

## Legislation Update

### DEMOCRATIC REPUBLIC OF THE CONGO – HYDROCARBONS LAW

The new Hydrocarbons Law entered into force on 1 August 2015 in DR Congo is expected to be adopted soon.

New provisions relating to health and safety and the environment will apply to all existing contracts. Other provisions of the new law regulate oil and gas matters in future contracts as well as the renewal of existing rights. Contact [Dr Aboubacar Fall](#), Partner.

### NIGER – NATIONALITY LAW

The law in Niger now permits women to pass their Nigerian nationality to their husbands.

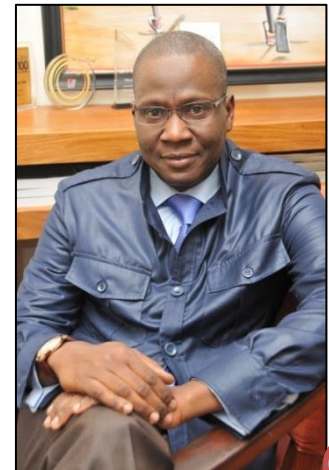
Previously, only a husband could pass his nationality to a wife. This amendment will enable men who are married to a Nigerian wife the opportunity to claim Nigerian citizenship. Contact [Louisa Gibbs](#), Special Counsel.

## OHADA's supreme court confirms that an arbitral tribunal can have jurisdiction in the absence of any state court jurisdiction

OHADA (Organisation pour l'Harmonisation en Afrique du Droit des Affaires) is the uniform system of business laws and implementing institutions, based on a civil law system, that has been adopted by 17 West and Central African states. The Common Court of Justice and Arbitration (CCJA) is OHADA's supreme court. The CCJA has recently published 30 new decisions that cover important issues of OHADA law, such as jurisdiction and the CCJA's procedures

In one case, the CCJA has held that to prevent a denial of justice, the named arbitral tribunal in the contract had to be given jurisdiction to hear a matter, when a national court in Mali declined jurisdiction.

"This was a very strong show of support for arbitration by the CCJA," says [Mouhamed Kebe](#), Managing Partner of GENI & KEBE, who is a Chartered Arbitrator before the Arbitration Court of OHADA and holds a Certificate of Commercial and Investment International Arbitration from the University of London. "It gives investors the confidence that arbitration clauses are powerful and important in this region."



### Did you know?

The World Bank's annual report "**Women, Business and the Law**" has found that in 22 countries, mothers are not able to pass their nationality onto their children in the same way as fathers are; and in 44 countries, women are unable to pass their nationality to their husband. If a child or spouse cannot claim nationality in the country they live in, they may not be able to access public services such as health care, or be employed in government positions. In West and Central Africa, where the government is the main provider of health and education and often the largest single employer, this can result in major negative impacts on a family's ability to gain employment, keep healthy and receive schooling. For more information, see <http://wbl.worldbank.org/>

## GENI & KEBE's new affiliate office in Togo

GENI & KEBE is pleased to announce that **Aquereburu & Partners** has become its affiliate office in Togo. GENI & KEBE now works with 14 affiliates to support clients with a regional focus in West and Central Africa.



Aquereburu & Partners has been operating in Togo since 1985 under the management of Alexis Aquereburu. The team is well regarded for their broad range of commercial advice. The firm is top ranked in *Chambers Global* and is recognized as one of Togo's largest and best established firms. Chambers acknowledges Aquereburu & Partners' "flexible and very precise" handling of multiple facets ancillary to transactions. We look forward to working together to serve our clients with interests in Togo.

## Law, Justice and Development Week

In November, [Dr Aboubacar Fall](#), Partner and [Elise Groulx-Diggs](#), of Counsel, joined policy makers, scholars, practitioners and innovative thinkers at the World Bank's annual Law, Justice and Development Week in Washington DC. This year's sessions explored the role of governance and the law in the social and economic advancement of nations, with a focus on the value of law in producing sustainable development outcomes, in expressing justice, and in serving as a catalyst for justice from different perspectives.

Dr Aboubacar Fall presented on the topic of **International Justice and the Governance of World Fisheries: The Case Study of the Advisory Opinion of the International Tribunal for the Law of the Sea**. Dr Fall advised the Sub-Regional Fisheries Commission in this case, which is the first time that the Tribunal has delivered an advisory opinion.

Ms Groulx-Diggs spoke on the topic **Human Rights: Toward a New Business Governance and the Leading Role for the Legal Profession**. Amongst other things, Ms Groulx-Diggs is on the Advisory Board of the Business and Human Rights project of the American Bar Association Center for Human Rights.

"The Law, Justice and Development Week was an environment in which legal and development practitioners collaborated on ideas to progress and promote good governance around the world," says Dr Fall. "By sharing global ideas and practices, we can contribute to a joint aim of social and economic advancement in a world that recognises the importance of human rights and social justice."

For more information about the World Bank's Law, Justice and Development conference, see:

<http://www.worldbank.org/en/events/2014/12/17/law-justice-and-development-week-2015>



FINANCIAL AND  
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2016

## Mouhamed Kebe named a Leading Lawyer by IFLR 1000

In an environment where investment is growing and clients are seeking sound advice on project finance matters, we were delighted that GENI & KEBE's Managing Partner [Mouhamed Kebe](#) was named as a Leading Lawyer by IFLR 1000 Financial and Corporate. To determine the rankings, IFLR 1000's financial law journalists conduct interviews with lawyers, industry figures and in-house counsel. The rankings reflect the leading financial and corporate law firms for different regions, markets and practice areas. Thank you to our clients and colleagues who have supported Mouhamed in achieving this recognition.

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## Trade MOU for companies in ECOWAS states and the USA

In September, the Economic Union of West African States (ECOWAS) and the US Chamber of Commerce signed an MOU and launched the US-ECOWAS Business Initiative (USEBI) to promote trade and strengthen economic and commercial ties between the United States and ECOWAS. USEBI brings together West African and American companies who are working to increase two-way trade, remove or reduce commercial barriers and foster a better understanding of respective investment climates. We can expect this initiative to lobby government for policy and legislative change to improve the trade environment. For more information see: <http://www.usecowasbusiness.com/> or contact [Louisa Gibbs](#), Special Counsel.

## Stabilization Clauses in Mining Contracts unpacked at the JMP Mali Conference

For the sixth year, government, private sector, donors and academics have gathered to look at the mining industry in Mali at the JMP ("journées des minier et petroleum" or "days of mining and petroleum"). The theme of this year's conference was *Increasing the contribution of mining to the economy of Mali*.



[Louisa Gibbs](#), Special Counsel, presented at the conference on the importance of negotiating appropriate stabilization clauses to ensure that governments, communities and investors all maximize the benefit from the project. "Stabilization clauses protect investors from fluctuations in costs of mining projects resulting from changes in legislation," Louisa notes, "but changes in legislation are necessary to ensure that our laws reflect community values and aims. For instance, over time we have grown to better appreciate the impact mines have on our environment. Investors who have negotiated a stabilization clause should not be able to avoid compliance with those important laws; it is not in the best interests of any of the stakeholders, including the investor itself. Going forward, smart investors and smart governments will agree to review their stabilization clauses throughout the life of the project."

## New publications

We contribute to the Global Legal Group Publications to ensure that there is accurate information widely and freely available about the legal landscape in our region.

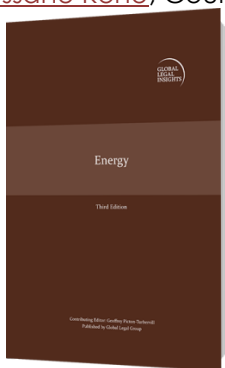
### Corporate Tax in Senegal

For more information, see <http://www.iclg.co.uk/practice-areas/corporate-tax/corporate-tax-2016> or contact [Absatou Ndiaye](#), Counsel or [Rahimine Touré](#), Graduate.



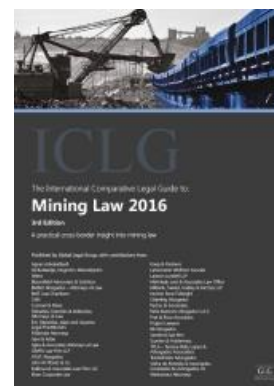
### Energy in Côte d'Ivoire

For more information, see <http://www.globallegalinsights.com/practice-areas/energy/global-legal-insights---energy-4th-ed./ivory-coast> or contact [Mouhamed Kebe](#), Partner, or [Hassane Koné](#), Counsel.



### Mining Law in Guinea and DR Congo

For more information, see <http://www.iclg.co.uk/practice-areas/mining-law/mining-law-2016> or contact [Ismail Itoua](#), Counsel, [Mouhamed Kebe](#), Managing Partner and [Dr Aboubcar Fall](#), Partner.



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## New Faces

### GENI & KEBE welcomes two new team members this quarter

#### DAMIEN AW Counsel

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Damien graduated from the Senegalese National Institute of Administration, Employment Law Section.

Prior to joining GENI & KEBE, he held several positions as a Human Resources Director, both in the public and private sectors. Damien heads GENI & KEBE's Labour & HR Desk, to assist the increasingly frequent queries we are receiving from our domestic and international clients on employment and HR issues.

#### ELISE GROULX-DIGGS Of Counsel

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We welcome Canadian lawyer Elise Groulx-Diggs, who is an experienced and well-known human rights and international criminal lawyer. Elise advises corporations on human rights risks in their strategic projects and supply chains and assists businesses in assessing the legal risks of operating in fragile states and conflict zones. Elise is licensed to practice in Québec and Paris which enables her to litigate before European Institutions (including the European Court of Human Rights) and she is a Licensed Legal Consultant with the New York Bar.

## Treaty Making in Investment Law



L-R: Dr Aboubacar Fall with Mr Paul-Jean Le Cabbu from ICSID and Professor Emmanuel Gaillard at the Conference

In November, the International Arbitration Institute (IAI) led by Professor Emmanuel Gaillard, a world recognized arbitrator and a partner at Sherman Sterling, organized an international conference on the topic of "Treaty Making in Investment Law" in Washington DC.

[Dr Aboubacar Fall](#), Partner, attended the conference. "Investment treaties can lay the foundation for a profitable environment for some investors," he noted, "but it can cause headaches for others. When entering a new country context, investors should be conscientious in finding out if there are any internat-

ional treaties, such as Most Favored Nation agreements or bilateral trade/ investment agreements that would impact on their activities."

In addition to the IAI, a body called Arbitration Academy was established in 2011 with the objective of, among others, training national judges in arbitration. National judges play a central role in the arbitration process and the Academy supports their capacity building and development.

### Did you know?

Company mergers occurring in Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo will be governed by the same merger control standards because they are Member States of the West African Economic and Monetary Union (WAEMU). The legal processes for mergers are set out in Rule No 02/2002 of WAEMU dated 23 May 2002 on anti-competition practices in the WAEMU.