

Your opinion about Disruption/Delay of Site Access - without proof of incurred Costs -

A \_ Situation Railway project with Bridges and Tunnels – 100 km long.

The Employer provided the site access –in portions – late. The graph illustrates the circumstances.

**A1 ... Ahead of Covid :** The Contractor was in delay due to his own lack of production. The graph demonstrates the site access (planned / actual) and the delayed production up to the start of Covid.

**A2 ... during Covid:**

The Contractor delayed furtheron the rate of progress due to own lack of production, due to Covid (50% reduced deployment of resources) and **alleged site access !!!** The Contractor submits Interim claims for Covid SC08.4 and Site Access / SC02.1 frequently – without providing a revised Work Programm and his intention, how he want to tackle the disruptions and when he will finish the project (**adjusted Time for Completion**)

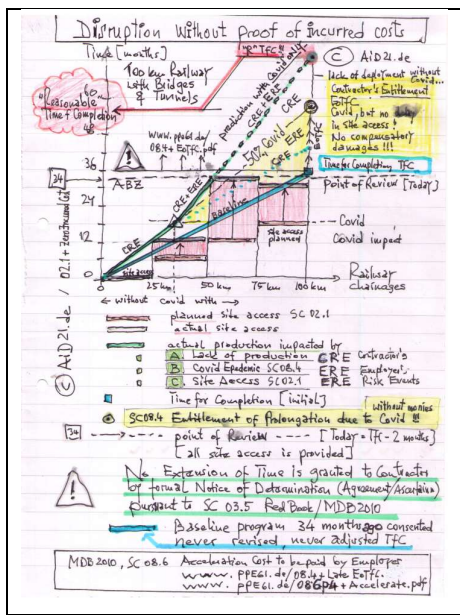
**A3 ... Point of view (today ... Month M34 = 2 days ahead of “initial” Time for Completion M36)**

The Contractor submit his Final Claim for late Site Access with just a “prolongation time” and “Costs” with a high amount. The Contractor does not provide any prove about his incurred cost.

**A4 ... Upon date of “initial” time for Completion (Month M36)**

Up to now, the Employer/Engineer have not issues a formal Notice of Determination with the results of consultation, agreements or ascertainment pertaining to SC03.5 (Red FiDiC Book, MDB2010).

The Contractor is definitely entitled for Extension of Time for Completion (EoTfC), hence the Employer cannot request the Liquidated Damage upon Month M36.



B \_ Thoughts

**B1 ... Revised Work Programs**

The Engineer has several requested to submit a revised Program subject to SC083+SC08.6. Even extra Shift work (which is not defined in the PCC) have been introduced, however, the disruption and delay situation could not be relaxed. The resources for supervision and Sub-Contractors increased the Expenditures.

**B2 ... Interim Claims** “Delay due to SC02.1) for one section / part of the works only > Chainage km50 to km70. **Final Claim submitted 2 months ahead of “initial” Time for Completion.** The TfC never changed / adjusted in compliance with the FIDIC Contract Law during the execution period.

**B3 ... Interim Claims** “Delay due to SC08.4 / epidemic causes. No Final Claim has been submitted

**B 4 ... Variations .** The Contractor has never requested Design Modification Costs and prolongations for change in Variations. And never asked for time impacts due to **Quantity** increases. Why? That should make everybody think.

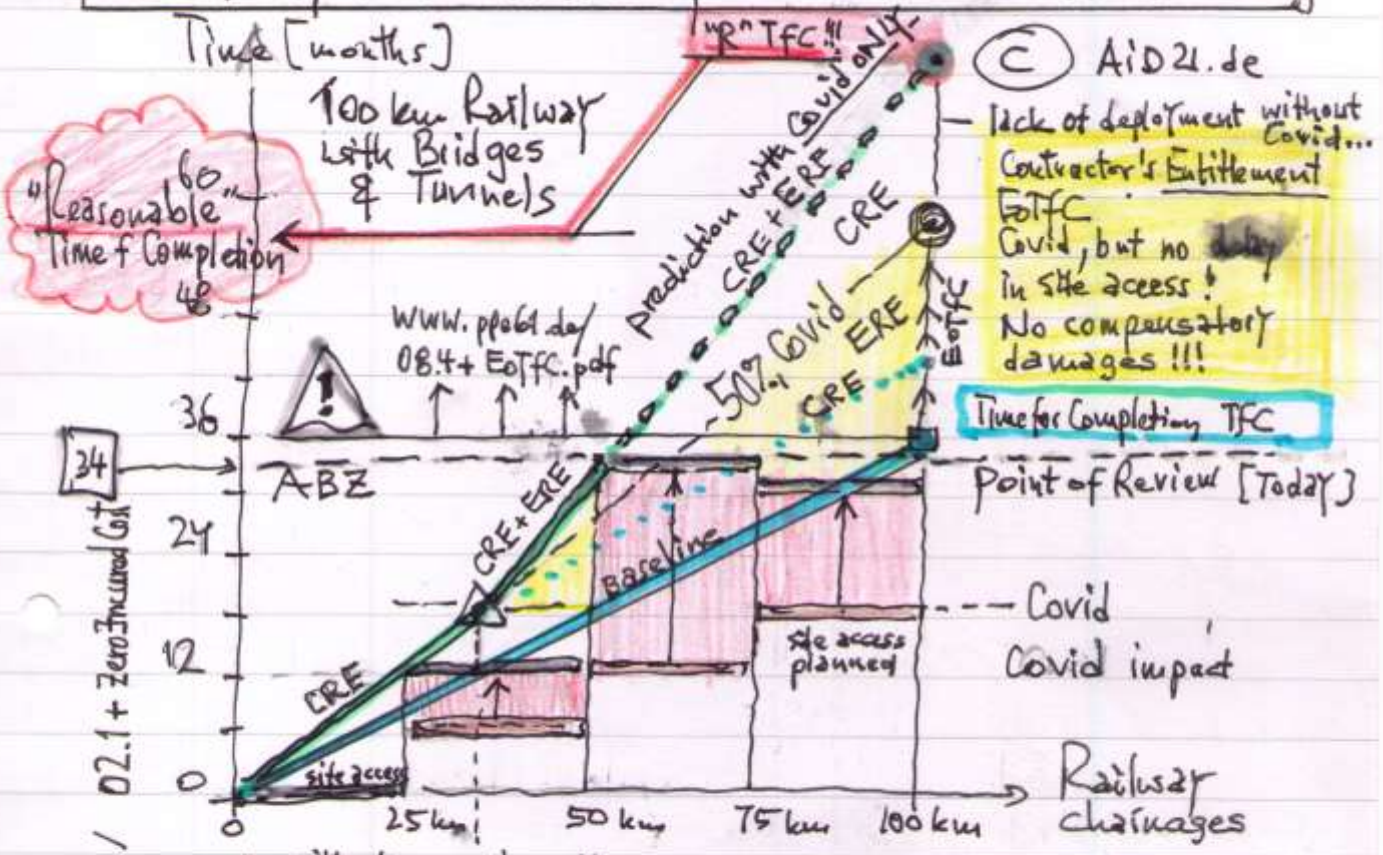
C \_ Your opinion (“unbound”) is highly appreciated to the TOPICS

- C1 ... Would you **proceed with the “Final Claim SC02.1, late possession of Site ONLY?**
- C2 ... Do you consider also ALL circumstances of the disruption and delay issues in order to consider also epedmic / covid issues? No impact of the extension of TfC due to Variations (Design, Quantity increases,...)
- C3 ... Would you **derive to the Conclusion** as stated next?
- C3a .The Contractor is **not delayed due to late Acss to Site**. He has anyway not proven the impact in his revised Workprograms to show, how he wants to overcome the disruption and delays.
- C3b . Furtheron **he cannot substantiated incurred costs** due to “late possession of site” frequently.

Annex >>> Sketch with Disruption of operatons without proof of incurred costs

**Baseline Program only**, planned and actual site access dates, actual Production loss due to **CRE, ERE and CRE+ERE**, Point of Review M34, “initial” Time for Completion M36, **Entitlement of the Contractor** to prolong the TfC due to Covid to M60 (not only [www.aid21.de/03.5+ClaimSC.pdf](http://www.aid21.de/03.5+ClaimSC.pdf) ; “**resonable Time for Completion**” M72, if EoTfC is not “Determined” by Engineer (Time at Large?) [www.ppe61.de/08.4+LateEoTfC.pdf](http://www.ppe61.de/08.4+LateEoTfC.pdf)

# Disruption Without proof of incurred costs



- 02.1 + Zero Incurred Cost
- AiD21.de
- without covid with
- planned site access SC 02.1
- actual site access
- actual production impacted by
  - A. Lack of production GRE Contractor's
  - B. Covid Epidemic SC08.4 ERE Employer's
  - C. Site Access SC02.1 ERE Risk Events
- Time for Completion [initial]

SC08.4 Entitlement of Prolongation due to Covid!!! (without monies)

point of Review [Today = TFC - 2 months] [all site access is provided]

**No Extension of Time is granted to Contractor by formal Notice of Determination (Agreement/Ascertain) pursuant to SC 03.5 Red Book/MDB2010**

Baseline program 34 months ago consented never revised, never adjusted TFC

MDB 2010, SC 08.6 Acceleration Cost to be paid by Employer  
 www.ppe61.de/08.4+LateEoTFC.  
 www.ppe61.de/08.6p4+Accelerate.pdf