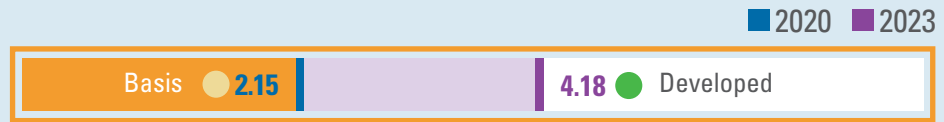
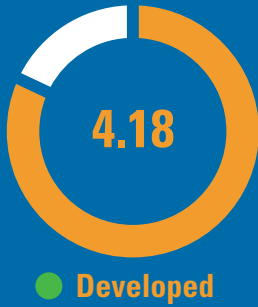


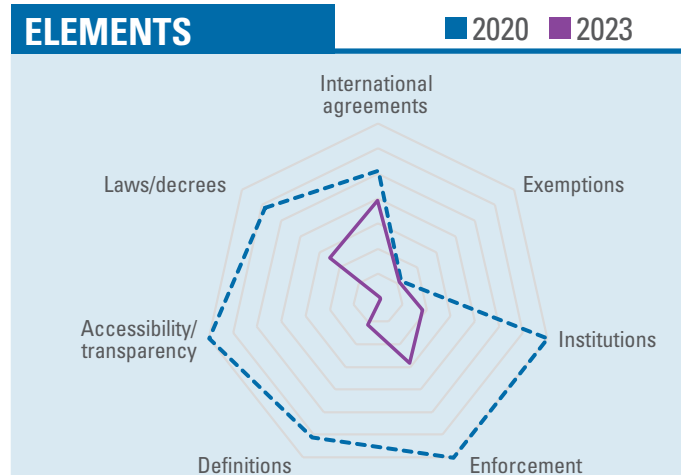
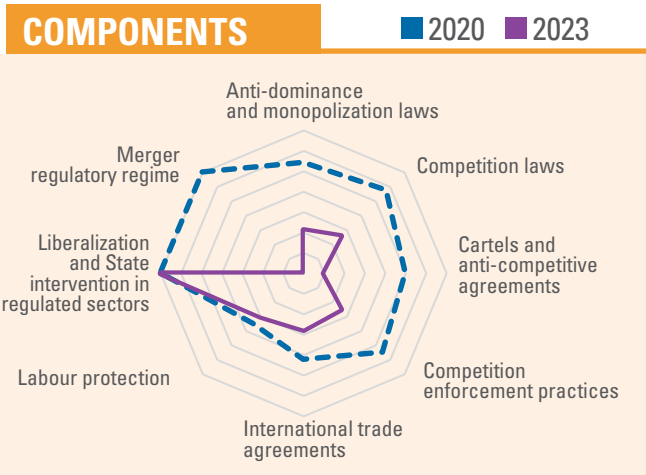


# ARAB BUSINESS LEGISLATIVE FRAMEWORKS



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

COMPONENTS	2020	2023	
Anti-dominance and monopolization laws	● 2.10	● 4.90 ▲	
Competition laws	● 2.55	● 5.09 ▲	
Cartels and anti-competitive agreements	● 0.88	● 2.63 ▲	
Competition enforcement practices	● 2.55	● 4.45 ▲	
International trade agreements	● 2.80	● 4.00 ▲	
Labour protection	● 3.50	● 3.00 ▼	
Liberalization and State intervention in regulated sectors	● 0.00	● 0.00 ▶	
Merger regulatory regime	● 0.00	● 5.25 ▲	



Competition in Mauritania has been managed under title 5 of the country's Commercial Code. In 2023, however, Mauritania adopted a separate law for Competition (Law on Free Prices and Competition) with the aim of monitoring economic concentration processes and the actions of producers, traders, service providers and intermediaries to ensure price transparency, eliminate monopolistic practices and illegal price increases and prevent any practice that disrupts fair competition. Furthermore, the law establishes a competition council and a categorized sanction regime.



## Competition laws

Article 3 of the Competition Law provides several definitions of competition concepts, such as market and dominant position. Article 4 reiterates the principle of free prices and that the prices of goods, products, materials and commodities are to be determined by free competition. However, article 5 allows for exceptions due to crises, exceptional circumstances, a general disaster or a situation that appears to be unusual in the market. Hence, the Minister in charge of trade may, after consulting with the Competition Council, take temporary measures to regulate prices for a maximum period of six months.

Article 6 lists and prohibits anti-competitive practices, including obstruction of price variations according to the normal course of supply and demand, limiting the entry of other enterprises into the market or limiting free

competition, limiting or controlling production, investment and technical progress, and dividing markets.

Article 2 also defines the scope of the law's enforcement, and it is as follows:

- All natural or legal persons, whether or not having an establishment in Mauritania, when the purpose of their operations or activities is to compete in the Mauritanian market.
- All activities of production, distribution and services, including those carried out by legal persons subject to public law, when they act as economic actors and not while exercising the powers of a public authority.
- Agreements related to export, when its application has an impact on competition in the internal market of Mauritania.



## Anti-dominance and monopolization laws

Articles 7 and 18 of the Competition Law list and prohibit the abuse of dominance and monopolistic practices, which include: refraining from selling or purchasing products, imposing a lower price on resale, imposing discriminatory conditions, cutting commercial relations without an acceptable reason (and it is usually left to the courts to determine, case by case, if the reason is acceptable), and refusing requests to purchase products or provide services for a professional activity.

Article 8 states that commitments, agreements or contractual conditions leading to any of the prohibited practices (monopoly, abuse of dominance and anti-

competitive agreements) are considered null and void. The same article prohibits offering or applying excessively low prices in a way that threatens the balance of economic activity and the fairness of competition in the market.

Article 9 provides the Minister of Economy, under specific conditions and after consultation with the Competition Council, with the power to grant exceptions if the agreements, practices, or contracts are proven to be necessary to achieve technical, economic, or social progress and that they bring customers a fair share of their benefits.



## Cartels and anti-competitive agreements

As already mentioned, the provisions of article 8 of the law address, list and prohibit anti-competitive practices and deems all agreements based on these practices null

and void. It is, however, worth noting that the law does not define a cartel in any of its provisions.



## Competition enforcement practices

Article 30 of the newly adopted Competition Law stipulates the establishment of a financially and administratively independent competition council. Furthermore, pursuant to articles 31 to 34 of the law, the functions of the council include:

- Examining cases related to anti-competitive practices, as stipulated in articles 6 and 7 of the law and issuing opinions regarding consultation requests.
- The Council is mandatorily consulted by the Government on draft legislative and regulatory texts that directly aim to impose special conditions for the exercise of economic activity and setting restrictions that would impede entry into a particular market.
- Studying and assessing the economic concentration transactions.

Articles 54 and 43 stress that the council should maintain the confidentiality of information and is allowed to investigate on its own (*ex officio*). Article 43 also clearly lists the stakeholders that may file cases with the council, and they are the following:

- The Minister in charge of commerce or his authorized representative.
- Economic institutions.
- Professional and trade union organizations.
- Legally authorized consumer protection organizations.
- Chambers of Commerce and Industry.

Article 50 emphasizes respecting the due process principle by stating that, during trials, the Council listens to the concerned parties who have been legally invited to appear before it. Thereafter, the Council issues its decisions by the majority of votes and pronounces them in an open session, and in the event of equal votes, the vote of the Chairman is decisive. Article 58 allows for appeals of decisions rendered by the Competition Council before the Administrative Chamber of the Supreme Court.

Finally, articles 59 to 76 of the law provide a categorized sanction regime, that includes fines and/or imprisonment for violations of the law.



## International trade agreements

Mauritania has signed the Cotonou Agreement between the European Union (EU) and the group of African, Caribbean, and Pacific (ACP) countries.<sup>1</sup> Several provisions in this agreement cover competition policies. For instance, according to article 40(2), countries should bolster trade and innovation with a view of establishing a strong,

competitive, and diversified economy. Also, pursuant to article 42, countries must facilitate investment by avoiding harmful competition practices. The trade agreement doesn't mention exemptions and doesn't include a special section on managing disputes.



## Merger regulatory regime

Articles 10 to 13 cover the economic concentration. Article 10 defines it as the change in control (every act, whatever its form, that entails the transfer of ownership or use of all or some of the property, rights or obligations of an establishment and would enable it or several groups of establishments to exercise, whether directly or indirectly, a dominant influence over the activity of one or several other establishments). Moreover, article 10 also stipulates that the minister of economy should examine an economic

concentration practice in the following cases: if the combined shares of these institutions, during the last three fiscal years, exceed 30 per cent of sales, purchases or all other transactions in the internal market, or if the total turnover of these enterprises in the internal market exceeds a fixed amount (to be determined by a future decree).

Pursuant to article 12, parties aiming to accomplish an economic concentration transaction should notify the minister

<sup>1</sup> Country Commercial Guide – Mauritania.

within 15 days and present a request that includes documents such as the economic concentration contract, list of the branches of these institutions, economic feasibility study of the transaction and its positive impacts on the market, financial statements of the firms for the previous three years, and a list of shareholders and the percentages of their shares. Also, pursuant to article 12, the firms involved in the concentration project may not, during the notification period, take any action that would make the concentration process irreversible or permanently change the market situation.

As for assessments and decisions, according to article 13, the minister in charge of trade, and after consulting the Competition Council, can take justified decisions regarding

economic concentration transactions, whether by:

- Approval of the economic concentration transaction according to the conditions proposed by the concerned institutions.
- Approval of the concentration transaction while obliging the concerned firms to implement conditions that contribute to finding a balance between the potential economic progress and potential harm to competition.
- Rejection of the concentration process.

Finally, the minister has the power to annul his approval in the following cases: if firms don't fulfil the conditions and commitments of the decision or if the provided information by firms is proven to be misleading.



## Labour protection

The Competition Law has several shortcomings regarding labour protection. It is worth noting that

article 1213 of the Commercial Code mentions and prohibits the non-compete clause.

## RECOMMENDATIONS

- The Competition Law should include definitions for several basic anti-competition practices, such as monopoly, cartel, transparency, veto power (in mergers and acquisitions), etc.
- There is a need for the establishment of a competition council that is 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).
- 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.
- Markets should be liberalized for some vital sectors, (especially where State-owned enterprises operate), and State interventions should be based on specific conditions/circumstances.

