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UNFAIR GAME: LEBANON'S RIGGED MARKETS ARE KILLING COMPETITION

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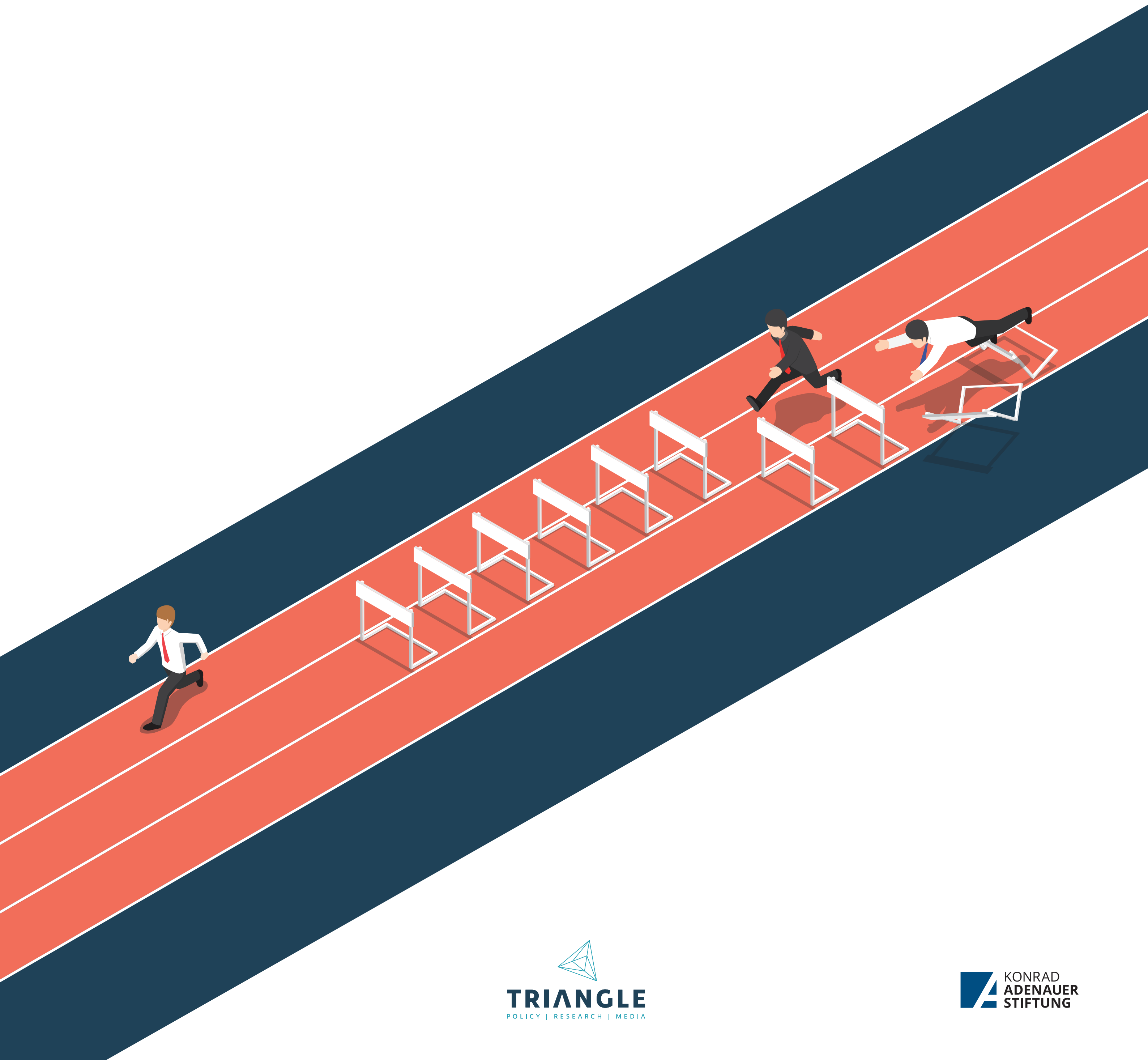
THE HURDLES THAT PROTECT MONOPOLIES AND BLOCK NEW BUSINESSES



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EXECUTIVE SUMMARY

For decades, Lebanon's economy has overwhelmingly served the interests of certain economic actors, who preside over widespread monopolies and oligopolies. This endemic imbalance of power reflects a country where unfair competition is rife, allowing powerful groups to maximize their profits at the expense of everyone else. For instance, a bag of cement in Lebanon has long cost around triple the international market price. Why are Lebanese consumers paying so much more for the same product? The simple answer is that they have no other choice, due to a lack of proper market competition.

In other industries, unfair competition has long meant that vulnerable workers lose out. In Lebanon's northern Akkar governorate, one of the poorest in the country, a powerful trading conglomerate controls large parts of the local value chain for potato farming.[1] The oligopolists lock vulnerable farmers into a "closed loop," in which they can only sell their produce to a specified trader at a reduced price. These practices ensure that, by slashing farmers' profit margins, consumers pay lower prices for potatoes. But the overall economy still loses out, as small-scale growers have precious little capacity or incentive to invest in improving the nation's agriculture sector.

While these endemically unfair markets have persisted for decades, the past year's tumultuous events have thrust sweeping change upon Lebanon, bringing an economic correction. As the nation grapples with an unprecedented economic crisis, even oligopolists must adapt to new commercial realities. The cement cartel has largely accepted government demands to lower prices, given the inability of consumers to continue meeting their extortionate rates. In Akkar, powerful potato scions can no longer entrap small-scale farmers in vicious debt cycles, because it is no longer viable to extend lines of credit for agricultural inputs.

Although these developments have shaken long-standing practices of restricting competition, the fundamentals of these exploitative value chains remain standing. Lebanon's cement companies have temporarily priced their products more affordably, yet they still benefit from enormous, state-sanctioned barriers to entry for would-be competitors. Small-scale farmers still lack viable alternatives to entering a rigged debt cycle to continue farming, even if those loan schemes have halted for now. The root causes of unfair competition continue to underpin both sectors, ready to be reactivated – and re-exploited – when Lebanon's economic situation eventually improves.

This paper explores how unfair competition in Lebanon works in practice, with reference to value chains for potato production in Akkar and national cement production. The path to addressing these kinds of monopolist practices lies in establishing a comprehensive competition law and policy, appropriately adapted to the Lebanese context. Despite more than 15 years of debate, Lebanon's draft competition law still gathers dust inside a parliamentary desk drawer.

Unfair competition in Lebanon is a veritable Medusa, whose snake-ridden hair represents the myriad shady business interests that preclude economic development – all in the name of petty individual gain. Confronting this commercial monster requires nothing less than a resolute competition law, a dynamic competition authority and heroic levels of political commitment.

PUMPING UP THE COMPETITION

Since time immemorial, Lebanon has been riddled with oligopolies[2] – or, "the monopoly of the few." A comprehensive 2003 study (the latest of its kind) concluded that half of Lebanon's domestic markets are considered either oligopolistic or monopolistic.[3] This means that consumers have limited scope to shop around for alternative vendors when purchasing goods or services.

The key yardstick for competition is how easy (or difficult) it is for a new company to establish itself in a given sector. Barriers to entry can be natural, such as a lack of customer demand or intensive start-up capital requirements.[4] Yet they can also be artificial, stemming from onerous legal and administrative rules, or cynical business practices that snuff out potential competitors.[5]

"A comprehensive 2003 study (the latest of its kind) concluded that half of Lebanon's domestic markets are considered either oligopolistic or monopolistic."

By international standards, Lebanon has weak legal frameworks for promoting market competition.[6] The country has no independent competition authority tasked with stamping out anti-competitive business strategies.[7] While it is illegal to "limit competition … resulting in an artificial increase in prices," this provision lacks specificity and is difficult to establish in court.[8]

Similarly, the Lebanese government shows little appetite for punishing price gouging, a practice in which sellers charge their customers unfair prices in reaction to a supply dip or demand spike. While Lebanon's Consumer Protection Directorate is empowered to enforce ceilings on profit margins,[9] in practice, it does little to deserve its name. On average, the taskforce annually issues around 200-500 fines for consumer welfare violations; the equivalent body in Dubai hands out around 17,000 infringements every year.[10]

"While Lebanon's Consumer Protection Directorate is empowered to enforce ceilings on profit margins, in practice, it does little to deserve its name."

This legal vacuum, perpetuated by public officials with ties to certain businesses interests, has ensured that many Lebanese markets remain alarmingly

BOX I: Healthy Competition?

In general, an appropriate level of competition between companies confers a range of social and economic benefits. Companies cannot overcharge their customers, lest they shift to buying the same goods from a rival competitor. Healthy competition also drives businesses to operate more efficiently, which tends to strengthen the overall economy.[i] Importantly, however, there is no point having rife competition for the sake of it. The level of competition must be "workable," such that the amount of consumers justifies the number of competing businesses.[ii] So, while Lebanese consumers might benefit from having more than three cement manufacturers, they probably do not need 100 different options.

uncompetitive. The country ranked 88th overall out of 141 countries in last year's Global Competitiveness Index (2019).[11] Lebanon performed especially poorly in the "Institutions" category, finishing in 113rd place.[12] Weak competition has made much of Lebanon's economy patently unfair. Riches accrue to monopolists, who can exploit their dominant market positions at the expense of everyday consumers and vulnerable workers.

THE UNHOLY TRINITY: CEMENT HITS ROCK BOTTOM

Lebanon's cement industry is dominated by three companies – Cimenterie Nationale S.A.L., LafargeHolcim Ltd, and Ciment De Sibline S.A.L. – who behave as a classic corporate cartel. Each company oversees a comprehensive operation, dominating the cement production process from start to finish. They extract and crush the raw materials and process those materials into cement, before distributing it abroad or steering its delivery to domestic customers.

Together, the three companies share the entire market for Lebanese cement. In 2015, it was reported that Cimenterie Nationale and LafargeHolcim controlled 44% and 38% of the sector respectively, while Sibline held a smaller stake (18%).[13] By colluding together to share the market, they face no competition from businesses outside the cartel.[14] The three companies maintain their unrivalled market position courtesy of various artificial barriers to entry, which effectively (or, in some cases, literally) exclude newcomers from the sector. Some of these barriers are legal and administrative, while others stem from the cartel's informal business practices.

"Before the current economic crisis, a bag of cement in Lebanon cost around triple the international market price. In Syria, for example, buyers have long paid around $30 for a tonne of white cement -inside Lebanon, it cost as much as $100."

Lebanon's poor competition framework enables the cement cartel to engage in a variety of restrictive business practices, safe from being undercut by a more principled competitor. First and foremost, the three companies maintain prices at an agreed level, ensuring that consumers can access only one (inflated) price. Before the current economic crisis, a bag of cement in Lebanon cost around triple the international market price.

In Syria, for example, buyers have long paid around $30 for a tonne of white cement – inside Lebanon, it cost as much as $100. Lebanon's cement companies recoup at least 20% profit from the price of exported cement, according to industry sources. This estimate suggests that the production cost of a tonne of cement is at most $24 – representing a profit margin of some 300%. When approached for information about production costs, product pricing and profits, Cimenterie Nationale, LafargeHolcim and Sibline declined to comment.

At the same time, the cartel has proven itself capable of rapidly reducing cement prices, when it suits them. In some cases, this enables the unholy trinity to twist the government's arm to achieve its own commerical objectives [See Box II: Set in Concrete].

BOX II: Set in Concrete

In late 2019, Hassan Diab's new government attempted to make a stand against illegal quarries, many of which provide raw materials to Cimenterie Nationale, LafargeHolcim, and Sibline. In response, the cartel began only selling bags of cement to the few traders and retailers who held cement "coupons." This created a shortage of cement in the local market, allowing retailers to charge consumers up to 800,000 Lira for a tonne of cement. In August, after the Beirut port explosion, the Interior Ministry allowed illegal quarries to reopen temporarily, on the condition that the cartel would maintain a price ceiling of 240,000 Lira and pay their outstanding taxes. The cement cartel grudgingly agreed to abide by these measures, especially after the government threatened to lift import tariffs. However, sources suggest that, despite the decree, the companies are still selling cement for more than 240,000 Lira.

CRUSHING HOPES: PERMITS FOR LOCAL CEMENT

In defending its domestic oligopoly, Lebanon's cement cartel has a valuable ally: an arcane system for obtaining government approvals. These opaque processes stand in the way of establishing a new Lebanese cement company, which could provide greater market competition. In effect, the permit regimes act as artificial barriers to entry for would-be commercial rivals to the cement cartel.[15]

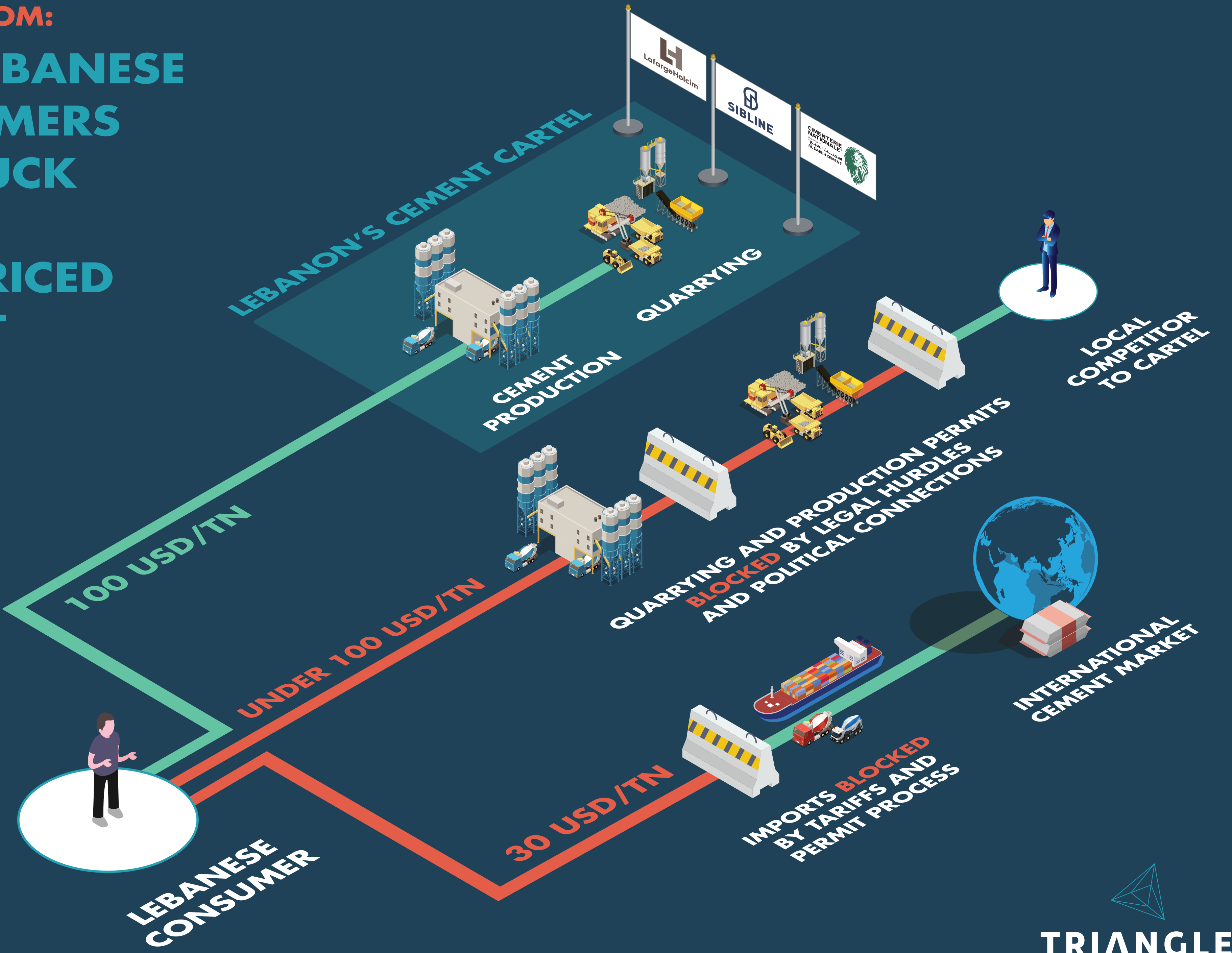
Naturally, there are cogent reasons for imposing approval requirements on any cement sector. As heavy industry, quarries and cement factories should adhere to stringent regulations covering issues like environmental protection and occupational health and safety.[16] In Lebanon, however, these permit regimes are often implemented based on cynicism rather than sound public policy.

In theory, any new company hoping to enter the Lebanese cement market would need to obtain a general industrial permit, issued by the Ministry of Industry. The Industry and Environment Ministries rightly classifies cement production as a "Category 1," industrial establishment, generating "very dangerous impacts on the environment, surroundings and public health which requires moving it away from the households to prevent its impacts."[17] As such, a new entrant would be theoretically subject to a number of different industrial and environmental laws and decrees, just to operate a plant.[18] The process for applying for a cement production permit is hardly streamlined, and it has little reason to be; only Cimenterie Nationale, LafargeHolcim and Sibline have ever succeeded in obtaining and keeping this permit.

A new cement company would also need to operate its own quarry. To obtain a quarrying permit, applicants must follow the administrative process set out in Decree 8803 of 2002 and Decision 186-1 of 1997.[19] Under this procedure, each proposal must receive approval from the Governor's office, the Ministry of Interior and Municipalities, and the local Municipality.[20] The local community must also have the opportunity to contribute feedback on the plan.[21] Crucially, the proposed quarry can only exist within the "designated zones," which are deemed as suitable for quarrying purposes.[22]

ROCK BOTTOM:

WHY LEBANESE CONSUMERS ARE STUCK WITH OVERPRICED CEMENT



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In practice, barely any quarry operators seek an official permit; only four applications were made between 2002 and 2009, and few have followed since.[23] However, a drive through the Lebanese mountains is enough to realise that quarrying occurs almost everywhere, with no regard for the designated zones. This state of affairs exists simply because the vast majority of Lebanese quarries operate without an official permit.[24] The government allegedly "turns a blind eye" to these enterprises – an informal concession that inevitably requires strong political connections.

Of course, the cement cartel has strong political ties to these powerbrokers, who can stifle any rival quarry from being established. The dominant trio can secure extra privileges in these illegal operations too; for example, by building processing plants close to their unlawful quarries, which slashes costs associated with transport logistics. Illegal quarries are also not subject to the aforementioned environmental regulatory regimes.

Decades of bitter experience highlight the importance of *wasta* to obtaining approvals for cement production. During the 1950s and 1960s, Cimenterie Nationale and LafargeHolcim – both representing the economic interests of European powers and local elites – benefited from several state decisions that bolstered their growing market dominance. These included the overturning of previous legislation, allowing the two companies to occupy maritime public property and to establish a customs office and independent ports for export.[25]

Sibline, which was established in the 1980s, assumed these privileges upon joining the cartel. But not all potential market entrants have the *wasta* (political connections) of Kamal Jumblatt, the former politician who won Sibline these concessions. Without overwhelming wasta, would-be Lebanese rivals stand no realistic chance of receiving the official permits required to produce cement.

In 2015, the government did grant a cement production permit for the Al Arz plant, a project controlled by wealthy businessman Pierre Fattoush.[26] The Al Arz project was not aligned to the three cartel companies and, therefore, could have offered more competition in Lebanon's cement sector. The Ministry of Industry revoked the industrial permit last year, citing concerns about the plant's potentially harmful environmental impact.[27]

Activists raised sustained and valid critiques of the Al Arz project, which would likely have placed the local surroundings at unacceptable risk of degradation.[28] At the same time, the cement cartel companies have long operated quarries and production plants that have detrimental impacts on the adjacent environment. This circumstantial evidence suggests that – aside from the Al Arz project's environmental shortfalls – Fattoush lacked sufficient political clout to force through the approval process.

WARDING OFF FOREIGN COMPETITORS

Whereas permit processes help to eliminate domestic rivals, regulatory requirements also preclude the entry of foreign competitors to Lebanon. The Industry Ministry's General Director, for example, has only granted three cement import permits in the past decade – and has only done so when required to "regulate the price of cement."[29]

CEMENT IN LEBANON IS THREE TIMES MORE EXPENSIVE THAN IN SYRIA

TO BUILD THE SAME HOUSE, CEMENT COSTS...

IN SYRIA
600 USD*

IN LEBANON
2,000 USD*

* BOTH COSTS CALCULATED FOR A SIMPLY FURNISHED TWO-STOREY HOUSE WITH TWO BEDROOMS (APPROXIMATELY 160 METRES SQUARED), BASED ON AVERAGE INTERNATIONAL AND LEBANESE CEMENT PRICES PRIOR TO OCTOBER 2019.

Source: Anonymous Industry Sources

Even if a new market entrant did receive an import licence, state tariffs act as another formidable barrier to entering the Lebanese cement sector. Since 1993, the government has made prohibitively high tariffs payable on cement imported from outside Lebanon. This levy can reach as high as 75% of the imported quantity's value for grey cement (typically used infrastructure projects, like roads) and 25% for white cement (used for housing construction).[30] By contrast, Syria imposed an average 11.4% tariff on imported cement, as at 2013.[31]

Deployed appropriately, a tariff regime can form part of an effective competition policy. A government might reasonably perceive socio-economic benefits from promoting local industry ahead of foreign products, such as creating jobs and a local market for services. In Lebanon, cement tariffs have been justified on the basis that domestic supply usually outstrips demand, making the importation of foreign cement unnecessary.[32]

In reality, the tariff regime has provided legal cover for the cement cartel's oligopoly within Lebanon. Foreign cement products – which could disrupt the three companies' market dominance by offering more competitive prices – are made commercially unviable due to these additional legal costs. In this sense, the tariffs operate as a classic, artificial barrier to would-be entrants; incoming foreign companies must pay the tariffs, while the cartel gets off scot-free.

THE POTATO CARTEL: DIGGING UP DIRT

Five powerful actors control large parts of Akkar's potato production by wearing a dazzling array of commercial hats. Two of the largest players, Omar El Hayek and Hussein Rifai, describe themselves variously as farmers, importers, traders, and exporters.[33] This allows the potato cartel's members to perform different roles, thus controlling all stages of the value chain for many vulnerable small-scale farmers.

By contrast, small-scale farmers face overwhelming barriers to competing with the region's powerful potato traders. These barriers emerge at the start of industry's value chain, when poorer farmers must pay for land access and inputs like potato seeds, fertilisers, and pesticides. They persist until farmers later sell their potatoes, where the local oligopoly negotiates unfair prices from its position of relative strength.[34]

Wealth inequality pervades the potato farming communities of Akkar. The potato cartel dominates ownership of the land, inputs, and infrastructure needed to maximise profits. Meanwhile, many small-scale potato farmers are trapped in a vicious cycle of debt and non-profitability. Potatoes are a notoriously volatile crop – some seasons will bless farmers with bumper harvests, while others condemn them to a potato shortfall. Despite these vicissitudes, a comprehensive 2015 ILO study estimated that, on average, farmers typically make a loss of some 24% on every kilo of potatoes.[35] Larger farmers can offset deficits with proceeds from their more lucrative activities in other parts of the value chain. But the sector's skewed wealth distribution means that small-scale farmers do not have the capital resources to cover these losses in bad seasons. This exposes them to unmanageable debt.

Small-scale farmers also struggle to access potato seeds, fertilisers, and pesticides. Lebanon does not produce local seeds for potatoes, in part because it had long been cheaper to import seeds from abroad rather than to invest in local production facilities. For this reason, around 80% of Akkar's potato seeds come from EU countries.[36] Akkar's potato trading cartel dominates the importation of both seeds and fertilisers, dividing much of the market between the five players. This position of dominance allows the cartel to dictate the prices at which farmers can purchase these inputs.

The cost of potato seeds imposes another significant financial burden on most Akkar potato farmers: approximately 26% of their yearly expenses.[37] Fertilisers account for an additional 23% of these outgoings.[38] With such expensive inputs, farmers can expect to make a loss of between 17% and 32%, dwarfing their profit which is a mere 17.5% on a good year.[39] Indeed, vulnerable farmers can only meet these financial obligations by accessing some form of credit – but their options are limited.

SWORD OF DAMOCLES: THE "CLOSED LOOP" OF CARTEL LOANS

Low-income farmers have long suffered from a lack of agricultural credit. Banks are reluctant to lend to farmers, agricultural cooperatives are weak and politicised, and credit unions do not yet exist in Lebanon (See: Breaking the Bank). Lacking other options, Akkar's most vulnerable potato farmers are forced to turn to one willing financier: the potato cartel itself. When required, a farmer can arrange for one of the region's powerful actors to pay the upfront cost of the potato seeds ahead of each planting season. The same principle applies for fertilisers and pesticides.

BOX III: Uneven Footing

Across Lebanon, farmland ownership resides with only a few. The richest 1% of Lebanese farmers own 25% of agricultural land; the top 5% have 47%; and the wealthiest 20% hold a remarkable 73%.[iii] By contrast, the poorest 10% of farmers own just 0.4% of land.[iv] Larger landholders dominate production: Almost one-third (32%) of Akkar's potatoes come from farms larger than 20 hectares, but only 2% of growers cultivate land of this size.[v] Concentrated land ownership means that, for most Akkar potato farmers – who typically operate at an overall loss – land rental ranks at the head of their annual expenses. The ILO calculated that yearly land rental would cost Akkar potato farmers around 38% of their overall outgoings.[vi] Experts have pointed out that Lebanon's agricultural policy lacks any coherent strategy for addressing this land tenure issue, through rent controls or other tenant-friendly mechanisms.[vii] Before they even start farming, small farmers are on an uneven footing with essential resources concentrated in the hands of large farmers.

The potato cartel typically does not impose exploitative interest or timeframes for repaying these loans, according to local experts. Instead, the cartel extracts its pound of flesh when the indebted farmer goes to sell the potatoes. Ordinarily, the purchase will be arranged by the same cartel member who financed payment for the necessary inputs. The farmer's indebtedness slashes his or her bargaining power vis-a-vis the trader, as the threat of demanding repayment looms over the transaction. The farmer tends to sell the potatoes at a lower price to the trader-cum-financier — typically 10% lower than market value, according to members of the potato cartel. The wholesaler then profits when the potatoes are resold in Lebanese or foreign markets.[40]

This arrangement restricts a small-scale farmer's competitiveness not just in terms of price, but also in the potential range of customers. Even if farmers had identified another purchaser willing to pay more for their potato crop, their debt obligations can force them to sell the product to the financier. In effect, Akkar's potato cartel uses concentration of resources and loans to create a "closed loop," whereby the indebted farmers must pay to continue participating in the value chain by often accepting lower than market rate prices. The debt cycle effectively precludes new entrants from purchasing those same farmers' potatoes, given their entrapment in the potato cartel's operations.

Separately, the potato cartel maintains virtually exclusive access to lucrative customers in non-local markets, such as Beirut and foreign countries.[41] Small-scale farmers do not have established links with these potential buyers, nor the necessary storage and transport logistics to reach them.[42] This means that, even if small-scale farmers are not indebted to a cartel member, they will typically sell their produce in the local market only.[43]

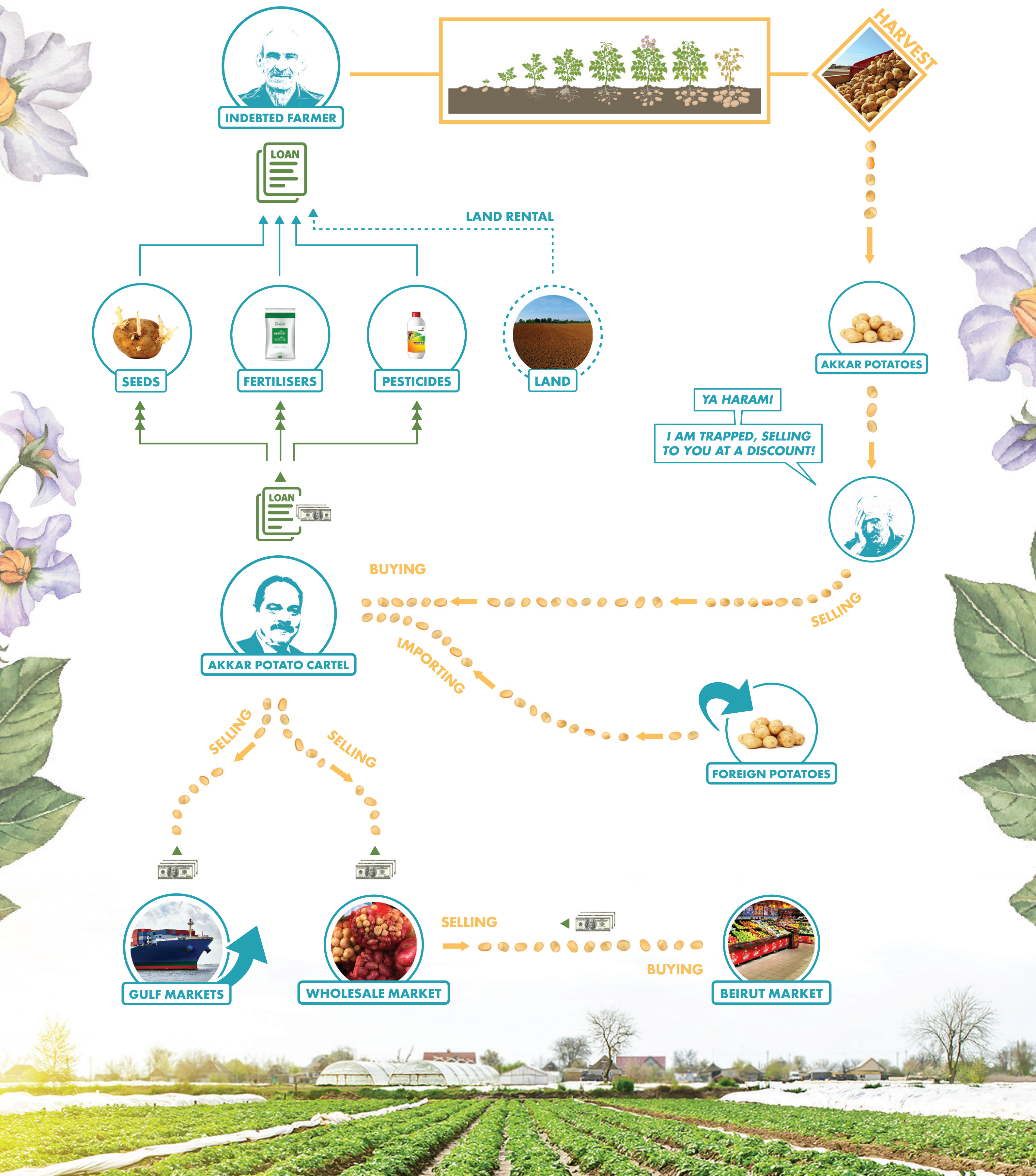
SYMPATHY FOR THE FARMER

Unlike the cement cartel, powerful actors in Akkar's potato production do not receive direct state support

DIGGING UP DIRT:

HOW AKKAR'S POTATO CARTEL TRAPS FARMERS IN VICIOUS DEBT CYCLES

Source: Source: El Gazzar, H., International Labour Organization, 2015



for their oligopoly over the market. Tariffs do not preclude the importation of potatoes from countries like Egypt, which are widely available in Lebanon. There are no onerous approval processes to dissuade would-be competitors to Akkar's main players.

Rather, power imbalances in Akkar's potato market stems from two absences: a lack of agricultural policy vision, coupled with weak competition laws.[44] Akkar's de facto potato cartel has accumulated a dominant share of resources needed for potato cultivation. Now, these powerful actors can exploit their overwhelming bargaining power against small-scale potato farmers.[45]

In the case of Akkar potatoes, the small-scale farmer is the most immediate victim of an exploitative value chain. The region's potatoes are competitively priced in Lebanese markets, facing competition from Bekaa, and sell in foreign countries too. Indeed, it is the reduced profit margins that help to suppress the product's final retail price. While this value chain structure might confer short-term benefits on Lebanese potato consumers, it hobbles the nation's agricultural sector moving forward. These modern-day fiefdoms have stripped away capacity for small-scale farmers to invest in their farming operations.[46] Barely any own cold storage facilities for their stock, which would open up more business opportunities and reduce their reliance on potato cartel wholesalers.[47]

Atop this broken pyramid of carbohydrates sits the potato cartel, which can posture as a kindly benefactor to small-scale farmers. The exploitative value chain for Akkar potatoes has become so entrenched that, according to local experts, virtually nobody in Akkar is agitating for fairer competition between farmers and the potato cartel. Yet on occasion, Akkar's potato powerbrokers can be openly nefarious in their dealings. Omar El Hayek allegedly uses his enormous store of potatoes to manipulate prices. As relevant, he can alter the local price for potatoes by either starving or flooding the market, depending on supply and demand, according to multiple sources. El Hayek denied the allegation that he had ever manipulated the price of Lebanese potatoes.

"Atop this broken pyramid of carbohydrates sits the potato cartel, which can posture as a kindly benefactor to small-scale farmers."

LAYING DOWN THE LAW

For decades, the Lebanese government has procrastinated on delivering legislative interventions that would make the country fairer – and market competition is no exception. To date, Parliament has still not passed a comprehensive competition law, despite more than 15 years of debate about such legislation.

In 2007, Parliament voted against enacting a draft competition law presented by the Ministry of Economy & Trade. Parliament considered a slightly updated draft law in 2019, which received support from UNCTAD and the EU.[48] A technical committee rejected this version in June 2020, arguing that it "includes articles that work against free market principles."[49] The committee's objection allegedly (and bizarrely) referred to the weakening of exclusive agency protections.[50]

> ***"The updated drafting ostensibly covers price fixing in the Lebanese cement market, manipulation of supply and demand for Akkar's potatoes, and many more instances of anti-competitive behaviour."***

Under the draft law, Article 5 permits any person to import a foreign product, even those previously subject to exclusive agency agreements.[51] These types of protectionist agreements – on almost any other reading – constrain rather than liberate the market.[52] A more likely explanation for the committee's decision is that exclusive agency agreements reflect long-standing concessions to certain sectarian groups, each of whom would take umbrage at losing those lucrative commercial entitlements.[53]

Encouragingly, the draft competition legislation includes a more expansive definition of "restrictive agreements," capable of covering the problematic business practices explored in this paper. At present, part 4 of Legislative decree No. 73 of 1983 proscribes the vague offence of causing "artificial" price increases, which is difficult to prove in court. If enacted, the draft competition law would sharpen this provision, making it unlawful for companies (either deliberately or unintentionally) to collude to affect or restrict competition.[54]

On its face, the new restrictive agreements provision proscribes many of the anti-competitive business practices currently used in Lebanon, including across the value chains for potato and cement production. In a non-exhaustive list, the article prohibits price fixing agreements, manipulating supply and demand, and pacts to divide customer bases along profile and geographical lines.[55] With this stronger definition, it would be easier to impugn informal restrictive agreements amongst cartels. The updated drafting ostensibly covers price fixing in the Lebanese cement market, manipulation of supply and demand for Akkar's potatoes, and many more instances of anti-competitive behaviour.

Under Articles 25-31, the draft law also provides for a competition authority, an institution sorely needed in Lebanon's competition framework. Many countries rely on an independent authority that is charged with enforcing competition law and policy in that jurisdiction, like the US Federal Trade Commission.[56] At present, the only agency mandated to address issues of unfair competition is the Consumer Protection Directorate, an underfunded department within the Ministry of Economy & Trade. The proposed competition authority is empowered to investigate and punish anti-competitive behaviour in Lebanon (including the restrictive agreements discussed above).[57] The authority may compel companies to provide undertakings to desist from these unlawful practices[58] and impose penalties or fines for non-compliance.[59] Affected parties may appeal decisions of the competition authority before a competent judicial court, which is standard practice in most jurisdictions.[60]

It is less clear how effectively the proposed competition authority would be able to discharge its legislative mandate to stamp out anti-competitive behaviour. The draft law does not constitute the competition authority as an independent public institution, like Central Administration of Statistics or Lebanese Agricultural Research Institute. Instead, it would answer directly to the Ministry of Economy & Trade. It is provided that the competition authority would have an "independent budget," funded by sources including the state, "unconditional" grants and donations, local and foreign loans, and fees generated by the authority itself.

Even though the law provides for financial autonomy, the range of sources nominated (for instance, local and foreign loans) leave the competition authority wide open to commercial and international steering – especially given the state's parlous finances. One cost-effective option might be to include "carrot and stick" provisions for reporting restrictive agreements to the competition authority.[61] Under these provisions, cartel members would receive more lenient penalties if they disclosed anti-competitive practices to the authority; by contrast, penalties would increase for non-cooperative businesses.[62]

The draft competition law contains a range of encouraging reforms – on paper. The vital question remains, as ever in Lebanon, one of political will. The proposed competition authority has broad legislative powers to combat anti-competitive behaviour; yet it will almost certainly fail to achieve this objective without proper financial support, as well as genuine state commitment to tackling unfair competition. The "great correction" occurring in Lebanon indicates that staunchly anti-competitive sectors – such as Akkar potato cultivation and national cement production – have now been exposed as untenable. Lebanon can salvage positive developments for the future from current adversity, starting with the implementation of a sound competition law and policy.

> ***"Amid the economic crisis, even Lebanon's cartels are faltering.***
> ***The government should see this as an opportunity to break from the country's anti-competitive past."***

RECOMMENDATIONS

Amid the economic crisis, even Lebanon's cartels are faltering. The government should see this as an opportunity to break from the country's anti-competitive past. First, the Parliament must revisit and pass the draft competition law. Ideally, the draft law would be amended to better ensure the political and financial independence of the proposed competition authority. This would mean establishing the authority as a public institution, as opposed to a subsidiary department of the Ministry of Economy & Trade.

Securing the competition authority's financial autonomy would be more challenging, due to the government's enormous debt levels. One option could be to generate revenue for the competition authority from a fee imposed on capital registered in Lebanon.[63] This general levy would avoid relying on individual sources, like grants or loans, which could expose the competition authority to political steering by the grant / loan provider. Separately, the draft law could be updated to give the competition authority explicit power to offer incentives (such as amnesty or reduced penalties) for companies that voluntarily expose restrictive agreements and business practices.

Crucially, the government must ensure that competition policy aligns with Lebanon's new competition law and competition authority. This requires that legislators critically review any existing legislative or administrative practices that act as purely artificial barriers to new market entrants. An obvious target for these deliberations would be tariffs on foreign cement, which have already have already been discussed by the Industry Minister in the past months. If these tariffs are allowed remain prohibitively high, the cement cartel will be able to revert to its extortionate business practices with impunity, free from the threat of foreign competitors.

A more complex issue lies with industrial permit regimes which, in theory, can operate as a prudent barrier to entry, ensuring that new entrants comply with important safety and environmental regulations. In this case, competition policy should at least make these administrative procedures more transparent, so that potential competitors can apply for necessary permits through a fairer system.

Broader competition policy must also embrace small-to-medium enterprises (SMEs), offering them the support needed to challenge oligopolies across the country. In Akkar, for instance, potato farmers will remain trapped in a cycle of debt to the potato cartel unless they have access to other forms of agricultural credit. These alternative loan sources might come from supporting the establishment of credit unions or revitalising agricultural cooperatives, which are currently rendered ineffective by sectarian politics. Cooperatives also offer hope that small-scale farmers could pool their resources and invest in infrastructure, such as cold storage facilities, that would further reduce their dependence on the potato cartel. These two streams of reform illustrate the potential for fostering collective action against concentration of resources, a key building block supporting unfair competition across the Lebanese economy.

Underpinning all necessary changes recommendations is one non-negotiable element: a genuine political desire to tackle unfair competition. This means strong backing for the competition in identifying compromised sectors and, if appropriate, forcing through de-mergers of existing oligopolies. Cement and agriculture are two prime candidates for intervention. But these efforts cannot stop there – other industries, such as fuel and waste management, have long been crying out for more competitive market structures. To achieve this, the government must eschew "easy wins" that reinforce unfair competition, including the bribery and political sweetheart deals that render permit approval processes farcical.

EDITOR'S NOTE

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FIGURE ENDNOTES:

Figure II:
Anonymous Industry Sources; Price of Cement calculated using average pre-October 2019 prices.

Figure III (Digging up Dirt: How Akkar's Potato Cartel Traps Farmers in Vicious Debt Cycles)
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