The failure of the Jadar Project in Serbia should be viewed as an opportunity for all role-players to recalibrate their processes in line with ESG principles

The northern hemisphere’s summer of 2022 will be remembered as one of the hottest in recorded history. For example, Nasa reported that June was one of the hottest Junes on record. The UK, in turn, experienced record temperatures in July.

On May 14, the city of Jacobabad, Pakistan, became the hottest city on Earth, when temperatures peaked at 51ºC. Contemporaneously other parts of the world suffered devastating climate change-related fires (such as those that blazed across France) or floods (including the August 8 large-scale floods in Seoul).

These events provide an unfortunate prelude to the Sharm el-Sheikh Climate Change Conference scheduled for November (better known as COP27), which is now less than three months away. While it remains critical for governments across the world to remain committed to the undertakings provided under the Paris Agreement, words without actions are of little value to those who are being (or will soon be) affected by increasingly severe weather events.

It should therefore come as no surprise that the demand for clean energy solutions has significantly increased. The sale of electric vehicles is an important example. According to EV-Volumes data, more than 900,000 new passenger plug-in electric cars were registered in June 2022. This represents a 54% increase year on year. If the trend continues into the second half of the year it could lead to more than 1-million electric cars being sold each month and more than 10-million over the course of the next year.

The single most important impediment to this growth trajectory, according to a July 2022 report by the International Energy Agency (IEA), is the supply of critical minerals and metals used in the manufacture of batteries. According to the IEA, battery and minerals supply chains will have to expand tenfold to meet government electric vehicle (EV) ambitions.

Following the increased demand for battery metals during the pandemic the prices of raw materials such as cobalt, lithium and nickel surged. In May lithium prices were more than seven times higher than in early 2021 owing to unprecedented battery demand and a lack of sufficient investment in new supply capacity.

The demand for key minerals such as lithium will only increase as the global community continues to race towards net zero by 2050. Whether or not we will succeed depends on access to the required minerals.

Controversial Jadar Project lithium mine

On April 3 Aleksandar Vučić was re-elected for a second term as president of Serbia, with the coalition formed around his party, SNS, winning the most seats in the National Assembly, albeit falling short of an outright majority. Vučić’s re-election followed the widely publicised January 20 cancellation of what became known as the controversial Jadar Project, the proposed development by Rio Tinto of a $2.4bn lithium mine in Serbia.

While the government’s actions raised new questions surrounding the future of the lithium mining industry in Serbia, in the light of the IEA’s recent report it also poses existential questions for global supply chains.

The cancellation of the Jadar Project followed months of countrywide protests over the potential environmental impact of the project. The affair gave rise to intense speculation over the introduction of a possible blanket ban on lithium mining in Serbia; president Vučić’s previous administration had promised to defer such a decision until after the election.

The introduction of such a ban would prove to be a mistake. The mineral deposits at the heart of the Jadar Project are located underneath a river system in an agricultural area that is prone to flooding, giving rise to a material environmental risk. The Serbian government did not have a direct stake in the proposed lithium mine and so could not justify the project on the basis that it would fill public coffers. The government consequently did not believe it could do what governments elsewhere do when they have a fair deal: politically and publicly defend it.

The Serbian government had hoped to use the project as a basis to attract further investment across the batteries sector, including the manufacturing of batteries and battery-reliant products, such as EVs. However, the government was unable to present to the public concrete assurances that the project would lead to the creation of more than a small number of relatively low-skill mining jobs. As a result there was a widespread sentiment among the Serbian public that the main beneficiaries of the Jadar Project would be European carmakers and consumers, who would benefit from Serbia’s cheaper labour costs at the expense of the Serbian environment.

By December 2021 thousands of people across the country had began protesting, and the matter quickly became the leading electoral issue in the build-up to the general election on April 3 2022. As a result, on January 20 the government announced that it was revoking all of Rio Tinto’s permits relating to the project, with the promise that it would consider introducing an outright ban on lithium mining following the general election.

Although the Jadar Project was ostensibly cancelled over concerns regarding the potential of environmental damage, it is important to note that Rio Tinto had complied with all applicable local laws. The project was cancelled prior to the completion of a final environmental impact assessment, as mandated by Serbian law, meaning the public furore over the potential environmental damage was not supported by a comprehensive scientific assessment.

The failure of the Jadar Project is therefore an important example of a mining project being cancelled owing to reaching a critical level of opposition from the public, also referred to as a loss of the “societal licence” to operate that may not have existed in the first place.

Managing the ‘S’ in ESG

The episode illustrates the reality that public acceptance is the currency on which mining companies trade. Such acceptance of a mining company can make or break a project, including one with strong central government backing. Accordingly, mining companies must be sensitive to the fact that globally the sector is often not trusted by communities for a variety of reasons (often outside the control of the companies themselves).

Companies must become better at convincing communities, authorities and the public that they can be trusted because they have a well developed understanding of the social risk factors that are most relevant to each individual project, rather than adopting an unchanging, one-size-fits all approach. The lack of a social impact assessment in Jadar (with an integrated human rights impact assessment), in line with industry best practice (though not required by Serbian law) proved fatal in this regard.

At the same time, the failure of the Jadar Project cannot rest on Rio alone. Jadar’s host government partner, the previous Vučić administration, expended political capital in promoting and advocating for the project until the affair became a serious electoral risk. The public was not persuaded by arguments that the project had been conducted in accordance with the applicable regulatory regime, largely because the regulatory regime itself simply was not aligned with the public’s evolving expectations. Governments, as well as mining companies, should be mindful of the fact that public-interest projects are always subject to scrutiny under the evolving criteria of societal expectations.

This is not in itself a new concept; it is simply the case that the public expectations on mining companies are increasingly becoming much more demanding than the legal requirements imposed by national regulatory regimes. The episode should be seen as a timely reminder for national regulators and mining companies should recalibrate their processes to be founded in environmental, social and governance (ESG) principles.

Moreover, if governments and national regulators wish to remain the final decisionmakers over which mining projects are deemed to be in the public interest, they must ensure that the legal and regulatory regimes in place reflect the evolving expectations of the public in each stage of the development and operation of a mine such as Jadar.

The role of international financial institutions should likewise not be overlooked in this regard. Although they did not feature prominently in the Jadar Project, similar projects in developing countries are often financed (at least in part) by large international financial institutions such as the World Bank’s International Finance Corporation or the US Development Finance Corporation. In view of the importance placed by stakeholders on the reputation of mining companies, the backing of those international financial institutions is often used to buttress the credentials of sensitive projects.

Where this is the case the relevant international financial institutions are well placed to guide, through their well-developed performance standards, both mining companies and governments in navigating the challenges associated with obtaining and maintaining a project’s societal licence. This may include, where appropriate, making the availability of financing conditional on the relevant mining company satisfying certain ESG-linked criteria.

History is the best teacher

It is clear that the failure of the Jadar Project has exposed a breakdown in public trust and fault lines between the expectations of mining companies, governments and the wider public. However, extractive resources which are associated with “green” industries, such as lithium, present a unique opportunity to combine economic development with the advancement of the transition to low-carbon energy sources. Despite the associated challenges, entirely foregoing the extraction of such resources would be a mistake which is likely to have worse environmental consequences in the long run.

Accordingly, rather than resulting in a ban on lithium extraction, the failure of the Jadar Project should be viewed as an opportunity for investors, governments and international financial institutions to recalibrate their processes in line with ESG principles, to facilitate the sustainable growth of the mining sector. To achieve this a delicate balance must be struck between the ability of companies to turn a profit and the need to promote sustainable economic development and combat the effects of climate change in line with societal expectations and the concerns of the broader citizenry, Business Live writes.