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Inside U.S. Trade

Panel Experts See Systemic Risks To U.S. Food Industry In Smithfield Deal

1,227 words
6 December 2013
Inside U.S. Trade
IUST
Vol. 31, No. 48
English

A panel of non-governmental experts has called on members of Congress to more closely examine what it says could be systemic risks to the future of the U.S. agrifood industry and food safety posed by the acquisition of Smithfield Foods by Chinese pork giant Shuanghui International.

The U.S.-China Economic and Security Review Commission, in a report issued Nov. 20, recommended that Congress require the U.S. Department of Agriculture (USDA) through new legislation to report annually on "competitive factors" in the pork industry and examine how the merger is affecting other U.S. pork producers.

The USDA report would also check to see if China is engaging in price or profit suppression by altering the "pricing structures throughout the pork production chain," the commission report suggests.

The commissioners are divided over the degree to which they believe the Shuanghui deal is cause for concern, but most backed the recommendation that USDA be subject to new reporting requirements on the pork industry.

The commissioners who voiced the loudest concern over the merger appear to base their fears on the notion that the new market dominance in the U.S. possessed by Shuanghui, a company with ties to the Chinese government, would put other domestic producers at a competitive disadvantage.

Over the long term, these commissioners said, this could lead to the migration of the pork industry to China and create new U.S. dependence on a Chinese company for processed pork products.

Currently, China cannot export domestically raised meat or poultry to the U.S. due to USDA restrictions. But it is seeking approval to export processed poultry from birds raised in the U.S., Canada and other eligible countries. Some commissioners said that China might now seek approval for re-export of processed pork from U.S.-raised hogs.

At a Senate Agriculture Committee hearing in July, Commissioner Daniel Slane testified the acquisition of Smithfield would allow China to dominate the U.S. pork market and and become a stronger competitor by taking over U.S. intellectual property (IP) on hog breeding, slaughter and processing methods.

Slane argued that China could easily meet growing domestic demand for pork by allowing more imports from the U.S. But that would subject Chinese consumers to higher costs, he claimed.

"So here, what they have found is that multinational, vertically integrated meat processing companies have a cost and price advantage," he said. "And so they have told their domestic industries like Shuanghui: 'Go out and find these companies and acquire them.'"

Usha Haley, who is a professor at West Virginia University but does not serve on the commission, warned at the Senate committee hearing that the merger could be the precursor to the downfall of the U.S. pork industry, as Shuanghui benefits from heavy subsidization that U.S. producers do not enjoy.

"U.S. companies would be unable to compete domestically and in exports against a Shuanghui-Smithfield that does not pursue profits but is heavily subsidized and aims for industry domination," Haley said at the same hearing.

In the near term, however, the commission report says that Smithfield could end up exporting more hog carcasses to China because the country does not have the capability to raise enough hogs. The Chinese government has taken steps to centralize its meat industry, which involves shuttering small farms in favor of larger processing facilities, it says.

Both at the hearing and in an interview with Inside U.S. Trade, Slane expressed his fear that the Smithfield acquisition could be the beginning of more Chinese acquisitions of U.S. agriculture entities. "The whole issue is: today it's Smithfield. Tomorrow it could be ConAgra," he said, referring to the grains company.

The commission report also describes the acquisition as "part of a broader trend of Chinese global investment in farm assets or food technologies."

The commission report notes that the Smithfield acquisition by Shuanghui -- at $7.1 billion -- is the largest acquisition of a U.S. company by a Chinese firm to date. It describes the Virginia-based company as being a "strategic node in the U.S. pork supply chain."

The merger has stirred debate within the commission about how the Committee on Foreign Investment inthe United States (CFIUS) process should be changed, according to Commission Chairman Bill Reinsch.

"I think there is also a debate amongst the commissioners on the larger issue of how to deal with this issue," he said before the House committee. "It happens to be the same debate that Congress has had on several previous occasions, and that is whether the authority to prohibit an acquisition should be based solely on national security or whether it should also be based on what might be called economic security or cost-benefit or whatever."

In its 2012 report, the commission specifically recommended Congress to examine if CFIUS needed to be amended to add a net economic benefit test in addition to a national security one. In its 2013 report, the commission recommends that Congress examine whether U.S. law is effective against anticompetitive Chinese state-owned/invested enterprises.

In separate interviews, both Reinsch and Slane said there was no way CFIUS could have shot down the Smithfield acquisition on national security grounds. "You should at least have this tool available, just in case," Slane said about the economic benefit test.

Reinsch said he wouldn't be surprised if Congress revisits the issue of amending CFIUS, but cautioned that foreign acquisitions of U.S. companies have multiple effects. "[T]hese acquisitions, particularly -- or a greenfield investment -- particularly creates jobs and brings new economic activity," he said to the House committee.

In his interview, Reinsch added that while federal regulators might view a merger one way, "the governor of Alabama might see it [another] way."

The commission's report also addresses food safety in general. Specifically, it calls on Congress to bolster the USDA's Food Safety and Inspection Service as a "protector of meat and poultry food safety."

The report notes the numerous instances in which Chinese food exports were tainted by harmful chemicals, including the 2007 situation in which pet food exported to the U.S. contained the industrial solvent melamine. "The FDA received reports of 17,000 pet illnesses, including 4,000 dog and cat deaths, believed to be the result of melamine contamination in imported Chinese gluten used to make pet food," the report states.

While the Chinese government has taken steps in recent years to increase the oversight on its food exports, enacting a series of laws and consolidating certain agencies, the commission report notes the implementation has not been effective for a variety of reasons. The report says that Chinese food inspections are still fragmented across several agencies, and that illegal food production still occurs.

The report also calls for Congress to monitor the implementation of the U.S.-China Plan of Strategic Cooperation in Agriculture. The plan calls for the two countries to work together on food safety as well as implementing science-based laws, regulations, policies and standards, among other things.

"But this outreach is not always conducive to improving market access for U.S. exporters and foreign investors, who view China as a strategic market for their business," the report warns.

