

KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE

N° 103/003/2006

Of March 21, 2006

Decision

N° 075/002/2006 CC.D

Of April 07, 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 Preah Reach Kram N° NS/RKM/0701/10 of July 23, 2001 promulgating the Law on the Agreement and the Application of the United Nations Convention on the Recognition and the Enforcement of Foreign Arbitral Awards;
- Seen the request N°300 NA of March 21, 2006 of Samdech **HENG SAMRIN**, President of the National Assembly, asking the Constitutional Council to examine the Constitutionality of the law on Commercial Arbitration, adopted by the National Assembly on March 06, 2006 in the 4th session of its 3rd legislature and for which the Senate, by its letter N°017/0306/SN/LD of March 17, 2006, agreed to let the National Assembly to proceed further. The Secretariat General of the Constitutional Council received this request on March 21, 2006 at 10:40 A.M;

Having heard the rapporteur;

Having heard the report of the representative of the Ministry of Commerce

Having deliberated in compliance with the Law;

- Whereas the National Assembly has duly implemented the procedure provided for in the Article 140N, paragraph 2 of the Constitution, by submitting this law to the Constitutional Council for the review before its promulgation;
- Whereas the National Assembly and the Senate have duly implemented the procedure provided for in the Article 113N of the Constitution, concerning the examination and the adoption of this law;
- Whereas the Article 5 of the law on Commercial Arbitration shall be interpreted that the court can intervene upon the request from the parties and that the judicial power shall not be limited;
- Whereas the Article 42 of the Law on Commercial Arbitration gives to the Court of Appeal to decide on the opposition, the recognition and the enforcement of the award as long as the Commercial court has not been created;

- Whereas the substance of the law on Commercial Arbitration is not contrary to the Constitution while the Articles 5 and 42 must be interpreted as in the above mentioned motives;

Decides:

Article 1: The law on Commercial Arbitration adopted by the National Assembly of March 06, 2006 in the 4th session of its 3rd legislature and for which the Senate, by its letter N° 017/0306/SN/LD of March 17, 2006, agreed to let the National Assembly to proceed further, is declared constitutional.

Article 2: This decision made in the plenary session of the Constitutional Council in Phnom Penh on April 07, 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, April 07, 2006
For the Constitutional Council
The President
Signed and Sealed

BIN CHHIN