Gupta-Zuma Firm Gets 10th of Richards Bay Coal Export Rights

Franz Wild and Paul Burkhardt

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Tegeta seeks approval to buy Glencore's Optimum colliery

• Tegeta is a joint venture between Gupta family and Zuma's son

Tegeta Exploration & Resources (Pty) Ltd., a venture whose shareholders include the Gupta family and South African President Jacob Zuma's son Duduzane, is acquiring the rights to export 8 million metric tons of coal through Africa's biggest port for the fuel.

Richards Bay Coal Terminal, which lies on South Africa's north east coast and is owned by mining companies, shipped a record 75.4 million tons last year and has a design capacity of 91 million tons. Its shareholders include Anglo American Plc, Glencore Plc and South32 Ltd. and almost all of South Africa's coal exports move through the terminal.

The purchase "allows us access to an export contract," Nazeem Howa, the chief executive officer of Tegeta shareholder Oakbay Investments (Pty) Ltd., said at an antitrust hearing in Pretoria on Wednesday. "Until now, that's been controlled by the big players. It's quite significant access."

Tegeta agreed to buy Optimum for 2.15 billion rand (\$138 million) in December after Glencore put the business into administration, saying that the refusal by state power utility Eskom Holdings SOC Ltd. to renegotiate a coal supply deal had made it unprofitable.

The Guptas, a family from India whose South African businesses span media to uranium mining, have been criticized by labor unions and opposition parties for their links to Zuma. In addition to doing business with his son their companies have employed his daughter and one of his wives. Mosebenzi Zwane, South Africa's mines minister, said he traveled to Switzerland to meet with Glencore to try and advance the deal to save jobs.

The combined export allocation is from Optimum Coal Mine and Koornfontein mine, which is also part of the deal, Louise Brugman, a spokeswoman for Optimum's administrators, known locally as business rescue practitioners, said in an e-mailed response to questions.

The Competition Commission recommended the purchase be approved, provided it doesn't result in any of the 3,000 employees in the joint operations losing their jobs. The Competition Tribunal must now make a ruling as to whether it can go ahead.

Before it's here, it's on the Bloomberg Terminal.

Denel and Gupta venture 'illegal'

• **People:** Lynne Brown

THE joint venture between state-owned arms manufacturer Denel and the Gupta-associated company VR Laser has not been approved by Public Enterprises Minister Lynne Brown or by the Treasury and is, therefore, not legal under the Public Finance Management Act.

Denel and VR Laser formed Denel Asia last month and registered the company in Hong Kong. But before any state-owned company can enter a joint venture or partnership it must complete a section 54 application under the Public Finance Management Act and obtain the consent of the executive authority.

Though Denel took the preceding step under section 51 of the act and requested pre-qualification to explore the arrangement, it never secured permission to form the company.

Ms Brown said on Monday that she had set a number of conditions prior to giving her approval. These included that a cost-benefit analysis and a due diligence of the company be performed before approval.

These conditions have still not been met.

Ms Brown read about the launch of the company in the press after Denel released a statement publicising the deal.

She said that she had asked for an explanation.

"Denel must get a section 54 to go ahead, which is signed off by the department and by the National Treasury. I've written to them to ask them why they went ahead. The joint venture is not approved yet," she said.

Denel's business model, on which its successful turnaround in the 2000s was based, involves the formation of joint ventures between its subsidiaries and international companies, in which it retains 49% ownership. The joint ventures, which are typically with companies linked to large international firms, have provided Denel with both capital and technology.

When it announced the Denel Asia deal last month, it said that this would open up markets for Denel in the East in the fields of artillery, armoured vehicles, missiles and unmanned aerial vehicles. However, critics have questioned what value VR Laser could add in this arrangement. It has had limited exposure to the defence industry and has not conducted business in Asia before.

The Mail & Guardian has reported that it had established that the Gupta family and Duduzane Zuma, a son of President Jacob Zuma, were the owners of 25% of VR Laser. The Gupta family share was later also confirmed by family spokesman Gary Naidoo.

Denel did not respond to questions on Monday.

Instead it sent the press release it put out last month announcing the deal.

Ms Brown is also awaiting a second report from Denel, providing an explanation of the suspension of two top executives and the company secretary in September last year.

She had given them until December 10 to investigate the matter and report to her.

On Monday, she confirmed that she was still waiting to receive the report.

It is believed by insiders that CE Riaz Saloojee, chief financial officer Fikile Mhlontlo and company secretary Elizabeth Africa were suspended to clear the way for the VR Laser deal.

The three were suspended shortly after a new board was installed. Previously, Mr Saloojee, in particular, enjoyed a good reputation and Denel was viewed as a success story.

Shortly before the suspension, Denel experienced a cash crunch, which unconfirmed rumours claimed was due to a transaction managed by Mr Saloojee to acquire BAE Land Systems.

The board has pointed to this transaction to justify the suspensions.

Ms Brown said that the board had said that "at face value" the problem had been the BAE Land Systems transaction.

She said the board needed to provide her with the details of this in the report.

Although the executives have been suspended for five months the disciplinary process has not yet begun.

Instead of a hearing, a source sympathetic to the three said they were being encouraged to leave the company.

Today's Big Stories

Why the Gupta family's alleged deal with Denel is dubious

5 February 2016 12:26 PM

Media reports claim the Guptas stand to benefit from a deal with state-owned arms manufacturer Denel.

This comes amid concerns surrounding the Gupta family's undue influence on government.

Investigative journalist Stefaans Brümmer unpacked the latest allegations against the Guptas and the implications thereof.

Denel grilled over Gupta-linked joint venture Back Embed Video Popup Video Download Video Buy Photos Photo: Keith Campbell Instagram var currentMedialtem = 1; var totalMedialtems = 1; \$j('.thumbs-container a:first').click(); Denel | Denel Asia | Industrial | Public Enterprises | VR Laser | Equipment | Media Reports | Cathleen Labuschagne | Daniel Mantsha | Duduzane Gupta | Ellen Prins | Jacob Zuma | Lynne Brown | Rajesh Gupta Denel | Industrial | | Equipment | | denel | denel | denel | public-enterprises | vr-laser | equipment | mediareports | cathleen-labuschagne | daniel-mantsha | duduzane-gupta | ellen-prins | jacob-zuma | lynnebrown | rajesh-gupta By: News24Wire Denel's top management insisted on Wednesday that no law has been broken and that all its decisions and activities on the controversial VR Laser joint venture deal took place within the Public Finance Management Act (PFMA). Denel chairperson Daniel Mantsha told MPs in the Select Committee on Communications and Public Enterprises that Denel would meet with Public Enterprises Minister Lynne Brown to discuss its failure to secure a Section 54 application for a joint venture. Print Send to Friend 0.1 var addthis config = {"data track addressbar":false, "data track clickback":false}; According to media reports, Brown said the joint venture between Denel and VR Laser which is partly owned by President Jacob Zuma's son, Duduzane and Rajesh Gupta has not been approved and is, therefore, in contravention of the Public Finance Management Act (PFMA). Legislation requires a State-owned company to hand in a Section 54 application if it wants to enter into a joint venture. More Insight Door still open to controversial Denel Gupta deal Solidarity calls on Public Protector to probe Gupta, Denel partnership Presenting its annual report for 2014/15 Denel faced a grilling from MPs about the controversial deal. Cathleen Labuschagne from the DA asked the state-owned company to explain why it hadn't reported on the controversial deal in its annual statements. Odwa Mhlwana, acting CFO, responded that Denel never reported on transactions that were still in the making, such as the said joint venture. "Our business model works as follows: if strategic compensations haven't come to fruition we refer to them as growth markets. We completed the drafting of the annual report in middle May and to be issued at end of June. At that stage the conversations about the joint venture was still at a technical level," Mhlwana said. Denel also had to explain why three of its top officials had been suspended and if it had anything to do with the joint venture. The chairperson Mantsha said three employees, the chief executive and chief financial officers, as well as the secretary had been suspended in September. "The suspensions had nothing to do with Denel Asia (the name of the joint venture). These officials were in breach of the law and they failed to observe the legal requirements under the PFMA," Mantsha said. "A disciplinary process is under way and Denel will inform this committee of the outcome." Denel defended its move to go into a joint venture with VR Laser and dismissed allegations that the company didn't have any experience in military equipment. "We didn't just pick up VR Laser from the streets," Mhlwana said. "We've been doing business with them for more than ten years. The relationship is not only starting now." Ellen Prins, who chair the Select Committee on Communications and Public Enterprises, asked Denel for a full report explaining its controversy in the media. "We acknowledge you're one of the top 100 companies in the world. But in the past six months you've been in the news for all the wrong reasons. You're doing well, but you owe this committee a report on all the things that we are reading in the media. We want to understand what's going on."

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http://www.engineeringnews.co.za/article/denel-grilled-over-gupta-linked-joint-venture-2016-02-17

Nuclear energy: Guptas' power play

by Rob Rose, 03 September 2015, 06:48

September 4 - 2014

WHILE government remains coy about how much the Gupta family earned for flying deputy president Cyril Ramaphosa to Japan last week, the family's 64%-owned Oakbay Resources is hoping to make a killing from nuclear energy.

This week, Oakbay released its annual report, in which chairman Atul Gupta argued that nuclear energy is the way to go. A hike in nuclear demand would boost Oakbay, whose main asset is Shiva Uranium, 165km southwest of Johannesburg, which it bought in 2010 and revived.

Gupta said even though uranium isn't well understood in SA, countries like China, Russia and Brazil are powering ahead with nuclear plans.

"Nuclear energy is the key to meeting the exponentially increasing [global] energy demand over the next 20 years with clean power," he said.

Gupta said Oakbay was "in the ideal growth market and uranium is the place to be".

This comes in the context of a debate in SA about whether the cost of building nuclear plants — which some estimate will cost more than R1trillion — is justified. President Jacob Zuma said this year that SA will build 9 600 MW of nuclear generating capacity.

But critics say the cost isn't justified in light of SA's poor growth and new capacity from coalfired power plants Medupi and Kusile.

But Oakbay argues that nuclear power is "the cheapest energy source available, even factoring in the high costs of (building) power stations".

Oakbay listed on the JSE at R10,08/share in November, but its share price has swung alarmingly since. The stock climbed nearly 200% to R30 in less than a year, as traders were able to move the stock dramatically through small trades.

On May 18, the stock shot up 348% — from R11,15/share to R50/share — on one trade of a meagre R500.

This month George van der Merwe stepped down as CEO, making way for Atul Gupta's nephew, Varun Gupta (28), to take over the top job.

In contrast to other mining companies, Oakbay's directors were paid a pittance last year. Van der Merwe was paid R720 000, Varun Gupta got R669 000 and finance director Trevor Scott got only R372 000. Atul Gupta wasn't paid anything.

This week, the furore over Ramaphosa's state visit to Japan grew, with political parties calling for an urgent investigation into why he had flown on a Gupta jet. The defence department paid to lease the plane from ExecuJet, but refused to reveal the costs.

The Economic Freedom Fighters said that state institutions should investigate "the hold that the Gupta family has over President Zuma, which allows them to treat our country and its coffers the way they do".

Critics have long questioned the relationship between the Guptas and Zuma. Zuma's son Duduzane bought into Shiva back in 2010, and was a director of Oakbay until last year.

In April 2013, a plane chartered by the Guptas and carrying 270 of their wedding guests was allowed to land at the high-security Waterkloof air force base — a breach for which low-ranking officials were blamed.

Mining: Minister's Gupta trip

by Charlotte Mathews, 28 January 2016, 07:42

Mosebenzi Zwane travelled to Switzerland with Gupta delegates. Picture: GCIS

January 28 - 2016

MINERAL resources minister Mosebenzi Zwane travelled with a delegation from Gupta-owned Tegeta Exploration & Resources to visit Glencore in Switzerland to negotiate the purchase of Optimum Colliery, his spokesman confirmed last week.

But the minister derived no personal benefit, he said.

Optimum Colliery was placed in business rescue last year after closing down its export operations because they were no longer economically viable. It was also slapped with a R2.5bn penalty by Eskom for delivering sub-specification coal.

The mine was sold to Tegeta in December for about R2.15bn. Glencore agreed to advance R400m so that the mine's R2.55bn of bank debt could be repaid. Eskom has said it will pursue its rights to penalties.

Tegeta is one of the interests of the Gupta family, who are close friends of president Jacob Zuma. The Guptas also have stakes in Sahara Computers, a major supplier to government; The New Age newspaper, which takes a pro-government stance; and various mining services and coal mining operations, including JSE-listed Oakbay Resources & Energy, the owner of a gold and uranium mine near Klerksdorp.

Asked if the minister had joined the Tegeta delegation to Switzerland, Tegeta director Nazeem Howa said it was "absolute rubbish". Asked if the minister was part of the buying consortium, he again said it was "absolute rubbish".

Asked the same questions, minister Zwane's spokesman said the minister had a policy of engaging directly with industry stakeholders to avert crises, specifically to avoid job losses.

"Minister Zwane has committed himself to ensuring that his office has an open-door policy. This, in part, requires travelling to meet with all stakeholders to represent government's position on these pertinent matters. He will continue to do so.

"No personal benefit is accrued from these. The minister and department remain committed to delivering on, and upholding, the Batho Pele principles."

Both Glencore and Optimum's business rescue practitioner, Piers Marsden, declined to comment.

James Lorimer, Democratic Alliance spokesman on mineral resources, said the minister's visit with the Gupta family played into people's fears that this minister had been put in place because he was in the pockets of the Guptas. He added that instead of involving himself in this matter, the minister could take various other actions to protect jobs, such as making his department operate efficiently and honestly and changing the mining framework so it was conducive to investment.

Lorimer said Zwane's intervention in commercial negotiations was not unusual as trade & industry minister Rob Davies did so frequently.

"When government picks winners it has a low success rate and it opens itself up to accusations of cronyism. Someone in this position has to be sensitive to that perception and should be more cautious in his actions."

Named: Van Rooyen's two Gupta 'advisers' who almost hijacked SA Treasury

Feb 15 2016 13:22

The day after the shock announcement of respected Finance Minister Nhlanhla Nene being replaced by an **unknown backbencher**, David van Rooyen arrived at National Treasury with his two until now unnamed "advisers". In this article republished with its permission, **London-based Africa Confidential** names the duo as "Gupta allies" Mohamed Bobat and Ian Whitley and explains the context in graphic detail.

Their arrival so shook the Treasury that its Director General threatened to resign and his staff immediately dubbed the event "9/12" – a reference to the US's disastrous "9/11" of 2001. Former Finance Minister Trevor Manuel was so incensed that **he wrote an open letter** that was highly critical of President Jacob Zuma, Van Rooyen and the dark forces manipulating them for publication in City Press.

After Zuma's December 9 shock ("9/12") decision, the rand plummeted, financial shares crashed and bond yields surged. After wiping R500bn off the value of South African assets, Zuma was forced into reversing his appointment, **replacing him with Pravin Gordhan**, the man he had fired a year and a half earlier.

Here's the fascinating inside story from **Africa Confidential**, the subscription-only service which have been covering the continent for more than half a century. – Alec Hogg

From Africa Confidential*

Delivering the **State of the Nation address** at the opening of what promises to be the South African Parliament's most turbulent year, President Jacob Zuma announced a series of measures to shore up **the country's ailing economy**, including cutting government expenditure, revamping the **management of state-owned enterprises** and partnering with the private sector to promote domestic and foreign investment.

David van Rooyen, South Africa's then incoming finance minister. Photographer: Waldo Swiegers/Bloomberg

The measures are high on the wish list of a formerly disengaged business community which was shocked into action by Zuma's disastrous sacking of Finance Minister Nhlanhla Nene on 9 December and the **crash in share prices and the value of the rand** that followed.

The dismissal of Nene turned out to be the latest in a series of cabinet appointments made to circumvent resistance to the deal Zuma struck with Russia's President Vladimir Putin last year **to build nuclear power plants in South Africa**. Successive Ministers of Finance and of Energy who voiced their opposition to the deal over its enormous cost were removed from office.

The main beneficiaries of the nuclear deal would have included **the controversial Gupta family** – three Indian brothers who have become massive beneficiaries of Zuma's patronage.

The Guptas influenced Zuma to appoint the previously unknown David 'Des' van Rooyen as Finance Minister, it is now generally accepted. Their intention was to secure uranium contracts for the

nuclear plants in the same way they have for the coal and arms sector, according to the local press.

Another part of the strategy was to place two Gupta allies, whom Africa Confidential is able to name as Mohamed Bobat and Ian Whitley, as advisers to Van Rooyen at the Treasury. Whitley is a former head of small and medium enterprises at the African Bank.

When Van Rooyen was replaced at the Treasury, the two men went with him to his new portfolio of **Local Government and Traditional Affairs**, and appeared with him when he was sworn in on 10 December.

Bobat and Whitley, who have associations with the Guptas and their businesses, visited the Treasury before Van Rooyen's appointment and told officials there that they would be able to sign expenditure and other authorisations on behalf of the new minister but otherwise there would be no changes.

Senior Treasury officials led by Director General Lungisa Fuzile were so appalled that they threatened to resign unless Van Rooyen's appointment was reversed.

Then there is the strange case of Van Rooyen's childhood friend, Gaddafi Rabotapi, who, former Finance Minister Trevor Manuel pointed out in an angry open letter to **Minister Lindiwe Zulu** on 20 December, had known about Van Rooyen's appointment a full month before it was announced by Zuma.

Manuel also said that the proper procedures had not been followed in the appointment of Bobat and Whitley, whom he did not name in the letter, nor had it been established that they had the requisite skills for either portfolio.

Following the firing of Nene in December, it was the business leaders acting in concert with moderates in the African National Congress who forced Zuma at political gunpoint to reverse his appointment of a stooge as finance minister and re-instate the highly-respected Pravin Gordhan. Further details have now emerged about the meetings in which Zuma fought tooth and nail not to give in.

At one of them Patrice Motsepe, the billionaire benefactor of the governing party, told Zuma to be quiet and listen to the business leaders. **Zuma's former wife, Nkosazana Dlamini-Zuma**, the main rival of Deputy President Cyril Ramaphosa in the succession stakes, expressed shock that the President could be addressed in such a way.

Intense and high-level meetings between government and business followed in rapid succession at the World Economic Forum in Davos, Switzerland, in January. There was a follow-up meeting between **Gordhan and Zuma and 60 captains of industry and finance** on 29 January. Zuma met over 100 top business chief executive officers on 10 February in Cape Town on the eve of the State of The Nation speech.

At the 29 January meeting, hosted by Old Mutual/Nedbank and chaired by Gordhan, emergency working groups were set up to report within four days to: promote economic growth, take steps to stimulate foreign and local investment, revamp the management of state-owned enterprises, and take urgent steps to avoid junk status for investment.

Gordhan and his officials then processed the recommendations in record time and they were fed in as the core content of Zuma's State of The Nation speech. It was the best coordinated collaboration between government and business in 22 years of democracy, insiders said. The dramatic sequence of events has put Gordhan in the driving seat of government and **all but indemnified him against dismissal**.

At the Mining Indaba in Cape Town in the days before the State of the Nation speech, Zuma would have felt additional pressure from mining luminaries who shared the views of the CEOs who were directly in touch with the President, such as Simanye's Neal Froneman, Pallinghurst's Brian Gilbertson, Adam Fleming, Clifford Elphick of Gem Diamonds, Africa Invest's Rob Hersov, hedge fund manager Julian Schrager, Lord Robin Renwick of Hannam and Partners and Ivanhoe's Robert Friedland.

Global players who also added to the pressure on Zuma included the Indian steel tycoon Lakshmi Mittal, who was contemplating a major investment when news of Nene's dismissal broke.

President Xi Jinping of China is also understood to have delivered a message via diplomatic backchannels to protect China's 20% state in Standard Bank.

Deputy President Ramaphosa is backed for the succession by the Motsepes. He is married to Patrice Motsepe's sister Tshepo but is trailing Zuma's former wife, Nkosazana Dlamini-Zuma, in the succession stakes. She is backed by her former husband and the Guptas. Motsepe's other sister, Bridgette, a billionaire in her own right, is married to **Minister in the Presidency Jeff Radebe**, a Ramaphosa ally.

The country's two richest families – the Oppenheimers (Nicky and his son Jonathan) who recently sold the diamond giant De Beers to the ailing Anglo American, and the Ruperts (Johann) who command a huge international empire – kept a low profile through the affair. The events also revealed that the two more recent plutocratic dynasties – the Motsepes and the Guptas – are increasingly at daggers drawn as they vie for influence over the ANC.

At yesterday's shambolic opening of Parliament, the Economic Freedom Fighters walked out of Parliament in their signature red overalls chanting 'Zupta must fall' – a cryptic reference to the Gupta family and Zuma. Mosiuoa Lekota, Leader of the Congress of the People, an earlier breakaway from the ANC, was the first to lead his party in a parliamentary walk-out proclaiming that he was not prepared to listen to a man who had violated the constitution and was unfit to lead the country.

On the eve of the opening of Parliament, the two main opposition parties which stand to take votes from the ANC in the coming local government poll – probably on 3 August – brought charges against Zuma in the country's **highest court for violations of the constitution**.

The Democratic Alliance and Julius Malema's EFF joined forces to have the President declared unfit for office over his refusal to abide by the Public Protector's binding ruling that he should reimburse the state for the multi-million upgrades to his retirement compound.

A finding against the President would create a constitutional crisis as Parliament, in which the ANC has a clear majority, would be in conflict with the Constitutional Court, which is the supreme constitutional authority. A finding by the court that Zuma was guilty of a serious violation of the constitution would provide grounds for his impeachment.

By offering to repay an undisclosed sum on the eve of the court hearing, Zuma faced further accusations that he had breached his oath of office by consistently lying to the country about his role in the use of taxpayers' money in the financing of his Nkandla homestead.

The formidable potential of civil society has been re-activated in recent weeks and moves are now afoot to launch a major national organisation in March to hold government to account and monitor its progress.

The five-year project will be headed by church leaders by the Anglican Archbishop of Cape Town, the Right Reverend Thabo Makgoba and will include business leaders, academics, professional and community organisations and non-governmental organisations.

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Duarte denies abuse of office

February 16, 2016

ANC deputy secretary-general Jessie Duarte. Picture: ANN7

TNA Reporter

ANC deputy secretary-general Jessie Duarte has come out guns blazing following media reports suggesting she abused her position in the ANC to get her son-in-law appointed as an advisor to former finance minister Des van Rooyen.

A report, originating from the London based Africa Confidential, and published in Fin24 under the headline "Meet Ian Whitley: Duarte son-in-law, Gupta ally, jobless to FinMin advisor", claimed Duarte's son-in-law Ian Whitely was appointed advisor to Van Rooyen after his brief tenure as finance minister.

According to Duarte, the report seemed to suggest Whitely's appointment was a result of her influence.

In an email (a copy is in the possession of The New Age) to senior ANC leaders including Gwede Mantashe, Zweli Mkhize, Naledi Pandor, former finance minister in the Mbeki administration Trevor Manuel and integrity ccommission (IC) member Frene Ginwala, Duarte said she would meet the party's IC to discuss the "impact of the reports on her reputation".

Duarte's letter reads: "In December Ian (Whitely) informed me he had been approached by Des van Rooyen to assist him in his private office.

"The discussion between Ian and I took place on the Thursday after the (Van Rooyen) announcement was made by President Zuma.

I advised Ian he should consider very carefully because the national Treasury was an area of government reserved for an elite few and he was likely to be disadvantaged.

"The rest is history. Ian was eventually appointed after undergoing the correct processes as chief-of-staff in Van Rooyen's Cogta office.

"I do not know how and where Ian met Van Rooyen. I will request an appointment with the integrity commission to deal with the various media slants pertaining to this matter."

Van Rooyen's short-lived appointment caused a huge outcry and resulted in the plummeting of the rand.

Zuma was forced to reverse the appointment. Cogta minister Pravin Gordhan was appointed to the finance portfolio while Van Rooyen replaced him in Cogta.