

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Estimate 2006–07	\$86.5m
Establishment ceiling 2006–07 (notional annual mid-point salary value) representing an estimated 78 non-directorate posts as at 31 March 2006 reducing by one post to 77 posts as at 31 March 2007 ..	\$37.0m
In addition, there will be an estimated seven directorate posts as at 31 March 2006 and as at 31 March 2007.	
Commitment balance	\$29.2m

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

	2004–05 (Actual)	2005–06 (Original)	2005–06 (Revised)	2006–07 (Estimate)
Financial provision (\$m)	68.4	67.1	63.0 (–6.1%)	71.0 (+12.7%)
				(or +5.8% on 2005–06 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 With simplified registration procedures under the Trade Marks Ordinance (Cap. 559) which came into operation in April 2003, over 50% of trademark applications are now registered within five months in comparison with over six months under the repealed Trade Marks Ordinance (Cap. 43).

5 Searching, filing, payment and publication in respect of registration of trademarks, patents and designs can now be performed online. Online search has made it possible to provide evidence of intellectual property rights ownership through the internet at exhibitions and other venues in Hong Kong and overseas, providing an added convenience for Hong Kong businessmen. Migration to electronic filing has reached 62% for applications for trademark registration in August 2005. The Department has rolled out interactive services for renewal of trademarks and patents in November 2005, enabling instant approval of renewal requests.

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6 In 2005, the Department met all its performance pledges. The key performance measures in respect of statutory functions are:

Targets

Time taken to process the following matters:

	Target	2004 (Actual)	2005 (Actual)	2006 (Plan)
<i>For trademarks under Cap. 559</i>				
first opinion for trademark applications within two months#	70%	68%	N.A.	N.A.
further opinion for trademark applications within three months ##	70%	50%	81%	N.A.
first response for trademark applications within two months@	70%	85%	96%	95%
second response for trademark applications within three months@@.....	70%	N.A.	82%	75%
hearing decisions on trademarks within six months.....	80%	80%	80%	80%
<i>For patents</i>				
standard patent applications within ten days§.....	70%	70%	79%	75%
short-term patent applications within ten days§.....	70%	70%	80%	75%
<i>For designs</i>				
design applications within ten days§.....	70%	70%	99%	99%

and @ The target marked “#” is replaced by the target marked “@”. The latter takes into account the first response issued by the Registrar in addition to first opinion and denotes the percentage of the Registrar’s first response issued within two months after the required information for the application has been furnished by the applicants. It reflects the actual performance of the Registrar as compared to the target adopted in previous Controlling Officer’s Report of the Department which only reflects the time taken to issue 70% of the first response.

and @@ The target marked “##” is replaced by the target marked “@@”. The latter takes into account the second response issued by the Registrar in addition to further opinion and denotes the percentage of the Registrar’s second response issued within three months after the date of expiry of first opinion or the date of applicant’s reply after issue of first opinion. It reflects the actual performance of second response of the Registrar as compared to the target adopted in previous Controlling Officer’s Report of the Department which only reflects the time taken to issue 70% of further opinion.

§ The target marked “§” denotes the percentage of the Registrar’s first response to patent and design applications issued within ten days from the date of application. It reflects the actual performance of the response of the Registrar as compared to the target adopted in previous Controlling Officer’s Report of the Department which only reflects the time taken to issue 70% of the first response. For 2004, the target of issuing 70% of applications within 0.5 month was fully met.

Indicators

	2004 (Actual)	2005 (Actual)	2006 (Estimate)
<i>For trademarks under Cap. 559</i>			
applications received	19 940	20 877	20 800
applications successfully registered.....	26 640	19 689	19 600
first opinion issued for trademark applicationsΩ.....	3 746	3 602	N.A.
further opinion issued for trademark applicationsΩ.....	967	1 387	N.A.
first response issued for trademark applicationsφ.....	N.A.	N.A.	20 800
second response issued for trademark applicationsφ.....	N.A.	N.A.	2 470
hearing decisions issued	29	98	100
<i>For patents</i>			
applications for standard patents received.....	10 005	11 763	11 700
applications for short-term patents received.....	416	463	460
standard patents granted	4 242	6 518	6 500
short-term patents granted	392	419	410

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	2004 (Actual)	2005 (Actual)	2006 (Estimate)
<i>For designs</i>			
applications received	3 026	3 176	3 100
designs registered	4 213	4 989	4 900
<i>For copyright licensing bodies</i>			
applications received	0	1	0
applications successfully registered.....	0	1	0
applications for renewal of registration	3	2	3

φ and Ω To tally with the targets to be used in 2006 as marked with “@” and “@@”, the new indicators marked with “φ” above will replace the old indicators marked with “Ω”.

Matters Requiring Special Attention in 2006–07

7 During 2006–07, the Department will:

- continue to promote e-filing to increase the migration rate to over 70% for applications for trademark registration in 2006–07; and
- continue to improve the intellectual property rights registration system by providing further enhanced electronic services in 2006–07. The rollout of interactive services for change of address, agent’s address and address for service in relation to trademarks, patents and designs is scheduled for February 2006, and the interactive services for extension of time and automatic checking of specification of trademarks is scheduled for May 2006. Subject to the making and commencement of the Trade Marks (Amendment) Rules 2006 planned for mid-2006, trademark owners and other concerned parties can have the option of registering their assignments, assents, etc. interactively relating to registered trademarks and trademark applications in addition to the traditional paper form.

Programme (2): Protection of Intellectual Property

	2004–05 (Actual)	2005–06 (Original)	2005–06 (Revised)	2006–07 (Estimate)
Financial provision (\$m)	15.9	16.3	17.3 (+6.1%)	15.5 (–10.4%)
				(or –4.9% on 2005–06 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 Organization, 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;

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- strengthening co-operation with Guangdong Province so as to assist Hong Kong SMEs operating in the PRD in protecting their intellectual property assets; and
- promoting collaboration on intellectual property protection with the intellectual property offices of the Pan-Pearl River Delta (Pan-PRD) region pursuant to the Pan-PRD Intellectual Property Cooperation Agreement signed in July 2005.

10 Since 1999, the Department has commissioned an annual household survey to compare changing patterns of public attitudes towards 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 annual survey measuring business attitudes about intellectual property in the business community has been conducted since 2004. The results of the surveys in these two years 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.

12 The Department has continued its territory-wide campaigns to encourage pride in the selling of genuine goods among Hong Kong retailers. 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, in co-operation with the Guangdong provincial intellectual property authorities, will continue to launch the "No Fakes" Pledge campaign in other cities in the Guangdong Province, in addition to Guangzhou, Shenzhen, Shantou and Dongguan.

13 The Department continued its primary and secondary school visits programme into the ninth year with the aim of promoting respect for intellectual property rights in the younger generation. In 2005, this programme covered 74 schools and 22 281 students. To promote awareness of intellectual property protection among students and young people, the Department launched an "Intellectual Property Tutor Programme" in 48 secondary schools and organised the "School 'Promotion of Respect for Intellectual Property Rights' Slogan Competition" from September to November 2005. The Department also cooperated with the Scout Association of Hong Kong, the Customs and Excise Department and other organisations in organising some training and activities for scout leaders in Hong Kong to enhance their awareness of intellectual property rights.

14 During 2005, the Department produced Announcements of Public Interest to promote respect for intellectual property rights.

15 The Department jointly organised a Regional Symposium on "Creating Wealth through Brand Building" with the Consulate General of France in Hong Kong and other associations and hosted the "Europe-Asia Heads of Intellectual Property Offices Conference" in January and February 2005 respectively.

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

Indicators

	2004 (Actual)	2005 (Actual)	2006 (Estimate)
visits, seminars, conferences and workshops	164	178	180
speeches and presentations	48	59	60
media interviews, briefings and press conferences.....	10	18	15
school visits	48	74	50

Matters Requiring Special Attention in 2006–07

17 During 2006–07, the Department will:

- continue to provide policy, legal and technical advice to the Commerce, Industry and Technology Bureau in relation to the drafting and enactment of the Copyright (Amendment) Bill 2006 which incorporates various copyright related proposals; and further review of the Copyright Ordinance to consider whether and how protection of copyright works in the digital environment could be further enhanced;
- 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;
- organise an exchange programme for intellectual property officials of the Pan-PRD region and participate in programmes organised by the intellectual property offices of the Pan-PRD;

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- disseminate information through the internet on the intellectual property systems in the Mainland, Hong Kong Special Administrative Region and Macao Special Administrative Region;
- 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	2004-05 (Actual) (\$m)	2005-06 (Original) (\$m)	2005-06 (Revised) (\$m)	2006-07 (Estimate) (\$m)
(1) Statutory Functions	68.4	67.1	63.0	71.0
(2) Protection of Intellectual Property ...	15.9	16.3	17.3	15.5
	84.3	83.4	80.3 (-3.7%)	86.5 (+7.7%)
				(or +3.7% on 2005-06 Original)

Analysis of Financial and Staffing Provision

Programme (1)

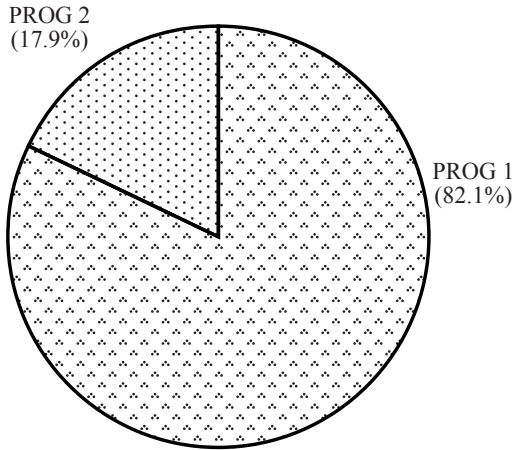
Provision for 2006-07 is \$8.0 million (12.7%) higher than the revised estimate for 2005-06. This is mainly due to the increase in the salaries provision for filling existing vacancies and the six-month provision for continuous outsourcing of the non-core services formerly funded under a non-recurrent subhead with effect from the second half of 2006-07.

Programme (2)

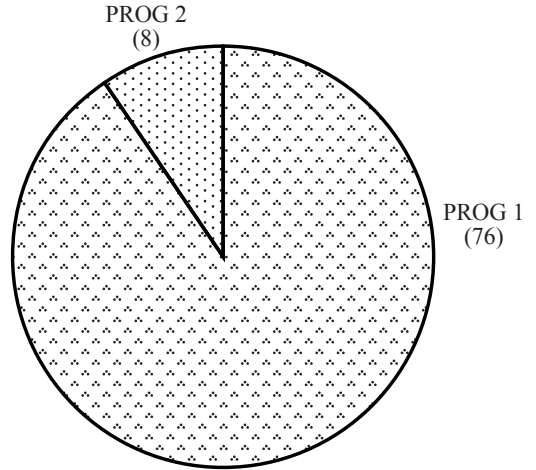
Provision for 2006-07 is \$1.8 million (10.4%) lower than the revised estimate for 2005-06. This is mainly due to a slight increase in deployment of resources to this programme to strengthen promotional and educational activities in 2005-06. The provision for 2006-07 remains more or less the same as in previous years.

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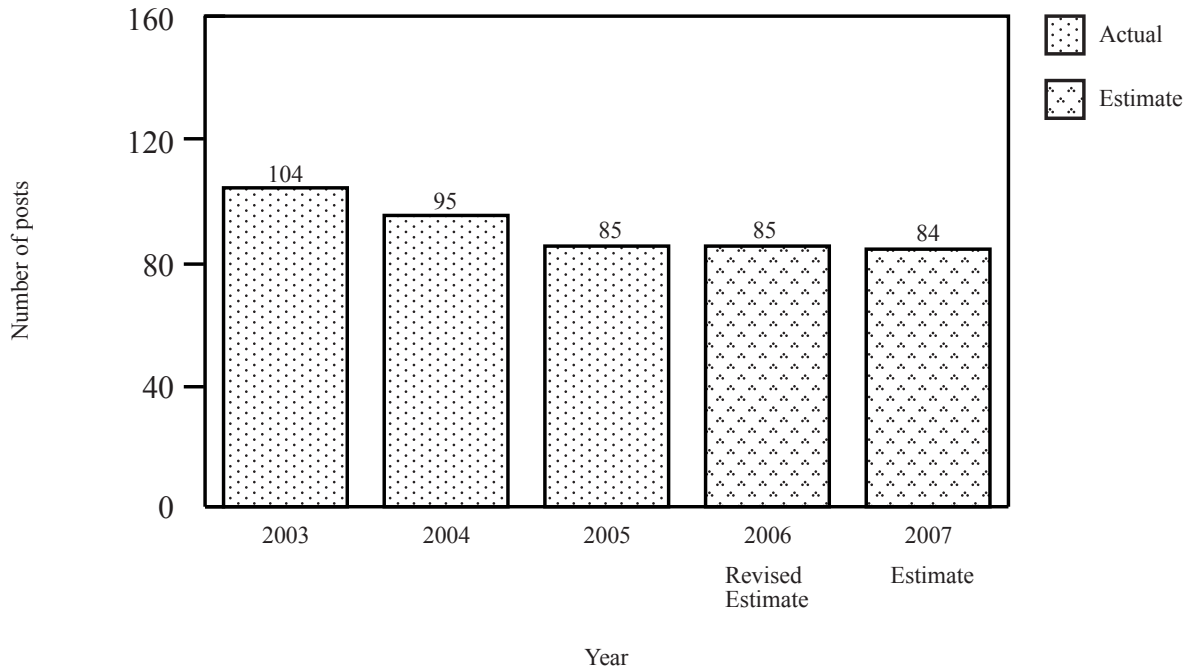
*Allocation of provision
to programmes
(2006-07)*



*Staff by programme
(as at 31 March 2007)*



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



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Sub-head (Code)	Actual expenditure 2004–05	Approved estimate 2005–06	Revised estimate 2005–06	Estimate 2006–07	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	54,841	72,033	64,322	73,335
	Total, Recurrent.....	54,841	72,033	64,322	73,335
Non-Recurrent					
700	General non-recurrent.....	22,431	11,326	15,970	13,156
	Publicity and educational programmes (block vote)	6,978	—	—	—
	Total, Non-Recurrent.....	29,409	11,326	15,970	13,156
	Total, Operating Account.....	84,250	83,359	80,292	86,491
Total Expenditure					
		84,250	83,359	80,292	86,491

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Details of Expenditure by Subhead

The estimate of the amount required in 2006–07 for the salaries and expenses of the Intellectual Property Department is \$86,491,000. This represents an increase of \$6,199,000 over the revised estimate for 2005–06 and of \$2,241,000 over actual expenditure in 2004–05.

Operating Account

Recurrent

2 Provision of \$73,335,000 under *Subhead 000 Operational expenses* is for the salaries and allowances and other operating expenses of the Intellectual Property Department. The increase of \$9,013,000 (14.0%) over the revised estimate for 2005–06 is mainly due to the increased salaries provision for filling existing vacancies and the six-month provision for continuous outsourcing of the non-core services formerly funded under a non-recurrent subhead with effect from the second half of 2006–07.

3 The establishment as at 31 March 2006 will be 85 permanent posts. It is expected that one post will be deleted in 2006–07. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2006–07, but the notional annual mid-point salary value of all such posts must not exceed \$36,999,000.

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

	2004–05 (Actual) (\$'000)	2005–06 (Original) (\$'000)	2005–06 (Revised) (\$'000)	2006–07 (Estimate) (\$'000)
Personal Emoluments				
- Salaries	43,536	41,020	41,823	45,947
- Allowances	1,753	2,201	1,800	1,930
Personnel Related Expenses				
- Mandatory Provident Fund contribution	83	144	72	132
Departmental Expenses				
- General departmental expenses	9,469	21,663	12,027	18,321
Other Charges				
- Publicity and educational programmes	—	7,005	8,600	7,005
	54,841	72,033	64,322	73,335

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Commitments

Sub-head (Code)	Item (Code)	Ambit	Approved commitment	Accumulated expenditure to 31.3.2005	Revised estimated expenditure for 2005–06	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	79,239	15,970	27,421
		Total	<u>124,454</u>	<u>79,239</u>	<u>15,970</u>	<u>29,245</u>