THE PRINCIPLES IN ASSESSING THE QUANTUM OF ACCELERATION CLAIM FOR INTERNATIONAL PROJECTS

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A project report submitted in partial fulfilment of the requirements for the award of the degree of Master of Science (Construction Contract Management)

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AUGUST 2012
I declare that this project report entitled "The Principles in Assessing the Quantum of Acceleration Claim for International Projects" is the result of my own research except as cited in the references. The project report has not been accepted for any degree and is not concurrently submitted in candidature of any other degree.

Signature
Name  DEDENG JEFRI ARTHUR
Date   8 AUGUST 2012
Praise for Yahweh Almighty in the name of Yeshua Ha Masiakh
Dedicated to my parents Abraham Ruskan and Naomi Nikem,
To my wife Iin Desi Pradiaty,
And my precious daughter Denise Jessica Arthur
ACKNOWLEDGEMENT

I have met and contacted with many people who gave me constructive contributions in preparing this Master Project. Their shares of knowledge and experiences have supported and enhanced my understanding and thoughts. In particular, I wish to express my sincere appreciation to my Master Project’s supervisor, En. Norazam Othman for the assistance, guidance, critics, motivation, patience, and friendship. I am very thankful for all those efforts, and I do believe without any those endeavours, this project would not have been the same as presented here.

I am highly indebted to Ministry of Public Works (Kementerian Pekerjaan Umum) represented by Badan Pembinaan Konstruksi, Republic of Indonesia for funding and sponsoring my Master Project. I am also indebted to PT. Wijaya Karya (Persero) Tbk. for giving opportunity to obtain postgraduate education and for supportive funding. Management team of East West Motorway Project of Algeria also deserves special thanks for their support and favour.

My fellow postgraduate, students should also be recognized for their support. My sincere appreciation also extends to all my colleagues and others who have provided assistance at various occasions. Their views and tips are useful indeed. Unfortunately, it is not possible to list all of them in this limited space. I am grateful to all my family members.
ABSTRACT

This study is concerning on additional costs claims due to accelerative actions undergone to overcome time-related issues occurred during construction process. The study is pertinent to international projects which appoints case study on East-West Motorway Project of Algeria in scope of contracting relationship between *Consortium Japonais L'Autoroute Algérienne* (COJAAAL) and PT. Wijaya Karya (Persero) Tbk. (WIKA). By many times, claims may generate disputes in its quantum assessment, which the claims quantum requested by the Claimant could be not fully ascertained or simply reduced by the Defendant as occurred in the aforementioned project. The study is aimed to determine the principle in assessing the quantum of acceleration costs claims whether it will be tested by way of litigation. Furthermore, the study is substantially important in presenting possible scenarios or treatment in which disputing parties may settle acceleration costs claims most probably based on the law of the country that the project located. In order to reach the goal, this study is generally organized its research methodology into stages, i.e.; defining research problem, reviewing theories, designing research, collecting data, analysing data, interpreting and reporting the result. Specifically, this study is generated by method of law case analysis using LexisNexis®, an online law report searching tool. Acquired law cases are sorted and filtered to obtain the most adequate and relevant case for the study analysis. Law case analysis consists of elements for defining the case, i.e.; facts, proceedings, applicable law, issues, ambiguity, reasons, and decision. Eventually, the results of law case analysis present whether quantum assessment issues of acceleration costs claims may arise from such valuation method specified in contracts such as on provision of ‘Variation’, misinterpretation upon such formula exercised by the quantum experts, valuation on whole-time-lost basis, matter of entitlement of constructive acceleration, the credibility of the evidence and facts supporting the claims, utilization of quantum meruit principle, acceleration quantum
valuation which incorporated to delay and disruption claim, and guesstimate valuation by the Claimant. Among those analysis results, the significance of the quantum assessment issue for acceleration claims is concluded that ‘terms of contract’ are to be the primary basis in solving the issue.
ABSTRAK

fakta yang menyokong klaim, penggunaan prinsip *quantum meruit*, penilaian kuantum akselerasi yang termasuk dalam klaim *delay and disruption*, dan penilaian yang kira-kira oleh Pemutut. Di antara semuanya itu, kepada isu penilaian kuantum klaim akselerasi disimpulkan bahawa 'terma kontrak' adalah asas utama dalam menyelesaikan isu ini.