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The Canary in the Cage: Community Voices and Social License to Operate in Central Eastern Europe

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ABSTRACT

This paper is the product of SRK Exploration Services UK (SRK) through the EU funded Horizon 2020 INFACT project and research undertaken as part of the doctoral study by an associate consultant. It looks at European wide research through INFACT and marries it with doctoral research into the mining sector and communities in Serbia, in-order to illustrate general and country specific issues around social license to operate. Using a Balkan perspective, the paper illustrates how gaps are created in the extractive industries conceptualization of host communities and how that precipitates social licence to operate failures. It raises some challenging questions around the extractive industries use of the stakeholder concept and questions how equipped the sector is to engage and assess community-based business risk. Part of identified solution to social licence failure is the extraction industry engaging with the conflict and enabling dissenting voices at an early stage of project development, rather than quelling them. This is based on the premise, that resolution to social licence issues is more likely if local communities are supported to retain control of and articulate potential conflict, rather than the conflict being captured and utilized by external actors whether they are NGOs, oligarchs or politicians who can utilize these unsecured conflict narratives.

INTRODUCTION

The early foundation for the research underpinning this paper came from the INFACT project. The INFACT Horizon 2020 European Union funded research project, started in late 2017 and is undertaking EU wide research across the mineral and mining sectors, to identify barriers to mineral exploration in the wider Europe. The research project focuses on the development of three reference sites in Spain, Finland and Germany, to determine social and technological barriers to exploration and to develop and trial innovative techniques to address these barriers.

The challenge is clear;

“Despite its rich history of mining and residual mineral wealth, current conditions within the EU present a number of social, political, legislative, cost, technical and physical obstacles to raw material exploration: obstacles to be overcome by innovation, dialogue and reform.” (INFACT Project Documentation (2017 pg87).

This puts the matter very plainly, barriers to mining and exploration exist and there is a need for innovation to deal with social, political and legislative matters as well as technical issues, were the sector has traditionally has arguably been stronger. That is the focus of this paper, utilising the specific challenges which are likely to face Serbia over the next decade to justify and define a paradigm for moving forward. Defining types of social licence challenges for both exploration and mine development generally, this paper looks at regional specific issues in the western Balkans. It does this initially by drawing on the European wide survey of ‘expert stakeholders’, defined as people who had a professional interest and or involvement in mining and mineral exploration, to set the scene for a more in depth study on the Central Eastern Europe Region and more specifically the Western Balkans and the notion of a social licence to operate. The survey was coordinated by SRK Exploration Ltd (UK) and the subsequent focus on and analysis of the Central Eastern Europe Region and the Balkans, draws extensively on doctoral research undertaken by Mark Proctor, Sazani Consulting and Swansea University.

Expert stakeholder survey

INFACT carried out a digital survey early in 2018 receiving some 124 responses from some twenty countries across Europe. The greatest proportion of survey responses were from UK, with Bulgaria and Germany second and third respectively in terms of numbers of responses (SRK INFACT Report, 2018). Significantly;

“20% of respondents were from ‘other’ countries than those listed and included representatives from - Bosnia and Herzegovina, Croatia, France, Ireland, Lithuania, Norway, Poland, Russian Federation, Serbia, Slovakia, Sweden, Turkey and the Ukraine. Almost 70% of the respondents were male, and just over 25% female. 5% did not specify”. (Infact 2018 Pg3)

This survey was distributed through professional and interest networks with support from the European Federation of Geologists and their national associations. Information and data was captured from a “ broad mix of sectors and specialisms.... Around 30% were from academia and consultants with the rest made up of private companies, government / civil service representatives and NGO’s” (Infact 2018 Pg3)

The results of the INFACCT survey frame the prescient issues and the collection of data from a wide cross-section of those affected by European mining and mineral exploration. The survey provided a useful platform to move conceptually from a regional to both a European and local focus, with regards to identifying barriers to exploration. "Land use" as a broad term, was the most significant identifiable barrier but throughout the research there were indicators that relationships between local communities and the mining sector needs significant remedial work. Significantly for what this paper suggests, the Europe-wide survey noted that,

"Ideological opposition and political interests were the second and third highest rated socio / cultural barriers to exploration." (Infact 2018 Pg10)

The INFACCT survey respondents recognised the indicators of civil society driven challenge to social licence to operate (SLO);

"Several responders highlighted the strength of environmental opposition groups and lobbyists in preventing exploration activities and corruption in politics and politicians themselves were also seen as barriers relating to political activity." (Infact 2018 Pg6)

Overall the survey identified that respondents felt,

"social acceptability and community relations are undoubtedly important according to participants from the countries represented and yet public awareness, is low and opposition is high."

A Social License to explore and operate

The term *Social Licence to Operate* was first coined by Jim Cooney in the last century (Cooney, 2017) and Boutilier, (2017:2) makes the point, that Joyce and Thomson (2000) made the first attempt to define an existing social licence to operate within the academic literature as being,

" when a mineral exploration or mining project is seen as having the approval, the broad acceptance of society to conduct its activities."

Recently, the term Social Licence, has gained gravitas in the mineral and mining sector to define the breakdown in social relations which result in costly problems for the mining operations. The vagueness, lack of criteria and measurability of social licence presents a concern (Bice 2013).

As social theorists, have looked closer at the social licence concept there has been, due to the attendant complex social and political chemistry and it's embeddedness in "stakeholder theory" (Elson, & Goossen, (2017) Mansell (2013a), an apparent fragmentation of focus and a proliferation of definitions. Other concepts associated with a social licence are "social risk", "business risk" having emerged from "non-technical project risk" and "socio-political risk" (Parsons, Lacey, & Moffat. (2014).) Kemp (2017) examined the notion of business risk to mines emerging from social risk through a "bounce"; the impacts of the mines on communities causing a corresponding rise in the level of business risk through some yet, uncontrollable process. Sandy Worden (2016) suggests that "social risk" should perhaps be more correctly used to describe the risk to the community from mining and prefers the term "social acceptability risk", a term coined by Miller and Lessard in 2001, to define that risk most closely associated with social licence. The question at hand may be "risk" to whom? There are also theoretical perspectives supporting the reconceptualising of the physical and

conceptual boundaries of “the project” that we need to explore, if we want to understand the relationships and complexities around a mine project (see Sage, Dainty, & Brookes (2011)). Theoretically this brings us back to a critique of stakeholder theory and who creates company value. There are a range of debates that are likely to grow as the mining sector recognised that the existing conceptualisation of the value creation paradigm, excludes the recognition that a lack of active cognizance of communities’ sovereignty and engagement to reach acceptability in terms of operational processes, can bring mine operations to a halt.

For the most part, mineral and mining professionals are engineers and/or geologists with incredible expertise in how to assess the quality and extent of ore body, how to extract it and the associated problems. Mining investors rarely deploy the same level of expertise in how to explore, extract, establish and maintain positive relationships with the body of people above ground, that have a societal claim on the land to be prospected or mined as (MacCallum 2016) as well as a potential implicit claim on the underlying sovereign wealth. Legally that last statement can be seen as contentious, yet there lies the real issue, the law and official permits do not guarantee either a social licence or the ability to extract resources.

From a mining company’s perspective, the environmental and economic contexts of a geographical locality tend to be better understood than the local social context. This can be attributed to the difficulty in quantitative measurements of social issues compared with environmental, physical and economic, rather than a lack of interest in the social aspects. Companies express difficulties in being able to demonstrate change and attributable benefit. It also leads to a “how do we fix it now it is broken” mentality in a sector poorly served with practitioners who understand communities and mining.

Consequently, there is a tendency to frame issues from a technical and environmental perspective (Bice 2013). This extends to establishing and trying to maintain a social license, especially when social impacts are not adequately communicated or understood (Blowfield 2007). There is rarely a single cause or solution to a breakdown in social relations or loss of a social licence it is a process driving failure.

From initial exploration through to the closure of a mine operation, a social licence evolves and while environmental impacts can be offset monitored and managed, social impacts if not properly understood and managed from the outset, can result in an intractable situation that becomes unmanageable, resulting in the loss of a social licence to explore (SLE) and a social licence to operate (SLO).

Many social problems and risks can be attributed to a lack of understanding of the social setting, resource use and relationships that define community social fabric and land use context prior to the mine’s arrival. This is then often accentuated by the physical and economic displacement of a host community, resulting in a shift from a traditional subsistence economy to a cash based economy, increasing their vulnerability (MacCallum, 2014).

Most of the literature focuses on failed SLO relating to operational mines, with insufficient attention paid to the exploration phase or what happens during the transfer of ownership, merger and or acquisition process that most mining projects pass through before becoming an established operation. It has become widely acknowledged that,

“A SLO is based on the degree to which an operation and its activities meet the expectations of local communities, the wider society, and various constituent groups.” (Gunninham et al 2004:307).

In a review of recent literature on approaches to measuring a SLO, it has been acknowledged that internally focused management systems for environment or health and safety may not be appropriate for social or community relations, with too much of a focus on risks and not on opportunities (Kemp and Owen 2013). Boutilier and Thompson (2011) have developed a series of attitude and perception surveys to measure a SLO through stakeholder’s level of approval and acceptance, focussing predominantly on social capital to assess their relationship with the mining company.

Boutilier, Thompson and Kemp each focus on the relationship between a mining company and its host community and to some extent they consider how responsible the mining company is in relation to its internal policies and processes. They do not however consider the relationship between the different stakeholders, within the host communities and/ or with their governance structures, depicted by regulatory processes, institutions or policy makers, or the pre-existing development challenges of the area.

The loss of an SLO is often fuelled by the community based stakeholder’s perceptions of losing something valued, no matter what it will be, or has been, replaced with. Welfare economics defines this as the *Endowment Effect*, with potential losses being regarded as greater than any promised gains. Therefore, knowing and understanding what people value and why, is essential. Sustainable development practice focuses on the assets and strengths within a community that can be built on to reduce poverty, instead of focussing on perceived needs. The mining sector is well placed, as a strategic investor, to benefit from the lessons learned in the development sector and to combine responsible practice with effective relationships.

A mine or prospective mine’s lack of a positive relationship with a host communities is a tangibly risk to business. This is supported by lessons from the mining sector. EY in their 11th annual report titled [Top 10 business risks facing mining and metals in 2019-2020](#), identified SLO as the single biggest issue facing the sector with,

“54% of survey respondents say license to operate is now the biggest sector risk”

Identifying the driving factors Paul Mitchell, EY Global Mining & Metals Advisory Leader, says, “[Social] License to operate has evolved beyond the narrow focus of societal and environmental issues. There are now increasing expectations of shared value outcomes from mining projects. Any misstep can impact the ability to access capital or even result in a complete loss of license – particularly in light of the increased use of social media, which makes potentially negative publicity more globally visible than ever. Miners need to take responsibility for helping to overhaul the image of the industry by communicating the value they are adding to local communities and economies, and by working to ensure that key stakeholders are taken along on the journey.”

Recent research on SLO through an overarching review of the literature by the Canadian International Resources and Development Institute (CIRDI) make the point;

“The significant increase in conflicts associated with mining operations since about 2000 has occurred in the context of a general rise in large-scale protests globally, particularly associated with land and environmental issues, and an unprecedented increase in global exploration and mining activity

during this period.” Andrews, Elizalde, Le Billon, Hoon Oh, Reyes and Thomson (2017)

A European Perspective

Based on both desk research and a wide range of interviews undertaken in the summer of 2018 in the Balkans, through a process enabled in Serbia by the University of Belgrade and supported by Serbia mining authorities, the private sector and numerous communities in different locations in Serbia, a clear picture of a country and sector in transition emerged. Drawing on the key findings from the INFACT expert stakeholder survey to determine SLO Challenges, Central Eastern Europe and Serbia as an accession country was focussed on in detail.

From the INFACT survey three challenge areas were identified: existing land use; ideology and political interests and finally social and cultural identity.

Land use across Europe tends to be state controlled and governed by planning law. This supersedes the need for international standards that are applied in non-OECD countries. However, the regulatory frameworks and European standards being applied tend to be environmental in focussed and generally do not consider the sociocultural implications.

Societies in Central Eastern Europe have emerged from communist/socialist states evolving through a variety of processes towards a neoliberal, capitalist model of mining in need of foreign investment to develop tired and often redundant (abandoned) mining infrastructure to comply with European standards.

Across Europe there is a growing trend towards resource nationalism, as the tendency of people and governments to assert control over natural resources located on their territory. Eerola (2017) details that in Finland for instance, “[T]he foreign ownership of mining companies and the resulting resource nationalism became critical factors for opposition [towards mine development]” (Eerola 2008, 2015, Jartti et al. 2014).

The European neoliberalism model of mining finance depends on mobilising international capital to unleash the State’s potential and deal with the legacy of a soviet style mining sector. Several of those interviewed made the point that to expect one country in Central and Eastern Europe (CEE) to transform socially and economically, in a completely different way to another would be foolish. Building State apparatus capacity to deal with complex legal and social challenges and political and media lobbying in terms of mining, requires significant investment and access to experience. It does not appear that the EU has yet committed this type of investment in supporting transition of systems.

This could present a problem, especially if foreign investment is sought or engaged in mineral exploration, especially when a society moves from a state controlled sector to a foreign investment opportunity. The range of expectations and tolerances appears to change when a mining project is no longer a State asset and is a private foreign asset making wealth for those overseas. This drives a demand for what is called local shared value were local communities must see benefits to ensure acceptability.

Serbia is due to complete its negotiations for European Union (EU) membership by the end of 2023, allowing it to join the Union by 2025. Romania, Croatia and Bulgaria have transitioned through this

process. Conditions currently within the EU are slightly different to when these fellow Balkan countries went through the ascension process. There is currently a weakened collective European economy and political turmoil over migration. Serbia is undoubtedly different not just because of its need to normalise relationships with Kosova but has significant cultural ties from Moscow, likely to have been compounded by the NATO bombardment, which is still an issue for popular discussion in Serbia. Nevertheless, Belgrade is geographically closer to London than to Moscow and there are some useful parallels between what is starting to happen in Serbia and what happened in other Balkan countries within the mining sector and across civil society.

Serbia as a nation emerging from the soviet era, has significant complications and other better qualified than the authors could attest to the range of ethnic and political discourses, notably in those areas towards the borders of the country with rich mineral deposits. Serbia will come under pressure from the EU regarding environmental and social compliance in the mining sector in a similar way to other Balkan countries and that is likely to be exploited not just by communities but by the range of actors identified in Proctor's theoretical model for challenges to social licences. (Proctor 2018, Oligarchs, politicians and moral entrepreneurs). He contends that the conflict arising locally around mining represents a type of capital that those seeking power and influence can harness. Once the capital is transferred or used by non-local actor, resolution becomes more problematic and local issues are often linked to wider political and ideological conflict.

USAID (2017) detailed a number of risks to the development of Serbia and I want to concentrate on just two of them here, "political instability" and the "changing role of civil society". The USAID report stated;

"[a]lthough there are more than 18,000 NGOs in Serbia (80 percent of which have no funding), the level of trust they enjoy among the population varies. Many NGOs, particularly those receiving foreign funding and addressing war crimes, often face public criticism and animosity, as they are perceived as anti-Serbian and tools of foreign powers or unwelcome meddlers in Serbia's internal affairs.'

The role of civil society opposing the mining sector elsewhere in the Balkan may be a precursor to events in Serbia. There continues to be a number of significant opposition campaigns to mining in neighbouring EU countries. Recently (15/06/17) a referendum in the town of Trun in Bulgaria was welcomed by Bulgarian President Roumen, where 93% voted against the gold mine,

"while investor Euromax Services said that the result was disappointing but expected against a background of a "political-criminal" scenario against its plans" (Source Sofia Globe).

The Question posed is how this could have happened and why did the investor flee given that,

" the former district governor of Pernik described the referendum as unlawful because under the Bulgarian constitution, underground wealth is "exclusive state property" and management of it is under the authority of the Cabinet."

What role has the EU played in this mobilisation of civil society and the amplification of local voice in a State where not so long ago, locals may not have felt able to challenge the State? Civil society empowerment, as represented by the NGOs, is thus defined relative to Executive power and that can balance change.

Parau (2009) in her work on mining in Romania, details this new context were;

“A focus on domestic actors is called for, as they have been neglected in research on East Europeanisation generally in favour of a focus on accession conditionality and the transfer of formal EU rules (for an exception see Hughes et al. 2004). And yet it is known that in the context of CEE, especially, domestic actors’ preferences and interests matter more than formal institutions.”

The challenges to be faced by Serbian environmental and mining ministries are likely to test their capacity.

Pauru (2009) details that for many in national administration in Romania, as it progressed towards EU membership as Serbia does now,

“[T]he strategic construction of discourses featuring the EU became so pervasive in Romania that local commentators called it a ‘psychosis’; thus hinting how essential new discourses may be to post-communist countries, where all political actors suffer severe material, cognitive and legitimacy deficits.” (pg3)

Failure to capture the potential growth of conflict however will lead to the sporadic adoption of disenfranchised communities by elites, oligarchs, national and international NGO and the press. Discontent could be local populations unhappy at foreigners extracting national wealth or just being present. It may be the Roma, or those affected by failed or failing tailings containment systems, or those unhappy at remote sensing by mining companies, untrusting of State assurances of the benign nature of the scanning from helicopters.

Within a new European Union resourced NGO model for challenge, these opportunities provide a rich form of capital for moral and political entrepreneurs. As Serbia moves toward the EU, there will be growth in NGO capabilities to lobby and without support to build State capacity to engage there is likely to be a significant juxtaposing and subsequent conflict utilizing the mining sector. For the NGOs, this will represent new opportunities to secure resources and publicity drawing on this “discontent capital”. For the State and investors, it will represent a drain on sparse resources and increased business risks. Parau (2006) painted a picture of Romania in this interloping period before joining the EU. She said;

“[b]oth central and local State authorities were highly reluctant to communicate with civil society organisations or include them in policy decisions. Sometimes they were rejected openly and blatantly with comments like: ‘Why should we consult with you? Such things are confidential’; or ‘We disapprove the participation of NGOs [non- governmental organisations], as we have functionaries who are responsible for these things; we will not tolerate all kinds of anti and non-governmental organisations as interloping in State affairs’.

Moving the attitudes and capabilities of a generation of key ministerial personnel and attendant structures used to deal with mining, environmental and social conflict coupled with the attendant publicity, will present many challenges. Emerging from former Yugoslavia, those senior staff will have grown up in State institutions where there was a common national purpose and little ability to express dissent. There is a need for ministries to be adequately resourced and supported to develop the capacity.

Locally based conflicts around the Kolubara lignite mine in Serbia have provided both a platform and justification for international NGOs with an ideological position on opposition to carbon extraction, to mount an attack on the lender, the European Redevelopment Bank (ERDB), by CEE Bankwatch (2019). Most western European countries are slowly making a move towards non-hydrocarbon economies with significant investment in renewables, Serbia has not had that luxury. This attack on ERDB business processes and the Serbia authorities may have contributed to why ERDB would not be interviewed as part of this paper. Significantly the author had no difficulty engaging mining sector actors and the Serbian ministries but ERDB and the “Green Sector” in Serbia were illusive, despite the best efforts of the Green Alliance in Brussels giving contacts, no one would respond to emails or phone calls.

Mining has the possibility of both transforming the economy of the entire Balkans region and supplying crucial material to EU industries. If mining investors anticipate an unwinnable battle with newly vitalised civil society, augmented by well-resourced international NGOs clashing with an unequipped regulatory and political system, it is unlikely to invest significantly. That may be why the Serbia State has made moves in securing Chinese investment for both Kolubara and Bor mining assets, investors who may be less sensitive at this time, to the anti-carbon/anti-mining lobby. There are other forms of the threat on the horizon in Serbia linked to the vitalisation of civil society.

Field research with stakeholders across the country gave acknowledgement to trepidation concerning a term I heard referred to in neighbouring Bulgaria, as the “Green Mafia” (Community, academic and business sector interviews 2018). Knowledge and experience of EU compulsory regulatory mechanisms such as Natura 2000, significantly strengthened the hands of those seeking to either extract benefits from mining actors or indeed stop it from happening. There is no suggestion this process was hijacked by unsavoury elites, just that a section of society managed to harness a form of power emanating from the EU regulatory system and use it to extract resources and concessions from the State and mining sector. There are concerns in Serbia that similar challenges will overwhelm an already under resourced regulatory system.

Social license development in Europe

The achievements of Serbia in developing a legislative framework to secure investors rights (Law on Mining and Geological Explorations, 2015) and attracting external investment from Canada, China and elsewhere are entirely positive.

In interviews some industry stakeholders record the current mining exploration permitting system as a “black box” process. The lack of legal lobbying processes stifles the framing of permits and leaves room for non-transparent communication between stakeholders and allegations of corruption. Raimund Bleischwitz in his work around the “resource nexus” identifies benefit sharing and transparency as critical aspects to successfully navigating local conflict and this is echoed by others. Voice of dissent need to be heard, organised and engaged with if there is to be benefit sharing.

Reform and developing State capacity to understand the necessity of engaging with local challenge to pre-empt external ideological driven challenges, needs to start now if the sector is to be confident moving forward. Supporting a framework for investors and communities to interface is critical at a local and national level.

Early and meaningful community engagement by mine companies successfully supporting the community in building an understanding of the challenges, opportunities and physical impacts likely to be present in the delivery plan is critical. Similarly, an early development of shared content between the mine and the communities, are well known and logical processes for building a platform for a solid SLO. These recommendations are not new to the mining industry (IFC 2007, IFC2012, Oxfam 2007, Slack 2012). There is lacking a systematic approach to capturing data, building relationships with communities and encouraging challenges from communities. Often the staff tasked with engaging with communities are former mining professionals with no training in social engagement programmes or a couple of local people recruited for their excellent social skills. Given the level of business risk engendered by communities and the impact on investment capital, why are specialists not routinely engaged at board level?

Failure to evaluate early on in a process the level of investment required to ensure SLO is a failure of the mine development process and the expected change in ownership and community liability make it hard for early entry players to invest and see a return on that capital. SLO failure could be represented as a game of “pass the parcel” or a ticking time bomb. Some of this business uncertainty could be removed by investors insisting on effective social due diligence and but this would drive investment costs up in early stage projects. Whilst the sector will not like this new hurdle, the costs could be viewed as an investment and properly represented, could be passed down the ownership chain, much as a mineral wealth assessment. This requires the financial sector to recognise the need for risk reduction measures and classify them.

Staff lacking the ability to speak truth to power may feel their job is to quell voices of discontent in the affected communities. National state bureaucracy has also a role to play in facilitating community voice. Similarly, effective operational and evolving grievance procedures between communities and mines, having an effective media management strategy that is capable of timely addressing all stakeholders in a language and timescale they understand and effective early stage mapping of community based livelihoods and understanding the rolling impact of development of the mine on those, will solidify a SLO.

How one engages is critical and work by MacCallum (2014) on livelihoods, underpins that a local system, able to allocate adequate responses to dynamic livelihood challenges for community will build trust and a platform to address issues that may have the potential to snowball. Livelihood are critical levers to work with in-order to secure, maintain and galvanise SLO against the inevitable challenges. Seeing the community as a control on politicians may be an inversion of the present dynamic but it is ultimately potentially less volatile as a strategy for mine developers. Communities with an interest in seeing the mine productive are unlikely to support ideological or political challenges. A shared vision for the future and shared content needs to be built at the start phase of the mine cycle.

Conclusion

Overall the failure to either engage and encourage debate means the “canary in the cage” is not observed and no response is made. As a sector effectively managed by people trained as engineers there are inherent issues in hearing and managing conflict by assuming no noise or visible conflict is

good news.

Engineers respond to problems and try to find solutions. Effective PR and community management by an exploration company can disguise problems and by the time it is apparent it may be too late to engineer an effective response. Managing silence or “keeping the canary quiet” is logically an effective solution if the aim is to add value to an asset short term and sell it on as a toxic asset. Lack of effective community/ social investigation in due diligence has compounded a situation where communities often only know the full extent of proposed operations at ESIA stage or later.

Developing a mechanism for supporting the mineral and mining sector to develop benefit sharing, help it clarify what it needs and enable high standards for engagement with communities, from the outset, presents not only a sensible option but a means to securing and maintaining a social licence. As a driver this requires the financial sector to recognise the need for risk reduction measures and classify them.

Specifically in Serbia, there is a need to find ways to utilise available, EU assets such as the EU Leader+ funds and deliver an alternative mechanism for financing territorial cohesion, address disparities, economic competitiveness and sustainability - ensuring the coherence and coordination between regional and mining sectoral policy. There is a need to construct and organise a social architecture to enable Serbian communities to be heard before they need to shout.

Let the Canary chirp.

ACKNOWLEDGEMENTS

The authors would like to specifically thank the executive committee of the EU INFACCT project, Jon Russell of SRK Exploration UK and Prof Vladimir Simic of Belgrade University for their essential support in the production of this paper. We would also like to extend our appreciation to the various Serbian ministerial staff and mining sector professionals who know the scale of the challenge they face and who are dedicated to making it work for Serbia. This paper has received funding from the European Union 's Horizon 2020 research and innovation programme under grant agreement No 776487.

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