

KINGDOM OF CAMBODIA
Nation Religion King



The Constitutional Council

CASE

N° 179/002/2011

Of April 26, 2011

Decision

N° 114/002/2011 CC.D

Of May 09, 2011

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the Decision of the Constitutional Council N° 113/001/2011 CC.D of February 01, 2011 states that the Law on the Organization and the Functioning of the Congress of the National Assembly and the Senate is declared in conformity with the Constitution;
- Seen the letter N° 004/11 C. of April 26, 2011 of **Samdech Sisowath Chivanmonirak**, Acting President of the Congress, requesting the Constitutional Council to examine the constitutionality of the Rules of Procedure of the Congress of the National Assembly and the Senate adopted by 131/155 in its first meeting on April 26, 2011, letter received by the Secretariat General of the Constitutional Council on April 26, 2011 at 16:20.

Having heard the rapporteur,

Having deliberated in compliance with the law,

- Whereas the Rules of Procedure of the Congress of the National Assembly and the Senate is a special Rules of Procedure for the supreme legislative institutions of the National Assembly and the Senate implemented in the circumstance to resolve the important issues of the country;
- Whereas in the process of the first Congress meeting of the National Assembly and the Senate, the Rules of Procedure of the National Assembly shall be implemented until the Congress adopts its own Rules of Procedure;
- Whereas to prepare this Rules of Procedure, the National Assembly and the Senate have duly implemented the procedure stipulated in the Law on the Organization and the Functioning of the Congress of the National Assembly and the Senate;

- Whereas the letter of **Samdech Sisowath Chivanmonirak**, Acting President of the Congress, made in accordance with Article 140 (New) of the Constitution and Article 16 (New) of the Law on the Amendment of the Law on the Organization and the Functioning of the Constitutional Council, is therefore admissible;
- Whereas the first Congress meeting of the National Assembly and the Senate adopted its Rules of Procedure by 131/155 votes on April 26, 2011 is in accordance with Article 14 Chapter 4 on the Transitional Provisions of the Law on the Organization and the Functioning of the Congress of the National Assembly and the Senate promulgated by Preah Reach Kram N° NS/RKM/0211/005 of February 19, 2011 which states that “ *the first meeting of the Congress shall be convened no later than sixty (60) days after this law comes into effect in order to review and adopt its Rules of Procedure by an absolute majority vote of all members of the National Assembly and of all members of the Senate.* ”
- Whereas the form in drafting and adopting the Rules of Procedure of the Congress of the National Assembly and the Senate has nothing contrary to the Constitution;
- Whereas the Chapter 1 on the General Provisions, consisting of two Articles, determines the Organization and the Functioning of the Congress of the National Assembly and the Senate, the Procedures implemented in the Congress, and determines the Presidency as well as the members of the Congress, has nothing contrary to the Constitution;
- Whereas the Chapter 2 on the President, Vice-President, and the Congress Committee, consisting of four Articles—Article 3 to Article 6—stipulate the composition of the Congress Committee, the role of the Congress Committee and Article 4 states the function of the President of the Congress. Article 3, Article 4 and Article 6 of the Rules of Procedure of the Congress is complied with Article 6 and Article 7 of the Law on the Organization and the Functioning of the Congress of the National Assembly and the Senate and the Constitution. Whereas Paragraph 1 of Article 5 is contrary to the provision of Paragraph 2 Article 4 of the Law on the Organization and the Functioning of the Congress of the National Assembly and the Senate which does not stipulate “the Vice President of the Congress” and “the Vice President shall take the replacement through power of attorney”. Whereas Paragraph 2 of Article 5 is complied with the provision of Paragraph 3 Article 4 of the Law on the Organization and the Functioning of the Congress of the National Assembly and the Senate and the Constitution;
- Whereas the Chapter 3 on the Secretariat General of the Congress, consisting of two Articles—Article 7 and Article 8—has nothing contrary to the Constitution;
- Whereas the Chapter 4 on Agenda, consisting of two Articles – Article 9 and Article 10 – stipulating the Congress Committee shall prepare the agenda of the Congress and the order of the agenda, has nothing contrary to the Constitution;

- Whereas the Chapter 5 on the Arrangement of the Congress Meeting, consisting of fourteen Articles, from Article 11 to Article 24, stipulating the Precedence of the Congress members, the President, the Vice President, the number of members in each group, the date and place of the Congress Meeting, the letter of invitation, the quorum, the Congress Meeting, the Congress Secretary and the duties of the Congress Secretary, the debate, and the discipline of the debate, has nothing contrary to the Constitution;
- Whereas the Chapter 6 on the maintenance order during the meeting, consisting of only one Article—Article 25—stipulating the duties of the Congress President to prevent chaos and calamity happening to the Congress; the President of the Congress can request police or military force for intervention, has nothing contrary to the Constitution;
- Whereas the Chapter 7 on the Absence to Meeting, consisting of one Article—Article 26— stipulating the absence and the information of the absentees to the Congress President, has nothing contrary to the Constitution;
- Whereas the Chapter 8 on Expression of an Opinion, consisting three Articles —Article 27 to Article 29—stipulating the ways to express an opinion, the procedure of an opinion poll of the Congress shall be implemented in accordance with Article 37, Article 38 (New) and Article 39 of the Rules of Procedure of the National Assembly, and to determine the number of adopted votes of the Congress, and to declare the result of the expression of an opinion of the Congress, has nothing contrary to the Constitution;
- Whereas the Chapter 9 on Disciplines, consisting of one Article—Article 30—which complies with Article 73, Article 74, Article 75 and Article 79 of the Rules of Procedure of the National Assembly for imposing discipline sanction on the Congress members, has nothing contrary to the Constitution;
- Whereas the Chapter 10 on Modification of the Rules of Procedure of the Congress of the National Assembly and the Senate, consisting of one Article —Article 31—which determines the number of the Congress members, who can request the modification of the Rules of Procedure, and the number of adopted votes, has nothing contrary to the Constitution;
- Whereas all Chapters and Articles of the Rules of Procedure of the Congress of the National Assembly and the Senate have nothing contrary to the Constitution except Paragraph 1 of Article 5.

Decides:

Article 1 : The Rules of Procedure of the Congress of the National Assembly and the Senate adopted by the Congress of the National Assembly and the Senate on April 26, 2011 is declared in conformity with the Constitution except Paragraph 1 of Article 5.

Article 2 : This decision made in the plenary session of the Constitutional Council in Phnom Penh on May 09, 2011 shall be final, without recourse, shall

have authority over all the instituted powers as stipulated in the Constitution, and shall be published in the Royal Gazette.

Phnom Penh, May 09, 2011

**On behalf of the Constitutional Council
The President,**

Signed and Sealed: EK SAM OL

Glossary

CC.D	Decision of the Constitutional Council
C.	The Congress of the National Assembly and the Senate
Preah Reach Kram	Royal Kram (the legal act signed by His Majesty the King for promulgating the Constitution or Law)