

2023



## 1. Competition law

### The Arab Business Legislative Frameworks

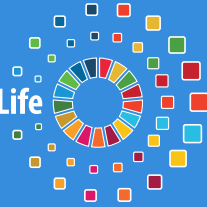


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**Economic and Social Commission for Western Asia**

## **1. Competition law**

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### The Arab Business Legislative Frameworks (2023)

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# Contents

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<b>Acknowledgments</b>	<b>5</b>
<b>Overview</b>	<b>6</b>
<b>Key messages</b>	<b>8</b>
<b>1. Competition law</b>	<b>10</b>
A. Competition frameworks in the Arab region	11
B. Gulf Cooperation Council countries	15
C. Middle-income countries	20
D. Conflict-affected countries	25
E. Least developed countries	29
<b>2. Conclusion</b>	<b>33</b>
<b>Annex. Methodology summary</b>	<b>35</b>
<b>Endnotes</b>	<b>38</b>



## List of tables

---

Table 1. Recently adopted competition legislation 2020–2023	11
Table 2. Competition laws and authorities in CACs	26

## List of figures

---

Figure 1. Competition legislative assessment scores, 2020–2023	12
Figure 2. Scores of competition main components in the Arab region, 2020–2023	12
Figure 3. Progress in the score of competition elements, 2020–2023	13
Figure 4. Changes in national scores for the competition legislation assessment in the Arab region, 2020–2023	15
Figure 5. The overall score of GCC countries across the eight components of the competition assessment	16
Figure 6. Progress in the score of competition elements in GCC countries, 2020–2023	17
Figure 7. The overall score of MICs across the eight components of the competition assessment	21
Figure 8. The overall score of CACs across the eight components of the competition assessment	27
Figure 9. The overall score of LDCs across the eight components of the competition assessment	30

## List of boxes

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Box 1. ABLF 2023: methodology for assessing competition regulatory frameworks	13
Box 2. Advancement of competition law in the Arab region – Case studies from Saudi Arabia	18
Box 3. Advancement of competition law in the Arab region – Case studies from Egypt	23
Box 4. SOEs in the Arab region	25

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The report encompasses legislative evaluations from the following 22 Arab countries:

Gulf Cooperation Council (GCC countries): Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates.

Middle-income countries (MICs): Algeria, Egypt, Jordan, Lebanon, Morocco, Tunisia.

Conflict-affected countries (CACs): Iraq, Libya, State of Palestine, Syrian Arab Republic, Yemen.

Least developed countries (LDCs): Comoros, Djibouti, Mauritania, Somalia, Sudan.

**Note: The report's conclusions are based on the assessments of ESCWA of legislation available up to August 2023. ESCWA intends to regularly update the framework, indicators, and outcomes of this study in the future.**

# Overview

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Over the last two decades, there has been significant changes in business regulations across the Arab region to address the need for making markets more robust and competitive, and thus accelerate economic growth. The pathways to change varied due to different national contexts and priorities. For instance, priority in Gulf Cooperation Council (GCC) countries has been given to economic diversification. Middle-income countries (MICs) mostly focus on attracting foreign direct investment, while the least developed countries (LDCs) strive to stimulate economic growth.

Regular reforms in business regulations are necessary for ensuring market sustainability, enhancing economic competitiveness, creating employment and facilitating trade. Importantly, robust and well-implemented regulations play a crucial role in advancing the Sustainable Development Goals (SDGs), whether through fostering social equity or advocating responsible consumption.

In recognition of this role, the United Nations Economic and Social Commission for Western Asia (ESCWA) has paid special attention to economic and business governance in the Arab region. In 2015, ESCWA published “Competition and Regulation in the Arab Region”, a study addressing the growing concern of market structure and regulatory aspects in the region. The First Arab Competition Forum, which was held in Beirut in January 2020<sup>1</sup> highlighted the work needed in areas such as competition law, consumer protection, procurement, anti-corruption, and foreign direct investment.

To close these gaps, ESCWA launched the Arab Business Legislative Frameworks (ABLF) report in 2021. The report provided a holistic assessment for regulations related to competition, consumer protection, anti-corruption and foreign direct investment. The assessment indicators were based on international standards with the aim of capturing the different components of regulation, such as the presence of a legislation in the first place, the clarity of the definitions within that legislation, the efficiency of institutional enforcement and implementation of the provisions of legislations, transparency factors and whether a country had signed international trade agreements. The

objective of this report is to provide regional policymakers and researchers with a reference that drives regulatory reform and effective competition law enforcement.

Building on the previous report, and to account for the amendments and new legislations that have been adopted in response to the COVID-19 pandemic, ESCWA conducted a new assessment of the ABLF. The updated assessment incorporated the theme of corporate law to capture regulatory strengths and gaps, and the four themes of the original assessment (competition, foreign direct investment, anti-corruption and consumer protection) were significantly modified.

The modifications took into account the pressing need for robust legislations that address consumer protection in the digital market, an issue that has gained much importance in the aftermath of the COVID-19 pandemic. The foreign direct investment (FDI) methodology has also been significantly altered in terms of its components and indicators. The updated FDI methodology not only covers the initial entry of FDI, but also FDI operations and regulations for profit repatriation and currency conversion.

This report highlights that, while each of the five fields of assessment plays a unique role in shaping the business landscape, they are closely interlinked. For example, competition laws serve as market equalizers, fostering a culture of innovation. Consumer protection mechanisms build trust, enhancing the market’s overall integrity. FDI rules act as





gatekeepers for international capital, affecting the economic pulse of a nation. Anti-corruption initiatives contribute to ethical governance, a feature highly valued by both local and international stakeholders. Lastly, corporate laws offer the structural guidelines that govern business operations, ensuring that companies are held accountable when violations to corporate rules occur, and markets remain stable.

Yet, when these legislative areas operate in harmony, they reinforce each other and amplify their positive impact on markets and economies. Strong competition laws, for instance, enrich consumer choice and incentivize capital inflow. Effective consumer protections extend beyond individual rights, creating a market atmosphere conducive to investment. Likewise, a transparent corporate regime enhances legal clarity and sustainability, factors that are attractive to potential investors. Thus, the alignment of these legislative pillars is crucial for the creation of a vibrant and sustainable business ecosystem. Gaps or misalignments, however, could erode trust and hinder economic progress. Understanding and enhancing the interplay between these fields is vital for fostering a robust, sustainable business environment.

The assessment results offer a comprehensive overview of each field of study. This indicates that the region has made considerable progress in terms of competition laws, particularly in the GCC countries. However, LDCs are still lagging, with persistent issues around transparency and definitions. Consumer protection, on the other hand, is the weakest link among all regulatory areas even though the increasing focus on digital transactions requires robust and effective regulations.

There has been remarkable progress in anti-corruption measures, particularly in the GCC and MIC subregions. Nevertheless, there are lingering challenges, especially in

areas of digital governance and transparency. Legislation across the Arab region greatly facilitates the inflow of FDI and offers protections and incentives to foreign investors and to intellectual property. Corporate law reveals both advancements and gaps. While digital platforms for business registration are becoming commonplace, especially in the GCC countries, Egypt, Morocco and Tunisia, there is a glaring absence of binding regulations regarding Environmental, Social and Governance (ESG) compliance.

The report underscores the urgent need for policymakers to adopt a balanced approach to business regulations. While consumer protection should be a priority, other fields, such as competition law, anti-corruption measures, FDI and corporate law, should be improved. Business regulations should be approached as a balanced ecosystem. A weakness or gap in one area could have ripple effects across others. Therefore, a holistic approach considering the interplay between different sectors is crucial. Moreover, businesses should engage actively in regulatory dialogues to ensure that the laws are practical, enforceable and conducive to economic growth.

The 2023 ABLF report is more than a diagnostic tool; it is a roadmap for future action across multiple sectors. Report findings are instrumental for researchers, policymakers, investors and businesses, especially small and medium-sized enterprises (SMEs), offering a detailed guide to navigating the complex regulatory landscape. **It should, however, be stressed that the scope of the assessment methodology covers only the legislative side of the fields under study. The scores and classification do not reflect the enforcement level of these laws, policies and regulations.** Given that the level of enforcement is the measure of the real impact, future studies should explore this more closely, and evaluate the effects of implementation on both businesses and consumers.



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# Key messages

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Since the previous ABLF report, the regional average scores for most competition assessment components increased from “Moderate” to “Developed”, reflecting the adoption of new competition laws in several Arab countries or amendments made to existing laws.

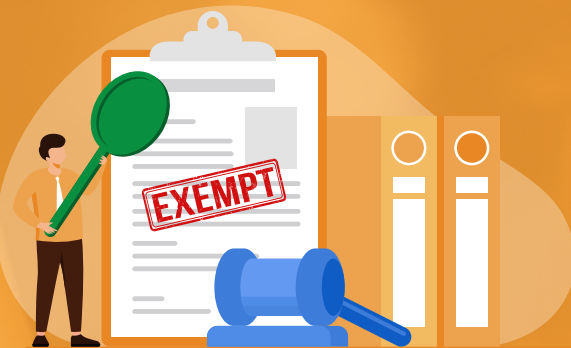


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Competition legal/regulatory frameworks are weakest in the Arab LDCs.



**Transparency and clear definitions for competition concepts remain areas of concern in many Arab countries.**



**Exemptions still hinder the effectiveness of competition legislation across the Arab region.**



# 1



## Competition law



## A. Competition frameworks in the Arab region

Competition policies, laws and regulations are key to promoting and maintaining market efficiency and consumer welfare in both developed and developing economies alike. This legislative framework plays a crucial role in preventing anti-competitive practices such as cartels, abuse of dominance, and anti-competitive agreements. By promoting fair competition, these policies encourage businesses to improve the quality of their products and services, lower prices, and innovate, thereby enhancing consumer welfare.

In the Arab region, many countries have historically been characterized by high levels of State involvement in the economy, concentrated market structures, allowing monopolies in key sectors, and relatively low levels of competition. Introducing or strengthening competition laws and policies can facilitate the transition towards more market-oriented economies. This, in turn, can help to stimulate innovation and efficiency, attract investment, reduce prices and improve quality for consumers, and thereby promote economic development.

In acknowledgment of the importance of competition laws, Arab countries have increasingly adopted legislations that aim to improve economic and social outcomes. Tunisia was the first member State to adopt a legislation with its 1991 competition law, and since then, several other Arab

countries have promulgated similar laws, often influenced by international organizations like the World Bank, the World Trade Organization (WTO) or trade agreements with member States in the Organization for Economic Cooperation and Development (OECD) or the European Union (EU). The first Arab business legislative framework report, published by ESCWA in 2021, found that the quality of legislations in Arab countries varied, with more advanced frameworks in GCC countries and MICs compared with conflict-affected countries (CACs) and LDCs.

Since the first report, progress has been made by several Arab countries. As outlined in table 1, new legislation pertaining to competition laws has been published by six Arab countries. Additionally, ESCWA member States actively participated in the third Arab Competition Forum ([Muscat, Oman, 24 and 25 May 2022](#)) and the fourth Arab Competition Forum ([Riyadh, Saudi Arabia, 23 and 24 May 2023](#)). These forums were organized through a collaborative effort organized by ESCWA in partnership with the United Nations Conference on Trade and Development (UNCTAD) and the OECD. This engagement underscores the growing recognition of the vital role of competition in national policy frameworks and the shift towards a better implementation of competition legislation across the region.

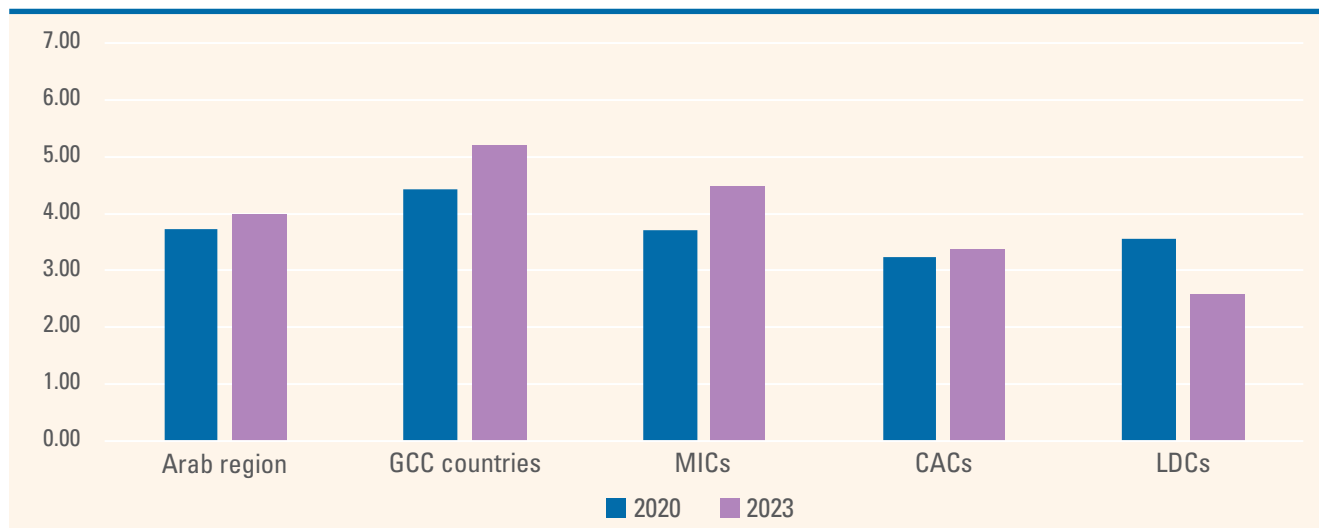
**Table 1. Recently adopted competition legislation 2020–2023**

Country	Competition legislation
Egypt	Amended its Competition Law via Law No. 175/2022
Kuwait	Competition Law No. 72/2020; Implementing Regulations No. 14/2021; Resolution No. 25/2022
Lebanon	In 2022, adopted its first ever Competition Law No. 281/2022
Oman	Ministerial Decision No. 18/2021
Saudi Arabia	Implementing Regulation for Competition Law (2020); Mergers and Collusion Guidelines (2021 and 2022)
Sudan	Ministerial Decree No. 513/2020 Executive Regulation for Prevention of Monopoly and Unfair Commercial Practices (unavailable)

Source: ESCWA – [Arab Legislative Portal](#).

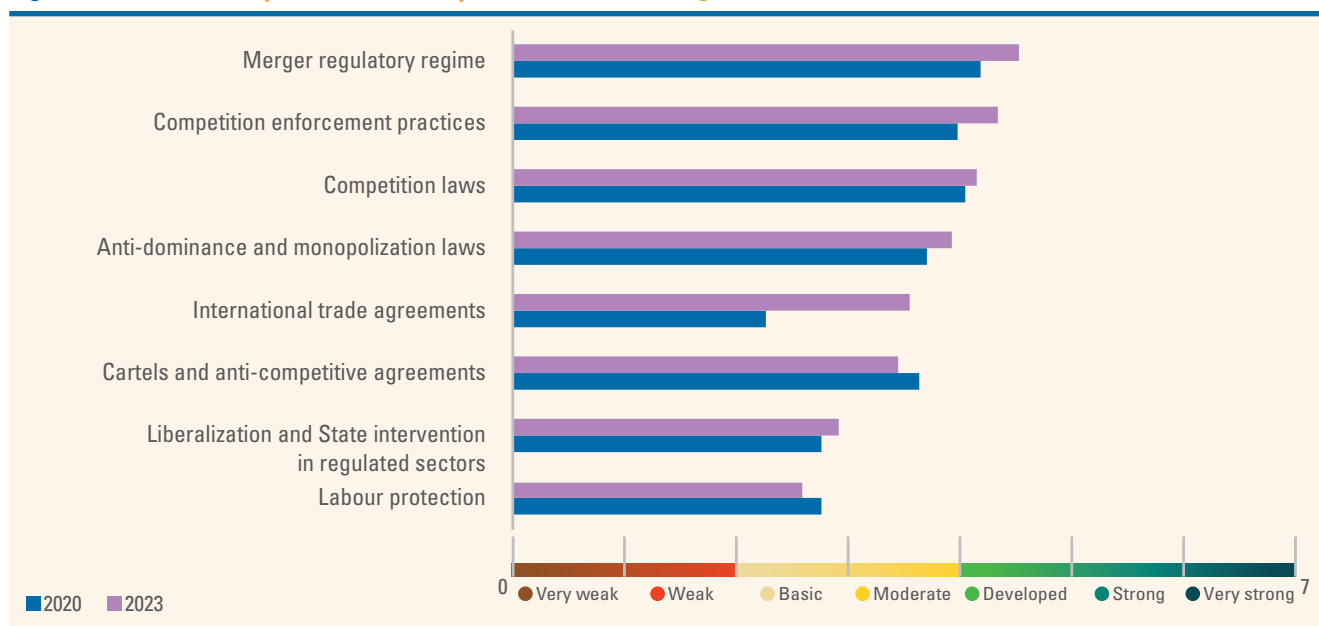
As figure 1 shows, the overall competition law assessment score for the Arab region improved from “Moderate” in 2020 to “Developed” in 2023, suggesting a generally positive

trajectory across the region. In GCC countries, the average score progressed from “Developed” to “Strong” due to the legislative amendments in Kuwait, Oman and Saudi Arabia.

**Figure 1. Competition legislative assessment scores, 2020–2023**

**Source:** ESCWA calculations.

**Note:** the score ranges from 0 to 7, where the classification between 0 and 1 is considered very weak, and between 6 to 7 is considered very strong. Check the methodology.

**Figure 2. Scores of competition main components in the Arab region, 2020–2023**

**Source:** ESCWA assessment methodology 2023 – appendix.

**Note:** the score ranges from 0 to 7, where the classification between 0 and 1 is considered very weak, and between 6 to 7 is considered very strong. Check the methodology annex.

Arab MICs also made substantial improvements. The average score of the subregion transitioned from “Moderate” to “Developed”, mostly due to amendments made by Egypt to the national competition law in 2022, in addition to the introduction of the Lebanese Competition Law (No. 281/2022) after being delayed for several years. Paradoxically, while the conflict-affected countries

maintained a “Moderate” rating over the years, there has been a decline in the score of Arab LDCs which now stands at “Basic”, signalling a need for urgent intervention and capacity building in these countries. This overall dynamic reveals a disparate pace of development across various subregions, influenced by diverse socio-economic and political factors.

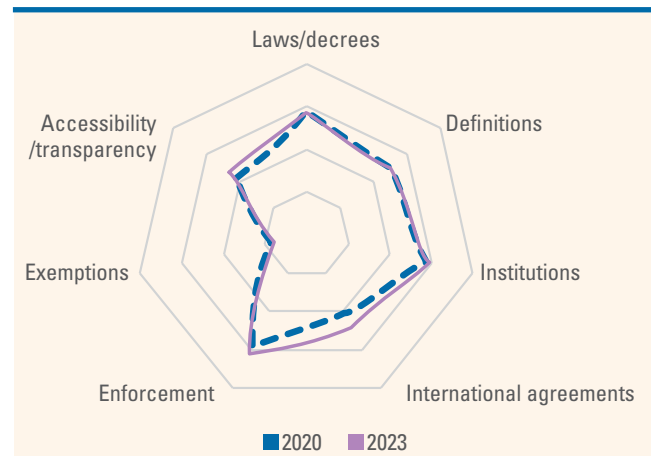
Figure 2 indicates that the regional scores for legislation across most of the assessment components have increased since the previous report. These scores show the average for each competition component across all 22 member States. Some improvement can be seen in the quality of competition laws, especially regarding the specificity and detail included in legislation on enforcement practices and merger regulatory regimes. The international trade agreements signed and ratified by Arab countries mostly include provisions that cover competition. One important factor in this has been the ratification of The Common Market for Eastern and Southern Africa (COMESA) by many Arab countries. Despite these improvements, none of the average scores is above “Developed”, indicating that much progress still needs to be made.

The scores for three components have more or less remained unchanged on a regional level, indicating a lack of legislative progress in these areas. One of them is labour protection, signalling the need to account for workers in drafting competition-related legislation. Only a handful of Arab countries address labour-related issues in cases of mergers and acquisitions. There is also no progress in the area of cartels and anti-competitive agreements: too many Arab countries lack definitions of key terms such as “cartel,” which significantly hinders the ability of authorities to act against oligopolistic practices. Regulatory frameworks covering the component “Liberalization and State intervention in regulated sectors” have, for the most part, remained the same across

the region, reflecting the exemptions granted to certain business activities and the acceptance of monopolies in specific sectors. State-owned enterprises (SOEs) are often the beneficiaries from these exemptions, leading to suboptimal outcomes in terms of allocative efficiency.

These outcomes highlight importance of the principles of competitive neutrality in legislations across the region, with exemptions being granted only as safeguards and under very specific circumstances.

**Figure 3. Progress in the score of competition elements, 2020–2023**



Source: ESCWA calculations.

Note: the score ranges from 0 to 7, where the classification between 0 and 1 is considered very weak and between 6 to 7 is considered very strong. Check the methodology annex.

### Box 1. ABLF 2023: methodology for assessing competition regulatory frameworks

The methodology for assessing the competition regulatory framework in the ABLF 2023 report is based on eight main components:

- Competition laws
- Anti-dominance and monopolization laws
- Cartels and anti-competitive agreements
- Competition enforcement practices
- International trade agreements
- Merger regulatory regime
- Labour protection
- Liberalization and State intervention in regulated sectors

The methodology for the 2023 report has undergone considerable modifications. The ESCWA assessment team introduced additional criteria and indicators across the main categories that cover vital areas such as legal definitions, pre-merger notification regimes, and the confidentiality of information received by competition authorities. Using these additional indicators may alter scores for some countries even if no change occurred in their legislative landscape. This aspect is an important point of consideration and is further explored and discussed in other parts of the report.

Source: ESCWA assessment methodology 2023 – appendix.

The exemptions and protections are, of course, essential under certain contexts, such as in LDCs where the level of economic development does not allow markets to operate without such measures. However, there should be clear and detailed criteria for granting these measures to avoid abuse.

Figure 3 shows the scores for all seven competition elements during the period 2020–2023. Only minor changes are noticeable in the scores. Although the international agreements element has seen progress, it remains classified as “Moderate”. Exemptions remain the weakest element of competition legislation across the Arab region. Transparency and definitions are also two elements of concern as their scores are still just moderate.

At the national level, the competition law assessments yielded varying scores. This reflects contrasting levels of

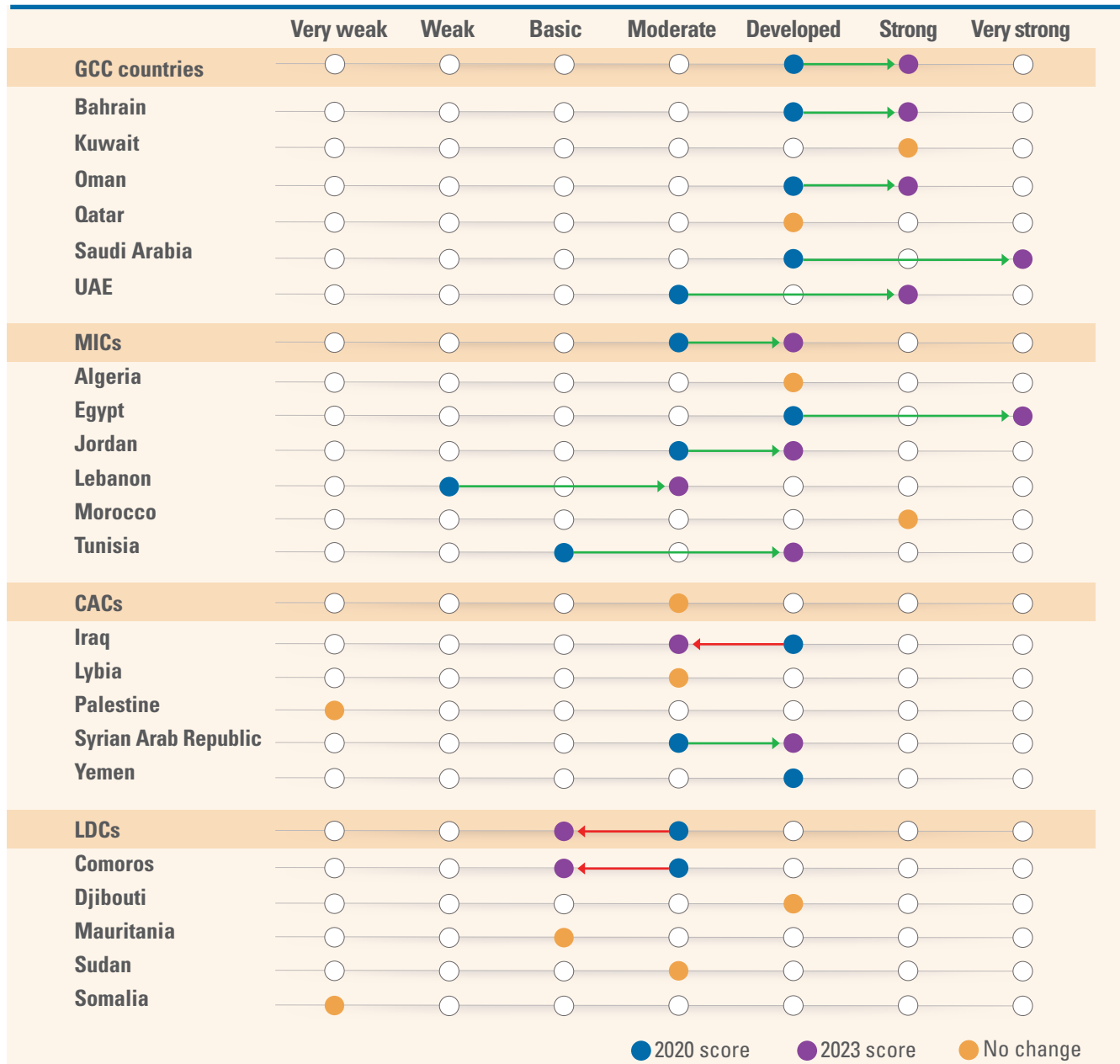
regulatory maturity on the one hand, but also the impact of the new indicators introduced for the new assessment on the other hand, as explained in box 1. Although the overall score for the Arab region did mildly shift, to reach the lowest edge of the “Developed” category, the regional score masks the nuanced changes in individual countries, as figure 4 shows.

The scores of Egypt, Kuwait, Lebanon, Oman, Saudi Arabia and the Sudan have witnessed a significant increase, due to adopting new laws and amendments, while the score of several other countries have decreased. Such contrasting trends underline the diverse and complex landscape of competition law in the Arab region and the need for targeted efforts to support and encourage competition law development across all Arab countries.





**Figure 4. Changes in national scores for the competition legislation assessment in the Arab region, 2020–2023**



Source: ESCWA assessment 2023.

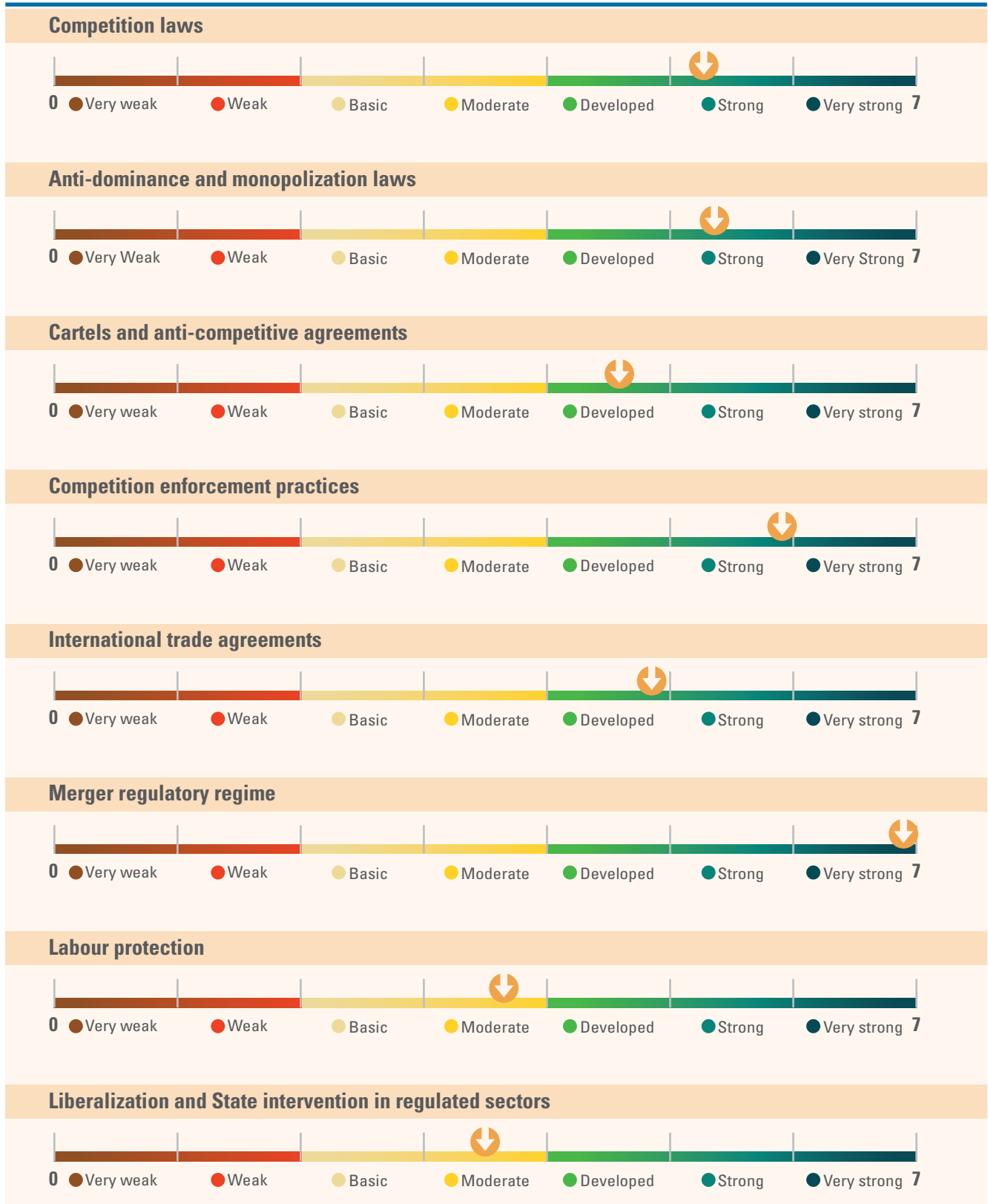
## B. Gulf Cooperation Council countries

Competition laws have been significantly improved in GCC countries since 2020. The average score of the subregion went up the scale from “Developed” to “Strong”, reflecting the adoption of new laws, regulations, and guidelines and the enhanced enforcement of existing policies. This progress is primarily due to the notable amendments implemented in countries such as Oman, Kuwait and Saudi Arabia. Generally, GCC countries have had the largest share of amendments in the Arab region over the period 2020–

2023, which indicates a consistent focus on the need for a robust and up-to-date competition framework.

The scores of Oman and Saudi Arabia improved due to the adoption of numerous amendments. Kuwait remained at the far edge of the “Strong” classification, but also achieved considerable progress following the implementation of a new competition law, which significantly updated their competition policies to keep pace with the evolving internal

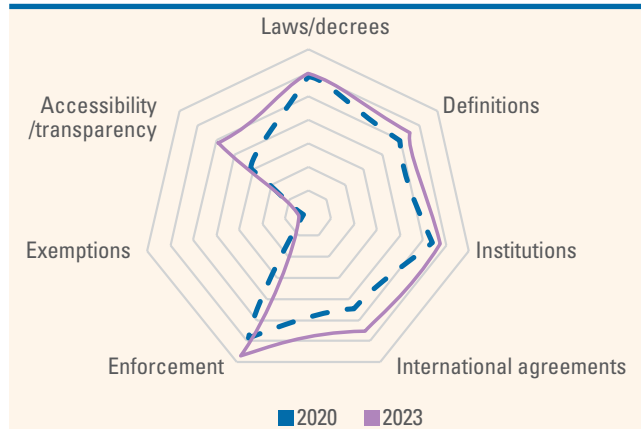
**Figure 5. The overall score of GCC countries across the eight components of the competition assessment**



Source: ESCWA assessment, 2023.

Note: the score ranges from 0 to 7, where the classification between 0 and 1 is considered very weak and between 6 to 7 is considered very strong. Check the methodology annex.

**Figure 6. Progress in the score of competition elements in GCC countries, 2020–2023**



Source: ESCWA assessment.

Note: the score ranges from 0 to 7, where the classification between 0 and 1 is considered very weak and between 6 to 7 is considered very strong. Please check the methodology annex.

and regional market dynamics. Through Ministerial Decision 18/2021, Oman introduced changes targeting key components like cartels, economic concentration and exception requests, consequently strengthening its competition landscape. Saudi Arabia embarked on a similar path after adopting a new competition law in 2019, subsequent regulation for organizing the General Authority for Competition, and additional guidelines for mergers review and collusion introduced between 2021 and 2022. Even though Bahrain, Qatar, and the United Arab Emirates did not introduce any new laws or amendments over the past two years, the competition regulatory frameworks within these countries remain strong.

Figure 5 shows consistent improvements over most components of the competition assessment. Provisions related to anti-dominance and monopolization, as well as anti-trust regulations, have reached a mature stage. However, some effort still needs to be made for combatting cartels and anti-competitive agreements. There has been a moderate development in terms of international trade agreements and in reaching the balance needed between liberalization and State intervention in regulated sectors. Merger regulations have been well aligned with global best practices. Labour protection, however, which is a crucial aspect of comprehensive competition law, is still in its basic stages and requires more attention.

As figure 6 demonstrated, the score for most elements lies between “Strong” and “Very strong”. However, the score for exemptions is very weak. This is due to the multitude of exemptions in the subregion, especially those pertaining to the SOEs that perform economic activities.

## 1. Competition laws

In GCC countries, the score for competition laws has evolved from “Developed” to “Strong” during 2020–2023. In Saudi Arabia, after scoring a “Strong” status in 2020, scored “Very strong” in 2023, demonstrating an enhanced and more comprehensive framework that targets multiple competition policies and unfair practices. Similarly, the United Arab Emirates made some progress, advancing from a “Moderate” to a “Strong” classification over the same period.

The main strengths of competition laws in the subregion revolved around versatility and comprehensiveness, focusing on preventing monopolistic practices and fostering a competitive marketplace. For example, the updated legislation of Kuwait includes clear definitions of many competition concepts and establishes an administratively and financially independent competition agency. Meanwhile, Saudi Arabia has extended the independence principle to the competition authority officers to ensure their impartiality and avert conflicts of interest. Moreover, the scope of enforcement of the Saudi competition law has been expanded to companies working outside the country if they impact the national market. However, in several instances, some gaps remain present, as the legislations allow room for potential State intervention and grant exceptions and exemptions under certain circumstances, which risks perpetuating State-led practices in the market.

## 2. Anti-dominance and monopolization laws

Each country in the GCC subregion implements its own measures to curtail anti-competitive practices. Scores have ranged between “Moderate” and “Very strong”, with Saudi Arabia making the most substantial improvement. The definition of dominance and the prohibition of monopolistic practices are generally well-articulated. Furthermore, the introduction of strict sanctions, such as the ones in the competition law of Qatar and the executive regulations 18/2021 of Oman, has equipped these jurisdictions with potent deterrents against violations.

However, some gaps remain present in the competition law. For example, the law of Qatar does not specify the threshold for identifying dominance, which may lead to ambiguity in enforcement. Instead of waiting for legislative amendments that may take time, it is recommended to address the mentioned loopholes through the issuance of guidelines.

### 3. Cartels and anti-competitive agreements

The overall score for GCC countries is “Developed”, indicating a robust regulatory framework against these practices. The competition laws of several countries strictly prohibited anti-competitive agreements, ranging from price fixing to geographical customer allocation. The law of Kuwait (2020) and the implementing regulations (2021) have further outlined practices leading to the establishment of cartels and anti-competitive agreements. A significant strength in this context is the adoption of an indicator for horizontal and vertical agreements in Saudi Arabia. The executive regulation of Oman represents a step forward, with explicit definitions of how cartels are established.

There are notable gaps as well. The most prominent is the lack of clear definitions or explicit mention of cartels in the competition laws of Bahrain, Kuwait, Qatar, Saudi Arabia and the United Arab Emirates. While practices constituting cartels are prohibited, the absence of a direct reference could potentially create a legal loophole or lead to interpretation issues. Similarly, the executive regulation of Oman offers a general definition for agreements but does not elaborate on the specifics, such as horizontal and vertical agreements. These gaps call for further refinement to ensure that there are comprehensive, unambiguous legal guidelines on cartels and anti-competitive agreements.

### 4. Competition enforcement practices

All GCC countries developed robust competition regimes and strong enforcement mechanisms. These regimes enforce competition provisions on businesses performing economic activities both inside and outside national boundaries (based on the effects doctrine, by which States claim jurisdiction over acts committed abroad which produce harmful effects within their territory) and allow stakeholders to submit complaints regarding potential violations. In Kuwait, the regulations adopted in 2021 stipulate in-depth mechanisms for competition enforcement, highlighting sanctions, investigation procedures and conditions for amicable settlements.

A key strength of these GCC competition regimes is their meticulous enforcement practices. Competition councils are granted wide-ranging mandates that allow them to investigate competition cases, advise on competition matters, assess concentration practices and implement interim measures to suspend suspected restrictive practices. For example, in all GCC countries, the competition council can initiate an investigation on its own. Furthermore, the councils can ensure data confidentiality, which encourages cooperation from businesses, while rigorous penalties for violations serve as strong deterrents. Yet, there are still areas for improvement. In Qatar, a notable gap is a lack of a specific provision indicating the law’s scope of application for businesses operating outside Qatar and influencing the internal market.

#### Box 2. Advancement of competition law in the Arab region – Case studies from Saudi Arabia

Saudi Arabia has made significant advancements in enforcing competition policy between 2019 and 2022. During this period, the country introduced legislative amendments and developed several guidelines to provide clarity on both the legal and economic aspects of competition. Since 2021, Saudi Arabia has actively enforced its competition policies, leading to tangible outcomes.

For instance, the General Authority for Competition (GAC)<sup>2</sup> conducted an investigation into Duja Jeddah Contracting Company Ltd for suspected collusion in bids and auctions related to the construction of an Arrivals Terminal at Arar Domestic Airport. The investigation found that the company had violated Section (7) under Article (4) of the Competition Law, which explicitly prohibits collusion between companies in bidding procedures that can impact prices and limit the entry of new firms. As per the legal grounds provided by the legislation, the company was fined ten million Saudi Riyals, and it was required to self-fund the publication of the penalty decision in media outlets. And through Decision No. 175 on 16/2/2023, the Administrative Court of Appeal upheld GAC’s decision, dismissing the appeal filed by the company.

Furthermore, the case of the Almaknaz Feed Company serves as another example of effective enforcement. On 30/7/2023, the Administrative Appeal Court of Riyadh upheld the decision rendered by the GAC, which imposed penalties against the company for abusing its dominant position by controlling the supply of bran commodity in the market and restricting its sale to a limited number of customers. This practice was found to restrict trade in the commodity and exert price control, violating Article 6 (3) of the Competition Law.

These enforcement actions illustrate Saudi Arabia’s commitment to fair competition and preventing anti-competitive practices in its markets.

## 5. International trade agreements

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GCC countries scores ranged between “Strong” and “Developed” in terms of international trade agreements. The assessment focused on the 2015 GCC-Singapore Free Trade Agreement because it provided a good example. The arbitration mechanism is clarified in chapter 9 of the agreement, and acts as solid assurance for investors. Furthermore, article 5.2 aims to strike a balance between internal policies of subsidies and the requirements of the trade agreement’s provisions. Yet, there is a pertinent gap in the agreement, stemming from exemptions stipulated by article 6.3. While the exemptions are understandable given their linkage to State sovereignty and key economic policies, they call for a nuanced approach that effectively harmonizes State sovereignty and economic policies with the provisions of international trade agreements.

## 6. Merger regulatory regime

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The score for merger regulatory regimes in GCC countries in this assessment was “Very strong”. Central to these frameworks are explicit provisions outlining the practices leading to a change in market control, such as mergers, acquisitions, or joint ventures. For instance, all GCC countries require businesses undertaking these activities to notify the competent authorities within a specified time frame and based on a determined threshold.

These regimes also have well-defined notification systems and meticulously devised rules for evaluating economic concentration transactions. These systems are pivotal for safeguarding consumer interests, fair competition, and overall market stability. Kuwait, Saudi Arabia and the United Arab Emirates, for example, employ a pre-merger notification regime, while in Oman, any parties initiating an economic concentration have to promptly inform the regulatory authority. In addition to these notification systems, the GCC countries have adopted detailed guidelines to assess the impact of economic concentrations. Saudi Arabia follows this approach, where guidelines provide clear criteria and practical case studies for the assessment process.

These regulatory regimes also incorporate several innovative practices, such as the indicator on change in control in Saudi Arabia. This indicator is integral to the definition of economic concentration, and providing an

in-depth elucidation of this concept ensures thorough protection against potential circumvention of the law. Additionally, Saudi Arabia took the proactive measure of adopting a pre-merger notification regime with clear conditions, such as the threshold of 200 million Saudi Riyals.

## 7. Liberalization and State intervention in regulated sectors

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Legislation relating to liberalization and State intervention in regulated sectors is still inadequate. The previous assessment noted that the biggest barrier to economic competition in GCC countries is the prevalence of SOEs and the exemptions extended to them, in addition to the favourable treatment of SOEs in competition legislations. It is worth noting that the score of Saudi Arabia under this heading has improved due to the recent adoption of a privatization law that enables private companies to participate in developing public projects in different forms. However, the score for several other GCC countries, such as Bahrain, Kuwait and Oman, was only “Moderate” because their laws keep entire sectors off-limits for the private sector.

## 8. Labour protection

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Labour Protection is an area of competition legislation that is often neglected. The average score for GCC countries in this respect was “Moderate”, representing the presence of some basic guarantees but also a lack in the more comprehensive safeguards for workers. For instance, laws in all GCC countries ensure basic protection for employee contracts in mergers and acquisitions transactions. These laws establish a critical legal framework that underpins worker rights and provides some assurance of their interests during organizational transitions. However, notable weaknesses persist. One prominent weakness is the absence of a non-compete clause in the competition law across GCC countries except for Oman. The non-compete clause should be drafted in a reasonable manner that guarantees labour mobility without leading to anti-competitive effects.

These gaps pose potential vulnerabilities in the fiercely competitive GCC economies. Despite considerable strides made, GCC countries have room for proactive measures to enhance labour rights and to meet the demands of their dynamic economic landscape.

## C. Middle-income countries

In the recent years, middle-income countries (MICs) in the Arab region have experienced significant advancements in the implementation and enforcement of competition legislation. An assessment of these regulatory frameworks across these countries over the study period reveals a transition from a “Moderate” to a “Developed” classification. A remarkable growth trajectory is witnessed, underpinned by marked legislative improvements in countries such as Egypt, Jordan, Lebanon and Tunisia. One such milestone is the introduction of Lebanon of its first-ever Competition Law (No. 281/2022), marking a pivotal turning point in the country’s approach to encouraging fair competition.

A common thread running through developments in MICs is the striving to deter monopolistic practices, promote fair competition, and align domestic practices with international best practices. The revisions to the competition laws in MICs include the incorporation of new definitions, pre-merger notification regimes, and increased fines for anti-competitive practices.

Despite the progress made, it is imperative to acknowledge that the landscape of competition legislation remains heterogeneous among MICs, with each country facing unique challenges and opportunities. MICs encompass a broad spectrum of competition regulatory framework classifications. Algeria consistently had a “Developed” score throughout 2020–2023, primarily operating under the same law since 1995, even though it had been amended several times since, and the draft for a new law is being reviewed now. The score for Egypt has advanced from “Developed” to “Very strong”, through significant legislative amendments, including a new pre-merger notification regime, increased fines for infringements, and the adoption of the competitive neutrality policy. The status of competition legislation in Jordan stands at “Developed” due to amendments for deterring monopolistic practices. The Competition Law No 281/2022 of Lebanon raised the country’s score from “Weak” to “Moderate”. The competition regulatory framework of Morocco remains “Strong”.

Figure 7 provides an overview of the competition assessment scores in MICs. Competition laws have remained consistently “Developed”, demonstrating mature and well-established legal frameworks. There has been considerable progress in anti-dominance and monopolization laws, transitioning from “Moderate” to “Developed”, a reflection of increased attention

to monopolistic tendencies and to fostering a more equitable market environment. Competition enforcement practices have also notably advanced from “Developed” to “Strong”, underscoring the robustness of the implementation mechanisms and their efficiency in deterring anti-competitive conduct. Simultaneously, the boost in international trade agreements from “Basic” to “Moderate” exhibits the region’s proactive engagement in global trade, fostering economic dynamism. However, the stagnation in liberalization and State intervention in regulated sectors and labour protection at a “Basic” level suggests a need for policy refinement and further development. In contrast, the evolution in the score of merger regulatory regimes to an average of “Very strong” showcases the comprehensive legislation regulating merger activities and greater efforts to bolster competition and build a resilient economic environment.

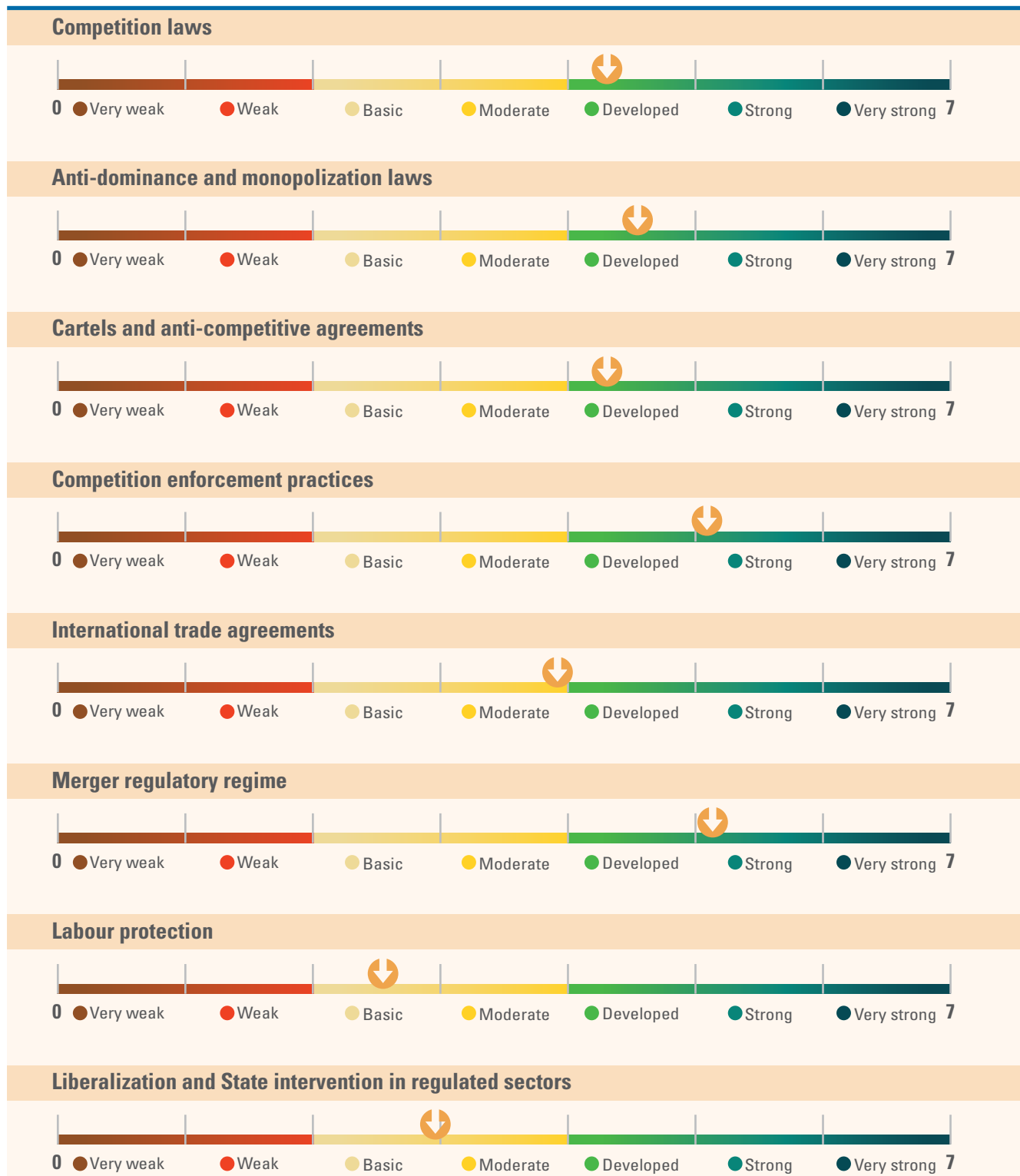
### 1. Competition laws

Competition laws in Arab MICs portray a varied landscape with evolving trends. At the country level, the 2023 assessment indicated greater efforts to enhance development in Algeria and Morocco. Egypt also greatly improved its score from “Developed” to “Very strong” within a span of three years, reflecting substantive advancements. Lebanon made modest progress, shifting its classification from a “Weak” to “Moderate” due to the enactment of the Lebanese competition law in 2022, while Jordan and Tunisia maintained their “Developed” status.

The Arab MICs have increasingly embraced a broad scope for competition laws, addressing elements such as economic activity definitions, prohibition of anti-competitive practices and the establishment of competition authorities. For instance, through its recent amendments, the competition law of Jordan has expanded the definition of economic activity to encompass several sectors, including information technology. The newly adopted competition law in Lebanon clearly defines and prohibits anti-competitive practices.

Gaps remain present, as definitions of crucial competition concepts, such as collusion, monopoly and vertical/horizontal agreements are either inadequate or missing altogether in the legal frameworks of Algeria, Morocco and Tunisia. Certain sectors, such as banking, insurance and microfinance are subject to specific regulations and authorities in Tunisia,

**Figure 7. The overall score of MICs across the eight components of the competition assessment**



Source: ESCWA assessment, 2023.

Note: the score ranges from 0 to 7, where the classification between 0 and 1 is considered very weak and between 6 to 7 is considered very strong. Please check the methodology annex.

indicating potential conflicts in the jurisdiction and limitations in the scope of enforcement of the competition law.

Furthermore, banking is exempted from the competition law in Egypt and is under the purview of the Central Bank.

Therefore, it is important to clearly state the jurisdictions of different agencies when issues of competition are covered in another law. To that end, laws should at least include provisions for clear and robust cooperation between the regulators. Moreover, some countries, such as Algeria and Tunisia, allow temporary Government intervention in determining prices, which potentially undermines market liberalization. Additionally, exemptions from competition laws based on specific conditions could potentially be misused, threatening market competition and fairness. The provisions of the Lebanese competition law for establishing a competition authority, while being a step in the right direction, do not make the authority independent. Moreover, the Lebanese Government hasn't taken any action toward establishing the competition authority since the enactment of the Law in 2022. These gaps call for further development of competition laws in the Arab MICs, and highlight the need for continuous scrutiny and reform in this domain.

## 2. Anti-dominance and monopolization laws

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Regarding monopolies and abuse of dominance regulations, Arab MICs have varying levels of strictness. While most countries have a strong and developed system, some stand out for explicitly prohibiting abusive monopolistic and dominance practices. Lebanon, for example, has a legal machinery that offers protection to its relatively small market by allowing judicial courts to refer competition cases to the competition authority (as stated in article 36). Enforcement is guaranteed through sanctions and punitive measures that reinforce these laws, as seen in Egypt (articles 20 to 25) and Tunisia (article 43). Additionally, Egypt and Jordan have clearly defined dominance thresholds, which help determine if a firm has a dominant position, making enforcement more effective. However, these three countries (Egypt, Jordan, and Lebanon) do not provide a specific definition of monopoly, even when indirectly addressing monopolistic practices. Lastly, the limited enforcement of the competition law in Tunisia (as stated in article 6) presents a potential loophole when it comes to ensuring economic or technical progress.

## 3. Cartels and anti-competitive agreements

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All MICs have laws prohibiting anti-competitive practices such as collusion, barriers to market entry, price-fixing and limiting or controlling production. For instance, in Lebanon, the prohibition of horizontal and vertical agreements

is a decisive legislative move towards preserving fair competition. Similarly, legislation in Egypt has a detailed account of both horizontal and vertical agreements and specific criteria for their assessment, which also highlights the robust legal framework in place.

However, a significant gap is that in countries such as Algeria, Jordan, Lebanon, Morocco and Tunisia, despite the prohibition of anti-competitive agreements, a clear and coherent definition of cartels is still absent. This lack of precise definition may potentially undermine the efficacy of the implemented legal frameworks. Therefore, the MICs might benefit from further refinement of their competition laws to include clear definitions and parameters for identifying and prosecuting cartels. These countries can significantly bolster their competition legislation by focusing on these areas, promoting a more competitive and fair market environment.

## 4. Competition enforcement practices

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MICs have made significant progress in the institutionalization of competition enforcement practices. Across MICs, the scope of enforcement given to competition authorities extends to all economic activities conducted within these countries and, activities outside impacting the domestic market. In Jordan, the enforcement apparatus has incorporated the Competition Directorate within the Ministry of Trade, granting it extensive functions such as developing competition strategies and conducting market studies. Algeria and Morocco have similarly established administratively and financially independent competition councils, and Tunisia has established an independent competition council alongside a competition department within the Ministry of Trade, which makes the institutional setup in Tunisia confusing since they have two competition bodies.

These competition authorities exhibit salient strengths. For instance, they have the power to initiate investigations autonomously (ex officio). This contributes to the protection of market players, particularly SMEs, by allowing the authorities to act proactively. Also, maintaining the confidentiality of information and data shared during investigations is a common tenet in these laws. This guarantees a certain level of cooperation between private businesses and the authorities. A broad range of stakeholders may present complaints about anti-competitive practices. In Jordan and other MICs, these stakeholders include private sector organizations, licensed consumer protection associations,



### Box 3. Advancement of competition law in the Arab region – Case studies from Egypt

Egypt has made significant strides in enforcing competition policy in recent years. In 2022, the country implemented crucial legislative amendments and adopted the competitive neutrality policy to promote fair competition in its markets. Moreover, Egypt has been actively developing various guidelines to enhance understanding of the legal and economic aspects of competition and facilitate the enforcement of the Law.

Beginning in 2016, Egypt embarked on a journey to actively enforce its competition policies in markets. Notable examples of this enforcement include decisions against Telecom Egypt, a state-owned enterprise (SOE). The Egyptian Competition Authority (ECA)<sup>3</sup> found Telecom Egypt in violation of the Competition Law for impeding private sector competitors from operating in the market through unnotified changes to infrastructure networks and imposing arbitrary conditions on infrastructure providers. In response, Telecom Egypt paid reconciliation fees, committed to complying with the Competition Law, and pledged to cooperate with the ECA to ensure fair competition in Egypt's internet infrastructure services.

Furthermore, on 21/5/2023, the ECA uncovered a coordination agreement between two automotive spare parts companies during a public tender, which violated Article 6(c) of the Competition Law. Such horizontal agreements, or cartels, were deemed harmful to competition, undermining the tendering process's purpose and increasing financial burdens on government administrations.

These decisive actions against anti-competitive practices showcase Egypt's unwavering commitment to enforcing the law and safeguarding fair competition within its markets.

professional associations, and trade unions. In Tunisia, the law even allows local collectivities to report infringements to the competition board.

The overall status of competition enforcement in the MICs reflects a strong commitment to competition laws and policies. This is demonstrated by the sharp increase in competition law decisions. For instance, the Competition Authority in Egypt (ECA) rendered 376 decisions in 2022, suggesting better enforcement of competition laws.

## 5. International trade agreements

MICs in the Arab region have executed a slew of accords aimed at liberalizing trade, ensuring fair competition and addressing anti-competitive practices. The provisions of agreements such as COMESA, Euro-Mediterranean Agreement, Greater Arab Free Trade Area (GAFTA) and the United States-Morocco Free Trade Agreement (USMFTA), underscore commitment to fostering a robust international trade landscape. These agreements have had a deep and positive impact in shaping economic policy and facilitating cross-border commerce.

However, despite the solid foundation these agreements provide, there remain key areas for improvement. The strength of these agreements is that they emphasize

mitigating market distortions, promoting investment, enhancing competition and regulating monopolies. For instance, the COMESA agreement signed by Egypt promotes policy harmonization and prohibits anti-competitive practices. Furthermore, COMESA has guidelines to enhance transparency and consistency and to assist stakeholders to understand and know their obligations under the agreement. The trade agreement of Morocco with the United States encourages transparency and competitive fairness. The Euro-Mediterranean Agreements ratified by Algeria and Tunisia emphasize preventing competition distortion and restriction.

However, gaps persist, particularly when it comes to establishing a balance between open trade and subsidization policy. Several agreements lack comprehensive competition provisions and definitions, as seen in the COMESA of Egypt and the GAFTA of Jordan. Furthermore, despite the broad range of trade accords of Lebanon, the country's framework for international trade agreement is considered "Weak", signalling the necessity for further improvements. By addressing these gaps, MICs can further enhance their international trade environments, reinforcing their economic growth and resilience.

## 6. Merger regulatory regime

The merger regulatory regimes have made notable progress in Arab MICs, achieving various levels of development.

This strength has been shaped by legislation and regulations that address economic concentration and its influence on market competition. Defined thresholds for notifications and certain conditions that necessitate regulatory approvals are common among these MICs. Each of these countries has specific articles within their competition laws that govern the processes of assessing an economic concentration transaction, with variations in detail and thoroughness. Generally, the regulatory environments are characterized by well-defined provisions, mandatory notification regimes and comprehensive enforcement mechanisms.

Countries like Egypt and Jordan have incorporated specific measures within their competition laws that address economic concentration. The amendments adopted by Egypt via Law No. 175/2022, for instance, clarifies vertical and horizontal agreements and provides a pre-merger notification regime, while before the amendments, it was a post-merger regime. Likewise, the competition law of Jordan provides extensive measures for handling economic concentration practices. Algeria, Morocco and Tunisia have their own distinct strengths, with the competition law of Algeria noting that economic concentration can lead to a decisive influence on the activity of a company, Morocco introducing a specific deadline for rendering the decision on the economic concentration transactions, and Tunisia setting forth sanctions that can reach up to 10 per cent of the turnover achieved by the offending party. The newly enacted competition law of Lebanon has incorporated provisions considering the impacts of economic concentration on market competition and economic development.

However, gaps still exist in certain areas, such as pre-merger notification procedures, enforcement powers, and details regarding horizontal and vertical practices. For instance, in Jordan, while economic concentration

is covered in the competition law, vertical and horizontal practices aren't defined explicitly. Similarly, the competition law of Lebanon could benefit from specific durations for pre-merger notifications and detailed examples supplementing the concept of the change in control in the boards of companies.

## 7. Liberalization and State intervention in regulated sectors

A considerable gap persists in full market liberalization, predominantly in sectors considered strategic and requiring substantial capital. Hence, there is a need to strike a balance between liberalization and safeguarding other economic and social aspects, including consumer protection. Equally, issues of market failure need to be considered such that liberalization would not lead from public to private monopolies that can be even more detrimental. Moreover, emphasis should be placed on subjecting the SOEs to the competition legislation as far as they are involved in economic activity.

Arab MICs have achieved moderate progress in this respect, as reported in Algeria, Egypt, Jordan, Morocco and Tunisia. In contrast, Lebanon presents a unique case of distinct weakness. Several countries, including Egypt resorted to partial liberalization processes, where, aside from strategic activities demanding high investments, all firms conducting economic activities, including SOEs, have to comply with competition rules.

The lack of full market liberalization limits the role of the private sector, leaving the State as the sole investor in strategic activities tied to the daily needs and basic amenities for citizens. The situation of Lebanon is classified as "Very weak", which underscores the need for achieving competitive neutrality in the region.



#### Box 4. SOEs in the Arab region

SOEs have been a steady feature in the political economies across the Arab regions. The International Monetary Fund (IMF) has noted that there is no set definition of an SOE, but their research indicates their sizeable footprint in economies across the Middle East and North Africa. For example, SOEs in Morocco own assets which are valued at more than 100 per cent of the national GDP, meanwhile, Tunisia has over 100 SOEs in industries ranging from tobacco manufacturing to electricity. However, SOEs are most common in industries considered “natural monopolies”, such as gas, water supply and transport.

The goals of SOEs often go beyond mere commercial success. Rather, they are often utilized for strategic purposes such as the supply of key public goods and services, or support social objectives such as employment (IMF: 44). These additional aspects that are associated with SOEs make it difficult to assess the value that these enterprises add to both society and the national economy. This challenge is exacerbated by the lack of systematic data relating to the financial performance of SOEs.

Due to the role that these SOEs play, they often receive favourable treatment from Governments, including subsidization and exemptions from certain taxes and regulations. This, however, violates the concept of competitive neutrality, whereby business activities should not receive competitive advantages vis-à-vis the private sector purely because they are State-owned. This State support can shield SOEs from market forces, distorting the competitive process and permitting inefficient business activity in key sectors throughout the economy. For these reasons, member States are encouraged to enact competition legislation that does not contain regulatory exemptions for SOEs.

##### Source:

1. Organization for Economic Cooperation and Development, “[Competitive Neutrality and State-Owned Enterprises: Challenges and Policy Options](#)”, 1 May 2011.
2. International Monetary Fund, “[State-Owned Enterprises in Middle East, North Africa, and Central Asia: Size, Costs, and Challenges](#)”, 20 September 2021.

## 8. Labour protection

Arab MICs scored an average of “Basic” for labour protection in competition laws. This is reflected in the classifications for Algeria and Lebanon in both 2020 and 2023, even though some progress has been made in Egypt and Jordan. There are some nominal labour protections, an example is article 9 of the labour law of Egypt which stipulates that employee contracts are protected during mergers and acquisitions.

Similar protections are in place in the labour laws of Jordan and Tunisia.

However, there are considerable gaps still. A glaring deficiency is the lack of non-compete clauses in competition laws across several countries, such as Algeria, Jordan, Lebanon and Morocco. Moreover, when these countries adopt non-compete clauses, these need to be framed in a way that promotes competition, otherwise, their impact would be anti-competitive.

## D. Conflict-affected countries

Most conflict-affected countries (CACs) in the Arab region have enacted their competition before the conflicts broke out. The legislative frameworks for CACs are set out in table 2. The lack of recent engagement with competition legislations poses the question of whether these legislations are actively enforced. Even if scores

are theoretically high in terms of this assessment, enforcement may be weak in the prevailing national contexts. This potential gap between legislation and its implementation is worth highlighting, yet the latter is beyond the scope of this report, which focuses in depth only on the quality of legislative frameworks.

**Table 2. Competition laws and authorities in CACs**

Country	Competition legislation	Competition authority
Iraq	Law 14 of 2010 on competition and monopoly prevention	Competition council (established in 2023)
Libya	No (competition provisions in Law 23 of 2010 on commerce)	Competition council (established in 2023)
State of Palestine	Draft Law (not adopted yet)	General Directorate of Competition at the Ministry of Economy
Syrian Arab Republic	Law 7 of 2008 on competition	General Commission for Competition and Anti-Monopoly
Yemen	Law 19 of 1999 on competition	Public Administration to Promote Competition and Prevent Monopoly and Commercial Fraud (Ministry of Industry and Trade)

Source: ESCWA assessment, 2023.

During 2020–2023, results for CACs were varied. Where Iraq regressed from “Developed” to “Moderate”, the Syrian Arab Republic advanced from “Moderate” to “Developed”, while the score for Yemen remained at “Developed” and remained “Moderate” for Libya. The State of Palestine is classified as “Very weak” due to the absence of dedicated legislation to ensure a competitive outcome. It is worth noting that a draft Law has been approved by the Council of Ministers but not adopted yet and a General Directorate of Competition was established at the Ministry of Economy in 2013.

As shown in figure 8, there is a complex spectrum of development across various domains for CACs. Competition laws, as well as anti-dominance and monopolization laws, have achieved a developed status, signifying robust legal structures to deter anti-competitive practices, monopolies, and abuse of dominance. However, in stark contrast, aspects such as cartels and anti-competitive agreements, international trade agreements, liberalization and State intervention in regulated sectors, merger regulatory regime and labour protection only exhibit a “Basic” level of development. This classification suggests that while frameworks exist, they are still in the rudimentary stages with considerable room for growth and improvement. Competition enforcement practices hold a “Moderate” rating, reflecting a level of advancement that surpasses basic but falls short of a comprehensive and mature approach. The overall picture that emerges, therefore, highlights the necessity for focused improvements in several competition-related aspects, striving to achieve parity with the progress observed in the areas of anti-trust and anti-dominance laws.

## 1. Competition laws

Iraq, Libya, the Syrian Arab Republic and Yemen, all have established some form of competition law. Policies are

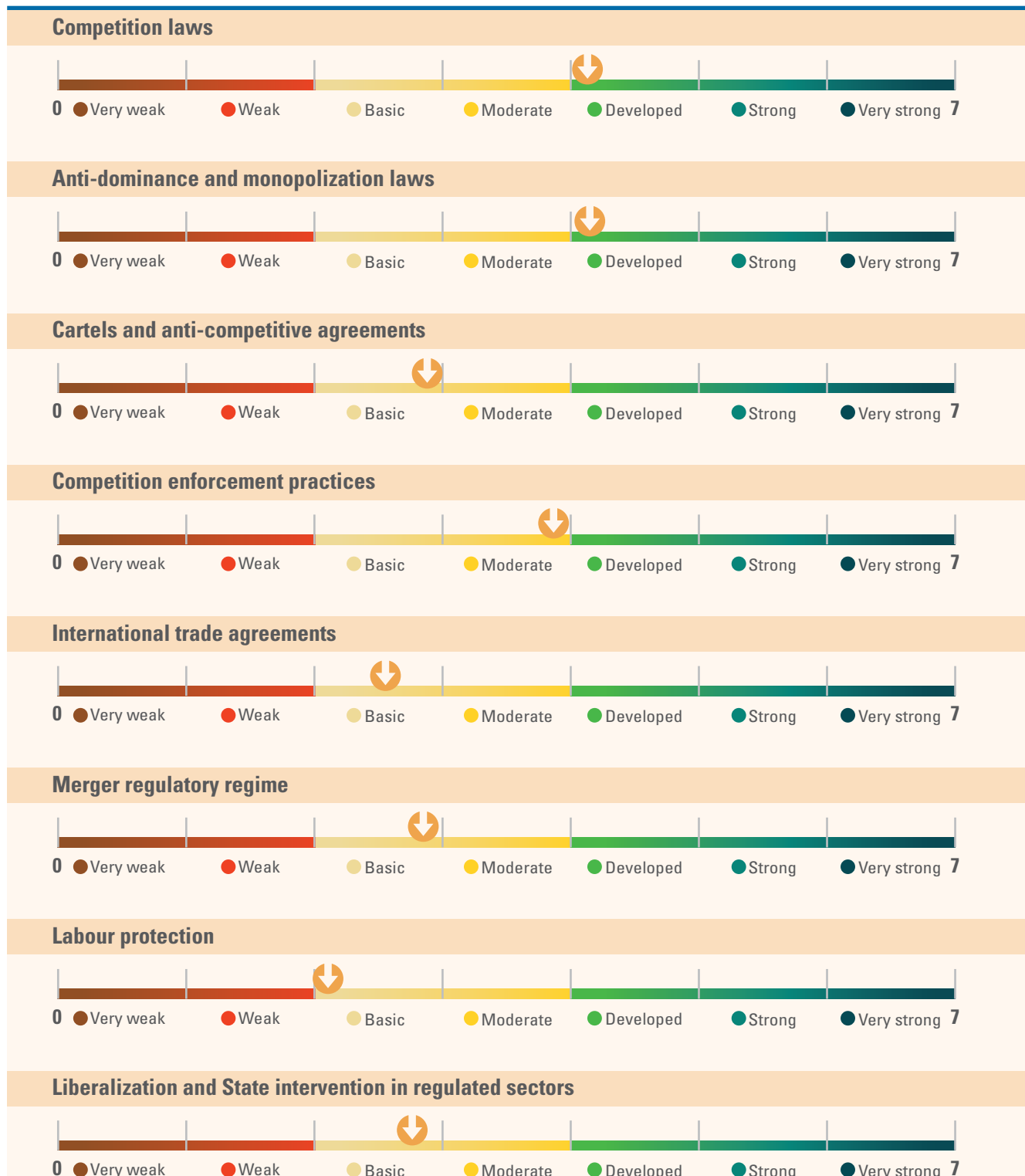
classified as strong in Iraq, Libya and the Syrian Arab Republic. These laws seek to guarantee fair competition practices in the marketplace and ensure consumer interest. Some positive developments include clear definitions of several competition concepts such as market, monopoly and mergers in the laws of Iraq and Yemen. The Syrian Arab Republic has a comprehensive set of competition concepts defined, including market dominance and anti-competitive practices.

However, certain gaps prevail, including missing or inadequate definitions of collusion, cartel and crowding out. Exceptions and exemptions, especially for SOEs, is a common trend observed across Iraq, the Syrian Arab Republic and Yemen. Another prevalent practice is granting the Government power to fix prices under specific circumstances. This pervasive State intervention and the unchecked power of SOEs could impede the full realization of market liberalization and the benefits of competition. The legislation in Libya, while aimed at limiting monopolies and fostering transparent business practices, does not define key competition concepts. The State of Palestine has no competition laws in place, signifying a significant gap in the regulatory framework. The overall situation thus highlights the need for more comprehensive, well-defined and enforceable anti-trust laws in these conflict-affected countries.

## 2. Anti-dominance and monopolization laws

Anti-dominance and monopolization laws have varying degrees of development. The Syrian Arab Republic and Yemen are classified as “Strong”, while Iraq and Libya have a score of “Developed”. Key strengths across these countries include the definition of monopoly and provisions against monopolistic and abuse of dominance practices. For instance, the law in Yemen penalizes practices such

**Figure 8. The overall score of CACs across the eight components of the competition assessment**



Source: ESCWA assessment, 2023.

Note: the score ranges from 0 to 7, where the classification between 0 and 1 is considered very weak and between 6 to 7 is considered very strong. Please check the methodology annex.

as lowering prices and refusing to sell to certain clients. Legislation in the Syrian Arab Republic forbids practices

like imposing market barriers or forcing clients not to deal with competitors.

However, significant gaps exist. Iraq and Yemen lack a clear definition for dominance and abuse of dominance, with no clear thresholds to determine businesses that have dominant position in markets. While the law in Libya identifies businesses controlling over 30 per cent of the market as dominant, it does not distinguish between dominance and abuse of dominance, and also lacks provisions directly addressing monopolies. Legislation in the Syrian Arab Republic allows exceptions for activities beneficial to the economy and competition, but this could be potentially exploited. Furthermore, the State of Palestine lacks any anti-dominance and monopolization provisions, demonstrating the need for further development in this area.

### 3. Cartels and anti-competitive agreements

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Arab CACs exhibit diverse development stages in terms of combatting cartels and anti-competitive agreements. Iraq and Yemen are classified as “Strong”, Libya as “Developed”, and the Syrian Arab Republic as “Moderate”. The strengths primarily lie in the prohibition of anti-competitive agreements and practices, such as price-fixing, collusion in public procurement and market division based on geographical regions. However, a unique provision in Libya exists in its Commercial Code that explicitly prohibits economic bloc practices once they reach 30 per cent of the market share. This provision provides a concrete parameter for assessing potential anti-competitive behaviour. Yet, it also creates a potential loophole for entities with a market share of less than 30 per cent to engage in anti-competitive behaviours without scrutiny potentially.

Despite the noted strengths in these legal frameworks, there are significant gaps, most notably concerning cartels. Explicit definitions or prohibitions on cartels are absent in the laws of Iraq, Libya, the Syrian Arab Republic and Yemen. While practices typically associated with cartels, such as price-fixing and market division, are prohibited, the absence of explicit legal definitions or prohibitions on cartels themselves is a significant oversight. This could potentially allow such activities to persist under the radar of the legal framework. Moreover, it can be inferred that the State of Palestine has a substantial gap, given its lack of laws in this area. Consequently, these findings reflect a diverse landscape in the CACs regarding cartels and anti-competitive agreements, with certain strengths and tangible gaps that need further attention.

### 4. Competition enforcement practices

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As required by their legal statutes, all CACs have competition authorities that are tasked with exposing monopolistic practices, investigating competition cases, enhancing competition culture, and even cooperating with international competition authorities. For instance, the Competition Authority in the Syrian Arab Republic has the capacity to investigate ex officio. The Competition Council of Libya has an extensive mandate that includes the power to investigate complaints, close infringing entities temporarily, and even ensure the competent minister addresses market concentration cases.

However, evident gaps undermine the enforcement of competition laws in these countries. The discretion vested to the Minister of Economy in Yemen to initiate subpoenas limits the protective scope of the legislation. In the Syrian Arab Republic, while the law is applicable to activities both inside and outside the country, the effectiveness of enforcement beyond the country’s borders remains in question. Similarly, in Iraq, while the competition law is enforceable for business activities inside and outside Iraq, the lack of practical implementation of this provision raises concerns. The State of Palestine presents the most significant gap, with no existing law to enforce competition practices.

### 5. International trade agreements

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The average score of CACs is still “Basic” in this area, with more developed levels in Libya and Yemen. Libya, for instance, has ratified the COMESA agreement. The ascension of Yemen to the WTO in 2013 has led to a strategic opening of markets and the signing of various agreements that extend Most Favored Nation (MFN) treatment to Yemeni products. The cooperation agreement of Iraq with the EU includes various competition issues, such as prohibiting competition in procurement and ensuring confidentiality in tendering processes.

Despite these advancements, there are significant gaps. Due to ongoing conflict, bilateral agreements with the Syrian Arab Republic are currently suspended, severely impacting its trade capacities. Even for countries with active trade agreements like Libya, there is a lack of comprehensive competition provisions. Despite having access to international markets, especially the in GCC countries, Yemen doesn’t present specific details about the

competition elements within their trade agreements. In Iraq, while the agreement with the EU covers several competition issues, the effectiveness of these provisions and the mechanisms for dispute resolution remain to be examined.

## 6. Merger regulatory regime

The scores in this dimension were also varied. The legislation in the Syrian Arab Republic has been classified as “Ideal” since it includes a comprehensive set of rules under the competition law, which outlines definitions, notifications and assessment criteria for economic concentration transactions. The law empowers the national competition authority to take precautionary measures pending final decisions. The score for Libya and Yemen is “Moderate”, as economic concentration regimes are inadequately developed. The competition law in Yemen prohibits concentrations restraining competition but lacks details on pre-merger notifications and assessment criteria, while the Commercial Code of Libya offers rudimentary guidance on mergers and acquisitions.

The legislation in Iraq, classified as “Very weak”, lacks a functional competition council and comprehensive legal frameworks for mergers despite specifying a threshold of 50 per cent of market control. Moreover, legislations in

Iraq and Yemen lack specific thresholds and pre-merger notification regimes, and do not have explicit criteria for merger assessment. Despite the comprehensive regulations in the Syrian Arab Republic, the effectiveness of their implementation requires further scrutiny.

The CACs have a collective classification of “Basic” in this dimension, indicating the need for further development and refinement of laws and procedures concerning economic concentrations.

## 7. Labour protection

There are different levels of labour protection in competition legislation in CACs. Iraq and the Syrian Arab Republic are both classified as “Developed”. The Syrian legislation, for example, features provisions that safeguard employees in the event of mergers and acquisitions. In contrast, legislation in Libya and Yemen has been classified as “Weak” as they have considerable gaps. Competition laws in both countries lack non-compete provisions, thereby exposing workers to potential vulnerabilities in the corporate consolidation process.

Consequently, despite individual country-level variances, labour protection linked to competition within the broader CACs context is categorized as “Basic”, highlighting the need for a more comprehensive labour protection framework.

## E. Least developed countries

Structures and approaches vary in Arab least developed countries (LDCs). Over the past few years, these jurisdictions have witnessed a series of regulatory changes and innovations. The Sudan, for instance, boosted its competition law through a ministerial decree, although this did not result in a change in the score, which still stands at “Moderate” after the updated evaluation methodology.

Meanwhile, countries like the Comoros and Djibouti have seen no changes to their respective competition laws in the past two years. After the updated evaluation methodology, this resulted in a regress in the score for the Comoros, from “Moderate” to “Basic”, while Djibouti maintained its “Developed” status<sup>4</sup>. In Mauritania, a significant shift occurred in 2023 with the adoption of a separate competition law; however, it retained a “Basic” classification despite these advancements. These fluctuations in classifications, which stem from the dynamic nature of the regulatory

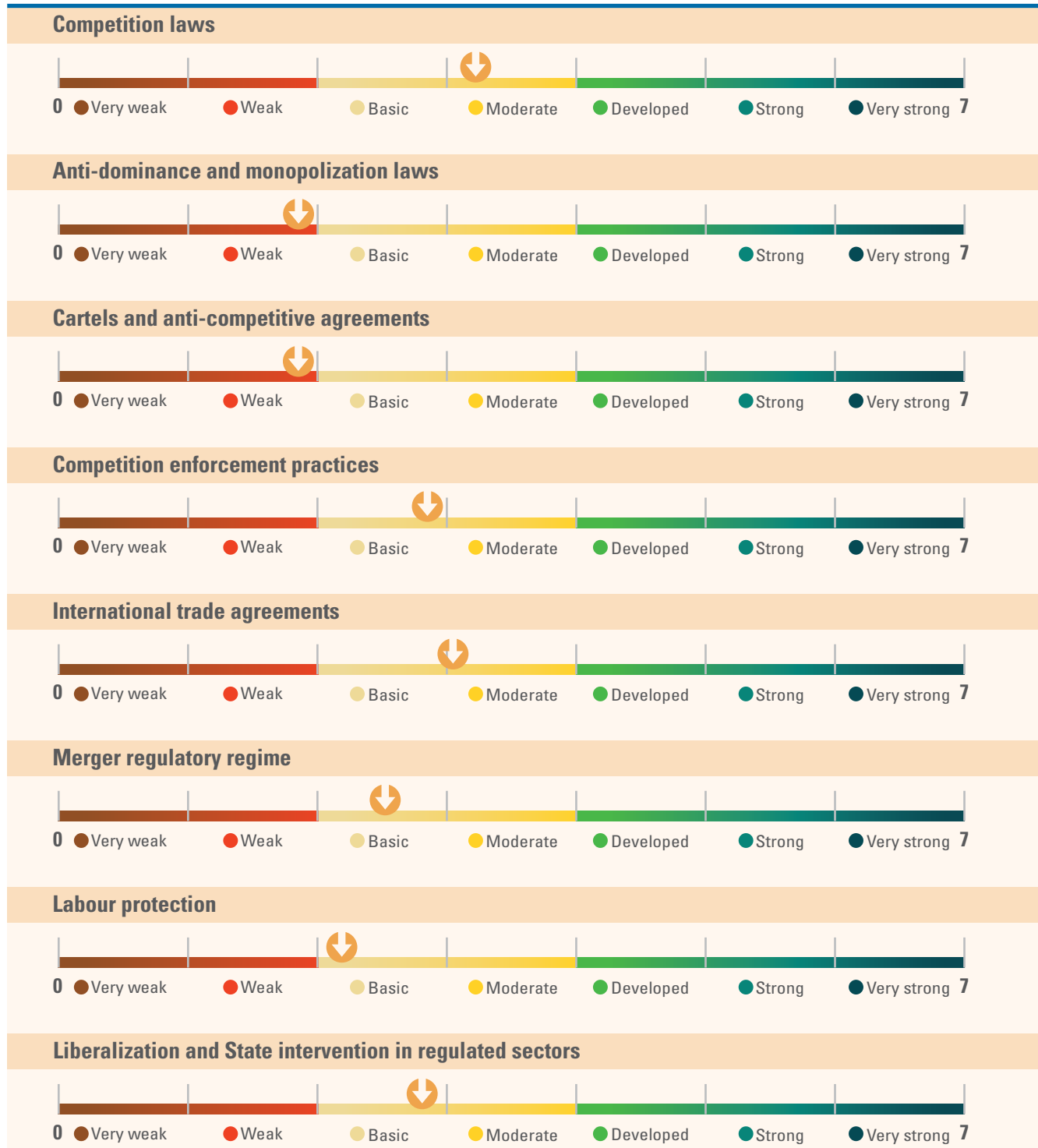
environment and the updated evaluation methodology, underscore the multifaceted challenges and efforts faced by Arab LDCs in fostering competition and curbing monopolistic practices.

Figure 9 presents an overview of competition laws in Arab LDCs, and reveals significantly different levels of development and implementation across different regulation areas. Anti-trust laws and international trade agreements attain a moderate rating, implying the existence of measures to combat monopolies and maintain fair competition, albeit with room for greater uniformity and comprehensiveness. In contrast, anti-dominance and monopolization provisions, along with cartels and anti-competitive agreements, are characterized as “Weak”, exposing a regulatory vacuum in dealing with market dominance and illicit cartels. Weak points include inadequate definitions, narrowness in the scope of application, in addition to enforcement challenges.

Furthermore, regulatory aspects concerning competition enforcement practices, liberalization and State intervention in regulated sectors, merger regulatory regime, and labour protection are denoted as “Basic”,

illustrating the early stages of development, where enforcement mechanisms, liberalization initiatives, merger evaluations and labour protections are yet to be firmly established or effectively enforced.

**Figure 9. The overall score of LDCs across the eight components of the competition assessment**



Source: ESCWA assessment, 2023.

Note: the score ranges from 0 to 7, where the classification between 0 and 1 is considered very weak and between 6 to 7 is considered very strong. Please check the methodology annex.



These findings underscore the need for significant advancements in multiple areas of competition law within Arab LDCs to ensure a more competitive and equitable market landscape.

## 1. Competition laws

Investigating competition laws across Arab LDCs reveals significant heterogeneity among nations, reflecting a moderate general classification. The score for Mauritania is “Basic”. The country’s Competition Law limits monopolies and aims to protect free market competition. However, definitions for competition concepts such as monopoly, anti-dominance and economic concentration is noticeable. The score for the Sudan is “Moderate” as laws define several competition concepts but overlook others, like collusion and dominance. State interventions and exemptions, albeit lacking defined conditions, also come into play.

Contrastingly, the Comoros and Djibouti exhibit more developed and strong frameworks. Both countries express explicit intentions to guarantee fair competition practices and ensure consumer welfare. The law of Djibouti stipulates that prices should be determined based on competition rules, while in the Comoros the law excludes sectors like telecommunications, water, transportation and tourism from competition provisions. There are potential hindrances to market liberalization in both countries due to the powers granted to the State to regulate and control prices, often without specific limitations. As for Somalia, there is no relevant competition law.

Notable strengths across the LDCs include efforts to ensure fair competition and consumer welfare, while the main gaps stem from the lack of specificity in the laws, particularly regarding State interventions and exemptions, in addition to the lack of definitions for several key competition concepts.

## 2. Anti-dominance and monopolization laws

Legislations to combat dominance and monopolization are generally weak in Arab LDCs, but with varying levels across countries. In Mauritania, for instance, the law refers to prohibitions on certain practices typically engaged in by dominant market players but falls short in its lack of definitive articulation of key competition concepts such as “dominance” and “monopoly”. The absence of clear definitions for these terms could potentially allow for inconsistent interpretation

and application of the law, thereby diluting its effectiveness in curbing anti-competitive practices.

Meanwhile, the legal frameworks of Djibouti and the Comoros mirror each other in some respects; both list specific monopolistic practices that are prohibited, but neither specifies a threshold for determining market dominance. Moreover, the penalties for violations vary between these countries. The law in Djibouti stipulates monetary penalties ranging between 1,000,000 and 25,000,000 francs, whereas penalties in the Comoros are percentage-based. While providing clear definitions for dominance and monopoly and outlining a broad range of prohibited practices, the Sudan similarly does not offer a specific market dominance threshold and lacks clear penalty amounts for violations.

## 3. Cartels and anti-competitive agreements

For the most part, Arab LDCs lack comprehensive legislation and regulation regarding cartels and anti-competitive agreements. There is a general lack of concrete definitions of “cartels”, and of a detailed scope covering anti-competitive agreements. The Competition Law of Mauritania lists certain anti-competitive practices, yet no mention or definition of “cartels” is made. Another important concern is that legal frameworks allow anti-competitive agreements under specific conditions, which may lead to exploitation, thereby diminishing the overall robustness of the regulations.

The situation in the Sudan appears to mirror that of Mauritania as the competition law does not provide comprehensive coverage of anti-competitive agreements, and lacks a clear definition for “cartels”. In contrast, the Comoros has taken a more assertive approach, outlawing a broader range of anti-competitive practices, including cartels. However, legislation in the Comoros does not provide a formal definition for “cartels” and allows exemptions under certain conditions. Djibouti’s approach is also more extensive, prohibiting various anti-competitive practices, but also does not define or prohibit cartels.

## 4. Competition enforcement practices

Arab LDCs had an average score of “Basic” for competition enforcement practices, reflecting inconsistencies in the

establishment of an independent enforcement mechanism or a competition authority, with varying degrees of control and coverage in the marketplace. Djibouti, for example, has no dedicated competition authority, with each public administration sector handling its respective areas. Moreover, the competition law of Djibouti is not applicable to businesses that operate outside the country but affect the local market. However, the procedural steps for investigators and the focus on data confidentiality are clear strengths.

Both the Comoros and the Sudan have established competition authorities, albeit under ministerial supervision. The lack of jurisdictional scope in the Sudanese law and the fact that it does not allow officers to conduct investigations independently (*ex-officio*) are both weaknesses. In the Comoros, the competition law's reach extends to operations impacting the local market from inside and outside the country, with moderate enforcement practices and data confidentiality regulations in place.

There is no competition authority in Mauritania, with the Ministry of Trade tasked with overseeing commercial activities. This, along with a rather inadequate sanction regime, represent significant gaps undermining deterrence.

## 5. International trade agreements

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The Comoros, Djibouti, Mauritania and the Sudan, have all ratified several trade agreements, each containing provisions aimed at fostering competition. Mauritania, for instance, has signed the Cotonou Agreement, which encourages trade and innovation to cultivate a robust, competitive economy. Moreover, the Comoros, Djibouti and the Sudan have ratified the COMESA agreement, which promotes free and liberalized trade, disapproves of subsidies that distort competition, calls for cooperation in investigating dumping and subsidies, and advocates harmonized fiscal and monetary policies for bolstering investment and competition.

While the commitment of these countries to competition rules and policies, as demonstrated through their adherence to these trade agreements, is a clear strength, it's also worth noting that these agreements fall short in

certain aspects. Specifically, they lack comprehensive competition provisions and definitions compared to European Trade Agreements. Furthermore, the agreements do not cover exemptions. Also, and although the agreements contain sections for dispute management, they may lack a fully-fledged system for resolving competition-related disputes.

## 6. Merger regulatory regime

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LDC merger regulatory regimes exhibit substantial disparities and notable gaps. In Djibouti, Mauritania and Somalia, for instance, the merger regulatory regime or economic concentration is underdeveloped or, in the case of Somalia, non-existent. The regulatory regime of Mauritania barely touches on anti-competitive agreements and indirectly alludes to economic concentration transactions, while Djibouti lacks comprehensive definitions and criteria to assess anti-competitive agreements, including those related to economic concentration.

In contrast, the Sudan presents a more developed framework, with specific legal provisions managing economic concentration transactions. The law, however, fails to provide clear guidelines on the assessment of merger transactions.

## 7. Labour protection

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LDCs have notable weaknesses regarding labour protection within the competition framework. The safeguards are limited and leave employees vulnerable, particularly in corporate transactions such as mergers and acquisitions. Competition laws in the Comoros, Djibouti and the Sudan lack protective measures, such as non-compete clauses. Mauritania is a notable exception, where the Commercial Code prohibits non-compete clauses, offering an element of protection for employees from potential employer abuses.

The situation is at its worst in Somalia, where no competition law is in place. Thus, despite a few isolated strengths, the overall landscape of labour protection in Arab LDCs is marked by significant weaknesses, signalling an urgent need for policy reform and enhancement of worker protections.

# Conclusion

Due to the tremendous differences between Arab countries and subregions in terms of economic development and national landscapes, policy recommendations in this section

are going to be addressed according to the main four country subcategories in order to provide more granular and specific guidance.

## GCC countries

Policymakers should focus on key areas and industries where there are significant gains to be made by removing exemptions and favourable provisions or monopolies given to SOEs. There is plenty of room for competition authorities to engage with sectoral regulators and other stakeholders in order to identify such industries, and wide consultation will be especially important given the opaque nature of SOEs and the scarcity of transparent information on their performance.

Definitions of competition-related terms are underdeveloped in the legislation of too many GCC countries. Laws should explicitly set out what is meant by a “monopoly” or “cartel” to leave no room for ambiguity regarding precisely what constitutes anti-competitive behaviour. Also, it is important to incorporate the

principles of competitive neutrality to boost effective competition between SOEs and other market players.

Labour protection did not receive sufficient attention from policymakers. It is recommended that competition laws in the GCC countries are enhanced to mitigate to fully account for these protections. The activity of competition authorities in some GCC countries is limited. It is essential that competition authorities continually exercise the prerogatives granted to them in legislation in order to maintain effective competition in the national economy. This is not limited to enforcement and penalizing anti-competitive market players but also extends to continual market analysis, advocacy and cooperation with other public administrations and relevant stakeholders both locally and internationally.

## Middle-income countries

The recommendations described above of the GCC countries are equally applicable to MICs. Challenges facing MICs also include exemptions and favourable treatment of SOEs, in addition to the lack of definitions for competition-related terms. The difference is that in the context of MICs, exemptions are made in sectors other than extractive industries.

In addition, legislation in MICs should ensure that competition authorities are independent bodies, particularly when it comes to its structure. Nearly all of competition

authorities/councils that exist in MICs are under the supervision of a government, and this risks their impartiality.

Legislation should also explicitly clarify the criteria against which potential mergers are assessed. For many MICs, it is unclear how market studies assess the impact of mergers: legislation contains little detail on the sort of economic indicators that are used in such analyses to consider the broader impact of mergers and acquisitions. The inclusion of these provisions directly in legislations increases the transparency of anti-trust measures.

## Conflict-affected countries

Business environments in CACs are fundamentally different owing to socio-political challenges and the state of destabilization in those countries. Moreover,

competition policy may not hold a priority in CACs given the that those countries have limited resources and face significant social and humanitarian challenges.

With these limitations in mind, competition policy recommendations for CACs are best set out on a country-by-country basis.

The State of Palestine should seek to establish a dedicated competition law that can be enacted within the country's context. Whilst there is scope to utilize support from international organizations to consult on the development and drafting of this law, it is important that this law is tailored specifically to the unique political economy in the State of Palestine and that there is buy-in from all stakeholder groups who will be affected by the law. This will help the law become embedded in the national business environment,

gaining legitimacy and helping to build a competition culture that improves social and economic outcomes.

Whilst the Syrian Arab Republic and Yemen have both competition laws and a body responsible for enforcing them, the conflict has significantly hampered business activity in recent years. To support the regeneration of the corporate environment in these countries, their competition legislation should be amended to improve their merger regulatory regime. This requires establishing important definitions for key terms, setting out a pre-merger notification regime, and specifying sanctions with a clear and persuasive deterrent effect.

## Least-developed countries

Economies in LDCs are characterized by more SMEs and greater activity in primary and secondary sectors, constituting of industries such as agriculture and forestry. This has direct consequences on competition policy, both policymakers and citizens may place little value on the benefits of laws that seek to maintain a competitive environment.

Despite having provisions in legislation for competition, most of the Arab LDCs have not established strong autonomous institutions to enforce them. Such an organization is essential not only to enforce competition legislation but predominately to engage in advocacy to promote competition. These advocacy measures are vital to raise the profile of competition in the economy as a desirable goal.

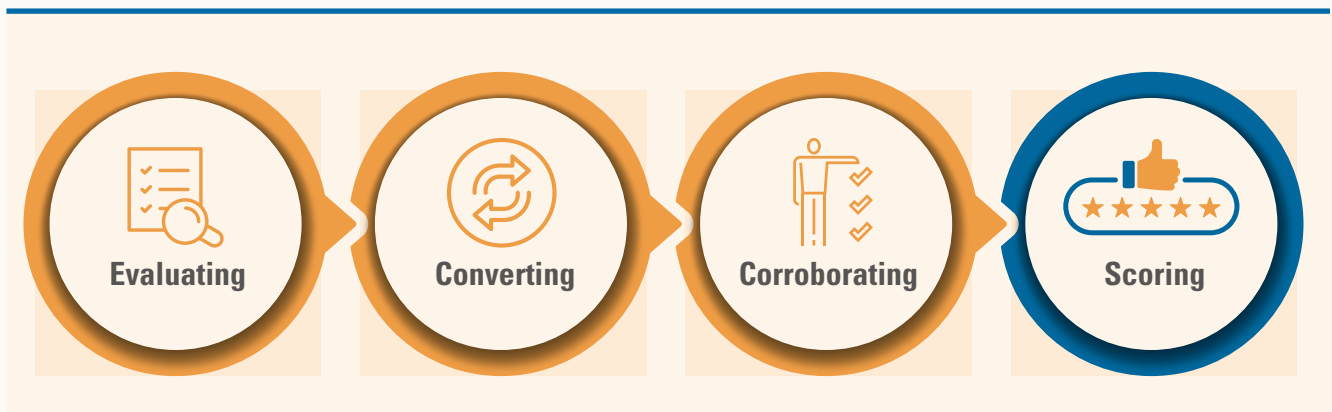
LDCs should also ensure that legislation is clearly accessible for all stakeholders across private and public sectors and civil society. In too many member States, competition legislation is not available in an accessible format, with laws spread out across different departments or not uploaded online. Where accessible, some legislations do not include a "table of contents" to instruct readers or have been uploaded using "document imaging" that prevents the reader from searching for key terms. Instead, member States should ensure that all legislations relating to the business environment are easily accessed on one platform in a clearly-structured digital format.

# Annex. Methodology summary

The methodology employed in the Arab Business Legislative Framework Report is designed to provide a rigorous, systematic, and comprehensive assessment of the business regulatory environment in the Arab region. This approach focuses on the critical areas of study that contribute to developing a sustainable and competitive business landscape. The research team integrated a selection of international best practices into the methodology design to ensure that the assessment system produces informative, objective and context-specific results that stakeholders can readily utilize. In the 2023 edition of the study, additional indicators have been incorporated to keep up with the evolving global best practices regarding the focus topics.

The research for the Arab Business Legislative Framework Report adheres to a structured four-phase approach to ensure a thorough and systematic analysis of the business regulatory framework in the Arab region. This process involves the following stages:

1. Collate available information from relevant ministries, international development agencies and academic institutions for each topic and each country. In the course of this research, more than 600 documents related to the 22 Arab countries were compiled from publicly available sources.
2. Assemble a repository of key laws, regulations, circulars, ministerial decisions and policies that serve as the basis for populating the repository.
3. Develop key indicators of the evaluation matrix, focusing on the main legislative components in accordance with international standards.
4. Filter, correlate and verify the information through in-depth key informant interviews (KIIs) with each country's officials, administrators and relevant stakeholders to gather contextual insights and validate the findings.



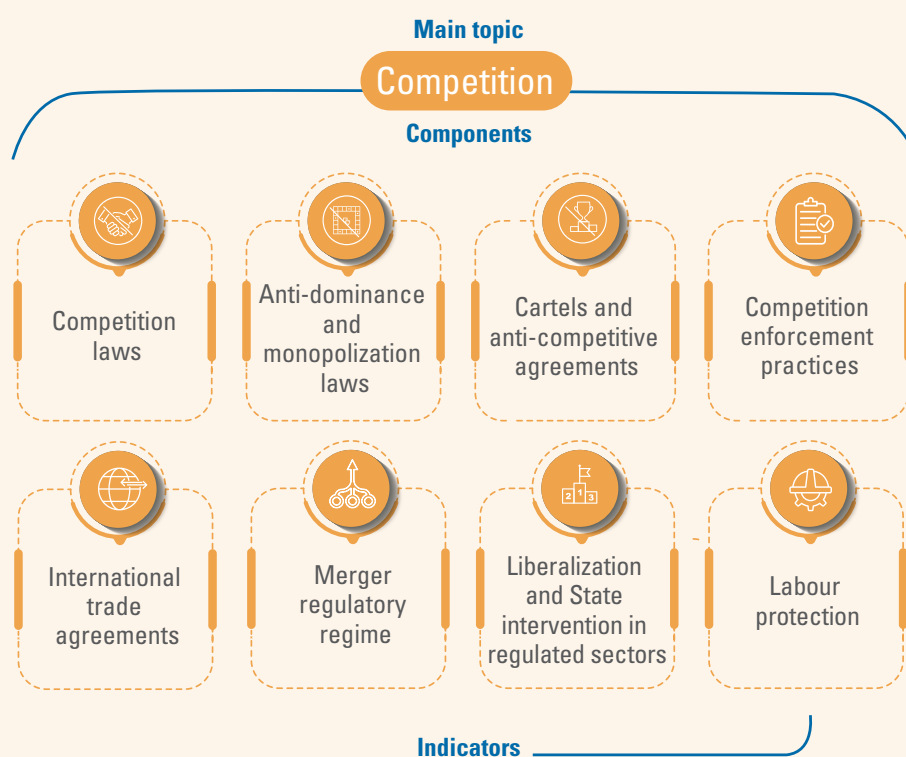
## 1. Evaluating

The ABLF assesses business legislation in member States across five areas: competition, foreign direct investment, anti-corruption, consumer protection and corporate law. As illustrated in the figure below, each topic is split into a set of “Components”. For example, the “Competition” topic is made up of eight components, including “Liberalization and State intervention in regulated sectors” and “Merger regulatory regime”.

Every Component is made up of a set of indicators, against which the legislation is assessed. An indicator is a binary “yes or no” question that reflects international best practices in that particular area of business legislation.

The methodology for assessing regulatory frameworks is both structured and comprehensive, delving into seven pivotal elements. These elements offer a scaffold for evaluating various indicators under each principal heading, ensuring an unwavering and inclusive approach across all areas. Each law and policy are evaluated through the filter of these elements, providing a comprehensive and systematic evaluation of each country’s legislative landscape. To clarify, the seven elements we utilize are as follows:

Laws and decrees, definitions, institutions, international agreements, enforcement mechanisms, exemptions and accessibility/transparency.



Are there national legislations related to mergers and regulation of mergers?	Laws/decrees
Are there any regulatory bodies/authorities authorized to assess and approve mergers?	Institutions
Are any existent legislation clear and consise in defining the criteria for approving mergers when they occur?	Definitions
Are there enforcement mechanisms (i.e. law enforcement) in cases in which illegal mergers occur?	Enforcement

## 2. Converting

The assessment scoring system is designed to evaluate a country's regulatory framework on a scale ranging from 0 to 7, with the lowest score being 0 and the highest being 7. This comprehensive scoring system aims to highlight the strengths and weaknesses of a country's regulatory framework in a structured manner.

The scoring process begins by assigning binary "yes or no" answers to individual indicators, each receiving a score of 1 for "Yes" and 0 for "No." These scores are then used to calculate the main heading and element scores. The main heading and element scores are derived from the sum of their related indicators' scores, weighted over 7. These calculations provide a more comprehensive picture of the overall assessment score, which ranges between 0 and 7.

- Main heading score

$$= \frac{(\text{Sum of indicator scores for main heading})}{(\text{Ideal sum for main heading})} \times 7$$

- Element score

$$= \frac{(\text{Sum of indicator scores for element})}{(\text{Ideal sum for main heading})} \times 7$$

The benchmark for the assessment is based on the ideal score, which assumes a positive answer for all the indicators, reflecting international best practices. This ideal score serves as a comparison point for assessed laws and regulatory frameworks, helping identify improvement areas and providing recommendations for

aligning the regulatory framework with international standards.

The scoring system assumes that international indicators and model law templates are considered "Ideal", and the questions within the assessment focus on various aspects of legislation and enforcement infrastructure. These aspects include the presence of legislation, articles, definitions, institutions, enforcement mechanisms, exemptions, international agreement responsibilities, accountability, redress modes and accessibility.

Generally, a "Yes" answer scores 1 point, while a "No" answer scores 0. In some cases, a positive response may score zero, such as when certain types of exemptions or capital controls are present. By providing a structured scoring system with clearly defined categories, this assessment method offers a detailed analysis of a country's regulatory framework, facilitating a better understanding of its strengths and areas needing improvement. The scores were analysed according to the criteria used in the table below.

Member States' legislation is assessed using the indicators. ESCWA assesses each member States' legislation to assign a "yes" or "no" answer for each indicator. As depicted in table below, in order to obtain a value for a country's score across each main heading (e.g., Alternative dispute resolution), the responses to the individual indicators are aggregated and compared against a "model answer". The same converting process is followed to obtain overall scores for the four overarching legislative themes.

## 3. Corroborating

**ESCWA verifies its assessments with member States in order to ensure accuracy and transparency.** Legislation for each of the 22 member States is assessed against the indicators in-house by ESCWA. This research is

corroborated by feedback from stakeholders in member States to ensure veracity, either in the form of surveys or KIIs where available.

## 4. Scoring

**Each score corresponds to a descriptive ranking of legislative capacity.** The scores generated range from 0, indicating that no legislation is present, to a maximum of 7, indicating that the country's legislation is "Very strong"

due to its near or exact alignment with international best practices in that area. In between these ranges are several different classifications, set out in the table below, which are referred to throughout the report.

Classification (score)	Number	Description
● Very strong	6 – 7	Legislative frameworks that score “Very strong” are deemed to match, or be highly close to, international guidelines and the model law templates.
● Strong	5 – 5.99	Legislative frameworks that score “Strong” are the closest to the very strong standards as recommended by international guidelines and indicators.
● Developed	4 – 4.99	The “Developed” classification indicates that a legislative framework is in a developed stage; it proves relatively effective but does not meet international standards.
● Moderate	3 – 3.99	The legislative framework is at a developing stage in comparison to very strong international standards. Certain aspects of the legislation perform effectively, but improvements are needed.
● Basic	2 – 2.99	The legislative framework in a country with this score is basic or does not rise to the general international standards. This legislation has the minimum structure or performance in comparison to very strong standards.
● Weak	1 – 1.99	A legislative framework that scores “Weak” is very far from strong international standards; it exists but often fails to be effective.
● Very weak	0 – 0.99	The “Very weak” classification is the lowest score, indicating the legislative frameworks that are highly ineffective and close to non-existent, or that there are no laws in the specified category.
● No score	0	The “No score” classification appears in case there is no law - this means that the legislative framework does not exist. The “No score” classification will be shown as blank.

GCC countries	MICs	CACs	LDCs
Bahrain	Algeria	Iraq	Comoros
Kuwait	Egypt	Libya	Djibouti
Oman	Jordan	State of Palestine	Mauritania
Qatar	Lebanon	Syrian Arab Republic	Somalia
Saudi Arabia	Morocco	Yemen	Sudan
United Arab Emirates	Tunisia		

Member States are classified into different groups in order to observe general trends in business legislation. A final methodological point to note is that, in the previous report, Arab countries were categorized into four geographical sub-regions: GCC countries, Mashreq countries, Maghreb

countries and LDCs. In this assessment, this classification has changed: as illustrated in the table below, countries are now referred to in terms of the following four categories: GCC countries, MICs, CACs and LDCs.

## Endnotes

- <sup>1</sup> The Arab Competition Forum, and many other events that ESCWA organizes to address competition and consumer protection issues, are a result of a trilateral agreement between ESCWA, UNCTAD, and the OECD. This agreement aims to create platforms for knowledge exchange between countries in the region on topics related to regulatory reforms, especially competition policy.
- <sup>2</sup> [General Authority for Competition.](#)
- <sup>3</sup> [The Egyptian Competition Authority.](#)
- <sup>4</sup> COMESA Competition Commission is currently helping Djibouti to overhaul its competition legislation to bring it in line with international best practices.





The landscape of competition law in the Arab region has undergone significant advancements, as evidenced by the overall shift in regional scores from “Moderate” to “Developed”. This progress is largely attributed to the introduction and amendment of competition laws in several countries within the region. While this trend is encouraging, LDCs still lag behind, facing challenges in adequately incorporating competition provisions. A persistent issue across the region is the lack of transparency and clear definitions within competition legislation, which hinders effective implementation. Particularly concerning is the status of exemptions, which remain the weakest element within the region’s competition legislation. These exemptions could potentially allow anti-competitive practices to persist, undermining the broader goals of fostering a fair and competitive market environment. Overall, while strides have been made, the need is still critical for further reform and clarity, especially in areas of transparency and exemptions, to ensure a more robust competitive landscape.

