

China

Regulations on Protection of Olympic Symbols

(Adopted at the 54th Executive meeting of the State Council on January 30, 2002, promulgated by Decree No. 345 of the State Council of the People's Republic of China on February 4, 2002.)

Article 1 These Regulations are formulated for the purposes of strengthening the protection of Olympic symbols; safeguarding the lawful rights and interests of the right holders of Olympic symbols and maintaining the dignity of Olympic movement.

Article 2 For the purposes of these Regulations, "Olympic symbols" refers to:

- (1) the five Olympic rings, Olympic flag, Olympic motto, Olympic emblem and Olympic anthem of the International Olympic Committee (IOC);
- (2) expressions such as Olympic, Olympiad, Olympic Games and their abbreviations;
- (3) the name, emblem and symbols of the Chinese Olympic Committee;
- (4) the name, emblem and symbols of Beijing 2008 Olympic Games Bid Committee;
- (5) symbols such as the name and emblem of Beijing Organizing Committee for the Games of the XXIX Olympiad, the mascot, an-

them and slogan of the 29th Olympic Games, "Beijing2008", the 29th Olympic Games and its abbreviation;

(6) other symbols related to the 29th Olympic Games laid down in the Olympic Charter and the Host City Contract for the Games of the XXIX Olympiad in the Year 2008.

Article 3 For the purposes of these Regulations, "right holders of Olympic symbols" refers to the International Olympic Committee, the Chinese Olympic Committee and the Beijing Organizing Committee for the Games of the XXIX Olympiad.

The division of rights among the International Olympic Committee, the Chinese Olympic Committee and the Beijing Organizing Committee for the Games of the XXIX Olympiad shall be determined in accordance with the Olympic Charter and the Host City Contract for the Games of the XXIX Olympiad in the Year 2008.

Article 4 The right holders of Olympic symbols enjoy the exclusive rights of Olympic symbols in accordance with these Regulations.

No one may use Olympic symbols for commercial purposes (including potential commercial purposes, and the same below) without the authorization of their right holders.

Article 5 For the purposes of these Regulations, "use for commercial purposes" means the use of Olympic symbols for profit-making purposes in the following ways:

- (1) the use of Olympic symbols in goods, packages or containers of goods or trade documents of goods;
- (2) the use of Olympic symbols in services;
- (3) the use of Olympic symbols in advertising, commercial ex-

hibition, profit-making performance and other commercial activities;

- (4) selling, importing or exporting goods bearing Olympic symbols;
- (5) manufacturing or selling Olympic symbols;
- (6) other acts that might mislead people to think that there are sponsorship or other supporting relations between the doers and the right holders of Olympic symbols.

Article 6 The administrative department for industry and commerce under the State Council shall, in accordance with the provisions of these Regulations, be responsible for the protection of Olympic symbols throughout the country.

The administrative departments for industry and commerce at or above the country level shall, in accordance with the provisions of these Regulations, be responsible for the protection of Olympic symbols within their respective administrative areas.

Article 7 The right holders of Olympic symbols shall submit their Olympic symbols for the record to the administrative department for industry and commerce under the State Council, which shall make a proclamation therefor.

Article 8 Anyone who are to use Olympic symbols for commercial purposes with the authorization of their right holders shall conclude a license contract with such right holders; anyone who is to use the Olympic symbols set forth in Item (1) or (2) of Article 2 of these Regulations shall conclude a contract with the International Olympic Committee and institutions authorized or approved by it; anyone who is to use the Olympic symbols set forth in Item (3) of Article 2 of

these Regulations shall conclude a contract with the Chinese Olympic Committee; anyone who is to use the Olympic symbols set forth in Item (4), (5) or (6) of Article 2 of these Regulations shall, before December 31, 2008, conclude a contract with Beijing Organizing Committee for the Games of the XXIX Olympiad. The right holders of the Olympic symbols shall submit the license contracts for the record to the administrative departments for industry and commerce under the State Council.

Where a license contract is concluded in accordance with the preceding paragraph, the licensee may only use the Olympic symbols within the geographical coverage and the time period set forth in the contract.

Article 9 The Olympic symbols that have been lawfully used before the effective date of these Regulations may be continually used within the original scope.

Article 10 Where a dispute arises from the use of Olympic symbols for commercial purposes without the authorization of the right holders, that is, from the infringement upon the exclusive rights of Olympic symbols, it may be settled through consultation by the parties concerned; if the parties concerned are unwilling to consult or the consultation fails, the right holders of Olympic symbols or the interested parties may institute legal proceedings in a people's court or request the administrative department for industry and commerce to make a disposition; where the said administrative department for industry and commerce finds that an infringement is constituted, it shall order an immediate cease of the infringement, confiscate or destroy the infringing goods and the special tools for manu-

facturing the infringing goods or for manufacturing Olympic symbols for commercial purposes without authorization; if there is illegal income, the administrative department for industry and commerce shall confiscate the illegal income and may concurrently impose a fine of not more than five times of the illegal income; if there is no illegal income, a fine of not more than 50,000 yuan may be imposed concurrently. Where a party concerned refuses to accept the disposition, he may, in accordance with the Administrative Procedure Law of the People's Republic of China, institute legal proceedings in a people's court within 15 days from the date of receipt of the notification of disposition; where the infringer neither institute legal proceedings nor carry out the disposition upon the expiry of the time limit, the administrative department for industry and commerce may apply to the people's court for compulsory execution. Upon the request of the parties concerned, the administrative department for industry and commerce may mediate on the amount of compensation for the loss caused by infringement of exclusive rights of Olympic symbols; if the mediation fails, any party concerned may, in accordance with the Civil Procedure Law of the People's Republic of China, institute legal proceedings in a people's court.

Anyone who uses Olympic symbols to conduct swindle or other illegal activities therefore violates the criminal law; shall, in accordance with the provisions of the criminal law on the crime of swindle or other crimes, be investigated for criminal liability.

Article 11 The administrative departments for industry and commerce have the rights to investigate into and deal with the acts that infringe the exclusive rights of Olympic symbols.

When the administrative departments for industry and commerce, on the basis of the obtained evidence or information on suspected illegal acts, investigate into and deal with suspected infringement upon the exclusive rights of Olympic symbols, they may perform the following powers:

- (1) inquiring relevant parties concerned and investigating into matters related to the infringement;
- (2) consulting or copying contracts, invoices, accounting books and other relevant materials related to the infringement;
- (3) conducting on-spot inspection on the places where the parties concerned conduct the suspected infringement;
- (4) inspecting the articles related to the infringement; sealing or seizing the articles where there is evidence to support that such articles infringe upon the exclusive rights of Olympic symbols.

The parties concerned shall assist and cooperate with the administrative departments for industry and commerce when such departments perform the powers laid down in the preceding paragraph, and shall not refuse or hinder such performance.

Article 12 Where import or export goods are suspected of infringing the exclusive rights of Olympic symbols, the Customs shall investigate into and deal with the case with reference to the powers and procedures laid down in the Customs Law of the People's Republic of China and the Regulations of the People's Republic of China on the Customs Protection of Intellectual Property.

Article 13 The amount of compensation for the loss caused by infringement of the exclusive rights of Olympic symbols shall be determined on the basis of the loss that the right holder has suffered

from the infringement or the profit that the infringer has obtained through the infringement, including the reasonable expenses paid for checking the infringement; where the loss suffered by the infringer or the profit obtained by the infringer are difficult to determine, the compensation shall be reasonably determined with reference to the licensing fees for using Olympic symbols.

Those who unknowingly sell goods infringing the exclusive rights of Olympic symbols and can prove that the goods are acquired lawfully and point out the supplier shall not bear any compensation liability.

Article 14 In addition to these Regulations, Olympic symbols are also protected according to provisions of other laws and administrative regulations such as the Copyright Law of the People's Republic of China, the Trademark Law of the People's Republic of China, the Patent Law of the People's Republic of China and the Regulations on Administration of Special Symbols.

Article 15 These Regulations shall be effective as of April 1, 2002.