

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

Controlling officer: the Director of Intellectual Property will account for expenditure under this Head.

Estimate 2004–05	\$107.8m
Establishment ceiling 2004–05 (notional annual mid-point salary value) representing an estimated 88 non-directorate posts as at 31 March 2004 reducing by eight posts to 80 posts as at 31 March 2005.....	\$42.1m
In addition there will be an estimated seven directorate posts as at 31 March 2004 and as at 31 March 2005.	
Commitment balance	\$67.4m

Controlling Officer's Report

Programmes

Programme (1) Statutory Functions	These programmes contribute to Policy Area 6: Commerce and Industry (Secretary for Commerce, Industry and Technology).
Programme (2) Protection of Intellectual Property	

Detail

Programme (1): Statutory Functions

	2002–03 (Actual)	2003–04 (Original)	2003–04 (Revised)	2004–05 (Estimate)
Financial provision (\$m)	86.1	111.5	90.6 (–18.7%)	93.5 (+3.2%)
				(or –16.1% on 2003–04 Original)

Aim

2 The aim is to provide cost-effective and efficient systems for the registration and administration of trade marks, patents, designs and copyright licensing bodies in Hong Kong.

Brief Description

3 The statutory functions involve:

- examining trade mark applications, conducting registrability and opposition hearings, maintaining the register of trade marks and making it available for public search;
- processing patent applications, granting short-term patents, registering patents granted by designated Patent Offices, maintaining the register of patents and making it available for public search;
- processing design applications, maintaining the register of designs and making it available for public search; and
- processing applications for registration of copyright licensing bodies, maintaining the register of copyright licensing bodies and making it available for public search.

4 The new Trade Marks Ordinance (Cap 559) commenced on 4 April 2003 and the old Trade Marks Ordinance (Cap 43) was repealed on the same day. The application procedure has been streamlined and the trade mark fees have been reduced.

5 The department has met all its performance pledges in 2003, save the target relating to issue of first opinion of trade marks applications. This exception is due to the need to divert staff resources to clear outstanding applications filed under the old Trade Marks Ordinance before the conversion period ended on 6 October 2003.

6 The key performance measures in respect of statutory functions are:

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Targets

	Target	2002 (Actual)	2003 (Actual)	2004 (Plan)
<i>For trade marks (Note 1)</i>				
time taken to issue 70% of first examination reports or letters (months)#	2	3	2	N.A.
time taken to process or record 75% of applications for assignment of registered trade marks (months)#	1	3	1	N.A.
time taken to process or record 80% of applications for change of records of registered trade marks (months)#	0.25	1	0.25	N.A.
time taken to issue 70% of first opinion of trade mark applications (months)φ	2	N.A.	3.5	2
time taken to issue 70% of further opinion of trade mark applications (months)φ	3	N.A.	2	3
time taken to issue 80% of hearing decisions of trade marks (months)φ	6	N.A.	1	6
<i>For patents</i>				
time taken to process 70% of standard patent applications filed under the Patents Ordinance (months)	0.5	0.8	0.5	0.5
time taken to process 70% of short-term patent applications filed under the Patents Ordinance (months)	0.5	0.8	0.5	0.5
<i>For designs</i>				
time taken to process 70% of design applications (months)	0.5	0.8	0.5	0.5

Note 1: With the commencement of the new Trade Marks Ordinance, the trade marks registration system has been modernised, with the new targets marked with “φ” above replacing the old ones marked with “#” in respect of applications received from 4 April 2003.

Indicators

	2002 (Actual)	2003 (Actual)	2004 (Estimate)
<i>For trade marks (Note 2)</i>			
applications for registration received§	20 446	4 738	N.A.
examination reports issued for trade mark applications§	18 098	10 392	N.A.
registry’s responses to applicants’ replies§	45 395	42 032	N.A.
trade marks registered§	16 240	16 360	N.A.
assignments of registered trade marks recorded§	4 908	3 130	N.A.
changes of records of registered trade marks completed§	17 609	4 854	N.A.
public searches conducted§	13 785	1 232	N.A.
applications for registrationΩ	N.A.	15 644	17 500
first opinion issued for trade mark applicationsΩ	N.A.	2 061	2 800
further opinion issued for trade mark applicationsΩ	N.A.	1	1 400
trade marks registeredΩ	N.A.	3 999	14 700
hearing decision issued for trade marksΩ	N.A.	1	25
<i>For patents</i>			
applications for standard patent	9 130	9 102	9 100
applications for short-term patent	333	398	400
standard patents granted	2 176	3 075	3 100
short-term patents granted	265	335	300
<i>For designs</i>			
applications for registration received	2 183	2 339	2 300
designs registered	2 992	3 310	3 300
<i>For copyright licensing bodies</i>			
applications for registration	2	0	1
applications for renewal of registration	1	3	3
applications registered	2	0	1

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Note 2: With the commencement of the new Trade Marks Ordinance, the trade marks registration system has been modernised, with the new indicators marked with “Ω” above replacing the old ones marked with “§” in respect of applications received from 4 April 2003.

Matters Requiring Special Attention in 2004–05

7 We would continue with the modernisation of our intellectual property right registration system. For instance, we will implement in 2004 electronic filing of applications for patents and designs, and electronic publication of registered patents and designs.

Programme (2): Protection of Intellectual Property

	2002–03 (Actual)	2003–04 (Original)	2003–04 (Revised)	2004–05 (Estimate)
Financial provision (\$m)	15.8	15.0	14.6 (–2.7%)	14.3 (–2.1%)
				(or –4.7% on 2003–04 Original)

Aim

8 The aim is to promote awareness of intellectual property rights, enhance the reputation of Hong Kong in the protection of intellectual property rights in order to attract investment, and protect existing and new types of intellectual property rights in line with international trends and standards. Particular attention is paid to providing support for small and medium enterprises (SMEs) to help them protect their intellectual property assets.

Brief Description

9 This programme area involves:

- advising the Secretary for Commerce, Industry and Technology on policies and legislation to protect intellectual property in Hong Kong and providing civil legal advice on intellectual property matters to government bureaux and departments;
- advising the Secretary for Commerce, Industry and Technology on relevant developments at the World Intellectual Property Organisation, World Trade Organization (WTO) and Asia-Pacific Economic Cooperation (APEC);
- participating in consultations, negotiations and committees of experts leading to new or revised international intellectual property rights standards; attending and participating in international seminars, conferences, meetings, etc. on intellectual property rights matters;
- promoting intellectual property services provided by Hong Kong professionals, facilitating the understanding of intellectual laws and systems in the Pearl River Delta (PRD) by enterprises operating in this region, and providing assistance as appropriate to Hong Kong SMEs in resolving intellectual property-related problems they encountered in the PRD; and
- strengthening co-operation with Guangdong Province so as to assist Hong Kong SMEs operating in the PRD in protecting their intellectual property assets.

10 Since 1999, the department has commissioned an annual household survey to measure changes in people’s awareness of intellectual property and to assess the effectiveness of our promotion and public education programmes. The result of the survey in consecutive years has shown that public understanding of intellectual property rights has been improving. There has been a gradual drop in the percentage of people who say that they buy or use pirated and counterfeit products. In 2003–04, the scope of the survey is being expanded to measure the awareness of intellectual property in the business sector.

11 SMEs have remained one of the prime targets of our promotion and education efforts. Through seminars and exhibitions organised by the department itself or in collaboration with others, the department has helped SMEs to understand the importance of intellectual property and explained to them the systems to protect their intellectual property assets in Hong Kong.

12 The department has continued its territory-wide campaigns such as the “No Fakes” Pledge and the “I Pledge” Campaign to promote intellectual property to the general public. To strengthen Hong Kong’s reputation as a trustworthy shopping place, the department has joined hands with the Customs and Excise Department, the Hong Kong Tourism Board, the Travel Industry Council, the Consumer Council and other bodies to relaunch the “No Fakes” Pledge with a series of programmes and activities beginning in January 2004. The intellectual property authorities in Guangdong Province are taking steps to extend this campaign in stages to the whole province.

13 During 2003, the department produced several Announcements of Public Interests to promote respect for intellectual property rights and a TV series on “Making Intellectual Property Your Business”. This eight-episode series conveyed the message to the public that intellectual property is a prime driver of economic growth.

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14 The department continued its primary and secondary school visits programme into the seventh year with the aim of promoting respect for intellectual property rights in the younger generation. In 2003, this programme covered 23 schools and 6 830 students. Several teaching aids were produced including a comic book and an interactive computer game.

15 Following the Sixth Guangdong/Hong Kong Joint Conference held on 5 August 2003, the Guangdong/Hong Kong Expert Group on Protection of Intellectual Property Rights met in Hong Kong on 3 December 2003. The Expert Group provides a forum for co-ordination and co-operation on intellectual property issues. In December 2003, the Intellectual Property Database for Guangdong, Hong Kong and Macao was launched. The database helps enterprises, particularly SMEs, operating in the three places to understand the respective intellectual property laws and systems. The department worked with the Hong Kong Trade Development Council and its counterparts in Guangdong to organise seminars to promote understanding of the respective intellectual property systems. A survey on intellectual property professional support services in Guangdong and Hong Kong started in December 2003.

16 The department will host a Regional Symposium on “Copyright in Libraries and Educational Institutions in the Digital Era” in spring 2004 in Hong Kong.

17 The key performance measures in respect of protection of intellectual property are:

Indicators

	2002 (Actual)	2003 (Actual)	2004 (Estimate)
visits, seminars, conferences and workshops.....	140	154	180
speeches and presentations.....	41	46	40
media interviews, briefings and press conferences.....	24	16	30
school visits.....	75	32	75

Matters Requiring Special Attention in 2004–05

18 During 2004–05, the department will:

- continue to advise the Secretary for Commerce, Industry and Technology on the deliberation of the Copyright (Amendment) Bill 2003 by the Legislative Council and other follow-up actions relating to the copyright consultation exercise held in late 2001;
- continue to participate in other international intellectual property activities;
- continue to play a pro-active role in APEC and the Trade-Related Aspects of Intellectual Property Rights Council of WTO, and through such institutions to provide appropriate technical assistance to developing and least-developed economies overseas;
- participate in activities organised by various institutions in Hong Kong on intellectual property protection in Southern China;
- organise seminars, exhibitions and fairs on intellectual property;
- disseminate information through the Internet on the intellectual property systems in the Mainland, HKSAR and Macao SAR;
- strengthen out-reach to young people on intellectual property protection through school visits and media such as computer games and comics;
- organise promotion and education activities specially for SMEs with emphasis placed on using intellectual property as a tool for business development; and
- relaunch the “No Fakes” Pledge to promote use and sale of genuine products, targeting visitors, tourists and retailers.

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ANALYSIS OF FINANCIAL PROVISION

Programme	2002-03 (Actual) (\$m)	2003-04 (Original) (\$m)	2003-04 (Revised) (\$m)	2004-05 (Estimate) (\$m)
(1) Statutory Functions	86.1	111.5	90.6	93.5
(2) Protection of Intellectual Property...	15.8	15.0	14.6	14.3
	101.9	126.5	105.2 (-16.8%)	107.8 (+2.5%)
				(or -14.8% on 2003-04 Original)

Analysis of Financial and Staffing Provision

Programme (1)

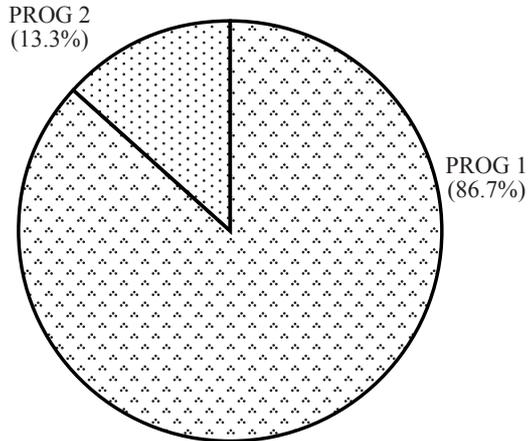
Provision for 2004-05 is \$2.9 million (3.2%) higher than the revised estimate for 2003-04. This is mainly due to the increased requirements for outsourcing of non-core services and other contracted services as well as engagement of non-civil service contract staff to meet short term operational needs, partly offset by the deletion of eight posts and effect of the 2004 and 2005 civil service pay cut.

Programme (2)

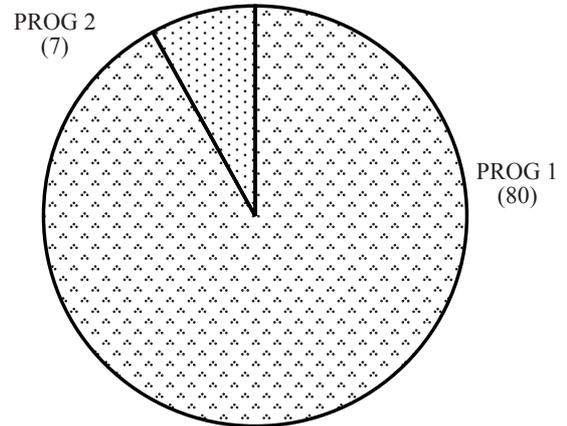
Provision for 2004-05 is \$0.3 million (2.1%) lower than the revised estimate for 2003-04. This is mainly due to the effect of the 2004 and 2005 civil service pay cut.

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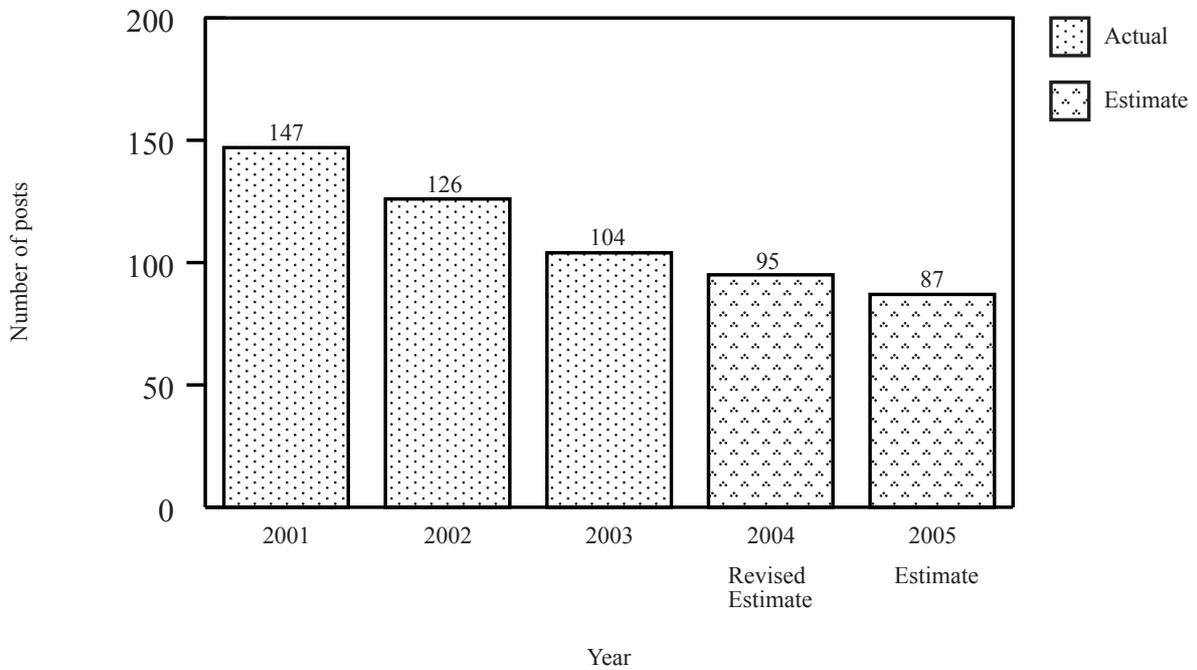
*Allocation of provision
to programmes
(2004-05)*



*Staff by programme
(as at 31 March 2005)*



*Changes in the size of the establishment
(as at 31 March)*



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Sub-head (Code)	Actual expenditure 2002-03	Approved estimate 2003-04	Revised estimate 2003-04	Estimate 2004-05	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses.....	72,235	70,901	67,872	67,837
	Total, Recurrent	<u>72,235</u>	<u>70,901</u>	<u>67,872</u>	<u>67,837</u>
Non-Recurrent					
700	General non-recurrent.....	22,937	48,855	30,520	32,945
845	Publicity and educational programmes (block vote).....	6,688	6,786	6,786	7,005
	Total, Non-Recurrent	<u>29,625</u>	<u>55,641</u>	<u>37,306</u>	<u>39,950</u>
	Total, Operating Account.....	<u>101,860</u>	<u>126,542</u>	<u>105,178</u>	<u>107,787</u>
<hr/>					
	Total Expenditure.....	<u><u>101,860</u></u>	<u><u>126,542</u></u>	<u><u>105,178</u></u>	<u><u>107,787</u></u>

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Details of Expenditure by Subhead

The estimate of the amount required in 2004–05 for the salaries and expenses of the Intellectual Property Department is \$107,787,000. This represents an increase of \$2,609,000 over the revised estimate for 2003–04 and of \$5,927,000 over actual expenditure in 2002–03.

Operating Account

Recurrent

2 Provision of \$67,837,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Intellectual Property Department.

3 The establishment as at 31 March 2004 will be 95 permanent posts. It is expected that there will be a deletion of eight posts in 2004–05. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2004–05, but the notional annual mid-point salary value of all such posts must not exceed \$42,142,000.

4 An analysis of the financial provision under *Subhead 000 Operational expenses* is as follows:

	2002–03 (Actual) (\$'000)	2003–04 (Original) (\$'000)	2003–04 (Revised) (\$'000)	2004–05 (Estimate) (\$'000)
Personal Emoluments				
- Salaries.....	58,697	57,823	52,245	46,379
- Allowances.....	1,549	1,475	2,157	2,406
Personnel Related Expenses				
- Mandatory Provident Fund contribution.....	—	144	144	144
Departmental Expenses				
- General departmental expenses.....	11,989	11,459	13,326	18,908
	72,235	70,901	67,872	67,837

Non-Recurrent

5 Provision of \$7,005,000 under *Subhead 845 Publicity and educational programmes (block vote)* is for expenditure incurred in organising publicity and educational programmes to increase the community's respect for and awareness of intellectual property rights.

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Commitments

Sub-head (Code)	Item (Code)	Ambit	Approved commitment	Accumulated expenditure to 31.3.2003	Revised estimated expenditure for 2003-04	Balance
			\$'000	\$'000	\$'000	\$'000
<i>Operating Account</i>						
700		<i>General non-recurrent</i>				
	008	Implementation of an international registration system under Madrid Protocol	1,824	—	—	1,824
	009	Outsourcing of non-core services of Intellectual Property Department	122,630	26,524	30,520	65,586
		Total	<u>124,454</u>	<u>26,524</u>	<u>30,520</u>	<u>67,410</u>