

Background paper prepared for the World Development Report 2005

Business Registration Reforms in Pakistan

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Abstract

Well structured and implemented policies for registration of business activities constitute an important factor in creating a positive investment climate. This paper describes the reforms in the business registration system in Pakistan during the 1990s. In particular, it describes the creation of the Securities and Exchange Commission of Pakistan (SECP) and subsequent changes in laws and regulations, automation and capacity building, and other facilitation measures. Successful implementation of the reforms become possible due to financial, administrative and operational autonomy of the SECP and the commitment of the new organization to upgrade its efficiency and quality of services to the public.

The views expressed are those of the author and do not necessarily reflect official views of the World Bank.

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Business Registration Reforms in Pakistan

1. Introduction

1.1 Well-structured and well-implemented policies for registration of business activities constitute an important factor in creating a positive investment climate. An investor has to channelise his investment through a legal vehicle enabling him to carry out business and raise financial resources from the credit institutions and the general public. It is important that a range of options of legal vehicles should be available to investors who may select the most appropriate vehicle to meet specific needs. Following are broad categories of options available to investors in Pakistan:

- Sole proprietorship
- Partnership Firm
- Registered Company
 - Private Limited Companies
 - Public Limited Companies
 - Companies with unlimited liability
 - Non-Profit Companies (Companies not using the word “limited” and Companies limited by guarantee)
- Statutory Corporations

1.2 Through these legal vehicles, a person can undertake any lawful business as this right is enshrined in the Constitution of Pakistan. While exercising his option for a particular legal vehicle, an investor has to take into account a variety of factors such as:

- Size and nature of business
- Ownership structure
- Requirement of mobilization of financial resources

- 1.3 The mode of sole proprietorship is commonly used for carrying out trading or professional business on a small scale. As there is no separation between the sole proprietor and his business entity, he is personally liable for all the liabilities and claims against the entity. The business assets of the sole proprietor are legally treated as his own. This mode of business is unregulated in most of the countries including Pakistan.
- 1.4 Partnership is commonly an association of persons formed through a deed for carrying out any business or profession, although some partnerships are unregistered. The partnership is regulated through Partnership Act, 1932. The Companies Ordinance places limit of twenty on the number of partners for all partnerships except those of professionals like accountants and lawyers. The partnership is registered with Registrar of Firms who is an official of the provincial government. Each of the partners has the right to represent the firm and to manage its affairs while the tax authorities levy tax on the partners rather than the partnership. A partnership, not being legal entity, does not have perpetual life and can be dissolved through an agreement of partners or any change of partners.
- 1.5 A company, unlike sole proprietorship and partnership has a distinct legal personality; there is a complete separation between the company and its shareholders. A company comes into being through registration of documents with Registrar of Companies. The company can own property in its own name and can sue and be sued against. An important attribute of a company is that it has perpetual life and would remain alive even with complete change of shareholders and directors. Its life comes to an end only through dissolution, which takes place after following procedure prescribed by Company Law. For the shareholders, the most attractive feature is that their liability is limited to their investment in the event of dissolution of the company.
- 1.6 There are various types of companies, having distinct features, although all of these possess essential elements of an incorporated entity: deriving life from

registration of documents with the Registrar Companies, having distinct legal personality, having perpetual life, having capacity to own property and having authority to sue and being sued. However, the legal framework of Pakistan allows registration of various types of companies to suit the peculiar requirements and preferences of investors. A private limited company can traditionally be formed by two members. Recently the concept of a single member company has also been introduced. These companies are prohibited from inviting the public for contributing to the capital of the company. Transfer of shares of such companies is restricted. Therefore, private limited companies are formed by those who may like to confine shareholding to the family members and friends and who may either not require or may decide not to raise capital from the public.

- 1.7 In addition to private companies limited by shares, the law also provides for companies limited by guarantee, non-profit companies and companies with unlimited liability. In case of companies limited by guarantee, the liability of its members is limited by the memorandum of association to such amount as the members may undertake to contribute to the assets of the company in the event of its winding up. Non-profit companies are generally formed with the objective of promoting art, science, social services, etc. and the members are prohibited from receiving any dividend. Such companies are exempted from the requirements of using the word “limited” at the end of the name and are authorized to operate under a licence issued by the regulator. In the case of an unlimited company, the liability of members to contribute to the assets of the company on winding up is not limited.
- 1.8 A public limited company can be formed by a minimum of seven (recently reduced to three in the case of unlisted companies) sponsors and is allowed to mobilise funds from the public and to allow transfer of shares. This is the most popular type of companies established to undertake business of substantial size requiring considerable capital. These are able to enlist themselves on the stock exchanges and can have access to funds through the capital market. As listed companies are subject to comparatively more stringent standards of corporate

governance, these are also able to avail of better financing facilities from the banks.

- 1.9 Statutory corporations are established under government statutes to undertake specialized activities necessitated by public interest. The operational parameters of such corporations are laid down by the statute and the Company Law becomes applicable when the statute does not contain any inconsistent provision.

2. Pre-Reform Period

- 2.1 At the time of independence in 1947, Pakistan inherited Companies Act of 1913. The Act was amended from time to time till 1984 when a consolidated law, Companies Ordinance was promulgated. Over the years, there has been change of agencies responsible for administration of the law. The Provincial Governments were responsible for the administration of the Act till 1974 when it was transferred to Ministry of Commerce in the Federal Government. Later, it was transferred to the Ministry of Finance. In 1981, the government established Corporate Law Authority responsible for administration of all corporate laws including Companies Act replaced by Companies Ordinance promulgated in 1984. The Authority was a department of the Ministry of Finance and did not enjoy financial or administrative autonomy.
- 2.2 Pakistan's Companies Ordinance makes it mandatory for every company to be registered as a company under the Ordinance and any member of the company defaulting in this regard is liable to penalty. The companies are required to prepare and file a set of documents with Registrar of Companies. The most important documents to be filed are the Memorandum and Articles of Association, which comprise the constitution and regulations of the company. The contents of the memoranda of association of different types of companies vary. The Ordinance provides specimen for the memorandum of association of companies limited by shares, companies limited by guarantee and companies with unlimited liability. A set of articles of association have been provided in the Ordinance and companies limited by shares can adopt these or make necessary adjustments to meet their peculiar requirements. Memorandum of association of

companies limited by shares which is the most common type of companies requires following information:

- Name of the company
- Name of the province in which the registered office is to be situated
- Objects of the company
- Statement that the liability of the members is limited
- Amount of share capital with which the company proposes to be registered

2.3 The articles of association constitute regulations for management of the company and cover areas like allotment and transfer of shares, alteration of capital, requirement of general meetings, voting rights of members, powers and duties of directors, dividends and reserves, accounts and winding up.

2.4 Prior to the preparation of documents, the sponsors are required to obtain an appropriate name from the Registrar who ensures that the name or an identical name was not being used by any other company or it was not deceptive in any manner.

2.5 The regulatory requirement of filing the memorandum and articles of association for purposes of registration has strong rationale. Firstly, the registration documents clearly mention the objects and regulations of the company for the information of all stakeholders including creditors. Secondly, the rights of shareholders are defined and spelt out clearly. Thirdly, by binding itself to the statements made in the memorandum and articles of association, the company becomes accountable to the regulatory body in terms of its stated objectives and regulations like holding of regular meetings of shareholders and obtaining their approval for important decisions.

2.6 Registration of a company entails certain steps mandated under the Companies Ordinance and the procedures prescribed under it. However, during the pre-reform period, the process took considerable time and entailed difficulties for the promoters since certain facilities, which have been made available since 2001

were not available earlier. The main requirements for registration of a new company under the Companies Ordinance are:

- **Obtaining Availability of Name**

A promoter is required to submit an application along with a fee, seeking availability of certificate for each name. The certificate is issued after the Registrar is satisfied that the name chosen is not inappropriate in any manner, is not deceptive, does not offend religious susceptibilities of the people and is not identical nor closely resembling with the name of an existing company.

- **Submission of Documents**

Following documents are required to be submitted to Registrar:

- National Identity Card of each subscriber.
- Four printed copies of memorandum and articles of association, one copy bearing special stamp of the prescribed value.
- Form-1 evidencing declaration of compliance with the pre-requisites for formation of the company.
- Authorisation of sponsors in favour of a person to make good the deficiencies, if any, in the memorandum and articles of association as may be pointed out by the Registrar.
- In the case of a single member private company, a nomination letter (prescribed in October, 2003).
- Deposit challan of the authorized bank evidencing payment of filing and registration fee.
- In case of specialized companies like banking companies, non-bank finance companies and companies providing security with the help of armed guards, no-objection-certificate from the designated authorities.

2.7 **Cost of Registration**

The break up of cost of registration of companies is:

- Name Availability Fee Rs. 200
- Filing Fee (Form-I) Rs. 200
- Filing Fee for Memorandum and Articles of Association Rs. 200
- Stamp Duty Prescribed rates according to capital
- Registration Fee Prescribed rates according to capital

2.8 Corporate Law Authority that administered registration of companies, experienced difficulties in providing any facilitation to the promoters of new companies as, being a government department, it lacked financial resources as well as operational autonomy and flexibility.

2.9 The Authority depended exclusively on budgetary grant from the Federal Government and all employees, appointed by the government on government pay scales, were treated as government servants. Registration fee received by the Registrar of Companies from companies seeking registration went directly into the Federal Government Consolidated Fund and only a part of the receipts was allocated to the Authority through the budget for meeting its financial needs. Beside inadequacy of the allocated funds, the Authority was unable to determine its own expenditure priorities. Not only was the Authority required to seek approval of its annual budget, it also needed approval of the Ministry of Finance for making specific purchases of tangible items including computers.

2.10 The Authority was required to strictly adhere to the government salary scales for its employees and follow the government procedure for recruitment. Handicapped by lack of financial resources and autonomy, the Authority was neither able to engage professionally qualified staff nor could finance professional training of the available staff. Similarly, sporadic and somewhat halfhearted attempts at automation of the Authority could not yield tangible results due to inadequacy of

financial resources and non-availability of skilled staff. The environment was hardly conducive to efficient working of the organization or developing a sense of motivation and commitment among the employees.

3. The Reforms

- 3.1 In early nineties, the Government of Pakistan started a process of liberalization of economic policies like relaxation of exchange control regime, opening of the financial sector to private sector and allowing foreign investment in capital market. Along with these fundamental changes, certain administrative procedures were also simplified. After introducing macro level changes, it was necessary to review micro policies. In 1997, the Government with the assistance of Asian Development Bank prepared Capital Market Development Programme (the programme), which comprehensively covered key aspects of capital market. The overall objective of the programme was to enable the country to increase mobilization of long term resources and improving the efficiency of their allocation through a diversified and competitive capital market.
- 3.2 The programme sought to achieve these objectives by addressing issues in seven areas: Creating an enabling policy environment especially providing level playing field between public sector and private sector institutions, strengthening governance, institutions, regulations and supervision of securities market infrastructure and its linkages, developing the corporate debt market, introducing reforms in the mutual fund industry, developing the leasing industry and promoting contractual savings through reforms of the insurance sector and pension and provident funds. The programme was successfully implemented over a period of three years.
- 3.3 A significant outcome of the programme was the establishment of Securities and Exchange Commission of Pakistan (SECP) as an autonomous and independent regulatory body, replacing Corporate Law Authority, a government department. The operational scope of SECP included regulation of securities market and non-bank financial institutions as well as administration of company law. Exercising newly vested financial, administrative autonomy, SECP recruited professionally

- qualified staff from the market, paying them market-based salaries that upgraded the capacity and efficiency of the institutions.
- 3.4 After a review of the existing regulatory framework, SECP introduced a number of new regulations governing the securities market and the corporate sector with the objective of expanding disclosure requirements, ensuring greater transparency and safeguarding rights of minority shareholders. Regulations were introduced for: disclosure by listed companies, insider trading, carry forward system, corporate registrar services, protection of minority shareholders rights, inter-corporate financing, investment companies, portfolio managers, public issues and offering, under-writers and substantial acquisition of shares. A number of measures were also taken to strengthen risk management of market intermediaries.
- 3.5 In the area of non-bank financial institutions, the existing regulatory framework was revamped radically to allow establishment of non-bank finance companies, capable of undertaking all non-bank activities subject to meeting enhanced capital requirements prescribed for each additional activity.
- 3.6 A reform measure of far reaching importance was the introduction of a code of corporate governance through amendment of Companies Ordinance and listing rules of the stock exchanges. The introduction of the code has led to adoption of better corporate governance practices by the listed companies. The main focus of the code is on strengthening the role of the board of directors and increasing the frequency of reporting of the financial statements. Listed companies have now been mandated to issue financial statements every quarter instead of every six months.
- 3.7 The reform measures were driven by a host of factors. The process of liberalization of the economy in early nineties involving relaxation of exchange control regime was partly motivated by urge to attract foreign investment, both direct and portfolio and met conditionalities of programme loans and other financing agreements with multilateral agencies. Foreign investment which

became possible due to the liberalized environment led to review and streamlining of administrative procedures and removal of impediments in foreign investment. Development of capital market infrastructure like introduction of automated trading, central depository system and national clearing and settlement system can be attributed to rather sudden boost in portfolio investment including foreign investment. These reforms became possible because the government was motivated by the desire to mobilise foreign investment to promote economic development and it responded positively to the demands of the domestic private sector and suggestions of foreign investors and multilateral institutions. The reforms also reflected the re-orientation in the government policy of placing greater reliance on the private sector instead of the public sector, as engine of economic growth.

- 3.8 In the context of business registration system in Pakistan, establishment of SECP had two significant positive implications. Firstly, the Securities and Exchange Commission of Pakistan Act, 1997 that governed the establishment of SECP provided full administrative, financial and operational autonomy to the new organization. Except for the chairman and the commissioners, SECP is empowered to employ staff and offer them financial terms it considered suitable after obtaining approval from its Policy Board. Both the commissioners and the chairman can have maximum of two tenures of three years. SECP has also been authorized to retain all taxes, fees, penalties and other charges levied while administering laws under its purview. SECP has been given adequate powers of expenditure. Secondly, administration of Companies Ordinance was also brought within the purview of SECP in addition to its core function of regulating the securities market and the non-bank financial institutions. The autonomy as well as its access to sizable financial resources has enabled the SECP to strengthen its capability to administer Companies Ordinance in terms of professional expertise and development of infrastructure including automation. Since its establishment, SECP has inducted twelve professionals being chartered accountants, MBAs and law graduates in the Company Law Division and the eight field officers. It has also provided training to officers dealing with the administration of Companies

Ordinance in the Lahore University of Management Sciences, a premier institution for business studies. Three officers have visited and studied registration offices in Malaysia and Australia. An annual conference of registration officers of eight regional offices and headquarters is being held to review the performance of these offices. This also provides platform for discussing new policy initiatives.

- 3.9 Simultaneously with introduction of reforms in other areas of its jurisdiction, SECP started reviewing policies for registration of companies in 2001. An internal exercise carried out by the Company Law Division identified issues contributing to delay in the process of registration of companies. Commissioner, Company Law who visited the UK to study the working of UK's Company House at Cardiff in 2000 brought back a number of ideas for streamlining of administration of Company Law and the registration process. A team of software experts who were engaged for automation of SECP also looked at the registration process in detail and made useful recommendations.
- 3.10 In 2001, Corporate Registration System was developed and implemented as the core database application. The system facilitates registration of companies and development of their database. Later a more comprehensive system named Corporate Registration and Compliance was developed which also facilitates management of information contained in statutory returns. In addition, all major registers have been automated. These include register of companies, register of mortgages, chronological index of mortgages, register of companies whose names have been struck off, register of companies in liquidation and company profiles being maintained in the regional registration offices. The database of companies now includes list of incorporated companies, list of foreign companies, list of companies wound up, list of companies struck off the register, list of companies which changed their name and list of companies by capital. The system for incorporation of companies and the existing information is accessible to the regional registration offices through the existing server. SECP is planning to develop a system, which would enable companies to submit statutory returns electronically.

- 3.11 The process of formulation of the reform agenda in all areas falling within the purview of SECP was led by Mr. Khalid A. Mirza, Chairman, SECP who took over the assignment in March 2000. Possessed with vast experience of capital market and private sector development as well as dynamism, he guided the new organization in chalking out and implementing a comprehensive reform programme.
- 3.12 The main objective of the reforms in business registration system was to reduce the time taken in registration by streamlining the process, development of infrastructure facilities like automation and human resource development and educating the investor public. The reforms can be placed in three categories:
- Changes in Laws, Regulations and Rules
 - Development of infrastructure and Capacity Building
 - Facilitation measures

Changes in Laws, Regulations and Rules

- 3.13 Since the establishment of SECP, a number of changes have been made in the Companies Ordinance and rules subordinate thereto. Some of these changes, reflecting investor friendly policies, were aimed at improving investment climate. While formulating proposals for changes in the laws and the rules SECP placed the proposals on its website and solicited public views in view of the provisions of the Securities and Exchange Commission of Pakistan Act, 1997 which makes it mandatory on SECP to publish all new draft rules in the official gazette to elicit public opinion thereon within a period of not less than thirty days from the date of publication. In some cases, meetings were also held with professional bodies like the Institute of Chartered Accountants.
- 3.14 Key changes made in Companies Ordinance since the establishment of SECP are:

- Policy regarding issuance of capital by companies was changed to allow certain percentage of right shares to employees of the companies under Employees Stock Option Scheme. This measure aimed at establishment of such schemes, which had not been in existence.
- Companies were allowed to issue different classes of shares like preference shares. Previously, companies were allowed to issue only ordinary shares. The measure was of a radical nature, providing wider range of market instruments, catering to specific requirements of companies and investors.
- Companies were allowed to buy back their own shares. The option was made available to companies having excess liquidity and if their shares were traded below their intrinsic value.
- A new concept of single member company was introduced to provide an additional option to the investors. This enables an individual businessman to set up corporate entity with limited liability. Prior to this change, a private limited company could be established by minimum of two members. The main rationale behind the establishment of a single member company is to encourage the use of the corporate structure by small businesses and sole proprietorship that would be able to avail of the protection of limited liability.
- The requirement of minimum number of seven members and directors of an unlisted public limited company was reduced to three. This change was made in view of the practical difficulties faced by prospective promoters of public limited companies to arrange seven members.
- Issuance of shares at a discount by companies was simplified.
- The period of holding annual general meeting within six months following the close of the financial year has been reduced to four months. This measure aimed at improving corporate governance by obliging companies

to provide annual audited financial statements within a shorter period of time.

- Quorum of a general meeting of a public listed company has been increased from three members to ten members present in person representing not less than 25% of total voting power either on their own account or as proxies. This measure seeks to ensure representation of substantial shareholding in the general meetings thus strengthening the role of shareholders in the general meetings where important decisions are taken.
- It has been made mandatory that minutes of the meetings of the board of directors of companies are circulated among the directors within fourteen days. The measure is aimed at ensuring that the management places the minutes of the board meetings before the directors within reasonable period of time.
- Eligibility criteria for directors of listed companies has been made stringent by making stock brokers ineligible. This measure seeks to ensure that stockbrokers do not misuse inside information relating to listed companies.
- Policy regarding investment in associated companies has been liberalized by removing the maximum limit of 30% of paid up capital and leaving the financial decision with the shareholders. Prior to the amendment, approval of SECP was necessary.
- Listed companies have been mandated to prepare and furnish quarterly accounts. The measure is aimed at ensuring greater degree of transparency and minimizing possibility of insider trading.

3.15 The legal framework for registration of companies was revamped. SECP notified Companies (Registration Offices) Regulations in September 2003 that stipulated obligations of registration offices in registering companies within the time

framework provided in the Regulations. The main provisions of the Regulations are:

- Company Registration Offices were established for registration of companies, in eight cities of the country.
- Procedure for registration of companies was automated like assigning system generated registration number and the certificate of incorporation to be issued was standardised.
- All incoming documents are required to be entered into an electronic database and certain documents to be image stored in the Document Management System.
- Maximum period for processing of each document received by the Registrar has been prescribed. Time framework prescribed for processing of important documents is as under:
 - Availability of Name Application 1 day
 - Change of Name 1 day
 - Conversion of private company to public company 2 days
 - Registration of Mortgage charge 1 day
 - Commencement of Business Certificate 2 days
 - Application for certified copy 1 day
 - Issuance of Registration Certificate 3 days
 - Filing Certificate by a Foreign Company 2 days
- Registrar is obliged to allow the members of the public to inspect registers and record of documents and to provide copies of documents authorized by Companies Ordinance.

In the case, the Registrar takes more than three days in registering a company; he is required to give reasons.

- 3.16 The SECP notified amendments in the Companies (General Provisions and Forms) Rules in July 2003. Through these amendments, application forms for registration of different types of companies as well as for other returns to be filed, were simplified.
- 3.17 All the registration offices are required to send statements at the end of each month to the SECP headquarters showing the date when each application is received and the date when the company is registered enabling monitoring of compliance of the registration offices with the legal provisions.

Development of Infrastructure and Capacity Building

- 3.18 With the support of multilateral agencies and its own financial resources, SECP launched a programme for automation. Implementation of the programme started soon after establishment of SECP in 1999. As part of comprehensive automation of SECP, a registration and compliance software system was developed and implemented. The system facilitates registration of companies and development of their database. Later a more comprehensive system called Corporate Registration and Compliance System (CRCS) was developed which also facilitates regulation of corporate compliance. In addition, all major registers have been automated. These include registers of companies showing their capital, register of mortgages, chronological index of mortgages, register of companies whose names have been struck off, register of companies in liquidation and company profiles being maintained in the regional registration offices. The database of companies now includes list of incorporated companies, list of foreign companies, list of companies wound up, list of companies struck off the register and list of companies which changed their name. Record of 43,000 companies has been transferred into electronic database. The entire information is available to the regional registration offices. SECP is developing a system, which would enable companies to submit statutory returns electronically and to open its corporate database to the public.

- 3.19 Exercising financial autonomy vested through the SECP Act, the organization has been able to recruit professionally qualified staff for the Company Law Division in the headquarters and the Company Registration Offices in the field. SECP has inducted twelve professionals being Chartered Accountants, MBAs and law graduates, in registration offices. Training courses for the existing staff has been arranged in the Lahore University of Management Sciences, a premier institution for business studies. Some officers have been sent for training in the U.S, Australia and Malaysia and Australia.
- 3.20 Presently, there are eight registration offices in the country, offering services to the investor public in different regions. SECP has instituted system of an annual conference of heads of all registration offices at the headquarters, providing a platform for review of performance and discussion of outstanding issues.
- 3.21 CRCS facilitates monitoring of Company Registration Officers' performance on a regular basis.

Facilitation Measures

- 3.22 In addition to providing legal framework for streamlining the process of registration of companies through the Companies (Registration Offices) Regulations, 2003 and the capacity building of registration offices, a number of facilities have been provided helping the investors in registration of companies. Some of these facilities are:
- Company Registration Offices have been automated which enables them to serve the investors better through improved efficiency.
 - A facility for 'Name Search' is available on the website of SECP. Through this facility, promoters of companies can easily confirm whether or not a particular name is available for incorporation of a company.

- Forms required to be filed have been placed on SECP's website. These can be downloaded and used for purposes of incorporation of a company as well as filing of statutory returns.
- SECP's website also details fee structure for services, incorporation of a company, grant of a licence, alteration in the memorandum of association, registration, modification and satisfaction of charge and filing of other statutory returns.
- A comprehensive Promoter's Guide has been placed on the website advising on steps to be taken for registration of companies.
- Model memorandum and articles of association for each type of company have been placed on SECP's website. Promoters can use these for incorporation of companies.
- A document management system has been integrated with the main system for storage of companies' documents as electronic images.
- SECP has reduced the initial fees to be paid by the promoters at the time of registration of new companies. The lowest slab of fee for registration of companies having nominal capital of Rs. 100,000 has been reduced from Rs. 5000 to Rs. 2500. Following table gives the rate of fee before and after reduction.

Authorized Capital (Rs.)	Previous Fee (Rs.)	Reduced Fee (Rs.)
100,000	5,000	2,500
500,000	5,000	4,500
1,000,000	7,500	7,000
5,000,000	27,500	27,000
10,000,000	40,000	39,500
20,000,000	65,000	64,500

Source: SECP

- At the instance of SECP, three provincial governments have reduced stamp duty on registration of memorandum and articles of association. Following table shows the old and the new rates.

Province / Territory	Previous Rates of Stamp Duty			Present Rates of Stamp Duty		
	Maximum Rate Levied on (Rs.)			Maximum Rate Levied on (Rs.)		
	Memorandum of Association	Articles of Association	Total	Memorandum of Association	Articles of Association	Total
Islamabad	60	200	260	60	200	260
NWFP	200	3125	3325	200	3125	3325
Baluchistan	2,000	5,000	7,000	200	500	700
Sindh	5,000	5,000	10,000	2,000	2,000	4,000
Punjab	5,000	5,000	10,000	1,000	1,000	2,000

Source: SECP

- An innovative scheme was introduced to give amnesty to defaulting companies. It was noticed that while compliance of listed companies with statutory requirement of filing periodical returns was satisfactory, more than 26,000 unlisted private and public limited companies had defaulted. An amnesty scheme namely, Companies Regularisation Scheme was devised to waive penal action against the management of defaulting companies if they submitted statutory returns from January 1, 2002 to January 30, 2002 along with normal fee. 4779 companies availed of the scheme.
- Another scheme was devised to provide exit to dormant unlisted private and public companies, which had no asset or liabilities and were not in operation. Such companies were given an opportunity to be struck off the register of companies subject to furnishing special resolution of the board of directors and a certificate from a practicing chartered accountant. Under the Companies Easy Exit Scheme applications could be filed between April 1, 2003 to May 31, 2003. 2922 companies availed of the opportunity. This helped in cleaning up the record of the Registration Offices.

4. Implementation of Reforms

- 4.1 Successful implementation of the reforms become possible due to financial, administrative and operational autonomy of SECP and the commitment of the new organization to upgrade its efficiency and quality of services to the public. The process of preparation of the reform agenda and its implementation was led by Mr. Khalid A. Mirza, who took over as Chairman of SECP in March 2000. He had worked for many years in the capital market department of IFC and was associated with capital market projects in a number of countries including Pakistan. His earlier experience of handling projects in Pakistan like the establishment of central depository for the stock exchanges had exposed him to the issues of the corporate sector in the country and this immensely helped him to develop a vision for capital market development. He was helped by a team comprising both experienced and newly recruited professionals drawn from the market. SECP was able to attract qualified professionals from the market due to its ability to pay them salaries higher than the government departments. Another factor which contributed to successful implementation was the exposure of the senior and middle level officers to institutions and systems in developing countries which they had opportunity of visiting.
- 4.2 SECP did not have to face any opposition in implementing business registration reforms mainly due to three factors. Firstly, the reforms received support from the public as the process of registration of companies became easier and the time taken was considerably reduced. The promoters guide not only educated the public but also made the process transparent. Secondly, the Registrars and the staff working in the registration offices were motivated due to change in the working environment and better salary structure. Thirdly, SECP maintained its communication with the stakeholders through meetings and press briefings. As required by Securities and Exchange Commission of Pakistan Act, 1997, the general public was given opportunity of responding to draft rules. The Act requires that before approving any new rules, the Federal Government must publish the draft rules in the official gazette for eliciting public opinion. SECP also placed the draft rules on its website. In some cases, meetings were also held with stakeholders like the trade bodies.

5. Post Reforms Period

5.1 During the last few years, there has been marked improvement in the culture of the registration offices. Although the reforms were initiated only recently as the first measures were taken in the year 2000, the impact has already become visible. Environment of the registration offices has changed. These offices have become more responsive to the public. The time taken in completing the registration process has been considerably reduced. Following table prepared on the basis of survey of Companies Registration Office, Karachi, which is the premier registration office, shows considerable reduction in the time taken for registration of companies.

Time Taken For Incorporation Of Companies in Companies Registration Office, Karachi

TIME TAKEN	1998	2003 (UPTO NOV.) Number of registered companies
1 DAY	37	145
2 DAYS	24	51
3 DAYS	27	59
4 DAYS	32	45
5 DAYS	34	45
6 DAYS	20	32
7 DAYS	21	39
OVER 7 DAYS	169	80
TOTAL	364	496

Source: Additional Registrar of Companies, CRO, Karachi

The above table which compares the pre-reform position in the year 1998 with the post reform scenario for the year 2003 till November shows that while increasing number of companies have been registered within three days, the number of companies taking more than seven days shows a declining trend. A detailed analysis shows that delay in 56 cases was due to delay in completion of formalities by the promoters while in the case of 24 cases, there was delay in obtaining No Objection Certificate from the Ministry of Interior as these cases related to registration of security armed guards companies. Registration of such companies requires clearance for security reasons.

5.2 The cost of registration of companies has declined due to reduction in the rates of registration fee and stamp duty. Following tables indicate comparative cost of

registration of a public limited company having authorized capital of Rs. 2.5 million and a private limited company having capital of Rs. 0.1 million before and after the reforms:

**Cost of Incorporation of a Company
(Pre Reform Period)**

Province/Company Kind	Name reservation	Incorporation	Stamp Duty	Total
Islamabad Capital Territory				
Public Company*	200	15,000	260	15,460
Private Company**	200	5,000	260	5,460
Punjab				
Public Company	200	15,000	10,000	25,200
Private Company	200	5,000	1,198	6,398
Baluchistan				
Public Company	200	15,000	6,000	21,200
Private Company	200	5,000	2,000	7,200
Sindh				
Public Company	200	15,000	3,000	18,200
Private Company	200	5,000	2,000	7,200
N. W. F. P.				
Public Company	200	15,000	1,450	16,650
Private Company	200	5,000	575	5,775

* Public Company having Authorized capital of Rs. 2.5 million

** Private Company having authorized capital of Rs.0.1 million

**Cost of Incorporation of a Company
Post Reform Period**

Province/Company Kind	Name reservation	Incorporation	Stamp Duty	Total
Islamabad Capital Territory				
Public Company*	200	14,500	260	14,960
Private Company**	200	2,500	260	2,960
Punjab				
Public Company	200	14,500	2,000	16,700
Private Company	200	2,500	2,000	4,700
Baluchistan				
Public Company	200	14,500	575	15,275
Private Company	200	2,500	175	2,875
Sindh				
Public Company	200	14,500	3,000	17,700
Private Company	200	2,500	2,000	4,700
N. W. F. P.				
Public Company	200	14,500	1,450	16,150
Private Company	200	2,500	450	3,150

* Public Company having Authorized capital of Rs. 2.5 million

** Private Company having authorized capital of Rs.0.1 million

5.3 Although the process of registration of companies under the Companies Ordinance has become quite efficient, considerably cutting down the time taken in registration, certain difficulties still remain to be addressed. One issue is that of the stamp duty for which adhesive stamps need to be affixed on certain documents required to be filed for registration. Unfortunately, government stamps are not available with the registration offices and the promoters have to obtain these from the government treasuries, which involve wastage of time and energy. SECP is cognizant of the problem but since the subject falls outside the purview of SECP, it is planned to approach the government to take remedial action including withdrawal of stamp duty from the process of registration of companies. Secondly, the facilitation measures taken by SECP in the area of registration of companies have not been widely disseminated. There is need to launch a campaign to generate awareness about these facilities.

5.4 Companies registered under the Companies Ordinance also need registration for other public purposes. Under Income Tax Ordinance, every company is required to file income tax return by September 30 or December 31 (depending on the financial year adopted by the company) and for this purpose the company is required to obtain a national tax number prior to filing of the return. However, this requirement does not prevent a company from starting business, as national tax number is required prior to filing the annual income tax return. The law relating to social security does not distinguish between a company and an individual employer. All employers including companies having five or more workers have to get registered with the Provincial Employees Social Security Institution for purposes of making contribution for the social security of workers. Under the industrial law, companies are also required to register with Employees Old Age Benefit Institution, which is an institution of the Ministry of Labour.

6. Conclusion

6.1 Transformation of a government department responsible for regulation of capital market and administration of company law into an autonomous organization has led to radical change in the culture of the organization within a relatively short period of time. The new organization, manifesting its responsibility towards the

general public, has adopted public friendly approach. To a considerable extent, the change became possible due to the financial and administrative autonomy, which enabled the organization to hire professionals from the market, offering them salaries at much higher scales than those prevalent in the government. Training of these officers and their exposure through visits to the developed countries helped them to upgrade their professional competence. The dynamic role of Mr. Khalid A. Mirza during his three years tenure as Chairman, SECP has been an important contributing factor in the successful implementation of the reform process. He took over as Chairman in 2000 after he had worked for many years in the capital market department of IFC. In this capacity, he had the opportunity of working on capital market development projects in a number of countries including Pakistan. His earlier association with projects in Pakistan had familiarized him with the issues of corporate sector in Pakistan.

- 6.2 The experience of SECP highlights the importance of quality of human resource in the regulatory bodies. The institution can move forward only with professionally qualified staff, motivating environment and dynamic leadership.
- 6.3 The reform agenda of SECP was formulated through a consultative process. The code of Corporate Governance was proposed by the Institute of Chartered Accountants of Pakistan and was discussed at length with various chambers of commerce as well as with trade industry and professional bodies. As required by SECP Act, new rules were approved and notified only after draft rules were circulated for comments from the public. Generally, the public has been appreciative of the initiatives taken by SECP.
- 6.4 In implementing business registration reforms, SECP did not face any opposition from any quarter mainly due to three factors: Firstly, the reforms received support from the public as the process of registration of companies became easier and the time taken was considerably reduced. The Promoters Guide not only educated the public but also made the process transparent. Secondly, the Registrars and the staff working in the registration offices were motivated due to improvement in the working environment and better salary structure. Thirdly, SECP maintained its

communication with the stakeholders like corporate lawyers and management of companies, through meetings and press briefings.

Study of the reforms in business registration system suggests followings lessons:

- Laws, rules and administrative procedures involving regulations and public service need continuous review. In fact, one needs to look at these critically to remove or amend provisions, which may no longer be meeting the desired objective of public policy.
- Financial and administrative autonomy of regulatory bodies is critical. These bodies need to have resources for capacity building and infrastructure development.
- Quality of human resource in the regulatory bodies is essential. Financial compensation to the staff has to be adequate.
- Policies affecting the public should be formulated after discussion with all the stakeholders. There is also need for continuous communication and dialogue with them. Wherever necessary, these policies may also be amended.
- Quality of top leadership of the institutions undertaking reforms is extremely critical. Backed by expertise and experience in the relevant field, the head of the organization must possess vision and be capable of motivating his team.

Annexure

Number of incorporated companies as on Dec. 31,							
Company Kind	1998	1999	2000	2001	2002	2003	2004
Public Listed	629	630	637	639	646	646	646
Public Unlisted	1,871	1,893	1,926	1,955	2,016	2,070	2,080
Private Company	32,813	33,746	34,778	35,865	37,127	38,705	39,023
Single Member Company	0	0	0	0	3	94	109
Association under section 42	191	195	199	219	248	265	266
Companies under section 43	42	44	45	45	46	48	48
Trade Organization	152	153	157	160	162	164	164
Public Unlimited	5	5	5	5	5	5	5
Private Unlimited	0	0	0	0	0	0	1
Foreign Companies	394	420	436	472	514	536	544
Companies under section 503(2)	4	4	4	4	4	4	4
Total	36,101	37,090	38,187	39,364	40,771	42,537	42,890

Source: SECP

References:

1. Companies Ordinance, 1984, Companies (Amendment) Act, 1999 and Companies (Amendments) Ordinance, 2002
2. Securities and Exchange Commission of Pakistan Act, 1997 with subsequent amendments.
3. Promoters Guide issued by Securities and Exchange Commission of Pakistan.
4. Companies (Registration Offices) Regulations, 2003.
5. Annual Reports of Securities and Exchange Commission of Pakistan particularly for the year 2003.
6. Non Public documents of SECP:
 - i. Report of Mr. Adbul Rehman Qureshi, Commissioner, SECP regarding his visit to Companies House, Cardiff, UK, October 13, 2000.
 - ii. Presentations made by Company Law Division of SECP to the entire Commission.
7. Asian Development Bank's Capital Market Development Programme 1997 (PAK 31108)