

National Intellectual Property Fund - 2011

1. Financial Statements

1.1 Qualified Opinion

In my opinion, except for the effects of the matters described in paragraph 1.2 of this report, the financial statements give a true and fair view of the financial position of the Intellectual Property Fund as at 31 December 2011 and its financial performance and cash flows for the year then ended in accordance with Sri Lanka Accounting Standards..

1.2 Comments on Financial Statements

1.2.1 Accounting Policies

The following instances were observed.

- (a) Computation of the cost of investments made in the Treasury Bonds, the total amount spent on the purchase of the investments including the accrued interest had been treated as the cost of investments and brought to account instead of computing by deducting the value of the accrued interest included in the amount spent for the purchase. Even though the investments in Treasury Bonds should be brought to account at cost, those had been brought to account at the lesser amount of the cost computed as stated above and the face value.
- (b) Even though the interest income on Treasury Bonds should be computed at the rates of interest on investments it had been computed and brought to account at coupon interest rates.
- (c) The fees specified for the registration of Trade Marks, Patents and Industrial Designs are recovered when the applications are made and such amounts are brought to account as the income of the relevant year. Nevertheless, the process of issuing the licences is spread over several future years as such the expenditure relating to such years is brought to account as the expenditure of the respective years. In the circumstances the failure to account for the money received with the applications as income received in advance, identifying and adjust the share of the

income relating to the work done in each year had resulted in the overstatement of income and understatement of liabilities.

- (d) Even though the money recovered from the customers for the publication of registration of Industrial Design, Trade Marks and changes in the Gazette, is brought to account as the income of the Fund at the time of receipt, action had not been taken to identify the expenditure that should have been incurred by the end of the year on the other expenditure including printing etc. but not incurred and accounting for such expenditure.

1.2.2 Non-compliance with Laws, Rules, Regulations and Management Decisions

The following instances of non-compliance were observed.

Reference to Laws, Rules, Regulations, etc.	Particulars
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(a) Financial Regulation of the Democratic Socialist Republic of Sri Lanka

(i) Financial Regulation 133 and 134(3) sub-section

Even though an internal audit should be carried out and Internal Audit Reports should be furnished to the Auditor General, it had not been so done by the Fund .

(ii) Financial Regulation 880

Even though officers in charge of Government cash, revenue stamps or goods should furnish security in terms of Chapter 612 it had not been so done.

(b) Public Finance Circular No.
PF/423 of 22 December 2006

(i) Paragraph 3.2 (b)

Even though the surplus money remaining after making payments due to be made and settlement of other liabilities should be transferred immediately to the Consolidated Fund and where surplus money is invested in external institutions should be transferred to the Consolidated Fund immediately on maturity, it had not been so done.

(ii) Paragraph 4.1(a)

Even though the annual budget prepared according to the objectives of the Fund should be furnished by its Board of Administration and the Secretary to the Ministry, to the Director General of National Budget and the Director General of Public Finance before 30 September of the preceding year, it had not been so done.

(iii) Paragraph 4.1(c)

Expenditure amounting to Rs.27,440,396 had been incurred out of the Fund in the year under review without an approved formal budget.

(iv) Paragraph 4.4

Even though the Report of the Auditor General for each year and the annual

financial statements of the Fund should be tabled in Parliament, it had not been so done.

2. Financial Review

2.1 Financial Results

According to the financial statements presented, the operations of the Fund during the year under review had resulted in a surplus of Rs.43,026,745 as compared with the corresponding surplus of Rs.31,514,252 for the preceding years, thus indicating an improvement of Rs.11,512,493 in the financial results. The increase of Rs.3,138,499 on Trade Marks, the increase of income from investments by a sum of Rs.4,029,791, the decrease in the loss from investments by a sum of Rs.6,246,583 and the increase of expenditure on house rent and printing expenses by Rs.1,260,000 and Rs.1,010,271 respectively had mainly affected the improvement in the financial results.

3. Operating Review

3.1 Performance

Registration of Trade Marks, Patents and Industrial Design

The Performance relating to the registration of Trade Marks, Patents and Industrial Designs for the year under review and the 05 preceding years is given in the chart below.

Activity	Year	Number of Applications Received	Number Registered	Number of Applications not finalised by the end of the year under review	Comments of the Director General on the Applications not finalised
(a) Registration of Trade Marks	2006	7,213	1,098	29,107	The need for the implementation of a process taking a very long period of time.
	2007	6,417	711		
	2008	5,907	1,908		
	2009	4,862	2,718		
	2010	6,244	1,379		
	2011	7,657	1,379		
			38,300		
(b) Registration of Patents	2006	422	150	1,031	Revisions made subsequently by the Applicants
	2007	428	91		
	2008	450	159		
	2009	384	366		
	2010	460	504		
	2011	429	272		
			2,573		
(c) Registration of Industrial Designs	2006	493	450	1,037	Applications made without complying with the procedures and with shortcomings.
	2007	302	12		
	2008	389	89		
	2009	306	260		
	2010	285	261		
	2011	443	109		
			2,218		

The following observations are made on the above information.

- (a) Even though 38,300 applications for the registration of Trade Marks had been received during the year under review and the 05 preceding years, the number finalized during the 06 years had been 9,193. As such, the total number finalized during the 06 years represented 24 per cent of the total number of applications received. Nevertheless, the number of applications made, dropped or withdrawn out of the number of applications include during the year under review and the 05 preceding years had not been furnished to audit. But it is observed that the performance of the Fund in this connection had not been adequately executed.
- (b) Even though 7,657 applications for registration of Trade Marks had been received in the year under review, 1379 only had been registered and that represented 18 per cent of the applications received. As the number registered in the preceding year had also been 1,379 , an increase had not been indicated in the year under review.
- (c) The number of Patents registered in the year 2010 had been 504 and the number registered in the year 2011 had been 272. As such the number registered, as compared with the preceding year indicated a decrease of 46 per cent.
- (d) The number of Industrial Design registered in the year 2010 had been 261 and the number registered in the year 2011 had been 109. As such, the number registered as compared with the preceding year indicated a decrease of 58 per cent.

3.2 Construction of a Depository and a Sales Promotion Centre

Expenditure amounting to Rs.22,978,101 had been incurred in the years 2008 and 2009 for the construction of a Depository and a Sales Promotion Centre for the National Intellectual Property Office of Sri Lanka and other activities connected therewith. The following observations are made in that connection.

- (a) The construction of the buildings had been commenced without acquiring the land and carrying out a feasibility study.
- (b) The estimated cost had increased by a sum of Rs.9,522,500 due to the failure to obtain the approvals from the Municipal Council and the Urban Development Authority.
- (c) Construction work had been stopped halfway in December 2008 and left unprotected and without being used.
- (d) Even though the validity period of the performance bond obtained from the contractor for the advance of Rs.8,701,032 paid for the construction of the building had expired on 19 December 2008 action had not been taken to extend the validity of the bond and the risk of recovering the recoverable advance of Rs.4,549,750 existed. Due to the delay in the recovery of the balance advance a potential interest income of about Rs.300,000 had been deprived of.
- (e) According to the agreement entered into with the contractor company, the work should have been completed by 18 December 2008. But the contractor had failed to complete the work by that date.
- (f) There were defects in the last payment report on the construction of the building and the responsibilities of the consultancy contractor had not been discharged.

4. Systems and Controls

Weaknesses in systems and controls observed during the course of audit were brought to the notice of the Director General of Intellectual Property. Special attention is needed in respect of the following areas of control.

- (a) Human Resources Management
- (b) Internal Audit