

NEWSLETTER ON THE COMMON AGRICULTURAL POLICY

No. 3

March 1977

**LAND TENURE
IN THE EUROPEAN COMMUNITY**

LAND TENURE IN THE EUROPEAN ECONOMIC COMMUNITY

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LAND TENURE IN THE EUROPEAN ECONOMIC COMMUNITY *

Tenure Structure in the E.E.C.

The basic aim of the tenure structure of any country should be to influence agricultural productivity in a positive sense. It may achieve this aim through the incentive which the tenure arrangements offer for effective participation of farmers, farm workers and credit institutions in farm development, through the security it offers individual farm families and through its capacity to adjust to the requirements of agricultural and general economic development.

In all Member States except Belgium occupier-ownership of land is the dominant system of land tenure, although its importance varies, in some cases substantially, between one Member State to another (table 1). Furthermore, recent evidence suggests that this tenure system is becoming still more important.

Table 1 : Percentage Distribution of Total Utilised Agricultural Area, according to Tenure System, by Member States

Member State	Total Utilised Agricultural Area (1000 ha)	Tenure System				Total
		Occupier-Ownership	Tenancy	Share-tenancy	Other	
GERMANY	12.678	77,7	22,1	-	0,2	100,0
FRANCE	31.727	51,8	45,9	2,3	-	100,0
ITALY	17.928	70,0	17,8	8,9	3,3	100,0
NETHERLANDS	2.143	51,9	48,1	-	-	100,0
BELGIUM	1.540	28,6	71,4	-	-	100,0
LUXEMBOURG	134	64,5	29,1	0,9	5,5	100,0
E U R - 6	66.150	61,0	34,0	3,5	1,5	100,0
UNITED KINGDOM (1)	10.932	53,1	46,9	-	-	100,0
IRELAND	4.739	92,0	8,0	-	-	100,0
DENMARK	2.915	90,0	10,0	-	-	100,0
E U R - 9	84.736	63,0	34,0	2,7	0,3	100,0

(1) Excluding Scotland and Northern Ireland.

* Text based on a lecture given at Reading University, February 16th 1977, by John J. Scully - Chief adviser, Directorate General Agriculture.

The increasing importance of occupier-ownership may be explained in the following ways among others. Firstly, the attainment of occupier-ownership during the course of a farming generation is a logical goal of many farm families. Indeed it would appear that, at the level of the original Community, farm ownership increases significantly with increasing age of farmer (table 2). This applies in particular to full-time farmers, i.e. those engaged in farming for 100 per cent of their working time. Secondly,

Table 2 : Percentage Distribution of Utilised Agricultural Area among full-time and part-time farmers, by Age Group and Tenure Status of Farmers, EUR-6, 1966/67.

Age of farmers Tenure Status	Full-time farmers	Part-time farms on which the farm head engages in off-farm employment		Total
		for 50 per cent or less of his total working hours per year	for more than 50 per cent of his total working hours per year	
	% UAA	% UAA	% UAA	% UAA
<u>14 to 34 years</u>				
occupier-ownership	40,5	3,3	5,4	49,2
tenancy	45,8	2,7	2,3	50,8
<u>35 to 44 years</u>				
occupier-ownership	44,3	3,5	6,6	54,4
tenancy	40,9	2,4	2,3	45,6
<u>45 to 49 years</u>				
occupier-ownership	49,0	3,7	8,0	60,7
tenancy	35,1	2,0	2,2	39,3
<u>50-54 years</u>				
occupier-ownership	54,0	3,6	8,1	65,7
tenancy	30,8	1,5	2,0	34,3
<u>55-64 years</u>				
occupier-ownership	59,3	3,0	6,3	68,6
tenancy	28,8	1,2	1,4	31,4
<u>65 years and over</u>				
occupier-ownership	72,3	1,9	4,2	78,4
tenancy	20,4	0,6	0,6	21,6

Source : OSCE - Enquête sur la structure des exploitations agricoles, 1966/67.

These data are somewhat outdated; however, they are still valuable insofar as they represent the only set of harmonised statistics on the subject in the original Community. Comparable data for the three new Member States are not available.

in a period of rapid inflation investment in land is, perhaps, the most appropriate way of offsetting a rapid depreciation of liquid assets. Thirdly, it is clear (tables 3 and 4) that in recent times the larger farms are growing still larger while the smaller farms are decreasing in number. But, in the case of the larger-scale farmer with ample access to capital the conflict between investing in land and investing in current production is not a factor of relatively great importance since it would not be too difficult for him to opt for ownership of land rather than tenancy in expanding his total farm area. Finally, in some of Member States where tenancy is important, the evolution of lease rents has not kept pace with the evolution of farmland prices; as a result farm tenancy is becoming progressively less attractive vis-à-vis land ownership.

Legislation relating to land ownership and tenancy

In the majority of Member States there is no legal upper limit on the amount of land which might be owned by any single individual; however, in some Member States, particularly in Germany and in Ireland there are restrictions on the sub-division of farms into non-viable units. In France, where there is no upper limit on the size of holding which may be held in property, there is nevertheless a limit on the area which may be farmed by any one individual. This latter area, which varies according to individual Departments, is governed by the regulations on the amalgamation of holdings (Loi des Cumuls) which are intended to check the enlargement of farms which may be considered as excessive from a social point of view. In Denmark, the Law on Agricultural Holdings, 1973, also assigns an upper limit of 100 hectares for the amalgamation of holdings, and the individual farmer is only allowed to acquire two farms.

Legal controls on farm tenancy exist with varying degrees of impact in six of the nine Member States of the Community, the exceptions being Luxembourg, Ireland and Denmark. In the latter two Member States farm tenancy is, however, of relatively minor importance only.

Table 3 : Annual rate of change (%) in the number of Farm Holding according to size, by Member State, 1960 to 1970

Member State	Size of holding (ha)					All holdings
	1- <5	5- <10	10- <20	20- <50	50+	
Germany	-4,1	-3,8	-0,7	+2,6	+1,7	-2,4
France	-3,5	-4,0	-2,8	+0,2	+2,1	-2,2
Italy	-2,3	-3,0	-2,3	-0,9	+1,1	-2,3
Netherlands	-7,0	-4,5	-0,3	+1,3	+2,1	-3,3
Belgium	-7,5	-4,6	-0,5	+3,3	+1,8	-4,1
Luxembourg	-7,6	-6,3	-5,5	+1,4	+5,0	-3,9
E U R - 6	-3,0	-3,6	-1,9	+0,7	+1,8	-2,4
United Kingdom	-7,8	-3,8	-3,7	-2,1	+0,3	-3,4
Ireland	-0,4	-1,5	-0,2	+0,3	+0,1	-0,4
Denmark	-7,1	-5,7	-2,1	+0,1	+3,2	-3,0
E U R - 9	-3,1	-3,6	-1,9	+0,3	+1,3	-2,4

Table 4 : Annual rate of change (%) in the number of farm holdings according to size, by Member State, 1970 to 1975.

Member State	Size of holding (ha)					All holdings
	1- < 5	5- < 10	10- < 20	20- < 50	50+	
Germany	- 5,4	- 5,1	- 4,4	+ 3,0	+6,1	- 3,5
France	- 4,8	- 6,6	- 5,0	- 0,2	+3,1	- 2,9
Italy	-	-	-	-	-	-
Netherlands	- 3,5	- 4,9	- 3,1	+ 1,8	+4,4	- 2,6
Belgium	- 7,2	- 6,6	- 2,9	+ 2,4	+5,1	- 4,1
Luxembourg	- 6,3	- 7,7	- 7,9	- 1,5	+11,5	- 4,2
E U R - 6	-	-	-	-	-	-
United Kingdom	- 6,2	- 3,1	- 2,9	- 2,2	-0,4	- 2,6
Ireland	-	-	-	-	-	-
Denmark	- 1,1	- 3,7	- 3,3	- 0,3	+3,2	- 2,2
E U R - 9	-	-	-	-	-	-

Source : 1) SDEC, Yearbook of Agricultural Statistics, 1975
2) The Agricultural Situation in the Community - 1975 Report

The respective legislations on farm tenancy have some features in common in France, the Netherlands and Belgium. Thus, in all three Member States rental levels are controlled by legislation; tenants have the right of renewal of leases at the end of the tenancy period; heirs to tenants have the right of succession; tenants must be compensated for improvements in cases where the tenancy contract is terminated; land owners cannot resume occupation of their land unless they, or their successors, wish to farm it themselves. In France and Belgium tenants have the right of pre-emption in the case of sale, whilst in the Netherlands they have the right of first preference to buy. The normal tenancy period is 9 years in the case of France and Belgium. Exceptionally long-term leases of 18 or 25 years exist also in France which can be terminated by special extra-judicial act at the end of this period. Long-term leases cannot however, be renewed once the tenant reaches 65 years of age. In the Netherlands the legal tenancy period is 6 years for parcels of land and 12 years of farms.

In Germany, leases have no minimum or maximum duration but 9 to 12 year tenancy periods are the most popular. The tenant has no right of preemption in case of sale; heirs, however, have the right of succession. Leases can be annulled by the authorities in cases of bad husbandry, undue fragmentation or undesirable land distribution.

In Italy the tenancy period can be of indefinite length in the case of "coltivatori diretti", otherwise the normal period is 15 years. This period can be extended for a further 12 years in cases where tenants undertake certain improvements to land and buildings at their own expense. Maximum rents are fixed every four years by a provincial Commission. The tenant has the right of preemption in the case of sale, while heirs have the

right of succession.

In the United Kingdom legislation exists, the main purpose of which is to provide for any tenancy (with the exception of specified short-term lettings) to continue in force from year to year until terminated by a valid notice to quit. Such notice must be given 12 months in advance and if disputed may be referred to the Agricultural Land Tribunal or the Scottish Land Court for decision. The great majority of tenancies in the UK are held on this basis but in the event of a holding being let on lease for 2 years or more, the legislation provides that notice to quit (which is subject to the same restrictions as for annual tenancies) can only be given to expire at the end of the lease in default of which the tenant continues in occupation on the legislated annual tenancy. The legislation provides for adjustments in rental charges every 3 years (5 years in Scotland) from the commencement of the tenancy. In effect, the tenant has a very high degree of security of tenure in that in many cases it provides for retention of the tenancy until the tenant wishes to release the holding.

In an era of rapidly increasing land prices, the expansion of farm tenancy should give a positive stimulus to land mobility. Moreover, a tenancy system favours farm structure improvements more than one of small owner-occupiers; as tenants leave, landlords are able to effect amalgamation. The past high incidence of tenant farming in the United Kingdom is one of the main reasons for the present high average size of farms.

In some Member States, however, notably in France, Italy, the Netherlands, and Belgium, the existing tenure legislation is such as to give the tenant and his heirs an almost absolute security of tenure while at the same time effectively controlling rental charges. The effects of such legislation on land mobility is deserving of detailed study, particularly insofar as it applies to regions of poor farm structure where the offer of land for sale is limited or where farmland prices are unduly high.

Land Prices and Lease Rents

The price of farmland as determined by the free operation of the land market must rank high in order or priority among the various factors which influence land mobility. At any given point in time this price is normally influenced by the interplay of a number of different elements, some internal to agriculture, others external to it. In effect, land has some unique characteristics which distinguish it from other resources of production and which cause it to respond in special ways to price shifts and institutional changes. Two such characteristics are its limited supply and its fixity in space.

With the progress of economic development the demand for land for alternative uses - urban/industrial development, amenity etc. - is becomingly increasingly more competitive, particularly in countries with high population densities. In such circumstances, the market price of farmland tends to diverge, in some cases substantially so, from its agricultural use-value. Furthermore, in a period of inflation, characteristic of the economic recession of recent years, the tendency towards investment in land, as a "hedge" against inflation is further accentuated. Much of this investment is highly speculative; many of the investors originate in the non-agricul-

tural sectors and their activities in this field add additional impetus to the upward pressure on land prices.

The competition for land however, is not simply one between agricultural and non-agricultural land users. Much of the increase in land prices which has occurred in recent times may be attributed to competition among farmers themselves, who in their efforts to acquire ownership of additional land, are often willing to pay prices far in excess of the marginal value productivity of the land in question. But more often than not, many of those who can afford to pay such prices are relatively large-scale farmers already. And so, whether the competition for land is internal or external to agriculture, the increase in farmland prices resulting from it creates major problems for small-scale farmers who wish to acquire extra land and for new entrants to farming, generally young people, who must of necessity purchase an entire farm.

In the case of these latter groups investment in land on an occupier-ownership basis is a hazardous proposition in modern times when land prices are highly inflated and interest rates on borrowed capital are unduly high. For them an adequate return on their investment is scarcely realisable.

Statistical data on land prices, where available, suggest a rather wide variation among Member States, both as regards average price levels themselves and annual price increases (table 5). Average prices tend to be much higher in Belgium than elsewhere. Between 1963 and 1970, the average annual price increase varied according to use - orientation (tillage or pasture) from between 5 and 6 per cent in Germany, Italy and the Netherlands to between 9 and 10 per cent in France (tillage land), Belgium (pasture), England and Wales and Denmark. After 1970 however, the variation in price increases was far more pronounced, the more striking increases occurring in the three new Member States in the early years (1970/73) of this period. After 1973, the available data show a further upsurge in land prices in France, the Netherlands, Belgium and Denmark. Substantial increases in England and Wales in 1973/74 were offset to some extent in 1974/75 when land prices declined by 18 per cent.

Thus, taking an index of 100 for the average price of farmland per hectare in England and Wales in 1975, the comparative figures for other Member States of the E.E.C. would be: Germany, 159,6; France, 81,4; Netherlands, 127,1; Belgium, 182,8; Denmark, 128,0.

The evolution of lease rents during recent years has not kept pace with that of land prices in any Member State. In the United Kingdom (England and Wales) the decline in land prices in 1974/75 was accompanied by a substantial increase in rental charges due to the ending of restrictions applied under the Prices and Incomes Policy which had frozen all rents. As a result of this latter increase the landowner's return on his land investment has risen from 1,8 % (which was on a par with the relatively low rental returns which prevail throughout the remainder of the Community) to 2,6 %.

In the final analysis it is apparent that the legislative impediment to the expansion of farm tenancy, on the one hand, and the progressive increase in farmland prices on the other, have a decidedly adverse effect on land mobility. In the interest of stimulating a level of land mobility necessary to facilitate the structural reform of agriculture, an equitable solution to this problem is both desirable and necessary.

Table 5 - Evolution of Farmland Prices in the E.E.C., 1963 to 1975 by Member State

MEMBER STATE	Land prices per hectare (t)					Annual percentage change			
	1963	1970	1973	1974	1975	1965/70	1970/73	1973/74	1974/75
Germany	1.279	1.884	2.169	2.020	2.059	+ 5,7	+ 4,8	:	+ 1,9
France									
- tillage land	351	642	854	986	1.121	+ 9,0	+ 9,9	+15,5	+13,7
- pasture	399	606	766	862	978	+ 6,2	+ 8,1	+12,5	+13,5
Italy									
- pasture	370	513	689	881	1.027	+ 4,8	+10,3	+28,0	+16,5
Netherlands									
- tillage land	769	1.061	1.149	1.416	1.637	+ 4,7	+ 2,7	+ 8,9	+15,6
- pasture	644	916	1.054	1.374	1.642	+ 5,2	+ 0,1	+14,8	+19,5
Belgium									
- tillage land	1.706	2.467	2.362	2.570	2.726	+ 5,4	- 1,5	+ 8,8	+ 6,0
- pasture	1.022	1.910	1.995	2.146	2.370	+ 9,3	+ 1,4	+ 7,6	+10,4
Luxembourg									
- tillage land	775	} :	1.152	1.994	:	:	:	(+73,1)	:
- pasture	859								
United Kingdom									
- England and Wales	289	526	1.161	1.574	1.290	+ 8,9	+31,0	+35,5	-18,0
- Scotland	:	244	663	780	:	:	+38,0	+17,7	:
- Northern Ireland	:	434	835	971	:	:	+24,4	+16,3	:
Ireland	:	491	1.261	:	:	:	+36,9	:	:
Denmark	379	717	1.058	1.379	1.651	+ 9,5	+13,8	+30,3	+19,8

Source : SOEC on the basis of national data; estimation by D.G. VI.

Table 6 : Evolution of Lease Rents in some Member States of the E.E.C., 1963 to 1974 by Member State

Member State	Lease rents per hectare (t)					Annual percentage change				Lease rent as % of land price				
	1963	1970	1973	1974	1975	'63/70	'70/73	'73/74	'74/75	1963	1970	1973	1974	1975
Germany	:	:	27,0	28,1	29,1	:	:	+ 4,1	+ 3,5	:	:	1,3	1,4	1,4
France - tillage land	12,0	14,3	17,6	18,7	20,9	+ 2,5	+ 7,2	+ 6,0	+11,6	3,4	2,2	2,1	1,9	1,9
Italy - tillage land	:	31,5	33,0	:	:	:	+ 1,6	:	:	:	6,1	4,8	:	:
Netherlands - tillage land	15,1	24,4	27,4	29,3	32,2	+ 7,1	+ 3,7	+ 8,0	+ 9,7	2,0	2,3	2,4	2,1	2,0
- pasture	15,3	20,4	25,1	25,7	28,5	+ 4,2	+ 7,1	+10,2	+11,0	2,4	2,2	2,4	1,9	1,7
Belgium - tillage land	24,2	29,1	30,5	31,2	32,3	+ 2,7	+ 1,6	+ 2,3	+ 3,4	1,4	1,2	1,1	1,2	1,2
- pasture	25,4	30,0	31,1	31,9	32,7	+ 2,4	+ 1,3	+ 2,6	+ 2,5	2,5	1,6	1,5	1,5	1,4
England & Wales	:	13,6	17,3	19,5	23,7	:	+ 8,5	+12,5	+21,4	:	2,6	1,5	1,2	1,8

Source : SOEC on the basis of national data.

Fiscal Policy

In the context of fiscal policy the effects of four main types of capital taxation on farm development may be examined: capital gains tax, wealth tax, gift (capital transfer) tax, and inheritance tax.

Capital gain taxes are levied on gains made on the increase in the value of property which are usually realised when the property is sold. In practice capital gains taxes are linked with income taxation. All Member States of the EEC employ this system of taxation.

Wealth taxes are recurrent taxes which are usually levied on the taxpayer's total assets less liabilities, irrespective of whether or not the assets yield a money income. Currently such a form of taxation exists in Germany, the Netherlands, Luxembourg, Ireland and Denmark.

Gift taxes are normally imposed on gifts made at any time during a person's life time. This type of taxation exists in seven of the nine Member States of Community, the exceptions being Belgium and Luxembourg.

Inheritance taxes usually exist in one of two forms a) estate duties which are imposed at progressive rate on the estate of a deceased person and b) acquisition taxes which are imposed on the benefits acquired by beneficiaries of the estate of a deceased person. The rate of tax is usually determined for each beneficiary according to his relationship with the deceased person.

Acquisition taxation operates in all Member States except the United Kingdom where tax is borne by the donor, for gifts, or the deceased's estate for inheritance.

Impact of fiscal policy on agriculture.

Although farmers are usually subject to the normal tax regulations in all Member States, special provisions generally apply to agriculture in the legislation on capital taxation in all Member States except Denmark. These provisions result in a considerable reduction in the tax burden or indeed in the total exemption of a sizeable proportion of farmers from paying capital taxes. In effect apart from the Netherlands, where realized capital gains are treated as income, and in Denmark, it is mainly the very large-scale farmers who are normally caught in the tax net.

However, in the majority of Member States, the market value of farmland is used as the basis of assessment for taxation. Thus where the rates of duty payable progress to relatively high levels, a continuing inflation in land values will increasingly bring more farmers into the tax bracket even under existing taxation rates. In such situations significant problems associated with the financing of real estate will be aggravated further particularly if the current trend which emphasises an increase in occupier-ownership and a corresponding decrease in farm tenancy continues indefinitely.

Relevant issues for agricultural development

1. Tenure structures are influenced to a significant extent by prevailing laws and traditions in particular countries; as such they often fail to keep abreast of dynamic changes in agriculture resulting from technological innovations. Thus, occupier-ownership of land, which is the dominant tenure system in all Member States of the E.E.C., except Belgium, is strengthened in many countries through the operation of numerous land laws and ordinances; yet in modern times it can result in serious maladjustments in agriculture. Because of the substantial immobilisation of capital which it entails, many of the advantages which hitherto favoured this tenure system might be expected to diminish rapidly, particularly in the current era of inflated land prices. Furthermore, the system would appear to be far too rigid to permit the degree of land mobility necessary to ensure the rapid adjustment of agriculture to the needs of modern economic development.
2. The statutory control of lease rents in those Member States where tenancy is important - Luxembourg being the sole exception - has been introduced mainly for social reasons. But now such control has led to a return on land investment ranging from 1 to 3 per cent approximately. This means in effect that unless he has other sources of income, the absolute return on the land owner's investment may not be sufficient to provide him with what he regards as an adequate income. Consequently many land owners now tend to exercise their right to resume the occupation of their land at the end of the tenancy period in order to farm it themselves or to sell it. This is one of the main factors which tend to discourage the operation of the tenancy system in some Member States. Thus in the interests of stimulating the level of land mobility necessary to facilitate the structural reform of agriculture and equitable solution to this problem is both desirable and necessary. The aim should be to promote a tenure structure with sufficient flexibility to permit the size of farms and the adoption of new technology to keep pace with dynamic changes within agriculture. Such a tenure structure should, in the interests of small-scale farmers and new entrants to the industry, of necessity emphasise equitable tenancy arrangements rather than absolute occupier-ownership of land as the basic system of land tenure in Member States where the foregoing problem prevails.
3. Clearly, farmland prices are now reaching a level where they tend to have an adverse impact on land mobility, particularly in some Member States where occupier-ownership of land is the dominant tenure system. This situation considerably restricts the opportunities for structural reform in many regions of the Community. Furthermore, increasing interest rates for long term loans are now at such a level in some Member States that they have become a significant barrier to land acquisition for many farmers who must, of necessity, borrow a sizeable part of the capital necessary for such purposes. In addition, in situations where the market value of land is used as a basis for tax assessment, progressively more farmers will come into the tax bracket if the inflation in land prices continues on its present scale.

Thus, the tenure situation and the agricultural land market in a number of Member States present some formidable problems which are in urgent need of solution if the development of agriculture is to proceed along the most desirable lines possible in any given set of circumstances.