

## Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

<b>Estimate 2005–06</b> .....	<b>\$83.4m</b>
<b>Establishment ceiling 2005–06</b> (notional annual mid-point salary value) representing an estimated 78 non-directorate posts as at 31 March 2005 and as at 31 March 2006 .....	<b>\$37.3m</b>
In addition, there will be an estimated seven directorate posts as at 31 March 2005 and as at 31 March 2006.	
<b>Commitment balance</b> .....	<b>\$43.6m</b>

### Controlling Officer's Report

#### Programmes

**Programme (1) Statutory Functions**  
**Programme (2) Protection of Intellectual Property**

These programmes contribute to Policy Area 6: Commerce and Industry (Secretary for Commerce, Industry and Technology).

#### Detail

##### Programme (1): Statutory Functions

	2003–04 (Actual)	2004–05 (Original)	2004–05 (Revised)	<b>2005–06 (Estimate)</b>
Financial provision (\$m)	84.0	93.5	81.6 (–12.7%)	<b>67.1</b> (–17.8%)
				(or –28.2% on 2004–05 Original)

#### Aim

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

#### Brief Description

3 The statutory functions involve:

- examining trademark applications, conducting registrability and opposition hearings, maintaining the register of trademarks and making it available for public search;
- examining 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;
- examining design applications, maintaining the register of designs and making it available for public search; and
- examining applications for registration of copyright licensing bodies, maintaining the register of copyright licensing bodies and making it available for public search.

4 The Trade Marks Ordinance (Cap. 559) commenced on 4 April 2003 and the Trade Marks Ordinance (Cap. 43) was repealed on the same day. Rollout of electronic trademark forms was completed in December 2004. The Department has succeeded in migrating 12% to e-filing for trademarks by end December 2004.

5 Commencement of the Patents (General) (Amendment) Rules 2004 and Registered Designs (Amendment) Rules 2004 on 7 May 2004 has enabled e-filing and e-publication for patents and designs. The fees for patents and designs registration services, which are charged at full-cost recovery basis, have been reduced by 73% and 51% respectively.

6 In 2004, the turnaround time for 70% of further opinions issued for trademark applications made under the Trade Marks Ordinance (Cap. 559) took more than four months as compared with the performance target of three months. This was mainly due to the tail end effect of clearing 4 930 applications filed under the Trade Marks Ordinance (Cap. 43) in 2004 and more time taken by the agents and the Department to get into the setting and momentum of processing further opinion cases under the Trade Marks Ordinance (Cap. 559). The key performance measures in respect of statutory functions are:

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### *Targets*

	Target	2003 (Actual)	2004 (Actual)	2005 (Plan)
<i>For trademarks under Cap. 43 (Note 1)</i>				
time taken to issue 70% of first examination reports or letters (months) ..	2	2	—	—
time taken to process or record 75% of applications for assignment of registered trademarks (months).....	1	1	—	—
time taken to process or record 80% of applications for change of records of registered trademarks (months).....	0.25	0.25	—	—
<i>For trademarks under Cap. 559 (Notes 2 and 3)</i>				
time taken to issue 70% of first opinion for trademark applications (months)# ....	2	3.5	2.06	—
time taken to issue 70% of first response for trademark applications (months)@ ...	2	—	1.65	2
time taken to issue 70% of further opinion for trademark applications (months).....	3	2	4.22	3
time taken to issue 80% of hearing decisions on trademarks (months).....	6	1	6	6
<i>For patents (Note 4)</i>				
time taken to process 70% of standard patent applications (months).....	0.3	0.5	0.5	0.3
time taken to process 70% of short-term patent applications (months).....	0.3	0.5	0.5	0.3
<i>For designs (Note 4)</i>				
time taken to process 70% of design applications (months).....	0.3	0.5	0.5	0.3

### *Indicators*

	2003 (Actual)	2004 (Actual)	2005 (Estimate)
<i>For trademarks under Cap. 43 (Note 1)</i>			
applications for registration received.....	4 738	—	—
examination reports issued for trademark applications.....	10 392	—	—
registry's responses to applicants' replies.....	42 032	—	—
trademarks registered .....	16 360	—	—
assignments of registered trademarks recorded .....	3 130	—	—
changes of records of registered trademarks completed .....	4 854	—	—
public searches conducted .....	1 232	—	—
<i>For trademarks under Cap. 559 (Note 2)</i>			
applications received .....	15 644	19 940	19 700
applications successfully registered (Note 5).....	3 999	26 640	16 500
first opinion issued for trademark applications.....	2 061	3 746	3 350
further opinion issued for trademark applications.....	1	967	670
hearing decisions issued.....	1	29	34
<i>For patents</i>			
applications for standard patent received.....	9 102	10 005	9 700
applications for short-term patent received.....	398	416	410
standard patents granted.....	3 075	4 242	3 800
short-term patents granted.....	335	392	280
<i>For designs</i>			
applications received .....	2 339	3 026	3 000
designs registered.....	3 310	4 213	4 000
<i>For copyright licensing bodies</i>			
applications received .....	0	0	0
applications successfully registered.....	0	0	0
applications for renewal of registration.....	3	3	3

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- Note 1:* With the commencement of the Trade Marks Ordinance (Cap. 559) on 4 April 2003, the trademarks registrations system has been modernised. The targets and indicators under the Trade Marks Ordinance (Cap. 43) are not applicable in 2004 and 2005.
- Note 2:* The targets and indicators for trademarks are related to trademark applications received after the commencement of the Trade Marks Ordinance (Cap. 559) on 4 April 2003.
- Note 3:* The target marked “@” replaces the target marked “#” to include all responses to applicants; the target of two months runs from the completion of the deficiency checking process, i.e. when all the required information has fully been furnished.
- Note 4:* The target has been shortened from 0.5 month to 0.3 month as from 2005.
- Note 5:* Previously known as “trademarks registered”.

### *Matters Requiring Special Attention in 2005–06*

- 7 The Department will promote e-filing to increase the migration rate from 12% in 2004–05 to 30% in 2005–06.

### **Programme (2): Protection of Intellectual Property**

	2003–04 (Actual)	2004–05 (Original)	2004–05 (Revised)	2005–06 (Estimate)
Financial provision (\$m)	15.0	14.3	15.9 (+11.2%)	16.3 (+2.5%)
				(or +14.0% on 2004–05 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, both in Hong Kong and in the Mainland.

### *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;
- 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 property laws and systems in the Pearl River Delta (PRD) by enterprises operating in this region, and providing support to Hong Kong SMEs in resolving intellectual property-related problems they encounter in the Mainland; 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 compare changing patterns of public attitudes toward intellectual property over the past years and to assess the effectiveness of our promotion and public education programmes. The results of the survey in consecutive years have shown that public understanding of intellectual property rights has been improving. The first annual survey measuring business attitudes about intellectual property in the business community was conducted in February 2004. The results of the survey provided useful insights for strengthening our efforts in promoting intellectual property rights among the business sector. The results of these surveys have been made public on the Department’s website at <http://www.ipd.gov.hk>.

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 and the Mainland.

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12 The Department has continued its territory-wide campaigns such as the “No Fakes” Pledge and “I Pledge” campaigns to promote intellectual property to the general public. Under the re-launched “No Fakes” Pledge campaign, retailers guarantee that all their products are genuine. As at 31 December 2004, 483 retail merchants with 3 300 retail outlets were participating in the scheme. With the aims of promoting the “No Fakes” branding concept to visitors to Hong Kong from Guangdong, and helping to raise awareness of intellectual property rights among stakeholders in the Region, the Department has, in co-operation with the Guangdong provincial intellectual property authorities, launched the “No Fakes” Pledge campaign in four cities in the Guangdong Province.

13 The Department continued its primary and secondary school visits programme into the eighth year with the aim of promoting respect for intellectual property rights in the younger generation. In 2004, this programme covered 48 schools and 18 458 students. To promote awareness of intellectual property protection among tertiary students, the Department staged a series of road shows between October 2003 and February 2004 and organised intellectual property talks in tertiary institutions in Hong Kong since September 2004. An “Intellectual Property Tutor Programme” will be launched in early 2005 in secondary schools. A pool of qualified teachers will be trained and assigned to different schools to increase students’ awareness of the need to respect intellectual property rights.

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

### *Indicators*

	2003 (Actual)	2004 (Actual)	2005 (Estimate)
visits, seminars, conferences and workshops .....	154	164	180
speeches and presentations .....	46	48	40
media interviews, briefings and press conferences .....	16	10	30
school visits .....	32	48	75

### *Matters Requiring Special Attention in 2005–06*

15 During 2005–06, the Department will:

- provide legal and technical advice to the Commerce, Industry and Technology Bureau to assist in formulating legislative proposals to improve the Copyright Ordinance after the public consultation on the review of the scope of criminal liability for end-user piracy and a number of other issues;
- 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;
- support the business community in strengthening their intellectual property protection in the Mainland through the Guangdong/Hong Kong Expert Group on the Protection of Intellectual Property Rights;
- 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
- promote 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	2003-04 (Actual) (\$m)	2004-05 (Original) (\$m)	2004-05 (Revised) (\$m)	2005-06 (Estimate) (\$m)
(1) Statutory Functions .....	84.0	93.5	81.6	67.1
(2) Protection of Intellectual Property ...	15.0	14.3	15.9	16.3
	99.0	107.8	97.5 (-9.6%)	83.4 (-14.5%)
				(or -22.6% on 2004-05 Original)

#### Analysis of Financial and Staffing Provision

##### Programme (1)

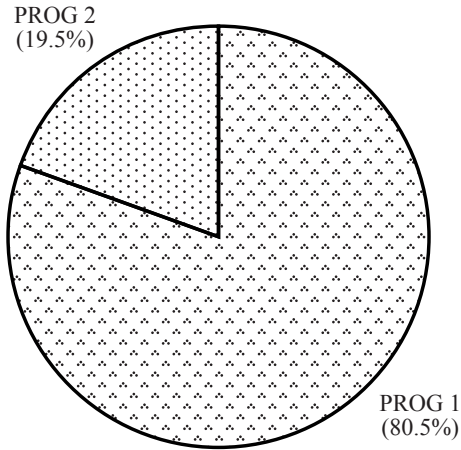
Provision for 2005-06 is \$14.5 million (17.8%) lower than the revised estimate for 2004-05. This is mainly due to the decreased requirement for outsourcing of non-core services on completion of major computer application programmes.

##### Programme (2)

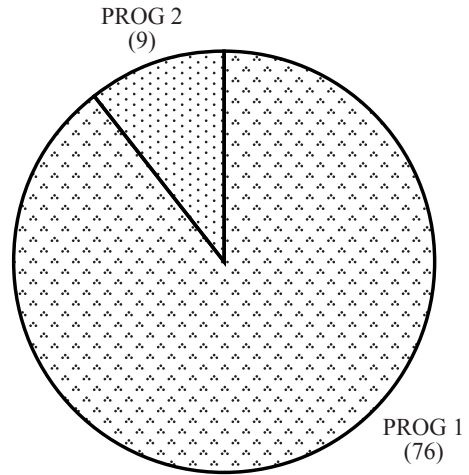
Provision for 2005-06 is \$0.4 million (2.5%) higher than the revised estimate for 2004-05. This is mainly due to a slight increase in deployment of resources to this programme to strengthen promotional and educational activities.

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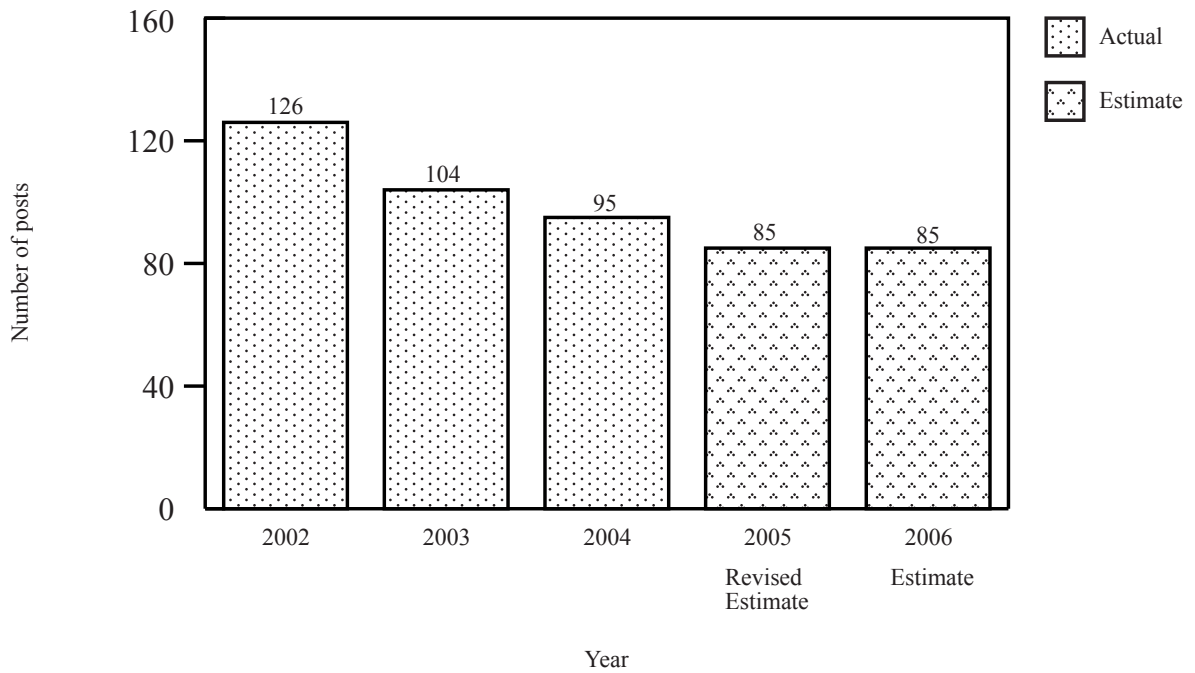
*Allocation of provision  
to programmes  
(2005-06)*



*Staff by programme  
(as at 31 March 2006)*



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



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Sub-head (Code)	Actual expenditure 2003–04	Approved estimate 2004–05	Revised estimate 2004–05	<b>Estimate 2005–06</b>	
	\$'000	\$'000	\$'000	<b>\$'000</b>	
<b>Operating Account</b>					
Recurrent					
000	Operational expenses .....	62,696	67,837	66,537	<b>72,033</b>
	Total, Recurrent .....	<u>62,696</u>	<u>67,837</u>	<u>66,537</u>	<u><b>72,033</b></u>
Non-Recurrent					
700	General non-recurrent .....	30,284	32,945	24,000	<b>11,326</b>
	Publicity and educational programmes (block vote).....	6,022	7,005	7,005	—
	Total, Non-Recurrent .....	<u>36,306</u>	<u>39,950</u>	<u>31,005</u>	<u><b>11,326</b></u>
	Total, Operating Account .....	99,002	107,787	97,542	<b>83,359</b>
<hr/>					
	Total Expenditure .....	<u>99,002</u>	<u>107,787</u>	<u>97,542</u>	<u><b>83,359</b></u>

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### Details of Expenditure by Subhead

The estimate of the amount required in 2005–06 for the salaries and expenses of the Intellectual Property Department is \$83,359,000. This represents a decrease of \$14,183,000 against the revised estimate for 2004–05 and of \$15,643,000 against actual expenditure in 2003–04.

#### *Operating Account*

#### Recurrent

2 Provision of \$72,033,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Intellectual Property Department. The increase of \$5,496,000 (8.3%) over the revised estimate for 2004–05 is mainly due to the transfer of the provision for publicity and educational programmes from a former non-recurrent subhead to this subhead with effect from 2005–06.

3 The establishment as at 31 March 2005 will be 85 permanent posts. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2005–06, but the notional annual mid-point salary value of all such posts must not exceed \$37,275,000.

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

	2003–04 (Actual) (\$'000)	2004–05 (Original) (\$'000)	2004–05 (Revised) (\$'000)	<b>2005–06 (Estimate) (\$'000)</b>
Personal Emoluments				
- Salaries .....	52,221	46,379	45,079	<b>41,020</b>
- Allowances .....	1,459	2,406	2,406	<b>2,201</b>
Personnel Related Expenses				
- Mandatory Provident Fund contribution .....	107	144	144	<b>144</b>
Departmental Expenses				
- General departmental expenses .....	8,909	18,908	18,908	<b>21,663</b>
Other Charges				
- Publicity and educational programmes.....	—	—	—	<b>7,005</b>
	62,696	67,837	66,537	<b>72,033</b>



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### Commitments

Sub- head (Code)	Item (Code)	Ambit	Approved commitment	Accumulated expenditure to 31.3.2004	Revised estimated expenditure for 2004–05	Balance
			\$'000	\$'000	\$'000	\$'000
<b><i>Operating Account</i></b>						
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	56,808	24,000	41,822
		Total .....	124,454	56,808	24,000	43,646