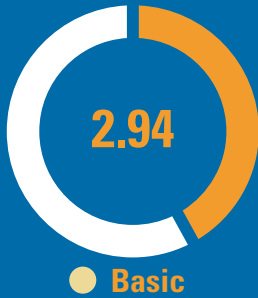
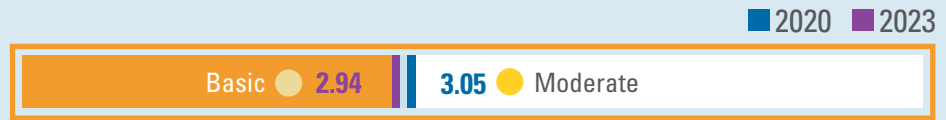




# ARAB BUSINESS LEGISLATIVE FRAMEWORKS

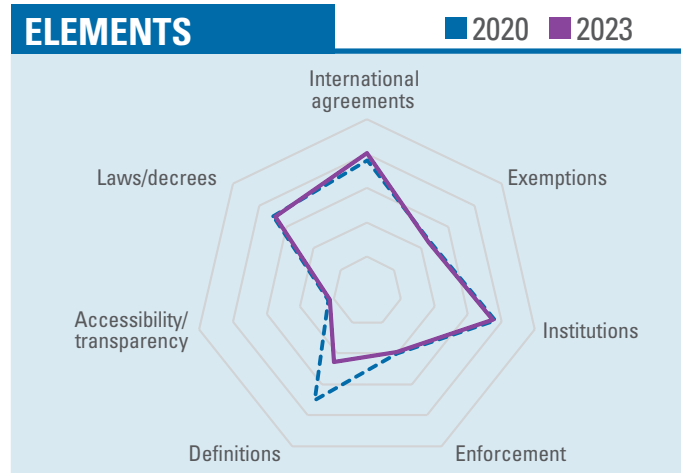
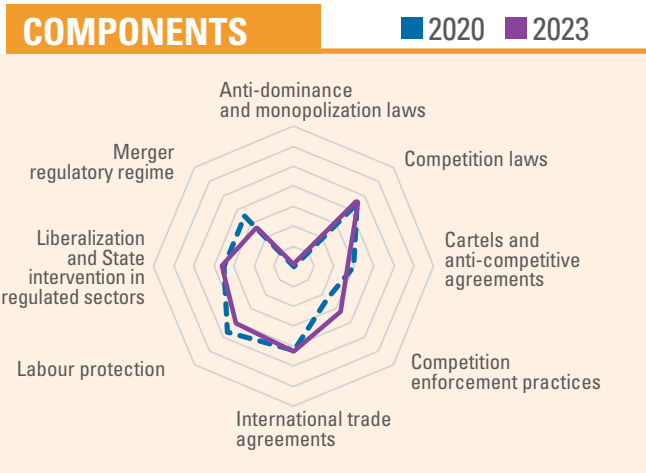


## COMPETITION



● Very strong ● Strong ● Developed ● Moderate ● Basic ● Weak ● Very weak

COMPONENTS	2020	2023
Anti-dominance and monopolization laws	● 0.00	● 0.00 ▶
Competition laws	● 4.45	● 4.45 ▶
Cartels and anti-competitive agreements	● 3.00	● 2.63 ▼
Competition enforcement practices	● 2.33	● 3.18 ▲
International trade agreements	● 4.20	● 4.20 ▶
Labour protection	● 4.67	● 4.00 ▼
Liberalization and State intervention in regulated sectors	● 3.50	● 3.50 ▶
Merger regulatory regime	● 3.50	● 2.63 ▼



The competition regime in Comoros is managed by Law No. 13-014/AU. No amendments occurred in the past two years.



## Competition laws

Article 1 clearly states that the objective of the Law is to guarantee fair competition practices in the market between all business players and to ensure consumers' welfare. Also, article 5 of the Competition Law states that prices should be determined based on the rules of freedom of competition. However, articles 4 and 6 exempt many sectors from the provisions of the Law

(including telecommunications, water, transportation and tourism) and allow the State to regulate and control prices based on the circumstances. Such exemptions for State-owned enterprises (SOEs) and other companies, and granting the State the power to intervene may undermine competition fairness principles and efforts to liberalize markets.



## Anti-dominance and monopolization laws

Articles 19, 20 and 21 of the Competition Law prohibit monopolies and abuse of dominance and enumerate some of the prohibited practices, such as market barriers, controlling production, fixing prices, distinguishing between agreements/contracts based on price and/or quality, halting deals or increasing/decreasing prices that result in excluding competing

firms from the market or exposing them to losses. The Law, however, didn't specify thresholds for firms to qualify as having a dominant position in the market. Section 2 (article 37) lists the sanctions in case of breaching the provisions targeting anti-dominance and monopolies (5 per cent internationally and 20 per cent locally).



## Cartels and anti-competitive agreements

Articles 16, 17 and 18 prohibit anti-competitive agreements, such as concentrations, conventions or contractual clauses, understandings, limiting or controlling the production and cartels. Moreover, some anti-competitive practices are enumerated, such as barriers to market entry, fixing prices, limiting and controlling production, etc.

It is worth noting that article 16 prohibits cartels without defining them. Moreover, article 18 allows for exemptions for the anti-competitive agreement if, for example, it is proven that the agreement will contribute to economic progress and will benefit consumers (agreement on decreasing prices).



## Competition enforcement practices

In reference to the provisions of articles 2, 3 and 22 of the Competition Law, the scope of application of the Law includes businesses that operate inside the Comoros and outside of it if they affect the local market. Also, a competition authority is established under the supervision of the minister of commerce.

Articles 25 through 47 stipulate the prerogatives and procedures of the authority, such as investigating competition cases, advising on competition matters, assessing practices, taking interim measures to suspend presumed restrictive practices under investigation, advising on regulatory draft provisions in relation to

competition, and gathering and developing an integrated database and information for the assessments.

Pursuant to articles 27 and 28 of the Competition Law, the privacy of all information and data shared must be respected and the council can investigate on its own

(ex officio). These two articles will ensure cooperation between private businesses and the council, while guaranteeing that their data won't be shared publicly and that there is strong enforcement and control of the market. Also, to further guarantee transparency of officers, the Law prohibits any conflict of interest.



## International trade agreements

The Comoros has ratified the Common Market for Eastern and Southern Africa (COMESA). This trade agreement contains several competition provisions:

Article 55 (1) of the agreement targets subsidies granted by Member States mentioning that such subsidies distort (or threaten to distort) competition and affects trade between States. Also, article 54 includes provisions regarding cooperation in the investigation of dumping and of subsidies. Article 55 prohibits agreements between companies that aim to prevent, restrict or distort

competition. This trade agreement includes a special section on managing disputes due to the enforcement of its provisions.

Moreover, according to article 76, States must adopt harmonized monetary and fiscal policies that promote savings for investment and enhance competition and efficiency in the financial system. Despite the important provisions in the agreement, other competition provisions and definitions (especially in comparison with the European trade agreements) are missing.



## Merger regulatory regime

It can be inferred from article 40 that the authority assesses economic concentration transactions since it's mentioned that penalties are set if companies communicate misleading and/or incorrect information and numbers. Also, article 42 enumerates criteria

to assess anti-competitive agreements, including economic concentration that breaches the Law. For instance, studies conducted by the authority will cover the harm that agreements will cause to the economy/competition.



## Labour protection

The Competition Law has several shortcomings regarding labour protection. Policymakers failed to include any labour protection provisions, such as

the non-compete clause, even though it would have provided protection for employees, particularly during mergers and acquisitions.

## RECOMMENDATIONS

- The Competition Law should include definitions for several basic anti-competition practices, such as monopoly, cartel, transparency and veto power (in mergers and acquisitions).
- The Competition Authority should be independent of ministers and/or political figures.
- Further cooperation is needed, including the development of a memorandum of understanding with other competition authorities (regional and international).
- Markets should be liberalized for some vital sectors, (especially where State-owned enterprises operate), and State interventions should be based on specific conditions/ circumstances.
- Stricter conditions for allowing exemptions should be introduced, with sanctions for non-compliance.
- A clear economic concentration regime must be established. Studies on the market (the impact of economic concentration) should include clear criteria and conditions (effect on prices, investments, veto power, etc.). Also, a clear definition for vertical and horizontal agreements should be included.
- Labour protection provisions should be added, such as the non-compete clause.
- A robust sanction regime, with a deterring effect, should be established.
- Publishing studies and/or decisions by the Competition Authority is important to ensure transparency.

