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The Congress of South African Trade Unions (Cosatu) blocks the re-entry of the National Union of Metalworkers of South Africa (NUMSA) and former secretary general Zwelinzima Vavi to the federation. NUMSA and Vavi plan to launch a rival federation in 2015 as labour organisations continue to fracture. Mining giant Anglo-American announces \$3 billion losses including a 63% drop in earnings from South African subsidiary Kumba Iron Ore. Mining companies in South Africa are downsizing operations, which raises questions over the future of the industry. Two companies report that state-owned enterprises (SOEs) now require them to partner with specific companies on sub-contracting contracts. This is linked to broad-based black economic empowerment (BBBEE) regulations that require businesses to include empowered small and medium enterprises (SMEs) in supply chains.

NUMSA and Vavi leave Cosatu for good, but South Africa's unions are far from united

The **Congress of South African Trade Unions (Cosatu)** held its special congress from 14-16 July. The congress was an opportunity for supporters of the expelled **National Union of Metalworkers of South Africa (NUMSA)** and former Cosatu secretary general **Zwelinzima Vavi** to attempt to readmit them.¹ Vavi's supporters tried to pass a motion to introduce secret balloting on the first day of the conference. They argued that they had more supporters amongst other unions who were afraid to vote with them by show of hands. However, they failed to pass the motion (by show of hands) and found themselves clearly outnumbered.² Cosatu secretary general **S'dumo Dlamini** preached unity (the theme of most Cosatu conferences) in his opening speech on 15 July.³ He then passed measures preventing any further debate on the readmission of NUMSA and Vavi.⁴ He reached out to two unions that supported NUMSA still in Cosatu, notably the **Communication Workers Union (CWU)** and the **Food and Allied Workers Union (Fawu)**, saying that Cosatu would still help them with collective bargaining over wages.⁵

Dlamini is close to President **Jacob Zuma** (2007- present) and the ruling **African National Congress (ANC)**. Vavi and NUMSA have both criticised the links between the unions and the government as well as the Zuma administration. A formal split in Cosatu, which was one of the potential outcomes of greater support for NUMSA and Vavi at the congress, would have been a severe blow for the revolutionary or tripartite alliance of the ruling ANC, Cosatu and the **South African Communist Party (SACP)**. However, coming out of the conference Cosatu is anything but united:

- The **National Union of Mineworkers (NUM)**, the largest union left in the congress since NUMSA left last year, was divided over whether to discuss measures to bring Vavi and NUMSA back into the fold. The NUM's new secretary general **David Sipunzi** replaced long-standing **Frans Baleni** – one of the architects of NUMSA's expulsion – in May. Sipunzi tried to broker a compromise between the

¹ Business Day, 15 Jul 2015

² Business Day, 15 Jul 2015

³ Business Day, 15 Jul 2015

⁴ Daily Maverick, 15 Jul 2015

⁵ Business Day, 15 Jul 2015

Dlamini and Vavi camps. However NUM members, many of whom have fought with NUMSA union workers over control of the mines, voted against their own leadership.⁶

- In the other camp, the **Democratic Nursing Organisation of SA (DENOSA)** and the CWU, who support Vavi and NUMSA's return to Cosatu, have declined to support NUMSA's attempts to form a new union.⁷
- The leadership of the **SA Transport & Allied Workers Union (Satawu)** pepper sprayed members from **Kwa-Zulu Natal (KZN), Gauteng, Limpopo and Mpumalanga** provinces on the 13 July. The delegates demanded to know the whereabouts of \$4.7m missing from the annual budget.⁸

NUMSA and Vavi intend to hold a congress of their own later in 2015 to try and form a new congress.⁹ However, it is unclear how many of the 'nine-plus' unions that reportedly support them will turn up. NUMSA called a day-long strike against corruption on 27 July.¹⁰ At time of writing none of their allies have indicated that they will take part.¹¹ A new congress would affect the balance of power in **National Economic Development & Labour Council (Nedlac)**. Nedlac is technically a forum of all labour federations including Cosatu, **Federation of Unions of South Africa (Fedusa)** and **National Council of Trade Unions (Nactu)**.¹² Traditionally Cosatu, with its 1.8m members, has dictated the agendas of Fedusa and Nactu that have memberships of 500,000 and 400,000 respectively.¹³ However an alliance between NUMSA's 350,000 members and one of these federations could shift the balance of power, especially if other unions decide to join them.

*"There is a lot of resentment between Fedusa and Nactu towards Cosatu, especially over their privileged link to the ANC...if NUMSA and Vavi exploit that, they could make Nedlac more important in labour politics."*¹⁴

The congress has put the serious threat of a split within Cosatu to rest for the moment, but the long-term problems in the unions will continue:

*"Cosatu will never go back to being the unified voice of South Africa's workers; NUMSA and Vavi may never become the alternative congress that we [the media] thought they might...however Dlamini has ongoing problems within Cosatu's unions, they are all fighting internal division and have faced disappointing wage negotiations."*¹⁵

The unions face an economic situation that they have not faced since the end of the apartheid regime. The economy has flat-lined, investment is drying up and the state-owned enterprises (SOEs) that employ many of their members are in a poor financial position. Those SOEs that are functioning well are cutting costs, including staff, and the unions are increasingly unable to prevent this. State-owned telecoms company **Telkom** is trying to cut 4,400 jobs as part of a plan to cut costs by 25% by 2017.¹⁶ Telkom's three trade unions, **Solidarity**, the CWU, and the **South African Communications Union (SACU)** successfully took the company to court in the **Johannesburg Labour Court** to force the company to retract its statement of retrenchment on 8 July. However, the company has cut most positions through voluntary severance and early retirement packages with only a few hundred

⁶ Financial Mail, 23 Jul 2015

⁷ Financial Mail, 23 Jul 2015

⁸ Fin24, 13 Jul 2015

⁹ Daily Maverick, 15 Jul 2015

¹⁰ City Press, 27 Jul 2015

¹¹ Mail and Guardian, 27 Jul 2015

¹² Financial Mail, 23 Jul 2015

¹³ Fedusa and Nactu websites, 2015

¹⁴ Source, journalist, Johannesburg

¹⁵ Source, journalist, Johannesburg

¹⁶ Mail and Guardian, 6 Jul 2015

retrenchments. It has also shifted a number of employees into other companies through outsourcing contracts.¹⁷ It intends to cut a further 7,800 jobs over two years.¹⁸

"It's a brave new world for the unions...when they collectively had the ear of the ANC, the government would have stepped in to stop it...but with the government behind much of the cost cutting and constant union infighting, this won't happen anymore."¹⁹

Anglo-American's \$3 billion loss: what future for South African mining?

Anglo American, the **United Kingdom (UK)**-based mining giant, presented \$3 billion losses to its shareholders on 24 July.²⁰ The loss is due to decreased revenue due to lower commodities prices: iron ore has fallen 41% in 2015, platinum 18%, coal 17%, and copper 14%.²¹ Decreasing demand from **China** combined with steady supply flooding the market has driven the price decreases. With global companies mining looking at where to cut costs, South Africa, with its labour disputes and difficult operating environment may lose out more than others.

"The government takes income from the mining sector for granted...if this decreases, the economic impact will be severe."²²

Last year Anglo posted \$1.46 billion in profits, and this represents a 300% decrease year-on-year.²³ Anglo subsidiary **Kumba Iron Ore** was responsible for the company's largest loss in earnings. South Africa's largest producer of the commodity warned of a 63% decrease in earnings for 2015 on 15 July.²⁴ The **Johannesburg Stock Exchange (JSE)**-listed company's headline earnings are projected to decrease to between R7.50 and R8.05 (\$0.56-\$0.64) per share, 60-63% lower than the R11.90 (\$0.95) it posted last year.²⁵ Anglo CEO **Mark Cutifani** told shareholders that the company will cut costs by \$1 billion in 2015/2016. It will reduce staff numbers from 152,000 to below 100,000 by 2018. Many of these job cuts will be in South African operations.²⁶ The firm has already cut 8,000 positions since 2013. It will divest of 15 major mining assets, and has already agreed sales of 13. These will raise \$3 billion in sales.²⁷ However, it has struggled to find buyers for assets in South Africa:

- Anglo subsidiary **Anglo-American Platinum (Amplats)** has been trying to sell its platinum operations in **Rustenburg** and its **Union Mine** for over a year but is unable to find a buyer. The decision to sell followed the five-month long platinum strike in 2014.²⁸
- The company is also trying to sell part of its 73% operating stake in **Coal South Africa (CoalSA)**, which operates seven metallurgical coal mines in Mpumalanga province.²⁹ It has also failed to find a buyer for these assets.³⁰

Anglo is not the only mining company in South Africa facing problems or divesting of assets:

- **Glencore Xstrata** is considering closing the operations of its South Africa-based subsidiary **Optimum Coal**, reducing its output by 50% to 5m tonnes per year and a loss of 1,070 jobs. The company owns open cast and deep mining operations in **Middleburg** and supplies roughly 50% of

¹⁷ Business Day, 14 Jul 2015

¹⁸ Mail and Guardian, 6 Jul 2015

¹⁹ Source, business executive, Cape Town

²⁰ Business Day, 24 Jul 2015

²¹ BBC, 14 Jul 2015

²² Source, financial journalist, Johannesburg

²³ Business Day, 24 Jul 2015

²⁴ Business day, 15 Jul 2015

²⁵ Business day, 15 Jul 2015

²⁶ Business Day, 24 Jul 2015

²⁷ Business Day, 24 Jul 2015

²⁸ Financial Mail, 23 Jul 2015

²⁹ Financial Mail, 16 Jul 2015

³⁰ Financial Mail, 16 Jul 2015

its coal to state-owned power utility **Eskom's Hendrina** power plant. Optimum will continue to supply the plant but will cease producing and refining export grade coal.³¹

- **London Stock Exchange (LSE)**-listed platinum miner **Lonmin** is cutting around 20% of its workforce (6,000 jobs). It is selling platinum 7.3% lower year-on-year. It announced the closure of six mine shafts.³² Glencore was formerly Lonmin's largest shareholder but sold off its holdings in the company to its own shareholders in March due to lack of confidence in the company.³³ Lonmin's shares have lost 50% of their value from June 2014.³⁴
- JSE-listed **Gold Fields Ltd**, the country's largest gold miner, is unable to extract ore profitably from its **Deep South** mine in **Gauteng** due to the low gold price and its highly leveraged debt position.³⁵ Its bond yields spiked 0.1% to 8.2% on 29 July after gold fell below the company's break-even price.³⁶

"Mining is going to have to change the way it operates to remain profitable during commodity fluctuations...divesting of difficult or underperforming assets is the first step."³⁷

With decreasing commodities prices companies are considering which operations to cut. South Africa's ongoing problems with labour action will make it a less attractive destination. The decimation of the platinum mining sector during the 2014 strike is evidence of this. Negotiations in the gold mining sector began on 27 July and the industry is concerned that it could face a similar situation to the platinum negotiations in 2014.³⁸ The **Association of Mineworkers and Construction Union (AMCU)**, which was at the heart of the platinum strike in 2014, walked out of earlier talks on 9 July.³⁹ Wider inefficiency in government has also affected the mining sector. JSE-listed **Exxaro Resources** spent \$800m upgrading its **Grootegeluk** mine in order to fuel Eskom's **Medupi** power plant in 2012. Medupi may not be fully operational until 2020 and Exxaro has no way of recouping its costs. It is unable to access export-grade coal at the mine as it is trapped underneath the coal earmarked for Medupi. Eskom will pay just \$200m in penalty fees.⁴⁰

Implementation of new BBBEE regulations raises corruption risk

The **Department of Trade and Industry (DTI)** is pushing supply chain diversification as a key BBBEE lever for state-owned enterprises (SOEs).⁴¹ This is in place of strict ownership requirements that characterised the first ten years of empowerment regulations. The DTI and the treasury are also considering raising the importance of BBBEE status in small government tenders.⁴² However, there are concerns over the implementation of these regulations.

Two major SOEs have reportedly imposed new broad-based black economic empowerment (BBBEE) conditions on sub-contractors. The companies claim that SOEs required them to partner with specific black South African-owned companies as part of sub-contracting deals.⁴³ **South African Airways (SAA)** demanded 30% of the value of a contract with South Africa-based **Bidvest** subsidiary **BidAir Services**. SAA claim that this would be awarded to a black-owned company in the same sector who would partner with Bidair in the service's delivery. The company would reportedly be of SAA's

³¹ Mining Weekly, 28 Jun 2015

³² Financial Mail, 23 Jul 2015

³³ Business Day, 15 Jun 2015

³⁴ Business Day, 15 Jun 2015

³⁵ Business Day, 30 Jul 2015

³⁶ Business Day, 30 Jul 2015

³⁷ Source, mining analyst, Johannesburg

³⁸ Financial Mail, 23 Jul 2015

³⁹ Business Day, 28 Jul 2015

⁴⁰ Business Day, 7 May 2015

⁴¹ Source, DTI, Pretoria

⁴² Business Day, 22 Jul 2015

⁴³ Moneyweb, 20 Jul 2015

choosing.⁴⁴ Power utility Eskom demanded 30% equity in its boiler service contractors **Steinmuller, Actom and Babcock**, citing the same reason.⁴⁵ The requirements are not to do with the empowerment status of the companies in question – Bidvest is already 60% black-owned – but follow the DTI guidelines.⁴⁶ However, businesses see the requests as a form of blackmail:

“What SAA and Eskom are asking their subcontractors to do is to hand over 30% of a deal, or their company, in order to have a contract renewed...this will either lead to contracts becoming 30% more expensive or more companies deciding that South Africa is not a place they want to do business.”⁴⁷

The theory of integrating empowered SMEs into the supply chain has many supporters. The **Organisation for Economic Co-operation and Development (OECD)** has said that BBEE regulations that move SME’s into supply chains would reduce poverty and inequality.⁴⁸ According to the OECD SMEs are more likely to employ young people and low skilled workers than larger firms and their inclusion in supply chains makes them more sustainable.⁴⁹ However the two examples above show the difficulty of actually implementing this – an SOE choosing a preferred empowered SME and then forcing a larger supplier to work with them raises the risk of corruption considerably.

The government is trying to push through more BBEE regulations to empower SMEs. The treasury published draft new regulations for tenders under \$780,000 that suggested that they be evaluated 50% on price and 50% on empowerment status.⁵⁰ The department put the amendments to the **Preferential Procurement Policy Framework Act (2000)**, which underpins much of the implementation of BBEE regulations, out for comment on 17 July.⁵¹ Tenders are currently judged 80% on price and 20% on empowerment status. The treasury argues that this will increase the speed of empowerment, but opposition politicians and business leaders oppose the amendments on the basis that they will not give value for money. **Democratic Alliance (DA) Western Cape** premier **Helen Zille** described them as *“legalised corruption”*.⁵² Officials involved in tackling corruption in procurement also voiced concern:

“These regulations have come down from the BEE unit in the DTI and from political channels in the treasury...the official line is that it is still possible to ensure value for money and reduce corruption but it makes our job much harder.”⁵³

Implications

Dlamini’s pretense at unity within Cosatu following its special congress has persuaded no-one that things will go back to the way they were. Unions are already losing collective bargaining power, and are spending increasing amounts of time and money on infighting rather than advocating for their members. However, this is not necessarily good news for business. The loss of centralised control could encourage more ‘rogue’ union behavior – like AMCU. This is not because Cosatu could control AMCU – it couldn’t – but because with a breakdown in centralised power unions, or federations, it will need to compete to offer the best deal for members. Strikes and other labour disputes will continue. However, more distance between the ANC and the unions opens the door for potential labour reform further down the line. Vice-president and reported presidential hopeful **Cyril Ramaphosa** has already spoken of the need to revise regulations to help boost growth and support businesses.

⁴⁴ Moneyweb, 20 Jul 2015

⁴⁵ Moneyweb, 20 Jul 2015

⁴⁶ Moneyweb, 20 Jul 2015

⁴⁷ Source, corporate director, Johannesburg

⁴⁸ OECD South Africa report, 2015

⁴⁹ OECD South Africa report, 2015

⁵⁰ Business Day, 22 Jul 2015

⁵¹ Business Day, 22 Jul 2015

⁵² Business Day, 22 Jul 2015

⁵³ Source, national treasury, Pretoria

Mining is not going to collapse – yet. Operations are downsizing and major companies are looking to sell off assets but the resources remain – for as long as South Africa has 80% of the world’s platinum, it will continue to have a platinum mining sector. The price of commodities is unlikely to rise any time soon so problems in the sector will continue for the next two years. This will put more pressure on the already deflated economy. In order to retain the mining industry at its current scale, the government will need to make the country an easier place to do business. Otherwise mines in the coal, iron ore, and even the gold sector could shut down operations and take their business elsewhere. The current cost cutting measures are going to hit the labour force hard – there are going to be at least 10,000 job cuts in 2015 flooding the labour market with unemployed (and potentially unemployable) former miners.

BBBEE policy is a complicated mixture of social engineering and contract regulation – getting it right is difficult. On paper the idea of switching from taking ownership stakes in companies to encouraging them to sub-contract empowered SMEs is a progressive step. However, implementing this at the contract negotiation level opens contractors and suppliers up to corruption risk. Companies need to be free to ensure that any new sub-contractors they partner with meet their quality and governance standards. The introduction of a new 50% empowerment requirement on small contracts carries even more risk. The corruption in small-scale public tenders is notorious, especially in the provinces of KZN, Limpopo and Mpumalanga. The government admits that it has failed to achieve value for money on many of these contracts and introducing the BBBEE calculus into the equation – where an empowered company can win on a much higher price – will further artificially inflate the price of services with no guarantee of better delivery.

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