CAW Accuses CAT Of Not Follwing Rules

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TORONTO — The head of the Canadian Auto Workers union is accusing Caterpillar Inc. of not following the rules in its 2010 takeover of a London, Ont. locomotive plant it has decided to shut down.

CAW national president Ken Lewenza has written a letter to Industry Minister Christian Paradis, calling on him to release the financial details of Caterpillar's takeover of Electro-Motive Canada.

Lewenza is pressing hard to get the government involved, either to pressure the company to reverse its closure decision or to sweeten the financial payments now being negotiated in a closeout deal between the union and company.

The federal government has said that the takeover was never looked at by Investment Canada because it fell under the current threshold of just over $300 million.

But Lewenza said Friday no public, independently verifiable data supports that claim and Caterpillar's own financial statement reported US$1.3 billion in assets associated with the takeover.

"We are not convinced that the existing provisions of the Investment Canada Act were accurately and fairly applied in the Electro-Motive acquisition, "Lewenza said in the letter to Paradis, the federal minister responsible for Investment Canada.

"The London facility was the largest and most strategic manufacturing entity in Electro-Motive, and represented about half of the firm's total employment at the time of the Caterpillar takeover," Lewenza said.

"What proportion of the firm's value was actually represented by the Canadian operation — including fair value for the Canadian division's intellectual property and other intangible assets? "

The American-based heavy equipment maker announced last week that it will close its Electro-Motive plant in London, Ont., a month after it locked out about 450 workers.

The company, which had demanded wage cuts of about 50 per cent from the workers — saying their wages were way above company plants in the U.S. and Mexico — is shifting locomotive production to its other North American factories.

The union said the shutdown will hit the industrial economy in southwestern Ontario hard and cut another 1,700 spinoff jobs linked to the locomotive plant.

Ontario's manufacturing economy has been battered in recent years from the restructuring of the North American auto sector and other blue-collar industries, leading to the shutdown of several auto and truck plants across southern Ontario, home of Canada's auto sector.

The provincial jobless rate jumped to 8.1 per cent last month, well above the national average, and the struggles of the economy are squeezing revenues and putting pressures on the Ontario government's finances.

Lewenza said if the data associated with Caterpillar's purchase of Electro-Motive turns out to be inaccurate, the government can impose penalties.

Lewenza's letter to Paradis also called on the government to strengthen regulations over foreign investment by:

— Improving transparency of the "ultra-secretive" Investment Canada process and allowing input from affected stakeholder groups;

— Closing loopholes that exempt most takeovers from scrutiny, including those that are too small or reflect indirect purchases of companies.

— Strengthening and more clearly defining the "net benefit" test used to approve foreign acquisitions.

— Ensuring that government can enforce commitments attached to approved takeovers.

"Failure to act by your government reflects not legislative weakness, but a political unwillingness to defend Canadian citizens," Lewenza said in the letter.

Ottawa promised in 2009 to update the Investment Canada Act but so far Paradis has said little about foreign takeovers in Canada since taking over the portfolio from Tony Clement last year.

Ontario Premier Dalton McGuinty renewed calls for a review of the legislation last week after the sudden shutdown of the Caterpillar plant.

The sale of Illinois-based Electro-Motive Diesel by U.S. investment firms Greenbriar Equity Group and Berkshire Partners to Caterpillar subsidiary Progress Rail Services was not covered by the Investment Canada Act.

Ottawa has blocked just two foreign takeovers under the act — BHP Billiton's hostile bid for PotashCorp in 2010 and an attempt by MacDonald, Dettwiler and Associates Ltd. (TSX: MDA) to sell its space division to U.S. defence firm Alliant Techsystems Inc. in 2008 in a friendly deal.

Both deals were rejected after furious public outrage and in the case of the BHP bid for Potash, a campaign by Saskatchewan Premier Brad Wall, whose province faced the biggest impact by the potential deal.

Proposals under consideration for a new Investment Canada Act include the addition of public hearings to the process, clarification of how the minister determines a net benefit and changes to the net benefit test.

In a 2008 report on Canadian competitiveness by Red Wilson, a senior executive with experience in both the private and public sectors, it was recommended that the threshold for review under the act — which stood at $312 million last year — be increased to $600 million and eventually $1 billion.

The report also recommended that the onus be changed from the investor having to prove a net benefit to the minister having to show a net harm.