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Senators Vent Frustration Over China Market Access In Smithfield Hearing

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U.S. lawmakers are fuming over the fact that even as Shuanghui International's bid to acquire the pork processing giant Smithfield appears to be moving ahead, it is doubtful that a U.S. firm could make the same type of investment in China because of the tight controls that Beijing keeps over its market.

During a July 10 hearing of the Senate Agriculture Committee that focused on the Chinese firm's takeover over the Virginia-based hog producer, Sen. Mike Johanns (R-NE) indicated a deep level of disapproval over the deal.

"There is something really offensive about the reality that they can do this here but a very aggressive company like Smithfield, which has kind of redesigned pork production production in the United States, could not do this in China," Johanns told Smithfield CEO Larry Pope, who testified at the hearing.

"You know for a fact you could not do in China what they are doing here with Smithfield," the senator added. Pope, in response, said he wouldn't speculate on that matter.

Committee Chairwoman Debbie Stabenow (D-MI) also signaled that she was upset about the lack of reciprocal market access in China. "Could Smithfield purchase Shuangui? Based on what we have heard from many experts already, it sounds like the answer is 'no'," she said.

Usha Haley, a professor at West Virginia University, and Daniel Slane, who serves on the U.S.-China

Economic and Security Review Commission, agreed with their assessment. Because the pork industry is strategically important in China, there is no way that the Chinese government would allow such a major takeover at home, Haley argued.

The proposed takeover of Smithfield is currently pending before the Committee on Foreign Investment in the United States (CFIUS), and is expected to go through. CFIUS reviews focus on national security only, and do not deal with other issues. Last week at the Strategic and Economic Dialogue (S&ED), the U.S. government reiterated that CFIUS reviews do not deal with economic or other national policies at all.

Short of passing legislation barring the deal -- an unlikely prospect -- the Agriculture Committee has little leverage on the issue. But the public comments are a sign of continuing political turmoil over the deal, which has also drawn criticism from food safety advocates who fear there may be adverse implications to a foreign company taking over the largest U.S. producer of pork.

Agriculture Committee members also appear to be trying to exert at least some influence over the CFIUS review of the Smithfield acquisition. Last week, they met privately with Marisa Lago, assistant secretary of the Treasury for international markets and development. Treasury leads the CFIUS process.

The department last week also responded to a formal letter from 15 committee members to Treasury Secretary Jacob Lew raising questions about the acquisition. In their June 20 letter, the Agriculture Committee members had pressed Lew to include the U.S. Department of Agriculture (USDA) and the Food and Drug Administration (FDA) in the CFIUS review, even though USDA and FDA do not normally participate in such national security reviews.

However, the Treasury response declines to comment on that specific point, or to provide any details on how the CFIUS review is playing out. The July 9 response letter -- which was signed by Alastair Fitzpayne, assistant secretary for legislative affairs -- merely reiterates that CFIUS reviews are confidential and that it cannot comment on them until after the administrative review has concluded.

Not all of the witnesses called at the hearing were as critical of the proposed transaction. Matthew Slaughter, an associate dean at the Tuck School of Business at Dartmouth College, argued that there is "nothing inherently worrisome or unusual" about the deal. For instance, Slaughter pointed out that Shuanghui is not a state-owned enterprise (SOE) and made the point that while Shuanghui may want to acquire technological know-how from Smithfield, a legitimate acquisition is better for the U.S. than if a Chinese company were to simply steal trade secrets.

Slane, however, painted that view as naive. While Shuanghui is not an SOE, it maintains "strategic ties" to the Chinese government. He noted, for instance, that the same person who controls the majority of Shuanghui stock is a high-ranking member of the Chinese Communist Party and a 15-year veteran of the National People's Congress.

He also noted that the Bank of China, which is controlled by the Chinese government, is financing the proposed transaction. "The Bank of China does not finance any transactions unless they're told to by the Chinese government. By any definition, that is a state-controlled company," Slane argued..

Both Slane and Haley posited there may also be alternative motives behind the takeover. Slane in particular said the real reason Shuanghui is interested in purchasing Smithfield is not because it wants to increase its capacity to serve a growing Chinese market with pork, but rather because it wants to be able to sell pork more cheaply.

"[T]hey learned in the iron ore and coal business that it was better for them to buy the mines than to just buy the ore. So here, what they have found is that multinational, vertically integrated meat processing companies have a cost and price advantage," he said, concluding that the transaction "is all about trying to control the price of pork."

Stabenow, the committee chairwoman, said that her panel was looking closely at the transaction because itraises systemic questions. "Smithfield might be the first acquisition of a major food and agricultural company, but I doubt it will be the last. That's why we must take a long-term view of what is happening," she said at the hearing.

"This is a precedent-setting case, and we owe it to consumers and producers and workers to ensure we are asking the right questions and evaluating the long-term implications," she added.

Pope, the Smithfield CEO, was also pressed on whether the deal would pave the way for Shuanghui to begin exporting pork to the United States. He responded that that Chinese pork products cannot be imported into the U.S. currently because Chinese food safety standards have not been deemed sufficient by U.S. authorities.

