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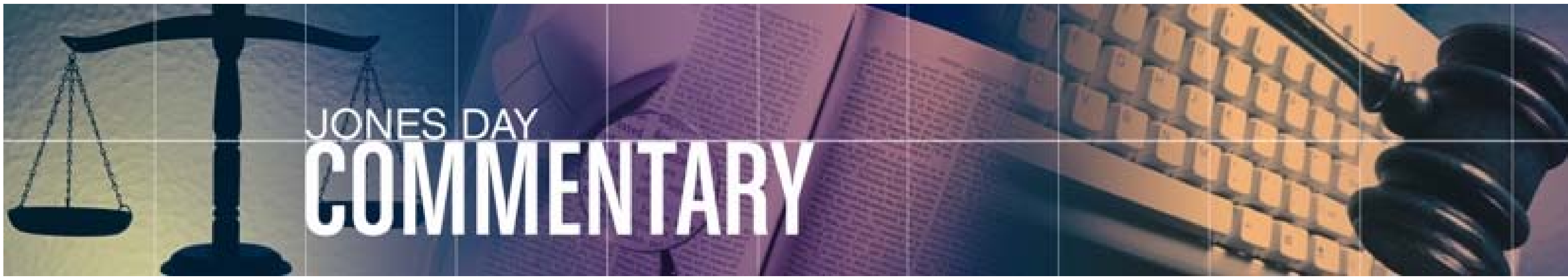
2012 年 7 月



资讯速递 - 非洲资源领域最新立法动态

本资讯速递意在就西非某些国家新近或将来的立法改革对能源和自然资源领域的影响作一概览。

当前非洲改革的浪潮力图在吸引外商投资与最大化政府和当地人民从自然资源创造财富的参与度之间寻求前所未有的高难度平衡。管理自然资源的透明度和政府干预的效率也是推动这些改革的主要动力。

尼日利亚：即将通过久拖未决的石油工业法案

自尼日利亚新石油法案概念提出已有五年，这期间许可环节、合同续约和投资均遭搁置。总统古德勒克·乔纳森（Goodluck Jonathan）近期宣布，旨在推动尼日利亚油气行业重大改革但又久拖未决的《石油工业法案》即将提交尼日利亚国会通过成为法律。

此次立法改革的主要目的如下：

- **建立起新的税收系统以利于向石油工业进一步投资并使政府收益最大化。**我们尚在等待过去几年中在政策制定者和行业参与者之间激烈争论的新财政体系的最终版本。根据最近公布的《石油工业法案》版本，油气公司应缴税的利润如下：陆上和浅海区域为 50%，边境和深水区域为 20%。

- **建立起商业导向和利润驱动的国家石油公司（“NOC”）**，现存的国有尼日利亚国家石油公司的某些资产和责任将转移至 NOC。尼日利亚联邦政府目标在三年内将 NOC 的部分尚未确定比例的股份向公众发行。

- **对下游石油行业解除管制并实施自由化。**在《石油工业法案》通过后，尼日利亚下游产业将极大地从政府管制中解脱出来，也将更少受当地政府干预。

几内亚：2011 年第三季度通过新采矿法典

2011 年 9 月 9 日，几内亚通过规制采矿业的新法典。尽管该新体制并不意图影响其通过之前已获得的开采权或已达成且经批准之合约的所有权或合法性，但新法典的多数条款，包括有关税责、雇佣、透明度和反腐败的条款将适用于所有几内亚当前的采矿作业。

第 150 条体现了新采矿法典最显著的特点之一：国家自动享有对任何矿种（包括铝土矿、铁矿、金矿、钻石和铀矿）具有开采权的矿采企业 15%的股份权益，除对铝矿、铝土一氧化铝整体项目、氧化铝和钢这些品种国家享有的股份为 2.5%到 7.5%之间。该股权将无偿给予国家，且不得通过之后的增资而稀释。根据新采矿法典第 150 条，国家亦有权通过全额有偿收购额外 20%到 32.5%的股权，最高股份总额不超过 35%。该额外实缴股权（*participation en numéraire*）可通过竞争性开放招标程序自由转让给任何第三方。新法典规定，根据具体情况，也可通过减少国家收购实缴股权的权利来换取采矿税率的提高。

除创新外，新法典还规定，可通过连续 5 年延期将经营许可期间增加至 15 年。采矿协议可进一步延期 10 年，最长期间不得超过 25 年。

该新法典还包含了提高透明度和反腐败措施的创新条款，体现了总统阿尔法·孔戴（Alpha Condé）实施 EITI（“采掘业透明度倡议”）原则的决心和承诺。通过课以开采企业同其作业区域的当地社区达成一项开发协议的义务，将其营业额的 0.5%至 1%投给当地发展基金，促进当地发展。

科特迪瓦：石油、采矿和电力行业的改革浪潮

2012 年 4 月 18 日，科特迪瓦总统阿拉萨内·瓦塔拉（Alassane Ouattara）签署了修改 1996 年《石油法案》的法令，适用于科特迪瓦的油气勘探和生产活动。主要变化包括，通过一系列创新措施以及加强环保措施以实施 EITI 原则，包括淘汰和拆除生产设施，以及场地修复义务。

2012 年 3 月，科特迪瓦矿业部宣布正在筹备中的新采矿法典将替代 1995 年的采矿法。截至目前，有关该新采矿法典的内容和实质知之甚少，但它被寄望于鼓励科特迪瓦的采矿行业，通过采取新措施以使获得采矿权的行政措施更为便利。但同时也要求申请人对工程项目和最少投资义务做出有力承诺，并证明其技术和财政能力。

最后，据报道科特迪瓦政府正在拟议一项新能源法案，旨在改革电力行业的机构体系和法律制度。以其天然气资源和现存的独立发电项目（IPP，Azito 和 Ciprel）而被国际商业金融界公认为西非标志性工程和参照的科特迪瓦，是将电力输出给其邻国的主要发电国。还有一些正在进行中的项目将通过热力、可再生能源和水力发电厂进一步提高科特迪瓦的装机容量。

联络律师

有关上述议题的更多内容，或有关众达非洲业务，请详询各所主要代表或下列律师。一般信息可通过在 www.jonesday.com 上的“联系我们”一栏发送给我们。

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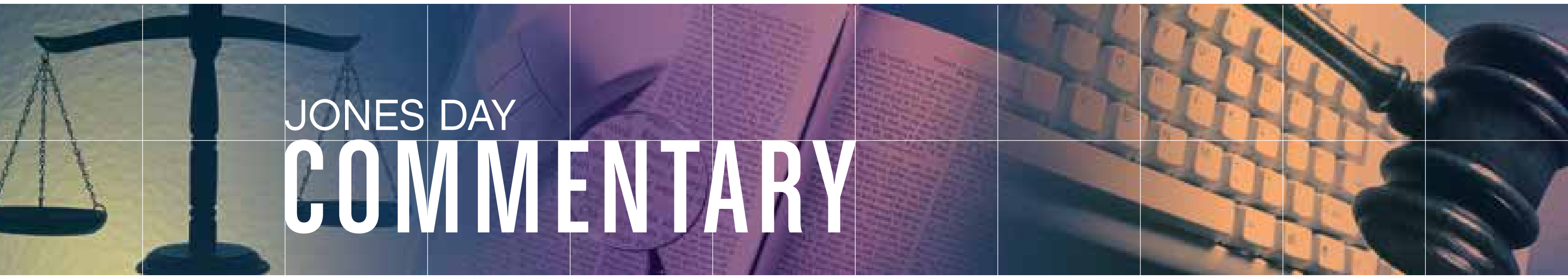
JULY 2012



AFRICA RESOURCES UPDATE

This Africa Resources Update takes a brief look at a few recent or forthcoming legislative reforms affecting the energy and natural resources industries in selected countries of West Africa.

The current wave of reforms in Africa attempts to strike the ever-difficult balance between attracting foreign investment and maximizing the government's and local population's participation in the creation of wealth from national resources. Transparency in the management of national resources and the efficiency of governmental intervention are also key drivers for such reforms.

NIGERIA: IMMINENT ADOPTION OF THE LONG-AWAITED PETROLEUM INDUSTRY BILL

It has now been five years—during which licensing rounds, contract renewals, and investment have been put on hold—since the concept of a new Petroleum Act emerged in Nigeria. President Goodluck Jonathan recently announced that the long-awaited Petroleum Industry Bill, which is reportedly aimed at major reform of the Nigerian oil & gas industry, will be submitted shortly to the Nigerian National Assembly to be passed into law.

The main objectives of the envisaged legislative reform are as follows:

- **Establish a new tax framework that encourages further investment in the petroleum industry while optimizing accruable revenues to the government.** We have yet to see the final version of the new fiscal regime that has been fiercely debated over the past few years between policy makers and industry players. On the basis of the last published version of the Petroleum Industry Bill, oil companies will pay tax on chargeable profits as follows: 50 percent for onshore and shallow water areas and 20 percent for frontier acreage and deep water areas.
- **Establish a commercially oriented and profit-driven National Oil Company** ("NOC"), to which certain assets and liabilities of the existing state-owned Nigerian National Petroleum Corp. will be

transferred. The Federal Government of Nigeria's aim is to divest a certain, as yet unidentified, portion of shares in the NOC to the public within three years.

- **Deregulate and liberalize the downstream petroleum sector.** With the passage of the Petroleum Industry Bill, the Nigerian downstream sector would largely be freed from government regulations, with less interference from the local authorities.

GUINEA: NEW MINING CODE ADOPTED IN Q3 2011

On September 9, 2011, Guinea adopted a new code regulating its mining sector. Although this new regime is not intended to affect the ownership or the validity of mining titles or contracts that were granted or entered into and ratified prior to its adoption, most of the provisions of the new code, including those related to taxes and duties, employment, transparency, and anti-corruption, will be applicable to all existing mining operations in Guinea.

One of the most striking features of the new mining code is contained in Section 150: the State is now automatically entitled to a 15 percent interest in the share capital of any mining company that is granted a mining title for any ore (including bauxite, iron, gold, diamond, and uranium), except for aluminum, bauxite-alumina integrated projects, alumina, and steel, for which the State interest is between 2.5 and 7.5 percent. This shareholding interest will be vested to the State free of charge and may not be diluted through subsequent increases in the share capital. Under Section 150 of the new mining code, the State is also entitled to acquire an additional 20 to 32.5 percent shareholding interest on a fully paid basis, subject to a maximum aggregate State shareholding of 35 percent. This additional paid-up shareholding (*participation en numéraire*) is freely transferable by the State to any third party through a competitive open bidding process. The new code provides that it will be possible, on a case-by-case basis, to reduce the State's entitlement to acquire a *participation en numéraire*, in exchange for an increase in the rate of the mining tax.

Among other innovations, the new code has increased the duration of operating permits to 15 years with possible successive five-year extensions. The duration of mining agreements is limited to 25 years, with possible further extensions of 10 years.

The new mining code also contains innovative provisions promoting transparency and anti-corruption measures, reflecting President Alpha Condé's commitment to implement the EITI (Extractive Industries Transparency Initiatives) principles. Local development is also promoted through the obligation on the mining company to enter into a development agreement with the local community in their area of operation and to contribute between 0.5 and 1 percent of their turnover to a local development fund.

IVORY COAST: A WAVE OF REFORMS IN THE PETROLEUM, MINING, AND ELECTRICITY SECTORS

On April 18, 2012, President Alassane Ouattara signed an ordinance amending the 1996 Petroleum Code, which applies in Ivory Coast to oil & gas exploration and production activities. Major changes include, among others, the implementation of the EITI principles through a series of innovative measures and the reinforcement of environmental protection measures, including with respect to the decommissioning and dismantling of production facilities, as well as in terms of site rehabilitation obligations.

In March 2012, the Ministry of Mines of Ivory Coast announced that a new mining code is being prepared to replace the 1995 mining code. So far, very little is known about the nature and extent of this new mining code, but it is expected that in order to invigorate the mining sector in Ivory Coast, the new code will adopt new measures aimed at facilitating the administrative process of obtaining mining titles, while requiring applicants to give strong commitments in terms of work programs, minimum investment obligations, and demonstration of technical and financial capabilities.

Finally, the government of Ivory Coast is reported to be working on a new Energy Code, the purpose of which is to reform the institutional and legal framework of the electricity sector. With natural gas resources and existing IPPs (Azito and Ciprel), which are identified by the international business and financial community as landmark and reference projects in West Africa, Ivory Coast is a major power-producing country that has exported electricity to its neighboring countries. Several projects are under way to further increase Ivory Coast's installed capacities through the development of thermal, renewable, and hydropower plants.

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