

KINGDOM OF CAMBODIA  
Nation Religion King

**The Constitutional Council**

\*\*\*\*\*

Phnom Penh, September 22,

2003

N° 20/2003 CC.I

**To His Majesty Samdech Preah NORODOM SIHANOUK  
King of Cambodia**

**Subject:** Opinion of the Constitutional Council on some legal aspects.

**Reference:** Royal Message dated September 20, 2003

Sire,

After having received the above-mentioned message of Your Majesty, the Constitutional Council met on September 22, 2003 and has the honor to bring to the high information of Your Majesty that the Constitutional Council has no competence to interpret the political aspects raised in the letter of Samdech Krom Preah NORODOM RANARIDDH, President of FUNCIPPEC Party. But we would like to clarify some legal aspects as follows:

**1. Competence of the Constitutional Council**

The interpretation of the Constitution and of the laws is the exclusive competence of the Constitutional Council (article 136 N and article 142 N of the Constitution, articles 1, 15, and 23 of the law on the Organization and Functioning of the Constitutional Council). The response of the Constitutional Council of September 18, 2003 to the message of Your Majesty of September 17, 2003 is based on this competence.

Following the constant jurisprudence of the Constitutional Council since 1998, the personalities stipulated in the article 141 N of the Constitution are qualified to request the Constitutional Council to interpret the Constitution and the laws. The King is the first among these personalities. As President of the National Assembly, Samdech Krom Preah NORODOM RANARIDDH, has also often times requested the Constitutional Council to interpret the Constitution and the laws, besides the request to review the constitutionality.

**2. Article 82 of the Constitution**

In its response, the Constitutional Council has referred to the article 82 of the Constitution to clarify a point on the convening of the National Assembly by the King. But on the matter of Your Majesty high presence, the Constitutional Council has not interpreted that “Your Majesty must go and preside over the opening session of the 3<sup>rd</sup> legislature of the National Assembly”. Your Majesty has asked the Constitutional Council to give the concise response: “whether I, NORODOM SIHANOUK, King of Cambodia, should go or not to preside over the opening session of the National Assembly...” and in its response as concise as possible, the Constitutional Council has

simply said that Your Majesty “Should go ” and it does not mean an obligation to go. This is only a concise response to a precise question.

### **3. The issue on the number of the Member of the National Assembly at the opening session**

The Constitutional Council did not raise this issue in its reply because it wants to remain within the framework of Your Majesty’s question: “Should I go or should I not go? ”. Nevertheless during the meeting, the Constitutional Council has also debated on this issue.

The Constitutional Council would like to reconfirm that the minimum number of 120 deputies is a necessary condition that the organization of election has to fulfill to establish the National Assembly for each legislature. If the definitive official result give the number of deputies equal or superior to 120, the National Assembly is established. Other stages that the new National Assembly has to fulfill in order to be able to take its office, shall follow the procedures stipulated in the Constitution and the Internal Regulations of the National Assembly. The article 82 of the Constitution, which is a part of these procedures, does not require at least 120 deputies at the opening session, and article 5 of the Internal Regulations of the National Assembly does not either, but it is necessary to have a quorum after the opening session. The provision of article 5 is already sufficiently clear. The decision of the Constitutional Council N° 054/005/2003 CC.D of July 22, 2003 criticized by Samdech Krom Preah shall be interpreted as in the above mentioned and not as his interpretation.

### **4. The meeting place of the National Assembly**

Only required by the circumstances, shall the session of the National Assembly be held in another place than its meeting hall. Without this justification, any session of the National Assembly shall be considered illegal and absolutely null (Article 85 of the Constitution).

### **5. The oath taking**

Referring to the content stated in annex 5 of the Constitution, the oath taking shall be held before the King, the supreme patriarch of the two Buddhist orders and Tevoda (Angels) protecting the throne, that mean in the Royal Palace, if the King is there.

### **6. The representative(s) of the King**

The King has full prerogatives in designating his representative(s). This principle shall be inviolable.

The incompatibility is the question related to the office holding. The fact of receiving the order from the King to preside over the opening session of the National Assembly as His Majesty’s representative is not a function but it is a mere punctual mission. This interpretation is purely juridical. The Constitutional Council does not deal with the political comments.

Deign Your Majesty, accept the expression of our utmost profound respect.

**For the Constitutional Council  
The President  
Signed and Sealed**

