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Building Trust? Governance Processes and Employee Voice in the Construction of Heathrow Terminal 5

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Abstract

The Major Projects Agreement (MPA) is a framework agreement designed to improve performance in large mechanical and electrical engineering projects. It is built on integrated team working and includes the trade union as a partner in strategic, organizational and employment decisions. The agreement was recently implemented in the construction of Heathrow Terminal 5 (T5). The use of the MPA at T5 illustrates how the promotion of a framework that legitimizes a role for unions in continuing dialogue with employers can positively affect organizational outcomes in large construction projects. While serving as a reminder that mechanisms exist within UK corporate governance for the representation and articulation of the interests of non-shareholder constituencies, T5 may be a unique case: the currently uncertain future of the MPA is indicative of wider constraints on the adoption of the partnership model in Britain.

Keywords: corporate governance, labour-management relations, partnership, stakeholder theory.

JEL Codes: J52, J52, K12, K31, L14.

1. Introduction

In common with other developed countries, the UK has experienced a weakening of the collective basis for industrial relations – indicated by a plunge in the proportion of employees covered by collective agreements, declining union membership rates and contraction in the scope for bargaining (Oxenbridge *et al.*, 2003; Kersley *et al.*, 2006). This has been matched by a strengthening of shareholder pressure for higher and more consistent returns on investment and the adoption of clear strategies for future performance (Deakin and Whittaker, 2007). Against this background, the emergence and successful operation of labour-management arrangements that define a set of multiple objectives and preserve an active role for the trade unions has been rendered much more challenging.

This paper looks at an important recent case of labour-management partnership, namely the construction of the Terminal 5 (T5) building at London's Heathrow Airport. T5 took around 20 years to plan and build and started operations in March 2008, six years after construction started. Its opening was marked by confusion and controversy, a point to which we return below. As a construction project, however, T5 was highly successful. It was based on a novel approach to risk-sharing between client and suppliers and it incorporated innovative mechanisms for deliberation between unions and management. There is evidence that these arrangements contributed positively to a number of successful project outcomes, above all the

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completion of the construction work on time and on budget, an above-industry health and safety record, and virtually no time lost to disputes.

The next section outlines some general issues concerning the relationship between corporate governance and employee voice. Then key elements of the T5 governance process are presented. We analyse the emergence, substance and operation of the core agreements and the operation of the arrangements to which they gave rise, highlighting the role of employee representation. An assessment of the contribution of this governance structure to the construction project follows, along with a discussion on the sustainability of such practices in the UK.

2. The relationship between corporate governance and industrial relations in the UK

It has been widely suggested that the UK corporate governance system has significant implications for industrial relations and, more specifically, that it constrains the scope for enduring labour-management partnerships (for a critical review see Pendleton and Gospel, 2005). Core institutions of UK corporate governance, in particular those relating to takeover regulation, corporate governance codes and the law governing directors' fiduciary duties, may be seen as strongly orientated towards a norm of shareholder primacy (Armour *et al.*, 2003). The City Code on Takeovers and Mergers (Takeover Panel, 2006) maintains a regulatory regime which operates in favour of institutional shareholder interests (Deakin and Slinger, 1997; Deakin *et al.*, 2003). Along with wide dispersion of share ownership (in the case of listed companies), the Takeover Code underpins a market for corporate control in which managerial under-performance leads to shareholder exit and consequent changes in ownership and control. The concern among incumbent management of being substituted guides them to pursue shareholders' goals (Pendleton and Gospel, 2005: 62) and subsequently makes it difficult for British firms to build 'partnership arrangements' with their workforces (Edwards, 2004: 526). In contrast to the situation in coordinated market economies, large scale firms in Anglo-Saxon economies that are in distress are likely to reduce labour costs to preserve profitability. Priority is placed on maintaining the level of dividends and, where possible, distributing surplus cash to shareholders via share repurchases. It is on this basis that firms are able to secure continuing access to capital markets, retain credit ratings and defend against takeovers (Gospel and Pendleton, 2003: 559). Waves of restructuring in British and American firms since the early 1980s have undermined the 'implicit contracts' which once provided for job security and long-term career progression (Shleifer and Summers, 1988: 41-2).

At the same time, scope remains for managers to respond to shareholder pressures in creative ways which reflect the need to engage with a wider range of constituencies, including employees. According to Pendleton and Gospel (2005: 79), the recent development of relationships for the exchange of information and exercise of influence between major investors and managers of large firms has given the latter some autonomy to devise labour strategies as they see fit.ⁱ Deakin *et al.* (2006) examined the evolution of labour-management partnerships in the utilities and manufacturing during the 1990s and early 2000s, finding evidence that enduring and proactive partnerships could develop, in conditions where management was able to convince shareholders of the long-term gains from this approach, and where regulatory factors operated to extend the time-horizon for financial returns. In particular, they found that regulation of product and service quality, of the kind observed in most utility sectors and in certain others, favoured the emergence of stable partnerships. This

is because in these markets, profitability was linked to the ability of companies to maintain a high and consistent quality of products and services for end users. As a result, companies were better able to convince shareholders to take the view that they would reap significant returns over the long term from a stakeholder approach. But, when such conditions were absent, partnership arrangements were found to be highly vulnerable to shareholder pressure, no matter how much goodwill was invested by labour and management (Deakin *et al.*, 2006: 171).

While corporate governance impacts on industrial relations and the employment relationship, labour law and industrial relations rules in general, as well as a given firm's approach to labour relations, can frame management's options and thus influence, in turn, the ownership structure of the firm (Deakin *et al.*, 2006: 157). As such, causal influences may run in both directions (Gospel and Pendleton, 2005). At a collective level, worker representation has been traditionally based on the so-called 'single channel' model of representation through recognized unions, with the state supporting collective bargaining as its regulatory method of choice (Clark and Winchester, 1994: 714). Beginning in 1975 with legislation on collective redundancies, a piecemeal development of statutory requirements for consultation with employee representatives on a range of issues, reflecting legislative developments at EU-level, has taken place.ⁱⁱ From 2004, legislation in the form of the Information and Consultation of Employees Regulations (ICER)ⁱⁱⁱ came into force requiring all firms above a certain size to have information and consultation mechanisms in place, although this law does not mandate continental European-style works councils or enterprise committees, and, indeed, leaves it open for managers and unions to continue with the single-channel model collective bargaining where they see it as in their interests to do so.

On the industrial relations side, trade unions have historically served as a means for mobilizing the collective power of workers, but institutional structures and norms governing industrial relations make it significantly difficult for employees collectively to influence directly the critical strategic decisions of a firm. Employers and trade unions have traditionally given distribution more importance than the integration of employees into decision-making structures (Coats, 2004). In contrast to the wider range of issues subject to consultation in countries with so-called coordinated market economies, collective bargaining in the UK is mainly confined to wages, hours and terms and conditions of employment (Oxenbridge *et al.*, 2003). Reflecting the assumption that the parties engage each other at arms' length, the mechanisms to support workplace justice have been relatively weak and an approach in terms of basic compliance, rather than using the law as a basis for improvement, has been favoured (Edwards, 2007: 39).

In the mid-1990s, an explicitly collaborative concept of 'partnership at work' was adopted by part of the British trade union movement, by the government and some employers (Guest and Peccei, 2001). In practice, trade union enthusiasm for partnership was largely based on the proviso that unions would be fully involved in the process. But this view was not fully shared by the government, and even less so by employers (Hall *et al.*, 2002: 27). While there is still no agreed definition on what is meant by workplace partnership (Guest and Peccei, 2001: 208; Haynes and Allen, 2001: 166; Terry, 2003: 463), at the heart of all attempts to define and operationalise the concept of partnership lie the two core concepts of mutuality and trust between the relevant parties (Dietz, 2004; Guest *et al.*, 2008). More specifically, the partnership model is one in which employees and their representatives are encouraged to add

value to the firm by participating in decision making processes, in return for acquiring rights and influence over the distribution of the firm's surplus.

At first sight, multi-firm construction projects such as T5 look likely an unlikely candidate for partnership-type arrangements. Representative structures, including those put in place under ICER and other information and consultation laws, are designed for single-employer units, and so cannot be easily adapted to workplaces where subcontracting as well as the use of agency and self-employed labour are the norm. This, at least, is the conventional picture. The experience of T5 suggests, however, that this is not an inevitable outcome. As it will be seen, the structures put in place at T5 challenge conventional understandings of what partnership can achieve in the UK context, as well as calling into question the single-employer focus of recent legal attempts to encourage employee voice.

T5's original purposes, organizational design, governance structures, and internal processes exemplify many of the features associated with a stakeholder approach to corporate governance and labour-management relations. The concept of a stakeholder firm adopted here owes much to the analysis by Kochan and Rubinstein (2000) of Saturn, the US vehicle manufacturer which was set up as an experiment in partnership between General Motors and the United Auto Workers union. Saturn is a critical case because the extent of employee involvement was greater than in other US companies and because the experiment was conducted with the active engagement of senior managers and the relevant trade union (Rubinstein and Kochan, 2001). In contrast to a conventional American-style shareholder-wealth-maximizing firm, Kochan and Rubinstein suggest that a stakeholder firm has the following features. First, such firms pursue multiple objectives, recognising that the different corporate constituencies have distinct interests; second, they adopt governance structures that promote effective coordination, cooperation and conflict resolution; third, the value created is fairly distributed to maintain commitment of the multiple stakeholders; fourth, all stakeholders are residual risk holders in the sense of having an interest at stake if the firm fails; and, finally, there are more than one stakeholder with sufficient power and legitimacy to achieve a significant participatory status in governance processes (Kochan and Rubinstein, 2000: 369).

In what follows, we present an account of T5 as an instrumental case study in the sense described by Stake (2000), that is to say, one which focuses on a particular case with a view to the examination of a wider set of issues. The specific case is important because it uncovers knowledge about wider phenomenon of interest, which may not be confined to the case itself. Evidence on the establishment, operation and impact of the MPA and related agreements was available to us in the form of in-depth, semi-structured interviews with managers at BAA and some of the construction and engineering companies involved in T5, along with employer and employee representatives who took part in the processes set up under the MPA and SPA. Ten (10) interviews were carried out in between the autumn of 2006 and the spring of 2008. We also made use of public statements of the principal employers' associations, trade unions and BAA, and published audit reports conducted by the consultancy Baker Mallett for the MPA Forum.

3. T5: A unique project?

3.1 The background to T5: governance at BAA, multi-firm contracting in construction, and the framework of collective bargaining in the electrical and mechanical trades

The T5 project started during a period in which the principal client, BAA plc, was still a listed company. BAA's governance arrangements, as a regulated utility, are complex, and evolved further in the course of the T5's construction. BAA was established by the passing of the Airport Authority Act 1986, to take responsibility for four state-owned airports. Prior to 1986, national or local government owned and operated the majority of UK airports and provided the finance for their development. The Airport Act 1986 commercialized 16 local authority owned airports and transformed the British Airports Authority from a government-owned corporation into BAA plc. The Act also introduced economic regulation of airport charges, principally to protect the airlines from monopoly charging behaviour by the airports. The three main London airports – Heathrow, Gatwick and Stansted – and Manchester airport have been subject to price caps on their aeronautical charges imposed by the Civil Aviation Authority (CAA).^{iv} In February 2006, BAA was approached by Grupo Ferrovial, a leading partner in a consortium, which declared an interest in acquiring BAA. In June 2006, Ferrovial officially took control of BAA after gaining 83% of its shares. In August, BAA was de-listed from the London Stock Exchange, where it had previously been part of the FTSE100 index, and the company name was subsequently changed from BAA plc to BAA Limited, signifying its conversion from a public to a private company. The takeover by Ferrovial has not affected BAA's status as a regulated utility. As we shall see below, BAA's transformation from a regulated utility and listed plc which was then taken over in a bid mostly funded by debt influenced, at each stage, its approach to the T5 project.

It is also relevant to consider the nature of industrial relation in construction. The construction industry consists of around 168,000 firms; directly employed and self-employed workers bring the employment pool to just fewer than 2 million employees working in construction in a multitude of roles, 1.2 million directly employed (BERR, 2007). The sector encompasses a wide range of interest areas: large-scale projects, often accompanied by high levels of employment, unionization and industrial conflict. However, it has not, in recent years, enjoyed a reputation for harmonious industrial relations. On the contrary, it has been associated with casualization of employment, use of agency labour and 'fake' self-employment, a comparatively high level of labour disputes, declining coverage of collective agreements (Kersley *et al.*, 2006: 110, 119), a dilution of training, a relatively poor health and safety record, and a low level of awareness of equality and diversity issues.

The nature of the electrical contracting industry is also relevant here. By contrast to construction, electrical contracting is a sector in which multi-employer national bargaining has remained relatively strong. It is distinctive both in the scope of application of its agreements and in the standards that it sets and there has been continuity in support for the collective agreement and for the Joint Industry Board (JIB) (Gospel and Druker, 1998: 249). The JIB regulates and controls employment and productive capacity, the level of skill, and wages and benefits of persons employed in the industry. This relatively stable industrial relations background played a critical role in the emergence of the labour-management partnership at T5.

3.2. The emergence of the T5 Agreement, the MPA and SPA

The construction of T5 is an example of a 'megaproject' (Flyvbjerg *et al.*, 2003) because of its scale, complexity and high cost. The project was broken down into 18 major projects and 147 subprojects. Construction commenced in September 2002; phase one of the project was

completed in March 2008.^v At any one time the project employed up to 8,000 workers, and as many as 60,000 people were involved in the project over its lifetime. Its goal was to increase the airport's capacity from 67 million to 95 million passengers a year. To achieve its objectives, BAA implemented a long-term strategy aimed at enhancing both its own capabilities and those of its main suppliers (Doherty, 2008).

Partly because the planning process for T5 was protracted, BAA had the opportunity to learn from other projects both at Heathrow and elsewhere (Brady *et al.*, 2008: 34). Further, BAA's CEO in the mid-to-late 1990s, Sir John Egan, was instrumental in reassessing the way that large-scale construction projects were delivered. In 1998, under his chairmanship, the Construction Task Force – set up by the Government – published its report, *Rethinking Construction*. At the heart of the report was the conviction that an integrated project process would deliver the best value to the client and user (Construction Taskforce, 1998). Under Egan's guidance, BAA's senior management began applying the principles laid out in the report to improve project processes. In this context, a new process for organizing projects in BAA's capital investment programme, promoting integrated team working and a set of framework agreements to achieve more accurate project costs, to implement best practice, and to work with suppliers in longer-term partnerships, was developed (Brady *et al.*, 2008: 35).

BAA's solution to the problems raised by the construction of T5 was to develop a bespoke, legally binding contract – entitled 'the T5 agreement' – between itself and its key suppliers. The agreement was described by BAA itself as 'groundbreaking' and 'unique in the construction industry' (BAA Heathrow website). The contract governed BAA's relations with 60 suppliers and formed the basis for agreements between these 'first tier' contractors and their own subcontractors. The essence of the agreement was an assumption of risk by BAA: 'at the heart of the terminal 5 agreement is the concept that BAA retains the risk while suppliers work as part of an integrated team to mitigate potential risk and achieve the best possible results' (Wolmar, 2006; see also Brady *et al.*, 2008). This can be read as an acknowledgment that in a project of the size and importance of T5, a certain degree of residual risk necessarily lies with the client and cannot be passed on to the contractors. BAA was also in a particularly vulnerable position as a regulated utility subject to price capping as well as the pressures which accompanied a stock exchange listing: it took the view that 'massive cost overruns or long delays to T5 would have wrecked the company's reputation and sent its share price plummeting' (Wolmar, 2006).^{vi}

In the T5 agreement, by assuming the residual risks of the project and ultimate responsibility for any cost overruns, BAA avoided the need to set up contingency funds which are normal for large-scale construction projects in the UK. Instead, project teams were allocated a small contingency fund which, if unspent, was then available for another team (Wolmar, 2006). BAA was also able to reserve for itself powers to monitor the performance of contractors and subcontractors, to set quality standards and, where necessary, to engage directly with suppliers; this was a much more proactive role than was normal in construction contracts of this kind. More generally, the T5 agreement was aimed at minimizing dispute resolution costs and avoiding the atmosphere of adversarial confrontation which was perceived to have affected other large construction projects in the UK: 'essentially, it is a no blame culture aimed at getting the best approach through cooperation, rather than the conventional adversarial approach' (Wolmar, 2006). In this way, the integrated approach to partnering, as advocated by the Construction Task Force, was put into practice.

BAA did not directly employ any of the workers involved in construction on the T5 site and was not a party to collective agreements relating to the construction project, but it took a proactive stance on labour management issues and on employment relations more generally on the site. The principles governing its approach included the negotiation of local agreements which were to be no less favourable than existing national and sectoral agreements; the use of direct labour in preference to other forms of employment, with only limited provision for agency work to meet peaks in demand; limits on overtime working; establishing clear structures for basic wage rates and for productivity-related bonuses and allowances; the ‘cascading’ of agreed terms and conditions and employment quality standards to second-tier subcontractors and suppliers, coupled with arrangements for the monitoring of their performance; setting and meeting exemplary levels of health and safety protection; and a proactive approach to diversity and equality issues (on the latter, see Clark, 2007). These principles were reflected in the two main sets of collective agreements governing the site: the Hourly Paid Employees Agreement which governed the civil engineering side of the project, and the Model Projects Agreement (MPA) and Supplementary Project Agreement (SPA) which together governed the provision of mechanical and electrical (M&E) services on T5. It is the second of these sets of agreements, the MPA and SPA that provides the focus for our case study.

At the time of the conception of the T5 project, the parties to the MPA were the principal employers’ associations in the M&E sectors – the Electrical Contractors’ Association (ECA), the Association of Plumbing and Heating Contractors (APHC), the Heating and Ventilation Contractors’ Association (HVCA), SELECT (the Electrical Contractors’ Association of Scotland), and the trade union representing workers in the M&E industries, Unite (previously Amicus). The MPA was designed to be an ‘umbrella’ collective agreement designed specifically to deal with large construction projects. The impetus for its adoption was the perception on the part of the employers’ associations that clients wanted an integrated agreement that would unite terms and conditions governing electrical engineering (electrical installations) with mechanical engineering (heating and ventilation). Contractors were increasingly offering both, but there were separate national-level collective agreements. All parties in the agreement accepted that the industry as a whole needed to address issues concerning the competitiveness of firms, product quality, and the provision of more secure, better remunerated and more satisfying employment. As already noted, the electrical contracting industry has the JIB agreement, going back to 1968. There are separate agreements for plumbing and for heating and ventilation. In addition, parts of the engineering industry are covered by the National Agreement for the Engineering and Construction Industries (NAECI). Each of these agreements provided aspects of the model for the MPA. An employer representative from the ECA explained the MPA in the following way: ‘all collective agreements still apply, but what the MPA does is, it puts an umbrella, an overlay, across these agreements. It replaces one or two aspects of the agreement where it would be sensible to do so such as in the case of dispute resolution’ (interview notes).

The MPA is a model agreement capable of being used in the context of any major construction project. So far, however, it has only been applied to T5, and T5, in turn, had been one of the catalysts for its development. In October 2001 there was a meeting between ECA officials and BAA managers, at which discussions took place over how BAA saw the emerging structure of industrial relations at T5. BAA wanted to avoid having a multiplicity of

collective agreements applying to the site. On the part of the Unite (or Amicus as it then was), there was strong support at national officer level for a single agreement. The negotiations lasted for the whole of 2002. The SPA was agreed between Amicus and the principal contractors on the M&E side at T5, namely AMEC, Balfour Kilpatrick and Crown House Engineering in November 2003. It was approved by the parties to the MPA in December 2003 (table 1 presents a timeline of critical events in T5's history). The structure, governance processes and organization of work were thus designed jointly and agreed by the employers' and workers' representatives.

For BAA, the adoption of the MPA and SPA complemented the goals of the T5 Agreement, in terms of its explicitly cooperative ethos and its commitment to functional flexibility to suppliers and the workforce: 'The MPA was absolutely about team work, integrated team working, so it moved away from a lot of the traditional demarcation issues which are often experienced in construction projects ... We felt again in terms in commitment it was the best fit that would allow us to deliver what we needed to deliver. Again a lot of it was based on trust, again it took away a lot of traditional and adversarial ways of working' (Human Resources (HR) manager, BAA, interview notes). In their turn, the parties to the MPA and SPA recognized the role of BAA in promoting the agreements: 'BAA are a very progressive and forward looking company. They very much wanted to go into partnership' (Industrial relations (IR) manager, interview notes).

In contrast to the role played by BAA and the willingness of the employer and union sides to reach agreement on the conditions for ensuring the success of major construction projects, the legal framework governing employee representation, including ICER, played a minor role in the adoption of the MPA and SPA. Both agreements were adopted prior to the transposition of the Information and Consultation Directive in the UK, and its coming into effect appears to have played no direct part in the process of their negotiation. The MPA and SPA combined the two elements of negotiation and information/consultation in ways which are not unusual in UK collective agreements. An ECA representative took the view that the emergence of information and consultation structures under the auspices of the MPA and the SPA was a natural development of the kind of collective bargaining which takes place in the construction industry under the JIB. This agreement provides a single set of structures 'picking up' both aspects, that is, bargaining and information/consultation (interview notes). The main contractors who were parties to the SPA made separate provision for information and consultation procedures under the ICER terms following its introduction, but these were not explicitly aligned with the arrangements made for T5.

While the relationship between the legislation and the MPA, according to a BAA industrial relations manager we interviewed, was 'indirect', the Directive was not, however, irrelevant, since 'at the beginning we were very determined to put in place a communication and information culture at T5 that allowed people to feel part of the project. To help them understand that we are doing well, to help them understand where they are failing, to talk to them about key issues that would affect them'. In this sense there was a broader affinity between the project's approach and the direction of public policy at that time.

Table 1: Development of the MPA and SPA

Date	Development
October 2001	BAA indicated interest in T5 construction agreement

Date	Development
Early 2002	Start of development work on the MPA within the ECA, HVCA and Select Creation of a separate working group to develop a T5 project agreement
October 2002	Start of construction work at T5
February 2003	Negotiation and conclusion of the MPA between the Employers' Associations and Amicus
December 2003	Approval of the SPA by the MPA members Acceptance of the MPA by BAA
January 2004	Conclusion of the SPA for T5 ^{vii}
February 2008	Handover of M&E work to operational readiness
March 2008	Opening of T5

3.3 Key features of the MPA and the SPA

The MPA is intended 'to lead to the achievement of the following Key Objectives: improvements in the performance and productivity of the Mechanical and Electrical disciplines, and a radical and progressive overhaul of industrial relations on Major Projects'. In this context, a key principle of the MPA is a commitment on both sides to implement team working. According to the MPA (clause 11.2), 'the principle of Integrated Team Working is the optimization and utilization of the skills of the M&E trades working together to improve performance and productivity'. The MPA provides that integrated teams covering all the M&E trades will be established, with the precise composition of skills in each team being agreed locally. Each team member is expected to observe the principle of 'operational flexibility' (MPA, clause 11.3).

In return for the union's commitment to this form of functional flexibility, the Agreement commits the employer side to a system of productivity-related bonuses which, in practice, have delivered levels of pay substantially above the standard rates for the relevant trades; the core of this is the 'Major Project Performance Payment' (MPPP). The MPA also commits 'employers and bona-fide subcontractors to the employment of a directly employed workforce'. It also makes provision for the use of agency labour, 'if unavoidable circumstances occur and, despite the best endeavours of an employer, 'top up labour' is required (MPA, clause 12.4). However, it is also provided that agency workers come under the terms of the MPA, including its provisions on payment and bonuses, to the same extent as those who are in direct employment, and that they should be directly employed by their agencies, and not be employed on an individual self-employed basis. Trade union membership is encouraged and training and learning plans are envisaged.

The SPA spells out in more detail the rules and principles governing payments of wages and bonuses, working time, health and safety, training and related aspects of employment conditions. The SPA specifies that no bonuses will be payable to workers in respect of any week during which they take part in unofficial strike action, or for any unauthorized absence during that week. It also sets out the principle of payment for 'bell to bell working', and the rule that employees have to 'change into working clothes before clocking in at the start of the working day or shift and out before changing out of working clothes at the end of the working

day or shift’ (SPA, Appendix 3; this provision is also contained in the MPA, clause 15 ‘Efficient use of working time’).

Aside from the provisions for integrated team working and bonus payments, the agreements also make a number of procedural innovations. In particular, they establish several organizational structures for shared decision making. The union is to be a full partner in all organizational decisions and the project is to be governed by a joint labour-management council. A consultative mechanism, the MPA Forum, is established under the auspices of the MPA. The Forum consists of representatives of parties to the agreement, with equal numbers on the union and employer sides, and has an independent Chairman. It meets at least four times a year. One of its core goals is to audit the project applying the Agreement and to receive reports on the progress. The SPA provides for a similar body, the T5 Joint Council. This body ‘operates by consensus and works as a partnership, with the success of the MPA and SPA on the Terminal 5 programme as its key objectives’ (Brawley, 2004: 41). It consists of equal numbers of trade union and employer representatives and has a number of functions including receiving and acting on audit reports, and receiving integrated team working, training and development needs, and labour resourcing issues. After each meeting of the Joint Council, a communiqué was placed on notice boards across the T5 site with the aim of ensuring that employees were aware of it.

A further innovation under the MPA has been the provision made for ‘designated representatives’ to be nominated by the union side. Their role is similar to that of ‘convenors’ or senior shop stewards, but, differently from the normal role of such lay officials, their functions are defined with the aims of promoting the MPA in mind, and not simply in terms of protecting trade union members’ interests. They must, among other things, be employed as employees on the T5 site or that of any other relevant project, have five years experience of working in the engineering side of the building industry, and have substantial experience as an accredited trade union officer. They report to the local Amicus/Unite full time union officer. Their responsibilities, which must be carried out ‘in cooperation with Management’, include ‘[developing] on the project ... an environment of social partnership’ and ‘[promoting] industrial relations harmony and the avoidance of recourse to unofficial actions’, as well as more traditional goals such as ‘[ensuring] the maximum take-up and compliance with Trade Union membership’ (MPA, clause 20). Under the terms of the SPA for T5, both of the designated representatives sat on the T5 Joint Council.

In its origins, its structure and its stated objectives, the SPA is characteristic of the ‘stakeholder’ approach to governance as defined by Kochan and Rubinstein (2000). The unions and the workforce more generally were given a key voice in the strategic, operational and employment decisions relating to the construction of T5. The objectives set out for the agreement (see Table 2) were explicitly ‘integrative’ in the sense that the identification of the separate and overlapping interests of the different parties, and their involvement in the decision-making process, were seen as the precondition for meeting the project’s overall aims (Healey *et al.*, 2004).

Table 2: Objectives of the SPA

To establish and maintain an environment in which accidents and work-related ill-health are eliminated
To meet the needs of Heathrow Airport Ltd by completing the Programme to time and

within budget
To establish and maintain industrial relations stability on the Programme by providing an effective and pro-active industrial relations framework for all works within scope of the Agreement
To reward performance and productivity

3.4 The operation of the MPA and SPA

How successful were the multi-firm arrangements contained in the MPA and SPA in terms of overcoming the fragmentation of employee representation across different employment units which is normally associated with such large-scale construction projects? Beyond the context of T5, ‘the thing to bear in mind is that out in the big bad world those companies’ – the first-tier suppliers who were signatories to the SPA – ‘would be competitors’ (IR manager, interview notes). Within T5, on the other hand, as a result of integrated team working, an ‘extraordinary amount of cooperation at all levels between industrial relations managers’ (IR manager, interview notes) was developed. The concept of integrated teams was implemented through the establishment of a joint working party between employers and the union, through which Amicus/Unite was able to participate fully in its organization and implementation at site level. Close relations between labour and management were sustained by a number of other means. The concept of designated representatives – modelled, as we have seen, on the traditional convenor role – was not new, but their role of supporting and implementing the MPA and SPA was. The activities of the designated representatives took place in conjunction with consultative meetings between individual stewards and each contractor, between the stewards and representatives of all contractors, and at Joint Council level. Informal consultation between the designated representatives, the shop stewards or the union regional officer and the IR managers responsible for the site also took place on a regular and frequent basis..

Although the MPA and SPA emphasized the importance of communication and cooperation in labour-management relations, this did not mean that disputes were not expected. Indeed, what was sought was an effective system of dispute resolution. There is evidence of learning taking place around the experience of operating the MPA and SPA. When the MPA was agreed, it was assumed that most issues would be ‘company-based’ and that the first two stages of the procedure would be used. In reality, most issues were raised at stage two and the failure of negotiations at that stage would result in the issue being taken off-site. Consequently, the outcomes of two stage-three panels were unacceptable to one or both parties. Both parties recognized that issues were going to non-T5 bodies prior to detailed discussions being held, and identified a need to create a new stage three to allow a further opportunity to resolve issues before passing them to non-T5 parties. Agreement was also reached on a more structured approach to the new stage-four panels with the cooperation of the MPA Forum.

More generally, the recognition that enabling the effective operation of unions on site would be a positive factor contributing to the successful delivery of the construction project went beyond the formal terms of the agreements. The employers encouraged workers to join an appropriate union and every worker starting on the project had the right to attend a section during induction about trade union membership. Office facilities and time for meetings between the union nominated shop stewards were also provided on site. As a result of the

operation of the designated representatives and the shop stewards, Amicus/Unite was able to recruit over a thousand new members at the site.

Both sides saw the involvement of BAA as a proactive client as critical to the agreements' operation and the avoidance of the development of an adversarial relationship between the suppliers themselves and between the suppliers, the workers and the union. On their side, BAA recognized that the Joint Council was an effective forum for communication and consultation and that it allowed both sides to raise and resolve issues and concerns. BAA's role was illustrated in other ways. At the instigation of BAA, an M&E employee engagement manager was appointed with responsibility for implementing and delivering an employee engagement programme and reporting back on its development to the Joint Council. Further, as a result again of BAA's intervention, a single, common standard on procedures for dealing with bullying and harassment on the T5 site was adopted. A decrease in bullying was reported: in June 2004, 19 per cent of just under 1,300 front-line workers said that bullying was taking place at T5. In June 2005, this figure had fallen to 8 per cent (IDS, 2006).

Training was also seen by all side as key to achieving the consistent application of the MPA and SPA on site. In line with the MPA and SPA guidelines, supervisors received training on the agreements, handling diversity and the first-tier contractors ran 10-day courses on the theme of 'successful supervision'. The union also confirmed that shop stewards and health and safety representatives accessed all the training they had requested. Finally, BAA worked as 'a guiding hand' (Doherty, 2008: 212) for the introduction of adult trainee schemes.

3.5 Meeting project objectives

Table 3 summarises the main outcomes of the project. Employer and employee representatives alike viewed these outcomes positively. Firstly, the goal of an above-industry average health and safety record was met.^{viii} Secondly, industrial relations stability was provided. No days were lost to industrial action on the M&E side of the project.^{ix} Thirdly, while employers and the trade union thought that there had been scope for productivity improvements, no use was made of the provisions in the MPA and SPA for reduction or suspension of productivity-related bonuses paid to the workforce. There was less consensus on a number of other issues. The goal of a consistent application of the provisions of collective agreements governing terms and conditions of employment was met, but the issue of exceptions to the use of direct labour was a contentious one. The employer view was that agency labour was explicitly contemplated by the terms of the MPA, and that it was only used at T5 to meet unexpected peaks in demand; agency workers were guaranteed equivalent terms and conditions to directly employed labour, so it was not used as a means of cutting direct labour costs. The union view was that the use of agency labour was excessive, and that it undermined training programmes and their efforts to recruit union members.^x

Table 3: Key organisational outcomes (Baker Mallett, 2008)

Indicators	Results
Budget	4.3b (on budget)
Completion time	On programme ^{xi}
Peak number of operatives	2284 (March 2006)
Peak number of construction support services (CSS) suppliers	547

Indicators	Results
Ratio of CSS whilst on site (26 months)	24.19%
Ratio of CSS for the project (46 months)	18.29%
Hours achieved without a life threatening incident	1m 15 times 2m 3 times
Working hours	9.6m hours worked with no lost time to disputes
Labour turnover (1 st tier suppliers)	5.4% (industry average for the JIB: 15%)
Absenteeism	3.54% of hours worked ^{xiii} (industry average: 4%) 2.2% sickness (authorized) 1.3% unauthorized
Training of apprentices/trainees	6.79% of the workforce (peak) 6.93% (during the designation period)
Qualifiers through adult trainees schemes	20
Training of supervisors	80% coverage

Further evidence on perceptions of outcomes is available from independent audit reports. Baker Mallett was appointed by the MPA Forum as the independent auditor to the T5 in April 2004 and was asked to prepare a study on the implementation of the MPA on the T5 Programme. In the August 2005 audit, results based on interviews with a small cross-section (24 individuals) of suppliers, tradesmen, supervisors, union representatives and managers were reported. 88% of all respondents thought that the T5 Programme had been improved by the introduction of the MPA and SPA. The principal reasons cited were: pay alignment, cooperation between contractors, consistency of application of rules governing pay and terms and conditions of employment, high levels of earnings, and high levels of retention of labour (turnover under the MPA was around 5% compared to around 50% as the construction industry norm). The principal differences between the MPA and other projects were reported to be a higher level of training, better structuring of working hours, a good relationship between first-tier and second-tier suppliers, and consistency of terms and conditions of employment. The survey of all respondents also reported favourable views on integrated team working, including 'references to cooperation and a better understanding between trades, reduction in 'blame culture', better communications and better understanding of other disciplines by supervisors'; demarcation issues had not, in general, been a problem.

On the employer side, around 60% of employer respondents thought that productivity on the site had improved as a result of the MPA, citing the role of bonus payments, the linking of planned levels of output to performance targets, the use of visible standards and rules on productivity, and better continuity of working as a result of the absence of an afternoon tea break. 14% of employer respondents thought that there had been no improvement in productivity and 29% had no opinion either way. Employer respondents with experience of other projects reported that the agreements had resulted in better performance and productivity than the industry norm, and that sickness and absence levels were also better. Around two-thirds of the employer respondents thought that bell-to-bell working had resulted in greater productivity 'although the responses were qualified by statements such as 'captive workforce' and 'only with efficient supervision'. Roughly the same proportion also thought that the industrial relations climate at T5 was better than on other major projects, although

some attributed this to high earnings which meant that there was more to lose in the event of a dispute.

On the employee and union side, a quarter of the union representatives surveyed by Baker Mallett reported that their members told them that they had received benefits under the MPA, the principal ones being pay alignment, high earnings, and industrial relations stability; 13% said that their members were not aware of any benefits; and 62% reported both benefits and drawbacks. The main reasons members reported no benefits from the MPA were the use of agency labour, the ban on site meetings – a monthly site meeting was provided for under the JIB agreement applying elsewhere in the electrical contracting sector – and a lack of understanding of the rules. For similar reasons, 37% of union respondents said that their members' aspirations were not being met compared to 25% reporting that they were met, and 37% reporting that some were and some were not. 50% of the Unite respondents said that their members were reporting greater job satisfaction as a result of the MPA, citing higher earnings as the most important factor; 12% reported less job satisfaction, referring in particular to the absence of the monthly JIB meeting; and 28% reported greater job satisfaction in relation to earnings but concerns over grievance procedures and a number of other issues. On the basis of this report, suggestions for improvement to the MPA were put forward; these included greater clarity in the wording of certain clauses to eliminate the potential for ambiguity, possible inclusion of related trades including Thermal Insulation, the earlier identification of in-scope contractors, a more active role by the union in drawing up the SPA, and the reinstatement of the monthly meeting for the JIB operatives (Baker Mallett, 2008: 16).

4. Assessment and conclusion

If the T5 had followed the industry norm for construction 'megaprojects', it would have been between 18 and 24 months late, over budget by a billion pounds, and would have involved the deaths of six people (NAO, 2005). How can the above-average outcome of the project be explained? In the first place, the T5 Agreement was based on a novel approach to risk-sharing under which BAA accepted that the residual risk of failure would remain with it as the client whatever stipulations were made for penalty clauses in contracts with its suppliers. However, the T5 Agreement also addressed wider organizational and cultural issues. The Agreement has been described as epitomizing a 'move away from the lowest initial cost tendering to long term value with suppliers who are able to invest in people, innovation, research and development and equipment', a process which 'has been demonstrated in the results BAA has achieved through increased productivity, improving value and programme predictability and below industry accident statistics (Lane, Lepardo and Woodman, 2005: 3; see also Harty, 2005). Having a single approach to contractual relations with the main suppliers and their own subcontractors, consistently applying the terms of collective agreements and bringing the unions into the decision making process through the MPA and SPA were all part of this strategy (Doherty, 2008: 205).

The wider context also played a role. At the outset, BAA saw itself as in a situation where the project's failure would be reputationally disastrous, bearing in mind its position as both a utility, subject to regulatory pressure for service improvements, and a listed company required to meet shareholder expectations. This was the background against which BAA decided to take an interventionist line in the design of the contractual infrastructure of the project. BAA's explicit adoption of a stakeholder approach, which cascaded down into the MPA and

SPA, confirms the suggestion that a stock market listing is not incompatible with a company taking with a long-term orientation to shareholder returns, when combined with regulatory pressures of the kind which utility companies are generally subject to (Deakin *et al.*, 2006).

The takeover by Ferrovial seems to have had little impact on the completion of the T5 project. Commenting on the impact upon BAA of the takeover, the CAA said that while questions marks existed over BAA's handling of the heightened security requirements and over its recruitment of security staff, 'BAA had, however, proved very good to excellent in some areas, in particular Terminal 5 construction' (Competition Commission, 2007: 1). However, it should be borne in mind that the takeover occurred several years after the contractual framework for T5 had been put in place; BAA's new owners were locked into the arrangements which had been agreed.

In 2007-8 discussions took place between BAA and the MPA Forum concerning the application of MPA in future BAA projects, in particular the plan for a new Heathrow East Terminal to replace the ageing Terminals 1 and 2. At this point, the financial arrangements put in place by Ferrovial to support its takeover of BAA were coming under severe strain. BAA's annual operating profits were barely covering the interest on the loans taken out by Ferrovial. Ferrovial was also being subjected to new regulatory pressures. The CAA had agreed to increase the charges paid by the airlines to use the London airports but it had also reduced the return BAA was to be allowed to make between 2008 and 2013 (Gordon and Mulligan, 2008). In March 2007 the Office of Fair Trading instructed the Competition Commission to investigate whether BAA's market position was limiting competition in the UK aviation sector. In an interim report, published in April 2008, explaining its 'emerging thinking' about the structure of the UK airports market, the regulator concluded BAA's common ownership of seven airports in the south-east of England and Scotland 'adversely affected' competition (Competition Commission, 2008). The Commission plans to publish its provisional findings in August 2008, including possible remedies such as requiring the sale of one or more of BAA's airports, if competition problems are identified (Done and Peel, 2008). It remains to be seen whether the MPA will be used for the Heathrow East terminal.

The wider future of the MPA is surprisingly unclear given its successful implementation at T5. Both the M&E suppliers and Unite have promoted the MPA as a model for further large construction projects, in particular the work for the completion of the London Olympic Games and Paralympic Games in 2012. According to Amicus's response to the Olympic Delivery Authority's Draft Procurement Policy, 'there is a consensus view that the Major Projects Agreement ... adopted for Terminal 5 has set new standards in organising major construction projects ... The MPA has firmly established its value to the client, contractors and workforce on the Terminal 5 project, with enhanced welfare, health and safety, employment reward and industrial relations stability for a project of such a large size'. In October 2007, representatives of the thermal insulation contracting industry signed up to the MPA for the building service industry. The addition of TICA to the current signatories of the MPA means that the MPA now represents the full range of building services engineering disciplines. Despite the expansion of the MPA members and the success of the agreement in T5, officials at the Olympic Delivery Authority (ODA) confirmed in February 2008 that the MPA would not be used to cover M&E work across 2012 sites. The high costs of implementing the MPA (Prior, 2008) and the risk explicitly borne by the client in such cases reportedly played a role in the decision.

Is T5 destined to be a truly unique project, one which confounded normal expectations of adversarialism in British industrial relations, but which, by its very distinctiveness, confirms this general trend? It is unnecessary to look beyond the opening of Terminal 5 on 27 March 2008 to see some familiar problems re-emerging. Large numbers of British Airways (BA) flights were cancelled when the baggage handling operation broke down. It was reported that BA had ignored union warnings that baggage staff had not been properly trained to use the new automated system (Radio 4, 2008; Webster, 2008). BAA publicly maintained that since baggage handling was at the interface with BA, it could not be tested effectively before the opening (Radio 4, 2008).

The successful conclusion of T5 project suggests that it is possible to espouse a stakeholder model of governance within a context where strong legal and institutional support for employee voice is lacking. The project succeeded in meeting a wide range of objectives which included enhancing productivity, cutting costs and ensuring a high quality of end project, while maintaining high employment standards. This was only possible because parties with multiple interests participated in the design of the project from its inception and were represented in the deliberative processes through which the project was managed. Employee representation, productivity bonus schemes, flexible work systems and investments in training, were bundled together to achieve high levels of productivity and quality in employee relations. Employees were asked to agree to flexible working practices in return for enhanced bonuses and a commitment to the use of regular, direct employment and the consistent application of collective agreements.

The Saturn experiment studied by Kochan and Rubinstein (2000), after a similarly promising start, expired against a background of employer inertia, union disenchantment, and shareholder pressure for quick returns. There is a case for seeing Saturn's failure as evidence that labour-management partnerships cannot endure in an environment, such as that in the United States, which provides little institutional support for the stakeholder approach. We may have a better idea of the prospects for labour-management partnerships in Britain when there is evidence of the MPA being taken up in new contexts.

Notes

ⁱ However, these authors (Pendleton and Gospel, 2005: 79) also recognize that the network of relationships between firms and major investors also provides a quick and effective means for investors to force changes on management when a firm is in difficulty.

ⁱⁱ Legislation now imposes information and consultation requirements in respect of certain events, such as impending redundancies (Chapter II, Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C) A 1992), as amended) and transfers of undertakings (The Transfer of Undertakings (Protection of Employment) Regulations 2006, SI 2006/246) and in respect of multinational companies through the European Works Council model (Transnational Information and Consultation of Employees Regulations 1999, SI 1999/3323).

ⁱⁱⁱ The Information and Consultation Regulations 2004, SI 2004/3426.

^{iv} BAA owns and operates seven of the UK's airports at Heathrow, Gatwick, Stansted, Southampton, Glasgow, Edinburgh and Aberdeen.

^v The second phase is due to open in 2011.

^{vi} In other projects, including the construction of the new Wembley football stadium and the extension of the Jubilee line on the London underground, legal costs had formed a substantial proportion of budget overruns. There had also been widespread bankruptcies among suppliers forced to absorb the costs of late completion.

^{vii} The SPA was applied retrospectively to cover the period since 4 December 2003, when M&E work started at T5.

^{viii} Two people lost their lives, against an expectation of six deaths for a project of this size. In terms of major injuries, 600 were expected. This was the equivalent to the reportable incidences, and in fact T5 was three times better than the industry average (Doherty, 2008: 112). In repeated employee surveys, over 75% of the workforce felt that T5 was the safest site they had worked on and over 60% thought it was a good place to work (Doherty, 2008: 106).

^{ix} Doherty (2008: 208) notes that 'while coming very close to disputes on a few occasions, with the most militant being the mechanical and electrical workforce, there was ultimately a T5 strike for seven days among the civil engineering workforce.' In the interviews we carried out with employer and employee representatives, the absence of industrial action in the M&E side was partially attributed to the definition of bonus regimes prior to the commencement of M&E work in the MPA and SPA. While there was some tension over the up-rating of bonuses, the approach taken to implementing this aspect of the agreements was described as effective, giving certainty to both workers and contractors, to the substantial benefit of the project itself. A further relevant factor was that SPA specified that no bonuses would be payable to workers in respect of any week during which they take part in unofficial strike action. Worker attitudes to this potential penalty were ambivalent, with some seeing it as an undue constraint on their participation in union activities (interview notes).

^x Changes to tax law acted as a catalyst in a dispute over employment status. Under the Finance Act 2007, that income received by individuals who provide services to an end user via a 'managed service company' or 'MSC' became taxable as employment income. In T5, a great number of labour agencies provided labour through the so-called 'composite company' vehicle: workers were classified as directors of their own company, rather than employees of the agency of the contractor that had hired them. Workers received dividends which were classed as 'unearned income' it was not taxable under PAYE. The union claimed that the replacement mechanisms that the agencies used so as to comply with the 2007 legislation did not comply with the MPA and SPA, as they amounted to self-employment. The dispute went to stage 4 of the dispute resolution procedure and the panel set up for considering the issue decided in favour of the union. Industrial action was also averted in the last months of 2007. The issue concerned the organisation of selective industrial action over the negotiations over pay that were at that time taking place outside the scope of the MPA and SPA.

^{xi} The total clocked hours were 9,762,347. 7,764,595 were basic hours, 1,439,482 were overtime from Monday to Friday and 558,269 were overtime during the weekend.

^{xii} Total absence includes unauthorized absence and sickness.

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