

## AFRICA RISK CONSULTING

### Country briefing – South Africa

31 July 2013

## Summary

*To launch his 2014 election campaign, President Jacob Zuma shuffles his cabinet, removes Limpopo premier Cassel Mathale and installs Stone Sizani as the African National Congress (ANC) chief whip in parliament. Expelled ANC Youth League leader Julius Malema forms the Economic Freedom Fighters (EFF) party whose primary policy is to nationalise the mining industry and expropriate land. The EFF joins a crowded opposition field, including Mamphela Ramphele's Agang SA. The Competition Tribunal upholds a fine levied on 15 construction firms guilty of price-fixing between 2006 and 2009 and turns its sights on the private healthcare industry. Wage negotiations begin in the gold mining sector, entering a 30 day mediation period to close the wide gulf between parties. In the platinum sector Aquarius Platinum secures a wage deal while competitors begin wage negotiations. Eskom's woes mount as construction problems delay completion of Medupi power station until the latter half of 2014.*

## Quo Vadis, President Zuma?

**President Jacob Zuma** (2009 - ) unofficially launched his re-election campaign this month with an array of political changes. South Africa holds general elections in April 2014 and after a lacklustre four years Zuma is attempting to reboot his presidency.

Zuma has taken action at all levels of government, national cabinet level, provincial premier level and in parliament. Internal **African National Congress (ANC)** politicking will dominate Zuma's attention leaving the cabinet reshuffle ineffective. At the national level he reshuffled his cabinet, dismissing potential presidential rival and housing minister **Mosima Gabriel 'Tokyo' Sexwale** and scandal prone **Dina Pule** as communications minister. Pule is under investigation for corruption<sup>1</sup>. Trade unionist **Connie September** is the new minister of housing and former journalist and academic **Yunus Carrim** is communications minister. Zuma has kept his adherents in office, including the underperforming or unpopular **Angie Motshekga** (primary education), **Thulas Nxesi** (public works) and **Tina Joemat Peterson** (agriculture, forestry and fishing). This has disappointed the political opposition, unions and those who want the administration to improve its governance record.

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<sup>1</sup> 'Hawks investigating Pule for corruption', Sapa, 21 July 2013



Portfolio	In	Out
Human Settlements	Connie September (Minister)	Tokyo Sexwale
Communications	Yunus Carrim (Minister)	Dina Pule
Energy	<b>Ben Martins (Minister)</b>	<b>Dipuo Peters</b>
Cooperative Government & Traditional Affairs	<b>Lechesa Tsenoli (Minister)</b> <b>Andries Nel (Deputy Minister)</b>	<b>Richard Baloyi</b>
Transport	Dipuo Peters (Minister)	Ben Martins
Science & Technology	<b>Michael Masuta</b> (Deputy Minister)	
Rural Development and Land Reform	<b>Pamela Tshwete:</b> (Deputy Minister)	Lechesa Tsenoli
<b>Justice &amp; Constitutional Development</b>	<b>John Jeffrey</b> (Deputy Minister)	Andries Nel

At regional government level Zuma removed **Limpopo province** premier **Cassel Mathale**, in part due to his support of former **ANC Youth League** leader **Julius Malema** (see below). Owing to a deep financial crisis the National Treasury put the province under partial administration in December 2011. Mathale will take up an ANC seat in the National Assembly.

In parliament the ruling ANC replaced **Mathole Motshekga** as chief whip with **Phumulelele Stone Sizani**, former ANC **Eastern Cape** chairman and national assembly backbencher. Sizani's political network in the Eastern Cape is an asset in a province where the ANC lost 9 seats in the 2009 poll.

Zuma commands provincial party support in five of South Africa's nine provinces: Kwa-Zulu Natal, the Eastern Cape, the Northern Cape, Free State and Mpumalanga<sup>2</sup>. The Gauteng ANC leadership has been fractious with two political camps centered around Premier **Nomvula Mokoyane** and ANC provincial chairman **Paul Mashatile**. Mokoyane is loyal to Zuma. Mashatile had backed deputy president Kgalema Motlanthe for ANC president in 2012.

*"He [Zuma] isn't as strong as he would like in Gauteng, and of course the Limpopo has been a mess, but he has now installed a loyal cadre (**Stanley Mathabatha**) so the situation [there] should settle".*

Mathabatha has a low profile and was South Africa's ambassador to Ukraine prior to his appointment.

South African presidents are limited to two terms of five years each. With the ANC's next elective conference a year prior to the next general election 2014, the internal ANC race to succeed Zuma will dominate the latter half of his second term, rendering him weak politically.

A former ANC MP characterises the reshuffle as a bid to shore up ANC popularity before next year's election:

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<sup>2</sup> Academic and ad hoc advisor to the ANC

*“Zuma got a strong ANC mandate at ( the ANC elective conference held) at Mangaung (December 2012). But he is a weak state president. The plans haven’t come together. He has to secure a strong (national) election victory in 2014 for the ANC. He doesn’t have much time.”*

## Pretenders to the throne

New political parties are hoping to seize the opportunity of an electorate disenchanted with Zuma’s ANC. The poor delivery of basic services, corrupt elements of the public service and insufficient economic growth to create new jobs are the fundamental frustrations with the Zuma administration. While none of the political parties will topple the ANC nationally in 2014, they have the potential to chip away at the ruling party’s support base. However, the emergence of at least three new parties in an already crowded opposition arena risks splitting an already small vote.

### *The Economic Freedom Fighters*

Former African National Congress Youth League leader Julius Malema launched the **Economic Freedom Fighters (EFF)** in July. Speaking at the launch on Constitutional Hill, Malema described the party’s ideology as “anti-capitalist.” Reviled and revered in equal measure, Malema has the gift of being able to articulate the frustrations of the millions of poor and unemployed South Africans.

The EFF will contest the 2014 elections and its statist manifesto sets out its “pillars for economic emancipation”:

- Expropriation of land without compensation
- Nationalisation of mines, banks and other strategic sectors, without compensation
- Building state and government capacity, to eventually abolish public sector tenders
- Free quality education, healthcare, housing and sanitation
- Massive protected industrial development to create jobs and the introduction of minimum wages
- Development of the African economy
- Open, accountable, corruption free government and society.

It places particular emphasis on the role of a developmental state, calling for state companies to manage cement production and pharmaceuticals, the building of roads and houses, and a state “food-stocking” company.

Prominent **Association of Mineworkers and Construction Union (AMCU)** member **Xolani Nzuza** joined the EFF spurring the possibility that the party could gain support around the Rustenburg platinum fields<sup>3</sup>.

Malema still faces charges of corruption and money laundering relating to a public prosecutor report into the awarding of government tenders to a company he co-owned in Limpopo. The revenue service has auctioned three of Malema’s properties - an unfinished house in the prestigious suburb of Sandton, Johannesburg (\$590,000), a farm (\$250,000) and a residence in Polokwane (\$140,000) to recoup \$1.6m (R16m) back taxes. His fraud trial begins in November. If he is found guilty he could face time in jail in what his supporters will claim is a politically motivated witch-hunt. Other key figures in the party include former ANC Youth League official **Floyd Shivambu** and former convict-turned reality television businessman **Kenny Kunene**.

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<sup>3</sup> ‘Scoop as worker’s leader joins EFF’, iol.co.za, 29 July 2013

## *Agang SA*

**Mamphela Ramphela**, former **World Bank** managing director and vice-chancellor of the University of Cape Town launched Agang SA in June. It has centered its policies on clean governance, creating jobs, improving healthcare and education and lowering crime.

Agang is targeting urban youth and women in Gauteng, Limpopo and the Eastern Cape as its core constituency arguing that the ANC government does not represent their aspirations<sup>4</sup>. Approximately 60% of South Africa's population is under the age of 35<sup>5</sup>.

The party has hired **Benenson Strategy Group**, the US political consulting firm that worked for the 2008 Obama campaign<sup>6</sup>. Hailing from Limpopo and the former partner of Black Consciousness leader **Steve Biko**, Ramphela has the requisite anti-apartheid credentials. However, as a black female leader, Agang has the significant challenge of overcoming a deep-seated cultural misogyny.

## *Democratic Alliance*

The **Democratic Alliance (DA)** is the largest opposition party and controls the Western Cape. The DA has employed the services of US pollster **Stan Greenberg** for its campaign to win Gauteng. The province contains the economic hub Johannesburg and the capital city Pretoria.

DA leader **Helen Zille** and Ramphela had mulled over a possible merger with Zille allegedly offering to stand down in favour of Ramphela and rebrand the party 'The Democrats'<sup>7</sup>. The talks floundered but may inadvertently have helped establish Agang's identity.

## *South Africa First*

Disgruntled former ANC soldiers formed **South Africa First** in April 2013. Launched by expelled **Umkhonto weSizwe** (the ANC's armed wing prior to the 1994) member **Eddie Mokhoanatshe**, the party will be a "broad coalition of civic organisations and private citizens" and plans to contest the 2014 elections<sup>8</sup>. Apart from a flurry of activity around its launch there has been negligible media coverage. South Africa First is unlikely to command significant election support but its importance lies in the symbolism of the disaffection within a historically core-support base from Zuma.

## The Competition Commission dents the construction industry

The **Competition Tribunal**<sup>9</sup> upheld a \$143m (R1.46 billion) fine levied against 15 construction companies for colluding on projects worth \$4.6 billion (R46 billion) between 2006 and 2009<sup>10</sup>. The majority of projects were

<sup>4</sup> 'Ramphela: COPE looked to the past. Our focus is on the future', DailyMaverick.com, 21 June 2013

<sup>5</sup> 2011 Census, Statistics South Africa.

<sup>6</sup> 'Agang calls in Obama's strategy team', City Press, 23 June 2013

<sup>7</sup> 'No deal: How Mamphela Ramphela dumped Helen Zille', City Press, 19 May 2013

<sup>8</sup> 'Elections 2014: SA's new hunting party', Daily Maverick, 29 April 2013

<sup>9</sup> The Commission investigates transgression of the Competition Act and the Tribunal is the adjudicative body.

for the 2010 World Cup. The companies entered into “fast-track” agreements with the Competition Commission to avoid prosecution. Former Competition Commissioner and head of the Corruption Watch NGO **David Lewis** has called for larger fines and criminal prosecution for the construction company directors.

The City of Cape Town and the governments of the Nelson Mandela Bay Metropolitan Municipality (Port Elizabeth) and Kwa-Zulu Natal are considering approaching the higher courts to recover civil damages for the inflated costs of building the World Cup stadia<sup>11</sup>.

The head of antitrust and competition at a major law firm that is representing one of the construction firms, credits the Competition Commission with achieving some major successes.

*“The law was only passed in 2000. So it’s fairly recent and the first big cases happened a few years later. Cases like the construction industry mean more companies are aware of the law, its implications and so gradually compliance is getting better. The benefits of complying far outweigh the risks of getting caught up in an investigation”.*

In April, after a seven-year investigation, semi-state owned telecommunications company **Telkom** was fined \$45m (R449m) for abusing its market dominance between 1999 and 2004<sup>12</sup>. In March 2012 **LaFarge** cement admitted to price fixing and market division and paid a fine of \$15m (R148m) (or 6% of its 2010 turnover). The case had taken 4 years to settle<sup>13</sup>. In 2010 **Pioneer Foods** paid \$50m (R500m) to settle a fine.

A long-running inquiry continues into petro-chemical giant **Sasol**’s pricing of polymers. The case began in 2009 when the Commission investigated Sasol and **Safripol**. Both companies have paid penalties to settle the collusion charges, \$1.6m and \$11m (R16.5m and R111m) respectively, but Sasol is contesting the excessive pricing allegations.

Section six of the **Competition Amendment Act** came into force in April 2013, substantially increasing the powers of the Competition Commission. Although the act was signed into law in August 2009 it did not come into force then, primarily over the controversial provision for criminal liability for company directors of firms found guilty of anti-competitive behaviour. Section six gives the Competition Commission new powers to launch formal inquiries into a sector of the market rather than waiting for a complaint to be lodged. On the back of this the Commission has begun an inquiry into pricing, cost and the state of competition in private health care, specifically hospital costs<sup>14</sup>.

## Mine wage negotiations

Wage negotiations are underway in the mining sector. It’s a pivotal time in an industry reeling from a violent and turbulent 18 months. In Rustenburg, the heart of South Africa’ platinum belt, 44 miners died in August 2012 – most were shot by police in an operation to disperse striking miners. Despite a peace accord signed in early

<sup>10</sup> The companies are: Aveng, Basil Read, Esorfranki, G Liviero, Giuricich, Haw & Inglis, Hochtief, Murray & Roberts, Norvo, Raubex, Rumdel, Stefanutti, Tubular, Vlaming, WBHO.

<sup>11</sup> ‘Stadium sultans face Cape Town lawsuit’, Times Live, 26 July 2013

<sup>12</sup> ‘Telkom agrees to R449m fine for abusing its dominance’, M&G, 17 April 2013

<sup>13</sup> ‘Lafarge settles cement cartel case with R149m fine’, Engineering News, 8 March 2013

<sup>14</sup> ‘Competition Commission healthcare pricing inquiry announced’, Times Live, 7 May 2013

July under the guidance of the Deputy President the intra-union violence continues<sup>15</sup>. In the midst of declining production in the gold mining sector, the once omnipotent **National Union of Mineworkers (NUM)** and the AMCU demanded wage increases of 60% and 100% respectively. Inflation in June was 5.5%, year on year<sup>16</sup>. The wage demands are in part due to the difficult economic situation miners face but are also inflated by the unions to try and wrestle away members from rival unions. The gold mining industry has countered, offering a 5% raise<sup>17</sup>. The unions have formally declared a dispute and will now begin a 30 day mediation period in the negotiation process. Although South Africa holds an estimated 50% of the world's known gold deposits, the industry is seen as being in terminal decline. In 1970 it accounted for 79% of the world's gold production but by 2012 it contributed just 6%<sup>18</sup>.

**Aquarius Platinum** agreed to a one-year wage deal with NUM. Its bigger rivals, **Lonmin, Anglo American Platinum** and **Impala Platinum**, have yet to begin negotiations. Aquarius' deal is for an *"average increase just above inflation"*<sup>19</sup> which currently stands at 5.6%.

In the background to the wage negotiations and the violence on the minefields is a battle between NUM and AMCU. NUM is a member of the **Congress of South African Trade Unions (Cosatu)** that forms part of the ANC's tripartite-alliance together with the Communist Party. AMCU is a relative newcomer formed in 1999 after its leader **Joseph Mathunjwa** was expelled from NUM. It now claims 120 000 members and is the biggest union at the top three platinum mines – Lonmin, Anglo American Platinum and Impala Platinum, a major coup over NUM<sup>20</sup>. AMCU's emergence as a major union has exposed NUM's apparent complacency and exposes the perception that Cosatu's leadership is too close to the ANC at the cost of representing its members' interests. In April Cosatu's president **S'dumo Dlamini** assured the ANC that it would reign in union members who criticised the ruling party<sup>21</sup>.

## Eskom's woes mount

The state-owned power company **Eskom's** new 4,600MW **Medupi** power station will not come online before the latter half of 2014, heightening the possibility of power outages. To complete Medupi by the revised date, Eskom must contend with labour unrest, underperforming contractors, the resignation of key personnel and a funding shortfall. In June, South Africa's electricity reserve margin was a scant 63MW or 0.2%, whereas 2000MW is considered a safe minimum reserve<sup>22</sup>.

Eskom has blamed industrial action, contractors and problems with the plant's cooling system. The cost of the new power station has swelled by more than \$1 billion (R10 billion). Eskom also faces labour unrest with unions demanding a 12% wage increase and Eskom offering 5.6%.

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<sup>15</sup> 'AMCU plans march to protest miner's death', Citizen, 17 May 2013

<sup>16</sup> Statistics South Africa.

<sup>17</sup> 'Gold producers raise offer', Chamber of Mines, 24 July 2013

<sup>18</sup> 'SA gold mining continues its terminal decline', Reuters, 8 July 2013

<sup>19</sup> 'Aquarius Platinum signs wage deal with NUM', Moneyweb, 25 July 2013

<sup>20</sup> 'How AMCU edged out its bigger trade union rival', Bdlive, 9 June 2013

<sup>21</sup> 'Dlamini tells Zuma Cosatu will toe the line' M&G, 6 April 2013

<sup>22</sup> 'Eskom cuts power to BHP smelter to save energy', M&G, 26 June 2013

*“Eskom blames everyone else (for the delays). It’s the client and it chose to manage the build itself. It has to manage at least 40 main contractors on site. But as it has not built a power station in over 20 years it lacks the key skills and experience”<sup>23</sup>.*

A wildcat labour strike on 24 July brought construction to a halt for the day. In March unions ended a four-week strike.

*“Eskom tried to stay out of the labour disputes, but now realises it cannot. With so many contractors on site, there has to be standardisation of labour terms. Otherwise there will always be some group that is unhappy which raises the prospect of a strike and that brings everything to a halt. Labour is the single greatest factor to completing the power station on time”<sup>24</sup>.*

**Hitachi Power Africa**, a key contractor responsible for the boilers on the plant, claims that one of its sub-contractors submitted fraudulent documents for the welding of the plant’s boilers. Hitachi’s chief operating officer **Tom Brown** told parliament that the case has been handed over to the police<sup>25</sup>. The faulty boiler welds are cited as a major cause for the construction delay. The opposition DA have accused Eskom of treating Hitachi too lightly as the ANC company **Chancellor House** holds a 25% stake in the local operation<sup>26</sup>.

Eskom also faces a funding shortfall. The national energy regulator granted an 8% increase (half of what was requested) in the electricity price per year for five years. This leaves the power utility with an estimated \$19 billion (R191 billion) shortfall over the same period<sup>27</sup>. Mid-winter Eskom has managed to keep the power on by restricting supply to its major industrial customers, including **BHP Billiton’s** aluminium smelters. The smelters consume 9% of Eskom’s output. When the rand weakened in 2007 and the aluminium price slumped, BHP Billiton was buying electricity for half Eskom’s cost to produce it<sup>28</sup>. Since 2001 Eskom’s losses have topped \$1 billion (R10.1 billion) on the Hillside smelter contracts<sup>29</sup>. The special pricing contract linked to the aluminium price ends in 2020.

Compounding Eskom’s woes, finance director and head of capital projects **Paul O’Flaherty** resigned. He had given his given notice in September 2012 but the board had not found a suitable replacement. Eskom’s board affirmed its confidence in CEO **Brian Dame’s** tenure, ending speculation he would be dismissed.

An investment banker who has worked with Eskom on Medupi shrugs off the negativity.

*“Yes, it’s a difficult time for Eskom. But it has the capacity to deliver the project and the government stands as guarantor. It’s a big, complicated build. There have been set backs, it will be late, but it will happen”.*

## Implications

South African politics enters the 2014 election campaign period. Major decisions at national and provincial government level will slow as politicians jockey for position. With nine months before the elections, the cabinet

<sup>23</sup> Independent power generation expert

<sup>24</sup> Independent power generation expert

<sup>25</sup> ‘Fraud scandal rocks Medupi’, fin24.com, 25 July 2013

<sup>26</sup> ‘Statement by Natasha Michael, DA Shadow Minister of Public Enterprises, the delay of Medupi poses questions to Hitachi Africa’, 10 July 2013

<sup>27</sup> ‘Eskom’s battle with R191bn income gap’, Moneyweb, 10 July 2013

<sup>28</sup> ‘BHP Billiton exposes Eskom’s weakness’, IOL, 5 April 2013

<sup>29</sup> ‘BHP, Eskom tussle over environmental levy’, miningmx.co.za, 23 April 2013



reshuffle will make little tangible difference to the respective sectors. Opposition parties will jostle for space and Malema's populist EFF will dominate headlines, in part because of his looming fraud and tax trial.

The Competition Commission will employ section 6 of the Competition Act for the first time to look in-depth at pricing in the private hospitals. Companies are paying closer attention to anti-competitive practices with the risks of collusion all too apparent. While potential exists, directors of the guilty construction firms are unlikely to face individual sanction or criminal charges, but civil litigation against the firms is a possibility.

Electricity supply will remain tight throughout winter with the first power from independent power producers only expected to feed into the national grid in December 2013. Eskom will have to look beyond the bond market to raise the additional funds it requires with China and sovereign wealth funds cited as potential options<sup>30</sup>. Major industrial users will have to explore independent power generation options and carefully consider the economic viability of future investments.

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<sup>30</sup> 'Eskom has \$25bn hole bonds can't fill' Bloomberg, 12 July 2013