategies. The use of tax accounts can overcome problems with farmers refusing to cooperate because such accounts are available to governments. Different Member States use different dates of accounting years for FADN, so the results are not strictly comparable.

A growing number of farms are run by companies. The Court of Auditors has questioned whether FADN is representative of these or has a suitable methodology for reporting on them. It has questioned whether the profits of a limited company can be compared with the income of an individual farmer, which is likely to include returns on the labour, capital and land (s)he has supplied, whereas a company will buy the use of these. This is particularly pertinent because in 2001 the International Accounting Standards Committee adopted an accounting standard, IAS 41, on farm accounting. Accounting standards tend to have a greater impact on companies than on non-corporate bodies, such as family farms, which tend not to have to register their accounts. The introduction of IAS 41 has been controversial with regard to such features as the use of fair value rather than historical cost in valuing biological assets and the inclusion of holding gains on stocks as income. There have been questions raised as to the extent to which FADN is compatible with this standard (Elad, 2004).

Developing FADN has involved some of the Central and Eastern European countries in considerable work in creating the surveys of farms necessary to generate the data; in adopting the necessary legal framework; and in applying EU data standards, methods and concepts. Typical problems include:

- the need to increase the number of staff working in this area in order to manage the survey;

- the need to train those working on the survey;
- the absence of a comprehensive farm register from which a sample of farms for FADN could initially be drawn; and
- differences between what can be regarded as the minimum size of a commercial farm compared with those found in Western Europe.



# The agricultural census

The requirement to hold a survey of agricultural holdings is part of Chapter 12 of the *acquis*, which is concerned with statistics. Member States are obliged to carry out a comprehensive survey of agricultural holdings every ten years and three interim surveys each decade. The most recent comprehensive survey was in 1999/2000, with interim surveys in 2003, 2005 and 2007. Data are collected about the structure and typology of agricultural holdings. The principal information collected is shown in Box 3. Enterprises are classified according to their type of farming and economic size, with the classification of farming type being based on the relative contribution of different enterprises to the total SGM. The surveys include questions about number of hectares in the UAA that are owner-occupied, tenanted or held by sharecropping.

As was already pointed out, some countries use tools that predate CAP and EU membership to meet their legal obligations concerning the agricultural census. For example, the United Kingdom has carried out a June annual agricultural census since 1866 (MAFF, 1968). As Member States are responsible for the census, they can also use it to collect information not required by the EU. The British census, for example, also collects data about the type of tenancy.

The agricultural census makes possible comparative analyses of land tenure between different areas and over time. These can be undertaken for relatively small geographical areas. For example, Figure 3 shows the proportion of the UAA that was farmed by owners in each Member State in 2003. It shows that the proportions varied considerably between countries. Figure 4 shows the proportions of the UAA farmed by owners in 1995 and 2003 in the pre-2004 Member States.

In most countries the proportions farmed by the owners fell during this period.

The main issues to arise with the agricultural census are:

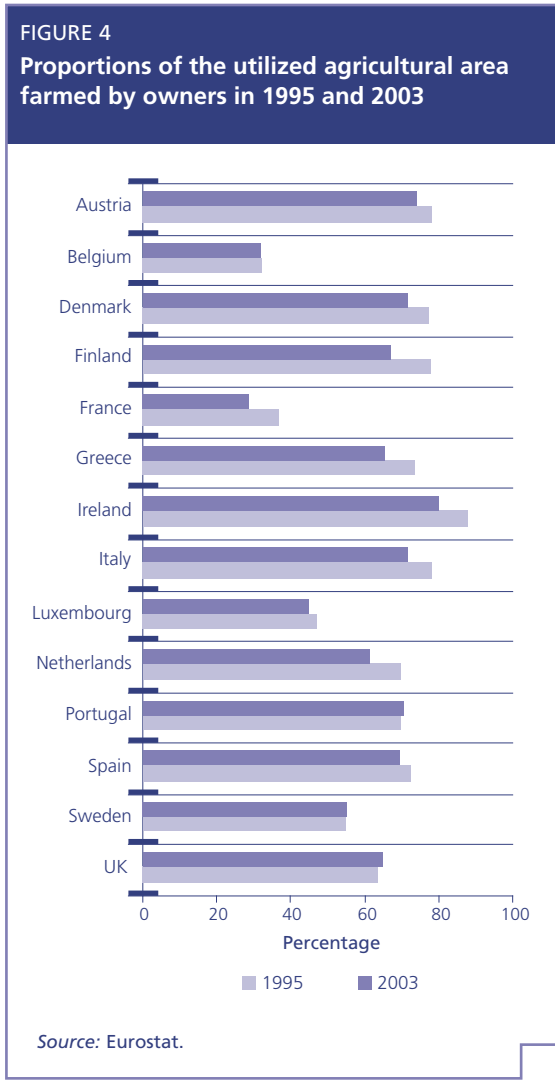
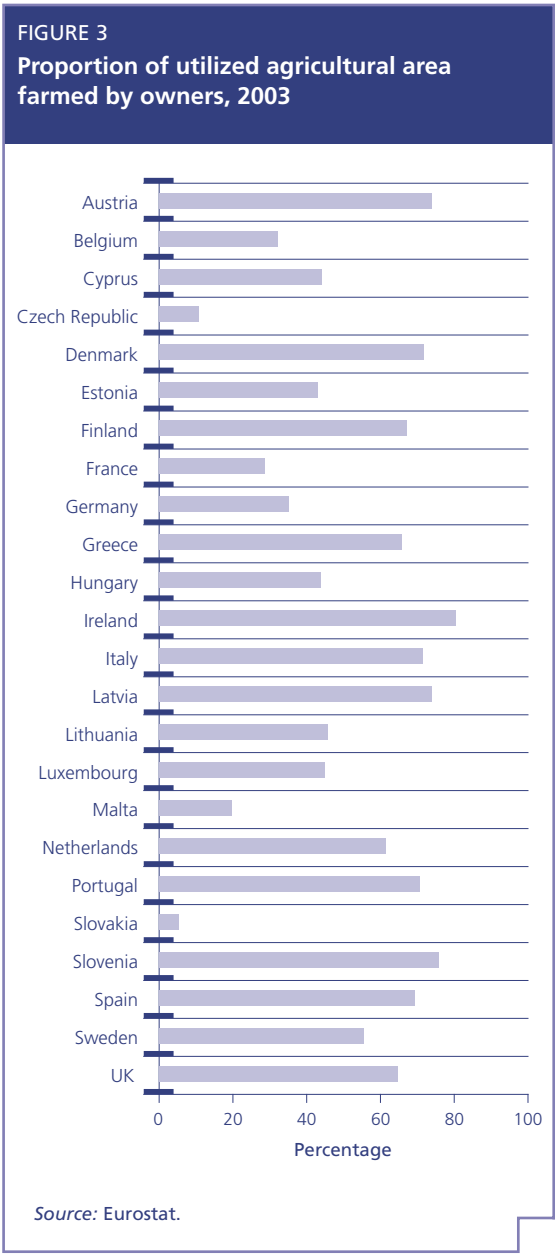
- the extent to which sample surveys make a full census unnecessary;
- whether the collection of data by holdings adequately captures the complexity of farm-based businesses; and
- whether data ought to be collected about different types of tenancy agreement.

Member States are making increasing use of sampling techniques to provide information for the survey of agricultural holdings, though consent must be given by the Commission for their use. Censuses are expensive – perhaps

## BOX 3

### Principal data collected by the agricultural census

- Geographical location of holding
- Legal personality of holder
- Type of tenure
- Gender, age and amount of farm work done by holders
- Gender, age and amount of farm work done by managers of holding
- Gender, age and amount of farm work done by spouses of holders
- Whether the holding is farmed organically
- Crop production
- Livestock production
- Farm machinery and equipment
- Family labour
- Non-family labour
- Irrigation



four or five times the cost of a sample survey (Danmarks Statistik, 2003) – and add little additional data beyond what a well-structured sample survey can achieve. Sampling, though, does lead to a loss of accuracy for small area statistics (MAFF, 2000b). The sample must include all the larger commercial farms so that only the smaller units are sampled. Unfortunately, Member States use different

sampling techniques. For example, the United Kingdom uses strata measured in SGMs, with samples varying from 100 percent for holdings with a SGM in excess of £240 000 down to 15 percent for holdings with a SGM of less than £9 600. The Danish survey uses strata based upon type of farming, SGMs and county, with the number of farms sampled being in proportion to the standard deviation of the SGM.

Should the survey continue to be based upon holdings, or would it be more appropriate for it to be business-based? There is a growing trend for agricultural businesses to comprise more

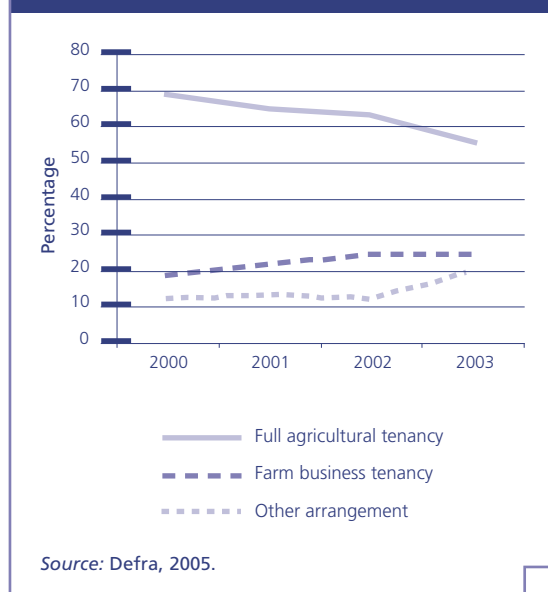
than one holding. A recent British study of the changing structure of agricultural businesses has argued that the growth of varied tenure arrangements and whole-farm contracting “means that the holdings-based data have less and less relevance to monitoring the extent of farm business change” (Lobley *et al.*, 2002). A holding-based survey can give the impression that the larger businesses are smaller than they really are.

The measurement of the UAA under tenant farming in the census overlooks the variety of tenancy conditions under which tenant farmers operate. For example, Figure 5 shows the trends in different types of tenancy agreement in England since 2000. Between 1923 and 1995, agricultural tenancies were regulated by statute law (Burn, 2000), resulting in rents being set below market levels and restrictions on landlords being able to recover their land. During this period, owner occupation increased from 11 percent of the land in England and Wales in 1913 to 68 percent in 2000. The Agricultural Tenancies Act 1995 created a new form of tenancy, the farm business tenancy, which will gradually replace full agricultural tenancies. Under this new tenancy there is no security of tenure beyond the stated term, but compensation is payable for tenant improvements and more flexible terms are possible. The policy was intended to promote diversification and the creation of more viable units by encouraging land owners to rent land to others rather than farming it themselves, and it seems to be achieving many of the objectives set (Whitehead *et al.*, 2002). Figure 4 shows that while the quantity of land rented for more than 365 days changed little between 2000 and 2003 (up from 3.42 to 3.49 million hectares), land under agricultural tenancies declined and that rented under farm business and other forms of tenancy increased. Understanding the factors behind tenure trends requires more detail on tenure conditions than is provided by the agricultural census.

The issues that have arisen with the

FIGURE 5

Proportion of land rented in England for more than 365 days by type of tenancy, 2000–03



introduction of the agricultural census in Central and Eastern Europe include:

- the recruitment and training of staff to administer the census and process the data;
- budgetary pressures that government statistical services came under during the transition process; and
- the need to upgrade methodologies and the quality and completeness of data to EU standards.

There has been considerable cooperation between EU bodies such as Eurostat and existing Member States and the countries of Central and Eastern Europe as part of the preparations for membership. Support has also been given by international bodies such as FAO.

# The Integrated Administration and Control System

The EU adopted an Integrated Administration and Control System (IACS) in 1992 to improve the efficiency with which direct payments were made to farmers under the CAP. Between 2003 and 2005, the system was further developed to meet the requirements of single-area payments. The objective of IACS is to ensure that correct payments are made to farmers and that there is traceability of payments. This requires the creation of a database that identifies each parcel or block of agricultural land in a unique manner, its size and who can claim the payments to be made on it. In essence, each Member State must have a cadastre for agricultural land that forms part of the UAA showing who farms it. The system must be able to identify whether a claim is made from an individual or legal person who is permitted to make such a claim, that multiple claims are not being made for any piece of land, and that the land is part of the UAA. As land can be transferred between farmers and agricultural land parcels may be joined together or divided, the system must contain means by which the registers are updated without compromising the integrity of the data. It must also record when land is removed from the UAA.

Member States must establish electronic registers that contain all the information about each parcel required for cross-checking claims, including the identity of the holder, date of establishment, date of last activation, the origin (such as whether acquired by purchase, lease or inheritance) and the kind of entitlement, as well as their locations and accurate measurement. There is a measurement tolerance of 5 percent of the parcel area or 1.5 metres to the perimeter, up to a maximum tolerance for each parcel of 1

hectare. Member States can use remote sensing as a check.

The countries of Central and Eastern Europe have had to adopt IACS as part of the *acquis*. They cannot apply the single payment system until they have in place a Land Parcel Identification System (LPIS) to identify the parcels on which aid applications are made and their areas. This means they must have a computerized database of agricultural holdings, parcels and aid applications. The Czech Republic, for example, created an LPIS using aerial photography (Sitewell Information Systems, 2004). Legal power to create the LPIS was given in an Act of 2003, after an earlier experiment in using voluntary communication and an off-line system had not proved effective. The system was deployed in 2004. At its heart are a series of detailed rules designed to prevent problems such as multiple applications for aid for the same parcel or from the same farmer, and to ensure that those applying are eligible and that the application is for eligible land.

The pre-2004 Member States also had to improve their systems as a result of the 2003-2005 changes. These reflect developments in technology and improvements in the information available, which have been incorporated into the specifications for IACS. For example, in the United Kingdom a Rural Land Register (RLR) has been created, containing digital maps of all IACS land parcels. When IACS was first started, the age of maps used to compute field areas varied considerably, and some did not achieve the current required standards of accuracy. The RLR involved the use of up-to-date mapping, with farmers being sent maps for comment and payments for areas adjusted

to reflect improved accuracy in measurement (Rural Payments Agency, 2002).

IACS is essentially a database of agricultural land parcels with their sizes and georeferences, which is linked to records of farmers and their aid applications. It does not, however, contain information on land tenure because it does not record ownership. It does not need to concern itself with tenure or the ownership of the land because it is a management device for the

payment of aid to farmers. IACS records could be linked to ownership records from cadastres or with returns made under agricultural surveys to create land tenure databases. Its importance is that it covers the whole UAA and includes precise locations and sizes of parcels. This makes it of potential importance in spatial planning because it locates the units for which there are data from other sources.

# The quality of EU land tenure statistics

EU accession ought to improve the quality of land tenure data in the Central and Eastern European countries because of the requirement to collect tenure data for the FADN and the agricultural census. The IACS system provides data on the sizes and locations of agricultural land parcels as well as the identity of their occupiers. There are, however, a number of weaknesses in the EU's approach, which may mean that it fails fully to reflect changing circumstances in agriculture and rural society.

The emphasis on the holding was justifiable in the days when the farm was the business and land was generally farmed by a family. Now, for many farmers, the business is much more complex, comprising several holdings and made up of land held under different tenures. Increasingly, the farmer is a company. Data collection ought to focus on the business rather than the holding. Farmers have come increasingly to rely on off-farm income generated by family members or diversification into non-farming businesses that make use of farm land and buildings. An understanding of farming needs to be based upon its role in the portfolio of businesses that farmers undertake. In some countries, entrepreneurs have developed businesses in the countryside, attracted by the quality of life. The tax system may also provide incentives to invest in farming. Land tenure statistics need to capture these phenomena.

EU statistics use a crude distinction between owned, tenanted and sharecropped land. These categories do not capture the subtleties of different forms of tenure or the impact of different types of tenancy agreement. Moreover, the EU does not *require* Member States to collect data on land prices, numbers of transactions or rents, even though these have been among the benchmarks used to

evaluate whether applicants meet the criterion of a fully functioning market economy. The EU has collected and published some data on rents and land prices in the pre-2004 Member States (Eurostat, 2000), but these are neither comprehensive in coverage, nor do the data appear to have been collected in a standardized way. A strong case can be made for systematically collecting rental and land price data in the interests of understanding what is happening in the land market and for governments to publish these data to promote market efficiency. Divergence in the prices of land of comparable productivity among different countries is likely to be an important feature of the enlarged EU and could bring about significant migrations in farming businesses.

The EU data systems were created to monitor production. They have tended to be orientated towards the past needs of the CAP, with its emphasis on aid for production. This was changed under Agenda 2000 towards an area payments approach. Many farms produce products that are highly valued by society, even though farmers may not be paid for them. A farm is home to many animal, bird and plant species other than those being farmed. As recognition increases of the vital role that farming plays in protecting the countryside and in managing landscapes and habitats, one needs to know whether particular farming practices are associated with particular tenures. For example, are certain tenures associated with short-term attitudes to land management and biodiversity? Do certain tenures encourage farmers to take up conservation management contracts? EU data systems are not geared towards answering such questions.

EU land tenure data is strangely blind to the social circumstances of farmers. With most

EU funding, it is normal to undertake social monitoring to ensure that there are equal opportunities for all social groups and the absence of discrimination. Neither FADN nor the agricultural censuses seek to collect social data. It is therefore impossible to use these data to examine such issues as ethnicity, or minority languages or the access of particular groups to CAP funds. One cannot use these data to examine social exclusion or rural poverty. For example, are those farmers with

the least secure tenures from particular ethnic or language minorities? Do women tend to be rejected for tenancies, and are they obliged to acquire land by purchase or inheritance? Such questions cannot be answered from EU land tenure data and this suggests that the data collection could usefully be modified to make it more appropriate for the needs of Member States, particularly those from Central and Eastern Europe.

# Conclusions

Accession to the EU has important implications for rural land tenure. The adoption of the *acquis* requires the new Member States to collect statistics on land tenure as part of FADN and the surveys of agricultural holdings. They must create an IACS administration for the payment of aid under the CAP, which requires a database of farmland parcels together with their locations and sizes. These provide powerful tools for the monitoring of land tenure changes and these data are invaluable for the development of land tenure and rural development policies.

The EU is a single market. There is free movement of capital so that citizens and companies from one EU country are able to invest in other EU countries. Investment implies the acquisition of fixed assets such as housing, agricultural land and forests. Without free movement of capital there cannot be free movement of labour or enterprise. Free movement of enterprises means that farmers from elsewhere in the EU must be able to establish themselves in the new Member States, and they must be able to acquire and invest in farms. However, many of the Central and Eastern European countries have restrictions on foreigners owning secondary residences, agricultural land or forests. Concerns have been expressed as to what could happen if affluent citizens or companies from the pre-2004 Member States were to take advantage of their greater wealth to purchase farms and secondary residences in the new Member States, something that the single market will make possible.

While most of the new Member States have been granted transitional exemptions from opening up their rural markets to purchasers from other Member States, eventually rural land and residential markets will be accessible

to purchasers from elsewhere in the EU. The transitional periods are relatively short and, as they come to an end, the applicant countries are likely to experience an influx of Western European farming businesses buying or renting farmland, attracted by lower production costs. There are also likely to be purchases of land and farmhouses as secondary residences or for tourism. A free market in land is likely to see the development of more complex tenure patterns than developed during the transition period – for example, as those who purchase houses surrounded by farmland for amenity reasons rent out surplus land. Entry to the EU and the opening up of the land markets is likely to result in the rural areas of the new Member States undergoing substantial change over the course of the next generation.

Effective means for monitoring these changes and the ability to develop appropriate policies will be essential. The requirements of EU membership to participate in FADN and the agricultural census and to create an IACS provide some of the means to collect the data on land tenure necessary for the creation of an informed land tenure policy.



# Policy recommendations

1. In preparation for the liberalization of land markets once the transitional arrangements on EU accession come to an end, the Central and Eastern European countries should prepare detailed spatial planning policies for each rural area that examine:
  - the likely impact, if any, of land market liberalization;
  - the opportunities that outside investment may bring for agriculture, tourism, and rural crafts and industries;
  - the potential threats to access to land and rural housing by local inhabitants from competition from incomers;
  - the potential impact on employment and rural development;
  - the potential impact upon the environment;
  - the potential impact on the infrastructure and the need for infrastructure investment;
  - the potential impact on the provision of private and public services.

A spatial planning approach is suggested as the impact of the liberalization of land markets is likely to vary over relatively short distances owing to factors such as accessibility, potential agricultural productivity and amenity values. Many of the policy measures that may be effective in taking advantage of opportunities or minimizing the impact of threats may best be implemented at the level of local or regional authorities, including the denial and granting of development consent, the encouragement of development in particular localities through development briefs and the assembly of development sites using powers of compulsory purchase, and investment in infrastructure.
2. The transition periods offer opportunities to encourage the restructuring of rural businesses so that they become more competitive with those in Western Europe, including increasing the size of farms and diversification of activities. Policies to achieve these goals can include:
  - land consolidation programmes;
  - tax incentives to lease land to unrelated farms and on sales to unrelated persons;
  - early retirement schemes for farmers;
  - reforming tenancy laws to encourage the renting of land;
  - liberalization of development permits to permit the conversion of farm buildings to other uses;
  - ensuring that policies designed to support farming, such as tax relief, do not discourage diversification;
  - improving access to capital markets in rural areas;
  - completing land registration and restitution programmes.
3. As FADN and the agricultural census are operated by the Member States, with standardized data being supplied to the Commission, there is an opportunity to customize these so that they collect additional data that are not required by the EU but which would be of value in informing land policies. This could include:
  - details of the tenancy arrangements under which tenanted land is held;
  - socio-demographic data about farmers and farm managers;
  - data about non-farming businesses being run from the holding;
  - data about the holding's ecology.

4. As land prices, rents and transactions are likely to be indicators of change and economic pressures, governments should consider setting up ways of collecting and analysing these in a systematic fashion.
5. Governments should consider developing the IACS system into a land tenure database by adding ownership data to those on occupancy required for CAP purposes.

## Appendix 1

# Chapter 4: free movement of capital

Country	Section of Treaty of Accession	Transitional arrangements for the exclusion of the right of EU nationals and EU companies to acquire real estate
Bulgaria	Annex VI 2005	<p>Five years for acquisition of land for secondary residences, excluding EU citizens residing in the country, who are subject to the same restrictions as Bulgarian citizens.</p> <p>Seven years for acquisition of agricultural and forestry land, excluding EU citizens who are self-employed farmers and who wish to establish themselves and reside in the country, who are subject to the same restrictions as Bulgarian nationals.</p>
Czech Republic	Annex V 2003	<p>Five years for acquisition of secondary residences, excluding EU citizens residing in the country and EU companies established in the country or with a branch or representative agency, who are subject to same restrictions as Czech persons.</p> <p>Seven years for acquisition of agricultural and forestry land by EU nationals and companies not established or registered in the Czech Republic, excluding EU citizens who are self-employed farmers and who wish to establish themselves and reside in the country, who are to be subject to the same restrictions as Czech nationals.</p>
Estonia	Annex VI 2003	<p>Seven years for acquisition of agricultural and forestry land by EU nationals and companies not established or registered or having a local branch in Estonia, excluding EU citizens who wish to establish themselves as self-employed farmers and who have been resident in the country for at least three years continuously, who are to be subject to the same restrictions as Estonian nationals.</p>
Hungary	Annex X 2003	<p>Five years for acquisition of secondary residences, excluding EU citizens who have resided in the country for at least four years continuously, who shall be subject to the same restrictions as Hungarian nationals.</p> <p>Seven years for acquisition of agricultural and forestry land by non-nationals and by legal persons, excluding EU citizens who wish to establish themselves as self-employed farmers and who have been resident and active in farming in Hungary for at least three years, who are to be subject to the same restrictions as Hungarian nationals.</p>
Latvia	Annex VIII 2003	<p>Seven years for acquisition of agricultural and forestry land by EU nationals and companies not established or registered or having a local branch in Latvia, excluding EU citizens who wish to establish themselves as self-employed farmers and who have been resident in the country for at least three years continuously, who are to be subject to the same restrictions as Latvian nationals.</p>
Lithuania	Annex IX 2003	<p>Seven years for acquisition of agricultural and forestry land by EU nationals and companies not established or registered or having a local branch in Lithuania, excluding EU citizens who wish to establish themselves as self-employed farmers and who have been resident in the country for at least three years continuously, who are to be subject to the same restrictions as Lithuanian nationals.</p>

(cont.)

*(cont.)*

Poland	Annex XII 2003	<p>Five years for acquisition of secondary residences, excluding EU citizens who have resided in the country for four years continuously, who shall be subject to the same restrictions as Polish nationals.</p> <p>Twelve years for acquisition of agricultural land and forests, excluding EU citizens who wish to establish themselves as self-employed farmers, who have been legally resident and leasing land in Poland as a natural or legal person for three or seven years continuously, depending on the region, who are to be subject to the same restrictions as Polish nationals.</p>
Romania	Annex VII 2005	<p>Five years for acquisition of secondary residences, excluding EU citizens residing in the country and EU companies established in the country or with a branch or representative agency, who are subject to the same restrictions as Romanian persons.</p> <p>Seven years for acquisition of agricultural and forestry land by EU nationals and companies not established or registered in the Czech Republic, excluding EU citizens who are self-employed farmers and who wish to establish themselves and reside in the country, who are to be subject to the same restrictions as Romanian nationals.</p>
Slovakia	Annex XV 2003	<p>Seven years for acquisition of agricultural land and forests by non-residents, excluding EU citizens who wish to establish themselves as self-employed farmers and who have been resident and active in farming in the country for at least three years continuously, who are to be subject to the same restrictions as Slovakian nationals.</p>
Slovenia	Annex XIII 2003	<p>Right to resort to general safeguard clause (Article 37) for the real estate market for up to seven years.</p>

Sources: Treaty of Accession, Brussels, 3 April 2003, AA2003/ACT/en 1; Treaty Concerning the Accession of Bulgaria and Romania to the European Union, Luxembourg, 25 April 2005, AA2005/ACT/en 1.

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## LEGISLATION

### Free mobility of capital

The key piece of legislation behind Chapter 4 of the *acquis* is Council Directive 88/361/EEC of 24 June 1988, which provided for the full liberalization of capital movements between Member States from July 1990, with transition periods for Greece, Ireland, Portugal and Spain. Article 3 allows Member States to take actions authorized by the Commission on real estate transactions where “short-term capital movements of exceptional magnitude” lead to serious disturbances in the conduct of a Member State’s monetary and exchange rate policies. The transition arrangements under Chapter 4 for the new Member States are listed in the two accession treaties, Treaty of Accession, Brussels, 3 April 2003, AA2003/ACT/en 1 and Treaty Concerning the Accession of Bulgaria and Romania to the European Union, Luxembourg, 25 April 2005, AA2005/ACT/en 1.

### Farm Accountancy Data Network

The current legislation governing FADN is Commission Regulation (EC) No 660/2004 of 7 April 2004, which amended a series of regulations going back to Regulation No 79/65/EEC of the Council of 15 June 1965. This set up FADN and obliged the Member States to participate in it. Council Regulation (EC) No 1837/2001 of 10 September 2001 and Commission Regulation (EC) No 2253/2004 of 23 December 2004, which amend Council Regulation (EEC) No 2237/77 of 23 September 1977, set out the form of farm return to be used for the purpose of determining incomes of agricultural holdings. The way in which FADN operates is explained by

European Commission Directorate-General for Agriculture and Rural Development (2005).

### Agricultural census

The agricultural census was established by Council Regulation (EEC) No 571/88 of 29 February 1988 on the organization of Community surveys on the structure of agricultural holdings. This has been amended by subsequent legislation, most recently by Commission Regulation (EC) No 143/2002 of 24 January 2002 and Regulation (EC) No 1882/2003 of the European Parliament and Council of 29 September 2003. The questionnaire for the 2005 and 2007 surveys is set out in Commission Regulation (EC) No 2139/2004 of 8 December 2004. The use of sample sources by particular Member States for certain parts of the 2005 survey is authorized by Commission Decision 2005/124/EC of 10 February 2005.

### Integrated Administration and Control System

The rules for the operation of the IACS system are set out in Commission Regulation (EC) No 796/2004 of 21 April 2004, which has been amended by Commission Regulation (EC) No 239/2005 of 11 February 2005 and Commission Regulation (EC) No 436/2005 of 17 March 2005. IACS was established by Council Regulation (EEC) No 3508/92 of 27 November 1992. The creation of the present system, establishing common rules for direct support schemes under the Common Agricultural Policy, was provided for by Council Regulation (EC) No 1782/2003. The conditions under which the Central and Eastern European countries that joined the

EU in 2004 can replace direct payments with a single area payment are set out in Council Decision 2004/281/EC of 22 March 2004.

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