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Malcolm Rifkind is justifiably appalled by
the Caterpillar company's recent decision
to close its Uddingston plant. The
injury to the Scottish economy and to the
plant's workforce has been compounded by
the insult offered to the Secretary of
State. In a matter of a few short weeks, a
£62.5 million investment programme
welcomed by Mr Rifkind in his Christmas
message, including praise for the company
and the workforce, and stress on the
importance of foreign investment for
Scotland's future, evaporated as the
company decided to pull out of Scotland.

The turnabout was made all the more
inexplicable by evidence from unions and
management that they considered the plant
to be profitable and that they were buying
in new machinery even after the closure
had been announced. One Uddingston
product - an upgraded medium-sized
bulldozer - looked to have a successful
future in a mainstream sector of earth
moving equipment sales. More
importantly, the components which made up
80% of the Uddingston plant's production
were a vital input to Caterpillar's
international operations in both Europe
and the USA, particularly in the context
of Caterpillar's adoption of 'just-in-
time' techniques. A skilled, experienced
and stable workforce was already on site
prized to carry out the upgrading of both
tractor and components production. It
was even the case that new labour was
being recruited by management on the basis
of the plant's assured future.

In place of this bright future, we have
seen one of the most protracted and public
industrial disputes in contemporary
Scottish industrial relations. A
fourteen week occupation accompanied by
political machination, managerial
intransigence, contradictory union
pressures and workforce resilience has
ended in the confusion of the MPAT Ltd
initiative and the continuing probability
of the plant's demise by early 1988.

Caterpillar's decision highlights the
contradiction at the heart of Scotland's
commitment to industrial growth on the
back of foreign manufacturing investment.
The contradiction has two dimensions.
Firstly, in order to attract foreign
capital, a complex benefits package must
be offered to potential investors.
Factors which might make Scotland less
attractive to the foreign investor, or
which make other locations more
attractive, must be negated. In
particular, controls over the impact of
such investment must be minimised in order
that investors feel relatively
unconstrained. Yet that very freedom of
action enhances the liberty of companies
like Caterpillar to relocate outside
Scotland. Secondly, regional industrial
policy has not concerned itself with the
issue at the heart of the Caterpillar case
- what do you do when decisions which do
not reflect the industrial efficiency of
the regional subsidiary lead to run-down
or closure of that facility? How do you
respond when what appears to most
commentators to be a profitable plant is
closed on the basis of criteria which have
little or nothing to do with the plant
itself.

Not all cases are as stark as Caterpillar.
Yet over the last decade Scotland has seen
subsidiary after subsidiary pared down or
closed at the behest of a foreign head
office. Goodyear, Singer, Massey
Ferguson, Chrysler, NCR, Burroughs are but
well-known examples of this phenomenon.
Inform estimates put job losses at about
25,000 as a consequence of such
restructuring. The indigenous
manufacturing sector has of course also
suffered a high rate of closures during
this period. The knock-on effect of
closures on the Scottish economy points to
even greater indirect job loss and an
accompanying destabilisation of the
Scottish manufacturing base. It is now
urgent that we reappraise the regional
approach to foreign capital investment in
order to balance the 'foreign investment
at (virtually) any price' view with a
longer-term appraisal of Scotland's
investment needs. Of course, such an
appraisal might then encompass the
interests of a potential workforce as well
as of the wider economy.

Little of the above is novel. Even the
SDA and LIS may well agree privately with
the thrust of the argument, yet their
public face appears to many of to be as
seductive and compliant as ever in search
of the next tranche of investment. The
Government has nailed its colours to the
same mast, a commitment manifestly
compromised by the Caterpillar debacle.
Yet this of all governments is unlikely to
consider specific constraints on the
activities of international investors.

Integrative versus initiative strategies

A feasible way forward would be to look to
the European Community for an
international response to the problem of
mobile investment. Such a solution might
simultaneously ensure that no competitor
for investment would be unfairly
obstructed in their sales pitch, whilst
the importance of the European market
would mean that international investors
would be forced to operate to a standard
European code of practice in order to gain
access. However, this solution, which
might be dubbed the 'integrative approach', is unlikely to be implemented. The

establishment of a co-ordinated European
model would require a degree of political
co-operation far beyond current practice.
As things stand, national economic
policies might be compromised unacceptably
by such a move. The bitter progress of
the relatively mild Vredeling proposals
through the European system highlights the
uncompromising opposition by national
governments and enterprise managers to
European-wide constraints on the firm.
Vredeling sought to increase the
information flow about companies and their
performance to the workforce, and permit
greater scrutiny of company decision-
making. It was fought tooth and nail
throughout its progress through the
European legislative framework and finally
emerged a mere shadow of its former
intention.

The obstacles in the way of a successful
implementation of an integrative approach
suggest an alternative 'imitative' posture.
The imitative option emerges from the
study of cases such as the Caterpillar
closure. Take the establishment of a
plant such as Caterpillar's. It is
located in Scotland because of a variety
of factors, of which only one is the level
of constraint on company activity imposed
by the national government. For example,
market location, labour market factors,
government aid, potential for local
production integration, local language and
culture, and traditional links with the
country, might all figure in the location
decision. However, at the moment of
decision-making about relocation, the
crucial conjunctural factor will be the
ease with which the movement of capacity
may be undertaken. Comparisons between
constraints on movement in different
production centres will be made. The
factors which brought about the location
of the plant initially may become either
irrelevant or relatively insignificant as
headquarters decision-making responds to
supra-national demands with supra-
national policies. Hence the evidence from
the Caterpillar case and others suggests that
an important factor - perhaps the
important factor - in the decision to
rationalise away from Uddingston was the
relative costs of closure in their
Belgian, French and Scottish locations.
Put simply, it is much more time-consuming
and costly to close plants in mainland
Europe than it is in the UK. Supra-
national decisions might well hinge on
such a factor.
Evidence which supports this focus on closure costs is found in OECD studies which stress the impact of interventionist employment policies on closure decisions in mainland Europe. For example, in Germany legislation exists which requires a company to notify government agencies, works councils and unions about proposed dismissals of 10% or more of a workforce. The works' council may demand comprehensive information about the proposed rationalisation, and the employer is required to discuss whether redundancies can be avoided or how resultant hardship may be reduced. The works' council can demand a social plan covering redundancy payments, the selection and timing of redundancies and a wide range of related matters. The state's regional employment office is empowered to defer dismissals for up to two months in order that retraining or the transfer of workers may be set in train. Where work is rationalised, the employer is responsible for a number of relatively costly provisions relating to the maintenance of wage levels where downgrading occurs, the protection of workers of 55 or over, supplementary payments for short-time working and so on.

In France, similar requirements exist vis-a-vis notification of the intention to close plants and dismiss workers to both workers' organisations and the local departmental labour office. However, in the final instance, government officials have the right to veto proposed dismissals by a company. Companies are required to follow a detailed programme of consultation which must establish a legitimate argument for redundancy or closure.

In Italy, compulsory consultation with unions about proposed redundancies is demanded in law. Unions have recourse to the courts which increasingly rule in terms of the social consequences of an employer's action. In the highly politicised context of Italian labour relations, political parties and the relevant administrative authorities have intervened actively around the issue of proposed dismissals and thus may impose substantial pressure on an employer to avoid redundancy. Provisions such as the Earnings Supplement Fund provide economic support over extended periods of nine-months or even more in order that short and medium-term economic pressures on a firm may be alleviated.

Of course, the UK does have parallel legislation. Firms must provide advance notification of proposed redundancies. The 1975 Employment Protection Act laid down a three month consultation period for proposed redundancies; minimum statutory redundancy payments are also laid down; time-off to search for another job is legally guaranteed to a worker facing redundancy. These measures are supported by a number of other provisions. However, the combined effect of the UK package is generally considered to be less onerous than many comparable packages elsewhere in Europe. The industrial relations system seen by many to be a hallmark in the UK social fabric has neither established the general consultation provisions embodied in works' council legislation, nor relied upon state executive intervention around employment rights, nor seen legal action as an effective method of conducting the bargaining process. Collective agreements have often been regarded as more than adequate frameworks in which employment legislation may operate. In the Caterpillar case, and many others in recent Scottish history, the UK framework has been woefully ineffective in restraining closure decisions. Employers have consistently met their legal obligations, yet such compliance rarely impinges upon the basic closure decision. Essentially, UK employment law comes into play after the strategic decision is made, acting more as a palliative than as an effective defence of jobs or investment capacity.

The policy implications for Scotland of the imitative approach emerge from a comparison of different employment law provisions across Europe. If the logic of attracting foreign investors is to create a stable sector of foreign-owned production, responsive to both its own and Scotland's needs, the open-door policy must be tempered with appropriate legal constraints on the incoming's behaviour. Arguably, at the time of location a wider range of factors including any such constraints as are deemed necessary will inform firm's decision. It might be possible to counteract the effects of
such constraints in the mind of the potential investor with added tax, financial, property or development incentives. The equivalence between Scottish requirements and those found elsewhere might be stressed to establish the fairness of the constraints. The unwillingness of a firm to invest under such circumstances might suggest that in the long run a stable manufacturing strategy for Scotland could do without such an unco-operative partner. It follows that all companies - foreign-owned and UK-based - would be required to adhere to the provisions.

The constraints would come into play particularly when relocation was planned. At that time, a willingness to abide by agreed practices would incur no penalty; any unwillingness would be dealt with within the framework of sanctions established at the time of location. Both sides would play to the rules of the game in force at the moment of capital location.

What form should these constraints take? Perhaps a meld of French and German approaches would be a useful basic framework. Into a suitably-amended package of existing UK legislation could be inserted the requirement to negotiate a social plan in the event of a proposed redundancy. Local government agencies might be permitted the executive action accorded to their equivalents in France. For example, an employer might have to establish the legitimacy of his redundancy or closure policy in the eyes of an appropriate government agency. The framework governing a proposed closure would therefore look something like this:

Stage 1: company proposals would be presented to employees, unions and the designated state agency. A formally-established six month period of consultation would commence. The information necessary in order to make an informed judgement about the state of the company would be made available.

Stage 2: formal negotiation between company representatives and the workforce. If an agreement were to be reached at this stage, it would be reported to the state agency for comment. Usual procedures relating to redundancy payments etc would then be set in train through the operation of a social plan including both company and state provision.

Stage 3: where no initial agreement was reached, the company would be required to stay its hand whilst arbitration procedures attempt to resolve the impasse. The designated state agency would be responsible for the arbitration process, and, where such a commitment was not yet established, the promotion of a social plan.

Stage 4: in the event that no agreement is reached during Stage 3, the designated state agency would be responsible for the commissioning of a detailed independent economic and social survey of the closure proposal and its effects. An appropriate period of time would be allocated for the preparation of the survey. The decisions available to the agency would be: closure on the basis of an existing or amended social plan; a recommendation that the plant should continue in production, with a detailed justification. Of major importance at this stage is the provision that the firm should not be permitted to relocate the affected plant's machinery until the agency's decisions are enacted.

These proposals raise a variety of questions, only some of which can be tackled here. Agencies such as the SDA and LIS would have to provide an appropriate infrastructure in which adherence to the procedures would be fostered. In the initial bargaining with
a potential investor, the framework would be explained as a general requirement imposed on all firms intending to make an investment. The package would appear as only one factor in a range of issues under discussion and might be presented as, for example, are French and German regulations - as an unquestioned aspect of local labour relations practices. Government would have to create and support the designated state agency. Unions would have to amend their bargaining practices to encompass the social plan aspect of the model. They might also have to rethink the scope of the bargaining process and the union approach to its conduct. Obviously, the general provision would be a minimum requirement; some employers and workforces might agree to a more extensive framework.

The key question about the operation of this procedure relates to the ability of a government to impose the second decision in Stage 4 on an international investor. In practice, as in Germany and France, agreements generally do emerge during the consultation period and it may be that the second option would be rarely if ever needed. The proposal has been posed above in terms of a 'recommendation' rather than a directive simply because it is conceivable that, where agreements were not reached, a firm might simply leave the threatened plant and the UK, thus absenting itself from the competent national legal framework. However, the experience of France suggests that international firms may be unwilling to act so precipitately simply because of market or legal sanctions which a government may impose against other subsidiaries within national boundaries, or against the company's products. However, as the aim of the proposal is to work with the company rather than against it, and to promote a responsible framework in which competing interests are catered for, the emphasis would be on Stages 1 to 3 rather than on the extremes envisaged in Stage 4.

Although the introduction of such measures would require substantial political will on the part of the government of the day, the task is not technically difficult. Equally, the legislation would not call on large resources in its implementation. It might even prove to be politically popular. These are realistic proposals, although they run counter to government, regional policy and enterprise views of international location strategy. They may be challenged on the grounds that they obstruct the operation of the market, or they reduce the flexibility of the labour market, or that they interject unacceptable political criteria into decisions to locate. Perhaps the strongest criticism will be that they may deflect potential investors from the Scottish economy. There may be an element of truth in all of these criticisms, but the alternative is to accept the responsibility of a relatively unconstrained haemorrhage of investment production and employment from Scotland. What cannot be denied is that until an effective code of practice is introduced, the arbitrary closure of plants such as Caterpillar's will continue unchecked. Given that we are now in mid-election campaign, it will be interesting to note the extent to which the Caterpillar occupation has put these issues on to the Scottish political agenda.