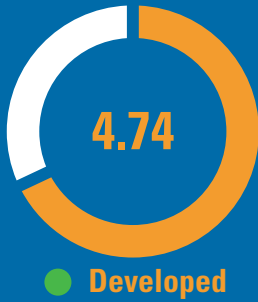


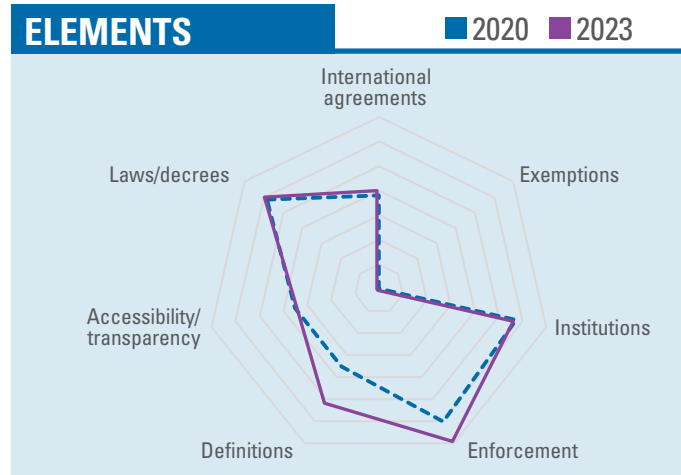
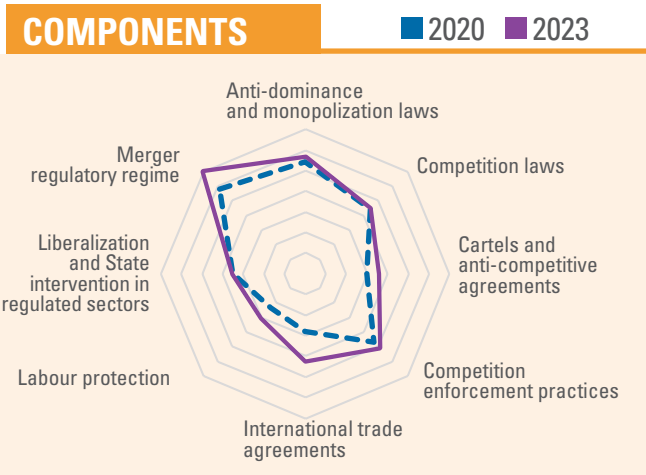


# ARAB BUSINESS LEGISLATIVE FRAMEWORKS



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

COMPONENTS	2020	2023
Anti-dominance and monopolization laws	5.44	5.60 ▲
Competition laws	4.45	4.45 ▶
Cartels and anti-competitive agreements	3.00	3.50 ▲
Competition enforcement practices	4.67	5.09 ▲
International trade agreements	2.80	4.20 ▲
Labour protection	2.33	3.00 ▲
Liberalization and State intervention in regulated sectors	3.50	3.50 ▶
Merger regulatory regime	5.83	7.00 ▲



Over the past two years, Oman made several amendments in its competition law through Ministerial Decision 18/2021. The amendments ushered several improvements targeting cartels, economic concentration and requests for exemptions. Also, to strengthen cooperation, the Competition Centre in Oman signed memorandums of understanding (MOUs) with the respective competition authorities of Egypt, Jordan and Bahrain.



## Competition laws

The decision lists several anti-competitive practices (such as collusion), without providing exact definitions for them. Articles 2 and 3, however, aim to determine the relevant products for the relevant market and geographical scope. These improvements will assist authorities in classifying anti-competitive practices.

Furthermore, chapter 5 of the decision sets clear enforcement practices by empowering the competition judiciary police to investigate issues relating to competition. Moreover, third parties have been granted the right to present complaints.



## Anti-dominance and monopolization laws

Articles 1 and 10 of Law 67/2014 and chapter 2 (articles 4 to 6) of executive regulations 18/2021 define, list and set criteria and standards to identify activities that constitute an abuse of dominance. Also, monopoly is clearly defined in article 1 of the Competition Law.

Additional protections against monopolies and abuse of dominance are ensured through referring infringements to the judiciary. Article 27(3) of executive regulations 18/2021 allows the minister, after studying the investigative report, to refer the complaint to the public prosecutor's office.

However, exceptions are granted under specific conditions, such as boosting the competitive ability of small and medium-sized enterprises (SMEs) in Oman. The Minister of Economy has significant power in conferring exceptions. As such, chapter 6 of the executive regulation allows temporary exceptions to be accorded by the Minister based on specific criteria. Finally, pursuant to article 36 of the executive regulation, the Minister can amend or cancel (with justifications), solely or based on a request from an affected party, the decision of granting an exception. Also, in case the party that benefits from the exception fails in fulfilling the required commitments, the Minister can retract the granted approval.



## Cartels and anti-competitive agreements

One of the most important improvements brought by the executive regulation is defining and explaining how cartels are established. The mechanisms identified include adopting a unified behaviour/policy and/or creating economic connections between different businesses operating in the market.

Furthermore, article 1 of the executive regulation provides a general definition of agreements, but without giving examples of the different types of agreements, such as horizontal and vertical agreements.



## Competition enforcement practices

Articles 20 to 28 of the executive regulation cover the role of the judiciary police during investigations, guarantee the right of third parties to present a complaint, and empower the Ministry to investigate the complaints if they fall under the provisions of the Competition Law. Moreover, chapter 4 of the Competition Law specifies fines for each anti-competitive practice.

Next, by reference to both the Competition Law and executive regulation, a duty on competition centre personnel is imposed to preserve confidential information,

data, documents and records during the investigation. We find that the presence of such an article constitutes a guarantee for private businesses to cooperate with the Centre before, during and after investigations since their internal data and know-how will be preserved.

The competition regime in Oman allows an ex officio investigation by the Competition Centre (article 21 of the executive regulation). Also, according to article 16 of the Competition Law, officers have a duty to keep the information, data and documents confidential during an investigation.



## International trade agreements

This assessment was based on the trade agreement between the Gulf Cooperation Council and Singapore. The assessment sought to identify if there are conflicts between internal subsidization policies and the provisions of the trade agreement. According to article 5.2 of the trade agreement, provisions do not apply to subsidies or grants provided by a party. Therefore, it can be inferred that there is no conflict between provisions.

Last, the indicator related to exemptions in trade deals is still negative due to article 6.3. It is worth noting that in trade agreements, such exemptions are understandable since they are strongly related to the sovereignty of the State (debt and government bonds) and/or to internal economic policies that the Government can consider as top priorities.



## Merger regulatory regime

Articles 7 to 15 of the executive regulation introduce several changes and improvements to economic concentration practices in Oman.

Article 1 of the Competition Law indirectly refers to the change in control when defining economic concentration. The change in control constituted a loophole through which businesses were able to circumvent the provisions of the Competition Law, and prohibiting this practice, the law aims to boost fair competition in the market.

Clear criteria have now been adopted for the assessment of economic concentration. For example, while doing a market study, the Competition Centre has taken into consideration the impact of the transaction on innovation, investment, prices and consumers.

As for the notification regime, according to article 11 of the Competition Law, parties accomplishing an economic concentration must notify the Competition Centre which in turn shall look into the application and render a resolution within a period not exceeding 90 days after the receipt of the application. As per article 13 of the executive regulation, during the 90 days, parties cannot take action in relation to the completion of the economic concentration transaction. Also, as per article 12, the Minister can take the following decisions regarding the request for economic concentration: approval, approval with commitments or justified rejection. The Ministry monitors whether parties are fulfilling their commitments. Finally, in case of rejection, parties can appeal it before the Minister within 60 days from the date of notification of the decision.



## Labour protection

There has been change in only one indicator covering the presence of related competition regulation that includes basic protection/rights of the labour market within the State. Article 49 of the newly adopted Labour Law No. 53/2023 stipulates that employee contracts are protected when mergers and acquisitions transaction occur (as employees are always considered the most vulnerable parties in any transaction between companies in the market). Also, pursuant to article 69 of Labour

Law No. 53/2023, the non-compete clause is covered by mentioning that the employee must not engage in competition with the employer or participate in work that competes with the employer after the termination of the contract, provided that the time, place and type of work are determined (the geographical scope in which the employee's activity is conducted does not exceed a specified location and the designated period must not exceed two years).

## RECOMMENDATIONS

- The Competition Law should include more definitions for unfair competition practices such as collusion, vertical and horizontal agreements, and change of control.
- The Competition Centre should be independent of the Ministry of Commerce, Industry and Investment Promotion.
- Exemptions and temporary exceptions (given by the Minister) should be reconsidered and only granted under well-defined and strict conditions. Sanctions should be put in place in case exempted businesses breached the conditions.
- A threshold for the notification regime should be determined.
- Markets should be liberalized for some vital sectors (especially where State-owned enterprises operate), and State interventions should be based on specific conditions/circumstances.

