

KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE

N° 105/005/2006

Of May 23, 2006

Decision

N° 077/004/2006 CC.D

Of June 01, 2006

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- Seen Preah Reach Kram N° CS/RKM/0498/06 of April 8, 1998 on the Organization and the Functioning of the Constitutional Council;
- Seen the letter N° 054/0506/ព្រឹត្តិ/នៃ of May 23, 2006 from Samdech **CHEA SIM**, President of the Senate, requesting the Constitutional Council to examine the constitutionality of the new Rules of Procedure of the Senate, letter received by the Secretariat General of the Constitutional Council on May 23, 2006 at 14:10;

Having heard the rapporteur,

Having deliberated in compliance with the law,

- Whereas following the Article 140N, paragraph 2, sentence 1 of the Constitution which stipulates that “*The Rules of Procedure of the National Assembly, the Rules of Procedure of the Senate, and all the Organic Laws shall be sent to the Constitutional Council for the review before their promulgation*”, the request N° 054/0506/ព្រឹត្តិ/នៃ of May 23, 2006 from Samdech **CHEA SIM**, President of the Senate, received by the Secretariat General of the Constitutional Council on May 23, 2006 at 14:10, is in compliance with the Constitution; and therefore admissible;
- Whereas the Article 106N (one) of the Constitution assigns the Senate (not its Provisional Bureau) to proclaim the validity of each Member's mandate and to elect separately the President, the Vice-Presidents and all the Members of the various commissions at the absolute majority vote of the whole Senate Members ;
- Whereas the Article 5, point B which stipulates that “*The Provisional Bureau shall have the duty to elect the President and the two Vice-Presidents of the Senate,*” is inconsistent with the Article 106N (one) of the Constitution, according to which the elections of the President and the

- Vice- Presidents are the attributions of the Senate, while the Provisional Bureau is only assigned to organize these elections;
- Whereas the Article 19, paragraph 2, which stipulates that “*In case of exceptional emergency resulting in the impossibility of holding separate elections for the President, for the First Vice-President and for the Second Vice-President, they can be held simultaneously; the ballots shall be made separately,*” is inconsistent with the Article 106N (one) paragraph 2 of the Constitution which states that “*Before taking office, the Senate shall proclaim the validity of each Member's mandate and shall elect separately the President, the Vice- Presidents and all the Members of the various commissions at the absolute majority vote of the whole Senate Members*”;
 - Whereas the Article 20, which stipulates that “*Once the President and the Vice-Presidents have been elected, the Head of the Provisional Bureau shall declare the termination of its attributions and hand them over to the newly elected President of the Senate,*” is inconsistent with the Article 106N (one) paragraph 2 of the Constitution which stipulates that “*Before taking office, the Senate shall proclaim the validity of each Member's mandate and shall elect separately the President, the Vice- Presidents and all the Members of the various commissions at the absolute majority vote of the whole Senate Members*”;
 - Whereas the Article 25 is inconsistent with the article 106N (one) of the Constitution;
 - Whereas the Article 109 paragraph 2 which states that “*In case of an impasse which is not stipulated in the Rules of Procedure, the President of the Senate shall request the Permanent Committee or the Plenary session to decide on a suitable procedure to be implemented,*” is inconsistent with the Article 140N paragraph 2 of the Constitution which states that “*The Rules of Procedure of the National Assembly, the Rules of Procedure of the Senate, and all the Organic Laws shall be sent to the Constitutional Council for the review before their promulgation*”;
 - Whereas all chapters and articles of the new Rules of Procedure of the Senate are not inconsistent with the Constitution except the provisions of the Article 5 point B, the Article 19 paragraph 2, the Articles 20, 25 and 109 paragraph 2;

Decides:

Article 1: The new Rules of Procedure of the Senate of the Kingdom of Cambodia adopted on May 22, 2006 in the 1st session of its 2nd legislature is declared constitutional except the Article 5 point B which is inconsistent with the Article 106N (one) of the Constitution, the Article 19 paragraph 2, the Articles 20 and 25 which are inconsistent with the Article 106N (one) paragraph 2 of the Constitution, and the Article 109 paragraph 2 is inconsistent with the Article 140N paragraph 2 of the Constitution.

Article 2: This decision made in the plenary session of the Constitutional Council in Phnom Penh on June 01, 2006 shall be final without recourse, shall have authority over all the instituted powers as stipulated in the Constitution and shall be published in the “Journal Officiel”.

Phnom Penh, June 01, 2006
For the Constitutional Council
The President

Signed and Sealed

BIN CHHIN