

The Roles and Perceptions of the Thai Ministry of Foreign Affairs through
Governmental Politics in the Preah Vihear Temple Dispute



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บทบาทและมุมมองของกระทรวงการต่างประเทศกับการจัดการปัญหาการเมืองภายในรัฐบาลในกรณี
พิพาทปราสาทพระวิหาร



วิทยานิพนธ์นี้เป็นส่วนหนึ่งของการศึกษาตามหลักสูตรปริญญารัฐศาสตรดุษฎีบัณฑิต
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จากการศึกษาวิเคราะห์บทบาทและมุมมองของกระทรวงการต่างประเทศของไทยใน
กรณีข้อพิพาทปราสาทพระวิหารระหว่างไทยกับกัมพูชา ตั้งแต่ช่วงสงครามเย็นเป็นต้นมาโดยเน้น
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ชี้ให้เห็นว่า ลักษณะทางองค์กรของกระทรวงการต่างประเทศของไทยนั้น เอื้อต่อท่าทีและแนวคิดที่
มีความโน้มเอียงไปในทางความร่วมมือระหว่างประเทศ ในขณะเดียวกัน การที่กระทรวงการ
ต่างประเทศเป็นหน่วยงานที่มีหน้าที่โดยตรงกับต่างประเทศ ปัจจัยแวดล้อมภายนอกย่อมมี
ความสำคัญต่อการกำหนดท่าทีของกระทรวงฯ เช่นกัน อย่างไรก็ตาม ในบางช่วงเวลา ความคิดเห็น
ของคนในชาติ ประกอบกับความไม่เป็นอิสระของกระทรวงการต่างประเทศ ส่งผลกระทบต่อ
ความสามารถในการปรับท่าทีให้สอดคล้องกับสถานการณ์ในการต่างประเทศ รวมถึงลดทอนจุดยืน
ของกระทรวงฯ ในการเจรจาต่อรองและดำเนินการทางการทูต นอกจากนี้ ท่าทีและมุมมองของ
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Ornthicha Duangratana : The Roles and Perceptions of the Thai Ministry of
Foreign Affairs through Governmental Politics in the Preah Vihear Temple
Dispute. Advisor: Prof. SURACHART BAMRUNGSUK, Ph.D.

In the Thai-Cambodian Preah Vihear Temple dispute, the perceptions of the Thai Ministry of Foreign Affairs (MFA) are investigated. Through the employment of role theory, the MFA's national role conceptions (NRCs), since the Cold War period and with concentration on the years from 2008 to 2013, are explicated. The research presents that the organizational characteristics of the ministry conduce the propensity for cooperative NRCs. At the same time, as the agency dealing with foreign affairs, the material and ideational elements in the external environment are important determinants. Nevertheless, at times, the national public opinion and the decline of the MFA's autonomy have proven to counteract the ministry's organizational standpoint in the task of diplomacy and pragmatism in the dealings of external affairs. Moreover, whether the MFA's NRCs are translated to actual policy outcomes, it depends on the interplay of actors in the Thai foreign-policy domain. In the period covered, different dynamics between the foreign-policy making actors are apparent. With the governmental politics approach, the dissertation demonstrates that Thailand's foreign policies do not represent the NRCs held by the MFA when governmental politics is high in confrontation and the MFA possesses low influence in the action channel.

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Chapter 1

Introduction

1.1 Statement of the Problem and Significance

Thailand and Cambodia share both the sea border in the Gulf of Thailand and the land border, with many parts still ambiguous. In a stretch of 803 kilometers of land border, the relations between Thailand and Cambodia have, at many times, been thrown into disharmony because of the overlapping claims of possession over the Preah Vihear Temple, or Phra Viharn Temple (in Thai), and the area surrounding it. Contemporary tensions upon the Preah Vihear Temple complex can be traced back to the treaties signed between France and Siam in the early 1900s. The 1904 Franco-Siamese treaty specifies that the border between the two countries would run along the watershed line of the Dangrek Mountains. At the same time the Mixed Commission of Delimitation between Indo-China and Siam that comprised of officers appointed by the two parties were authorized to carry out the topographical work and establish an exact boundary line. However, as the tasks became exclusively French operations, the map produced by the Mixed Commission deviated from the agreement stipulated in the treaty at the Preah Vihear area. While the 1904 Treaty based the border on the watershed line and the Preah Vihear Temple is located in

Thailand's territory, the map produced by the Mixed Commission placed the Preah Vihear in the territory of Cambodia.¹

While Thailand had to accept the International Court of Justice's (ICJ) ruling in 1962 that Cambodia has sovereignty over the temple, the Thai Cabinet resolved to unilaterally draw a borderline to minimally withdraw the Thai troops from the temple area.² As Cambodia adheres to the map produced by the Mixed Commission and Thailand is anchored on the line drew by the Thai Cabinet, the issue upon the area of 4.6 square-kilometers surrounding the temple laid dormant yet unsettled. Although cooperation between Thailand and Cambodia were underway in the 1990s and the early 2000s, the problem over the area resurfaced in the year 2008 when Cambodia tried to register the Preah Vihear Temple as a UNESCO World Heritage Site. The incident coincided the midst of political turmoil in Thailand by which Thai foreign policies swung from signing a joint communiqué to the deployment of troops and firing at the border. These conflicts summoned the involvements of the United Nations Security Council (UNSC), the Association of Southeast Asian Nations (ASEAN) and the ICJ's interpretation of the 1962 ruling.

¹ "Thailand and Cambodia: The Battle for Preah Vihear," [Freeman Spogli Institute for International Studies, 2009, accessed 8 December, 2018,

https://spice.fsi.stanford.edu/docs/thailand_and_cambodia_the_battle_for_preah_vihear.

² MFA Department of Information, "Case Concerning the Temple of Phra Viharn", *Foreign Affairs Bulletin* 1, no. 6 (1962): 128-30.

As the dispute erupted and became salient again between the years 2008 to 2013, many academics associate the dispute to the country's politicization of the issue and the use of nationalist rhetoric to gain public support. While they are nevertheless crucial elements, the conceptions of the policymakers are seldom comprehensively investigated, especially ones of the Ministry of Foreign Affairs (MFA) which is seen as the major actor in Thai foreign policymaking. Therefore, in this dissertation, the MFA's conceptions can be fruitfully understood through the use of role theory to explore the policymaker's perceptions on the kinds of decisions and actions suitable for the state. Moreover, in this period, different dynamics between the MFA and various foreign policymaking actors were apparent. The examination into governmental conflicts, in similar view with governmental politics model in which foreign policy decisions are determined by the political maneuverings between governmental players based on their stands, can allow the researcher to understand the actions manifested by the state in the international system.

1.2 Literature Review of the Preah Vihear Dispute

When the Preah Vihear dispute broke out in the late 2008, the issue garnered wide attention and numerous discussions and researches were published. In order to analyze and explain the conflict, a significant number of scholarly works have been written by Thai, Cambodian, and foreign scholars. The subjects in focus of the

academic works cover variety of areas of the issue that include: law and the engagement of international organizations; the comprehensive understanding of overall Thai-Cambodian relations; and many on the roots of conflicts between the two nations such as the nationalist discourses, national perceptions, and domestic politics.

In relations to the angle of law and the engagements of international organizations, Sinsupharoek provides a comprehensive overall legal explanation and analysis throughout the disputed case.³ As for the works of Tanaka Yoshifumi, Alexandra Traviss, Phil C.W. Chan, Kattan Victor, Andreas Buss, Monthicha Pakdeekong, and Bora Touch, they largely concentrate on the legal aspects of the old and new ICJ's judgments upon the disputed temple area. Chan Yoshifumi and Trevis analyze the ICJ's use of provisional measures during the armed conflict in July 2011 and see that, albeit being highly contested in terms of the scope of the court's authority, the measures prevented the escalation of armed conflict and potentially contribute to peaceful settlement of the dispute in the future.⁴ Chan, on the other hand, discusses the failure of the ICJ's application of the principles of

³ Chantri Sinsupharoek, *Korani Phiphat Prasat Phrawiharn: Boribot Thang Kotmai lae Kanmueang* [The Preah Vihear Dispute: The Context of Law and Politics] (Bangkok: Nititham, 2014).

⁴ Alexandra Traviss, "Temple of Preah Vihear: Lessons on Provisional Measures", *Chicago Journal of Internal Law* 13, no. 1 (2012); Yoshifumi Tanaka, "A New Phase of the Temple of Preah Vihear Dispute before the International Court of Justice: Reflections on the Indication of Provisional Measures of 18 July 2011", *Chinese Journal of International Law* 11, no. 1 (2012).

acquiescence and estoppel in its decision in 1962.⁵ In similar note, in Kattan's "The Ghosts of The Temple of Preah Vihear/Phra Viharn in the judgment of 2013 Judgment", the scholar explores the notion indicating that the Court's decision in 2013 only reinforces the weak basis of the 1962 adjudication.⁶ As for Buss, he examines the contradiction between the Court's international law and the presence of the regional legal customary principles that exist in Southeast Asia.⁷ Also, Pakdeekong and Touch present the Thai and Cambodian contending legalistic stands upon the ownership of Preah Vihear based on the ICJ judgment and World Heritage Committee, under the article names of "Who Owns the Preah Vihear Temple? A Thai Position" and "Who Owns the Preah Vihear Temple? A Cambodian Position", respectively.⁸

The studies related to the engagements of the international organizations also include ones that explore the role of UNESCO. In his thesis, Paul Robinson, argues that despite representing a cosmopolitan mandate, in the case of Preah Vihear, UNESCO ignited conflict due to the lack of cosmopolitan leadership within

⁵ Phil C.W. Chan, "Acquiescence/Estoppel in International Boundaries: Temple of Preah Vihear Revisited", *Chinese Journal of International Law* 3, no. 2 (2004).

⁶ Victor Kattan, "The Ghosts of the Temple of Preah Vihear/Phra Viharn in the 2013 Judgment", *Asian Journal of International Law* 5 (2015).

⁷ Andreas Buss, "The Preah Vihear Case and Regional Customary Law", *Chinese Journal of International Law* (2010).

⁸ Monticha Pakdeekong, "Who Owns Preah Vihear Temple? A Thai Position", *Journal of East Asia & International Law* 2, no. 1 (2009); Bora Touch, "Who Owns the Preah Vihear Temple? A Cambodian Position", *Journal of East Asia and International Law* 2, no. 1 (2009).

the organization and the representatives were selectively constrained by their own nations to get involved in the issue.⁹ In relations, Lynn Meskell, through the evidence from US diplomatic cables released by Wikileaks, she observes the connectivity between the involvements of other nations that concern factors such as commercial contracts and regional defense that came into play in the engagements of UNESCO and the ICJ.¹⁰ And in Helaine Silverman's "Border wars: the ongoing temple dispute between Thailand and Cambodia and UNESCO's World Heritage List", being on the Heritage list connotes the link to tourism and economic development. Hence, they merit an account into the understanding of the conflict apart from the factor of nationalism. As for the engagements of other international organizations, a number of scholars focus on the part of ASEAN in the dispute.¹¹ Works by the International Crisis Group Asia, Kyaw Moe Tun, Nichan Singhaputargun, and Sompoj Wangkaew examine the extent of failure and effectiveness of ASEAN mechanisms in dealing with interstate dispute in the region.¹² Moreover, Morakot Meyer draws historical cases

⁹ Paul Grams Robison, "UNESCO and the Preah Vihear Dispute: Challenges Facing Cosmopolitan Minded International Institutions in Dispute Resolution" (Master's Degree Thesis The American University of Paris, 2013).

¹⁰ Lynn Meskell, "World Heritage and WikiLeaks: Territory, Trade, and Temples on the Thai-Cambodian Border", *Current Anthropology* 57, no. 1 (2016).

¹¹ Helaine Silverman, "Border wars: the ongoing temple dispute between Thailand and Cambodia and UNESCO's World Heritage List", *International Journal of Heritage Studies* 17, no. 1 (2011).

¹² ICG, *Waging Peace: ASEAN and The Thai-Cambodian Border Conflict*, International Crisis Group (Bangkok: International Crisis Group, 6 December 2011), <https://www.crisisgroup.org/asia/south-east-asia/thailand/waging-peace-asean-and-thai-cambodian-border-conflict>; Kyaw Moe Tun,

from the European Union and the use of ‘transboundary heritage’ in the region to compare and offer solutions to ASEAN’s management of the problems that incurred between Thailand and Cambodia.¹³ On the other hand, apart from the engagement of international organizations, work of Pornsiripongse, “People-to-People diplomacy: Shifting from National to Cultural Borders”, surveys the solution to the dispute at a local level by using people-to-people diplomacy as a tool to encourage positive ties among Thai-Khmer communities and discuss methods of which the locals can be empowered to influence the state-level decisions.¹⁴

In addition, there are studies that explicate the comprehensive accounts of overall Thai-Cambodian relations such as those of Theeravit, Chachavalpongpun, Deth, Paribatra, and Pawakapan. Referenced in most works related to Thai-Cambodia

Towards a Peaceful Settlement of the Preah Vihear Temple Dispute, Institute for Security and Development Policy (Stockholm-Nacka, 2011); Nichan Singhaputargun, "The Thailand-Cambodia Preah Vihear Temple Dispute: Its Past, Present and Future," in *Contemporary Conflicts in Southeast Asia: Towards a New ASEAN Way of Conflict Management*, ed. Mikio Oishi (Singapore: Springer, 2015); Sompoj Wangkaew, *Khvamkhatyaeng Thai-Kamphucha: ASEAN Kap Krabuankan Nai Kan Kae Panha Prasat Phrawihan 2551-2554* [The Thai-Cambodian Conflict: ASEAN and Prasat Khao Phra Wihan Problem Solving Process 2008-2011] (Bangkok: Thailand National Defence College, 2011).

¹³ Morakot Meyer, "Khetdaen Phromdaen Lae Moradok Watthanatham Kham Phromdaen Chak EU Theung Prasat Phra Viharn Lae ASEAN " [Border, Frontier and Trans-Boundary Heritage: Lessons for the EU for the Case of Preah Vihear and ASEAN.], *Mekong-Salween Civilization Studies Journal* 4, no. 2 (2013).

¹⁴ Saowapa Pornsiripongse, "Kan Thut Prachachon Chak Phromdaen Rat Chat Su Phromdaen Watthanatham " [People-to-People Diplomacy: Shifting from National to Cultural Borders.], *Journal of Mekong Societies* 9, no. 3 (101-122 2013).

relations is “Thai-Kampuchean Relations: Problems and Prospects”, which discusses the interconnectedness of actions between the two nations.¹⁵ Chachavalpongpun elaborates the concept of linkage politics of which the domestic political turmoil within both countries such as the competition between the new and old elites as well as state and non-state actors to legitimize their stance were able to hold foreign policy captive.¹⁶ Similar analysis resonates in the Ph.D. dissertation of Sok Udom Deth as he provides a comprehensive empirical account of the relations between the two countries since the 1950s to the present. He presents a conflict analysis by identifying that relations are often strained when there is a contradiction between the domestic regime type, ideology, and strategic interests between the two countries.¹⁷ As for Paribatra, his work incorporates the relations of Thailand with the neighboring countries (not just Cambodia) through the understanding of threat perceptions or from antagonistic signals and actions of each country in terms of foreign or domestic policies. That is, developing countries such as Thailand and its neighbors hold strong threat justification upon the principles of sovereignty and non-intervention, which when perceived to be violated, cause various levels of conflicts

¹⁵ Khien Theeravit, "Thai-Kampuchean Relations: Problems and Prospects", *Asian Survey* 22, no. 6 (1983).

¹⁶ Pavin Chachavalpongpun, "Diplomacy under Siege: Thailand's Political Crisis and the Impact on Foreign Policy", *Contemporary Southeast Asia: A Journal of international and Strategic Affairs* 31, no. 2 (2009).

¹⁷ Sok Udom Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations" (Ph.D. The Humboldt University of Berlin, 2014).

in relations.¹⁸ Also, Pawakapan examines Thailand's past actions that shaped the neighbors' perceptions, which impacted their relations.¹⁹

And lastly, numerous scholarly works have been done to emphasize on the investigation of the roots of Preah Vihear Temple dispute between the two nations. The book edited by Surachart Bamrungsuk titled, *Geopolitics of Conflict: Theory and the Thai-Cambodian Case* [Phumsat Haeng Khwamkhatyaeng: Thruesadi Lae Korani Thai-Kamphucha], views the subject through the focus of geopolitics and resheds light on the concept of border and territory in the conduct of modern day international relations.²⁰ Many academics identify the cause to be rooted in the nations' perceptions, nationalist discourse and domestic politics. A handful of scholars focus on the factors of national identity construction related to the temple that fuel the strain between the two countries such as how both try to incorporate their own versions of Angorian civilization into self-identities;²¹ their own identity



¹⁸ Pinitbhand Paribatra, "Thailand's Relationship with its Neighbors: A Study of Border Conflict from 1973 to 2011" (Ph.D. University of Illinois, 2013).

¹⁹ Puangthong Pawakapan, *Songkhrum Kan Kha Lae Chatniyom Nai Khwam Samphan Thai-Kampucha* [Wars, trade and nationalism in Thai-Cambodian relations] (Bangkok: Toyota Thailand Foundation, 2009).

²⁰ Surachart Bamrungsuk, ed., *Phumsat Haeng Khamkhatyaeng: Thruesadi Lae Korani Thai-Kampucha* [Geopolitics of Conflict: Theory and the Thai-Cambodian Case] (Bangkok: Security Studies Project, 2014).

²¹ Serhat Unaldi, *Reconstructing Angkor: Images of the past and their impact on the Thai-Cambodian relations*, 2008, 33, Working Paper, Sudostasian, Berlin; Udom Choeikeewong, *Watthanatham Khom Kap Khwamsamphan Thai-Kampucha* [The Khmer Culture and the Thai-Cambodian Relations] (Bangkok: Phumpanya Publisher, 2009).

anxiety fueled by the historical experience of European imperialism in the region;²² the Preah Vihear's centrality in the national humiliation discourse and notion of lost territories into irredentist narratives;²³ or the usage of framing through lens of prospect theory (under social psychology) to understand the build-up of perception towards Preah Vihear against the notion of lost status quo.²⁴

Some scholars exclusively focus on one of the countries under the same light such as, in the study of Thailand, Lee's "Siam mismapped: Revisiting the territorial dispute over the Preah Vihear temple" employs Jean Baudrillard's concept of 'simulacra', to recreate the Annex I Map through a historical process into a living thing and thus a 'hyperreality', which results in Thailand's high collective emotional attachment to the lines drawn.²⁵ Limsaihua provides a comparative analysis between nationalist rhetoric of the two periods of the eruption of the Preah Vihear dispute by which the differences in external and internal conditions in the periods lead to the

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²² Leang Sim Onn, "A Comparative Study of Khmer-Thai Perceptions through Historical Writings: Ideologies and Discourse" (Ph.D. Waseda University, 2014).

²³ Shane Strate, "The Lost Territories: The Role of Trauma and Humiliation in the Formation of National Consciousness in Thailand" (Ph.D. University of Wisconsin-Madison, 2009); Shane Strate, "A Pile of Stones? Preah Vihear as a Thai Symbol of National Humiliation", *South East Asia Research* 21, no. 1 (2013).

²⁴ Otto F. von Feigenblatt, "Exploring the Relationship Between Prospect Theory and International Conflict: The Thai-Cambodian Border Dispute as a Case Study", *Revista de Comunicacion Vivat Academia* 19 (2012).

²⁵ Sang Kook Lee, "Siam Mismapped: Revisiting the Territorial Dispute over the Preah Vihear Temple", *South East Asia Research* 22, no. 2014 (2014).

different manifestations of the conflict.²⁶ Also, through observations of the Thai daily newspapers, Rukrueang identifies the positive and negative rhetoric portrayed to the public upon the issue of Preah Vihear that depend on the political side the newspapers take.²⁷ And Pichetpun studies the lexical devices in the Thai newspaper, which through interpretation, resonates the value that Thais are morally superior to the Khmers.²⁸

As for the studies on Cambodia and the creation of perceptions, Songsukrujiroad, Chaiyasuk and Prapan use discourse analysis to examine the view of Thailand presented in the Phnom Penh Post and observe that, through the examination of discourse patterns, Thailand is evaluated negatively while Cambodia



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²⁶ Daorai Limsaihua, "Chatniyom Kap Khophiphat Rueang Dindaen Sueksa Priapthiap Ratthaban Chomphon Plaek Phibun Songkhram Lae Ratthaba Abhisit Vejjajiva

" [Thai Nationalism and Territorial Dispute: A Comparative Study of the Field Marshal Plaek Phibulsongkram and the Abhisit Vejjajiva Governments] (Ph.D. Chulalongkorn University, 2017).

²⁷ Tunla Rukrueang, "Thitthang Khwammai Khong Wa Thai Thi Pra Kot Nai Korani Phiphat Prasat Phrawihan Thi Nam Sanoe Nai Nangsuephim thai Nai Chuang Ratthaban Nayok Ratthamontri Samak Sundravej " [Direction of meaning and rhetoric as appeared in The Temple of Preah Vihear dispute presented in the Thai newspapers during the Samak Sundravej administration] (Master's Degree Chulalongkorn University, 2009).

²⁸ Nitipongse Pichetpun, "Wathakam Het Kan Phipahat Khao Phrawihan Chak Nangsuephim Raiwan Phasa Thai: Kansueksa Khwam Samphan Rawang Phasa Lae Udomkan " [The discourse of the 2008 Preah Vihear dispute from Thai daily newspapers: a study of the relationship between language and ideology] (Master's Degree Chulalongkorn University, 2010).

is evaluated positively.²⁹ Moreover, in Pongpun Puington's "Another Side of Preah Vihear: Dimension of Relation", the Preah Vihear is seen to resemble the Cambodian national pride in the national narrative that was a result of French colonialism and further reinforced after the ICJ judgment.³⁰ However, Kimly Nguon offers an alternative scholarship by using both top-down and bottom-up approach to survey the rhetoric related to the Preah Vihear of which, the locals see the temple in view of economic development and the enhancement of local potential as opposed to the elites that see it as grand symbol of national defense and pride.³¹

While the nationalist rhetoric and perceptions of the two countries are predominant in most of the researches pertained to the Preah Vihear dispute, the works that highlight the factor of domestic politics include the studies by Kasetsiri, Sothirak and Chachavalpongpun, Chachavalpongpun, Wagener, Jenne, Feigenblatt, Pawakapan, and Chambers and Wolf. The first two works discusses how territorial nationalism is used as a tool to manipulate public opinion by the elites through the

²⁹ Sappasisri Songsukrujiroad, Thanawit Chaiyasuk, and Pimyupa Praphan, "Appraisal Analysis: Thailand in the View of Phnom Penh Post on the Preah Vihear Issue", *Thammasat Review* 18, no. 2 (2015).

³⁰ Pongpun Puington, "Ik Dan Khon Prasat Phrawiharn Nai Mi Ti Khwam Samphan Rawang Kamphucha Lae Thai" [Another Side of Preah Vihear: Dimension of Relation.], *Journal of Mekong Society* 6, no. 1 (2010).

³¹ Kimly Ngoun, "Narrating the national border: Cambodian state rhetoric vs. popular discourse on the Preah Vihear Conflict", *Journal of Southeast Asian Studies* 47, no. 2 (2016).

lens of domestic power struggles in both Bangkok and Phnom Penh.³² In Wagener and Jenne's works, individual actors' roles that minimize the conflict are emphasized. In Wagener's "Lessons from Preah Vihear: Thailand, Cambodia, and the Nature of Low-Intensity Border Conflicts" the academic employs a 'first-image' viewpoint to look at the motivation of leaders and statesmen by which he identifies that in cases of low intensity border conflicts, the leaders are able to press forward more personal motives in actions.³³ In Nicole Jenne's work, actions of dovish critical actors in the two countries' politics are instead explored.³⁴ On the other hand, Pawakapan focuses on the role of Thailand's People's Alliance for Democracy (PAD) to exploit the border conflict for its own anti-Thaksin agenda.³⁵ As for Feigenblatt, divergent viewpoints of three political communities (military, metropolitan political elites and activists, and villagers) with different access to the media and official



³² Charnvit Kasetsiri, Pou Sothirak, and Pavin Chachavalpongpun, *Preah Vihear: A Guide to the Thai-Cambodian Conflict and Its Solutions* (Bangkok: White Lotus Press, 2013); Pavin Chachavalpongpun, "Glorifying the Inglorious Past: Historical Overhangs or Legacies in Thai-Cambodian Relations," in *Bilateral Legacies in East and Southeast Asia*, ed. N. Ganesan (Singapore: Institute of Southeast Asian Studies, 2015).

³³ Martin Wagener, "Lessons from Preah Vihear: Thailand, Cambodia, and the Nature of Low-intensity of Border Conflicts", *Journal of Current Southeast Asian Affairs* 30, no. 3 (2011).

³⁴ Nicole Jenne, "The Thai-Cambodian Border Dispute: An Agency-centred Perspective on the Management of Interstate Conflict", *Contemporary Southeast Asia* 39, no. 2 (2017).

³⁵ Puangthong Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear* (Singapore: Institute of Southeast Asian Studies, 2013).

representation are examined.³⁶ And similarly, Chambers and Wolf investigate the image formation of Thai major groups that include the privy council/military, Pro-Thaksin and Anti-Thaksin figures, and extra-parliamentary sources that concern various issues in the Thai-Cambodian relations (including the Preah Vihear Temple dispute). Moreover, the authors argue that the solution to peaceful relations lays in the achievement of elite consensus rather than modes of nationalism.³⁷ Although a number of scholars touched upon the study of groups' perceptions, none have focused on the Ministry of Foreign Affairs and comprehensively study the dynamic of perceptions in relation to the changes in action channels in Thai domestic politics.³⁸ Hence, this will be the task of this dissertation.

1.3 Research Question

How did the role conceptions of the Thai Ministry of Foreign Affairs, a major actor in foreign policymaking, translate into actions in the Thai-Cambodian Preah Vihear Temple dispute through the country's governmental politics?

³⁶ Otto F. von Feigenblatt, "Coping with Violence in the Thai-Cambodian Border: The Silence of the Border", *Economia Autonoma* 4, no. 7 (2011).

³⁷ Paul W. Chambers and Sigfried O. Wolf, *Image-Formation at a Nation's Edge: Thai Perceptions of its Border Dispute with Cambodia –Implications for South Asia*, 2010, 52, Working Paper, South Asia Institute, Heidelberg.

³⁸ Other works related to the study of the Thai Ministry of Foreign Affairs are detailed in the next chapter.

1.4 Hypothesis

While the policymakers' role conceptions are translated into the state's actions, the role conceptions are not monolithic. Therefore, Thailand's foreign policies do not represent the national role conceptions held by MFA when governmental politics is high in confrontation and the MFA possesses low influence in the action channel.

1.5 Research Objectives

To examine Thailand's actions in the Preah Vihear dispute, firstly, the MFA will be studied to understand its perception of the roles the country should take. Secondly, the sources of those conceptions will be identified. Thirdly, the policy options the MFA perceived as viable to the situations translated from its role and national role conceptions will be explicated. Fourthly, while the preceding periods pertained to the Preah Vihear dispute will be explored, the various phases of governmental politics in Thailand between the years 2008 and 2013 are focused. The phases will be unraveled to see the different forms of 'action channels' that lean towards either confrontation or consensus among the actors. Lastly, the policy outcomes in each phases of the dispute will be scrutinized to grasp the influence of the MFA.

1.6 Research Methods

The research will rely on primary sources of information such as official documents of the Thai government and international organizations associated to the issue. Nationally, these will include accessible official documents of the Ministry of Foreign Affairs and related Thai agencies inclined to take some roles in the country's foreign policymaking. Internationally, the official documents of the United Nations, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Security Council (UNSC), the International Court of Justice (ICJ), and the Association of Southeast Asian Nations (ASEAN) related to the Thai-Cambodian relations will be compiled. Also, interviews with key informants associated to the issue, especially senior MFA officials, will be conducted. The interviews will be in the form of structured and unstructured interviews to maintain focus on identifying the conceptions related to the issue yet will permit the researcher to elucidate doubtful points and probe generally. In addition, secondary sources in the form of academic studies, reports by analysts and commentators, and newspaper articles in Thai and English will be examined and acknowledged.

The dissertation will employ a structured comparative case study methodology to investigate the national role conceptions and influence of the Thai Ministry of Foreign Affairs in the Preah Vihear dispute with a focus on the years between 2008 and 2013. Albeit its limitation in providing generalization, small sample

case studies can allow for intensive examination and contextual analysis of the characteristics of the events that occurred during a particular time. While the research focuses on the single case of the temple dispute, the case can be separated into different phases and compared in light of different regimes. The term structured refers to a method that is executed by investigating the same general inquiries to guide data collection. This allows for a systematic comparison and accumulation of the findings in relations to the theory-guided specific aspects of the cases.

Moreover, the information will be organized in a chronological ordering. Along with the use of content analysis, they will enable a coherent and systematic examination of the MFA's role conceptions and policy initiatives that occurred during the different periods in relations to the conditions of flux in governmental politics. Content analysis will permit a detailed analysis of the point of view of the policymakers. While the content analysis of official statements may entail uncertainty in identifying the expression of the actors' real views or the separation of the MFA's perceptions from other agencies, the use of variety of sources can mitigate the difficulty and provide validity from triangulation.

1.7 Chapter Overviews

Chapter 1: Introduction

Statement of the problem and significance, literature review of the Preah Vihear dispute, research question, hypothesis, research objectives, and research methods.

Chapter 2: Theoretical Framework and Research Model

The theoretical framework of governmental politics model and role theory is explicated. The overview of foreign ministries and the Thai Ministry of Foreign Affairs is presented. Then, the research model employed in the dissertation is set forth.

Chapter 3: Historical Background of the Temple Dispute

The chapter provides a background to the Preah Vihear dispute that explains the roots of overlapping claims between the two countries and the engagements in the case of the Preah Vihear Temple at the International Court of Justice (1959-1962).

Chapter 4: The Changing Period of Proactive Cooperation

The MFA's role conceptions, the governmental politics and the action outcomes are investigated in light of Thailand's ardent steps of cooperation with Cambodia in the 1990s and the early 2000s.

Chapter 5: The Road to the Second Conflict

The MFA's role conceptions, the governmental politics and the action outcomes are explored in the midst of the resumption of conflict between the two countries after Cambodia unilaterally nominated the Preah Vihear Temple as one of UNESCO's World Heritage sites in the year 2008.

Chapter 6: The Height of the Conflict

The MFA's role conceptions, the governmental politics and the action outcomes are examined as tensions heightened and deadly clashes eventuated in the years 2008 and 2011.

Chapter 7: The Decline of Tensions

The MFA's role conceptions, the governmental politics and the action outcomes are scrutinized as the question of compliance to the ICJ's provisional measures and the battle at the ICJ (2011-2013) linger in the atmosphere of lessened tensions between the two countries.

Chapter 8: Conclusion

The overall picture of Thailand's foreign policy pertained to the Preah Vihear Temple dispute under the consideration of the MFA's roles and perceptions through governmental politics is presented.

Chapter 2

Theoretical Framework and Research Model

In the literature review, it reveals that there is a gap in the literature by which this dissertation, with a focus on the role conceptions of the Thai Ministry of Foreign Affairs and its interplay in the Thai domestic politics, can fill. Therefore, before arriving at the research model employed by this dissertation, the theoretical framework that comprehensively explicates the governmental politics model and role theory is provided. Also, the governmental politics model elaborates the importance of the organizational personality on the actors' standpoints or the formulations of the national role conceptions. Therefore, as the focal point of this research, the overview of the characteristics of foreign ministries and especially of Thailand's Ministry of Foreign Affairs is presented.



2.1 Theoretical Framework: Governmental Politics Model and Role Theory

2.1.1 Existing Debates in the Field of International Relations

There are many schools of thought in the study of international relations that differently discern the action of nations in the international arena. This section will explore the competing mainstream IR theories that provide the broader setting for

Foreign Policy Analysis (FPA) in which the governmental politics model and role theory are located.

The first coherent approach in the emerging academic field of international relations during the interwar period was Liberal Internationalism. The approach has historical roots especially in the philosophies of the 18th century that claim that mutual interests of states can be achieved and free trade should be advocated to counter the ills of mercantilism. Yet, it was President Woodrow Wilson's promotion of the idea through his Fourteen Points speech that liberal internationalism became an established canon. Liberal internationalism at the time signifies the attempt to prevent future conflicts after the haunting experience of the war by identifying the causes as well as future prescriptions. Secondly, the idea conceives that in the pre-1914 period, there was no international mechanism to mediate the self-help condition of the international system, hence international institutional structures (then, the League of Nations) is needed to maintain peace.¹ The overall concept of liberal internationalism can be further explicated in light of Immanuel Kant's definitive articles. For perpetual peace, nations have to adopt three definitive articles. In the first definitive article, the constitution of the state should comprise of a representative government by which, to avoid tyranny and ensure the legal

¹ Chris Brown and Kirsten Ainley, *Understanding International Relations* (Basingstoke: Palgrave Macmillan, 2005), 24; David A. Baldwin, "Neoliberalism, Neorealism, and World Politics," in *Neorealism and Neoliberalism: The Contemporary Debate*, ed. David A. Baldwin (New York: Columbia University Press, 1993), 3-15.

equality of citizens, the system of separation of powers must be instituted. With the second definitive article, a peaceful union between the liberal republics will be formed as they have similar conceptions and experience to maintain each other's rights. Then, in the third definitive article along with the pacific union, the cosmopolitan law that extends hospitality to foreign citizens is established to allow the exchange of goods and ideas.²

The rise of fascism, the proceeding aggression in various parts of the world, and the failure of the League of Nations in the 1930s that eventually led to the Second World War presented flaws of the liberalist ideas and brought prominence to modern realism. One of the major realist thinkers in the post-WWII period was Hans J. Morgenthau. Realism becomes an approach that can be traced back to the aggressive and power-seeking nature of human that are translated to the states' constant pursuit of egoist national interests.³ Accordingly, central to the realist understanding is that unitary rational states are major actors in the anarchical international environment and states are predominantly concerned with power and security.⁴

² Cited in Michael W. Doyle, "Liberalism and World Politics Revisited," in *Controversies in International Relations*, ed. Charles Kegley Jr. (New York: St. Martin's Press, 1995), 90.

³ Brown and Ainley, *Understanding International Relations*, 29.

⁴ Brian White, "Analyzing Foreign Policy: Problems and Approaches," in *Understanding Foreign Policy: the foreign policy systems approach*, ed. Michael Clarke and Brian White (Aldershot: Elgar, 1989), 10-11; Fatih Tayfur, "Main approaches to the study of foreign policy: A review", *METU Studies in Development* 21, no. 1 (1994): 119.

The aforementioned debate between the two traditional international relations approaches was then superseded by the wave of behaviouralism in the 1950s and the 1960s. As stated by Brown and Ainley, “the aim of the behaviouralists was to replace the ‘wisdom literature’ and ‘anecdotal’ use of history represented by Morgenthau and the traditional realists with rigorous, systematic, scientific concepts and reasoning.”⁵ In the 20th century the social sciences witnessed the rise of the positivist theoretical paradigm. In the period after the First World War, ‘Logical Positivism’, founded by the ‘Vienna Circle’, started to gain grounds. It became predominant in the United States by the 1940s and emphasizes on the freedom of philosophy from metaphysics, unity of sciences, empirical observations, and a sophisticate logical analysis of induction.⁶ Hence, the space for normative political theory shrank and was replaced by the social sciences’ need to study the world in a value-free and a more scientific way.

The IR liberal thought encompasses the normative political theory. The political philosophies and studies comprise of normative claims or value judgments to create formulations that can drive forward progress and improvements of society.⁷

While realism tried to mimic the positivist science that was gaining precedence in the

⁵ Brown and Ainley, *Understanding International Relations*, 32.

⁶ Patrick Baert and Fernando Dominguez Rubio, "Philosophy of Social Science," in *The New Blackwell Companion to Social Theory*, ed. Bryan S. Turner (Oxford: Blackwell-Wiley, 2009), 62.

⁷ Rainer Bauböck, "Normative political theory and empirical research," in *Approaches and Methodologies in The Social Sciences: A Pluralist Perspective*, ed. Donatella Della Porta and Michael Keating (Cambridge: Cambridge University Press, 2008), 41.

social science academic community, it was still challenged by the behaviorialists. That is, the realist perception sees the existence of objective laws based on human nature and states are rational actors in search for own interests. Since interests are objective, defined as power, by means of all securing for their survival, ethical or moral considerations are of little use in the study of international phenomena. Thus, social and political facts are to be handled without value judgment. However, human nature is considered as non-observable and states are abstractions. Moreover, the concepts of power, balance of power, and the national interest cannot be defined objectively.⁸ Therefore, the behaviouralist revolution saw the emphasis given to knowledge acquired through the collection of empirical data that can be framed into testable hypothesis.⁹ It is from this paradigm that the approach of FPA gained grounds, which will be further explicated in the following section.

After the behavioralist interlude, events in international politics gave rise to a new IR debate. The *détente* period in the early 1970s swayed the perception of the world to the side of liberalism.¹⁰ Then, Keohane and Nye describe the condition as

⁸ Martin Hollis and Steve Smith, *Explaining and Understanding International Relations* (Oxford: Clarendon Press, 1990), 29-30.

⁹ *Ibid.*, 28.

¹⁰ The period coined as the '*détente*' between the superpowers as well as in the European continent presented an easing of tension and reduction of military threats. There was massive increase in international trade and more important roles given to transnational corporations. However, by the late 1970s, the *détente* ended with the proxy conflicts that took place in the third world and the superpowers' relations again strained. But interestingly, this second shift in the later years of the decade still saw looser alliance system and the increase in global

one of 'complex interdependence'. In this condition, there are multiple channels of interactions between states that include non-state actors; multiple issues on the agenda under unspecified hierarchy; and the employment of force are in low salience. Therefore in complex interdependence, issue linkage strategies are available for actors because military issues are no longer dominant, there are different agendas that can be taken, and the transnational/transgovernmental relations and international organization play major roles in defining the multitude of goals that can be pursued.¹¹

Then, towards the end of the détente in the late 1970s, a new approach emerged. Neo-realism made its debut to try to account for the happenings in the realm of international relations. While the previous realist identification of states as the most significant actors pursuing egoist national interests within the anarchical international system is maintained; neorealism is a systemic approach that focuses on the constraining structure that underlies states' actions. The major work for this approach is Kenneth Waltz's *Theory of International Politics*.¹² In Waltz' systemic

transactions. Joseph S. Nye, "Neorealism and Neoliberalism", review of Neorealism and Its Critics., Robert O. Keohane; *The Rise of the Trading State.*, Richard Rosecrance, *World Politics* 40, no. 2 (1988): 237, <https://doi.org/10.2307/2010363>, <http://www.jstor.org/stable/2010363>.

¹¹ Joseph S. Nye, "Power and Interdependence Revisited", review of Power and Interdependence, Robert O. Keohane, Joseph S. Nye, Jr., *International Organization* 41, no. 4 (1987): 731, <http://www.jstor.org/stable/2706764>.

¹² Kenneth N. Waltz, *Theory of international politics*, Addison-Wesley series in political science., (Reading, Mass.: Addison-Wesley Pub. Co., 1979).

theory, while recognizing the importance of both structures and interacting units, he focuses on the international structure. Three determinants of a structure include: the ordering principle, the character of the units, and the distribution of capabilities. The international political structure is defined by a decentralized and anarchic ordering principle, the units or states that perform similar functions, and the unequal distribution of capabilities across the states in the system. Since the first two determinants that subject the states to the condition of security dilemma remain constant, the balance of power behaviors can vary as determined by the changes in distribution of capabilities across the international system. Here, according to Chris Brown, Waltz shows that even with changes that occurred in the international arena (emphasized by the liberalists); the underlying reality of the system can still be accounted for through the realist perspective.¹³

In relations to neo-liberalism, it emerged to provide a competing and yet in some way complementary perspective to neo-realism. Grieco states that the neoliberals came to accept that the states are major actors in world affairs and are unitary-rational agents. However, since the anarchic underlying reality of the system forces states to respond to the condition, the neoliberals (especially with the perception of the world with increase interdependence) see possibility of

¹³ Chris Brown, *Understanding International Relations* (Basingstoke: Palgrave Macmillan, 2001), 46.

cooperation through international regimes.¹⁴ In view of Nye, apart from the distribution of power at the systemic level, the states also experience non-power incentives that can alter the calculations of the national interests such as “changes in levels of world economic activity, technological innovation, shifts in patterns of transnational interactions and alternations in international norms and institutions.”¹⁵ Hence the systemic process can be complementary to the neo-realist structural understanding of international relations and without altering the distribution of capabilities. All in all, the new frameworks to the study of international relations concentrated on systems as opposed to the states in explaining foreign policy behavior.

2.1.2 Foreign Policy Analysis (FPA)

During the eclipse of behavioralism, the field of Foreign Policy Analysis (FPA) developed. The behaviouralist revolution emphasized on the mimic of science, empirical observations, and inductive reasoning therefore middle-range theories

¹⁴ Joseph M. Grieco, "Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism", *International Organization* 42, no. 3 (1988): 492, <http://www.jstor.org/stable/2706787>.

¹⁵ Nye, "Neorealism and Neoliberalism", 250.

derived from empirical investigation are advocated. At the roots of FPA, the works of Rosenau, Snyder et al. and Sprout and Sprout, are predominant.¹⁶

In “Pre-theories and Theories of Foreign Policy”, James N. Rosenau supports the efforts toward a general testable theory in the study of international affairs. However, with the realization of the complexity of reality, Rosenau proposes the production of middle-range theories derived from elaborated studies of country types at different levels of analysis.¹⁷ In the work of Snyder and his associates, *Foreign Policy Decision Making: An Approach to the Study of International Politics*, the decision-making approach is introduced as the notion of states as black boxes in international affairs is altered. Instead, the actors inside the state as well as the foreign policy decision-making process are spotlighted.¹⁸ As Tayfur summarizes,

First, it introduced the idea that states or governments are all abstractions, and are not able to behave by themselves. They can act only through concrete individuals known as decision makers. Thus the Behaviouralist School equated the state with the official decision makers whose behaviours, unlike abstractions, can easily be observed and analysed. Second, the Decision Making Approach challenged the ‘objectivist’ perspective of realism by proposing a ‘subjectivist’ outlook. According to the Decision Making Approach, the definition of the

¹⁶ Valerie M. Hudson and Christopher S. Vore, "Foreign Policy Analysis Yesterday, Today, and Tomorrow", *Mershon International Studies Review* 39, no. 2 (1995): 212, <https://doi.org/10.2307/222751>, <http://www.jstor.org/stable/222751>.

¹⁷ James N. Rosenau, "Pre-theories and Theories of Foreign Policy," in *Approaches to Comparative and International Politics*, ed. R. Barry Farrell (Evanston: Northwestern University Press, 1966), 5.

¹⁸ H. W. Bruck, Burton Sapin, and Richard Carlton Snyder, *Foreign policy decision-making : an approach to the study of international politics* (New York (N.Y.) : Free press of Glencoe, 1962). <http://lib.ugent.be/catalog/rug01:000932440>.

situation by decision makers is the key to the explanation of the behavior of states. What counts is not the objective realities of international environment, but the subjective perception of that environment by decision maker(s). Thirdly, the introduction of the impact of the internal setting and societal factors on decision maker(s) and decision making process showed the significance of domestic sources of foreign policy as opposed to realists who focused almost totally on the external sources of foreign policy.¹⁹

As for Harold and Margaret Sprout's *Man-Milieu Relationship Hypotheses in the Context of International Politics* that was expanded in *The Ecological Perspective on Human Affairs with Special Reference to International Politics*, the works suggest that the study into the psycho-milieu or the perceptions of decision-makers in the foreign policymaking process is crucial to the understanding of the field.²⁰ That is, the possibility of incongruities between the subjective perception of policymakers and the objective international environment should be accounted. Moreover, the actual sources of their perceptions and their responses to those perceptions must be scrutinized.²¹ From the seminal works, many branches of FPA were jettisoned. This included the approaches of governmental/bureaucratic politics and role theory employed in this research that will be further elaborated in the following sections.

¹⁹ Tayfur, "Main approaches to the study of foreign policy: A review", 120.

²⁰ Harold Sprout and Margaret Sprout, *Man-Milieu Relationship Hypotheses in the Context of International Politics* (Princeton: Princeton University Press, 1956); Harold Sprout and Margaret Sprout, *The Ecological Perspective on Human Affairs with Special Reference to International Relations* (Princeton: Princeton University Press, 1965).

²¹ Sprout and Sprout, *The Ecological Perspective on Human Affairs with Special Reference to International Relations*, 118.

2.1.3 Governmental/Bureaucratic Politics Model

The bureaucratic politics is labeled and the FPA academic interest upon it flourished by the archetypal work of Graham Allison. In his work on the 1962 Cuban Missile Crisis, Allison seeks to explain the decisions of the United States and Soviet Union through the employment of three different models that include the rational actor model, the organizational process model, and the bureaucratic politics model. On one hand, the rational actor model is presented to be the least adequate to account for the realities of the events. On the other hand, the latter two models give importance to individuals and organizations in foreign policy outputs.²² And of the three models, the bureaucratic politics model generated wide attention in the field of foreign policy analysis.²³ In the second edition of *The Essence of Decision: Explaining the Cuban Missile Crisis* by Allison and Zelikow, they reformulated the

²² Graham T. Allison, "Conceptual Models and the Cuban Missile Crisis", *The American Political Science Review* 63, no. 3 (1969), <https://doi.org/10.2307/1954423>, <http://www.jstor.org/stable/1954423>; Graham Allison, *Essence of Decision: Explaining the Cuban Missile Crisis* (Boston: Little, Brown and Company, 1971).

²³ "Graham Allison's *Essence of Decision*... has been cited in over 1,100 articles in journals listed in the *Social Science Citation Index*, ... continues to sell thousands of copies each year, reflecting its widespread use in university curricula.", cited in A. Welch David, "The Organizational Process and Bureaucratic Politics Paradigms: Retrospect and Prospect", *International Security* 17, no. 2 (1992): 112, <http://0-www.jstor.org.wam.city.ac.uk/stable/2539170>.

model and renamed the original model “governmental politics”.²⁴ The main distinction between the (new) bureaucratic politics and the governmental politics model constitutes the difference in the focus of the actors under investigation. The governmental politics (original bureaucratic politics), investigates the minister-level or senior actors whereas bureaucratic politics gives importance to the bureaucrats in the intra-ministerial level.²⁵

As extracted by Jerel A. Rosati, the bureaucratic politics model or governmental politics model constitutes assumptions that analyze the structure of the decision-making model to comprise of numerous individuals and organizations. The individuals and organizations have varying interests and are involved in any issue. Then, the analysis looks at the process of decision-making, which includes decisions being formulated through bargaining and compromise with considerable slippage occurring during implementation. Through the employment this analysis, it offers a conceptual model for explaining the impact of policymaking process on the

²⁴ Graham T. Allison and Philip Zelikow, *Essence of Decision : Explaining the Cuban Missile Crisis*, Second edition. ed. (New York: Longman, 1999). <http://swbplus.bsz-bw.de/bsz083131086inh.htm>.

²⁵ For the purpose of this thesis that deals with issue of high salience, the original bureaucratic politics model or the governmental politics model will be focused. As stated in Derek Beach, *Analyzing Foreign Policy* (New York: Palgrave Macmillan, 2012), 136., “governmental politics models are applicable when major issues are being discussed at the highest level, especially during crisis situations, whereas bureaucratic politics models analyze issue of lower salience and which concern more routine decision-making.” Moreover, methodological challenges involved in the study of bureaucratic politics would jeopardize the explanatory ability of the research.

outcomes; in other words, the model serves as guide maps, although not predictive, with explanatory power.²⁶

According to Allison and Halperin, three central questions for researchers to answer are: “Who plays? What determines each player’s stand? How are players’ stands aggregated to yield government decisions and actions?” For the first question, in accordance to the focus on the decision-making process, the approach of states as unitary actors in international affairs is dismissed. Instead, varied actors that include governmental actors and high-level bureaucrats inside the state are examined in part of their participation in the output of foreign policy.²⁷ In relations to governmental politics, the policy game can be divided into senior players who operate within the central circle and are surrounded by wider circles of junior players.²⁸ The classification of senior and junior players was later detailed into Chiefs, Staffers, Indians, and Ad Hoc players. With the highlight on national security issues and with reference to the case of the United States, Allison and Halperin explicates the categories as the following:

Chiefs: the president, the secretaries of State, Defense and Treasury, the director of the CIA, the chairman of the Joint Chiefs of Staff, the president’s National

²⁶ Jerel A. Rosati, "Developing a Systematic Decision-Making Framework: Bureaucratic Politics in Perspective", *World Politics* 33, no. 2 (1981): 236-38, <https://doi.org/10.2307/2010371>, <http://www.jstor.org/stable/2010371>.

²⁷ Allison and Zelikow, *Essence of Decision : Explaining the Cuban Missile Crisis*, 255.

²⁸ Graham T. Allison and Morton H. Halperin, "Bureaucratic Politics: A Paradigm and Some Policy Implications", *World Politics* 24 (1972): 47, <https://doi.org/10.2307/2010559>, <http://www.jstor.org/stable/2010559>.

Security adviser (formal title: Assistant to the President for National Security Affairs), and, in some administrations, the ambassador to the United Nations; *Staffers*: the immediate staff of each chief; *Indians*: the political appointees and permanent government officials within each of the departments and agencies; and *Ad Hoc Players*: actors in the wider government game (especially “Congressional Influentials”), certain foreign diplomats or officials, members of the press, spokes persons for important interests groups, and surrogates for each of the groups. Other members of the Congress, press, interest groups, and public form concentric circles around the central arena – circles that demarcate limits within which the game is played.²⁹

Secondly, in relations to the actor’s stand, it is based on the actors’ position.³⁰ The famous aphorism used by Allison and Zelikow is “where you stand depends on where you sit” or more accurately, “where one stands is influenced, most often influenced strongly, by where one sits.”³¹ The position the participant holds within the channel of action coats the lens upon which issues the participant would prioritize and of which way the action should be pursued. According to Herbert Simons, “through his subjection to organizationally determined goals, and through the gradual absorption of these goals into his own attitudes, the participant in organization acquires an “organization personality” rather distinct personality as an individual. The organization assigns to him a role: it specifies the particular values,

²⁹ Allison and Zelikow, *Essence of Decision : Explaining the Cuban Missile Crisis*, 296.

³⁰ Allison and Halperin, "Bureaucratic Politics: A Paradigm and Some Policy Implications", 42-53.

³¹Allison and Zelikow, *Essence of Decision : Explaining the Cuban Missile Crisis*, 307. At the same time, it is acknowledged that there can be other factors that may exert influence on the actor’s policy stance which include personal or domestic political interests. Ibid., 298.

facts, and alternatives upon which his decisions in the organizations are to be based.”³² Both the constructive and the rationalist approaches using the concept of socialization or internalization of the organizations claims to expertise, influence, and resource accumulation are employed in foreign decision-making. In these cases, even senior political actors internalize or strategically pursue the interests of the organization since they supported them against representatives from other organizations.³³

While Allison designates the organizational process model as Model II and the bureaucratic/governmental politics model as Model III, the two models are later synergized with the organizational process model being integrated as further explanatory variable of the broader bureaucratic/governmental politics paradigm. The organization process model focuses on the organizational established routines or standard operating procedures (SOPs) and distinct organizational character that shape the foreign policy output. As remarked by David Welch, the conflation was a result of misspecifications in the original organizational process model offered by Allison. That is, instead of the concentration on the routines and repertoires of the organizations,

³² Herbert Simon, *Administrative Behavior: A Study of Decision-Making Processes in Administrative Organizations* (New York: Free Press, 1997), 278.

³³ Guy Peters, *The Politics of Bureaucracy: An Introduction to Comparative Public Administration* (London: Routledge, 2010), 232; Klaus Brummer, "Government Politics in Parliamentary Systems of Government" (Annual Conference, Washington D.C., APSA, 2012); Thomas Saalfeld, "Government and Politics," in *Contemporary Europe*, ed. Richard Sakwa and Anne Stevens (Basingstoke: Palgrave Macmillan, 2006), 95-96.

Allison also delved into their self-interested goals that belong to the sphere of the governmental politics model. Hence, many aspects of the organizational process model are subsequently incorporated into the descriptions of Model III.³⁴

For instance, as can be seen in Morton H. Halperin's *Bureaucratic Politics and Foreign Policy*, the organizational interests are explicated as important determinants of the stand the participations take. The "organizational essence" constitutes the view held by those within the organizations upon the mission and capabilities of the organization, which are reflected on their perception of interests, their stand, and organizational output of foreign policy.³⁵ Halperin specifies the following manifestations of organizational essence:

- (1) An organization favors policies and strategies which its members believe will make the organization as they define it more important.
- (2) An organization struggles hardest for capabilities which it views as necessary to the essence of the organization. It seeks autonomy and funds to pursue the necessary capabilities and missions.
- (3) An organization resists efforts to take away from it those functions viewed as part of its essence.
- (4) An organization is often indifferent to functions not seen as part of its essence or necessary to protect its essence.
- (5) Sometimes an organization attempts to push a growing function out of its domain entirely. It begrudges expenditures on anything but its chosen

³⁴ David, "The Organizational Process and Bureaucratic Politics Paradigms: Retrospect and Prospect", 118; Christopher M. Jones, "Bureaucratic Politics and Organizational Process Models," in *The International Studies Encyclopedia*, ed. Robert A. Denemark (London: Blackwell, 2010), 151-68.

³⁵ Morton H. Halperin, *Bureaucratic Politics and Foreign Policy* (Washington D.C.: The Brookings Institution, 1974), 26-62.

activity. It is chary of new personnel with new skills and interests who may seek to dilute or change the organization's essence.³⁶

For the last question, the state's action channels determine the decision-making processes in which the players with different stands play in the central circle. The action channels determine which players will be part of the decision process and the bearings of the actors' advantages and disadvantages. Hence, due to the unequal influences of the actors with diverse interests, the outcomes are results of compromise, conflict, and confusion through the decision-making channels.³⁷ According to Allison and Zelikow, the rules of the game that underlie the action channels, can be both explicit and implicit. Explicit rules derive from the country's constitution, statutes, courts interpretations, executive orders, and conventions while implicit rules encompass culture that is less clear.³⁸ Concurrently, the circumstances of which the rules are at play, such as the pace and the broader political and international context, matter to the game. In addition, Allison and Halperin indicate that the organizational constraints also provide contexts for the games. They state, "A large part of the context is the existing configuration of large organizations, their

³⁶ Ibid., 39.

³⁷ Allison and Zelikow, *Essence of Decision : Explaining the Cuban Missile Crisis*, 300-04.

³⁸ Ibid., 302.

established programs and standard operating procedures for performing various functions.”³⁹

While the bureaucratic/governmental politics model became a widespread framework, it did receive many critical evaluations. One of the criticisms states that the model does not specify issue areas or foreign policy problems in order to determine where its presence is more likely.⁴⁰ And, the model is too closely tied to the American system, raising questions about the extent of its cross-national applicability.⁴¹ To clarify the abovementioned concerns, authors such as Preston and t’Hart provide two new conceptual frameworks, one that empirically evaluates the degree to which bureaucratic politics is presented in the policymaking structure and process in any given case, and the other that employs a normative assessment to the impact of bureaucratic politics on the quality of the decision-making. The first framework can usefully be incorporated into this thesis as the academics identify that the bureaucratic structure can be separated on to a spectrum with ‘bureaucratic consensus seeking’ on one pole and ‘bureaucratic confrontation’ on the other. To identify the type of bureaucratic politics from low to high intensity, indicators can be

³⁹ Allison and Halperin, "Bureaucratic Politics: A Paradigm and Some Policy Implications", 54-55.

Also, the authors make indication of their reference to the organizational process model.

⁴⁰ Jonathan Bendor and Thomas H. Hammond, "Rethinking Allison's Models", *The American Political Science Review* 86, no. 2 (1992): 317, <https://doi.org/10.2307/1964222>, <http://www.jstor.org/stable/1964222>.

⁴¹ Dan Caldwell, "Bureaucratic Foreign Policy-Making", *American Behavioral Scientist* 21, no. 1 (1977): 94.

observed that is based on: numbers of actors, positioning of interest, contingent power structure, interaction by ‘pulling and hauling’, compromise formation, and implementation slippage.⁴² That is, through changes in the Thai political dynamics, different bureaucratic/governmental politics types can be presented.⁴³

In addition to the claim that governmental/bureaucratic politics model is limited in its cross-national applicability, Allison and Halperin state that “our hope is that the framework is sufficiently general to apply to the behavior of most modern governments in industrialized nations, though it will be obvious that our primary base is the U.S. government.”⁴⁴ Notwithstanding the criticism against the model, Brummer remarks that features of the parliamentary systems that comprise of coalition governments and comparatively weaker head of government are conducive to the

⁴² Thomas Preston and Hart Paul 't, "Understanding and Evaluating Bureaucratic Politics: The Nexus between Political Leaders and Advisory Systems", *Political Psychology* 20, no. 1 (1999): 56, <http://www.jstor.org/stable/3792005>.. And to be noted is that the authors' adapted the conceptual framework from Uriel Rosenthal, Paul't Hart, and Alexander Kouzmin, "The Bureau-Politics of Crisis Management", *Public Administration* 69, no. 2 (1991), <https://doi.org/10.1111/j.1467-9299.1991.tb00791.x>, <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1467-9299.1991.tb00791.x>.

⁴³ An example of the dynamic of change within one country can be seen in Qingmin's "Bureaucratic Politics in Chinese Foreign Policy-Making", which exemplifies that with the opening up of China in 1978, the country's foreign policy-making process is altered towards the characteristics described by the bureaucratic politics model. Zhang Qingmin, "Evolving Bureaucratic Politics in Chinese Foreign Policy-Making" [Evolving Bureaucratic Politics in Chinese Foreign Policy-Making.], *The Korean Journal of Defense Analysis* 27, no. 4 (2015): 453-68, <http://www.riss.kr/link?id=A101457243>.

⁴⁴ Allison and Halperin, "Bureaucratic Politics: A Paradigm and Some Policy Implications", 43.

conditions of governmental politics.⁴⁵ Also, there is a range of research outside the United States or the presidential system that include Kim Richard Nossal's work on Canada; Marjorie Anne Ringrose on Britain; Lesley Masters on post-apartheid South Africa, and few on the PRC such as that of Qingmin.⁴⁶

Furthermore, critics such as Freedman and Caldwell analyze that the model ignores the role of other actors outside the executive branch, which play part in the foreign policy process.⁴⁷ Christopher Jones therefore tries to build on the insights of Allison's model and reemphasizes the distinction of the term 'governmental politics' from 'bureaucratic politics' to refer to the broader connotation of the process to include more actors.⁴⁸ Lesley Masters also argues that while the model tends to place non-executive actors on the outer-rings of the concentric circles of foreign

⁴⁵ Brummer, "Short Government Politics in Parliamentary Systems of Government." 5.

⁴⁶ Kim R. Nossal, "Allison through the (Ottawa) Looking Glass: Bureaucratic Politics and Foreign Policy in a Parliamentary System", *Canadian Public Administration* 22, no. 4 (1979); Marjorie Anne Ringrose, "The bureaucratic imperative: Esprit and the making of British foreign policy (1982-1992)" (Ph.D. Dissertation London School of Economics and Political Science, 1994); Lesley Masters, "A multistakeholder foreign policy: dynamics of foreign policy making in post-apartheid South Africa" (Ph.D. Dissertation University of Leicester, 2007); Qingmin, "Evolving Bureaucratic Politics in Chinese Foreign Policy-Making" [Evolving Bureaucratic Politics in Chinese Foreign Policy-Making].

⁴⁷ Lawrence Freedman, "Logic, Politics and Foreign Policy Processes: A Critique of the Bureaucratic Politics Model", *International Affairs (Royal Institute of International Affairs 1944-)* 52, no. 3 (1976): 444-46, <https://doi.org/10.2307/2616555>, <http://www.jstor.org/stable/2616555>; Caldwell, "Bureaucratic Foreign Policy-Making", 96.

⁴⁸ Christopher Jones, "Toward a Third Generational Model: Rethinking Governmental Politics and Foreign Policy Analysis", 28 February 2007, Paper presented at the annual meeting of the International Studies Association, ISA, Chicago.

policymaking, these actors can also be drawn into the foreign policy process through the virtue of their capability, resources, or knowledge.⁴⁹ In relations, Thomas Risse-Kappen demonstrates that public opinion can indirectly affect policies by influencing the coalition-building processes among the elites and can strengthen or weaken the positions of bureaucracies or single actors within the government.⁵⁰ All in all, the aforementioned elements can productively be accounted to study the role/influence of the MFA in the foreign policymaking process.

2.1.4 Role Theory

The development of role theory began in the late 1920s. The concept of role was initially borrowed from the stage and subsequently generated interests in social psychology, sociology and anthropology, which sought to link the functioning of social order with the characteristics and behavior of the individuals who make it up.⁵¹

The adaptation of role concepts to political science came later. Echoed from the

⁴⁹ Masters, "A multistakeholder foreign policy: dynamics of foreign policy making in post-apartheid South Africa," 14-15.

⁵⁰ Thomas Risse-Kappen, "Public Opinion, Domestic Structure, and Foreign Policy in Liberal Democracies", *World Politics* 43, no. 4 (1991): 479-512, <https://doi.org/10.2307/2010534>, <http://www.jstor.org/stable/2010534>.

⁵¹ Michael Grossman, "Identity, Rhetoric, and Behavior in Post-Soviet Russia and Ukraine: Testing the Applicability of Role Theory in Foreign Policy Analysis" (Ph.D. Dissertation University of South Carolina, 2003), 4-6.

exemplar works of FPA, especially with the focus on the psycho-milieu aspect proposed by Sprouts and Sprouts, the minds of the decision makers are treated as key to the examination of foreign policy. It was with Holsti's "National Role Conceptions in the Study of Foreign Policy" that role theory was introduced in foreign policy literature and a rich and expanding tradition of scholarship within the subfield emerged. Holsti attempts to cover the link between psychological and social contexts that accounts for the states' foreign policy choices.⁵² In his work, he analyzes the statements of 71 heads of state and government as well as those of foreign ministers between 1965-1967 (including Thailand) and identifies the major roles perceived of the countries expressed by their leaders to link them to the states' actions.⁵³

Role theory in the field of foreign policy analysis focuses on the examination of 'national role conceptions' (NRCs). NRCs are social constructions of "the policy-makers' own definitions of the general kinds of decisions, commitments, rules and actions suitable to their state, and of the functions, if any, their state should perform on a continuing basis in the international system or in subordinate systems."⁵⁴ To elaborate, roles are synthesized phenomena, created by the combination of actor's subjective understanding of what the behavior should be (role conceptions),

⁵² Hudson and Vore, "Foreign Policy Analysis Yesterday, Today, and Tomorrow", 219.

⁵³ K. J. Holsti, "National Role Conceptions in the Study of Foreign Policy", *International Studies Quarterly* 14, no. 3 (1970): 233-309, <https://doi.org/10.2307/3013584>.

⁵⁴ *Ibid.*, 245-246.

society's demands (role expectations), and the particular context in which the role is being acted out.⁵⁵ The perceptions, values and attitudes of the actor occupying a position formulate the NRCs and they become the crucial independent variables explaining the role performance of the national actor.

The NRCs can be seen to constitute both material and ideational elements with internal and external origins. According to Marijke Breuning, the NRC framework “seeks to understand how actors fashion their role in the international system, navigating between domestic sources of identity and/or cultural heritage, taking advantage of the material resources at their disposal, circumnavigating as best as possible the obstacles imposed by their position in the international structure.”⁵⁶ Holsti describes that the domestic needs and demands, critical events or trends in the external environment, the expectations of other governments, legal norms, and treaties shape the foreign policy orientation that create role perceptions and place the state in a position, which the government is expected to carry out certain role performances.⁵⁷ To further elaborate the influencing factors to the formation of the

⁵⁵ Glenn Chafetz, Hillel Abramson, and Suzette Grillo, "Role Theory and Foreign Policy: Belarussian and Ukrainian Compliance with the Nuclear Nonproliferation Regime", *Political Psychology* 17, no. 4 (1996): 732-33, <https://doi.org/10.2307/3792136>, <http://www.jstor.org/stable/3792136>.

⁵⁶ Marijke Breuning, "Role theory research in international relations: State of the art and blind spots," in *Role Theory in International Relations: Approaches and Analyses*, ed. Sebastian Harnisch, Cornelia Frank, and Hanns W. Maull (Oxon: Routledge, 2011), 26.

⁵⁷ Holsti, "National Role Conceptions in the Study of Foreign Policy", 243.

NRCs, on one hand, Spenh pinpoints that the material elements with internal origins are national capabilities, resources, population, location, and degree of modernization. And the ideational elements are traditional NRC, strategic culture, institutions and public opinion.⁵⁸ On the other hand, the material elements with external origin are the distribution of power and the ideational elements include norms, understandings, and alliance/treaty commitments.⁵⁹

In relations to the aforementioned governmental/bureaucratic politics model, Christopher Jones mentions that the development of the paradigm should incorporate the emphasis that positional roles have most explanatory power. He claims that in each governmental position, the actors “will perceive and interpret an international event or trend differently since their roles lead them to focus on different aspects of the same phenomenon.”⁶⁰ Hence, different governmental positions lead to different attention to the elements important to the formation of NRCs. Examples given by Jones include, “when contemplating a stand on a foreign policy issue, the president will assess public opinion, the State Department will

⁵⁸ According to Spenh, traditional NRCs are preexisting perceptions of the states’ roles and strategic culture encompasses the national strategic preferences generated by unique historical experiences. Thorsten Spenh, "Role Expectations and State Socialization: Germany’s Rediscovery of the Use of Force 1990-1995" (Ph.D. Dissertation University of Denver, 2009), 39.

⁵⁹ Ibid., 53-56.

⁶⁰ Jones, Toward a Third Generational Model: Rethinking Governmental Politics and Foreign Policy Analysis, 26.

consider the potential reactions of foreign states, and members of Congress will evaluate how their position might affect their prospects for reelection.”⁶¹

Some limitations of role theory are expressed among the academics. With concern to Holsti’s landmark study of the theory, his categorization scheme is pointed out to be insufficient, the scope only applicable to the Cold War period, and that he does not cover diverse arrays of state’s actions in international affairs.⁶² With these limitations, subsequent researches can be observed to modify the categorization relative to the case study.⁶³ Also, as seen in the Naomi B. Wish’s “Foreign Policy Makers and Their National Role Conceptions”, apart from the focus on level of international involvement or participation, the work incorporates more variables for foreign policy behaviors such as hostility, independence of action, and

⁶¹ Ibid.

⁶² Cameron G. Thies and Marijke Breuning, "Integrating Foreign Policy Analysis and International Relations through Role Theory", *Foreign Policy Analysis* 8, no. 1 (2012): 1-4, <https://doi.org/10.1111/j.1743-8594.2011.00169.x>, <https://doi.org/10.1111/j.1743-8594.2011.00169.x>; Chih-yu Shih, "National Role Conception as Foreign Policy Motivation: The Psychocultural Bases of Chinese Diplomacy", *Political Psychology* 9, no. 4 (1988): 600, <https://doi.org/10.2307/3791530>, <http://www.jstor.org/stable/3791530>. Naomi Bailin Wish, "Foreign Policy Makers and Their National Role Conceptions", *International Studies Quarterly* 24, no. 4 (1980): 534-35, <https://doi.org/10.2307/2600291>, <http://www.jstor.org/stable/2600291>.

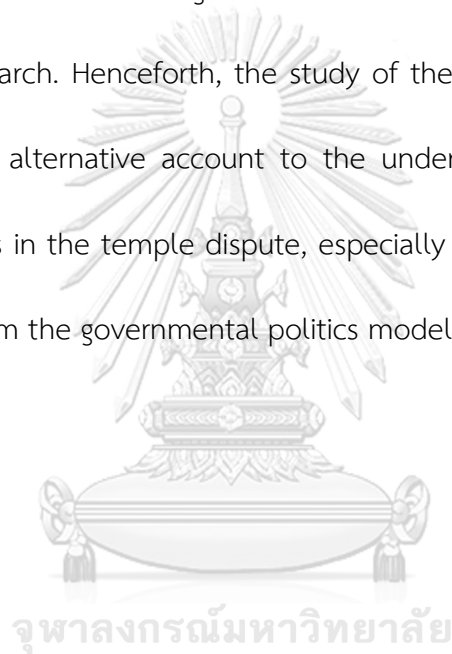
⁶³ The category modifications can be seen in the works such as of Christer Jonsson and Ulf Westerlund, "Role Theory and Foreign Policy Analysis," in *Cognitive Dynamics and International Politics*, ed. Christer Jonsson (London: Frances Pinter, 1982). or of the contributors in Philippe Le Prestre, ed., *Role Quests in the Post-Cold War Era: Foreign Policies in Transition* (Montreal: McGill-Queen’s University Press, 1997).

resource commitment.⁶⁴ In addition, applications of FPA role theory has been concentrated in explaining the foreign policy behaviors of the states of the 'global north' such as the United States, Russia/Soviet Union, United Kingdom, France, Germany, Canada, Japan, and Israel. However, apart from covering more time periods, growing number of applications of the theory expanded in other geographical areas that include Latin America, China, former republics of the Soviet Union, Africa, and South Asia.⁶⁵

⁶⁴Wish, "Foreign Policy Makers and Their National Role Conceptions", 541-43.

⁶⁵Marijke Breuning, "Words and Deeds: Foreign Assistance Rhetoric and Policy Behavior in the Netherlands, Belgium, and the United Kingdom", *International Studies Quarterly* 39, no. 2 (1995), <https://doi.org/10.2307/2600848>, <http://www.jstor.org/stable/2600848>; Michael Grossman, "Role Theory and Foreign Policy Change: The Transformation of Russian Foreign Policy in the 1990s", *International Politics* 42, no. 3 (2005), <https://doi.org/10.1057/palgrave.ip.8800115>; Cameron G. Thies, "Role Theory and Foreign Policy Analysis in Latin America", *Foreign Policy Analysis* 13, no. 3 (2016), <https://doi.org/10.1111/fpa.12072>, <https://doi.org/10.1111/fpa.12072>; Philip D. Stewart, Margaret G. Hermann, and Charles F. Hermann, "Modeling the 1973 Soviet Decision to Support Egypt", *American Political Science Review* 83, no. 1 (1989), <https://doi.org/10.2307/1956433>, <https://www.cambridge.org/core/article/modeling-the-1973-soviet-decision-to-support-egypt/A1577F4C9E8AE9AA8833EEDC147349C7>; Ole Elgstrom and Michael Smith, eds., *The European Union's Roles in International Politics: Concepts and Analysis* (London: Routledge, 2006); Sebastian Harnisch, "Change and continuity in post-unification German foreign policy", *German Politics* 10, no. 1 (2001/04/01 2001), <https://doi.org/10.1080/09644000412331307384>, <https://doi.org/10.1080/09644000412331307384>; Margaret G. Hermann, "Assessing the Foreign Policy Role Orientations of Sub-Saharan African Leaders," in *Role Theory and Foreign Analysis*, ed. S.G. Walker (Durham, NC: Duke University Press, 1987); Sofiane Sekhri, "The Role Approach as a Theoretical Framework for the Analysis of Foreign Policy in Third World Countries", *African Journal of Political Science and International Relations* 3, no. 1 (2009); Gauvav Ghose and Patrick James, "Third-Party Intervention in Ethno-Religious Conflict: Role Theory, Pakistan, and War in Kashmir, 1965", *Terrorism and Political Violence* 17, no. 3 (2005/10/01 2005),

Furthermore, Cantir and Kaarbo address the shortcoming of role theory as one that focuses on the elites in order to study national role perceptions. Notably, role theory tends to assume consensus among elites. Nevertheless, there can exist ‘vertically-contested’ roles from elite-mass disagreement or ‘horizontally-contested roles’ such as between governing elites and political opposition, between multiparty coalitions, or across bureaucratic agencies.⁶⁶ This can be related to the subject in question of the research. Henceforth, the study of the MFA’s role conceptions can provide a beneficial alternative account to the understanding of the Thai foreign policymaking process in the temple dispute, especially when complemented by the concepts derived from the governmental politics model.



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<https://doi.org/10.1080/09546550590929200>, <https://doi.org/10.1080/09546550590929200>; Chafetz, Abramson, and Grillot, "Role Theory and Foreign Policy: Belarussian and Ukrainian Compliance with the Nuclear Nonproliferation Regime"; Grossman, "Identity, Rhetoric, and Behavior in Post-Soviet Russia and Ukraine: Testing the Applicability of Role Theory in Foreign Policy Analysis."; Shih, "National Role Conception as Foreign Policy Motivation: The Psychocultural Bases of Chinese Diplomacy".

⁶⁶Cristian Cantir and Juliet Kaarbo, "Contested Roles and Domestic Politics: Reflections on Role Theory in Foreign Policy Analysis and IR Theory", *Foreign Policy Analysis* 8, no. 1 (2012), <https://doi.org/10.1111/j.1743-8594.2011.00156.x>, <https://doi.org/10.1111/j.1743-8594.2011.00156.x>; Cristian Cantir and Juliet Kaarbo, "Unpacking Ego in Role Theory: Vertical and Horizontal Role Contestation and Foreign Policy," in *Domestic Role Contestation, Foreign Policy, and International Relations*, ed. Cristian Cantir and Juliet Kaarbo (New York: Routledge, 2016).

2.2 The Thai Ministry of Foreign Affairs

Foreign ministries are generally considered as the main organization of the government that deal with the promotion and protection of the state's interests in the external environment. In order to achieve their core functions, the foreign ministries: monitor external events and trends; provide foreign policymaking and implementation advice to their government; serve as an institutional memory that keep records of the state's relations with the international community; lead or coordinate foreign policy implementation; manage the state's international legal obligation; render the state's official protocol services in the interaction at international level; operate the diplomatic missions outside of the state's borders; facilitate and communicate with locally based foreign diplomatic corps; conduct public diplomacy; and recruit and train personnel to support foreign policy implementation.⁶⁷ With these tasks, as Kishan S. Rana puts it,

The foreign ministry is at the intersection of two networks: the domestic, where the foreign ministry must relate itself to the home actors that have external agendas, work with them, and pursue the elusive goal of policy coherence. The other is where the foreign ministry positions itself as the country's authorized agent vis-à-vis all external actors, where partners abroad seek to engage the home country. In other word, it both takes the home abroad, and brings the abroad home.⁶⁸

⁶⁷ Yolanda Kemp Spies, *Global Diplomacy and International Society* (Cham, Switzerland: Palgrave Macmillan, 2019), 146-49.

⁶⁸ Kishan S. Rana, *Asian Diplomacy: The Foreign Ministries of China, India, Japan, Singapore, and Thailand* (Baltimore, MD: John Hopkins University Press, 2009), 2.

Significantly, foreign ministries serve as the principle organ of their state's diplomacy whereby, as defined by Yolanda K. Spies, constitutes "a peaceful and continuous process of communication, involves international relations among states or other collectivities on the basis of intermediation, reciprocity and formal representation."⁶⁹ Furthermore, with reference to Hedley Bull, "the diplomatic profession itself is a custodian of the idea of international society, with a stake in preserving and strengthening it."⁷⁰

Therefore, as the foreign ministries principally encompass the actions of diplomacy, there is a discernable notion of diplomatic culture or "the idea that diplomacy in practice cultivates a kind of supra-culture, socio-professional layer that transcends the individual cultures, religion, ethnicity or political persuasion of individual diplomats."⁷¹ In Rana's "Diplomatic Culture and its Domestic Context", he describes the professional culture pertained to foreign ministries, in which the diplomats similarly encounter. While the national characteristics have impacts on the institution, there are discernable common elements typical in the people and structures of foreign ministries and their diplomatic services. Included in the common elements are:

⁶⁹ Spies, *Global Diplomacy and International Society*, 248.

⁷⁰ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 2002), 176.

⁷¹ Spies, *Global Diplomacy and International Society*, 255.

1. It is a culture that flows from its function, namely, managing external relations in a foreign environment that ranges from the bilateral to regional and global. Ability to handle the cross-cultural interface is central to the professional tasks, as is language and area expertise, besides other functional skills.
2. It is a culture of outreach, advocacy, communication and negotiation. These are among the core professional skills. By its very nature, diplomacy is pragmatic, working for the possible, even while ideals and principles may provide a frame of reference. Its focus is on the possible, generally within a spirit of mutual accommodation with foreign partners. This means a focus on compromise, and on pragmatic solutions that bridge differences.
3. Our interdependent world is dominated by globalisation, subject complexity (and technicality), plus multi-level dialogue among states, with varied actors, state and private. A central task of diplomacy is to find synthesis and cross-connections between issues, to produce linkage and leverage. This changes the work description of the professional from that of the generalist of the past, to the “generalist-specialist,” or someone akin to a systems engineer, who is not the master of each element of the international dialogue, but can find the interconnections between disparate subjects, in pursuit of national interest.
4. It is a culture of gradualism, of working slowly towards objectives, mainly focused on incremental results. Each individual participant in the diplomatic process is a cog in a continuum, indebted to predecessors and aware that others will carry forward the dossiers on which he or she has worked.⁷²

While foreign ministries had predominant authority over the states’ conducts of foreign affairs, they increasingly have to reconcile with the participation from other

⁷² Kishan S. Rana, "Diplomatic Culture and Its Domestic Context," in *Intercultural Communication and Diplomacy*, ed. Hannah Slavik (Geneva: DiploFoundation, 2004), 382-83.

domestic entities. As Hocking and associates elucidate, the world of diplomacy and foreign ministries were impacted by the advent of globalization. Foreign ministries' near monopoly of the states' foreign policy was disrupted by the fact that almost all government agencies now engage in various international policies.⁷³ Additionally, Vladimir Petrovsky's accounts the phenomenon of "degovernmentalization of foreign affairs". That is, according to Petrovsky, "governments are facing stern competition from other actors. Private sector, religious groups, immigrants, media and other entities of the civil society are demanding from the government that their interests be taken into consideration and that they have a say in making and implementing foreign policy." The entities that dilute the consolidation of the MFA in foreign policy decision-making process also include local and provincial authorities as well as the government's legislative branches that are projected to engage in the diplomatic process.⁷⁴ The trends therefore, in part of the MFAs, coincided the responses to the demands for public accountability and the necessity to seriously undertake domestic public diplomacy.⁷⁵

⁷³ Brian Hocking et al., *Whiter Foreign Ministries in a Post-Western World?*, Clingendael Institute (April 2013), 2,

https://www.clingendael.org/sites/default/files/pdfs/20130425_policybrief20Whither%20Foreign%20Ministries%20in%20a%20Post-Western%20World.pdf.

⁷⁴ Vladimir Petrovsky, "Diplomacy as an instrument of good governance," in *Modern Diplomacy*, ed. Jovan Kurbalija (Malta: Mediterranean Academy of Diplomatic Studies, University of Malta, 1998), 84-85.

⁷⁵ Rana, "Diplomatic Culture and Its Domestic Context," 383; Yolanda Kemp Spies, "Whiter professional diplomacy?", *Politeia* 25, no. 3 (2006): 302-03.

With regards to the Thai Ministry of Foreign Affairs, works that concentrated on the study of the MFA are scarce. Firstly, the studies that focus on the administration of the Thai MFA and its engagement in the foreign policy process are located in the works of Sompong Chumakul, James R. Klein, John Funston, Supamit Pitipat and Sirintra Chantapan. Chumakul and Klein elaborate the developments and actions in international affairs of the MFA from the time of its founding to the early period of the Cold War.⁷⁶ For the changes during the Cold War period, the descriptions by Funston are prominent.⁷⁷ Concerning the post-Cold War period, Pitipat and Chantapan investigate the MFA's organizational changes along the

⁷⁶ Sompong Choomakul, "Krasuang Kantangprathet " [The Ministry of Foreign Affairs] (Master's thesis Chulalongkorn University, 1969); James Robert Klein, "The Thai Ministry of Foreign Affairs: An Historical Study of the Ministry's Structural and Functional Development" (Ph.D. Thesis Northern Illinois University, 1984).

⁷⁷ John Funston, "The Role of the Ministry of Foreign Affairs in Thailand: Some Preliminary Observations", *Contemporary Southeast Asia* 9, no. 3 (1987); John Funston, "Kan Kamnot Lae Kan Damnoen Nyobai Tagnprathet Khong Thai: Botbat Khong Krasuang Kantangprathet" [The Making and Implementation of Thai Foreign Policy: The Role of the Ministry of Foreign Affairs], *Journal of Asian Review* 8, no. 3 (1987). Additionally, in the book *5 Thotsawat Kanthangprathet Khong Thai: Chak Kwamkhatyaeng Su Khamruemmue* [5 Decades of Thai Foreign Affairs: From Cooperation to Conflict], the illustrations of Thai foreign policy making and process during the Cold War period in the chapters by Choomak and Theerawit also provide lengthy detail on the MFA. Sompong Choomak, "Kan Kamnot Nayobai Tang Prathet Thai " [Thai Foreign Policy Making] in *5 Thotsawat Kantangprathet Khong Thai: Chak Khwamkhatyaeng Su Khwamruammue*, ed. Chaichok Chulsiriwongse (Bangkok: Office of National Culture Commission, 1993); Khien Theerawit, "Krabuankan Kamnot Nayobai Tangprathet Khong Thai " [Thai Foreign Policy Making Process] in *5 Thotsawat Kantangprathet Khong Thai: Chak Khwamkhatyaeng Su Khwamruammue* ed. Chaichok Chulsiriwongse (Bangkok: Office of National Culture Commission, 1993).

creation of “CEO Ambassador” project.⁷⁸ Additionally, in the studies of Kishan S. Rana and Jörn Dorsch, the organization and foreign policy action of the MFA in Thailand are elaborated in comparison to other countries.⁷⁹ And, in Pavin Chachavalpongpun’s and Jutamanee Samakkeenit’s works, the recounts of the MFA in foreign policy process under the governments of Thaksin Shinawatra and Abhisit Vejjajiva are included, respectively.⁸⁰

Secondly, the researches that aim attention at notable individuals in the MFA are the studies by Chalongrat Charoensri on H.R.H. Prince Wan Waithayakon, Rapeeporn Lertwongweerachai on Thanat Khoman, and Kullanan Kunthic on Surakiart

⁷⁸ Supamit Pitipat, "Kan Praptua Khong Krasuang Kantangprathet Nai Yuk Lokaphiwat: Sueksa Korani Khrongkan Namrong Ek akkharatchathut Baep Buranakan " [Organizational Adaptation of the Ministry of Foreign Affairs : A Case Study of "CEO Ambassador" Pilot Projects] (Ph.D. thesis Chulalongkorn University, 2004); Sirintra Chantapan, "Kan Prap Botbat Pharakit Khongsang Krasuang Kantangprathet " [The Restructuring of the Ministry of Foreign Affairs’ role and mission] (Master’s thesis Thammasat University, 2001).

⁷⁹ Rana, *Asian Diplomacy: The Foreign Ministries of China, India, Japan, Singapore, and Thailand*; Jörn Dorsch, "The Impact of Democratization on the Making of Foreign Policy in Indonesia, Thailand and the Philippines", *Südostasien aktuell : journal of current Southeast Asian affairs* 25, no. 5 (2006), https://www.ssoar.info/ssoar/bitstream/handle/document/33697/ssoar-suedostaktuell-2006-5-dosch-The_Impact_of_Democratization_on.pdf?sequence=1&isAllowed=y&lnkname=ssoar-suedostaktuell-2006-5-dosch-The_Impact_of_Democratization_on.pdf.

⁸⁰ Pavin Chachavalpongpun, *Reinventing Thailand: Thaksin and His Foreign Policy* (Singapore: ISEAS Publishing, 2010); Jutamanee Samakkeenit, "Thailand’s Foreign Policy in Southeast Asia under the Abhisit Vejjajiva Government (2008-2011): Continuity or Change" (Ph.D. Thesis The University of New South Wales, 2014).

Sathirathai.⁸¹ Besides, books like *Dr. Thanat Khoman: The Wit & Wisdom of the Leading ASEAN Founder* and *Phan Ron.. Phan Nao Phon Akat Ek Siddhi Savetsila* present passages and interviews of the former foreign ministers that illuminate their careers in diplomatic service as well as their thoughts with regards to the Thai foreign affairs of the times.⁸² And thirdly, as in the aforementioned works related to the Preah Vihear Temple dispute, there are studies that touched upon some aspects of the Thai MFA pertained to particular cases or topic areas.⁸³

⁸¹ Chalongrat Charoensri, "Botbat Khong Phontri Phrachaoworawongthoe Krom Muen Narathip Phong Praphan Nai Kantangprathet Khong Thai Rawang Pi Phoso 2460-2501 " [The Role of H.R.H Prince Wan Waithayakon Krommun Naradhipbonsprabhandh in Thai Foreign Affairs Between 1917-1958] (Master's thesis Chulalongkorn University, 2003); Rapeeporn Lertwongweerachai, "Botbat Khong Thanat Khoman Kap Kantangprathet Khong Thai Rawang Pi Khoso 1958-1971 " [The Role of Thanat Khoman in Thai Foreign Affairs During 1958-1971] (Master's Degree Chulalongkorn University, 2002); Kullanan Kunthic, "Doctor Surakiat Sathianthai Kap Kan Damnoen Nayobai Tangprathet Phoso 2544-2548 " [Dr. Surakiat Sathirathai and the Implementation of Thai Foreign Policy, 2001-2005] (Ph.D. Chulalongkorn University, 2017).

⁸² Amarin Khoman, *Dr. Thanat Khoman: The Wit & Wisdom of the Leading ASEAN Founder* (Bangkok: Siam Renaissance Publishing, 2017); Wichit Yanamon, *Phan Ron.. Phan Nao Phon Akat Ek Siddhi Savetsila* [Through the Heat.. Through the Cold Air Chief Marshal Siddhi Savetsila] (Bangkok: ARIP, 2013). The words of Siddhi Savetsila are likewise compiled in MFA, *Withesobai Satai Ratthamontri Siddhi* [Foreign Policy Style Minister Siddhi] (Bangkok: Ministry of Foreign Affairs, 2016).

⁸³ The studies include: Sibordee Nopprasert, "Kan Prap Nayobai Tang Prathet Thai (Phoso 2516-2519) " [The Adjustments in Thai Foreign Policy (1973-1976).], *Journal of Social Sciences* 47, no. 2 (2017); Darnp Sukontasap, "The Third World and the United Nations Security Council: The Thai Experience, 1985-1986" (Ph.D. Thesis Tufts University, 1993); Orn-anong Noi Wong, *Kamphucha: Nayobai Thangprathet Thai Samai Phon Ek Prem Tinsulanon* [Cambodia: Thai Foreign Policy under the Prem Tinsulanond's Government], ed. Charnvit Kasetsiri and Kanchanee La-onsri, *Thailand's Neighbors in Southeast Asia*, (Bangkok: The Foundation for the Promotion of Social

To detail the Thai Ministry of Foreign Affairs, as resonated in the previously mentioned functions of foreign ministries, the ministry's inscribed vision and mission are the following:

Vision

To be a lead organization in driving Thailand's foreign policy for the advancement of national interests.

Mission

1. Represent the Royal Thai Government in international conferences and negotiations to protect, maintain, and promote Thailand's national interests in bilateral and multilateral for a, and to participate in the shaping of international principals and norms.
2. Oversee Thailand's foreign policy and provide advice and recommendations to the government and other agencies on policies and strategies related to foreign affairs and international law.

Sciences and Humanities Textbooks Project, 1998); Sunai Pasuk, *Nayobai Tang Prathet Khong Thai: Suksa Krabuankarnkamnod Nayobai Kong Rathaban Pon-ek Chatichai Choonhavan Tor Panha Kampucha, Si Singhakom 1988-23 Kumphaphan 1991* [Thai foreign policy: A study of foreign policy making process under the Chatichai Choonhavan government, 4 August 1988 - 23 February 1991] (Bangkok: Institute of Asian Studies, 1997); Leszek Buszynski, "Thailand and Myanmar: The perils of 'constructive engagement'", *The Pacific Review* 11, no. 2 (1998); Masaki Takahashi, "The diplomacy of Thailand with Burma (Myanmar) (1988-2006)", *Bulletin of Niigata University of International and Information Studies* 15 (2012); Leszek Buszynski, "New Aspirations and Old Constraints in Thailand's Foreign Policy", *Asian Survey* 29, no. 11 (1989); Leszek Buszynski, "Thailand's Foreign Policy: Management of a Regional Vision", *Asian Survey* 34, no. 8 (1994); John Funston, "Thai Foreign Policy: Seeking Influence", *Southeast Asian Affairs* (1998); Phongphisoot Busbarat, "The Struggle for Regional Leadership in Southeast Asia," in *Foreign Policy and Security in an Asian Century: Threats, Strategies and Policy Choices*, ed. Benny TC Guan (New Jersey: World Scientific, 2014).

3. Protect and promote legitimate rights and interests of Thai nationals living or traveling abroad, as well as provide consular services.
4. Promote and facilitate the transfer of knowledge, know-how, and best practices from overseas as well as international norms with a view to contributing to Thailand's economic and social development.
5. Promote international confidence in, and positive image of, Thailand.
6. Perform protocol functions in line with international practice to support duties of foreign affairs.
7. Promote and implement Thailand's development cooperation at bilateral and multilateral levels.
8. Build and disseminate knowledge on foreign affairs to promote understanding of all sectors of Thai society and the Thai public.
9. Coordinate the conduct of foreign affairs with all relevant sectors in Thailand.
10. Enhance organizational capability and effectiveness in accordance with the principle of good governance.⁸⁴



With reference to its historical background, the MFA is one of Thailand's oldest state agencies. Historically, in the Thai tradition, the country's foreign relations were handled exclusively by the absolute monarchs of the day, as seen in King Ramkhamhaeng of Sukhothai, who was adept in the art of cultivating friendly relations. Administrative reform was introduced in the early Ayutthaya period. The

⁸⁴ "Vision & Mission : Vision & Mission," [Ministry of Foreign Affairs of the Kingdom of Thailand, 2012, accessed 20 August, 2017, <http://www.mfa.go.th/main/en/policy/9867-Vision-&-Mission.html>].

Thai state's administration was separated into four departments: Wiang (Local Government), Wang (Royal Household), Khlang (Treasury) and Na (Agriculture). The foreign affairs were under "Khrom Phra Klang" as the department dealt with foreign traders, which extended to other activities that concerned foreigners. Then, the widened contacts with foreigners led to the creation of a separate sub-department called, "Krom Tha" to deal with all port activities. On 14 April 1875, a law was enacted to separate Krom Tha from Khrom Phra Klang. Permanent envoys started deploying to Western European countries in the 1880s. And Krom Tha was eventually renamed as the Ministry of Foreign Affairs or "Krasuang Garn Tang Prathet" in 1892.⁸⁵

Furthermore, the MFA had long garnered high prestige in comparison to other government departments. In part, this was due to the perceived significance of diplomacy imprinted in Thai history. Thailand's escape from colonialism that engulfed the region was a fact heralded by the Thai people. As Stefan Hell pinpoints, the "legacy of skillful diplomacy coupled with elite-driven domestic modernization is firmly embedded in the collective memory of Thailand today."⁸⁶ This was largely attributed to King Chulalongkorn's extensive travels to European countries to cultivate relations and the implementation of western-like modernization reforms

⁸⁵ "Diplomatic History of Thailand," [Ministry of Foreign Affairs of the Kingdom of Thailand, 2015, accessed 29 October, 2019, <http://www.mfa.go.th/main/en/customize/53282-Diplomatic-History-of-Thailand.html>]; Funston, "The Role of the Ministry of Foreign Affairs in Thailand: Some Preliminary Observations", 229.

⁸⁶ Stefan Matthias Hell, *Siam and the League of Nations: Modernisation, Sovereignty and Multilateral Diplomacy, 1920-1940* (Bangkok: River Books, 2010), 2.

within the country, which gained the acceptance for Thailand as a sovereign state.⁸⁷ Furthermore, Funston elaborates, “diplomacy, although not the only factor, also played a major role in enabling Thailand to maintain its independence during the nineteenth and twentieth centuries, saving the country from occupation by Japan during the World War II, and in avoiding harsh reparations meted out to those who sided with Japan after the war.”⁸⁸

Therefore, with its long tradition of notable achievements, the MFA attained a high stature vis-à-vis other state agencies. This can be seen in the ministry’s composition that highly included members of Thai aristocratic families and later officials from privileged social backgrounds. Significantly, along with its grueling recruitment process, officials who joined the MFA tend to pursue a career within the ministry. Political appointees into the MFA’s ranks are as well rare. For instance, the ministry does not have non-career ambassadors with the exception of few that were appointed between the years 1960 to 1975, in the period of military rule. Also, foreign affairs portfolios were mostly held by ministers with expertise on or experience in the international relations field or were former MFA official. Overall, the rarely diluted concentration of diplomatic foreign policy practitioners signifies the

⁸⁷ Ibid., 15.; Gregory Vincent Raymond, *Thai Military Power A Culture of Strategic Accomodation* (Copenhagen: NIAS Press, 2018), 51-52.

⁸⁸ Funston, "The Role of the Ministry of Foreign Affairs in Thailand: Some Preliminary Observations".

organizational stability of the MFA.⁸⁹ And, when certain degree of autonomy is allotted to the MFA, technocrat-driven foreign policy is accorded. Ultimately, coincided with the changing international circumstances, the Thai MFA needed to habituate with new participants and issues in foreign policymaking.⁹⁰

In terms of the operation of the MFA, according to the explication by Pavin Chachavalpongpun,

Customarily, the Foreign Ministry had been a custodian of strategy and process; in this, its main responsibility was to formulate and implement foreign policy for the attainment of national interests and the promotion of good relations with all countries. The MFA officials work in “division” units and are in charge of drafting a policy in accordance with the ministry’s main strategy, based on the precise calculation of the real costs and benefits, and subsequently submitting the drafted policy to their superiors in the hierarchical line of command. The drafted policy would then be approved, disapproved, or revised, at the departmental and ministerial levels respectively. In this foreign policy formulation process, desk officers at the divisional level would have to be in constant consultation with members of the Thai embassies abroad so as to be able to access first-hand information and gain in-depth understanding on the situation in their host countries or groups of countries to ascertain what area of relations should be emphasized or strengthened. This intricate process allowed accuracy and pragmatism to reign supreme in Thai foreign policy. It also made Thai foreign

⁸⁹ Ibid., 230-232, 235; Chachavalpongpun, *Reinventing Thailand: Thaksin and His Foreign Policy*, 247-48; Rana, *Asian Diplomacy: The Foreign Ministries of China, India, Japan, Singapore, and Thailand*, 141-46.

⁹⁰ Chachavalpongpun, *Reinventing Thailand: Thaksin and His Foreign Policy*, 10; Pasuwat Yathip, "Thailand's foreign policy in the post-Cold War period: uncovering new actors in the foreign policy-making process towards neighbouring countries." (Ph.D. thesis James Cook University, 2015), 90-91.

policy credible, responsible, accountable and truly responsive to the global environment.⁹¹

Officially, over the administration of Thailand's ministries, prevail the ministers in charge who are politically appointed. The ministers have the power and duty to preside over the workings of civil officials in accordance with laws, regulations, rules of official authorities, Cabinet resolutions, and government policies. The ministers have authority over the instatement, relocation and transfer, as well as disciplinary punishment of civil officials.⁹²

As presented in the work of Kullanan Kunthic, the dynamics between the foreign minister and the government leadership varied. At times, the prime minister would dominate the foreign policy direction such as in the case during the premierships of Field Marshal Plaek Phibunsongkhram or General Kriangsak Chomanan. In other times, the government leadership would largely delegate the foreign policy responsibilities to the foreign minister. This can be seen during the government of General Prem Tinsulanonda in which Foreign Minister Siddhi Savetsila played an active role in the initiation and implementation of foreign policy.

⁹¹ Chachavalpongpan, *Reinventing Thailand: Thaksin and His Foreign Policy*, 44.

⁹² Phraratchabanyat Rabiap Kharatchakanphalaruean Phoso 2535 [Civil Service Act 1992], Office of Civil Service Commission (1992); Phraratchabanyat Rabiap Kharatchakanphalaruean Phoso 2551 [Civil Service Act 2008], Office of Civil Service Commission (2008); Kunthic, "Doctor Surakiat Sathianthai Kap Kan Damnoen Nayobai Tangprathet Phoso 2544-2548 " [Dr. Surakiart Sathirathai and the Implementation of Thai Foreign Policy, 2001-2005], 289-90.

Meanwhile, in periods of political instability such as during the 1990s that witnessed frequent changes in premierships and foreign ministers, civil officials within the ministry predominantly drove foreign policy.⁹³

With regards to the ministry's organization, there are fourteen organizational units within the MFA (Appendix A). Apart from the Office of the Minister, other units are categorized into four clusters overseeing different aspects that include administration, bilateral relations, multilateral relations, and functional areas or that is known as foreign-service support. Overseeing the administration is the Office of Permanent Secretary. Under the cluster of bilateral relations are the Department of East Asian Affairs, Department of South Asian, Middle-East and African Affairs, Department of American and South Pacific Affairs, and Department of European Affairs. Under the cluster of multilateral relations are the Department of International Economic Affairs, Department of International Organizations, Department of ASEAN Affairs, and Thailand International Development Cooperation Agency. Lastly, parts of the foreign-service support are the Department of Information, Department of Consular Affairs, Department of Protocol, and Department of Treaties and Legal Affairs.⁹⁴ Moreover, outside of Thailand, there are sixty-six Royal Thai Embassies,

⁹³ Kunthic, "Doctor Surakiat Sathianthai Kap Kan Damnoen Nayobai Tangprathet Phoso 2544-2548" [Dr. Surakiart Sathirathai and the Implementation of Thai Foreign Policy, 2001-2005], 77-79, 292.

⁹⁴ Rana, *Asian Diplomacy: The Foreign Ministries of China, India, Japan, Singapore, and Thailand*, 146-47; MFA, *Annual Report 2012*, Ministry of Foreign Affairs of the Kingdom of Thailand (Bangkok, 2012), 8-9.

twenty-nine Royal Thai Consulate-Generals, three permanent missions, and one Thai Economic and Trade office (Taiwan).⁹⁵

In connection to the Thai-Cambodian Preah Vihear dispute, the principle departments involved are the Department of East Asian Affairs and the Department of Treaties and Legal Affairs. Within the departments, there are divisions. In the Department of East Asian Affairs, Cambodia is one of the countries under the responsibility of Division I to provide policy recommendations and assessment of the country's situations. In the Department of Treaties and Legal Affairs, the integral divisions are the Boundary Division and the Treaties Division. From these divisions, the recommendations for higher administrative bodies as well as negotiations for boundary settlements materialized from the interpretation of treaties, documents, and evidence related to boundary issues. At the same time, the Department of International Organizations and Department of ASEAN provide supporting details related to the involvement with the UN and ASEAN.⁹⁶

⁹⁵ "Thai Embassy and Consulates," [Ministry of Foreign Affairs of the Kingdom of Thailand, n.d., accessed October 28, 2018, <http://www.thaiembassy.org/main/>].

⁹⁶ Paribatra, "Thailand's Relationship with its Neighbors: A Study of Border Conflict from 1973 to 2011," 101-02.; Thana Duangratana (former Thai ambassador to Paris and former director –general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, September 8, 2017.

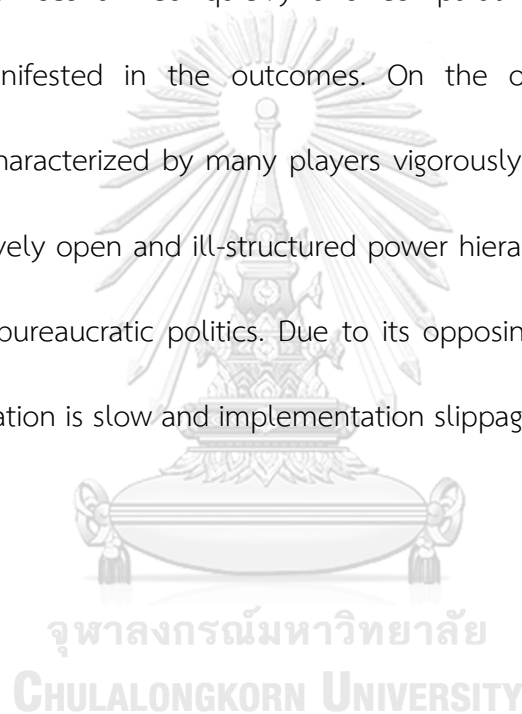
2.3 Research Model

Pertained to the dissertation, the following diagram (Figure 1) can explicate the use of role theory and the influence of governmental politics approach to identify the perceptions and action channels in order to investigate Thailand's foreign policies in light of the MFA during the dispute.

The MFA's national role conception (NRC) is determined by the MFA's approach to its own roles that equals to the different importance given by the organization to material and ideational elements with internal and external origins of foreign policy orientation. The influencing factors can include: material elements with internal origins such as national capabilities, resources, population, location, and degree of modernization; ideational elements with internal origins like traditional NRC, strategic culture, institutions and public opinion; material elements with external origins include the distribution of power; and the ideational elements with external origins are international norms, understandings, and alliance/treaty commitments.

Then, whether the MFA's NRC is translated to the actual policy outcome, taken from the governmental politics approach, it depends on the MFA's influence in the action channel of the time. Also, the action channel that comprises explicit and implicit rules can be identified into two poles of a spectrum that include

“governmental consensus” and “governmental confrontation”.⁹⁷ On one hand, governmental consensus involves a low-intensity form of governmental politics. That is, it has relatively few players whose views and interests diverge only gradually, bargaining toward consensus within a closed policy arena that features clear rules of the game, and a relatively transparent power structure. Under this condition, necessary compromises arrived quickly and comparatively clear consensus of decisions are manifested in the outcomes. On the other hand, governmental confrontation is characterized by many players vigorously supporting their parochial stances in a relatively open and ill-structured power hierarchy, which results in high-intensity form of bureaucratic politics. Due to its opposing and competitive nature, compromise formation is slow and implementation slippage is more likely.



⁹⁷ The idea of the spectrum and the explanation of the poles derive from the work of Preston and 't Hart. In their work the poles are called “Bureaucratic Consensus-Seeking” and “Bureaucratic Confrontation”. Preston and Paul 't, "Understanding and Evaluating Bureaucratic Politics: The Nexus between Political Leaders and Advisory Systems", 55-56.

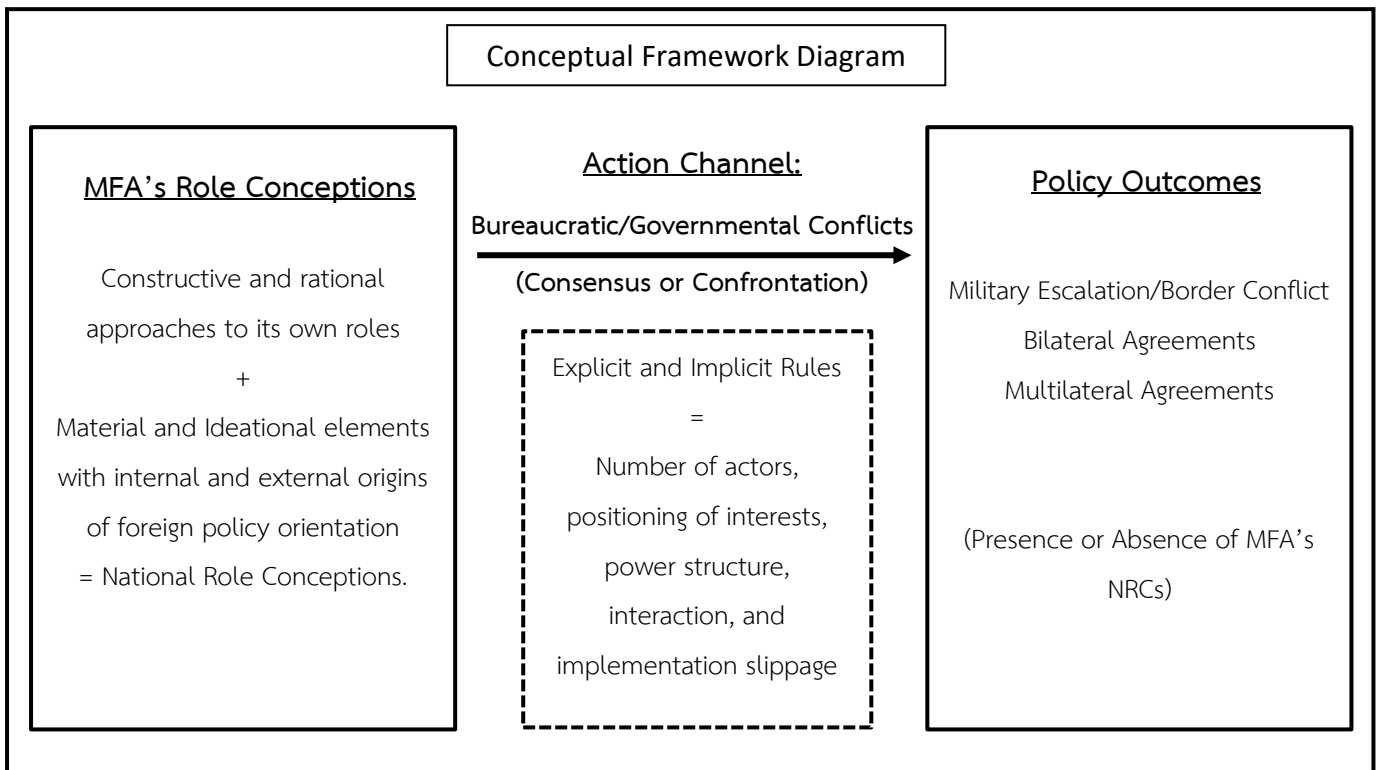


Figure 1: Conceptual Framework Diagram



Chapter 3

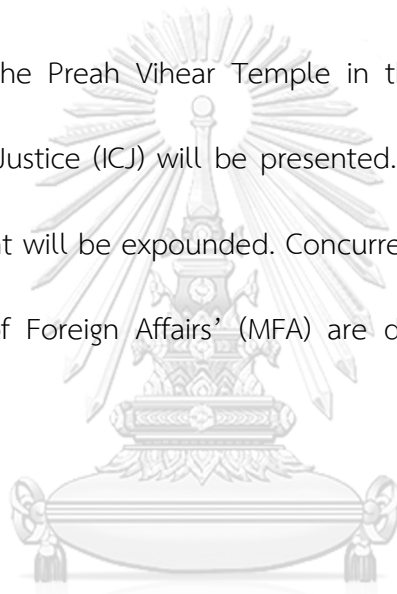
Historical Background of the Temple Dispute

The borders that separate Thailand and its neighbors were results of the colonial influence of the recent centuries that transformed the fluid areas of the region into modern states. That is, according to James W. Garner, “a community of persons more or less numerous, permanently occupying a definite portion of territory, independent of external control and possessing of organized government to which the great body of inhabitants render habitual obedience.”¹ Although Siam was not colonized, in order to withstand the encroaching influence of the European powers, the artificial borderlines were adopted. Between Thailand and Cambodia, the land boundary shared between the two countries constitutes a stretch of 803 kilometers based on the Franco-Siamese treaties of 1904 and 1907. However, many parts of the border remain ambiguous due to the difficulty of identifying artificial boundaries from complex physical geography and the belief that the borderline has been unjustly imposed by the colonial power. Therefore, contemporary Thai-Cambodian relations have largely revolved around the defining of the countries’

¹ James Wilford Garner, *Introduction to Political Science: A Treatise on the Origin, Nature, Functions, and Organization of the State* (New York: American Book Company, 1910), 41.

sovereignty and territory, especially of the area surrounding the Preah Vihear Hindu Temple.²

In this chapter, the historical background of the Preah Vihear Temple dispute between Thailand and Cambodia will be explicated. As the problem lies in the contention over the area controversially defined, firstly, Thailand's claims over the temple until the Second World War will be accounted. Secondly, the details of Thailand's battle for the Preah Vihear Temple in the years 1959 to 1962 at the International Court of Justice (ICJ) will be presented. Lastly, Thailand's reactions to the ICJ's 1962 judgment will be expounded. Concurrently, the roles and perceptions of the Thai Ministry of Foreign Affairs' (MFA) are demonstrated in light of these events.



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3.1 Thailand's Claims over the Preah Vihear Temple before the Second World War

The building of the Preah Vihear Temple, located in the Dangrek Mountains between Thailand's Sisaket province and Cambodia's Preah Vihear province, is dated back to the beginning of the 9th century. Most parts of the temple were constructed

² Surachart Bamrungsuk, "Botnam 2505-2555 50 Pi Khadi Phra Wihan " [Introduction 1962-2012 50 Years the Case of Preah Vihear.], *Security Studies Project* 111-112 (July 2012): 2.; Prasas Prasasvinitchai (former ambassador, MFA), interviewed by author, Bangkok, July 11, 2018.

during the reigns of Surayavarman I (1006-1050) and Surayavarman II (1113- 1150) of the Khmer Empire. The Khmer Empire was an advanced civilization that was also admired by the Siamese Kings of Sukhothai and Ayutthaya. With the decline of the Khmer Empire in the early 15th century, Siam invaded and transformed the Khmer Empire into one of Siamese tributary states in 1431. At this time, Siam was able to gain influence over large areas previously under the ancient empire, including the area of the Preah Vihear Temple complex.³ Nonetheless, as the Khmer Empire was destroyed and due to its remote location, the temple fell into ruin and was temporarily forgotten. As Michael Wright depicts, “a strategic map of the area, drawn up by a Siamese cartographer in the early 19th century, gives details along the Dong Rak range from Khorat to Champasak but it marks no border and makes no mention of Khao Phra Viharn. Khao Phra Viharn was of no importance and had disappeared from the realm of useful knowledge.”⁴

Since the Siamese invasion in 1431, the Siamese influence waxed and waned in relations to the Vietnamese influence in the Cambodian vassal state. In 1858, France invaded and colonized Vietnam and France was able to gain protectorate over Cambodia in 1864. Thereafter, as a result of the French-Siamese Treaty on 15 July 1867, Siam was pressured to acknowledge Cambodia’s protectorate status under

³ Kasetsiri, Sothirak, and Chachavalpongpun, *Preah Vihear: A Guide to the Thai-Cambodian Conflict and Its Solutions*.

⁴ Michael Wright, "Khao Phra Viharn: Some Historical Background", *Matichon Online*, July 31 2009, http://www.matichon.co.th/news_detail.php?newsid=43665&grpId=04&catid=01.

France and agreed to demarcate the boundary between Siam and Cambodia.⁵ It was during the French control over Cambodia that Etienne Aymonier rediscovered the Preah Vihear Temple in 1882-1883. Along with the discovery of the Angkor Temple complex, the history of the Khmer Empire was resurrected. As a result, the French built the Khmers' identity along their magnificent past upon which the European power claimed to have aided its revival.⁶ In addition, the notion of territorial boundary that was previously foreign to Southeast Asia began in the region.⁷ According to Charvut et al., "territorial sovereignty became the modern measurement of nation's power and authority. This notion effectively boxed citizens and subjects inside political borders. Nation-states demand loyalty from their citizens and unquestioning respect for these political boundaries. Bygone kingdoms were now reshaped according to the distribution of power among competing colonial powers. These states exercised their greater power over the weak premodern polities in the

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⁵ Pensri Duke, *Kantangprathet Kap Ekkarat Lae Athippatai Khong Thai Tangtae Samai RatKan Thi Thueng Sin Samai Chomphon Po Phibun Songkhram* [Thai Foreign Affairs and its Independence and Sovereignty] (Bangkok: Text and Journal Publication, 1999), 18-33.

⁶ David P. Chandler, *A History of Cambodia* (Chiangmai: Silkworm Books, 1993), 10-11.

⁷ Prior to the era of European influence, Southeast Asians did not uphold the understanding of exclusive boundaries. In fact, Southeast Asian governance was represented in the concept of 'mandala' of which Southeast Asian polities. That is, as opposed to having fixed geographical boundaries, the regional system constitute a "polity defined by its centre rather than its boundaries, and it could be composed of numerous other tributary polities without undergoing administrative integration." Rosita Dellios, *Mandala: from sacred origins to sovereign affairs in traditional Southeast Asia*, Centre for East-West Cultural and Economic Studies (2003), 1, http://epublications.bond.edu.au/cewces_papers/8.

region by forcing acceptance of disadvantageous demarcation. Thailand, or Siam, was no different. The Preah Vihear case reflects the larger demarcation problem left over from the past.”⁸

Through series of coercive agreements with the French, of which lands were taken and minimally exchanged, to reclaim Chantaburi and Trat, the treaties of 1904 and 1907 were ratified.⁹ On 13 February 1904, Siam and France with control over Indochina concluded a treaty to establish the general character of the frontier between Siam and the French colony. It was agreed in this treaty that the frontier of the Dangrek was to follow the watershed line and the topographical work of the Mixed Commission of Delimitation between Indo-China and Siam was to establish the exact boundary line. The Mixed Commission met twenty-five times and the Thai party had asked the French party to carry out the survey and delimitation of the area. In resultant, the map of the Mixed Commission that comprises of eleven sections, with two sections upon Thai-Cambodian frontier (including the Preah Vihear complex), was published in late autumn of 1907. The map is known as the “Bernard Map”, based on the name of the president of the French section of the Mixed

⁸ Kasetsiri, Sothirak, and Chachavalpongpun, *Preah Vihear: A Guide to the Thai-Cambodian Conflict and Its Solutions*.

⁹ At the same time, through the treaties, Siam had also ceded territories such as Battambang, Siam Reap, and Sisophon.

Commission and as the “Annex I Map” due its attachment as Annex I to Cambodia’s Memorial to the ICJ.¹⁰

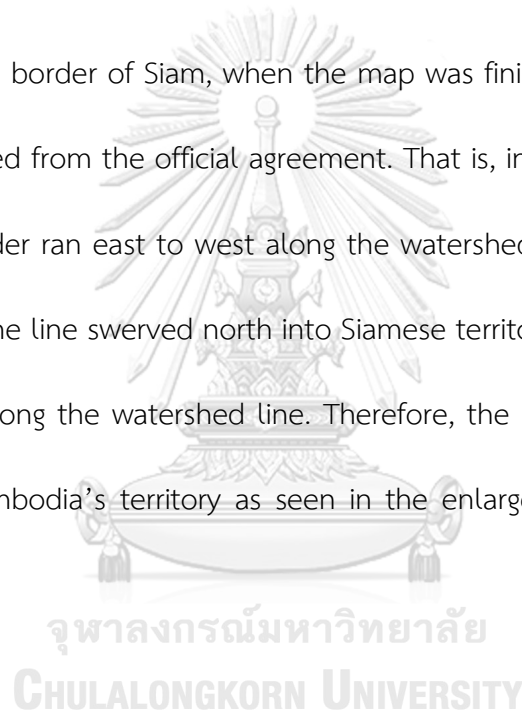
Then, as stated by Cover Oliver, “so far as the frontier in the Dangrek range was concerned, the task of this Mixed Commission was confined to the eastern sector (roughly east of Pass of Kel) in which Preah Vihear is situated. At this time the western sector of the Dangrek lay wholly in Thailand. It was only when a further boundary settlement, under treaty dated 23 March 1907, brought within Cambodia various districts abutting on the western Dangrek sector, that the latter became a frontier region.”¹¹ The second map of the Mixed Commission of Delimitation between Indo-China and Siam is known as the “Montguers Map”. It constitutes five sections defining the Thai-Cambodian border from Pass of Kel to present day Chaem Yeam Border Check Point (on to Laem Sarapit). At the same time, the Montguers Map made some changes to the Bernard Map unrelated to the Preah Vihear. In addition, the Mixed Commission took the task of demarcation by the end of 1908 to create 73 boundary marks along the border and the French and Thai officials undertook the task of boundary mark maintenance in 1919 of which the commission and the officials had kept records of the marks. However, the demarcation and maintenance

¹⁰ Prasas Prasasvinitchai, *Kan Chatkan Panha Khetdaen Thai-Kamphucha Yang Mi Prasitthiphap* [The Efficient Way to Manage the Thai-Cambodian Border Dispute], Institute of Civil Service Development (Bangkok: Office of the Civil Service Commission, 2009), 17-18; Covey Oliver, "Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand)", *American Society of International Law* 56, no. 4 (1962): 1038.

¹¹ Oliver, "Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand)", 1036.

of boundary marks did not include the border on the other side of Pass of Kel to the Nam Yuen District where Thai, Laos, and Cambodia borders intersect.¹²

Since the Siamese government did not have adequate means, the delimitation and topographical process was dominated by the French operation. While the Franco-Siamese treaties in 1904 and 1907 stipulate that the watershed line would define the Thai-Cambodian border of which the Preah Vihear Temple was located within the border of Siam, when the map was finished in 1907, the line that was drawn deviated from the official agreement. That is, in the Bernard or the Annex I Map, as the border ran east to west along the watershed, in the area of the Preah Vihear complex, the line swerved north into Siamese territory around the temple and then continued along the watershed line. Therefore, the Preah Vihear complex was placed within Cambodia's territory as seen in the enlarged portion of the Annex I Map (Figure 2).¹³



¹² Prasasvinitchai, *Kan Chatkan Panha Khetdaen Thai-Kamphucha Yang Mi Prasitthiphap* 18; Temple of Preah Vihear (Cambodia v. Thailand) 19 (International Court of Justice June 15, 1962).

¹³ Ciorciari, "Thailand and Cambodia: The Battle for Preah Vihear."; Sinsupharoek, *Korani Phiphat Prasat Phrawiharn: Boribot Thang Kotmai lae Kanmueang* [The Preah Vihear Dispute: The Context of Law and Politics], 1-10; Strate, "A Pile of Stones? Preah Vihear as a Thai Symbol of National Humiliation", 46-47.

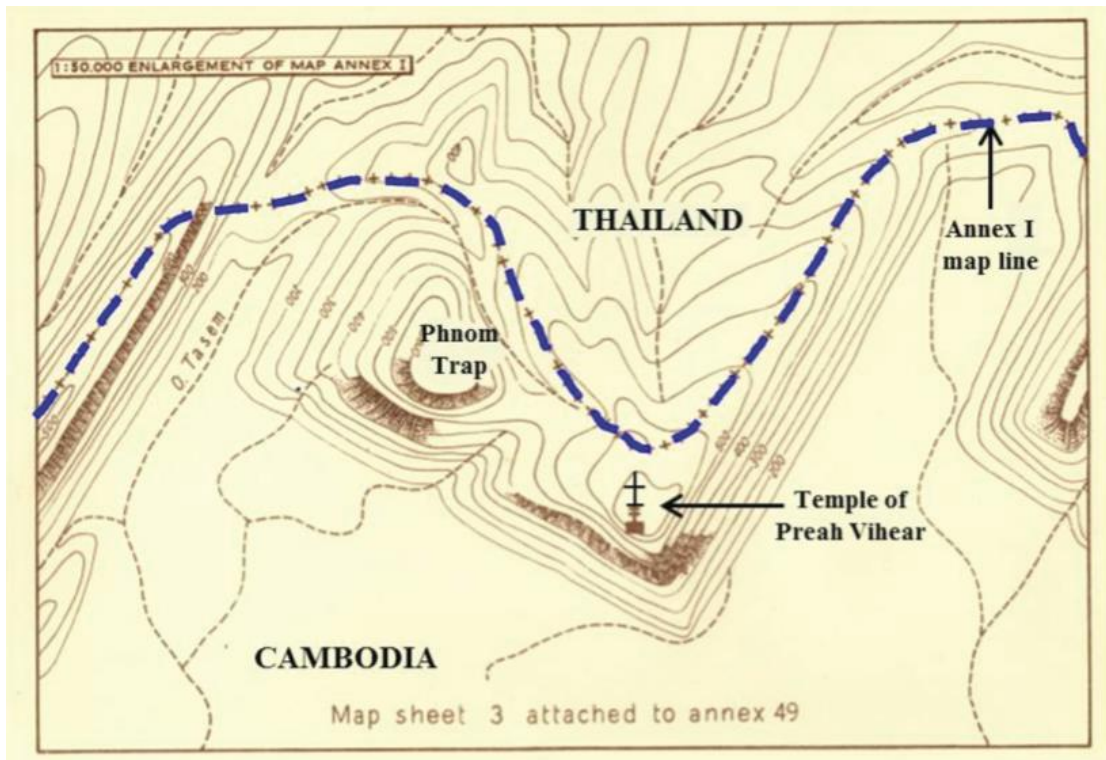


Figure 2: Enlarged Portion of the Annex I Map¹⁴

After the publication of the maps by a well-known French cartographical firm, H. Barrère, no clear objections were made on the side of Siam. Siam, at the time, was more concerned about the area of the Mekong River.¹⁵ According to Strate, “although both royal and provincial officials had access to these maps, neither party was well versed in how to interpret Western cartography. The European model of mapping still represented a ‘new technology of space’. Moreover, Siamese leaders did not see the need for such spatial representations, since to them the boundary was

¹⁴ John D. Ciorciari, "Request for Interpretation of the Judgment of 15 June 1962 in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand)", *The American Journal of International Law* 108, no. 2 (2014): 289.

¹⁵ Lee, "Siam Mismapped: Revisiting the Territorial Dispute over the Preah Vihear Temple", 47.

clearly reflected in the natural geography.”¹⁶ Furthermore, Nopphadon Chotsiri adds that the map also contains manipulated topographical details that made it difficult to ascertain that the borderline deviates from the geographical watershed.¹⁷ During this time, the area of the Preah Vihear Temple complex did not gain much attention from Siam. It was during the government of Field Marshall Plaek Phibunsongkram that the awareness of the Preah Vihear territory resurfaced as part of the Prime Minister’s irredentist policy.

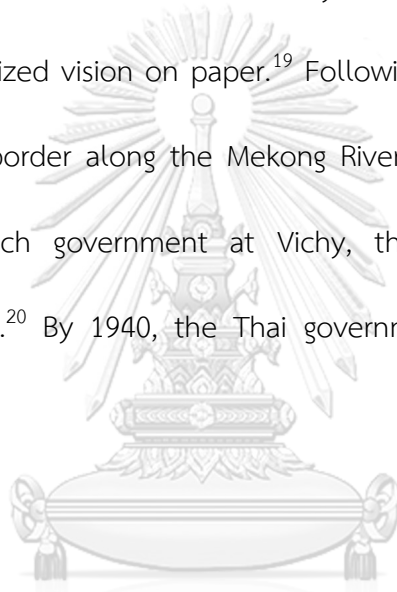
After the People’s Party had engineered the overthrow of the absolute monarchy in June 1932, the territories lost to France played a major role in the legitimizing attempt of the new government. While King Chulalongkorn was celebrated to be the savior of the kingdom by deciding to forfeit few minor areas to the encroaching threat of France, the government that came to be dominated by the military focused on the loss of territories. According to Shane Strate, “The People’s Party [Khana Ratsadon], which came to power after the 1932 coup, accused the monarchy of allowing Britain and France to treat Siam like a colony, citing issues such as extra-territoriality and loss of control over tariffs and taxation. Lao and Khmer

¹⁶ Strate, "A Pile of Stones? Preah Vihear as a Thai Symbol of National Humiliation", 48.

¹⁷ Nopphadon Chotsiri (former director-general of the Royal Thai Survey Department, Thai Armed Force Headquarter), interviewed by author, Bangkok, October 10, 2019.

regions ceded to French Indochina became known as the ‘lost territories’ – powerful symbol of Siam’s degradation and diminished status.”¹⁸

When Field Marshal Plaek Phibunsongkhram came to power, with his chief ideologue, Luang Wichit Wathanakan, radio programs, songs, plays, books, and maps were utilized to embed the sense of nationalism into the people of Thailand. In the case of maps, they are effective tool as they manifest the abstract concept of territory into a concretized vision on paper.¹⁹ Following Phibun’s attempt to redraw the Thai-Indochinese border along the Mekong River in the late 1930s, which was rejected by the French government at Vichy, the nationalist movement was instigated in full force.²⁰ By 1940, the Thai government produced and circulated



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¹⁸ Strate, "A Pile of Stones? Preah Vihear as a Thai Symbol of National Humiliation", 44.

¹⁹ Limsaihua, "Chatniyom Kap Khophiphat Rueang Dindaen Sueksa Priaphiap Ratthaban Chomphon Plaek Phibun Songkhram Lae Ratthaba Abhisit Vejjajiva

" [Thai Nationalism and Territorial Dispute: A Comparative Study of the Field Marshal Plaek Phibulsongkram and the Abhisit Vejjajiva Governments], 86-100; Charnvit Kasetsiri, *Sayam Prathet Thai: Dai Dindaen Sia Dindaen Kap Lao Lae Kamphucha* [Siam/Thailand: Lost-Gained Territories with Laos and Cambodia

] (Bangkok: The Foundation for the Promotion of Social Sciences and Humanities Textbooks Project, 2013), 173.

²⁰ The Franco-Thai border along the Mekong River ran halfway between the islands under the control of the French as opposed to the mid-channel line between the shores, which led to navigational difficulties during dry season. Bruce E. Reynolds, "Phibun Songkhram and Thai Nationalism in the Fascist Era", *European Journal of East Asian Studies* 3, no. 1 (2004): 121.

maps of Thailand that included the elaboration of the territories lost to France, five times since 1867 to 1907.^{21,22}

Furthermore, university students from Chulalongkorn University and the University of Moral and Political Sciences (Thammasat University) and the Thai nationalist group began demonstrations in early October 1940. The demonstrations, which were supported by the government, then became part of a nation-wide phenomenon.²³ According to Reynolds, the Thai Blood Group or the “Khana Leud Thai” published demand fliers for France to return the territories of Laos and Cambodia, apologize for past wrongs, and pay compensation worth 47 million baht to Thailand. At the same time, war was advocated.²⁴ Quoted in the work of Kasetsiri,

²¹ Limsaihua, "Chatniyom Kap Khophiphat Rueang Dindaen Sueksa Priapthiaph Ratthaban Chomphon Plaek Phibun Songkhram Lae Ratthaba Abhisit Vejjajiva

" [Thai Nationalism and Territorial Dispute: A Comparative Study of the Field Marshal Plaek Phibulsongkram and the Abhisit Vejjajiva Governments], 86-89.

²² The territories include: Cambodia (except Battambang, Siamreap and Sisophon) in 1897; Sibsong Chutai in 1888; The left bank of the Mekong river (Laos) in 1893; the right bank enclaves opposite Luang Prabang and Pakse in 1904; and Battambang, Siemreap and Sisophon in 1907. Charivat Santaputra, *Thai Foreign Policy 1932-1946* (Bangkok: Committees on the Project for the National Celebration on the Occasion of the Centennial Anniversary of Pridi Banomyong, Senior Statesman, 2000), 156.

²³ *Thai Nai Samai SangChat Thiraluek Ngan Chalong WanChat 2484* [Thai in the Nation-Building Era, The Souvenir for the Celebration of Thai National Day 1941] (Bangkok: Directorate of Operations, 2009), 73-81; Charnvit Kasetsiri, *Prawattikan MueangThai Sayam Phoso 2475-2500* [A Political History of Thailand-Siam 1932-1957] (Bangkok: The Foundation for the Promotion of Social Sciences and Humanities Textbooks Project, 2016), 265.

²⁴ Reynolds, "Phibun Songkhram and Thai Nationalism in the Fascist Era", 124.

Phibun addressed in a radio broadcast after the students' demonstration in 1940 that,

There is an agreement and unanimous support from all the Thai people in all groups, all sexes, and all ages. This can be seen from the volunteers to lose one's life for the nation, from the sacrifice of assets, the march, and etc. Bear witness... it can be said that there had been no other incidents in the history of the Thai nation to have all brothers of the nation in and outside the country come together in unity to support the government like this time.²⁵

The years prior to the Second World War, the international environment allowed Thailand to push forward the irredentist policy to reclaim the territories claimed lost to the French. Due to the rise of Nazi Germany, the French power was significantly weakened. Concurrently, Japan was expanding its influence in Asia under the slogan of "Asia for the Asiatics". Moreover in 1940, Japan concluded a military alliance or the Tripartite Pact with Germany and Italy. Therefore, Phibun seek Japanese backing to achieve his goal of regaining Thailand's lost territories. As tensions escalated between Thailand and France that led to border clashes and the confrontations in the Franco-Thai War (1940-1941), Thailand called upon Japan to mediate the conflict and France accepted under Japanese pressure. At the Tokyo Peace Conference, Thailand demanded the cession of all territories of Cambodia and Laos. However, the Japanese only supported Thailand's limited demands. In

²⁵ Kaset Siri, *Prawattikan Mueang Thai Sayam Phoso 2475-2500* [A Political History of Thailand-Siam 1932-1957], 259.

resultant, Tokyo Peace Convention of 9 May 1941 gave Thailand the retrocession of western Cambodia lost in the 1904 and 1907 treaties (including the Preah Vihear complex), but rejected Thailand's request for the ownership of Angkor Wat.^{26,27}

With the outcome of the Tokyo Peace Convention, Phibun's regime heavily publicized the gain of Preah Vihear. In the book published by the Thai Publicity Division under the title, *Thailand's Retrocession of Territories* (ประเทศไทยเรื่องการค้าคืนแดนคืน), the picture of the Preah Vihear Temple was boasted on the cover page with the description that Thailand had acquire the temple back from France and was in the process of restoring it to its former grandeur worthy of its place as an

²⁶ *Thai Nai Samai SangChat Thiraluek Ngan Chalong WanChat 2484* [Thai in the Nation-Building Era, The Souvenir for the Celebration of Thai National Day 1941], 81-97; Strate, "A Pile of Stones? Preah Vihear as a Thai Symbol of National Humiliation", 50-51; Limsaihua, "Chatniyom Kap Khophiphat Rueang Dindaen Sueksa Priapthiap Ratthaban Chomphon Plaek Phibun Songkhram Lae Ratthaba Abhisit Vejjajiva" [Thai Nationalism and Territorial Dispute: A Comparative Study of the Field Marshal Plaek Phibulsongkram and the Abhisit Vejjajiva Governments], 101-18; Duke, *Kantangprathet Kap Ekkarat Lae Athippatai Khong Thai Tangtae Samai RatKan Thi Thueng Sin Samai Chomphon Po Phibun Songkhram* [Thai Foreign Affairs and its Independence and Sovereignty], 239-44; Victor and Gillian D. Triggs Prescott, *International Frontiers and Boundaries: Law, Politics, and Geography* (Leiden: Martinus Nijhoff Publishers, 2008), 83-84.

²⁷ While the Japanese army officers were supportive of Thailand's demands, there was an internal difference with the Japanese Foreign Minister who advocated the maintenance of working relationship with the French colonial authorities. Therefore, it resulted in the constrained support from the Japanese side. Reynolds, "Phibun Songkhram and Thai Nationalism in the Fascist Era", 127.

important historical site.²⁸ Also, as translated by Strate, the government's announced in newspapers that "in Amphoe Stung, which is part of the territory recently restored to Thailand, there is an important ancient temple that is very well known and very sacred to all Thailand. This sacred place is Preah Vihear. It is very well known for its beauty and is just as important as Angkor Wat."²⁹

Worthy of note was that a divergence in the viewpoints towards the Thai irredentist/expansionist policy could be observed within the government. As part of the government's nationalist stride, there existed a call for "Pan-Thaism" which constitutes a vision of the state that incorporates all Thai people within the region (in the Laos Protectorate of French Indo-China, the Shan States of Burma under the British, and some in Cambodia and China). Nevertheless, the predominant discourse in Thailand was the demand to expand the state only to the areas that had been under the Siamese kingdom at one time or another. This was the view of the liberalist elements within the government that included Pridi Banomyong (the Thai foreign minister in 1936-1938) and Direk Jayanama (the Thai deputy foreign minister in 1939 and later the Thai foreign minister at various times in the 1940s). As Santraputra illustrates, "the Thai liberals also preached caution whenever they could

²⁸ Somchote Ongsakul, *Ekkasan Mailek 7: Prasat Phra Wihan "Siam Riap" Nai Wethi Sakon* [Document Number 7: Preah Vihear Temple "Siem Reip" in International Stage], Ekkasan Chut Khao Phra Wihan, (Bangkok: The Foundation for the Promotion of Social Sciences and Humanities Textbooks Project, 2009), 11.

²⁹ Strate, "A Pile of Stones? Preah Vihear as a Thai Symbol of National Humiliation", 51.

air their views. They could not swim against the tide but they showed up well by trying to moderate the tone of the demands. This meant excluding the territories of Laos and Cambodia over which Siam previously had suzerainty only.” And for the areas outside of the enclaves that include the Protectorate States of Laos and Cambodia, “their return would be argued in a diplomatic and judicial manner; e.g., that the 1896 and 1893 Agreements recognised France as Protector of these territories and, as France ceased to function as such, they should duly be returned to Thai protection, or even annexed into Kingdom of Thailand. It was in this smooth diplomatic move that the retrocession should be effected and not through the use of force.”³⁰³¹

Towards the end of WWII, when Phibun was maneuvered out of office in July 1944, there was a new face of Thai politics. With Thailand’s prior leanings for the Japanese support, the brief government under Dr. Pridi Banomyong improved Thailand’s chances against being treated as an enemy by the winning allies. That was because the civilian wing that assumed power collaborated with the Thai resistance groups in the USA and Britain to form the Seri Thai (Free Thai) network that

³⁰ Santaputra, *Thai Foreign Policy 1932-1946*, 168-69.

³¹ Pridi also used his position as the rector of the University of Moral and Political Sciences to suppress further student demonstrations and his position as the finance minister to dissuade the cabinet against aggressive actions for financial reasons. Ibid.

cooperated with the Allies against the Japanese.³²³³ With assistance and support from the United States, Thailand was able to negotiate a peace treaty with Britain as an ‘enemy-occupied country’. Significantly, Thailand pursued the admission to be a member of the United Nations. Under the premiership of Thamrong Nawasawat (colleague of Pridi), Thailand signed the Washington Accord of 1946. In the accord, Thailand accepted the overturn of the Tokyo Peace Convention in 1941 that led to the return of post-1907 territorial status quo. In return, France, as one of the permanent members of the United Nations Security Council, agreed not to veto Thailand’s application.³⁴

3.2 The Case of the Preah Vihear Temple at the International Court of Justice (1962)



Meanwhile, in the midst of the rising Cold War, Phibun returned to power after the 1947 Coup. Initially, the West was skeptical of Phibun’s leadership, as he

³² Pasuk Phongpaichit and Chris Baker, *A History of Thailand* (Cambridge: Cambridge University Press, 2009), 147.

³³ The Thai Minister in Washington, M.R. Seni Pramoj led the Seri Thai movement and also refused to deliver the government’s declaration of war on the United States. Benjamin A. Batson, "The Fall of the Phibun Government, 1944", *Journal of the Siam Society* 62, no. 2 (1974): 97.

³⁴ Kantathi Suphamongkhon, *Kan Withesobai Khong Thai* [Thai Foreign Policy] (Bangkok: Thammasat University, 1984), 291-336; Ciorciari, "Thailand and Cambodia: The Battle for Preah Vihear."

had sided against the Allies. However, the American heightened insecurity on the encroachment of communism in the region led to its favor for the dominance of military institution in Thailand. That included the regimes of Phibun, Field Marshal Sarit Thanarat, and Field Marshal Thanom Kittikachorn. To elaborate, in 1949, the Chinese Nationalist Government was defeated by the Chinese Communist Party and signaled the potential communist expansion in Asia. Therefore, the suspicions upon the internal movements within the countries increased alongside the American augmented commitments for containment. The Thai military leaders reciprocated with strong anti-communist stances. Under Phibun, strong measures were taken against the government's opposition groups claimed to be potential communist threats. Also, when the Korean War broke out in June 1950, the Thai government decisively responded by sending troops and supplies in support for the American war efforts.³⁵ As remarked by Surachart Bamrungsuk,

The year 1950 saw Plaek being treated distinctly different from the early post-war period; that is, he got great respect from the U.S. The Department of State in October 1950 stated that the principle U.S. objectives in Thailand were helping the Thai Government establish itself against the Communists in the Far East by achieving internal political stability and strong economy. That is mutual concern about the Communist problem insured U.S. support for the Thai Government's stability.³⁶

³⁵ Surachart Bamrungsuk, *United States Foreign Policy and Thai Military Rule 1947-1977* (Bangkok: Duang Kamol, 1988), 36-47.

³⁶ *Ibid.*, 47.

Hence, with the return of the regime of military strongmen, the issue of Preah Vihear reemerged. Concurrently, when Cambodian independence was finalized in the Geneva Accords in 1954, Prince Norodom Sihanouk became the prime minister of the Kingdom of Cambodia and advocated a neutral foreign policy approach.³⁷ The Thai government developed insecurity towards Sihanouk's neutrality, which was seen as being susceptible to the encroachment of communism close to the Thai border. Additionally, there was a perceived opportunity in the French departure. Therefore, Thailand set up a police post north of Preah Vihear and hoisted a Thai flag over the temple.³⁸

After Thailand occupied the Preah Vihear complex, there were attempts to discuss the matter pertained to the territorial disputes between the two countries. However, when negotiations were proven futile and diplomatic relations between the two countries suspended, in October 1959, the Cambodian government brought the dispute to the ICJ.³⁹ To the Court, Cambodia's finalized submissions include:

1. To adjudge and declare that the map of the Dangrek sector (Annex I to the Memorial of Cambodia) was drawn up and published in the name and on behalf of the Mixed Delimitation Commission set up by the Treaty of 13 February 1904, that it sets forth the decisions taken by the said Commission

³⁷ Theeravit, "Thai-Kampuchean Relations: Problems and Prospects", 565.

³⁸ Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations," 57.

³⁹ Sinsupharoek, *Korani Phiphat Prasat Phrawiharn: Boribot Thang Kotmai lae Kanmueang* [The Preah Vihear Dispute: The Context of Law and Politics], 10-12.

and that, by reason of that fact and also of the subsequent agreements and conduct of the Parties, it presents a treaty character;

2. To adjudge and declare that the frontier line between Cambodia and Thailand, in the disputed region in the neighborhood of the Temple of Preah Vihear, is that which is marked on the map of the Commission of Delimitation between Indo-China and Siam (Annex I to the Memorial of Cambodia);
3. To adjudge and declare that the Temple of Preah Vihear is situated in territory under the sovereignty of the Kingdom of Cambodia;
4. To adjudge and declare that the Kingdom of Thailand is under an obligation to withdraw the detachments of armed forces it has stationed, since 1954, in Cambodian territory, in the ruins of the Temple of Preah Vihear;
5. To adjudge and declare that the sculptures, stelae, fragments of monuments, standstone model and ancient pottery which have been removed from the Temple by the Thai authorities since 1954 are to be returned to the Government of the Kingdom of Cambodia by the Government of Thailand.⁴⁰

On the Thai side, based on Uwan's collection of documents, in the process of negotiations between the two countries, Thai Foreign Minister Thanat Khoman visited Cambodian Foreign Minister Son Sann on 11 June 1959. In the meeting, Cambodian Foreign Minister proposed two possible solutions to Thanat after which Thanat delivered them to the Thai Committee for Legal Preparations for Preah Vihear chaired by Phraya Attargarinipon (Sitti Chulanon), the minister of justice. The two possible solutions to prevent the deterioration of relations included: the appeal to

⁴⁰ *Temple of Preah Vihear (Cambodia v. Thailand)*, 9.

the ICJ to adjudicate the dispute from which the two parties would agree to comply to the Court's verdict; or to set-up a non-militarized zone over the complex under the sovereignty of Cambodia of which Cambodia agreed to allow a co-management of the complex with Thailand. However, in response, the Cabinet rejected both solutions under the suggestion of Phraya Attargarinipon whose remarks include the notion that Thailand would lose and that the ICJ would not have jurisdiction over the dispute.⁴¹

Henceforth, after Cambodia filed the case against Thailand, Thailand initially rejected the jurisdiction of the International Court of Justice. This was under the claim that it had only accepted the compulsory jurisdiction of the Permanent Court of International Justice on 20 September 1929. Thailand renewed its acceptance in 1940 and 1950 upon the original declaration to the terminated Court of the League of Nations, which therefore are invalidated. However, since Thailand's renewal of the declaration in 1950 took place after the ending of the Permanent Court of the International Justice, the objection to the Court's jurisdiction was rejected. As stated in Article 36 paragraph 5 of the Statute of the Court, "Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be

⁴¹ Bawornsak Uwanno, *Chae Ekkasan "Lap Thisut" Prasat Phrawihan Phoso 2505-2551* [Exposing the "most secret" documents Preah Vihear 1962-2008] (Bangkok: Matichon, 2008).

acceptances of the compulsory jurisdiction of the International Court of Justice for the period which still have to run in accordance with the terms.”⁴²⁴³

On 15 June 1962, the Court delivered its ruling in favor of Cambodia. While Cambodia’s submissions included the claim for the Court to adjudge the status of the Annex I Map and declare the frontier line between Cambodia and Thailand, the Court stipulated that the case was confined to the subject of territorial sovereignty. This was in part due to the fact that Cambodia had initially only submitted the claim for the ruling of territorial sovereignty and added the requests for the verification of the Annex I Map and the adjudication of the frontier line at a later date.⁴⁴ Therefore, the submitted maps were only considered in part of the reasoning to adjudicate over the subject.⁴⁵

With regards to the ruling of the territorial sovereignty of the Preah Vihear Temple, the majority in the Court based its judgment on the principal of estoppel. As stated by Sven Mißling,

The ICJ ruled that Thailand was bound by the delimitation of the frontier as fixed in the “Annex I map” because it had kept silent although it knew very well

⁴² Statute of the International Court of Justice, 26 (18 April 1946).

⁴³ "Cambodia v. Thailand: Preliminary Objections", *Duke Law Journal* 1961, no. 4 (1961): 540-42; Prasit Pivavatanpanich, "Boribot Thang Kotmairawangprathet," [The Context of International Law] in *Ramluek 50 Pi Phra Wihan (Phoso 2502-2555)* ed. Surachart Bamrungsuk (Bangkok: Security Studies Project, 2012), 29-32.

⁴⁴ Thana Duangratana (former ambassador, MFA), interviewed by author, Bangkok, September 8, 2017.

⁴⁵ *Temple of Preah Vihear (Cambodia v. Thailand)*, 14, 36.

that this map was not consistent with Articles 1 and 3 of the 1904 boundary treaty, and also had the opportunity to disagree and object to it. It is a principle of international law that a state is held to be bound to the expectations it arouses by its own behavior and on which other States can, according to the principle of *bona fide*, rely (so-called “estoppel”).⁴⁶⁴⁷

To elaborate, while Thailand denied the acceptance of the map and argued that if Thailand had accepted the map, it had done so only because of the belief that the line indicated in the map corresponded to the watershed line. The Court indicated many incidences that countered Thailand’s claim such as the following details:

It is clear from the record that publication and communication of the eleven maps referred to earlier, including the Annex I map, was something of an occasion. This was no mere interchange between the French and Siamese Governments, though even if it had been, it could have sufficed in law. On the contrary, the maps were given wide publicity in all technically interested quarters by being also communicated to the leading geographical societies in important countries, and to other circles regionally interested; to the Siamese legations accredited to the British, German, Russian and United States Governments; and to all the members of the Mixed Commission, French and Siamese. The full original distribution consisted of about one hundred and sixty sets of eleven maps each. Fifty sets of this distribution were allocated to the Siamese Government. That the Annex I map was communicated as purporting to represent the outcome of the work of delimitation is clear from the letter from the Siamese Minister in Paris to the Minister of Foreign Affairs in Bangkok, dated 20 August 1908, in which he said that “regarding the Mixed Commission of

⁴⁶ Sven Mißling, "A Legal View of the Case of the Temple Preah Vihear," in *World Heritage Angkor and Beyond: Circumstances and Implications of UNESCO Listings in Cambodia* (Gottingen: Gottingen University Press, 2011), 61.

⁴⁷ Article 1 of the 1904 Treaty provided the watershed line as the frontier of the two countries and Article 3 stipulated the role of the Mixed Commission in the delimitation of the frontiers. *Temple of Preah Vihear (Cambodia v. Thailand)*, 16.

Delimitation of the frontiers and the Siamese Commissioners' request that the French Commissioners prepare maps of various frontiers, the French Commissioners have now finished their work". He added that a series of maps had been brought to him in order that he might forward them to the Siamese Minister of Foreign Affairs. He went on to give a list of the eleven maps, including the map of the Dangrek region – fifty sheets of each. He ended by saying that he was keeping two sheets of each map for his Legation and was sending one sheet of each to the Legations in London, Berlin, Russia and the United States of America...

In this connection, much of the most significant episode consisted of the visit paid to the Temple in 1930 by Prince Damrong, formerly Minister of the Interior, and at this time President of the Royal Institute of Siam, charged with duties in connection with the National Library and with archaeological monuments. The visit was part of an archaeological tour made by the Prince with the permission of the King of Siam, and it clearly had a quasi-official character. When the Prince arrived at Preah Vihear, he was officially received there by the French Resident for the adjoining Cambodian province, on behalf of the Resident Superior, with the French flag flying. The Prince could not possibly have failed to see the implications of a reception of this character. A clearer affirmation of title on the French Indo-Chinese side can scarcely be imagined. It demanded a reaction. Thailand did nothing. Furthermore, when Prince Damrong on his return to Bangkok sent the French Resident some photographs of the occasion, he used language which seems to admit that France, through her Resident, had acted as the host country.

The explanations regarding Prince Damrong's visit given on behalf of Thailand have not been found convincing by the Court. Looking at the incident as a whole, it appears to have amounted to a tacit recognition by Siam of the sovereignty of Cambodia (under French Protectorate) over Preah Vihear, through a failure to react in any way, on an occasion that called for a reaction in order to affirm or preserve title in the face of an obvious rival claim. What seems clear is that either Siam did not in fact believe she had any title – and this would be wholly consistent with her attitude all along, and thereafter, to the Annex I map and line – or else she decided not to assert it, which again means that she

accepted the French claim or accepted the frontier at Preah Vihear as it was drawn on the map.⁴⁸

Henceforth, the ICJ's decision is the following:

The Court, by nine votes to three, finds that the Temple of Preah Vihear is situated in territory under the sovereignty of Cambodia; finds in consequence, by nine votes to three, that Thailand is under an obligation to withdraw any military or police forces, or other guards or keepers, stationed by her at the Temple, or in its vicinity on Cambodian territory; by seven votes to five, that Thailand is under an obligation to restore to Cambodia any objects of the kind specified in Cambodia's fifth Submission which may, since the date of the occupation of the Temple by Thailand in 1954, have been removed from the Temple or the Temple area by the Thai authorities.⁴⁹

3.3. Thailand's Reactions to the 1962 Judgment of the International Court of Justice

With the ICJ's judgment on 15 June 1962, intense reactions precipitated in Thailand since the public's interest on the temple had been aroused and heightened by the legal case. For instance, Prime Minister Field Marshal Sarit Thanarat had called for public donations for the government's legal defense that manifested in the "One Person, One Baht" campaign and fundraising events.⁵⁰ Following the delivery of the

⁴⁸ Ibid., 22-23, 30-31

⁴⁹ Ibid., 36-37.

⁵⁰ Garnjana-Goonchorn (former ambassador and permanent secretary, MFA), interviewed by author, Bangkok, August 10, 2018; Strate, "A Pile of Stones? Preah Vihear as a Thai Symbol of National Humiliation", 60-62; Pavin Chachavalpongpun, "Temple of Doom: Hysteria About the

Court's decision, there was an outburst of nationwide demonstrations against the ruling and pressures for the government to keep the temple. The same perception can be seen in the policymaking apparatus. Deputy Prime Minister Thanom Kittikachorn remarked that the Court unfairly treated Thailand because the judges came from communist countries. Also, Minister of Interior Prapas Charusathien had publicly threatened to shoot any Cambodians at the Preah Vihear Temple.⁵¹

During the nascent Cold War, in part of the MFA, the ministry was largely precluded from acquiring information pertained to Indochinese military and political developments, which was in the purview of the Thai military and intelligence organizations.⁵² The foreign policy apparatus was streamlined under the domination Phibun, Sarit and, later Thanom military premierships.⁵³ According to Article 17 of the Interim Constitution of B.E. 2501 (1958 A.D.) the prime minister was given absolute power. With the dominance of the military over the country's decisions, Funston emphasizes, "military leaders were conservative, anti-communist believers in the two camp doctrine, prone to look to military solutions to the problems of managing

Preah Vihear Temple in the Thai Nationalist Discourse," in *Legitimacy Crisis in Thailand*, ed. Marc Askew (Chiang Mai: Silkworm Books, 2010), 85.

⁵¹ Strate, "A Pile of Stones? Preah Vihear as a Thai Symbol of National Humiliation", 62-64.

⁵² Funston, "The Role of the Ministry of Foreign Affairs in Thailand: Some Preliminary Observations", 234-35.

⁵³ Funston, "The Role of the Ministry of Foreign Affairs in Thailand: Some Preliminary Observations", 234-35.

relations with regional countries, and prone to an over-simplistic division of foreign countries into enemies and friends.”⁵⁴

On the side of the MFA, Thanat Khoman, the foreign minister from 1959 to 1971 had been cited to support the uncontested leadership of the Premier by saying that “the fundamental cause of our political instability in the past lies in the sudden transplantation of alien institutions on to our soil without careful preparation, and if we look at our national history, we can very well see that this country works better and prospers under an authority, not a tyrannical authority, but a unifying authority.”⁵⁵ Correspondingly, the centralization of decision also extended into the ministry. A former ministry official was quoted in Funston’s “Thai Foreign Policy from Sarit to Seni: Adaptation During the Second Indochina War,” that during the leadership of Thanat, “throughout the thirteen years of his tenure, he ran the Ministry effectively with just a group of only about a dozen men whom he selected for their abilities to produce the work he required at the speed which he required. Thanat also kept all policy matters and their main implementations in his grasp and only those selected young men were privy to their unraveling.”⁵⁶

⁵⁴ John Funston, "Thai Foreign Policy from Sarit to Seni: Adaptation During the Second Indochina War" (Ph.D. Australian National University, 1989), 103.

⁵⁵ Thak Chaloemtiarana, *Thailand: The Politics of Despotic Paternalism* (Chiang Mai: Silkworm Books, 2007), 100.

⁵⁶ Funston, "Thai Foreign Policy from Sarit to Seni: Adaptation During the Second Indochina War," 112.

In relations to the legal dispute over the Preah Vihear complex, the MFA's active role can be observed despite the ministry's relatively marginalized position in the dealings with the country concerned. As part of the Thai counsel team at the ICJ, Prince Vongsamahip Jayankura who was the Ambassador of Thailand to the Netherlands and Chapikorn Srethaputra and Sompong Sucharitkul from the Treaty and Legal Department were representatives from the MFA.⁵⁷ Notably, while there was an air of defiance in the general public and amongst policymakers, Thanat Khoman under the position of the minister of foreign affairs pressed forward to persuade the government to acquiesce to the Court's decision.

Since the governmental politics structure was in the firm hands of the Prime Minister, according to Anand Panyarachun's recount of Foreign Minister Thanat Khoman, the Foreign Minister and Pote Sarasin, who was the former foreign minister from 1949 to 1951 and at the time the Secretary-General of the Southeast Asia Treaty Organization, went to see Prime Minister Sarit in the middle of the night to elucidate the ICJ's ruling and the necessity of Thailand to conform to the decision as a member of the United Nations. This was when the Prime Minister was ready to send troops to Cambodia and reject the ICJ's decision.⁵⁸ In addition, the MFA

⁵⁷ *Temple of Preah Vihear (Cambodia v. Thailand)*, 7-8; Anand Panyarachun, "100 pi puchaniyabukkhon Dr. Thanat Khoman " [100 years a venerable person Dr. Thanat Khoman] *Radio Saranrom*, 2015, 40.

⁵⁸ Panyarachun, "100 pi puchaniyabukkhon Dr. Thanat Khoman " [100 years a venerable person Dr. Thanat Khoman] 40.

presented the comments and suggestions of the Thai counsel team's foreign lawyers to the Cabinet on 26 June 1962 that include Professor Henri Rolin's remark that the Court's judgment is final and without appeal by which the rejection of the Court's ruling can lead to drastic complications.⁵⁹

Henceforth, on 3 July 1962, Prime Minister Sarit addressed to the nation that "in spite of the profound sorrow felt by His Majesty's Government over the fact that Thailand has not been justly treated in the present case, it is considered that, as a member of the United Nations, Thailand is bound to honor its obligations under the U.N. Charter. It will do so under protest and with reservations of her intrinsic rights."⁶⁰ Moreover, the Prime Minister also stated, "we are now living in a world society. Thai brethren must have been well aware of the recognition and esteem the Thai nation enjoys in the international society. Were we to lose our dignity and prestige on account of the ruins of Phra Viharn, how many more decades or centuries will be needed to restore the lost prestige?"⁶¹

⁵⁹ Uwanno, *Chae Ekkasan "Lap Thisut" Prasat Phrawihan Phoso 2505-2551* [Exposing the "most secret" documents Preah Vihear 1962-2008], 243-44.

⁶⁰ Quoted in L.P. Singh, "The Thai-Cambodian Temple Dispute", *Asian Survey* 2, no. 8 (1962): 25-26.

⁶¹ Quoted in Strate, "A Pile of Stones? Preah Vihear as a Thai Symbol of National Humiliation", 64.

Pertaining to the perceptions of the MFA, Thailand should foremost maintain and advocate the role of international collaborator.⁶² The perception is accorded to the MFA's organizational mission that incorporates the spirit of mutual accommodation with foreign partners and the focus on communication and negotiations. Also, the perception can be inferred from the words of Direk Jayanama, the Thai foreign minister during the period of Thailand's application to the U.N. Firstly, the United Nations was seen as the most capable of ensuring security and justice for small countries like Siam. Secondly, it can bestow Siam with the recognition of the country's sovereignty. Thirdly, as member of the U.N., the country can receive aid as an under-developed country and able to help other less developed countries. And fourthly, being a member of the organization represents Siam's will to cooperate internationally for the maintenance of world peace and security.⁶³

Conjointly, the aforementioned instigation of the MFA for Thailand to acquiesce to the ICJ's ruling can also be attributed to the dynamic of material external condition of the time. Although Cambodia was perceived as a threat and rival to Thailand, the US overt support for Cambodia was presented. Firstly, the US

⁶² According to Holsti, collaborators connote governments that envisage their role to have far-reaching commitments to cooperative efforts with other states to build wider communities. Holsti, "National Role Conceptions in the Study of Foreign Policy", 265, 76.

⁶³ Direk Jayanama, *Thailand and World War II*, trans. Jane Keyes (Chiang Mai: Silkworm Books, 2008), 310.

military and economic assistance continued to flow into Cambodia. Secondly, Dean Acheson who was the Secretary of State of the United States agreed to serve as a lawyer for Cambodia at the ICJ. And thirdly, although an American attorney, Phillip Jessup, was initially appointed as part of the Thai legal counsel, he left to assume a justice position at the ICJ and recused himself from adjudicating the Preah Vihear case.⁶⁴ Therefrom, while Thailand had relied on the assistance of the United States, the assurance of unyielding American support in the international arena in the case with Cambodia was ambivalent, which can be inferred as a critical factor against the decision to reject the Court's verdict and the resort to the use of force.

Furthermore, Cambodia's closer relations with the People's Republic of China signified the Thai vulnerable position in the Cold War atmosphere. In connection, with the foreign policy dominated by the military premiership that was obliged by the MFA, the anti-communist position prevailed. This is especially when the military control was facing the increasingly aggravated Communist Party of Thailand (CPT).⁶⁵

⁶⁴ Strate, "A Pile of Stones? Preah Vihear as a Thai Symbol of National Humiliation", 66. P. Cuasay, "Borders on the Fantastic: Mimesis, Violence, and Landscape at the Temple of Preah Vihear", *Modern Asian Studies* 32, no. 4 (1998): 864-65.

⁶⁵ The CPT was taking root in the rural parts of Thailand and had military preparations. Also, with links to the Chinese Communist Party of China (CCP), the party declared in 1961 to follow the Maoist concept of armed struggle. Glenn Ettinger, "Thailand's Defeat of Its Communist Party", *International Journal of Intelligence and Counter Intelligence* 20 (2007): 661-62; Patrice de Beer,

In accordance, Foreign Minister Thanat had been quoted that Thailand “will not fall into the trap” of which the hostility with Cambodia would allow the communist power to encircle Thailand.⁶⁶

At the same time, with regards to the MFA’s perception and actions towards the ICJ’s verdict, the domestic nationalist atmosphere was not insignificant. For instance, immediately after the delivery of the ruling, Thanat had publicly remarked that he felt that the ICJ’s ruling is a miscarriage of justice and that he had not seen adjudication in international law as indistinct as in this case.⁶⁷⁶⁸ Concurrently, as Prime Minister Sarit addressed to public on the government’s decision to accept the court’s ruling, he also pledged to one day reclaim the Preah Vihear Temple. This was coupled by Foreign Minister Thanat’s note of reservation to the U.N. Acting Secretary U Thant. Within the reservation note, it states:

"History and policy of the communist party of Thailand", *Journal of Contemporary Asia* 8, no. 1 (1978): 145-46.

⁶⁶ Singh, "The Thai-Cambodian Temple Dispute", 25.

⁶⁷ "A matter of national pride", *Bangkok Post* (Bangkok) 2013, [https://www.bangkokpost.com/news/politics/345427/a-matter-of-national-pride.](https://www.bangkokpost.com/news/politics/345427/a-matter-of-national-pride;); "Yon Khadi Prasat Phra Wihan Phoso 2505 ", [Tracing Back the Case of Preah Vihear Temple 1962 A.D.], *Voice TV*, 18 July 2011, <https://www.voicetv.co.th/read/14508>.

⁶⁸ With reference to Pivavatnapanich, albeit Thanat’s inference that the ICJ had used an ill-defined legal principle to judge the case, the principle of “estoppel” had been employed to adjudicate many preceding cases. Although worthy of note was that there are cases by which the court gave precedence to treaties rather than maps. Pivavatnapanich, "Boribot Thang Kotmairawangprathet," [The Context of International Law].

His Majesty's Government desires to make an express reservation regarding whatever rights Thailand has, or may have in future, to recover the Temple of Phra Viharn by having recourse to any existing or subsequently applicable legal process, and to register a protest against the decision of the International Court of Justice awarding the Temple of Phra Viharn to Cambodia.⁶⁹

Furthermore, Krit Kraijitti deliberates that the MFA was responsible for the translation of the ICJ's judgment as well as for the explanations to the Thai Cabinet on the operative procedures demanded from the Court. However, through careful reading of the presented memorandum, the translation comprises of interpretations that would later impact the mindset of the Thai public and policymakers in the subsequent generations.⁷⁰

For instance, the ICJ's decision states that the Court "finds that the Temple of Preah Vihear is situated in territory under the sovereignty of Cambodia."⁷¹ In the memorandum presented to the Thai Cabinet, the translation states that "the sovereignty "above" the ruins of the Preah Vihear Temple belongs to Cambodia".⁷² Additionally, the Court's decision in favor of Cambodia's territorial sovereignty over

⁶⁹ Thanat Khoman, Note to the UN Secretary-General after the Judgment (6 July 1962), No. (0601)22238/2505 (Bangkok: Ministry of Foreign Affairs, 1962).

⁷⁰ The memorandum was written by Sompong Sucharitkul.

⁷¹ *Temple of Preah Vihear (Cambodia v. Thailand)*, 36-37.

⁷² This would lead to the rhetoric employed, especially among the nationalist groups, that Cambodia only has ownership of the ruins and not the territory underneath the ruins. Krit Kraijitti (former ambassador and director of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, March 5, 2019.

the temple referred to the Annex I Map only in part of reasoning and did not pronounce the map's legal status.⁷³ Therefore, the MFA's interpretation of Thailand's obligations indicated that "the ruling did not clearly specify the area of the Preah Vihear ruins... a new delimitation of frontier may be required based on the judgment of the Court, which does not depend on the Annex I Map and may be derived from the watershed line except at the area of the Preah Vihear ruins"⁷⁴

Subsequently, on 3 July 1962, Prime Minister Sarit assigned Interior Minister Prapas Charusathien to go to the Preah Vihear complex to clarify the operative procedures and indicate the frontier line to the Thai officials in the area. Henceforth, The Interior Minister summoned a meeting with the head of the Royal Thai Survey Department and the officials from the Interior Ministry and the Ministry of Foreign Affairs. The meeting decided that the area under Cambodia's sovereignty be limited to the ruins and the area of the complex. As a result, Prapas submitted to the Cabinet two possible lines out of which the Thai troops must withdraw. On 10 July, the Cabinet resolved to delimit and demarcate the territory under the sovereignty of

⁷³ The judgment states, "Referring finally to the Submissions presented at the end of the oral proceedings, the Court, for the reasons indicated at the beginning of the present Judgment, finds that Cambodia's first and second Submissions, calling for pronouncements on the legal status of the Annex I Map and on the frontier line in the disputed region, can be entertained only to the extent that they give expression to grounds, and not as claims to be dealt with in the operative provisions of the Judgment. *Temple of Preah Vihear (Cambodia v. Thailand)*, 36.

⁷⁴ Kan Pati Bat Tam Khamphiphaksa Khong San Nai Khadi Prasat Phra Wihan [Actions Following the Court's Decision in the Case of the Preah Vihear Temple], 26 July 1962, Memorandum, The Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, Bangkok.

Cambodia with the area as seen on Figure 3. It is based on plan or line number two that limit the temple vicinity within the area of $\frac{1}{4}$ square kilometers, as opposed to plan number one with the area of $\frac{1}{2}$ square kilometers.⁷⁵

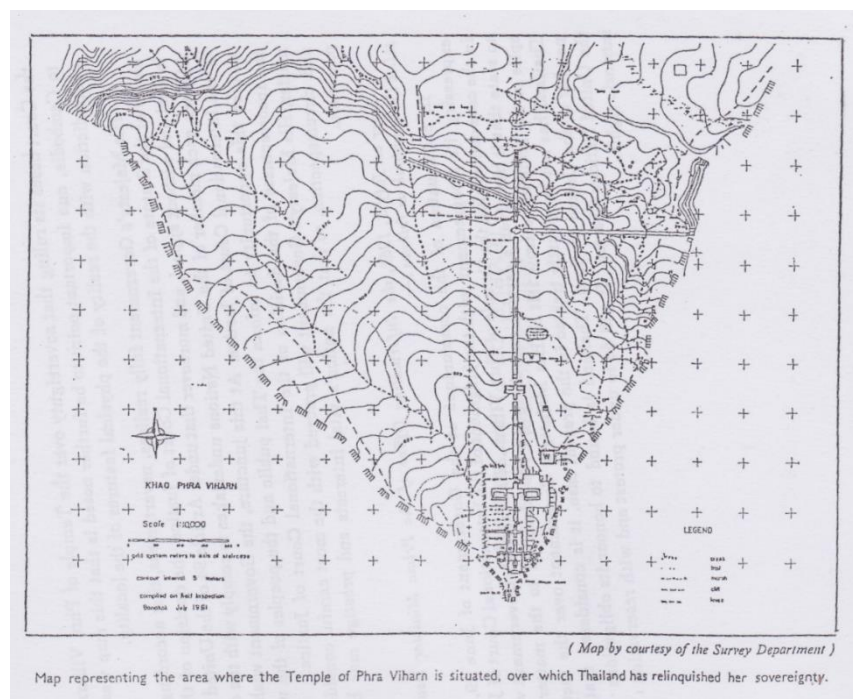


Figure 3: Map Presenting the Line Drawn by the Thai Cabinet in 1962⁷⁶

Nevertheless, of important note is that the MFA's aforementioned national role of conception (NRC) as an international collaborator still predominated. This was

⁷⁵ Surachart Bamrungsuk, "Boribot Prawattisat," [Historical Context] in *Phumsat Haeng Khamkhatyaeng: Thruesadi Lae Korani Thai-Kamphucha* ed. Surachart Bamrungsuk (Bangkok: Security Studies Project, 2014), 214; Prapas Charusathien, Kan Pati Bat Tam Khamphiphaksa Khong San Nai Khadi Prasat Phra Wihan [Actions Following the Court's Decision in the Case of the Preah Vihear Temple], 6 July 1962, 11467/2505, Office of the Permanent Secretary, Ministry of Interior, Bangkok.

⁷⁶ Department of Information, "Case Concerning the Temple of Phra Viharn", 130.

despite the nationalist sentiments that impacted the MFA's perception and prevalent among the governmental politics players. Hence, in order to exert the organization's NRC into foreign policy implementation, the effort of the MFA's senior actor to orchestrate a compromise can be observed in the testimonial to Foreign Minister Thanat Khoman by Anand Panyachun, translated as follows:

After we have lost and the World Court have decided that we return the Preah Vihear Temple to the Khmer based on the principle of estoppel, of course Thai people who were hot-tempered or didn't know all of the facts felt infuriated and didn't want Thailand to lose the Preah Vihear Temple. Field Marshal Sarit, who was the prime minister, was a patriot. That night, when I was in the position of [Thanat's] secretary, I heard that Field Marshal Sarit had ordered the soldiers to attack the Khmer after midnight and would not accept the ruling of the World Court. What happened was that Foreign Minister Thanat and Pote Sarasin, which I could not remember for sure whether he was the Secretary-General of SEATO or other position, went to see Field Marshal Sarit before midnight to explain the reasons in the Court's judgment and the outcome upon which Thailand should act. In actuality, the meeting was to object Field Marshal Sarit that the rejection of the Court and deployment of forces into Cambodia should definitely be refrained. That was because we are member of the United Nations. Also, the Charter has clearly stated that the ruling of the International Court of Justice is final and that the member states must accept and respect the judgment.

To be able to convince Field Marshal Sarit to the idea of accepting the ruling must have taken a long time, but what I knew was that Foreign Minister Thanat proposed to issue a statement of acceptance, but at the same time the statement will be written in the manner that (in this case Ambassador Sompong may know more than me) if there is an account of new information or event, which can be used as evidence in the future, Thailand reserves the rights to bring the case back to the World Court.

This had caused a problem in the past 3-5 years with the question to why we have this reservation and have not done anything in the past 50 years and whether we can still act on the reservation. To my understanding, the statement was in order to save face. So that the military and especially Field Marshal Sarit would understand that although we accepted the verdict, there would be a chance for us to fight for the return of the temple in the future. Nevertheless, in actuality, it is difficult. However, the action portrays the usage of diplomatic language and the way of diplomacy to prevent war and to avoid the fights and killings between two neighboring countries.⁷⁷

In resultant, on 15 July 1962, Prime Minister Sarit removed the forces from the Preah Vihear Temple. Also, the MFA published the information titled, "Case Concerning the Temple of Phra Viharn" in the *Foreign Affairs Bulletin*.⁷⁸ In the publication, there is a translation of the government's public statement concerning the ICJ verdict and its declaration to accept the Court's ruling. In addition, the map that represents the Thai borderline based on the 1962 Cabinet Resolution is included.⁷⁹ (Figure 3)

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⁷⁷ Panyarachun, "100 pi puchaniyabukkhon Dr. Thanat Khoman " [100 years a venerable person Dr. Thanat Khoman] 40-41.

⁷⁸ Department of Information, "Case Concerning the Temple of Phra Viharn", 128-30.

⁷⁹ The Foreign Affairs Bulletin was a bimonthly English publication under the responsibility of the MFA's Department of Information to provide information of foreign affairs and the political, economic, and social developments of Thailand.

3.4 Conclusion

Prior to the territorial conflict that occurred in the 1950s and 1960s, different parties intermittently gained control over the Preah Vihear complex. When France consolidated influence in the region in the late 19th century, Cambodia became a protectorate of the French. At the same time, Siam was pressured to recognize a new borderline between the countries through the Franco-Siamese Treaties of 1904 and 1907. In the 1904 Treaty, the agreement between France and Siam for the Dangrek Mountains stipulates that the border would run along the watershed line. Nevertheless, the treaty also authorized a Mixed Commission of Delimitation to carry out the topographical work and establish an exact boundary line, of which the process became exclusively a French operation. In resultant, when the Commission's map was produced in the year 1907, the line drawn upon the Preah Vihear area deviated from the description in the treaty. Whereas, with the agreement based on the watershed line, the Preah Vihear complex is located in Thailand's territory. In the map produced by the Mixed Commission, the line delineated placed the Preah Vihear Temple in the territory of Cambodia. The ambiguous claims ultimately resulted in the dispute being tackled in the ICJ between the years 1959 and 1962.

In Thailand, during the territorial dispute in the mid-20th century, the country's governmental politics embodied an action channel with relative consensus in the dealings with the neighboring country. That is, there was clear hierarchy as the

foreign policy apparatus was streamlined under the domination of the military leaders such as Field Marshall Plaek Phibunsongkram and Field Marshal Sarit Thanarat. At the same time, information related to Indochinese military and political developments laid exclusively in the purview of the Thai military and intelligence organizations by which decisions were predominated by security concerns and international power dynamics.

When Cambodia gained independence in 1953, the Thai leaders were skeptical of Prince Sihanouk's neutrality and saw opportunity in the French departure. Therefore, Thailand set up a police post north of Preah Vihear and hoisted a Thai flag over the temple. At this time, the MFA's stance for cooperation exhibited in the organizational mission is noted. In the atmosphere of rising tensions after Thailand occupied the Preah Vihear Temple, attempts of negotiations were executed. This can be seen in the meeting between Thai Foreign Minister Thanat Khoman and Cambodian Foreign Minister Son Sann in June 1959. At the meeting, solutions were proposed to prevent the deterioration of relations between the countries. Nevertheless, there was no insistence from the MFA to pursue the path of cooperation with Cambodia when the Thai Cabinet rejected the proposals. Henceforth, the MFA's gesture that signifies the NRC of ally with Cambodia turned to one of rival. Apart from the environment of rising Cold War competition and the marginalized influence of the MFA in the action channel, internal public opinion against cooperation was prevalent. With regards to the claim over the Preah Vihear

Temple, the military leadership had aroused the public sense of ownership of the temple since the late 1930s and heavily publicized the gain of the temple complex after the signing of the Tokyo Peace Convention. This is evident in the manifestation of the nation-wide demonstration that began in the year 1940, demanding the return of territories from France. In turn, the incited nationalist public opinion also enhanced the legitimacy and control of the military leaders in the action channel.

After negotiations were proven futile and diplomatic relations between the two countries were put on halt, Cambodia filed the case to the ICJ. When the ICJ ruled in favor of Cambodia in June 1962, intense reactions precipitated in Thailand. Among the military policymakers, an air of defiance to reject the ICJ's decision and forcibly reclaim the Preah Vihear Temple was evident. Nonetheless, in this situation, while the MFA's NRC towards Cambodia was one of rival, the NRC of international collaborator remained predominant. Previously, the NRC of international collaborator can be seen in the signing of the Washington Accord in 1946 that overturned the Tokyo Peace Convention 1941 to facilitate Thailand's U.N. membership application. After the ICJ's ruling, the MFA's ardent efforts to press forward the government's acquiescence to the Court's decision are noteworthy. Again, the MFA's customary standpoint of diplomatic service can be accounted. The material external condition of the time revealed the US overt support for Cambodia and Cambodia's closer relations with the PRC. Moreover, the ideational external elements of Thailand's

obligations under the U.N. Charter and the country's standing in the international community were significant in view of the MFA.

The MFA's efforts to convince the government included Foreign Minister Thanat's meeting with Prime Minister Sarit and the MFA's forwarding of Thailand's foreign lawyer's suggestions to the Cabinet. Whereas the nationalist sentiments widespread in the public as well impacted the MFA, the resulted foreign policy outcome was accounted to the ministry's maneuverings to effectuate the country's role as an international collaborator. That is, Thailand accepted to comply with the ICJ's ruling under the condition that Thailand made a reservation of the rights to bring the case back to the World Court and reclaim the temple. At the same time, the Cabinet Resolution in 1962 unilaterally drew a borderline to minimally withdraw the Thai troops from the temple area. Conjointly, the Thai reservation to the ICJ and the line of the Cabinet Resolution 1962 would conduce the Thai-Cambodian Preah Vihear dispute to resurface forty-six years later.

Chapter 4

The Changing Period of Proactive Cooperation

Through the study of different periods from the 1970s to the early 2000s, there were numerous political changes in Thailand. After a prolonged duration under military leaderships, in 1971, Field Marshal Thanom Kittikachorn staged a coup against his own government and dissolved the parliament, especially under the concern of communist resurgence in Thailand. The event led to the culmination of resentments from Thai student activists and the general public, which precipitated a popular uprising in 1973. The 1973 Uprising gave way to the civilian governments of Sanya Dharmasakti, Seni Pramoj, and Kukrit Pramoj that lasted until October 1976.¹

On 6 October 1976, the students' demonstrations that surfaced after the return of Thanom into Thailand were faced with right-wing armed groups, which impelled the return of military rule. The National Administrative Reform Council (NARC) took control of the government and ultra-conservative Thanin Kraivichien became prime minister until General Kriangsak Chamanan replaced him through an internal military coup in 1977. Thailand then experienced the political environment

¹ Surachai Yimprasert, *Sai Than Prawattisat Prachathippatai Thai* [The Flow of History, Thai Democracy] (Bangkok: P. Press, 2008), 108-11; Chai-Anan Samudavanija, *Thailand: State-Building, Democracy and Globalization* (Bangkok: Institute for Public Policy Studies, 2002), 82-98.

popularly known as semi democracy under Kriangsak and General Prem Tinsulanonda until the electoral victory of General Chatichai Choonhavan in 1988.²

The 1990s marked a period of political instability in Thailand. Chatichai was ousted in 1991 in allegations of corruption, the military was sidelined by the people's protests, and there were eight different prime ministers in the span of the decade that was also exacerbated by the 1997 Asian Financial Crisis. In the year 2001, Thaksin Shinawatra was elected as the prime minister in an unprecedented landslide victory, which allowed his party to consolidate dominance over the Thai political realm and ran the country in a CEO-like manner.³

In this chapter, firstly, with the focus on the Thai-Cambodian relations at play through the dynamic political arena, an illustration of how Thailand's governmental politics can be viewed as a continuum that swings between governmental confrontation and consensus is clearly presented. Secondly, the Ministry of Foreign Affairs's roles and perceptions can be scrutinized in midst of the changes in the decision-making processes, which can account for the foreign policy outcomes.

² Semi-democracy is a political system in which a non-elected military prime minister heads a parliamentary government. According to Samudavanija, semi-democracy “can be called neither a democracy nor an authoritarian system. It falls between the two political modes and has been termed a semi-democratic government in which the bureaucratic elite have made certain concessions to the nonbureaucratic forces to allow participation in the political process.” Samudavanija, *Thailand: State-Building, Democracy and Globalization*, 102.

³ Likhit Dhiravegin, *Wiwatthanakan Kanmueang Kan Pokkhrong Thai* [Evolution of Thai Government and Administration] (Bangkok: Thammasat University, 2007), 203-49; Yimprasert, *Sai Than Prawattisat Prachathippatai Thai* [The Flow of History, Thai Democracy], 175-263.

Thirdly and as results, Thailand's ardent steps of cooperation with Cambodia, especially with regards to the area of Preah Vihear, are explicated.

4.1 Thai-Cambodian Relations and the Changes in the 1970s

After the resolution of the Preah Vihear legal dispute in 1962, the Preah Vihear complex fell out of the public eyes. Nevertheless, the Thai-Cambodian relations continued to undergo the dynamics that coincided the Cold War developments of the time. Within the Cold War environment, the primary notion that predominated international relations was the concern with the predatory nature of other countries to struggle aggressively to defend their security as the world was divided into two antagonistic blocs.

Field Marshal Plaek Phibunsongkhram and the subsequent military rulers such as Field Marshal Sarit Thanarat and Field Marshal Thanom Kittikachorn bet on the side of the United States against the communist Soviet Union and the People's Republic of China. As the government valued the returned support, their display of anti-communist stance projected Thailand to be the American bastion in Southeast Asia in its fight in the global Cold War.⁴ On the other hand, Prince Norodom Sihanouk

⁴ For example, to assist the UN-led war efforts in Korea against North Korea and China, Thailand was the first Asian country to send forces and supplies. Thailand also recognized the French-supported Bao Dai government in 1950 and later contributed to the American war efforts in

advocated a neutral stance and eventuated to leaning more towards the communist side. Thailand thus felt insecure as the Thai border was seen as susceptible to the encroachment of communism. Thailand supported Cambodian dissidents, which included the Khmer Serei (Free Khmers) movement in the Cambodian jungle as well as Sam Sary and Dap Chhuon who were the right-wing government officials to topple Sihanouk's regime. Hence, alongside the aforementioned Preah Vihear legal dispute in early 1960s, there was also a temporary break down of diplomatic relations between Thailand and Cambodia in 1961. All in all, the Thai government had predominantly perceived its role to be a rival with the Cambodian government of Sihanouk.⁵

In the early Cold War period, a consensus can be seen in the Thai foreign policymaking process. The foreign policymaking, especially in relations to the Indochinese neighboring countries were exclusively in the hands of the military prime ministers and within the prime minister's department, organs such as the National Security Council (NSC), and the National Intelligence Agency (NIA).⁶ Apart from the

Vietnam. Additionally, as the region was being drawn into sides, Thailand joined South-East Asia Treaty Organization (SEATO) on 8 September 1954. In exchange, the US had provided Thailand with assistance to maintain the existing political structure. Sean Randolph, *The United States and Thailand* (California: Institute of East Asian Studies, 1986).

⁵ Theeravit, "Thai-Kampuchean Relations: Problems and Prospects"; Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations."

⁶ Funston, "The Role of the Ministry of Foreign Affairs in Thailand: Some Preliminary Observations", 234-36.

MFA's proactive effort to convince the Thai government to acquiesce to the ICJ's decision as an international collaborator, the MFA remain within the domain of policy implementation.⁷

However, in the 1970s, changes were occurring in the international environment. In the late 1960s, the United States pursued 'Vietnamization' and the 'Nixon Doctrine' that suggested that the United States would be taking on less responsibility as a guarantor of security for the countries in the Southeast Asian region.⁸ In line with the new international environment, during the regime of Field Marshal Thanom Kittikachorn, the Thai Foreign Minister Thanat Khoman started to search for an alternative foreign policy approach. He embarked on gearing Thailand away from the dependence of the old ally and to initiate limited rapprochement with the communist states. This was despite the fact that he was initially a major contributor to the tight alliance between Thailand and the United States (clearly displayed in the Rusk-Thanat Communique). The incipient flirtations with the PRC included the sending of Thai representative to Guangzhou and the formation of the working group to consider the Thai-Sino relations. However, formal diplomatic ties

⁷ Ibid., 233.

⁸ 'Vietnamization' is a policy that focuses on training and the enhancement South Vietnamese forces to be able to reduce number of U.S. combat troops from the Vietnamese front. 'Nixon Doctrine' connotes the US pursuit of foreign policies that did not presume a monolithic global communist movement and an openness to engage with communist states.

had yet to thrive due to Thanom's administration's lasting fear of Chinese influence.⁹ Also, Surachart Bamrungsuk notes, "Thailand in 1971 became increasingly occupied with adjusting foreign policy to suit the changing role of the U.S. in Asia, and to take into account the emergence of China and North Vietnam. The military leaders sensed that the U.S. was going to leave Thailand, but they continued to feel that close U.S.-Thai relations were the key to the security of Thailand."¹⁰ In fact, Thanat Khoman's insistence caused him his position and after the coup in 1971, with the prominence of the military's viewpoint, Thanom took over the foreign portfolio.^{11,12}

Nonetheless, the shift in the Thai foreign policy was possible during the intermission from military rule. Domestically, as Thailand also experienced communist insurgencies that came into the fore in the 1970s, after the military coup in 1971, the Thai student activists were frustrated with the perpetuation of dictatorial rule and coordinated with the Communist Party of Thailand (CPT). This cumulated into the uprising on 14 October 1973 that overthrew the military regime and brought about a short period of civilian rule.¹³

⁹ Kenneth Stanley Harbin, "The Expanding Sino-Thai Military Relationship: Implications for U.S. Policy in Thailand" (Master's Degree Naval Postgraduate School, 1990), 20.; Leszek Buszynski, "Thailand: The Erosion of a Balanced Foreign Policy", *Asian Survey* 22, no. 11 (1982): 1039.

¹⁰ Bamrungsuk, *United States Foreign Policy and Thai Military Rule 1947-1977*, 161.

¹¹ *Ibid.*, 162; Buszynski, "Thailand: The Erosion of a Balanced Foreign Policy", 1039.

¹² It wasn't until the administration of Kukrit Pramoj that the driving progress to engage with the PRC could be made.

¹³ Pasuk Phongpaichit and Christopher Baker, *Thailand: Economy and Politics* (Selangor Darul Ehsan: Oxford University Press, 2002); Ettinger, "Thailand's Defeat of Its Communist Party".

Under the new political dynamic, with the increase in actors competing for opposing interests in a more open power structure, governmental confrontation can be seen in the foreign policy decision-making channel. In the civilian government regimes, there was a decrease in the military's political authority that coincided the presence of the aforementioned popular pressures. During the civilian governments of Kukrit Pramote and Seni Pramote, the MFA played a proactive role in the midst of counterchallenges to find a politically acceptable basis to limit the American presence in the country and engage with the Indochinese neighbor.¹⁴

In relations to the Thai foreign policy towards the United States, the predicament of governmental confrontation was evident. Prime Minister Kukrit Promoj's first announcement of national policy on 19 March 1975 specified that the government would take active steps to actualize the withdrawal of foreign troops in one year.¹⁵ However, many incidents precluded the achievement of that goal. A clear example can be seen in the Mayaguez incident (12-15 May 1975). Despite the government ardent announcement against American military missions in Thailand, Washington ordered attacks upon Cambodian vessels from its bases in Thailand and U.S. marines had been brought into the country without consultation with the Thai government. According to R. Sean Randolph,

¹⁴ Randolph, *The United States and Thailand*, 195-96.

¹⁵ Kukrit Pramoj, *Khamthalaeng Nayobai Ratthaban* [Government's National Policy Statement] (Bangkok: Digital Object National Assembly Library, 19 March 1975), 201, https://library2.parliament.go.th/giventake/content_sp/sp36.pdf.

When, on May 14, the decision was taken to bring in U.S. marines from Okinawa to U-Tapao, no prior notice was given to Kukrit or to any other ranking member of the government. At approximately 3:00 A.M. on the morning of the 14th, however, the U.S. Embassy informed General Kriangsak Chomanan, the Deputy Supreme Commander and chief point of contact between the Embassy and the Thai Supreme Command, by telephone of the impending rescue operation. Kriangsak received information at the time of the transfer of marine units from Okinawa to U-Tapao, and granted his broad approval. Assuming that an effort to consult with the government would inevitably draw a negative response, Kriangsak subsequently made no attempt to contact either Kukrit or the Foreign Ministry.¹⁶

The incident coincided the pressures from the public against American interventions in Thailand that included student protests and attacks from the press.¹⁷¹⁸ To display the objection to the American action, the Thai government called back Anand Panyarachun who was serving as the Ambassador of Thailand to the US posted at Washington, D.C.¹⁹ Then the Ministry of Foreign Affairs was given the responsibility to review all agreements with the United States. In addition, in

¹⁶ Randolph, *The United States and Thailand*, 184.

¹⁷ The first big protest against the American intervention was on the US Independence Day, 4 July 1974. This was after there were suspicions of the CIA's attempt to fake a letter from the Communist Party of Thailand (CPT) to the government in order to cause confusion within the CPT and bring the communist problem to the fore. Bamrungasuk, *United States Foreign Policy and Thai Military Rule 1947-1977*, 174.

¹⁸ There were many books printed at this time that include titles such as *Damn Imperialism* (จับพรรคินิยมจงพินาศ) and *America the World Bully* (อเมริกันอันธพาลโลก). Yimprasert, *Sai Than Prawattisat Prachathippatai Thai* [The Flow of History, Thai Democracy], 143.

¹⁹ Sathien Chantimatorn, *Senthang Su Amnat Phon Ek Chatichai Choonhavan* [Path to Power General Chatichai Choonhavan] (Bangkok: Matichon, 2005).

February of the following year, the ministry undertook a strong measure that included Anand Panyarachun, serving as the permanent secretary of Foreign Affairs, laying out a list of “Seven Principles” that the United States was required to agree as a basis for any possible future cooperation.²⁰ The principles provided clear line of actions that demanded the withdrawal of American troops. Kukrit’s government endorsed the perceived ultimatum and the MFA released text on the principles on 9 March 1976. Then, the withdrawal plan was completed by 20 July 1976 under Seni Pramote’s administration and Bhichai Rattakul as the foreign minister.²¹²²

The MFA’s intention to consolidate influence in the policymaking process is discernable. As accounted by Randolph, the MFA’s arduous attempts to curb the American intervention in the country were in order to break the linkage between the United States and the Thai military. He describes that, “in that process, they hoped to make the shift of power from military to civilian forces irreversible.”²³ The impetus was in part due to the ideational changes from the public opinion, as seen in the

²⁰ Albeit his posting in the United States, Anand had presented concerns for the excessively close and militarized relations between Thailand and the US. Randolph, *The United States and Thailand*, 189.

²¹ Ibid., 189-190

²² Strong counter pressures were evident, as Seni Pramote had also suggested leaving the doors open to the Americans when he first assumed office, although that position was later retracted. Pawakapan, *Songkhram Kan Kha Lae Chatniyom Nai Khwam Samphan Thai-Kampucha* [Wars, trade and nationalism in Thai-Cambodian relations], 46.

²³ Randolph, *The United States and Thailand*, 194.

students' political movement against the presence of American influence.²⁴ Nevertheless, it must be noted that the Thai military continued to oppose the withdrawal of American presence in the country. The military perceived that the decline in American forces would reduce the Thai armed forces' ability to withstand communist elements in the country and therefore was accepting towards the American use of Thailand's U-Tapao base. In fact, the US government concurred with the Thai military. Bamrungsuk indicates, "Kissinger told the reporters that they should not pay attention to Thai politicians, but rather to the Thai military."²⁵ And, the connection between the US and the Thai government organizations such as the Internal Security Command (ISOC), the Thai police, and the Thai armed forces were maintained, which allowed the right-wing groups to cultivate equipment eventually used for counter-demonstration.²⁶

On the side of the Thai-Cambodian relations, under the civilian governments, the governments' policy statements proclaimed the country's adherence to engage with friendly nations regardless of the ideological differences and embrace relations

²⁴ Kittisak Prokati, "Thailand: The "October Movement" and the Transformation to Democracy," in *1968 Memories and Legacies of a Global Revolt*, ed. Philipp Gassert and Martin Klimke (Washington DC: Bulletin of the German Historical Institute Washington DC, 2009), 99.

²⁵ Bamrungsuk, *United States Foreign Policy and Thai Military Rule 1947-1977*, 175-79.

²⁶ The right-wing movement was also supported by the group of middle-ranking officers. The group led by Colonel Chamlong Srimuang, known as the Young Turks, called for continued US military presence. *Ibid.*, 179-180, 183-184.

with the neighboring countries.²⁷ On 1 October 1974, in part of the deputy foreign minister, Chatichai Choonhavan's statement in the United Nations General Assembly's 28th session presented amicable gesture of good neighborliness with the countries in Southeast Asia to cooperate with each other regardless of differences in political systems.²⁸ Moreover, even during the Khmer Rouge's control of Democratic Kampuchea, concurrent to Thailand's diplomatic engagements with the PRC, Thailand recognized the new communist regime and normalization of relations with Democratic Kampuchea was transpired. As seen on 1 October 1975, Anand Panyarachun, who was then the Ambassador to the United States in Washington D.C. and to the United Nations in New York, reiterated Thailand's position towards the Indochinese neighbors at the 30th session of the U.N. General Assembly. For the Thai policy statement, Anand articulated,

Thailand has demonstrated its goodwill and willingness to assume friendly and meaningful relations and to live in peace and amity with the countries of Indo-China, on the basis of mutual respect for sovereignty, territorial integrity, and

²⁷ *Policy Statement of the Council of Ministers of Prime Minister Sanya Dharmasakti*, (Bangkok: The Secretariat of the Cabinet, 25 October 1973), http://www.soc.go.th/eng/bb2_main31.htm; *Policy Statement of The Council of Ministers of Prime Minister Sanya Dharmasakti*, (Bangkok: The Secretariat of the Cabinet, 7 June 1974), http://www.soc.go.th/eng/bb2_main31.htm; *Policy Statement of The Council of Ministers of Prime Minister M.R. Seni Promoja*, (Bangkok: The Secretariat of the Cabinet, 6 March 1975), http://www.soc.go.th/eng/bb2_main31.htm; *Policy Statement of The Council of Ministers of Prime Minister M.R. Kukrit Pramoja*, (Bangkok: The Secretariat of the Cabinet, 19 March 1975), http://www.soc.go.th/eng/bb2_main31.htm; *Policy Statement of The Council of Ministers of Prime Minister M.R. Seni Promoja*, (Bangkok: The Secretariat of the Cabinet, 30 April 1976), http://www.soc.go.th/eng/bb2_main31.htm.

²⁸ "United Nations General Assembly Twenty-Eight Session", (New York, 1 October 1973), 10.

non-interference in each other's internal affairs. We are gratified that we have received a positive response from all concerned. It is our conviction that mutual trust and confidence can be rebuilt, and our common desire to usher in a new era of peace, progress and security can soon be translated into reality.²⁹

Furthermore, in the same month, Ieng Sary, the deputy prime minister and foreign minister to Democratic Kampuchea, was invited to Bangkok and co-signed with Thai Foreign Minister Chartchai Choonhavan, a joint communiqué between the two countries. The communiqué concluded a diplomatic relations between the two countries with the establishment of border liaison offices and later formalized trade relations.³⁰ And under Seni Pramote's government, the Thai Indochinese policy continued on the same conciliatory path, which included Foreign Minister Bhichai Rattakul and his team travelling covertly to Battambang to discuss further commitments between the two countries. The discussion comprised of agreement to establish embassies in both capitals, the issues of international trade, border demarcation, the release of Thai fishermen arrested by the Khmer Rouge, and Cambodian refugees.³¹

²⁹ "United Nations General Assembly Thirtieth Session", (New York, 1 October 1975), 337.

³⁰ Christian Oesterheld, "Cambodian-Thai Relations during the Khmer Rouge Regime: Evidence from the East German Diplomatic Archives", *Silapakorn University Journal of Social Sciences, Humanities and Arts* 14, no. 2 (2014): 144; Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations," 127.

³¹"Thais Report Pact with Cambodians", *The New York Times*, 19 June 1976, <https://www.nytimes.com/1976/06/19/archives/thais-report-pact-with-cambodians-accord-reached-on-border-and.html>; Nopprasert, "Kan Prap Nayobai Tang Prathet Thai (Phoso 2516-2519)

While the described warming of relations between Thailand and Cambodia in the years 1974 to 1976 was making headway with the active efforts of the MFA, governmental confrontation in the policymaking arena was as well present. This was largely due to the anti-communist elements concentrated in the military agencies in which their influence was endured in the executive branch like the NSC as well as in actors of implementation on the grounds.³² In spite of the diplomatic parlance, skirmishes along the Thai-Cambodian border were common occurrences. For instance, as the Khmer Rouge overthrew Lon Nol's government, remnants of Lon Nol forces formed resistance groups that occupied camps along the Thai border.³³³⁴ The groups were backed by the Thai military and launched attacks on the Khmer Rouge. One of the groups was led by In Tam, a prime minister under the Khmer Republic. The Premier and Foreign Minister Chartichai identified him as the cause of the border strife and they forced In Tam to leave. Although In Tam did eventually leave Thailand, it was not without a showdown with the hardline NSC that overruled the Prime Minister's ultimatum and allowed In Tam to stay. Another resistance group

" [The Adjustments in Thai Foreign Policy (1973-1976).], 56; Puangthong Rungwasdisab, "Thailand's Response to the Cambodian Genocide," in *Genocide in Cambodia and Rwanda: New Perspectives*, ed. Susan E. Cook (New Brunswick, NJ: Transaction Publishers, 2005), 85.

³² Randolph, *The United States and Thailand*, 180,84.

³³ Lon Nol's government was a pro-American government that overthrew Sihanouk's regime and governed the brief Khmer Republic from 1970 to 1975.

³⁴ The groups, although separated from each other, together were known as the "Khmer Sereikar", translated into "Khmer Liberation". Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations."

was one operated under Sek Sam Iet, a former governor of Battambang under the Khmer Republic. The group provided intelligence for the Thai Supreme Command office and while they were known to act like bandits and jeopardize the security in the area at the border, they were also permitted to stay.³⁵

Likewise, during the administration of Seni Pramote there were progresses in cordial relations with Cambodia, especially as Seni allocated major foreign policy responsibilities to the MFA under Foreign Minister Bichai Rattakul.³⁶ While the MFA continued to foster the policies to achieve rapprochements with the Indochinese neighbors, mounting oppositions against the ministry's line of action remained. As illuminated by Larry Palmer's in regards to Bichai's covert trip to Battambang, "few besides Seni know the trip was about to take place. The Thai and the Kampuchean governments "mutually agreed" that the secrecy was necessary to maintain security. It seems very likely that both sides feared that the right-wing Kampuchaea guerrillas and the "certain Thai generals" who backed them might attempt to sabotage the meeting."³⁷

With regards to the MFA's perception, it was in line with the external environment of the time, known as the détente period. The détente (1969-1979) is

³⁵ Pawakapan, *Songkham Kan Kha Lae Chatniyom Nai Khwam Samphan Thai-Kampucha* [Wars, trade and nationalism in Thai-Cambodian relations], 51.

³⁶ Funston, "The Role of the Ministry of Foreign Affairs in Thailand: Some Preliminary Observations", 237.

³⁷ Larry Palmer, "Thailand's Kampuchea Incidents: Territorial Disputes and Armed Confrontation along the Thai-Kampuchea Frontier", *News from Kampuchea* 1, no. 4 (1977): 21.

characterized as the easing of tensions, although not the end of tensions, which had been building up for three decades since the end of World War Two. The period emerged when the United States began to seek rapprochement with the People's Republic of China in 1969 and signed the First Strategic Arms Limitation Treaty (SALT I) with the Soviet Union in 1972.³⁸ Therefore, the MFA's perceived national role conception of Thailand towards the PRC and the Democratic Kampuchea from rival to ally can be seen to coincide the international shift. Furthermore, apart from the efforts to curb the US domestic influence and despite of the American sustained assistance to the Thai military and right-wing groups, the aforementioned changes in the NRCs towards Cambodia remained within the scope of an ally with the United States. With reference to Henry Kissinger, the US Secretary of State, he stated in 1975, "The Chinese want to use Cambodia to balance off Vietnam... We don't like Cambodia, for the government in many ways is worse than Vietnam, but we would like it to be independent. We don't discourage Thailand or China from drawing closer to Cambodia."³⁹

³⁸ Antony Best et al., *International History of the Twentieth Century and Beyond* (Oxon: Routledge, 2008).

³⁹ Quoted in Ben Kiernan, "Introduction: Conflict in Cambodia, 1945-2002", *Critical Asian Studies* 34 (2002): 487.

4.2 The Thai-Cambodian Relations during the Prem Government

The period of democratic experiment ended when the National Administrative Reform Council (NARC) took control of the government and Thanin Kraivichien assumed the premier office. The turn of events was precipitated by the joining of groups such as the CPT and the National Student Center of Thailand (NSCT) that coincided the collapse of Saigon in 1975. The joining of the groups and the event gave fuel to the consolidation of Thai right wing under the domination of the military and organization of oppositional groups like the ‘Krathing Daeng’ (or the Red Guards). As Field Marshal Thanom Kittikachorn returned from exile, demonstrations mushroomed alongside the proliferation of anti-leftist propaganda. The events ended in the suppression of students’ demonstration by the elements of the Thai right wing at Thammasat University on 6 October 1976 and the NARC’s overthrow of the democratic government.⁴⁰ Under the ultra-conservative Thanin, the MFA’s influence in the policymaking arena was abated and later revived when General Prem Tinsulanonda assumed the premier’s office. And, together with the shifts in the external environment, there were changes in the Thai-Cambodian relations.

With regards to the Thanin’s government, Funston states, “many in the Ministry had shared excitement of the “democratic interlude”, and found it difficult

⁴⁰ Phongpaichit and Baker, *Thailand: Economy and Politics*, 324-25. Yimprasert, *Sai Than Prawattisat Prachathippatai Thai* [The Flow of History, Thai Democracy], 153-73.

to represent the right-wing Thanin administration with equal enthusiasm. The new policy of confrontation towards Indochina and all communist countries – a reflection of the view of the Prime Minister and some of his military backers - went against the policy of moderation and caution which the Ministry had successfully pursued over the preceding three years.”⁴¹ Furthermore, there were military direct interventions into the affairs of the foreign ministry such as the suspension of three senior MFA officials after being branded as a communist sympathizer, which included Anand Panyarachun.⁴²

In the ultra-conservative administration of Thanin Kraivichien, the improvement of relations between Thailand and Cambodia thus came into a halt. The hardline position advocated by the policymakers brought about border clashes between the two countries, which were increasingly violent and frequent. While there were diplomatic approaches to ease the tensions between the two countries, Larry Palmer remarks that “these diplomatic steps, however, were clearly taken in an atmosphere of less than mutual trust and good will than had been characteristic when Thailand was under civilian administration.”⁴³ In consequence, as the prospect

⁴¹ Funston, "The Role of the Ministry of Foreign Affairs in Thailand: Some Preliminary Observations", 237. Funston 1987, 237

⁴² Pacharee Phumpachart, "Khwaam Samphan Rawang Thai Kap Satharanarat Sangkhomniyom Vietnam Phoso 2518-2532 " [The Relationship Between Thailand and the Socialist Republic of Vietnam 1975-1989] (Master's Thesis Thammasat University, 1991), 59.

⁴³ Palmer, "Thailand's Kampuchea Incidents: Territorial Disputes and Armed Confrontation along the Thai-Kampuchea Frontier". Larry Palmer "Thailand's Kampuchea Incidents", 23

of war heightened, General Kriangsak Chamanan replaced Thanin through an internal military coup on 20 October 1977.

While Kriangsak welcomed the move back to the parliamentary system with an election held in 1979 and tried to ensure his decision-making influence, his leadership soon dwindled and was succeeded by General Prem Tinsulanonda in February 1980. With the Prem Government, Thailand experienced the period connoted as 'semi-democracy'.⁴⁴ That is, a political system in which a parliamentary government is headed by an unelected military prime minister.

During Prem's eight-year period of premiership, Thailand's foreign policymaking landscape bore strong governmental consensus. Precipitated by the events of the 1970s, there was an increase in political liberalization while the military retained influence in politics. Therefore, as the political parties were weak and fragmented, General Prem was repeatedly nominated to be prime minister as a military man who could mediate the competing political parties.⁴⁵ Also, as Saitip Suaktipan elaborates,

General Prem Tinsulanonda, who succeeded General Kriangsak as another nonpartisan prime minister, was a well-respected commander-in-chief of the army with a clean professional record and the personal trust of the king and

⁴⁴ Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations," 138-39. Paul Chambers, "A Short History of Military Influence in Thailand," in *Knights of the Realm: Thailand's Military and Police, Then and Now*, ed. Paul Chambers (Bangkok: White Lotus Press, 2013), 198-204.

⁴⁵ Chaiwatt Mansrisuk, "Successful Transition, Failed Consolidation: Historical Legacies and Problems of Democratization in Thailand" (Ph.D. Dissertation University of Freiburg, 2017), 133.

queen. He had strong support from the powerful Young Turks. His prestige and integrity, as well as his tactful management of rifts within the army, helped him to secure control over the armed forces. He appointed trusted men to powerful posts and played one faction against another with great success.⁴⁶

In the position of foreign minister, which continued for the following ten years, was Air Chief Marshal Siddhi Savetsila. The unity and smoothness in the running of Thai foreign policy at the time can be attributed to the following reasons. Firstly, Siddhi was a former schoolmate of Prem and Prem had presented full confidence in the decision of the Foreign Minister as well as the MFA in foreign policy.⁴⁷ Secondly, Siddhi was able to mediate the divide between the MFA and other military-dominated agencies. That is because Siddhi was from the military ranks and was formerly the secretary-general of the NSC. And thirdly, as noted by Funston, to mediate the separation, steps were taken to appoint personnel with relations to the military in key MFA positions. Also, ad hoc committees as well as high-level and lower level meetings involving MFA, military, and NIA officials were instituted.⁴⁸

During this period, the Thai foreign policy was concertedly centered on the country's immediate security, which accorded with the shift in global and regional

⁴⁶ Saitip Sukatipan, "Thailand: The Evolution of Legitimacy," in *Political legitimacy in Southeast Asia: the quest for moral authority*, ed. Muthiah Alagappa (Stanford: Stanford University Press, 1995), 215.

⁴⁷ Prasong Soonsiri, *726 Wan Tai Balang Prem Rue Cha Loproi Adit Dai* [726 Day Under the Throne of Prem Could It Erase the Past] (Bangkok: Matichon, 1980), 194.

⁴⁸ Funston, "The Role of the Ministry of Foreign Affairs in Thailand: Some Preliminary Observations", 238.

politics. By the end of 1979, the détente officially ended and relations between the US and the Soviet Union again deteriorated. Moreover, the Vietnamese-dominated People's Republic of Kampuchea (PRK), an official ally of the USSR, overthrew the Democratic Kampuchea in December 1978.⁴⁹ Three months after the inauguration of Prime Minister Prem, there were Vietnamese attacks against the Cambodian oppositional forces inside the Thai border, which was followed by massive influx of Cambodian immigrants into Thailand. Towards the Cambodian crisis, the administration believed that Thailand must strengthen its role to push for a solution in Cambodia to protect the Thai national interest of security. The Thai goals included: the push for the withdrawal of Vietnamese troops from Cambodia (being the priority); ending the fight or limiting the fight from spilling over into Thailand; finding a guarantee mechanism to ensure that Cambodia will not be a threat for both countries; and to solve the refugee problem.

In order to achieve the aforementioned goals, the administration seek to utilize the ASEAN channel and cooperate with the major powers such as the US, the PRC, and Japan to increase Thailand's capacity. Albeit the differences in the ASEAN members' perceptions, Thailand gained the leading role through the pressing of claim that the country was most affected by the situation. Through the diplomatic and economic isolation of Vietnam within the region as well as in the international stage, Thailand wanted to pressure Vietnam to withdraw its troops and decrease its

⁴⁹ Best et al., *International History of the Twentieth Century and Beyond*.

support to Heng Samrin's PRK. In connection, Thailand advocated the legitimation and strengthening of Cambodian oppositions against the Vietnamese-dominated government. This included, the success in getting the United Nations' resolution to recognize the Democratic Kampuchea's membership in the U.N. until the year 1992 and later, to endorse the Coalition Government of Democratic Kampuchea. Additionally, although Thailand initially denied the fact, it served as a crucial weapons and supplies link from the PRC to the persisting oppositional groups against the PRK.⁵⁰

The MFA's active role was observable throughout this period. For instance, due to the heinous image of the Khmer Rouge, there was nominal international support for Democratic Kampuchea. Since international support was seen as indispensable, the formation of the Coalition Government of Democratic Kampuchea (CGDK) between the opposition groups that included the Khmer Rouge, the Funcinpec, and the Khmer People National Liberation Front (KPNLF) to represent Democratic Kampuchea was suggested.⁵¹ And with the crucial endeavors of Foreign Minister Siddhi and the MFA, the group leaders eventually agreed to the coalition and gained international recognition. This can be seen in the accounts of Foreign

⁵⁰ Noiwong, *Kamphucha: Nayobai Thangprathet Thai Samai Phon Ek Prem Tinsulanon* [Cambodia: Thai Foreign Policy under the Prem Tinsulanond's Government]. ,101-103, 126-129, 136-7.; Sukontasap, "The Third World and the United Nations Security Council: The Thai Experience, 1985-1986," 205-06.

⁵¹ Pawakapan, *Songkhram Kan Kha Lae Chatniyom Nai Khwam Samphan Thai-Kampucha* [Wars, trade and nationalism in Thai-Cambodian relations], 58.

Minister Siddhi. He mentioned that, albeit the initial hesitation of Norodom Sihanouk because of the prince's direct experience with the Khmer Rouge's atrocities, his meeting with Sihanouk at the Thai Embassy in Paris had led to Sihanouk's compliance. Also, the Thai Ministry had been proactive in setting and preparing meeting agendas to facilitate the coalition process.⁵²

In connection, the MFA robustly pursued Thailand's role as an international and regional collaborator through the organizations of the U.N. and ASEAN. The MFA vigorously engaged in the world organization which include: Ambassador Bhirabhong Kasemsri unprecedented assumption as the vice president of the 35th session of the General Assembly in 1980; other Thai representatives elected for chairmanship in the committees of the Assembly in the following years; and in Thailand was elected member of the U.N. Security Council in 1985. Also, in 1983, the MFA created a task force within the Department of International Organizations to enhance the country's performance in the U.N., which later became the inter-ministerial Committee on the Coordination of National Policy on the United Nations and Other International Organizations.⁵³ As stated by Sukontasap, "the affinity which the Thai Foreign Ministry feels towards the U.N. is particularly strong. Throughout the forty-odd years of the country's participation in the world organization, the Thai Foreign Ministry has always

⁵² MFA, *Withesobai Satai Ratthamontri Siddhi* [Foreign Policy Style Minister Siddhi], 91.

⁵³ Sukontasap, "The Third World and the United Nations Security Council: The Thai Experience, 1985-1986," 230-33.

ensured that the country's Missions in New York, Geneva and Vienna are headed only by high-calibre career diplomats."⁵⁴

On the side of ASEAN, there were constant initiations by the Foreign Minister and the MFA to co-opt ASEAN's decisions and actions to express views that generally resembled ones of Thailand. Orn-anong Noiwing notes that Thailand, especially the MFA, saw that ASEAN had evolved to be a group that can achieve goals despite the members' differences and could speak with one voice in the international stage.⁵⁵ The perpetual efforts in part of the Minister and the MFA can be seen as Siddhi recounted that he had met other ASEAN Foreign Ministers, individually and in groups, in no less than two hundred times before the mid of 1980s.⁵⁶

In this period, since it was foreseen that Thailand did not have the capability to militarily confront Vietnam that had recently defeated the United States and was supported by the Soviet Union, the play on diplomacy took precedence. Therefore, foreign policy engagements with regards to Cambodia were chiefly nested within the domain of the MFA.⁵⁷ Significantly, coupled with the regime's condition of high governmental consensus and augmented authority allocated to the ministry, the MFA's assertive leadership could be achieved. However, the dominant viewpoint was

⁵⁴ Ibid., 237.

⁵⁵ Noiwing, *Kamphucha: Nayobai Thangprathet Thai Samai Phon Ek Prem Tinsulanon* [Cambodia: Thai Foreign Policy under the Prem Tinsulanond's Government], 114.

⁵⁶ Siddhi Savetsila, *Collection of Speeches* (Bangkok: Krung Siam Printing, 1985), 11.

⁵⁷ Noiwing, *Kamphucha: Nayobai Thangprathet Thai Samai Phon Ek Prem Tinsulanon* [Cambodia: Thai Foreign Policy under the Prem Tinsulanond's Government], 103.

not without criticism that came from factions of the military, the press, some public figures, commercial interest groups and academics.⁵⁸ Nevertheless, John Funston remarks that the domestic critics “were at times an embarrassment to the Foreign Ministry, requiring attention from policy-makers, but seldom more than that.” Concurrently, the MFA, with success, tried to manage opposing criticism and unite public opinion. As Funston further elaborated,

The Foreign Ministry evidently recognized the validity of such charges, and gradually opened its doors in a way that significantly changed the nature of foreign policy debate in the country. The process started with Siddhi holding lengthy and frank discussion on Cambodia with the media in August 1982, then was broadened when the ministry held a forum on its role and major policies, participated in by around 100 journalists, academics and senior ministry staff, in February 1983. The *Nation Review*, which reported the forum in detail, found the exchange revealing, and commented that it was the first time the ministry had invited observers from the “outside world” to speak out on just how they thought it had been faring. Foreign Ministry personnel thereafter continued to participate in academic seminars, and to engage in a much more extensive exchange with academics and journalists than they had ever done previously.⁵⁹

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4.3 Chartichai Choonhavan’s “Turning Battlefields into Marketplaces”

By the late 1980s, the withering of the Soviet Union signaled the end of the Cold War tensions and a critical juncture in the international context resulted. The

⁵⁸ John Funston, "Thailand's diplomacy on Cambodia: Success of Realpolitik", *Asian Journal of Political Science* 6, no. 1 (1998). Funston 1998, 70

⁵⁹ *Ibid.*, 73-74.

Soviet Union's Gorbachev adopted 'perestroika' policy (translated as 'restructuring') in which the country undertook fundamental reforms upon its political and economic system. Its economy was decentralized to be able to cope with the economic downturn and the ailing superpower lessened its commitment abroad. This action was adopted by Vietnam as well as the PRK.⁶⁰ Accordingly, in Thailand, there was an undefined period of discord between the nation's traditional security stand and the prioritization of economic linkages.

The period of change coincided the end of semi-democracy in Thailand with the election of Chatichai Choonhavan, leader of the Chat Thai Party, as the prime minister (in the year 1988). While there was a unity in foreign policy during the years of 1980 to 1988, in Chatichai's administration, the arrangements were altered which catalyst the shift in the dominant NRC towards Cambodia. In the new administration, governmental confrontation was prevalent with ill-defined power structure, increase in number of actors, and polarized positioning of interests. On one hand, Chatichai valued foreign policy suggestions of his own team of academics known as the "Ban Phitsanuloke Advisory Team" (คณะที่ปรึกษาบ้านพิษณุโลก) that saw more productiveness in the engagements in trade and commerce in Southeast Asia and the NRC of ally

⁶⁰ Stephan G. Brooks and William C. Wohlforth, "Economic Constraints and the Turn towards Superpower Cooperation in the 1980s," in *The Last Decade of The Cold War: From Conflict Escalation to Conflict Transformation*, ed. Olav Njølstad (London: Frank Cass, 2004), 69-90.; Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations," 205-06.

with the Vietnamese dominated PRK.⁶¹⁶² In the verge of the Thai economic boom fostered by the export-oriented industrialization (EOI), business interests that favor economic liberalization came to play significant role in electoral politics.⁶³⁶⁴ Also, the

⁶¹ Yathip, "Thailand's foreign policy in the post-Cold War period: uncovering new actors in the foreign policy-making process towards neighbouring countries.," 42.

⁶² The Ban Phitsanulok Advisory Team comprised of Thai academics in various fields that provide policy recommendations to the prime minister without the influence of political or bureaucratic associations. The advisory team included Phansak Viyarat, M.R. Sukhumbhand Paribatra, and Kraisak Choonhavan who criticized the solution to the Cambodian problem adopted by the previous government and the MFA officials as shortsighted. Also, Surakiart Sathirathai, the foreign minister during the administration of Thaksin Shinawatra (2001-2006), was part of the team and played instrumental role in the Chatchai government's engagements with Cambodia. Pasuk, *Nayobai Tang Prathet Khong Thai: Suksa Krabuankamkamnod Nayobai Kong Rathaban Pon-ek Chatchai Choonhavan Tor Panha Kampucha, Si Singhakom 1988-23 Kumphaphan 1991* [Thai foreign policy: A study of foreign policy making process under the Chatchai Choonhavan government, 4 August 1988 - 23 February 1991], 7-8. Kunthic, "Doctor Surakiart Sathianthai Kap Kan Damnoen Nayobai Tangprathet Phoso 2544-2548 " [Dr. Surakiart Sathirathai and the Implementation of Thai Foreign Policy, 2001-2005], 105-07, 10-17.

⁶³ Yathip, "Thailand's foreign policy in the post-Cold War period: uncovering new actors in the foreign policy-making process towards neighbouring countries.," 72.

⁶⁴ The 1988 Election gave way to businessmen that accounted up to two-third of all candidates elected. Phongpaichit and Baker further illustrate that "after two years of double-digit GDP growth, Thailand's domestic capital felt confident and expansive. Chatchai's government played to this mood. Among Cabinet members, the *chut pharatchathan* and military uniform of the Prem era disappeared. They were replaced by the dark suit of the Bangkok executive, or the open-necked shirt sported by the successful provincial businessman. With control of the Cabinet, business set out to restructure the administration and the economy." Phongpaichit and Baker, *Thailand: Economy and Politics*, 367-68.

predominant part of the military also echoed the idea of the prosperous golden land of Southeast Asia, or the concept of “Suwannaphume”.⁶⁵

On the other hand, the MFA that previously held dominance in the Thai foreign policymaking focused on the Thai role as an international and regional collaborator to pressure and isolate Vietnam to withdraw its troops from Cambodia as well as to support the Cambodian coalition government. Furthermore, to complicate the matter, Siddhi was also the leader of the Social Action Party (SAP) (พรรคกิจสังคม), which was the second largest party in the government coalition.⁶⁶ Hence, a pulling and hauling and compromise formation in the decision-making arena was evident.

In this period, the advisory team bypassed the MFA’s role in both the formulation and implementation of foreign policy. This included the reception of Hun Sen to Thailand through the personal invitation of Chatichai despite Thailand’s official denouncement of the PRK.⁶⁷ In fact, Siddhi has shown support for idea of the development of trade relations with Indochina, but after the initial goals have been

⁶⁵ General Chavalit who was at the time Army Commander and Acting Supreme Commander of the Armed Forces gave support to and publicly advocated the idea. Buszynski, "New Aspirations and Old Constraints in Thailand’s Foreign Policy", 1061.

⁶⁶ Ibid., 1062

⁶⁷ Scott R. Christensen, "Thailand in 1989: Consensus at Bay", *Asian Survey* 30, no. 2 (1990): 182. Kunthic, "Doctor Surakiat Sathianthai Kap Kan Damnoen Nayobai Tangprathet Phoso 2544-2548 " [Dr. Surakiat Sathirathai and the Implementation of Thai Foreign Policy, 2001-2005], 112-14.

completed.⁶⁸ The MFA perceived that the conventional solution was almost successful, as Vietnam had consented to withdraw its troops from Cambodia. Also, the MFA saw the rapprochement as a disregard and jeopardy to the unfolding ASEAN efforts to bring about a settlement between the three factions and the Heng Samrin government that was well underway.⁶⁹

Worthy of note was the merits of both arguments adhered by MFA and the advisory team. According to Pasuk, due to the fact that the Thai government invited Hun Sen to visit Thailand and inferred the recognition of the PRK, the Vietnamese-backed government felt empowered to reject the resolutions agreed by the other Cambodian factions. This led to the unsuccessful JIM II peace talk in February of 1989 as the lack of consensus between the parties meant that no agreement was reached until the government of Anand Panyarachun.⁷⁰ At the same time, Pawakapan states that the settlement of the Cambodian peace process, which eventually led to the UN-sponsored elections in the year 1993 was enabled by Chatichai's diplomacy. That is, with the improvement of relations between Thailand and Vietnam, the

⁶⁸ Buszynski, "New Aspirations and Old Constraints in Thailand's Foreign Policy", 1062.

⁶⁹ Yanamon, *Phan Ron.. Phan Nao Phon Akat Ek Siddhi Savetsila* [Through the Heat.. Through the Cold Air Chief Marshal Siddhi Savetsila].

⁷⁰ Pasuk, *Nayobai Tang Prathet Khong Thai: Suksa Krabuankarnkamnod Nayobai Kong Rathaban Pon-ek Chatichai Choonhavan Tor Panha Kampucha, Si Singhakom 1988-23 Kumphaphan 1991* [Thai foreign policy: A study of foreign policy making process under the Chatichai Choonhavan government, 4 August 1988 - 23 February 1991], 58-59, 64-65.

Vietnamese withdrawal of troops in September 1989 was feasible and Hun Sen did later accept a ceasefire with three Cambodian factions as proposed by Thailand.⁷¹

By the beginning of March 1989, the confrontation between the Thai agencies was publicly blatant. Therefore, a meeting between Prime Minister Chatichai and Foreign Minister Siddhi was organized. In resultant, Siddhi expressed that the MFA will moderate its role in the Cambodian problem. At the same time, Chatichai agreed to lessen the government's cordial gesture, which included the declination of his official visit to Vietnam.⁷² To defuse the domestic tension, Chatichai also maintained that the government-sponsored trade with Vietnam would depend upon the Vietnam's execution of troop withdrawal (although private trade is permitted). Moreover, while the advisors had previously made statements to challenge the standpoint and rights of the MFA in defining the Thai foreign policy, Buszynski notes that Sukhumbhand later publicly stated, "no changes in foreign policy were contemplated and that the idea of turning Indochina into a marketplace was a long-term one that could not be realized while Vietnamese troops remained in Cambodia."⁷³

⁷¹ Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 16.

⁷² Pasuk, *Nayobai Tang Prathet Khong Thai: Suksa Krabuankarnkamnod Nayobai Kong Rathaban Pon-ek Chatichai Choonhavan Tor Panha Kampucha, Si Singhakom 1988-23 Kumphaphan 1991* [Thai foreign policy: A study of foreign policy making process under the Chatichai Choonhavan government, 4 August 1988 - 23 February 1991], 90-93.

⁷³ Buszynski, "New Aspirations and Old Constraints in Thailand's Foreign Policy", 1062-63.

Through successive governments, and with the end of the Cold War, Thailand then pressed forward to foster relations with Cambodia as well as other neighbors with the NRC of ally and in the perception of achieving regional influence.⁷⁴ The MFA also demonstrated its complaisance with the direction as exemplified in Asa Sarasin's statement at the Asia Society in New York,

With ideology no longer a major factor in international relations, I believed that economic cooperation can now become the new rallying point of regional cooperation throughout Southeast Asia... we want to see a united community of Southeast Asian nations working together to advance peace, stability and progress of the region as a whole. By virtue of geography, I believe that Thailand is in a position to serve as the political and economic link between ASEAN and the rest of Southeast Asia, namely Vietnam, Laos, Cambodia and Myanmar.^{75,76}

Furthermore, the MFA came to be engaged with more economic roles. This included the support for the Ministry of Commerce and Finance in overseas visit; making speeches for economic and business cooperation; and lobbying to forward Thailand's agenda in the WTO and representations in international economic

⁷⁴ Paribatra, "Thailand's Relationship with its Neighbors: A Study of Border Conflict from 1973 to 2011," 130-32; Phongphisoot Busabarat, "The Role of Self-Perception in Thailand's Post-Cold War Foreign Policy" (Ph.D. The Australian National University, 2009), 124-28; Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 16-17; Funston, "Thai Foreign Policy: Seeking Influence", 293-306.

⁷⁵ Asa Sarasin is the Foreign Minister under two separate terms of PM Anand Panyarachun in 1991 and 1992

⁷⁶ Quoted in Paribatra, "Thailand's Relationship with its Neighbors: A Study of Border Conflict from 1973 to 2011," 131.

institutions.⁷⁷ All in all, the shift in the MFA's perception by the early 1990s and the revival of neighborly atmosphere conducted the Thai-Cambodian cooperation in regards to the Preah Vihear overlapping claims.

4.4 The Reengagement in the Preah Vihear Overlapping Territorial Claim in the Prime Years of Cooperation

4.4.1 The Memorandum of Understanding 2000

With regards to the area surrounding the Preah Vihear Temple, since the Thai military handed over the temple to Cambodia in 1963, Khmer Rouge guerillas and other oppositional forces occupied the area. Therefore, no significant attention was given to the temple complex until the late 1980s with the fall of the Khmer Rouge organization.⁷⁸ In correspondence to the Thai adoption of the new NRC towards its neighbors, cooperative gestures like tourism promotions, de-mining, and infrastructural projects were launched. Since the period of Chatichai's administration, a proposal by a northeast region MP was accepted by the Cabinet and agreed by the Cambodia to allow access to the Preah Vihear Temple for tourism. Although, the implementation was not fruitful as there were still existing landmines as well as

⁷⁷ Yathip, "Thailand's foreign policy in the post-Cold War period: uncovering new actors in the foreign policy-making process towards neighbouring countries.," 71.

⁷⁸ Ciorciari, "Thailand and Cambodia: The Battle for Preah Vihear."

internal disagreement within Cambodia.⁷⁹ Notably, significant conciliation advancement upon the border claims manifested in the signing of the Joint Statement of the Establishment of Thai-Cambodian Joint Commission on the Demarcation for Land Boundary (JBC) in 1997, which ensued into the signing of the Memorandum of Understanding (MoU) in the year 2000.

In the 1990s, after the ouster of Prime Minister Chatichai, the Thai political arena was in disarray. The coup against Chatichai had proven to be overreaching for the military power as it was met with violent people's demonstrations that precipitated into the Black May in 1992. Hereafter the military was sidelined from the policymaking arena although the military did resume to play roles in supporting the various fractured political parties of the time.⁸⁰ After the coup, Thailand witnessed eight different prime ministers and twelve foreign ministers until the year 2000 (Appendix B). Therefore, foreign policy initiatives were sporadically driven while more under the leaderships of foreign affairs enthusiasts. This can be seen in the premiership of Chavalit Yongchaiyudh and in the period of Foreign Minister Surin

⁷⁹ Bamrungsuk, "Boribot Prawattisat," [Historical Context] 226-27; Uwanno, *Chae Ekkasan "Lap Thisut " Prasat Phrawihan Phoso 2505-2551* [Exposing the "most secret" documents Preah Vihear 1962-2008], 253-54.

⁸⁰ The Chuan Leekpai's government (1992-1995) did try to curtail the influence of the military, but was unable to restructure the civil-military relations. Buszynski, "Thailand's Foreign Policy: Management of a Regional Vision", 724-25.

Pitsuwan who was delegated the directorship of foreign affairs by Prime Minister Chuan Leekpai, upon which the JBC and the MoU 2000 manifested, respectively.⁸¹

Nevertheless, it must be reiterated that despite the political messiness, with regards to the Thai-Cambodian relations, there was a consensus in the spirit of cooperation. As seen in Buszynski's account, the NSC chief Charan Kullavanijaya has remarked in 1993 that, "Thailand faced security problems in three areas – fishing, demarcation of borders with neighbors, and ethnic disputes. The discussion of the plan was to involve all government departments in series of seminars that eventually would produce guidelines for regional relations to be submitted to the Cabinet."⁸² In 1995, there was also a Memorandum of Understanding between the Defense Ministries of Thailand and Cambodia that created the General Border Committee (GBC) and Regional Border Committee (RBC). The GBC is a ministerial-level platform of exchange to reduce tensions that may lead to armed conflicts while RBC is a platform of exchange between regional army commanders at the operational level. Although the two committees are envisaged to mitigate armed tensions along the border, their purposes do not cover territorial settlements between the two countries.⁸³

⁸¹ Kunthic, "Doctor Surakiat Sathianthai Kap Kan Damnoen Nayobai Tangprathet Phoso 2544-2548" [Dr. Surakiart Sathirathai and the Implementation of Thai Foreign Policy, 2001-2005], 77-78.

⁸² Buszynski, "Thailand's Foreign Policy: Management of a Regional Vision", 726.

⁸³ MFA, *Khomun thi prachachon khuan sap kiaokap korani prasat phrawihan lae kan cheracha khetdaen Thai - Kamphucha* [Information that the people should know concerning the Preah

Of important note was the role of the civil officials in the MFA during the period of proactive cooperation with Cambodia. This is especially in light of the frequent changes in premierships of which a coherent foreign policy from the governments was proven to be difficult.⁸⁴ As remarked by Krit Garnjana-Goonchorn, “for the governments, it doesn’t pay to be proactive. Especially upon sensitive issues like the ones that concern boundaries, they would rather kick the can down the road than get their fingers burnt. Therefore, it is the bureaucrats who are involved in various dimensions of the issue that do the research and provide available options. If accepted, then they become government’s policy option with technical or legal backup.”⁸⁵

In coaction with the Royal Thai Survey Department of the Royal Thai Armed Forces, the Boundary Division under the Department of Treaties and Legal Affairs was instrumental to the initiatives for Thailand and Cambodia to settle their boundary

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Vihear case and Thai-Cambodian border negotiation], 100 (Bangkok: Ministry of Foreign Affairs of the Kingdom of Thailand, 2011); Singhaputargun, "The Thailand-Cambodia Preah Vihear Temple Dispute: Its Past, Present and Future," 117.

⁸⁴ Kunthic, "Doctor Surakiat Sathianthai Kap Kan Damnoen Nayobai Tangprathet Phoso 2544-2548" [Dr. Surakiart Sathirathai and the Implementation of Thai Foreign Policy, 2001-2005], 44; Martin Painter, "Thaksinisation or managerialism? Reforming the Thai Bureaucracy", *Journal of Contemporary Asia* 36, no. 1 (2006): 29-30.

⁸⁵ Krit Garnjana-Goonchorn (former director-general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, August 10, 2018

dispute.⁸⁶ Within the Boundary Division, an advocacy for the “Depoliticization of Border Disputes” began since the Thai-Laotian border war (1987-1988). In this approach, it is perceived that dispute resolution and the maintenance of peace can be attained through the technical delimitations and demarcations of the area as opposed to the use of force based on political games.⁸⁷ Hence, when coupled with the MFA’s altered standpoint towards the Indochinese countries that began in the Chartichai’s administration, there was a momentum for Thailand to engage in border settlements with the neighbors.

To further elaborate, the Thai-Laotian conflicts of the 1980s were based upon the issue of possessions of three border villages that commenced in 1984 and ownership of the village of Ban Romklao in December 1987. In relations to the Three Villages dispute (Ban Mai, Ban Klang, and Ban Sawang), on one hand, Laos stake its claim upon areas based on the 1904 and 1907 Franco-Siamese treaties and the 1:200,000 Map produced by the Franco-Siamese Mixed Commission. On the other hand, Thailand rejected the validity of the map produced by the Mixed Commission

⁸⁶ Through this period, the two departments worked hand in hand, with the Royal Thai Survey Department serving as a shield and in confidence building due to its place in the military for the MFA department. Ibid.

⁸⁷ Krit Garnjana-Goonchorn (former director-general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, August 10, 2018; Vasin Teeravechyan (former director-general of the Department of Treaties and Legal Affairs and permanent advisor in border issues, MFA), interviewed by author, Bangkok, November 11, 2018; Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.

and claimed its possession based on the L 7017 Map produced with the assistance of the United States, which was claimed to be more authentic because it was prepared with modern technique of aerial photography.⁸⁸

Although the conflict over the three villages had yet to be resolved, another conflict over the overlapping claim at Ban Romklao began at the end of the year 1987. The source of dispute derived from the discrepant interpretations of the two countries upon the 1907 Franco-Siamese treaty. The treaty stipulates that the watershed of the Heuong River marks the boundary line between Thailand and Laos. In part of Thailand's interpretation, the Heuong River extends to the tributary called Heuong Nga, which places the village in Thailand. On the side of Laos, it is interpreted that the Heuong River's tributary of Heung Pa Man constitutes the boundary of which the village would be in the possession of Laos.⁸⁹ In the Ban Romklao incident, the armed conflict between the two countries lasted for three months and ensued costs and casualties that resembled a full-scale war.⁹⁰ In resultant, the two countries saw gains in ensuing for peace.

⁸⁸ Supalak Ganjanakhundee, "Khvam Khao Chai Rueang Khetdaen Thai-Lao " [The Understanding Upon Thai-Laotian Boundary] in *Khetdaen Sayam Prathet Thai Kap Lao Lae Kamphucha* ed. Charnvit Kasetsiri (Bangkok: The Foundation for the Promotion of Social Sciene and Humanities Textbooks Project, 2013), 36-37.

⁸⁹ Ibid., 44.

⁹⁰ On the Thai side, there was a report of 147 military deaths and 166 injured personnel. On the side of Laos, approximated report totaled the military deaths to around 300-400 and 200-300 injured. Also, the Thai military expense of around 3billion Thai baht incurred from the incident. Wissavamas Palasarn, "Khvamkhatyaeng Rawang Lao-Thai Thi Ban Romklao Nai Thatsana

The peace talks and the cease-fire agreement on 17 February 1988 was led by General Chavalit Yongchaiyudh, then the commander-in-chief of the Royal Thai Army. Nevertheless, the MFA played a crucial role in the instrumentation of border settlement between the two countries, which is in accordance to its organizational mission. As stated by Krit Garnjana-Goonchorn, then the deputy director of the Department of Treaties and Legal Affairs, “we desire to have the depoliticization of boundary dispute. As the Ministry of Foreign Affairs, we have always wanted this; otherwise it is difficult for us. We try to find ways to have peaceful means of settlements because that is our main duty. That is why we want to depoliticize and set up boundary commissions. The hearts of the commissions are boundary mechanisms to allow the parties to communicate at a technical, not at the political level. So, we can defuse the tensions to talk like civilized people and not through the guns.”⁹¹⁹²



Nangsuephim Lao Chuang Khoso 1987-1988 " [Conflicts Between Laos and Thailand at Ban Romklao in View of Laos' Newspapers, 1987-1988] (Master's Thesis Srinakharinwirot University, 2009), 45-46.

⁹¹ Krit Garnjana-Goonchorn (former director-general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, August 10, 2018

⁹² In fact, Krit Garnjana-Goonchorn coined the term “the depoliticization of boundary dispute” at the time of the Ban Romklao incident. He recalls that the MFA organized a seminar at Phitsanulok province (near Ban Romklao) to explain the situation to the public through a seminar forum. Hence to popularize the idea of border settlements through technical means, the catch phrase was created and continued to be used. Ibid.

Inextricably, while the Ban Romklao incident ignited from the discrepancy in the countries' interpretation of the Franco-Siamese Treaty of 1907, the maps that coincided Thailand's claim included: the L7017 Map; the map used by Laotian services created by the Soviet Union in 1987; and the 1:200,000 Map produced by the Franco-Siamese Mixed Commission.⁹³ According to Thana Duangratana, the map of the Mixed Commission of Delimitation between Indo-China and Siam or the 1:200,000 Map comprises of 11 sections, some of which are also advantageous to Thailand such as in the area of Ban Romklao. Moreover, in the Three Village dispute, since the Laotian government had stood by the 1:200,000 Map, the usage of the 1:200,000 Map to support Thailand's claim over Ban Romklao was valuable in this case."⁹⁴

At the time of the conflict, since Thailand had resolutely rejected the 1:200,000 Map or the Annex I Map in 1962, Foreign Minister Siddhi seek endorsement of Prime Minister Prem to refer to the map in part of negotiations and settlements with Laos. According to Prasas Prasasvinitchai who is a former director of the Boundary Division, "Thailand did not seek cabinet resolution at the time due to the recognition of Prime Minister Prem's supremacy over the cabinet. Although not

⁹³ Tweekiat Janprajak, *Khophiphat Khetdaen Thai Lao* [Thai-Lao Boundary Disputes], ed. Charnvit Kasetsiri and Kanchanee La-ongsri, PrathetPhueanban Khong Thai Nai Echia Tawan ok Chiang Tai [Thailand's Neighbors in Southeast Asia], (Bangkok: The Foundation for the Promotion of Social Sciences and Humanities Textbooks Project, 1997), 57.

⁹⁴ Thana Duangratana (former director-general of the Department of Treaties and Legal Affairs and former Thai ambassador, MFA), interviewed by author, Bangkok, August 10, 2018.

legally equivalent to a cabinet resolution, it applied in practice.”⁹⁵ Hereafter, joint border initiatives between Thailand and Laos began in 1988 and, in 1996, the Joint Border Commission (JBC) chairs by the two countries’ foreign ministers and comprises of a joint technical committee for the demarcation of countries boundary was established. In the agreement reached in 1996, the two countries agreed to survey and demarcate their boundaries based on 1904 and 1907 treaties, the Thai-French boundary treaty of 1926, and maps produced in accordance to the aforementioned documents.^{96,97}

Returning to the Thai-Cambodian relations, on 21 July 1997, the two parties signed the Joint Statement on the Establishment of a Thai-Cambodian Joint Commission on the Demarcation for Land Boundary (JBC) during Chavalit’s government. In the second JBC meeting that took place in Phnom Penh in June 2000, substantive conciliation transpired in the signing of a Memorandum of Understanding (MoU 2000). In the MoU 2000, the basis to boundary demarcation between the two countries is formally agreed upon and a Joint Technical Sub-Commission is established to define the exact boundary locations. The MoU is an

⁹⁵ Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), phone interviewed by author, Bangkok, August 10, 2018.

⁹⁶ Ganjanakhundee, "Khvam Khao Chai Rueang Khetdaen Thai-Lao " [The Understanding Upon Thai-Laotian Boundary] 22.

⁹⁷ The boundary agreed in the Thai-French boundary treaty of 1926 is seen as favorable to Laos. Jacob Bercovitch and Judith Fretter, *Regional Guide to International Conflict and Management from 1945 to 2003* (Washington D.C.: CQ Press, 2004), 199.

“agreement to negotiate”, which intends to decrease the tension between the two countries through common framework of negotiation and technical mechanisms.⁹⁸

Hence, in Article V of the MoU, it states,

To facilitate the effective survey along the entire stretch of the common land boundary, authorities of either Government and their agents shall not carry out any work resulting in changes of environment of the frontier zone, except that which carried out by the Joint Technical Sub-Commission in the interest of the survey and demarcation.⁹⁹

Also, as groundwork for proceeding negotiations, Article I of the MoU stipulates the following:

The survey and demarcation of land boundary between the Kingdom of Cambodia and the Kingdom of Thailand shall be jointly conducted in accordance with the following documents:

- (a) La Convention entre la France et le Siam modifiant les stipulations du Traité du 3 Octobre 1893 concernant le territoires et les autres Arrangements, signé à Paris, le 13 février 1904 (Convention between France and Siam modifying the Stipulations of the Treaty of the 3 October 1893, regarding Territorial Boundaries and other Arrangements, signed at Paris, 13 February 1904);
- (b) Le Traité entre Sa Majesté le Roi de Siam et Monsieur le Président de la République Française signé à Bangkok, le 23 mars 1907 (Treaty between His

⁹⁸ MFA, *Short Khomun thi prachachon khuan sap kiaokap korani prasat phrawihan lae kan cheracha khetdaen Thai - Kamphucha* [Information that the people should know concerning the Preah Vihear case and Thai-Cambodian border negotiation], 25, 36.

⁹⁹ *Memorandum of Understanding between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on the Survey and Demarcation of Land Boundary*, (Phnom Penh, 14 June 2000), 4.

Majesty the King of Siam and the President of the French Republic, signed at Bangkok, 23 March 1907) and le Protocole concernant la delimitation des frontieres et annexé au Traité du 23 mars 1907 (Protocol concerning the delimitation of boundaries and annexed to the Treaty of the 23 March 1907; and

- (c) Maps which are the results of demarcation works of Commissions de Délimitation de la Frontière entre L' Indo-Chine et le Siam (the Commissions of Delimitation of the Boundary between Indo-China and Siam) set up under the Convention of 1904 and the Treaty of 1907 between France and Siam, and other documents relating to the application of the Convention of 1904 and the Treaty of 1907 between France and Siam.¹⁰⁰

In light of the area around the Preah Vihear Temple, since Thailand adhere to the line based on the Cabinet Resolution in 1962 and Cambodia government held firm to the line in the Annex I Map, the claim upon the area surrounding the temple complex remained in dispute (see Figure 4). Nevertheless, apparent in the MoU 2000 was the recognition of the Annex I Map as one of the bases to the border settlements between the two parties. The aforementioned shift of the Thai NRCs as an ally to Cambodia is significant to the move. Simultaneously, the MFA's ideational approach for the depoliticization of boundary dispute prompted the MFA's border experts to restudy the Thai-Cambodian case. Through the reexamination of the ICJ's verdict, the infeasibility of Thailand's steadfast stance in 1962 was acknowledged. For instance, with the focus on legal aspects, although the ICJ's ruling did not affirm the legality of the Annex I Map, the map was integrated in the court's reasoning for its

¹⁰⁰ Ibid., 1-2.

conclusion to confer the sovereignty of the temple to Cambodia. In addition, while Thanat Khoman had expressed a reservation to the U.N., after many decades, Thailand was still unable to and had not invoked a revision to reclaim the ownership of the temple.¹⁰¹¹⁰²

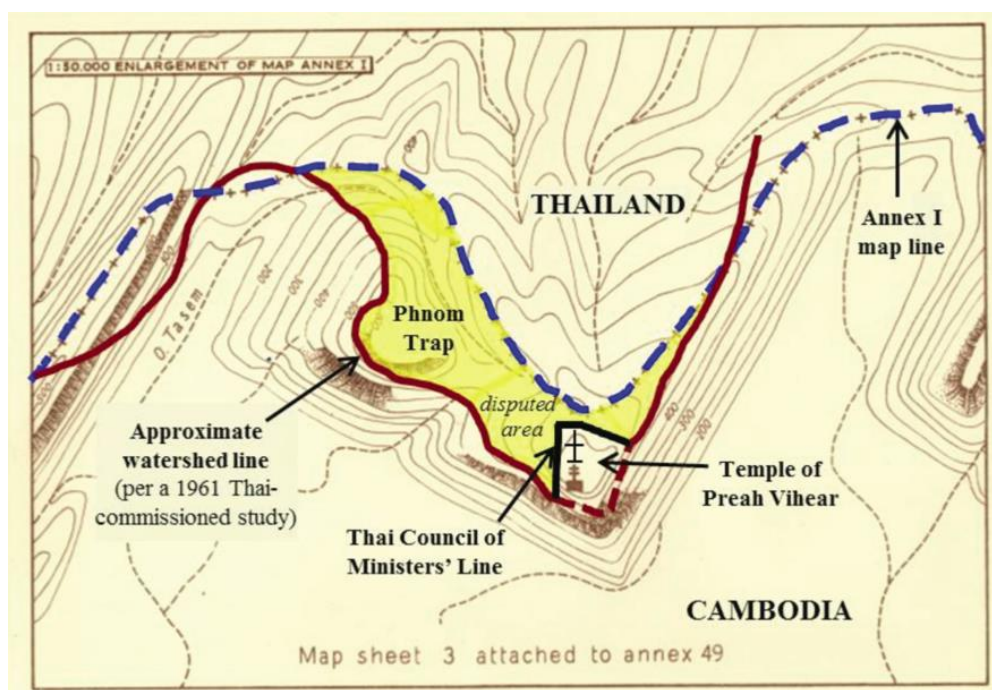


Figure 4: Map Presenting Competing Territorial Claims¹⁰³

¹⁰¹ Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.; Thana Duangratana (former director-general of the Department of Treaties and Legal Affairs and former Thai ambassador, MFA), interviewed by author, Bangkok, August 10, 2018.

¹⁰² Noppadon Pattama states that based on the Statue of the International Court of justice, a revision cannot be made after 10 years of the ICJ's ruling. Noppadon Pattama, *Banthuek Prawattisat "Maha Kap Khao Phrawihan"* [Historical Record "The Epic of Preah Vihear"] (Bangkok: Matchon, 2016), 21.

¹⁰³ Ciorciari, "Request for Interpretation of the Judgment of 15 June 1962 in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand)", 290.

From these perceptual progressions, the MFA's Department of Treaties and Legal Affairs played an active role in the orchestration of the MoU within the Thai governmental politics as well as with Cambodia. In the words of Krit Garnjana-Goonchorn, who was the former director-general of the Department of Treaties and Legal Affairs in the 1990s, he explicates,

We wanted to have peaceful settlements in border affairs. As we have submitted ourselves to the ICJ jurisdiction in 1962, along with other relevant documents, the Annex I Map is a requisite to be able to negotiate solutions for the border dispute. In order to include the Annex I Map as one of the documents to be referenced, since it had been rejected by the government in 1962, we went to inform the necessity to Foreign Minister Surin Pitsuwan, he then took us to brief Prime Minister Chuan Leekpai in the Green Room at the Government House. After that we had to notify the person who signed it, that was Deputy Foreign Minister Sukhumbhand Paribatra. In fact, to bring everyone to be on the same page, many briefings were convoked. The briefings were with the military as well, especially with the Commander-in-Chief and the Royal Survey Department.¹⁰⁴

Moreover, as remarked by Prasasvinitchai,

Although the depoliticization of border dispute was not an official policy, it is a concept that we preached all the time since the late 1980s, in the Ministry of Foreign Affairs and especially in the Department of Treaties and Legal Affairs. We have asked everyone to think and proceed this way. Other agencies like the NSC, the Royal Thai Survey Department, and the Ministry of Defense, they knew of

¹⁰⁴ Krit Garnjana-Goonchorn (former director-general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, August 10, 2018.

the approach and did not oppose to it. Also, everyone learned the lesson from the conflict with Laos.¹⁰⁵

In relations to Cambodia, the efforts of the MFA concentrated on procuring Cambodia's agreement with the negotiation plan. As explicated in Chapter 3, the 1904 and 1907 Franco-Siamese treaties generated the "Bernard Map" and the "Montguers Map" produced by the Franco-Siamese Mixed Commission, named after the presidents of the French section of the Mixed Commissions. While the Bernard Map constitute eleven sections with two sections upon the Thai-Cambodian frontier (including the Preah Vihear complex), the Montguers Map mainly describes majority of the Thai-Cambodian border from Pass of Kel (west of Preah Vihear) up to the present day Chaem Yeam Border Check Point between Thailand's Trat and Cambodia's Koh Kong. With regards to the line of the Montguers Map, the Mixed Commission also under took the task of demarcation of which "abornement" or detailed correspondence reports were made.¹⁰⁶ On the side of Cambodia, there was a strict adherence to the maps that resulted from the Franco-Siamese treaties as well as an aversion to acknowledge the adjustments made in the correspondence reports that are advantageous to Thailand. On the Thai side, to foster border negotiations, Thailand acknowledged the Annex I Map as one of the documents as

¹⁰⁵ Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.

¹⁰⁶ Prasasvinitchai, *Kan Chatkan Panha Khetdaen Thai-Kamphucha Yang Mi Prasitthiphap* 18; *Temple of Preah Vihear (Cambodia v. Thailand)*, 19.

previously elaborated. At the same time, other documents pertained to the identification of the boundary line between the two countries must be included.

According to Prasasvinitchai, he recalls that, in the first round of discussion with Cambodia, M.R. Sukhumbhand Paribatra even tried to solicit Cambodia's cooperation in a protocol speech. In the recollection he states, "the Deputy Foreign Minister mentioned that we need to learn from the past as the past gave us lessons for the future. However, we should not stick to the past because it cannot make the situation better and that he was sad because Cambodia, at the time, did not want to solve the problem." Furthermore, to engage Cambodia, Prasasvinitchai further elucidates that the Thai MFA team hosted, in several occasions, the Cambodian counterparts that included the undersecretary of state of the Ministry of Foreign and International Cooperation and chairman of the border committee, to visit and explain the works of the Royal Thai Survey Department and the border negotiation progresses that Thailand had achieved with Malaysia in the south and Laos at Ubon Ratchathani.¹⁰⁷¹⁰⁸

¹⁰⁷ Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.

¹⁰⁸ The Thai-Malaysian boundary settlement progresses constitute a model for the Thai border relations with other neighboring countries that include: having a long history of efforts to demarcate the boundary between the two countries; the success in territorial exchange; the creation of Malaysia-Thailand Joint Development Area (JDA); and since 1993 the acknowledgment of the two countries that the delimitation, demarcation, and maintenance of boundary marks would be done in acceptance of two countries and that the actions will not affect the relations between the two parties. Onanong Thippimol and Thanasak Saijampa, "Chak Sen "Baeng Rat" Su

With success, as Krit Garnjana-Goonchorn explicates, the Thai MFA team from the Department of Treaties and Legal Affairs was able to demonstrate to the Cambodian party that the inclusion of other related documents is necessary and a universal conduct as part of a customary international law. In resultant, an agreement was reached and the MoU 2000 was signed.¹⁰⁹ This was done through the Thai party's reference to Article 31 of the Vienna Convention on the Law of Treaties. The Article 31 "General rule of interpretation" stipulates:

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:
 - (a) any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;

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Sen "Roi (Rat) Rat ": Nueng Satawat Haeng Kan Pak Pan Khetdaen Thai-Malaysia (Phoso 2543-2553) " [From the line that separate the states to line that bind the states: One century of Defining Boundary Between Thailand-Malaysia (1900-2000)] in *Khetdaen Siam Prathet Thai-Malaysia-Phama-Laos-Kamphucha [Boundaries of Siam/Thailand-Malaysia-Burma-Laos-Cambodia]*, ed. Charnvit Kasetsiri, Phipop Udorn, and Supalak Lerskaewsri (Bangkok: The Foundation for the Promotion of Social Science and Humanities Textbooks Project, 2011), 43, 66-71. Barry Wain, "Latent Danger: Boundary Disputes and Border Issues in Southeast Asia", *Southeast Asian Affairs* (2012): 45-47.

¹⁰⁹ Krit Garnjana-Goonchorn (former director-general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, August 10, 2018.

- (b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
3. There shall be taken into account, together with the context:
- (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
 - (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
 - (c) any relevant rules of international law applicable in the relations between the parties.
4. A special meaning shall be given to a term if it is established that the parties so intended.¹¹⁰

4.4.2 Cooperation Initiatives in the Territorial Overlapping Claim During the Regime of Thaksin Shinawatra

When the regime of Thaksin Shinawatra began, the political landscape of Thailand was reorganized. In January 2001, Thaksin's Thai Rak Thai party (TRT) won an unprecedented landslide victory. The party almost obtained an absolute majority in the parliament and unprecedentedly maintained control through full legislative term. And by March 2005, the TRT was able to form a single party government for the first time in the Thailand's path of democracy. In resultant, the control over the

¹¹⁰ *Vienna Convention on the Law of Treaties*, The United Nations (Vienna, 23 May 1969), http://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

Thai foreign policy was consolidated under the apparent hegemony of the Prime Minister and the ruling TRT party, from which coherent and assertive strategy in foreign affairs was delivered.¹¹¹

With reference to Pavin Chachavalpongpun, he states,

During the Thaksin period, the seemingly single fact of Thai foreign policy shaped by the Foreign Ministry was declared permanently outmoded. Thaksin was now representing the face of the unitary actor in the foreign policy-making process. What followed was a centralized foreign policy with Thaksin taking over the Thai Foreign Ministry on the outset. He requested little, if any, input on decision from the Foreign Ministry, and the Government House dictated Thailand's foreign policy. All the relevant Thai agencies were under Thaksin's direct command with intent to produce a more coherent foreign policy.¹¹²

In the contrary, Foreign Minister Surakiart Sathirathai was also actively involved in the directorship of the Thai foreign policy, albeit the apparent tight helm of the policymaking structure under the leadership of Thaksin. In essence, the governmental foreign policy approach was in line with Surakiart's experience as part of the Ban Phitsanuloke advisory team of Chartchai Choonhavan. Moreover, Surakiart was involved in the TRT's formulation of the national agenda and was one of the five

¹¹¹ Busbarat, "The Struggle for Regional Leadership in Southeast Asia," 144; Aurel Croissant and Jr. Daniel J. Pojar, "Quo Vadis Thailand? Thai Politics after the 2005 Parliamentary Election", *Strategic Insights* 4, no. 6 (2005).

¹¹² Chachavalpongpun, *Reinventing Thailand: Thaksin and His Foreign Policy*, 45.

drafters the government's policy, especially in area of foreign policy. Therefore, the authoritative Premier and the Foreign Minister worked hand in hand.¹¹³

In this period, the foreign policy focused on the engagement with other countries to restore and strengthen economic relations and cooperation. The policies include the promotion of regional cooperation and the achievement of economic integration with bigger economies like Japan, India, China, and the US. Therefore, the relationships with the neighboring countries like Cambodia, Lao PDR, Vietnam, Myanmar, and Malaysia remained important to the Thai foreign policy.¹¹⁴

To accommodate the government's assertive foreign policy direction, there was in fact an enhancement to the role of the MFA. This can be seen in the administration's implementation of "CEO ambassadors". The business managerial model was employed to achieve the "unity of policy and strategy" as well as the "economies of speed", to be able to promptly grasp international opportunities.¹¹⁵

During Chuan Leekpai's government, in response to the financial crisis, reforms of the

¹¹³ Kunthich, "Doctor Surakiat Sathianthai Kap Kan Damnoen Nayobai Tangprathet Phoso 2544-2548" [Dr. Surakiart Sathirathai and the Implementation of Thai Foreign Policy, 2001-2005], 45, 142.

¹¹⁴ Thaksin Shinawatra, "Policy of The Government of H.E. Prime Minister Thaksin Shinawatra Delivered to the National Assembly (Unofficial Translation)" (Bangkok, 23 February 2001), 11; Mongkol Visitstump, "Thai-Cambodian Relations under the Thaksin Shinawatra's Administration (2001-2006)" (Master's Degree Thammasat University, 2008), 47-49; Busbarat, "The Struggle for Regional Leadership in Southeast Asia," 138-39.

¹¹⁵ Pitipat, "Kan Praptua Khong Krasuang Kantangprathet Nai Yuk Lokaphiwat: Sueksa Korani Khrongkan Namrong Ek akkhratchathut Baep Buranakan " [Organizational Adaptation of the Ministry of Foreign Affairs : A Case Study of "CEO Ambassador" Pilot Projects], 75-76.

international affairs organ such as the creation of “Team Thailand” were initiated. This was in order to achieve a holistic operation through unified work plan, unified command, and unified structure. Although it was ineffectively implemented due to the lack of coordination, acceptance with other agencies, and the discontinuity of the government, it was elevated during the time of Prime Minister Thaksin.

In the CEO scheme, to increase bureaucratic efficiency, vertical and horizontal integration of agencies were promoted. Apart from the traditional role of representation and negotiation, ambassadors also serve managerial and strategic roles to coordinate the different Thai agencies abroad under the bilateral strategy provided by the countries’ desk officer at the MFA.¹¹⁶ Moreover, the National Committee on Foreign Affairs Strategy was established in 2004. As described by Visitstump, “the Committee, with the Ministry of Foreign Affairs in the driver’s seat, guided and pushed forward the greater unity and efficiency in the conduct of foreign affairs as well as the integration of bilateral strategy, human and financial resources.”¹¹⁷ According to Pitipat, the reforms under the managerial scheme gave leeway of action for the MFA to direct the operations of international affairs. At the same time, it is discernable that with the remodeling of the operating procedures, the ministry is subjected to and would be held responsible to the execution of the

¹¹⁶ Ibid., 51; Chantapan, "Kan Prap Botbat Pharakit Khongsang Krasuang Kantangprathet " [The Restructuring of the Ministry of Foreign Affairs’ role and mission], 21, 26-30.

¹¹⁷ Visitstump, "Thai-Cambodian Relations under the Thaksin Shinawatra's Administration (2001-2006)," 53.

policy directions pressed forward from the governing politicians and the political realm.¹¹⁸

With regards to the Thai-Cambodian border dispute, while the restructuring apparently exposed the MFA to the domain of open politics, governmental consensus remained the theme of the time. That is, the advancements continued to be pushed forward by the Department of Treaties and Legal Affairs was well suited with the new administration's imperative strategy to foster relationships with the neighboring countries. Concurrently, as reflected in the interview with Prasasvinitchai, the MFA's border experts were able to continue their efforts to pursue their policy of depoliticization of boundary dispute with the neighboring country. He states,

The idea of depoliticization is the use of technical approach based on laws and mapping to solve the problem rather than politics. It is the policy that was used from the governments of Prime Minister Prem and Prime Minister Chatichai onwards. It was only until the government of Abhisit that there was a change. Even during the governments of Thaksin, Surayud, Samak, it was abided by that politics would not be involved. That negotiations will be within the technical framework, so that there will be no obstacle to the relationship. Therefore, in the working process, they allowed us to just do what we did and no one criticized anything. Also, the department constantly was able to reach out to other agencies and everyone was on board. For instance, in the period we set up seminars or lectures every two months with the agencies like the military and

¹¹⁸ Pitipat, "Kan Praptua Khong Krasuang Kantangprathet Nai Yuk Lokaphiwat: Sueksa Korani Khrongkan Namrong Ek akkharatchathut Baep Buranakan " [Organizational Adaptation of the Ministry of Foreign Affairs : A Case Study of "CEO Ambassador" Pilot Projects], 117-19.

even the forces at the border areas. The seminars included clarifying important points of the 1962 ICJ's ruling and the MoU 2000 that was signed.¹¹⁹

Following the signing of the MoU 2000, the MFA's Department of Treaties and Legal Affairs worked in close collaboration with the Thai Royal Survey Department to conclude the Terms of Reference and Master Plan for the joint survey and demarcation of land boundary based on Article II and Article III of the MoU with the Cambodian counterparts (Appendix C). Although the Cambodian representatives had signed the MoU, progress was stagnant due to their hesitance to negotiate, especially upon the area of the Preah Vihear complex. As further expressed by Prasasvinitchai who was at the time the Director of the Boundary Division,

We kept on insisting that we [Thailand and Cambodia] should start the work for the clear demarcation of boundary between us. I told them that even though there is a divergence in standpoints in the area around the Preah Vihear, it is no more than five kilometers. Including other discrepancies, it is only around one and a half percentage of the length of our boundary. We shouldn't let such a small a percentage of the disagreements between us stop the progress for the majority of our boundary. I reiterated that we should survey and demarcate the areas we are in agreement first and let the population of both countries see that no one gain or lose from these efforts based on correct and credible technical principles. Then, we can come to tackle just the small parts that are left so the public feels that they shouldn't become an issue between the two countries. However, Cambodia remained hesitant for quite some time.¹²⁰

¹¹⁹ Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018

¹²⁰ Ibid.

Nevertheless, cooperation in others fields with regards to the area of the Preah Vihear were pressed forward. In June 2001, Foreign Minister Surakiart paid an official visit to Cambodia in which along with the signing of the Memorandum of Understanding on the Areas in the Overlapping Maritime Claims (MoU 2001), he also presented the “Economic Cooperation Plan between Thailand and Cambodia”. The plan was later approved by the Thai Cabinet and signed by Prime Minister Thaksin in part of the “Framework Agreement on Economic Cooperation” between Thailand and Cambodia during his official visit to Cambodia in the same month.¹²¹

In this framework, cooperation in the fields of basic infrastructural development, trade and investment, agriculture, industry, and tourism are emphasized. Henceforth, the National Economic and Social Development Council (NESDB) proposed a master plan of cooperation that encompasses seven Thai and nine Cambodian provinces into the “Crescent of Opportunity”. In relations to the Preah Vihear complex, as elaborated by Puangthong Pawakapan,

The plan proposed several projects such as developing Siem Reap into an international conference centre and organizing cross-border package tours, as a trip along the historical path from Phimai in northeastern Thailand to Angkor Wat, and eco-tourism along the Thai-Cambodian coastline (Trat-Koh Kong).

¹²¹ Visitstump, "Thai-Cambodian Relations under the Thaksin Shinawatra's Administration (2001-2006)," 138; Kunthic, "Doctor Surakiat Sathianthai Kap Kan Damnoen Nayobai Tangprathet Phoso 2544-2548 " [Dr. Surakiart Sathirathai and the Implementation of Thai Foreign Policy, 2001-2005], 207; "Kan Longnam Nai Framework Agreement on Economic Cooperation Rawang Thai-Kamphucha ", [The Signing of Framework Agreement on Economic Cooperation between Thailand-Cambodia], *RYT9* (Bangkok), 12 June 2001, <https://www.ryt9.com/s/cabt/262646>.

Another interesting proposal was development of tourism loop along the Thailand-Cambodia-Laos border area, dubbed “The Emerald Triangle”, including Ubon Ratchathani (Thailand), Preah Vihear (Cambodia), and Champassak (Laos). In addition, there was a plan to promote tourism loops covering areas of Khmer civilization in both Cambodia and Thailand such as:

- Sakaew-Siem Reap-Burirum/ Surin-Banteay Maeanchey
- Burirum/Surin-Sikoraphum-Sisaket/ Preah Vihear-Siem Reap
- Champassak-Kampong Thom-Koh Kaer-Sisaket/ Preah Vihear¹²²

In January 2003, however, there were the anti-Thai riots in Phnom Penh. The riots followed a Cambodian *Rasmei Kampuchea* newspaper article’s unverified claim that a Thai actress, Suvanan Kongying, has refused to perform in Cambodia unless the Cambodian Angkor Wat Temple is returned to Thailand and stated that she would rather be a dog than a Khmer national. Moreover, on television, Hun Sen gave an aggressive response to the Thai actress, which exacerbated the tensions. The situation resulted in the burning of the Thai embassy and the attacks on Thai business establishments in Cambodia. In response, the Thai government briefly cut all ties with Cambodia, including the expulsion of Cambodian ambassador, closing of borders, and sending in military planes to evacuate Thai diplomats and nationals from Phnom Penh.¹²³

¹²² Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 45-46.

¹²³ Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations," 230-34; John Aglionby, "Thais cut links with Cambodia after riots", *The Guardian* (London), 31 January 2003, <https://www.theguardian.com/world/2003/jan/31/cambodia>.

After the incident, the Cambodian government was apologetic and agreed to pay for the damage worth about 50 million US dollars. According to Chalchavalpungpun, the Cambodian government's initial negligence to bring the problem under control was politically motivated. He analyzes,

A Cambodian general election was around the corner and the conflict with Thailand could have been used to favour or undermine certain political factions. The opposition party blamed Hun Sen for his plot to divert the public attention on his government's inability to wipe out corruption and its willingness to allow Vietnamese to run in the election under his party, Cambodian People's Party (CPP).¹²⁴

Despite the attacks on Thai nationals, Thaksin's government tried to ensure the continuance of ties with Cambodia. This can be seen in the government's actions to control and minimize the conflict. As described by Alexander Hinton,

Thaksin was referring to the riots as a 'minor incident' that had been due to a 'misunderstanding', and the Thai government announced that an agreement had been made about the compensation issue. After Cambodia transferred almost \$6 million to pay for damages to the Thai Embassy, both borders were reopened on 21 March. In addition, the governments established a commission to examine their bilateral relations. Diplomatic ties were normalized on 11 April, and on 24 April Ambassador Chatchawed returned to Phnom Penh, saying, 'let bygones be bygones'.¹²⁵¹²⁶

¹²⁴ Chachavalpungpun, *Reinventing Thailand: Thaksin and His Foreign Policy*, 175.

¹²⁵ Alexander Hinton, "Khmerness and the Thai 'Other': Violence, Discourse and Symbolism in the 2003 Anti-Thai Riots in Cambodia", *Journal of Southeast Asian Studies* 37, no. 3 (2006): 451.

¹²⁶ Similarity in the government's actions can be seen in the case of Myanmar. Skirmishes at the Thai-Myanmar border occurred between 2001 and 2002. While the Thai army blamed the Myanmar government for its conflict with rebel forces and the drug trade that spilled over to

Therefore, as part of the efforts to reinstate the cooperative stance, in August, the parties finally concluded to agree on the TOR and Master Plan to initiate the joint survey and demarcation of land boundary that were long insisted by the Department of Treaties and Legal Affairs and the Royal Survey Department.¹²⁷ In the TOR and Master Plan, five detailed procedural steps for the technical survey and emplacement of boundary pillars are specified which include: the refixation, repair and replacement of the 73 boundary pillars; production of orthophoto maps; plotting the line to be surveyed; terrain inspection; and emplacement of boundary pillars.¹²⁸ Notably, on the side of Thailand, the drafting of the TOR was a done as a joint collaboration between the Department of Treaties and Legal Affairs and the Royal Survey Department. They were also able to, in the fourth procedural step of terrain inspection, incorporate the survey of the watershed line into the TOR, which was the geographical marking adhered by Thailand based on the 1904 Treaty.¹²⁹

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Thailand, Thaksin tried to avoid conflict and presented friendly gesture towards Myanmar government. Chachavalpongpun, *Reinventing Thailand: Thaksin and His Foreign Policy*, 167-68.

¹²⁷ Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018

¹²⁸ *Terms of Reference and Master Plan for the Joint Survey and Demarcation of Land Boundary between the Kingdom of Cambodia and the Kingdom of Thailand*, (Bangkok, 25 August 2003), 13-18; MFA, Short *Khomun thi prachachon khuan sap kiaokap korani prasat phrawihan lae kan cheracha khetdaen Thai - Kamphucha* [Information that the people should know concerning the Preah Vihear case and Thai-Cambodian border negotiation], 45-48.

¹²⁹ Nopphadon Chotsiri (former director-general of the Royal Thai Survey Department, Thai Armed Force Headquarter), interviewed by author, Bangkok, October 10, 2019.

Furthermore, a Thai committee for the joint development of the Preah Vihear was established and chaired by the foreign minister. Then, in the joint meeting with the Cambodian counterpart on 31 May - 1 June, a joint committee was established to:

- (1) Study and determine guideline to joint develop the area of the Preah Vihear in the basis of mutual interests of Thailand and Cambodia to be proposed to the Council of Ministers.
- (2) Investigate, monitor and determine the implementation of the joint development actions in the project of the joint development of Preah Vihear. The actions shall not impact the environment and the operations with regards to the countries' boundary.¹³⁰

Following the joint meeting, on 25 March 2004, in "The Meeting on Thailand-Cambodia Joint Development of Preah Vihear Temple", an agreement on the basic guiding principles was reached between Foreign Minister Surakiart and Cambodian Deputy Prime Minister Sok Ann. The principles are:

1. Both sides agreed that the joint development of Preah Vihear Temple would be a symbol of the long-lasting friendship, based on mutual benefits and understanding, between the two countries.
2. Both sides agreed to restore and preserve the beauty and historical as well as archaeological values of Preah Vihear Temple, in an effort to turn it into a heritage of mankind. It was proposed that Preah Vihear Temple be recognized by UNESCO as one of the World Heritage.

¹³⁰Uwanno, *Chae Ekkasan "Lap Thisut" Prasat Phrawihan Phoso 2505-2551* [Exposing the "most secret" documents Preah Vihear 1962-2008].

3. Both sides agreed to cooperate in resolving the existing major issues impacting on the lives of the people living in the area, such as environmental problems and de-mining operation at Preah Vihear Temple and its vicinity.
4. For both sides to gain full benefits, the joint development of Preah Vihear Temple should be linked with the complement of other relevant development frameworks such as Ayeyawady – Chao Phraya – Mekong Economic Cooperation Strategy (ACMECS), Greater Mekong Sub-region (GMS) and the Emerald Triangle.
5. Participation and assistance from third parties, such as international organizations, NGOs and the private sector. In the joint development of Preah Vihear Temple would be welcomed.
6. Both sides agreed in principle that the joint survey of the border areas to collect data on the geographical features for future demarcation would be conducted simultaneously with the preparation for the restoration works of the joint development of Preah Vihear Temple.
7. A Plan of Action would be developed to ensure the effective implementation of the joint development of Preah Vihear Temple.
8. Both sides agreed to set up two sub-committees, namely Sub-Committee on the Restoration of Preah Vihear Temple and Sub-Committee on the Joint Development Plan, to implement cooperation in the joint development of the Preah Vihear Temple.¹³¹

Thereafter, Foreign Minister Surakiart provided a press statement from which there were no opposition from other Thai agencies and the public. At the same time, the

¹³¹ Royal Thai Embassy at Phnom Penh, "The Meeting on Thailand-Cambodia Joint Development of Preah Vihear Temple," news release, 26 March, 2004, <http://www.thaiembassy.org/phnompenh/contents/files/news-document-849.pdf>.

parties apprehended that the provision to set up the sub-committees for the restoration of the temple and the joint development plan could not be realized until the Preah Vihear Temple is registered as a UNESCO World Heritage site. Hence, to assure the Cambodia's party of the preservation of their ownership over the temple, Thailand supported the listing of the temple to the World Heritage Committee (WHC) of which close dialogue between two countries was requested.¹³²

4.5 Conclusion

Through the overview of the Thai-Cambodian relations from the 1970s to the early 2000s, the Thai governmental politics can be seen to swing in continuum between consensus and confrontation. In the early Cold War period, with the neighbors, there was relative consensus in the Thai foreign policymaking process that was dominated by the military leaders and the MFA settled in the domain of policy

¹³² Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.; "Thai Kamphucha Ruammue Phatthana Khao Phra Wihan Ro UNESCO Ruam Somthop Nai Thana MoradokLok", [Thai Cambodia cooperate to develop Preah Vihear, awaits UNESCO's contribution as part of world heritage], *Matichon* (Bangkok), 26 March 2004; Singhaputargun, "The Thailand-Cambodia Preah Vihear Temple Dispute: Its Past, Present and Future," 119; MFA, Short *Khomun thi prachachon khuan sap kiaokap korani prasat phrawihan lae kan cheracha khetdaen Thai - Kamphucha* [Information that the people should know concerning the Preah Vihear case and Thai-Cambodian border negotiation], 78.

implementation. During the brief democratic interlude in the 1970s, there was confrontation with an increase in actors competing for opposing interests within a more open power structure. Then, consensus was achieved under the premiership of Prem Tinsulanonda in which Siddhi Savetsila assumed the post of foreign minister and the MFA gained leadership in the Thai foreign policy direction. Nonetheless, confrontation briefly ensued during the administration of Chatchai Choonhavan with the MFA initially sidelined by the Ban Phitsanuloke advisory team. Afterwards, consensus in Thailand's Cambodian policy resumed, albeit the premiership changes in the 1990s. And, the state of consensus continued under the consolidating government of Thaksin Shinawatra in which the interests of the policymakers were aligned and the MFA maintained influence in border negotiations.

With regards to the MFA's perception and foreign policy outcome towards the Democratic Kampuchea, in the brief shift to civilian government in the 1970s, the NRC of ally was pressed forward and bilateral cooperation transpired. While cooperative gestures resembled the MFA's organizational standpoint, the changes in the international arena were non-negligible. At the time, Thailand faced the unpredictability of the US role as a guarantor of security for the countries in Southeast Asia and the détente fostered rapprochements with communist countries. Also, the prevalence of Thai public opinion against the American influence was conducive for the ministry's cooperative NRC towards the neighbor. Accordingly, the implementation of Thailand's cooperative role was possible due to the dilution of

military power in the action channel, which displays a stark contrast to the earlier period when Thanat Khoman's attempted to initiate limited rapprochement with the PRC. Nevertheless, obstructions to the amicable gestures also emanated from the military agencies, such as one that can be discerned in Foreign Minister Bichai's covert mission to meet with the Democratic Kampuchean counterpart.

Henceforth, the MFA's NRC shifted to be rival with the People's Republic of Kampuchea during the administration of Prem Tinsulanonda. The change was attributed to the material external condition of the Cold War at the time, with the installation of the Vietnamese-dominated PRK and the end of the détente that also ensured support from the powers such as the USA and the PRC against the PRK. Notably, while bilateral cooperation with the neighboring country was interrupted, the Thai policy spearheaded by the MFA, concentrated on peaceful means of engaging regional and international organizations like ASEAN and the U.N., respectively. Through the international community, Thailand endeavored to pressure PRK as well as Vietnam and later to procure settlement between the opposition factions and Heng Samrin's government.

When the election in 1988 made way for Chatichai's government, confrontation between the government agencies, especially the MFA and the Prime Minister's advisory team, manifested. While compromise eventuated, the confrontation was accounted to the advisory team's stance to cooperate with the PRK while the MFA maintained the NRC of rival. Externally, in the late 1980s, the

international power dynamics was arriving at a juncture, with the unfolding of the end of the Cold War. Significantly, the MFA's adherence to the NRC of international collaborator contributed to the discord. Siddhi had shown support for the idea of developing trade relations with Indochina. However, since the MFA had engaged ASEAN in its policy during the administration of Prem, the rapprochement with the PRK could be considered as a disregard and jeopardy to the ASEAN efforts that were underway.

In the 1990s, the major powers' rivalry ended with the cessation of the Cold War. Also, traditional security concerns were superseded by the gains from economic linkages. The NRC of ally towards Cambodia was well adopted by the MFA. After the ouster of Prime Minister Chatichai, Thai domestic politics was in disarray. While the military was sidelined from the policymaking circle, the frequent changes in leadership led to Thai foreign policy being sporadically driven. Nevertheless, with respect to the Thai-Cambodian relations there was consensus in the direction of cooperation. Additionally, assertive foreign policy direction was unequivocal during the regime of Thaksin Shinawatra. The government's CEO scheme seemingly exposed the MFA to the responsibility and execution of the policy initiatives pressed forward from the governing politicians and the political realm. Regardless, amicable relationships with neighboring countries concertedly remained important.

In the spirit of cooperation, from the 1990s into the regime of Thaksin, the border affairs between the countries witnessed the establishments of the GBC, RBC,

and joint development plans. As presented in the chapter, the civil officials in the MFA played pivotal roles in pushing forward the progress in boundary settlements with Cambodia. Domestically, the ideational approach of “depoliticization of boundary dispute” that as well coincided the organizational mission was institutionalized in and transfused by the MFA. Concurrently, the external ideational element in part of the ICJ ruling in 1962 was reexamined and the recognition that the ruling is unhelpful to Thailand was taken into account. Hence, after the establishment of the JBC, the MoU was signed in year 2000 and reiterated with the TOR in 2003. The agreements constitute bilateral framework of negotiation to settle the problem of territorial incompatibility. The MoU 2000 is considered as an agreement to negotiate by which the agreement recognizes that there are overlapping claims between the two countries. This is opposed to Thailand’s steadfast adherence to the boundary line drew by the Cabinet Resolution in 1962. All in all, the gestures signify Thailand’s foreign policy direction of proactive cooperation with the neighboring country.

Chapter 5

The Road to the Second Conflict

In the year 2008, the Thai-Cambodian relations witnessed the first border conflict since the late 1950s. Prior to armed conflict and atmosphere of tension that lasted until the year 2013, there were changes in the Thai domestic politics. The Thaksin government, despite its landslide electoral victories, also antagonized many groups within the Thai society. The main opposition was the People's Alliance for Democracy (PAD) coalition that rose to be a prominent force in the Thai political domain and precipitated the ouster of Prime Minister Thaksin on 19 September 2006. The Council for National Security (CNS) subsequently installed General Surayud Chulanont as head of the new government with the intent to reconstruct the Thai political scene. While Thaksin's TRT party was dissolved, Samak Sundaravej's People's Power Party (PPP) won the following electoral victory. Since the PPP was suggested to be the political proxy of the TRT, the PAD recommenced their protests against the government. The political development coincided the turn of events in Thai-Cambodian relations, marked by Cambodia's nomination of the Preah Vihear temple as a World Heritage site.¹

¹ Yimprasert, *Sai Than Prawattisat Prachathippatai Thai* [The Flow of History, Thai Democracy], 265-83; Thitinan Pongsudhirak, "Thailand Since the Coup", *Journal of Democracy* 19, no. 4 (2008): 140-52.

In this chapter, firstly, the details of the Preah Vihear Temple inscription and Thailand's reactions are explicated. Secondly, while the Thai party, especially the MFA, subsequently focused on securing agreements with Cambodia, opposing viewpoints employed by the PAD against the government were prevalent. These viewpoints that counter the perception, crystallized among the foreign-policy officials since the 1990s, will be elaborated. Lastly, the changes in the Thai domestic politics that altered the foreign-policy domain and the dominating perception to the Preah Vihear dispute will be further discussed.

5.1 Cambodia's Nomination of the Temple as a UNESCO World Heritage Site

As promulgated in the "UNESCO Constitution", one of the United Nations Educational, Scientific and Cultural Organization's mandates was to promote collaboration among the nations "by assuring the conservation and protection of the world's inheritance of books, works of art and monuments of history and science, and recommending to the nations concerned the necessary international conventions."² In 1972, "The Convention Concerning the Protection of the World Cultural and Natural Heritage" was adopted in the General Conference of UNESCO in which the State Parties consider "that parts of the cultural or natural heritage are of

² *UNESCO Constitution*, United Nations Educational, Scientific and Cultural Organization (London, 16 November 1945), http://www.unesco.org/education/pdf/UNESCO_E.PDF.

outstanding interest and therefore need to be preserved as part of the world heritage of mankind as a whole.” Also, they consider that

In view of the magnitude and gravity of the new dangers threatening them, it is incumbent on the international community as a whole to participate in the protection of the cultural and natural heritage of outstanding universal value, by the granting of collective assistance which, although not taking the place of action by the State concerned, will serve as an efficient complement thereto.³

For the fulfillment of the Convention, the World Heritage Centre was established in 1992. The Centre serves as the coordinator for the State Parties in matters related to the Convention and organizes the Committee’s annual meeting sessions. The World Heritage Committee comprises of twenty-one State Parties elected for four-year term who serve as the primary decision-makers for the World Heritage inscriptions. In addition, decisions are assisted by the technical reports of the Advisory Bodies that compose of international experts. The independent bodies include the International Centre for the Study of Preservation and Restoration of Cultural Property (ICCROM), the International Council on Monuments and Sites (ICOMOS), and the International Union for Conservation of Nature (IUCN).⁴ And as

³ *Convention Concerning the Protection of the World Cultural and Natural Heritage*, United Nations Education, Scientific and Cultural Organization (Paris, 21 November 1972), <https://whc.unesco.org/en/conventiontext/>.

⁴ Lynn Meskell, "States of Conservation: Protection, Politics, and Pacting within UNESCO’s World Heritage Committee", *Anthropological Quarterly* 87, no. 1 (2014): 219-21; Paul G. Robinson, "UNESCO and the Preah Vihear Dispute: Challenges Facing Cosmopolitan Minded International Institutions in Dispute Resolution" (Master’s Degree American University of Paris, 2013), 17-20.

stated by Lynn Meskell, “State Parties with World Heritage sites garner international and national prestige, have access to the World Heritage Fund for monetary assistance, and can tap the potential benefits of heightened public awareness, tourism, and economic development.”⁵

With regards to the Preah Vihear complex, after the agreement on the joint development of Preah Vihear Temple was reached between Surakiart Sathirathai and Sok Ann in March 2004, there was an understanding that the restoration of the temple and the provision to initiate the joint development plan could not be realized until the Preah Vihear Temple is registered as a UNESCO World Heritage site. As previously stated in Chapter 4, while the nomination of the temple to the WHC was acknowledged by the Thai party at the joint meeting in the year 2004, close rapport in the matter between the two countries was as well requested by Thailand. However, according to a white paper by the MFA’s Department of East Asian Affairs, the Cambodian party proceeded to file for the nomination without any consultation with Thailand.⁶⁷ Prasas Prasavinitchai elaborates that,

⁵ Meskell, "States of Conservation: Protection, Politics, and Pacting within UNESCO’s World Heritage Committee", 221.

⁶ *Supporting documents to the summarizing presentation in the case of the Cambodian inscription of the Preah Vihear Temple as a World Heritage site*, Department of East Asian Affairs, Ministry of Foreign Affairs of the Kingdom of Thailand (Bangkok, May 2008).

⁷ To be noted was that since the signing of the MoU 2000, Thailand claimed that there were several encroachments on the side of Cambodia upon the disputed territory. The MFA had lodged official letters of protest against them on 25 November 2004 and 8 March 2005 to the establishment of Cambodian community infrastructures and the construction of road from Komui

While the temple was recognized to belong to Cambodia, the surrounding territory remained ambiguous. Therefore, the two parties agreed to develop the area together. Since Cambodia was unconfident that Thailand would not transgress on its temple claim, the country nominated the temple to the World Heritage Committee (WHC). On the Thai side, we supported Cambodia's nomination of the temple as long as it did not include the unsettled surrounding territory and we had to monitor the situation. It was the duty of the Thai ambassador in Phnom Penh to be watchful of when the UNESCO personnel would visit Cambodia. Also, we participate in the ICC-Angkor, which allows us to be attentive to the Cambodian world heritage actions. It was around the year 2005 that it was confirmed that the surrounding territory was to be included in the inscription.⁸⁹

In May 2005, Tej Bunnag, then an advisor to the MFA, headed the Thai representatives to visit Cambodia. In his meeting with the vice president of the

village up to the Preah Vihear temple, respectively. These encroachments were seen as violating Article 5 of the MoU 2000 that stipulates “to facilitate the effective survey along the entire stretch of the common land boundary, authorities of either Government and their agents shall not carry out any work resulting in changes of environment of the frontier zone, except that which is carried out by the Joint Technical Sub-Commission in the interest of the survey and demarcation.” MFA, Short *Khomun thi prachachon khuan sap kiaokap korani prasat phrawihan lae kan cheracha khetdaen Thai - Kamphucha* [Information that the people should know concerning the Preah Vihear case and Thai-Cambodian border negotiation], 43. *Memorandum of Understanding between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on the Survey and Demarcation of Land Boundary*.

⁸ Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.

⁹ The ICC-Angkor stands for the International Coordinating Committee for the Safeguarding and Development of the Historic Site of Angkor that was fully established in 2003. It is a forum for projects related to the preservation and development of the Angkor historic site. UNESCO Office Phnom Penh, *ICC-Angkor: 20 years of international cooperation for conservation and sustainable development*, United Nations Educational, Scientific and Cultural Organization (Phnom Penh, 2013).

APSARA Authority, he received a draft joint statement prepared by the Cambodian party.¹⁰ The draft concerns the nomination of the Preah Vihear Temple to the WHC with an attached map of the zones surrounding the complex. The draft and the map was examined by the MFA's Department of Treaties and Legal Affairs in conjunction with the Royal Survey Department and they resolved that the zones pending nomination by Cambodia included parts of the Thai territory.¹¹ As stated in the Department of Treaties and Legal Affairs' *History of the Negotiations for the Inscription of the Temple on the UNESCO World Heritage List*,

The proposed inscription in 2007 would cover the area of the property of 154.70 ha with the area of the buffer zone of 2,642.50 ha. The "Schema Directeur pour le Zonage de Preah Vihear" – map attached to the Cambodia's proposed nomination – describe the three areas, designated as Zone 1, Zone 2 and Zone 3a/3b, as "Zone monumentale de protection maximale", "Zone tampon de protection et de cone de vue" and "Zone de développement", respectively. These three zones encroach on Thai territory.¹²

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¹⁰ The APSARA stands for the Authority for the Protection of the Site and Management of the Region of Angkor. It is Cambodia's national management authority for the research, protection, and conservation of the Angkor Archaeological Park.

¹¹ *Supporting documents to the summarizing presentation in the case of the Cambodian inscription of the Preah Vihear Temple as a World Heritage site*. Manaspas Xuto (former Thai ambassador, former Special Envoy of the Ministry of Foreign Affairs and former head of the Thai Delegation to the WHC), interviewed by author, Bangkok, June 14, 2019.

¹² *History of the Negotiations for the Inscription of the Temple on the UNESCO World Heritage List*, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs of the Kingdom of Thailand (Hague: International Court of Justice, 21 November 2011), 689, <https://www.icj-cij.org/files/case-related/151/17286.pdf>.

As a result, prior to the World Heritage Committee's 31st Session in Christchurch, there were many attempts to negotiate with Cambodia. They included meetings between Tej and Deputy Prime Minister Sok Ann and the APASA Authority representatives. Also, Deputy Foreign Minister Soawanit Kongsiri, as the Thai chair of the JBC, sent an invitation to Var Kim Hong, the head of the Cambodian Border Committee and chair of the JBC, but discussion that concerns the Preah Vihear Temple failed to commence.¹³ In the attempts, Thailand particularly proposed for the joint nomination of the Preah Vihear Temple as a transboundary cultural heritage that included Sa Trao that is the baray of the temple and is situated in the Thai territory. However, agreement between the two countries has not been reached. The Cambodian party held a fixated stance that the temple legally belongs to Cambodia and the joint nomination would encourage a sense of ownership on the side of Thailand.¹⁴

Thereafter, in May 2007, the Director-General of the Department of Treaties and Legal Affairs sent an aide-memoire to the Cambodian Ambassador in Bangkok and the WHC to object the nomination of the temple. Included in the aide-memoire is the address that,

Pending the mutual agreement of an acceptable solution to the above-mentioned issues, the Ministry of Foreign Affairs of Thailand has the honour to

¹³ *Supporting documents to the summarizing presentation in the case of the Cambodian inscription of the Preah Vihear Temple as a World Heritage site.*

¹⁴ Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 48-49.

convey to the Royal Government of Cambodia that the Royal Thai Government is obliged to object to Cambodia's nomination file of the Preah Vihear Temple, in particular, the delineation of the indicative boundary line, the monumental zone, and the development zone...

In this connection, the Royal Thai Government remains prepared to enter into consultation with the Royal Government of Cambodia with the view to reaching a mutually acceptable solution in accordance with article 11 paragraph 3 of the World Heritage Convention.¹⁵

That is, as recapitulated by Puangthong Pawakapan, Foreign Minister Nit Piboonsongkram claimed that Thailand's objection was primarily against Cambodia's inclusion of the map that encompassed the obscured territory and not the listing of the temple. Also, at the WHC session in Christchurch, Thailand reiterated that the Thai party was not against the listing of the temple and endeavored a mutually acceptable solution for the management of the disputed territory between the two nations.¹⁶ This was despite the change of the Thai administration to the premiership of General Surayud Julanond that replaced the ousted Prime Minister Thaksin.

Accordingly, the Thai officials, with the MFA holding the helm to diplomatic negotiations, intensely pursued contacts with the WHC state members to elucidate

¹⁵ *Aide-Memoire*, Ministry of Foreign Affairs (Bangkok: Ministry of Foreign Affairs Devawongse Varopakarn Institute of Foreign Affairs, 17 May 2007 2011).

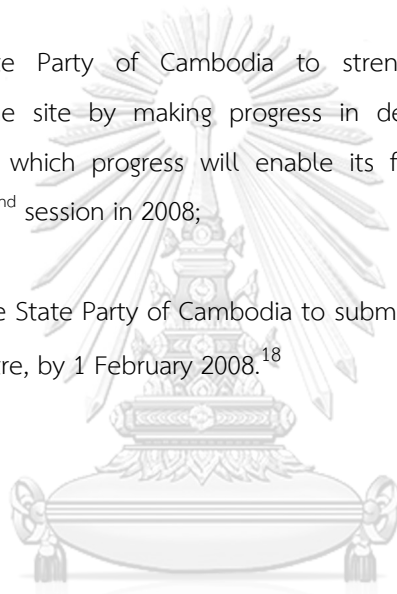
¹⁶ Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 49. "The Inscription of the Sacred Temple of Preah Vihear of Cambodia as World Heritage Site," news release, 6 July, 2007, <http://www.thaiembassy.org/phnompenh/contents/files/news-document-3496.pdf>.

the Thai position.¹⁷ As a result, the decision to inscribe the temple was deferred to the 32nd session of the WHC in 2008. As stated in the decision of the 31st session of the WHC, the Committee

Recognizes that the Sacred Site of the Temple of Preah Vihear is of great international significance and has Outstanding Universal Value on the basis of criteria (i), (ii), and (iv), agrees in principle that it should be inscribed on the World Heritage List and notes that the process for inscription is in progress;

Requests the State Party of Cambodia to strengthen conservation and management at the site by making progress in developing an appropriate management plan, which progress will enable its formal inscription by the Committee at its 32nd session in 2008;

Further requests the State Party of Cambodia to submit a progress report to the World Heritage Centre, by 1 February 2008.¹⁸



5.2 The Joint Communiqué between Thailand and Cambodia 2008

After the deferral decision of the WHC, Thailand continued to pursue proactive cooperation with Cambodia to find a solution for the nomination of the

¹⁷ Manaspas Xuto (former Thai ambassador, former Special Envoy of the Ministry of Foreign Affairs and former head of the Thai Delegation to the WHC), interviewed by author, Bangkok, June 14, 2019.; Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.

¹⁸ *Decisions Adopted at the 31st Session of the World Heritage Committee*, World Heritage Committee, United Nations Educational, Scientific and Cultural Organization (Paris, 31 July 2007), 154, <https://whc.unesco.org/archive/2007/whc07-31com-24e.pdf>.

Preah Vihear Temple and the overlapping surrounding territory. In the following August, Manaspas Xuto, the MFA's Special Envoy and leader of the Thai delegation to the 31st session of the WHC, paid an official visit to Cambodia. In his discussion with Deputy Prime Minister Sok Ann, Cambodia agreed to the proposal of a training course on restoration of ancient sites hosted by Thailand for Cambodian experts and students as well as the incorporation of Thai experts for the plan of site restoration. At the same time, Thailand accepted Cambodia's invitation to be a member of the International Coordinating Committee (ICC-Preah Vihear) for the preservation and development of the temple site.¹⁹ In the conversational points prepared by Manaspas, one of the points includes,

The Prime Minister has authorized me to assure you that in undertaking this work, financial support from us is available. Experts are also ready to join with your experts to start working on this. Some of them are here with me. I would like to make it clear that even if the two sides are working together, we are not excluding the participation at an appropriate stage by experts from other countries or international organizations. Even their financial support can and should also be sought. All of these are envisaged in the Decision of the WHC. It is, however, important that we Cambodia and Thailand show the world that we are working together, helping each other. That is what the world is waiting to see.²⁰

¹⁹ "Cooperation between Cambodia and Thailand on the Inscription of Preah Vihear Temple as a world heritage site," news release, 17 August, 2007.

²⁰ Manaspas Xuto, "Conversational Points in Talks with H.E. DPM Sok An," in *Diplomatic and Official Communication: A Demonstrative Handbook*, ed. Manaspas Xuto (Bangkok: Ministry of Foreign Affairs, 2011), 397.

Although collaborative progress was apprehensible, by January 2008, the tide seemed to turn. On 3-4 January 2008, Thai border experts participated in a site survey with the Cambodian counterparts and on 11-14 January, they attended a meeting with international experts in Siem Reap and Phnom Penh. In these events Thailand discovered that Cambodia had requested the assistance of other governments such as the United States, France, Belgium, India, and Japan for the drafting of the progress report inquired in the previous decision of the WHC. Also, in the meeting with the international experts, the concluding report still contained the contested details and map that laid claims over the disputed territory.²¹

In response, Thai party disassociated themselves from the international experts' group, but maintained the stance to achieve a management solution with Cambodia. As stipulated in the report done by the Ministry of Culture and ICOMOS Thailand,

Complete protection of the values of Preah Vihear Temple requires a management plan of the area which covers the adjoining area in Thai territory; therefore Thailand shall carry on the mission of making the management plan for the setting of Preah Vihear Temple even after our dissociation declaration. Consequently, the Ministry of Foreign Affairs by Department of East Asian Affairs in collaboration with the Fine Arts Department, Ministry of Culture and ICOMOS Thailand have set up a Working Team for Management of Preah Vihear Temple

²¹*Management Plan for Preah Vihear Mountain and Its Setting*, ICOMOS Thailand and Fine Arts Department Office of Archaeology, ICOMOS Thailand and Ministry of Culture (Bangkok: ICOMOS Thailand, 2008), 1, https://www.icomosthai.org/iTH_news/PreahVihear/03MgnPlan.pdf. *Supporting documents to the summarizing presentation in the case of the Cambodian inscription of the Preah Vihear Temple as a World Heritage site.*

and Its Setting to carry out this task. The management plan is expected to be integrated to the management plan of the area in Cambodian territory in order to preserve the outstanding universal value of Preah Vihear Temple and to achieve a systematic joint development of the area between Thailand and Cambodia under a scientific framework in the future.²²

At this time, Samak Sundaravej, considered as the proxy of the former Prime Minister Thaksin, had assumed premiership. In his official visit on 3-4 March 2008 to Cambodia, Prime Minister Samak repeated to Prime Minister Hun Sen that Thailand does not object to Cambodia's nomination of the Preah Vihear Temple as a world heritage site and emphasized that the inscription must not impact the Thai boundary rights as well as sovereignty.²³ Moreover, Noppadon Pattama who was the legal advisor of Thaksin was given the foreign minister post.²⁴ Therefore, the Thai position towards Cambodia continued to be reiterated.

Of important note was that Cambodia had always affirmed that the inscription of the temple is not related to the land boundary settlements between Thailand and Cambodia.²⁵ This abide by Article 11 Paragraph 3 of the World Heritage

²² *Management Plan for Preah Vihear Mountain and Its Setting*, 1.

²³ *Khomun Samrap Kan Chichaeng To Suemuanchon Korani Kamphucha Yuen Kho Khuen Thabian Prasat Phra Wihan Pen MoradokLok [Clarifying Information for the Press in the Case of Cambodia's Nomination of the Preah Vihear Temple as World Heritage Site]*, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs of the Kingdom of Thailand (Bangkok, 5 March 2008).

²⁴ Pradit Ruangdit, "Samak Just A Puppet PM", *Bangkok Post* (Bangkok), 2 Feb 2008.

²⁵ *Supporting documents to the summarizing presentation in the case of the Cambodian inscription of the Preah Vihear Temple as a World Heritage site.*

Convention that states, “the inclusion of a property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State shall in no way prejudice the rights of the parties to the dispute.” However, Article 4 of the Convention stipulates, “Each State Party to this Convention recognizes that the duty to ensure the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage ... situated on its territory, belongs primarily to that State.”²⁶ Therefore, the Thai party remained cautious. However, coercion pertained to the disputed territory was overtly advocated.²⁷

In part of the Thai MFA, there were also attempts to articulate Thailand’s stance with the World Heritage Committee members. On 20-21 March 2008, the foreign ministry invited WHC delegates from 19 countries to visit Ubonratchathani province, Sisaket province, and Khao Pra Wihan National Park. The move was met with objections from Cambodia. However, the MFA intended for the visit to illustrate to the delegates that the outstanding universal value of the Preah Vihear Temple should be complemented by features that lay in the Thai territory such as Sa Trao that is the baray of the temple and that there is an unresolved border dispute in the site concerned.²⁸²⁹ Concurrently, ardent diplomatic contacts to clarify the Thai stance

²⁶ *Convention Concerning the Protection of the World Cultural and Natural Heritage.*

²⁷ Robison, "UNESCO an the Preah Vihear Dispute: Challenges Facing Cosmopolitan Minded International Institutions in Dispute Resolution," 34-35.

²⁸ *Supporting documents to the summarizing presentation in the case of the Cambodian inscription of the Preah Vihear Temple as a World Heritage site.*

were undertaken by the Thai ambassadors and consul-generals posted in the states of the World Heritage Committee members.³⁰

In 6 May 2008, the MFA's permanent secretary Virasakdi Futrakul met with Deputy Prime Minister Sok Ann in Phnom Penh.³¹ In the meeting, Cambodia still refused to acknowledge the overlapping claim and the plan for joint management. Nevertheless, there was an initiation, although inconclusive, to draft a joint statement between the two countries. Henceforth, there was a momentum towards cooperation.³² In tandem, Thana Duangratana, the Thai ambassador to Paris, made

²⁹ Out of the nineteen countries invited, only six countries were present in the visit that included the PRC, Japan, United States, South Korea, Cuba, and Nigeria. In part, the invitation was followed by Cambodia's written and verbal objections against the visit. Also, as seen in the rejection letter from Christina Cameron, the Chairperson of the World Heritage Committee, she states "I believe it is important that I maintain every appearance of objectivity and neutrality on this issue in the months leading up to the Committee's meeting in Quebec City. I fear that my visiting Thailand might create, in the eyes of some interested parties, an unfavourable perception relative to my objectivity." Ibid.; Christina Cameron to Manaspas Xuto, December 14, 2007, in *Diplomatic and Official Communication: A Demonstrative Handbook*, ed. Manaspas Xuto (Bangkok: Ministry of Foreign Affairs, 2011), 562-563.

³⁰ The diplomatic approach by the Thai delegates included towards Jordan, Bahrain, Sweden, Madagascar, Mauritius, Morocco, Canada, Kenya, South Korea, Australia, the PRC, Brazil, Peru, Israel, Tunisia, France, and Japan. *Supporting documents to the summarizing presentation in the case of the Cambodian inscription of the Preah Vihear Temple as a World Heritage site.*

³¹ As part of the delegation, the representatives include Lieutenant General Nipat Thonglek from the Department of Border Affairs and Senior Colonel Noppadol Chotesiri from the Royal Thai Survey Department of the Royal Thai Armed Forces Headquarters. *Information related to the meeting between the secretary-general and the deputy prime minister of Cambodia*, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs of the Kingdom of Thailand (Bangkok, May 2007).

³² Ibid.

communications with François Rivière who was the Assistant Director-General for Culture of UNESCO. In the interview with Thana Duangratana, he states,

Through the dialogue with Ms. Rivière, it was clear that the World Heritage Committee members leaned towards the inscription of the Preah Vihear temple at the 32nd session of the WHC. At the same time, Ms. Rivière understood Thailand's concerns and wanted to avoid possible conflict that may arise at the session. Therefore, she proposed a meeting organized by UNESCO in Paris with the Thai and Cambodian delegates. I felt and officially expressed to the ministry that it may be the last chance to solve the problem before the WHC session in Quebec. Also, this approach is beneficial for Thailand because UNESCO as an international organ can pressure Cambodia to earnestly seek a solution with Thailand and if Cambodia refuses, the international community could not view Thailand as an antagonist. Thereupon, the meeting proceeded and the joint communiqué was signed. In fact, it was UNESCO that drafted the joint communiqué. Cambodia was quite astounded, but the agreement was reached.³³

On 22-23 May 2008, the Thai party led by Foreign Minister Noppadon Pattama and the Cambodian party led by Deputy Prime Minister Sok Ann met in Paris under the auspice of the UNESCO headquarter. Later, the joint communiqué was signed on 18 June 2008 by Noppadon Pattama, Sok Ann, and François Rivière. The agreements in the joint communiqué are the following:

1. The Kingdom of Thailand supports the inscription, at the 32nd session of the World Heritage Committee (Quebec, Canada, July 2008), of the Temple of Preah Vihear on the World Heritage List proposed by the Kingdom of

³³ Thana Duangratana (former Thai ambassador to Paris and former director –general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, September 8, 2017.

Cambodia, the perimeter of which is identified as N. 1 in the map prepared by the Cambodian authorities and herewith attached. The map also includes, identified as N.2., a buffer zone to the East and South of the Temple.

2. In the spirit of goodwill and conciliation, the Kingdom of Cambodia accepts that the Temple of Preah Vihear be nominated for inscription on the World Heritage List without at this stage a buffer zone on the northern and western areas of the Temple.
3. The map mentioned in paragraph 1 above shall supersede the maps concerning and including the “Schema Directeur pour le Zonage de Preah Vihear” as well as all the graphic references indicating the “core zone” and other zoning (zonage) of the Temple of Preah Vihear site in Cambodia’s nomination file;
4. Pending the results of the work of the Joint Commission for Land Boundary (JBC) concerning the northern and western areas surrounding the Temple of Preah Vihear, which are identified as N.3 in the map mentioned in paragraph 1 above, the management plan of these areas will be prepared in a concerted manner between the Cambodian and Thai authorities in conformity with the international conservation standards with a view to maintain the outstanding universal value of the property. Such management plan will be included in the final management plan for the Temple and its surrounding areas to be submitted to the World Heritage Centre by 1st February 2010 for the consideration of the World Heritage Committee at its 34th session in 2010;
5. The inscription of the Temple of Preah Vihear on the World Heritage List shall be without prejudice to the rights of the Kingdom of Cambodia and the Kingdom of Thailand on the demarcation works of the Joint Commission for Land Boundary (JBC) of the two countries;
6. The Kingdom of Cambodia and the Kingdom of Thailand express their profound appreciation to the Director-General of UNESCO, H.E. Mr. Kōichirō

Matsuura, for his kind assistance in facilitating the process towards the inscription of the Temple of Preah Vihear on the World Heritage List.³⁴

With regards to the collaboration of the state agencies, as summarized in the work of Pawakapan,

Several state agencies in Thailand were involved in the decision to promote the Preah Vihear temple to World Heritage status. The Ministry of Foreign Affairs took care of diplomatic negotiation and legal matters; the Ministry of Culture oversaw the proposal to UNESCO as well as providing Cambodia with technical assistance about World Heritage conservation and management; the Ministry of Defence was in charge of protecting Thai sovereignty along the border; the Ministry of Natural Resources and Environment represented Thailand in meetings of the World Heritage Committee (WHC) and coordinated with the WHC; the National Security Council oversaw the security issue; and the Royal Survey Department surveyed border areas and carried out mapping.³⁵

In this period, the predominating influence of the MFA in governmental politics to pursue its foreign policy goals with Cambodia was apparent. For instance, on 24 January 2008 after a meeting of the Defense Council, the Defense Ministry spokesman Lt. Gen. Pichasanu Putchakarn condemned Cambodia for creating false historical evidence to create new boundary claim and unilaterally nominate the temple onto the World Heritage list. Also, he suggested that the issue could be detrimental to the relationship of the two countries and provoke military hostilities

³⁴ Noppadon Pattama Sok An, Francoise Riviere Joint Communique 18 June 2008, (MFAIC, 2008).

³⁵ Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 43.

along the border; of which the country should be prepared.³⁶ However, on the next day, the military renounced its allegations in a press conference that was joined by the Supreme Command Civil-Affairs Chief and the MFA's Spokesman. Pichasanu admitted the inaccuracy of his statement. Also, MFA's spokesman, Tarit Charungvat, asserted that there is an existence of the MOU 2000 therefore there shall be no changes to the environment pending the boundary demarcation and that both countries were in the process of finding the solution to the WHC listing of the site.³⁷

Furthermore, in the Defense Council meeting in late of March 2008, the military proposed the display of force in the overlapping area through the deployment of a demining mission.³⁸ In the meeting, the Thai MFA was represented by the Permanent Secretary and the Director-General of the Department of Treaties

³⁶ Wassana Nanuam, "Army warns dispute could have repercussions", *Bangkok Post* (Bangkok), 25 January 2008; "Relations sour over Preah Vihear claim", *The Nation* (Bangkok), 25 January 2008; "Kalahom Chae Kamphucha Pan Lakthan Khetdaen Thet Wang Hup Khao Phra Wihan ", [Defense Ministry reveals Cambodia create boundary evidence in hopes to claim Preah Vihear mountain], *Naewna* (Bangkok), 25 January 2008.

³⁷ "Ngong! Muea Wan Khaeng Wannu On Kalahom Rap Khomun Khao Phra Wihan Phit Yan Mai Luklam ", [Baffled! Yesterday tough today weak, the Defense admit facts on the Preah Vihear wrong, certain does not transgress], *Manager Online* (Bangkok), 25 January 2007, <https://mgronline.com/politics/detail/9510000010304>; "Govt quick to withdraw allegation", *The Nation* (Bangkok), 26 January 2007; "Military bungles over Preah Vihear", *The Nation* (Bangkok), 26 January 2007.

³⁸ The plan surfaced after the visit of the foreign WHC delegates to Thailand and fervent objections from Cambodia. Cambodia also sent troops into the area, which was later officially protested by the MFA. Supalak Ganjanakhundee, "Official Protest to Cambodia", *The Nation* (Bangkok), 11 April 2008.

and Legal Affairs. There, the MFA supported the military's initiative in order to pressure Cambodia into accepting that there is an unresolved border dispute and aspire to negotiate with Thailand for a joint solution for the area. However, the representatives suggested that the action should hinge on the principle of humanitarian act and existing international convention that is the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines or also known as the Mine Ban Treaty. Also, the action should be through the collaboration between the independent Mekong Organization for Mankind (MOM) and the national Thailand Mine Action Center (TMAC) under the existing Integrated Area Reduction Survey Project (IARS) that encompasses the reduction of mine-contaminated areas between Thailand and Cambodia. Subsequently, the initiation of the plan of action to be executed by the military was to take the lead from the MFA. Then, the plan was stalled due to the materialization of a joint communiqué between the two countries.³⁹

According to Noppadon Pattama, there was consensus among the governmental agencies in the achievement of the joint communiqué. As the foreign minister, he pursued the approach based on the concerted professional recommendations of the ministry's officials, which in the matter concerned, from the Department of Treaties and Legal Affairs and the Department of East Asian

³⁹Anonymous (former senior official in the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, May 15, 2019.

Affairs.⁴⁰⁴¹ In addition, the Royal Survey Department scrutinized the attached map known as the Revised Graphic Plan of the Property (R.G.P.P.).⁴³ Initially, the attached graphic plan was found to transgress thirty-six square meters into the Thai territory therefore the MFA requested Cambodia to edit the plan.⁴⁴ Subsequently, Major General Daen Meechu-at, the director of the Royal Survey Department, assured the correctness of the edited R.G.P.P.. In a press statement with Foreign Minister Noppadon, he asserts “after a detailed survey of the area, I confirm that there is no

⁴⁰ Pattama, *Banthuek Prawattisat "Maha Kap Khao Phrawihan"* [Historical Record "The Epic of Preah Vihear"], 18-19, 63.

⁴¹ In fact, Noppadon elaborates, “it is the Boundary Division of the Department of Treaties and Legal Affairs, where there are officials with knowledge and expertise in border affairs, that drafted reports of the Ministry to be proposed to the Cabinet. The drafting of such reports integrated the legal and political standpoints that the ministry adhered to. Therefore, it is impossible for politicians to demand the technocrats to draft as he pleases.” *Ibid.*, 86.

⁴² Worthy of note is that while there was relative consensus between the concerned internal MFA actors in the dealings of the Preah Vihear dispute, fragmentation in viewpoints later existed within the ministry as a whole at this time. In fact, many MFA officials were supporters of the PAD and perceived that the actions of the officials during the former government led to the loss of Thai territory. Vasin Teeravechyan (Permanent advisor in border issues, former director-general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, November 2, 2018. Anonymous (former senior official in the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, August 9, 2019.

⁴³ The Thai side requested the usage of the term “Revised Graphic Plan of the Property” to avoid the resonance of the word “map”. Touchayoot Pakdi (former Thai ambassador to Phnom Penh and border expert, MFA), interviewed by author, Bangkok, August 16, 2018.

⁴⁴ Pattama, *Banthuek Prawattisat "Maha Kap Khao Phrawihan"* [Historical Record "The Epic of Preah Vihear"], 81.

part of the territory nominated by Cambodia for the World Heritage inscription that overlaps or encroaches onto the Thai territory.”⁴⁵

With the other governmental agencies, the Noppadon elucidates that there were approvals from the NSC and the Cabinet for the joint communiqué. The NSC, chaired by the prime minister, served as the focal coordinating organ as it comprises of ministers from various ministries and the supreme commander of the armed forces. In many instances prior to the delegates’ meeting in Paris, representatives from the Thai military as well as the Royal Thai Police were invited to the NSC meetings to discuss the problem of the inscription of the Preah Vihear Temple. Then, on 16 June 2008, an NSC meeting convened. Apart from the ministerial members of the NSC, the Permanent Secretary of the MFA, the Permanent Secretary of Ministry of Interior, the Permanent Secretary of Ministry of Defense, the military commanders, and the representatives from other government agencies attended the meeting. The officials of the MFA and the Royal Survey Department took part to clarify the facts and the meeting body approved the joint communiqué and the attached R.G.P.P. as the document does not actuate the loss of Thai territory.⁴⁶

⁴⁵ "Noppadon Sen Laeo Phra Wihan MoradokLok ", [Noppadon signed already Preah Vihear as World Hiertage], *Matichon* (Bangkok), 19 June 2008.

⁴⁶ Pattama, *Banthuek Prawattisat "Maha Kap Khao Phrawihan"* [Historical Record "The Epic of Preah Vihear"], 63, 82-83.; Post Reporters and dpa, "NSC accepts Preah Vihear map", *Bangkok Post* (Bangkok), 17 June 2008; Paribatra, "Thailand's Relationship with its Neighbors: A Study of Border Conflict from 1973 to 2011," 97-98.

Illustrative of the united endorsement of the NSC is the statement to the press by the commander in chief of the Royal Thai army, General Anupong Paochinda. He stated that it must be accepted that since 1962 and based on the World Court's ruling, the temple belongs to Cambodia. He affirmed that after the negotiations with the Thai MFA, Cambodia agreed to only request for the inscription of the temple with the area that is not close to the territory claimed by Thailand. Also, the army chief of staff, General Songkitti Jaggabatara, expounded the decision in the same line and asserted that the military is not defending any party, but the statement is to clarify the confusions prevalent in the general public.⁴⁷

With regards to the Cabinet, on 20 May 2008, the Cabinet was informed of the progress of negotiation before the delegates depart to meet the Cambodian counterpart in Paris. On 27 May, the Cabinet was notified of the negotiation results and approved in principle of the drafted agreements in the joint communiqué. Then, on 17 June, after the approval of the NSC, the Cabinet approved the formalized draft of the joint communiqué and the R.G.P.P.. Henceforth, on 18 June 2008, Noppadon signed the joint communiqué.⁴⁸

⁴⁷ "Kongthap Yan Mai Sia Dindaen Sowo Tan Khamen ", [Army Confirmed No Loss of Territory, Senate against Cambodia], *Matichon* (Bangkok), 20 June 2008.

⁴⁸ Pattama, *Banthuek Prawattisat "Maha Kap Khao Phrawihan"* [Historical Record "The Epic of Preah Vihear"], 85-87; "Cabinet assent for map of Preah Vihear", *Bangkok Post* (Bangkok), 18 June 2008.

5.3 The Rise of the Opposing Viewpoints

While the joint communiqué was celebrated by the government and especially the MFA as a significant diplomatic achievement, a competing viewpoint towards the foreign policy outcome became prevalent in the Thai domestic environment.⁴⁹ Parallel to the aforementioned developments, Thaksin was ousted by a coup on 19 September 2006 and the Council for National Security (CNS) installed the interim administration of General Surayud Chulanont. Then, Samak Sundaravej was elected in 2008. Through these periods, the foreign policy outcomes, with regards to the temple dispute, remained under the directorship of the MFA.⁵⁰ However, the oppositional groups against Thaksin Shinawatra that came to be consolidated under the name of the People's Alliance for Democracy (PAD) also rose to be a prominent force that later impacted the Thai foreign-policy domain and the dominating perception towards the Preah Vihear dispute.

⁴⁹ Thana Duangratana (former Thai ambassador to Paris and former director –general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, September 8, 2017.; Pattama, *Banthuek Prawattisat "Maha Kap Khao Phrawihan"* [Historical Record "The Epic of Preah Vihear"].

⁵⁰ Although the military government tried to reconstruct Thai politics, General Surayud's government did not bring forth a coherent foreign policy direction. Therefore, the MFA technocrats were able to hold the helm in the approach towards the Thai-Cambodian Preah Vihear engagements. Pongsudhirak, "Thailand Since the Coup", 143-45.; Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.

In the administration of Prime Minister Thaksin, albeit the TRT's landslide electoral victories and its consolidation of power, the government also created enemies. The government came to be plagued with criticisms for corruptions, cronyism, and the usurpation of the old political establishment.⁵¹ The major proponents of the PAD oppositional coalition include Sondhi Limthongkul and Major General Chamlong Srimuang. Sondhi, a media tycoon, was good friends with Prime Minister Thaksin. Once a major beneficiary of the TRT rent-seeking network, Sondhi's relationship with Thaksin became strained when the Prime Minister did not come to aid Viroj Nualkhair, the Krung Thai Bank (KTB) CEO who had forgiven debts owed by Sondhi, from dismissal.⁵² Later, a contract dispute and a financial disagreement with the Prime Minister further severed the ties. Then, Chamlong, a Buddhist fundamentalist and also a former political ally of Thaksin, led his Dharma Army to join the opposition. This was after Thaksin's government dismissed his protest to allow the entrance of Thai Beverage (business owning Beer Chang and Mekhong rum) into the Stock Exchange of Thailand.⁵³

⁵¹ Sondhi Limthongkul and Sarocha Pornudomsak, *MueangThai Rai Sapda Sanchon* [Thailand Weekly Mobile] (Bangkok: Ban Pra Athit Press, 2006).

⁵² Viroj was alleged with and later sentenced for malfeasance in office for approving loans to ineligible businesses. "Former KTB chiefs jailed for 18 years", *Bangkok Post* (Bangkok), 27 August 2015, <https://www.bangkokpost.com/thailand/general/669956/former-ktb-chiefs-jailed-for-18-years>.

⁵³ Matichon Editorial Division, *Lap Luang Luek Phanthamit Prachachon Phuea Prachathippatai* [Secret Dig Deep People's Alliancee for Democracy] (Bangkok: Matichon, 2008), 15-20.

Apart from the urban and political elites whose interests were conflicted with the government, the coalition included the network of grassroots and mass-based civil society organizations. They initially supported TRT for its local-based policies and the rejection of western influences that loomed Thailand in the aftermath of the 1997 financial crises. With Thaksin's turn to the privatization of state enterprises and free trade agreements with foreign countries, the organizations such as the Alternative Agriculture Network, Northern Farmers Alliance, Southern Federation of Small-Scale Fisherman, and state enterprise labour unions later lambasted Thaksin. The neo-liberal approach was condemned by the organizations to benefit the TRT business cronies. Moreover, Thaksin's hawkish methods to curb southern insurgency and drugs drew opposition from human rights groups.⁵⁴ Overall, as compiled in the work of Naruemon Thabchumpon, "the PAD consists of a political network with a wide variety of professional organizations (such as teachers, medical doctors, lawyers, and government officers), state enterprise unions, fundamental religious organizations (meaning the Santi-Asoke Buddhism and its Dharma Army group), communitarian NGOs, networks of small-scale farmer organizations, and urban middle class individuals."⁵⁵

⁵⁴ Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 57-59.

⁵⁵ Naruemon Thabchumpon, "Contending Political Networks: A Study of the "Yellow Shirts" and the "Red Shirts" in Thailand's Politics", *Southeast Asian Studies* 5, no. 1 (2016): 98.

The opposition's attacks focused on alleging Prime Minister Thaksin's actions as attempts to make inroads to create a republican government. This included the meddling of military reassignments that overrode Prem Tinsulanonda's authority; the promotion of local capitalist empowerment that seemingly replaced King Bhumibol's philosophy of "sufficiency economy"; and his aggrandizement of personal appeal as an elected leader.⁵⁶ In the late 2005, the final catalyst that precipitated the mobilization of the PAD was Thaksin's sale of his family's shares of Shin Corporation to Singaporean Temasek Holdings with the circumvent tax payment. The PAD turned to be an active force that instigated the ousting of Thaksin in 2006.⁵⁷

When Samak Sundaravej's People's Power Party (PPP), recognized as the political proxy of Thaksin's dissolved TRT, won the election in December 2007, the PAD resumed their political rallies in May 2008. At this time, Samak vowed to amend the 2007 Constitution written under the military's tutelage. However, the PAD was unable to sufficiently mobilize their puissance for this matter.⁵⁸ Therefore, as Ferrara describes, "while attendance was far weaker than it had been in 2006, what the PAD

⁵⁶ Former Prime Minister Prem Tinsulanonda was the most trusted royal adviser of King Bhumibol.

⁵⁷ Limthongkul and Pornudomsak, *MueangThai Rai Sapda Sanchon* [Thailand Weekly Mobile], 275-77, 90-97, 300-43; Division, *Lap Luang Luek Phanthamit Prachachon Phuea Prachathippatai* [Secret Dig Deep People's Alliance for Democracy], 27; Federico Ferrara, *The Political Development of Modern Thailand* (Cambridge: Cambridge University Press, 2015), 232-38; Yimprasert, *Sai Than Prawattisat Prachathippatai Thai* [The Flow of History, Thai Democracy], 271-83.

⁵⁸ Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 60.

lacked in crowd size it more than made up for in incendiary rhetoric and ideological extremism.” They include “the demands that democracy be scrapped in favour of a system dominated by appointed men, calls for executing enemies of the monarchy, xenophobic rants against the country’s neighbors, and the dehumanization of provincial voters guilty of having brought Thaksin’s flunkies back into power.”⁵⁹

At the outset, on 9 May 2008, Sondhi Limthongkul proclaimed in PAD’s ASTV program called “Yarm Fao Pandin” or “Thailand Watch” that Thailand is about to witness a national crisis. Apart from the PAD’s usual criticism against the government and the matter of constitutional amendments, Sondhi expounded the country’s imminent loss of territory. In the program, Sondhi questioned the government’s inaction to pursue the joint nomination of the Preah Vihear complex with Cambodia, which would result in the neighbor’s claim over Thailand’s territory. Moreover, Sondhi claimed that the government’s negligence is due to a trade-off for settlements in the maritime overlapping claims at the Gulf of Thailand, which would allow Thaksin to secure oil and gas concessions.⁶⁰ Thereafter, the nationalist discourse that resembles the Thai stance taken in the year 1962 proliferated.

The standpoint adhered by the opposition emphasizes the arguments that the line drew in the Cabinet Resolution in 1962 is the legitimate borderline as well as

⁵⁹ Ferrara, *The Political Development of Modern Thailand*, 242-43.

⁶⁰ “Chae Phaen Khai Athippatai Chat”, [Plan to Sell National Sovereignty Revealed], *Manager Daily* (Bangkok), 10 May 2008.

Thailand has the right to reclaim the Preah Vihear Temple. Hence, the signing of the joint communiqué and the support for Cambodia's nomination of the temple are acts that traitorously sabotage Thailand's sovereignty. This viewpoint is displayed in Sompong Sucharitkul's special article for *Thai Post* on 10 May 2008.⁶¹ In Sompong's claims to elucidate the facts concerning the Preah Vihear case, they include:

1. There is a difference between the World Court and national courts in the aspect that the International Court of Justice does not have jurisdiction over any case unless accepted by the state parties involved. Although the Court rejected Thailand's objection to its jurisdiction, Thailand should not be subjected to the ICJ's jurisdiction. That is because Thailand had only accepted the jurisdiction of the terminated Permanent Court of International Justice and not the present ICJ.
2. Cambodia's claim on the ICJ ruling only included the sovereignty above the Preah Vihear Temple that shall not be interpreted to cover more areas than of the temple. Therefore, the case should only be called the "Case of the Preah Vihear Temple" (Prasat Phra Viharn) and not the "Case of Preah Vihear Temple Mountain" (Prasat Khao Phra Viharn) or "Case of Preah Vihear Mountain" (Khao Phra Viharn).
3. The ICJ's ruling is therefore limited only to the claim filed by Cambodia and not into the areas outside the structure of the Preah Vihear Temple.

⁶¹ Sompong Sucharitkul is the main proponent of and is frequently quoted as support for the proposition of the PAD. He was part of the Thai counsel team in the ICJ trial of the 1960s. Kamnoon Sidhisamarn, *Chutyuen Chutplian Chutchop Prasat Phrawihan* [Standpoint, Point of Change, End Point Preah Vihear Temple] (Bangkok: Banphraathit, 2013), 231-35. Prakasit Kaewmongkol, "Phuenthan Khwam Khaochai Korani Khetdaen Prasat Phra Wihan " [The Foundation to the Understanding of the Preah Vihear Territorial Case.], *Romphruek Journal* 27, no. 2 (2009): 197-98; Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 61.

4. In Article 59, it stipulates that the decision of the Court has no binding force except between the parties and in respect of that particular case. Therefore, it may not be pertinent to the World Heritage nomination, UNESCO, or other agencies that include other UN courts and international tribunals like the International Tribunal for the Law of the Sea.
5. The Court decision does not have enforcement mechanisms. In practice, the Court cannot enforce its ruling. However, Thailand had complied to its ruling by withdrawing its forces, taking down the Thai flag, and constructed a fence around the temple hence relinquishing the country's sovereignty over the temple.
6. Since Thailand does not agree with the ICJ's ruling, Thailand does not accept the sovereignty of Cambodia. Also, Thailand officially protested the Court's ruling and made a note of reservation to the United Nations. Thailand believes that the Preah Vihear Temple is under the Thai sovereignty and will recover the Temple when the Court's ruling is reconsidered.
7. As a result, Thailand should not change its position or accept Cambodia's sovereignty over the Temple, which can only be done when there is governmental acceptance and through a referendum.
8. Since the entry into the Temple from the Cambodian side is difficult, Thailand had been lenient in allowing Cambodians to transgress into the Thai territory. There should be better enforcement of immigration procedures to prevent the misunderstanding and unduly claim on the Thai territory. This shall be based on the principle of using the watershed as delimitation mark and that there is no overlapping claim.
9. The ICJ's decision was not unanimous. Since the decision is based on the majority decision of the judges of 9 to 3 or 7 to 5 in certain issues, it can be deemed that almost half of the ICJ judges saw that Thailand should have sovereignty over the Temple. As the international laws continue to develop,

there is a possibility that the objections from part of the judges will be considered as valid and applicable.

10. Therefore, it can be seen that the Court saw in principle that the watershed line is the borderline between Thailand and Cambodia at the Dangrek. If there is a new survey, the delimitation will be based on the watershed line of which the Preah Vihear Temple will remain in the Thai territory.

11. It is necessary to have a clear understanding of the Court's ruling. To see the whole picture, the ruling must be read thoroughly which include the individual judges' objections.⁶²

Other further claims include Wanwipa Charoonroj's condemnation of the MFA's explanations that acknowledge the existence of overlapping claims in the area of the Preah Vihear complex.⁶³ Among Wanwipa's claims are: that the MFA gave false importance to maps that is beyond the delimitation agreement stipulated in the 1904 Franco-Siamese Treaty that the watershed line is the borderline between the two countries; that the MFA recognized that the delimitation process has not been settled because Cambodia adheres to the Annex I Map, which in fact was unilaterally created by the French to take advantage of Thailand; and that the line drawn in the 1962 Cabinet Resolution is only considered as an "operational line" for the Thai

⁶² Sompong Sucharitkul, "Khophiphat Rawang Thai Kap Kamphucha Nai Khadi Prasat Phra Wihan "[The Dispute Between Thailand and Cambodia in the Case of the Preah Vihear Temple], *Thai Post* (Bangkok), 10 June 2008.

⁶³ M.L. Wanwipa Charoonroj is a researcher at the Centre of Thai Studies, Thammasat University.

officials to withdraw their forces and should not be treated as the “border line” that supplant the watershed line of the 1904 Treaty.⁶⁴

Along the same line, Sondhi Limthongkul later announced a seven-point proposal at a PAD rally near the Government House. The points of which many eventuated in the subsequent period are:

1. The next government must revoke the current Cabinet’s resolution that gives approval to Thai-Cambodian Joint Communiqué that supports Cambodia’s bid to list the Preah Vihear Temple as a World Heritage site with UNESCO;
2. A neutral, independent committee must be set up consisting of socially accepted persons to investigate the wrongdoing, and then notify the United Nations that Thailand does not accept the UNESCO Committee’s decision to grant the World Heritage status to the Preah Vihear Temple at Cambodia’s request, and that Thailand wishes to reopen the ruling by the International Court of Justice in 1962;
3. An official letter must be sent to the UN Secretary-General for Thailand to withdraw from UNESCO, and cancel all recognition that the UNESCO has ever granted to Thai archaeological sites;
4. The Cambodian Ambassador to Thailand must be summoned to informed that Thailand has never accepted the French map to which Cambodia has referred;
5. A special delegation must be set up, including the (new) Prime Minister, to visit countries which are members of the UN Security Council to explain to

⁶⁴ Wanwipa Charoonroj, *Lakthan Khothetching Korani Phiphat Thai - Khamen Kon Phaendin Thai Cha Sin Sun* [Facts of the Case of Thai-Cambodian Dispute Before Thai Territory is Lost] (Bangkok: Banphraathit, 2010), 32-48.

them, maybe behind closed doors, and ask them to choose between Thailand or Cambodian friendship; World-famous public relations should be hired to bring up the story of French bullying of Thailand through the media worldwide, and a website should be created filled with correct information; Thailand should host academic seminars for experts in geography and satellite geography to insist that the watershed lines are universally accepted border demarcation lines and if the watershed line is used, together with satellite photos, Preah Vihear is on Thai soil; Thai ambassadors should be assigned to explain, to their respective countries, the facts that the dispute is a consequence of French colonialism;

6. Thai investors in Cambodia must be informed that Thailand has no policy to promote investments there because the dispute is likely to erupt in the future, and advise them to withdraw, or forgo Thai government's help;
7. A commission must be set up to invite Cambodia to bilateral negotiations. If the dispute cannot be settled, Thailand would, temporarily adhering to the ICJ's ruling, mobilize Thai troops, push Cambodians back from Thai territory, and formally inform Cambodia that, apart from the Preah Vihear Temple, the surroundings belong to Thailand, and Thailand would pay any price to protect its sovereignty, even at the cost of war.⁶⁵

Notably, the oppositions' view was buttressed by the transfer of Virachai Plasai, the director-general of Treaties and Legal Affairs Department who was in the front line in Thailand's negotiations with Cambodia, to an inactive position. As part of Sondhi's elaboration in the ASTV program, it was suggested that the transfer of Virachai was related to the former Director-General's obstruction to the gains for

⁶⁵ "Sondhi Limthongkul's solution to the Preah Vihear dispute", *Prachatai*, September 2 2008, <https://prachatai.com/english/node/732>.

Thaksin in exchange of the Preah Vihear territory.⁶⁶ One supposition is that Virachai refused to yield in a compromise over Thailand's interests in the Preah Vihear dispute for a larger share in the maritime Joint Development Area (JDA); a deal that would benefit 'certain politicians'.⁶⁷ The controversy was bolstered by Permanent Secretary Virasakdi Futrakul's open letter to the MFA officials that described Virachai as "a diplomat of exceptional calibre who had played a vital role in protecting national interests."⁶⁸

Nevertheless, there was a parallel matter of contention. Another speculation for the sudden reshuffling of the post concerns the Assets Scrutiny Committee's (ASC) investigation of Thaksin and his associates in the alleged scandal of CTX bomb scanner purchase. The Treaties and Legal Affairs Department was responsible for the translation of the classified documents related to the case. Ministry sources were referenced to attest that Director-General Virachai refused the politicians' demand to for the classified documents without the filing of formal request letter to the department.⁶⁹ Still, in the press's interview, Noppadon claimed that it was necessary

⁶⁶ Ibid.

⁶⁷ Thanida Tansubhapol, "Virachai transfer peculiar", *Bangkok Post* (Bangkok), 9 May 2008.

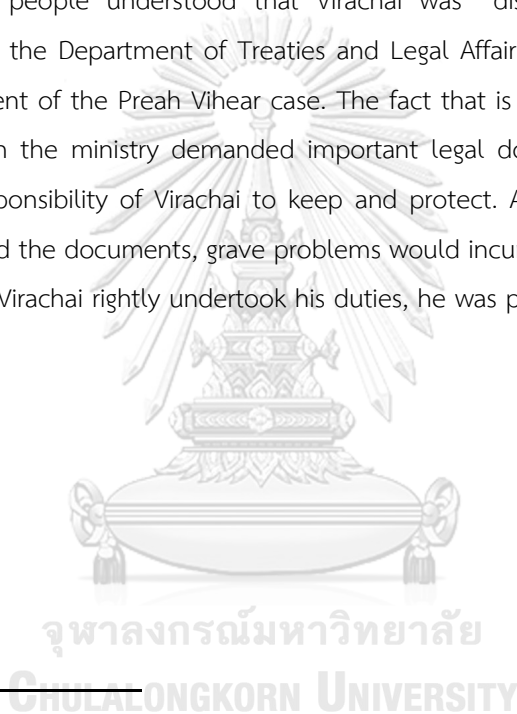
⁶⁸ Manop Thip-osod and Thanida Tansubhapol, "Personal letter praises department chief", *Bangkok Post* (Bangkok), 9 May 2008.

⁶⁹ Vimolpan Peetatawatchai, "Virachai Plasai Sangwoei Phonprayot Khong Khrai "[Virachai Plasai Sacrificed for Whose Interests], *Post Today* (Bangkok), 19 May 2008; "Dept head pushed out for protecting CTX documents", *Bangkok Post* (Bangkok), 8 May 2008.

to put the right man in the right job to ensure good coordination with the minister.⁷⁰

While the PPP's Foreign Minister's statement fueled suspicions with respect to the Preah Vihear negotiations, the latter speculation is verified. As Virachai Plasai's cremation book elucidates,

Virachai was removed from the post of director-general to the post of ambassador attached to the ministry within few hours and with no chance to explain. Most people understood that Virachai was "discharged" from the directorship of the Department of Treaties and Legal Affairs due to an error in the management of the Preah Vihear case. The fact that is rarely known is that the Big Man in the ministry demanded important legal documents that were under the responsibility of Virachai to keep and protect. Also, if the powerful person attained the documents, grave problems would incur on the government service. While Virachai rightly undertook his duties, he was persecuted out of his position.⁷¹⁷²



⁷⁰ Tansubhapol, "Virachai transfer peculiar".

⁷¹ In Memoriam: His Excellency Virachai Plasai, 25 April 2019, Cremation Book, Bangkok.

⁷²⁷² The decision of Foreign Minister Noppadon's, who was the legal advisor of Thaksin, could be inferred to get support from Prime Minister Samak whose party was already seen as the proxy of TRT. That is because the Cabinet approved the reshuffle. Also, it can be seen in the same light that Samak's administration had refused to revoke Thaksin's passport even after Foreign Minister Noppadon's resignation. Ruangdit, "Samak Just A Puppet PM"; "LukKrok" Sen Tang Khoroko Saman Sanuk Mue Nai Krasuang Kret A ", ["Stillborn" enjoy signing appointments of civil service in grade-A ministries], *Manager Online* (Bangkok), 6 May 2008, <https://mgronline.com/politics/detail/9510000052975>; "Yon Roi 'Yokloek-Khuen' Phatpo Phototho Thaksin ", [Tracing 'Cancel-Return' Thaksin's Passport], *Krungthep Turakit* (Bangkok), 28 May 2015, <https://www.bangkokbiznews.com/news/detail/649161>.

5.4 Thailand's Responses to the Joint Communiqué

With the opposing viewpoints to the government's engagements in the Preah Vihear dispute, the PAD prompted actors in parliament to join with the movement in the belief that the actions taken would cause Thailand to lose territory at the temple. As illustrated by Thitinan Pongsudhirak, "the opposition is now part of a three pronged attack, led in the censure debate by the Democrats and in a separate anti-government motion by the mostly appointed portion of the Senate, as well as outside parliament by the PAD."⁷³ With the aforementioned changes in the Thai political atmosphere, the foreign policy action channel was altered. As the Preah Vihear dispute became salient, the parliament's active involvement in the foreign-policy process manifested. Furthermore, in the following period, the judiciary exhibited substantial role in the process of politicking. In resultant, the tide had turned in the Thai approach towards the temple dispute.

The 1997 Constitution had unprecedentedly embodied a wholly elected upper house, which the TRT was able to absorb a decisive number of senators to its orbit and augmented the party's consolidation of control.⁷⁴ Therefore, the newly inaugurated 2007 Constitution promulgated the Senate to be half elected and half

⁷³ Thitinan Pongsudhirak, "The censure debate and its implications", *Bangkok Post* (Bangkok), 27 June 2008.

⁷⁴ Paul Chambers, "Superfuous, Mischievous or Emancipating? Thailand's Evolving Senate Today", *Journal of Current Southeast Asian Affairs* 28, no. 3 (2009): 18-19.

appointed in a selection process dominated by the post-coup interim government.⁷⁵ On the day of the signing of the joint communiqué on 18 June 2008, the PAD organized a demonstration in front of the Ministry of Foreign Affairs demanding the resignation of Foreign Minister Noppadon Pattama. On the next day, the Senates' Foreign Affairs Committee was summoned and resolved to send a letter to the WHC Committee through Bangkok's UNESCO office to ask for a deferral in the registration of the Preah Vihear as a World Heritage site. The senates also decided to send an official objection letter to the MFA accusing the ministry for its negligence to protect the nation's interest by permitting Cambodia to unilaterally register the temple.⁷⁶ Subsequently, the senators launched a general debate on the government performance, which apart from the highlight on the issue of constitutional amendment that Samak's government was undertaking; they condemned the government's error in action in the agreement with Cambodia.⁷⁷ Furthermore, in a seminar organized by the Senate's committee, senators voiced their support for the

⁷⁵ Seventy-four senators were appointed by the a seven-member selection committee that include the presidents of the Constitutional Court, the National Anti-Corruption Commission (NCCC), the Ombudsmen, the Election Commission (EC), the State Audit Commission, a judge from the Supreme Court and a judge from the Supreme Administrative Court. All of the committee members were appointed under the interim junta-created government. *Ibid.*, 25-27.

⁷⁶ "Kongthap Yan Mai Sia Dindaen Sowo Tan Khamen ", [Army Confirmed No Loss of Territory, Senate against Cambodia]; Anchalee Kongrut and Apinya Wipatayotin, "Senators urge Unesco to defer temple talks", *Bangkok Post* (Bangkok), 25 June 2008.

⁷⁷ Pravit Rojanaphruk, "Samak counters with attack on senator", *The Nation* (Bangkok), 24 June 2008.

protest by the locals in Sisaket province against Cambodia's unilateral bid to list the temple at the WHC.⁷⁸

On the side of the lower house, a two-day censure debate that was followed by a no-confidence motion convened towards the end of June.⁷⁹ In the debate, Abhisit Vejjajiva, the leader of the opposition and the Democrat party, alleged the government for misleading the public and distorting the facts connected to the Preah Vihear Temple. Abhisit reiterated the points of Thailand's steadfast objection against Cambodia's Annex I Map. He also pinpointed the reservation made in 1962 to seek a review of the ruling and the intention to recover the Preah Vihear Temple. Hence, the opposition leader contended, "the current administration's endorsement of the Cambodian map was giving up the rights that Thailand had always upheld."⁸⁰⁸¹ In addition, through the UNESCO's Bangkok office, Abhisit sent letters to members of the WHC in request of delaying the decision pertained to Preah Vihear and vowed to



⁷⁸ Achara Ashayagachat and Pradit Ruangrit, "Senators seek to delay temple listing", *Bangkok Post* (Bangkok), 2 July 2008, 3.

⁷⁹ The government had conceded to a censure debate due to the pressure from the street demonstrations of the PAD. Mongkol Bangprapa and Manip Thip-osod, "Govt has a change of heart", *Bangkok Post* (Bangkok), 22 June 2008.

⁸⁰ "Abhisit: Govt telling lies", *Bangkok Post* (Bangkok), 25 June 2008.

⁸¹ The government was able to withstand the no-confidence motion with the votes from the PPP and five coalition parties, but the leaders of the PAD maintained that they would continue the street protests until the resignation of the Cabinet. Nopporn Wong-Anan, "Thai PM survives no-confidence motion as expected", *Reuters*, 27 June 2008, <https://www.reuters.com/article/us-thailand/thai-pm-survives-no-confidence-motion-as-expected-idUSSP16114720080627>.

the press that he would do everything possible to make the Cabinet review the resolution that supported the joint communiqué.⁸²

Significantly, the 2007 Constitution also entrusted the parliament with augmented authority associated to treaty making with foreign states. With regards to treaty-making, Article 224 in the 1997 Thai constitution specifies, “The King has the prerogative to conclude a peace treaty, armistice and other treaties with other countries or international organizations. A treaty which provides for a change in the Thai territories or the jurisdiction of the State or requires the enactment of an Act for its implementation must be approved by the National Assembly.”⁸³ Due to the dominance of Thaksin’s TRT party, the government was able to sign FTAs that fueled resentments from the PAD. Therefore the 2007 Constitution contains an amended treaty-making provision. The 2007 Constitution requires international agreements that have character of a treaty to be approved by the parliament prior to negotiations and after they have been signed.⁸⁴ Therefore, in reaction to the joint communiqué, the senates and the lower house opposition headed by the Democrat Party

⁸² "Senators bid to stop listing of Preah Vihear", *The Nation* (Bangkok), 1 July 2008; "Court queried over temple declaration", *Bangkok Post* (Bangkok), 1 July 2008.

⁸³ Constitution of the Kingdom of Thailand, (Bangkok: National Human Rights Commission of Thailand, 1997).

⁸⁴ Yossawadee Taleerat, "The Engagement of the Parliament in Thailand’s Foreign Policy Process: A New Institutionalist Perspective" (Master’s Thesis Thammasat University, 2017), 58-59; Thitinan Pongsudhirak, "Thailand," in *Governments, Non-state Actors and Trade Policy-Making: Negotiating Preferentially or Multilaterally*, ed. Ann Capling and Patrick Low (Cambridge: Cambridge University Press, 2010), 170.

condemned the government for violating Article 190 of the Constitution that indicates the following:

The King has the prerogative to conclude a peace treaty, armistice and other treaties with other countries or international organisations.

A treaty which provides for a change in the Thai territories or the Thai external territories that Thailand has sovereign right or jurisdiction over such territories under any treaty or an international law or requires the enactment of an Act for its implementation or has wide scale effects on the economic or social security of the country or results in a significant obligation on trade, investment or budget of the country must be approved by the National Assembly. In such case, the National Assembly must complete its consideration within sixty days as from the date of receipt of such matter.

Before the conclusion of a treaty with other countries or international organisations under paragraph two, the Council of Ministers must provide information thereon to the public, conduct public consultation and declare the details of such treaty to the National Assembly. In such case, the Council of Ministers must submit a negotiation framework to the National Assembly for approval.

Upon giving signature to the treaty under paragraph two, the Council of Ministers shall, prior to expressing consent to be bound, grant public access to the details of such treaty. In the case where the implementation of such treaty affects the public or small and medium entrepreneurs, the Council of Ministers must make swift, appropriate and fair revisions or remedies with respect to such effects.

There shall be a law on the prescription of stages and procedures for the conclusion of a treaty that has a wide scale effect on the economic or social security of the country or resulting in significant obligations on trade or investment, including the revision or provision of remedy for effects of such treaty with due regard to the fairness as between the beneficiaries and persons affected by the implementation of such treaty and the general public.

A matter arising from the provisions of paragraph two falls within the jurisdiction of the Constitutional Court and the provisions of section 154 (1) shall apply mutatis mutandis to the referring of the matter to the Constitutional Court.⁸⁵⁸⁶

Furthermore, Suriyasai Katasila and Kamnoon Sidhisamarn went to file a petition to the Thai Administrative Court to nullify the Cabinet Resolution in support of the joint communiqué on grounds that it had violated Article 190 of the Constitution.⁸⁷⁸⁸ Correspondingly, half of the senates and the Democrat Party in the lower house forwarded a petition to the Constitutional Court to decide the treaty status of the joint communiqué and to determine the government's possible infringement of the constitution.

Concurrently, the judicial branch played a decisive role in the political landscape that ultimately altered the foreign policy trajectory of Thailand. According to Björn Dressel, the Thai judicial activism and assertiveness in political matters began in 2006. The courts thwarted and annulled the general election of April 2006 before the coup against Thaksin and the military-appointed Constitutional Tribunal dissolved the TRT party and prohibited the political activity of 111 members of the

⁸⁵ Constitution of the Kingdom of Thailand, 65-66 (Bangkok: Office of the Council of State, 2007).

⁸⁶ "Kongthap Yan Mai Sia Dindaen Sowo Tan Khamen ", [Army Confirmed No Loss of Territory, Senate against Cambodia]; "Abhisit: Govt telling lies".

⁸⁷ Suriyasai Katasila and Kamnoon Sidhisamarn are a PAD representative and an appointed senate, respectively.

⁸⁸ "Lun San Pokho Chikhat 26 Mi Yo ", [Waiting Expectantly the Administrative Court Ruling 26 June], *Lok Wannee* (Bangkok), 25 June 2008.

party for five years in 2007.⁸⁹ Also, the judicial branch was given augmented authority in political matters by the 2007 Constitution.⁹⁰ Altogether, as remarked by Dressel, “the activism of the Thai judiciary can thus be seen as a proxy for the larger battle for political hegemony. Judges have become critical to the elite project of consolidating the post-coup political order.”⁹¹

On 27 June 2008, the Administrative Court issued an injunction against the 17 June Cabinet Resolution that endorsed the joint communiqué signed the following day. In the injunction, Administrative Court conclusively granted a restraining order on the joint communiqué in further negotiation process.⁹² While the government’s oppositions embraced the Court’s decision, the ruling was controversial. For instance, law lecturers from Thammasat University released a statement in response to the



⁸⁹ Bjorn Dressel, "Governance, Courts and Politics in Asia", *Journal of Contemporary Asia* 44, no. 2 (2014): 267.

⁹⁰ The increase jurisdictions of the judiciary include the presidents of the high courts’ involvements in the selection process of the senates and the candidates for independent agencies. In addition, they are able to remove governments and dissolve political parties. Bjorn Dressel, "Judicialization of politics or politicization of the judiciary? Considerations from recent events in Thailand", *The Pacific Review* 23, no. 5 (2010): 678; Ferrara, *The Political Development of Modern Thailand*, 240.

⁹¹ Dressel, "Judicialization of politics or politicization of the judiciary? Considerations from recent events in Thailand", 686.

⁹² "Khamsang Sanpokkhong Ham BuaKaeo Chai Mati Khoromo Khuen Thabian Phra Wihan ", [Administrative Court Order Prohibits MFA from Using Cabinet Resolution to Register Preah Vihear], *Matichon* (Bangkok), 29 June 2008.

injunction that the issue is not within the scope of Administrative Court.⁹³ In addition, Worajate Pakeerat draws a comparison between the cases of the Thai-Cambodian joint communiqué pertained to Preah Vihear and the signing of the Japan-Thai Economic Partnership Agreement (JTEPA) during Surayud's government. The law lecturer states that both of the cases constitute political actions, not administrative action, and are international issues. While the Administrative Court rejected the suit filed by Khao Kwan foundation to nullify the JTEPA, the Court ruled upon the joint communiqué, which is in the scope of the Constitutional Court.⁹⁴

With respect to the Constitutional Court, on 8 July 2008, the Court unanimously ruled against the government's action. In the verdict, the joint communiqué is interpreted as a treaty, which amounts to an extension of the constitution's original provision.⁹⁵ As set forth by the Court, while the joint communiqué does not specify a change in the Thai territory, it "may" result in a

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⁹³ The law lecturers are Associate Professor Worajate Pakeerat, Professor Prasit Pivavatnapanich, Thapanant Nipitthakul, Theera Suthewarnagkun, and Piyabut Saengkanokkul. "Niti Motho Mong Tang Mum Khopkhet Amnat Sanpokkhong Klang ", [Law TU See A Different Perspective in the Jurisdiction of the Central Administrative Court], *Thai Post* (Bangkok), 2 July 2008.

⁹⁴ Wassayos Ngamkham, "Court power on temple case doubted", *Bangkok Post* (Bangkok), 30 June 2008. Similar argument also found in Bawornsak Uwanno, "Bot Wikhro Thang Wicha Nitisat To Khamsang Sanpokkhong Klang Kamnot Withikan Khumkhong Phuea Banthao Thuk Chuakhrao Nai Khadhi Thalaengkanruam Thai Kamphucha"[The Legal Field Analysis of the Central Administrative Court Injunction in the Case of the Thai-Cambodian Joint Communique], *Matichon* (Bangkok), 4 July 2008.

⁹⁵ "Worajet Phakeerat: San Khian Ratthathammanun Mai ", [Worajet Pakeerat: Court writes a new constitution], *Prachatai* (Bangkok), 17 July 2008.

change and is interpreted as a treaty in accordance to Article 190. Additionally, the nomination of the Preah Vihear Temple is a controversial issue that embodies a point of debate between groups in the societies of Thailand and Cambodia; the agreement with Cambodia therefore “may” constitute wide scale effects on the social security of Thailand. Under the circumstances, as the Thai-Cambodian joint communiqué is to be treated as a treaty, the Court ruled that it requires the parliamentary approval that has not been acquired by the government.⁹⁶ Henceforth, after the government and especially the Foreign Minister had been founded guilty of constitutional violation, the PAD and portion of the senates filed petitions to the National Corruption Commission (NCCC), which indicted Samak and Noppadon for malfeasance in office.⁹⁷⁹⁸

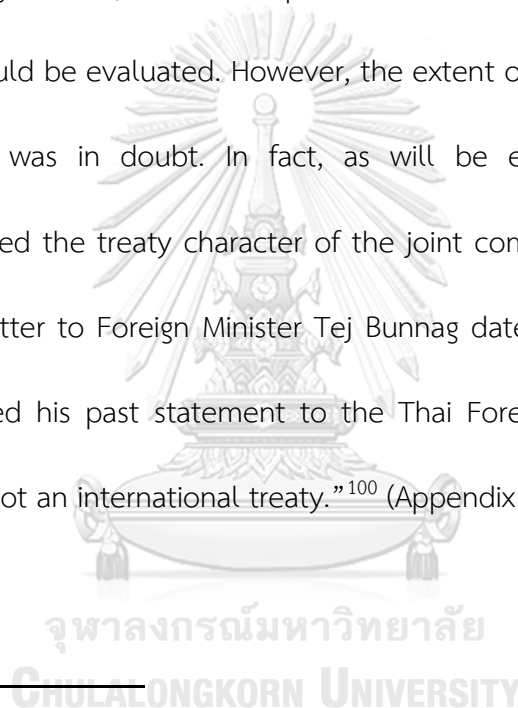
Worthy of note is the fact that the Constitutional Court’s verdict to interpret the joint communiqué as a treaty that required the parliament’s approval was by

⁹⁶ Kamol Sothipoka, Kam Winitchai San Rattathammanun [Constitutional Court Ruling], 6-7/2551, 6 (Bangkok: Constitutional Court, 2008); Khemthong Tonsakulrungruang, "Entrenching the Minority: The Constitutional Court in Thailand’s Political Conflict", *Washington International Law Journal* 26, no. 2 (2017): 257.

⁹⁷ The lawsuit initially was also filed against four senior MFA officials, members of the cabinet, the director of the Royal Survey Department, the secretary-general of the NSC, and former prime minister Thaksin. *Khao kan prachum khanakammakan popocho* [News of the NACC meeting], (National Anti-Corruption Commission, 2008).

⁹⁸ While Samak passed away in 2009, Noppadon was acquitted in 2015. Kesinee Taengkhaio, "Top court finds Noppadon innocent over World Heritage listing affair", *The Nation*, September 5 2015, <http://www.nationmultimedia.com/national/Top-court-finds-Noppadon-innocent-over-World-Herit-30268190.html>.

eight to one. The minority ruling came from the judge, Chalermpon Ake-uru, who was a former deputy permanent secretary of the MFA as well as the former deputy director-general of the Department of Treaties and Legal Affairs.⁹⁹ Additionally, in the remarks of Prasit Pivavatnapanich, the Court's definition of a treaty was not based on the past standards used under international law. Apart from the wordings and context of the agreement, the subsequent conduct to show intent to create a binding treaty should be evaluated. However, the extent of the Court's consideration of that standard was in doubt. In fact, as will be elaborated, the Thai MFA consistently rejected the treaty character of the joint communiqué. Furthermore, in Hor Namhong's letter to Foreign Minister Tej Bunnag dated 1 September 2008, Hor Namhong reiterated his past statement to the Thai Foreign Minister that the joint communiqué "is not an international treaty."¹⁰⁰ (Appendix D)



⁹⁹ Khwam Hen Nai Kan Winitchai Khadi Suan Ton Khong Nai Chaloeiphon Ek Uru Tulakan San Ratthathammanun [Judicial Opinion of Mr. Chalermpon Ake-uru, Constitutional Court justice], Chalermpon Ake-uru, No. 23-24/2551 (Constitutional Court 8 July 2008, 2008).

¹⁰⁰ Prasit Pivavatnapanich, "Prasit Pivavatnapanich: Sathana Thang Kotmai Khong Kham Thalaengkanruam [Prasit Pivavatnapanich: Legal Status of the Joint Communiqué]", *Prachatai* (Bangkok), 19 July 2008, <https://prachatai.com/journal/2008/07/17415>; Prasit Pivavatnapanich, "Kan Mai Hai Khamsamkhan To "Ken" Lae "Khotthetching" Bang Prakan Khong San Ratthathammanun Korani Kan Tham Thalaengkanruam "[The inconsideration of some "standards" and "facts" of the Constitutional Court in the case of the joint communiqué], *Prachathat* (Bangkok), 24 November 2008; Surachai Pooprasert, *Rai ngan Phon Kan Phicharana/Phon Kan Damnoenkan Khong Khanaratthamontri* [Report of the consideration/action of the Cabinet] (Bangkok: The Secretariat of the Cabinet, 29 September 2008), <http://www.soc.go.th/acrobat/nesac011052.pdf>.

On the side of the MFA, there were efforts to clarify the developing stance and defend the joint communiqué. In response to Sondhi's original allegation of an exchange between the Preah Vihear territory for a settlements in the maritime overlapping claims at the Gulf of Thailand, on 14 May, MFA's Spokesman Tarit Charungvat explicated in the press interview that the land boundary and maritime boundary problems between Thailand and Cambodia comprise of two different frameworks of negotiation as well as commissions.¹⁰¹ Therefore, the two issues are independent from each other although they progress in parallel upon which the MFA and the agencies involved diligently work to ensure the protection of Thailand's interests based on the international law.¹⁰²

¹⁰¹ At the time, the land boundary negotiations are based on the MoU 2000 and through the Joint Boundary Commission (JBC) while the maritime boundary negotiations are based on the MoU 2001 and through the Joint Technical Committee (JTC). "Kor Tor Phoei Naeothang Cheracha 2 Pom Phiphat Kamphucha ", [MFA reveals negotiation directions of 2 Cambodian disputes], *Post Today* (Bangkok), 15 May 2008. Additionally, in the author's interview with Thana Duangratana, he explicates that when the issues involved territories there are many agencies involved. "They include the Royal Survey department that is responsible for the technical survey and reports directly to the Supreme Commander. In the maritime case, the Hydrographic Department of the Thai Navy is involved. Also, there are other agencies like the ministries of resources as well as energy. Therefore, it is not easy to bypass all the organs involved and settle the issues behind closed doors. The maritime dispute has not been concluded for many decades, which shows that it is not easy to seek settlements as claimed." Thana Duangratana (former Thai ambassador to Paris and former director –general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, September 8, 2017.

¹⁰² "Kor Tor Phoei Naeothang Cheracha 2 Pom Phiphat Kamphucha ", [MFA reveals negotiation directions of 2 Cambodian disputes].

To halt the attack on the joint communiqué adhered by the MFA and apprise the public of the details of the Preah Vihear, the ministry strived to provide public statements and information. On 21 June, Permanent Secretary of Foreign Affairs Virasakdi Futrakul explained to the press that the joint communiqué was negotiated by MFA experts to protect the Thai sovereignty under the framework of existing international law. In addition, other agencies took part of the process by which he described, “we worked like an iron fist in satin gloves. Part of the success must be credited to the military too because it worked in coordination with its Cambodian counterpart.”¹⁰³ On 27 June, the director of the Press Division in the MFA’s Department of Information, Chainarong Keeratiyutawong sent an urgent clarification letter in response to Thairath article titled, “Thailand may lose territory the 15th time” by the author under the pseudonym of Lom Pleantid.¹⁰⁴ In the letter, the Director reiterated that the map attached to the joint communiqué has been technically proven by the Royal Survey Department, which guaranteed no loss of Thai territory. And, the map was the result of the Thai team’s ardent negotiation to adjust the original map proposed by Cambodia and to maintain amiable relationship with its neighbor.¹⁰⁵ Then on the same day and along the same line, Krit Kraichitti,

¹⁰³ "Preah Vihear White Paper to be issued", *Bangkok Post* (Bangkok), 21 June 2008.

¹⁰⁴ Lom Pleantid, "Thai At Sia Dindaen Khrang Thi 15 "[Thailand may lose territory the 15th time], *Thairath* (Bangkok), 20 June 2008.

¹⁰⁵ Lom Pleantid, "Kham Yuenyan Chak Ko. Tangprathet "[Confirmation from M. Foreign Affairs], *Thairath* (Bangkok), 27 June 2008.

Anusorn Chinvanno, and Tharit Charungvat held a press briefing to affirm that the joint communiqué does not bind Thailand as a treaty and that the MFA “promise to do its best to protect the country’s sovereignty and bilateral relations.”¹⁰⁶¹⁰⁷

In addition, the MFA prepared Preah Vihear white paper in print and in downloadable form from the MFA website. Also, Krit Kraichitti had agreed to participate in an academic discussion titled, “The Inscription of the Preah Vihear Temple: Legal Issues and National Sovereignty” organized by Princess Maha Chakri Sirindhorn Anthropology Centre and King Prajadhipok’s Institute, Chulalongkorn University.¹⁰⁸ At the same time, to elucidate the public of the details concerning the Preah Vihear many academics organized and engaged in open forums and published booklets and articles about the issue. Nevertheless, academics such as Charnvit Kasetsiri, Puangthong Pawakapan, Surachart Bamrungsuk who illuminated the facts that were congruent to the MFA’s did not receive much attention from the



¹⁰⁶ Krit Kraichitti, Anuson Chinvanno, and Tharit Charungvat were the director-general of Treaties and Legal Affairs Department, the director-general of the East Asia Affairs Department, and the MFA spokesman, respectively.

¹⁰⁷ "Temple row may cause rift between countries", *Bangkok Post* (Bangkok), 28 June 2008.

¹⁰⁸ Uwanno, "Bot Wikhro Thang Wicha Nitisat To Khamsang Sanpokkhong Klang Kamnot Withikan Khumkhong Phuea Banthao Thuk Chuakhrao Nai Khadhi Thalaengkanruam Thai Kamphucha" [The Legal Field Analysis of the Central Administrative Court Injunction in the Case of the Thai-Cambodian Joint Communique]; "Chamlae 5 Praden Uem Khruem Pok Khao 'Phra Wihan' Chobap Ko To ", [Dissect 5 Blurry Issues in MFA's 'Preah Vihear' White Paper], *Post Today* (Bangkok), 1 July 2008.

mainstream media and were deemed as working for the government to mislead the general population.¹⁰⁹¹¹⁰

¹⁰⁹ Kaewmongkol, "Phuenthan Khwam Khaochai Korani Khetdaen Prasat Phra Wihan " [The Foundation to the Understanding of the Preah Vihear Territorial Case.], 191-97; Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 64-65.

¹¹⁰ For instance, the information on Thai border issues and the Preah Vihear Temple dispute are consistently elaborated in *Chunlasam Kwam Mankhong Sueksa* [Security Studies Booklets] under the editorship of Surachart Bamrungsuk. See Surachart Bamrungsuk, *Korani Khao Phra Wihan* [The Mount Phra Viharn Case], ed. Surachart Bamrungsuk, *Chunlasan Khwam Mankhong Sueksa* [Security Studies Booklet], (Bangkok: Security Studies Project, August, 2008); Nopphadon Chotsiri, *Khetdaen Thai* [Thai Border], ed. Surachart Bamrungsuk, *Chunlasan Khwam Mankhong Sueksa* [Security Studies Booklet], (Bangkok: Security Studies Project, July, 2008); Bamrungsuk, *Korani Khao Phra Wihan* [The Mount Phra Viharn Case]; Surachart Bamrungsuk and Prasit Pivavatnapanich, *Prasat Phra Wihan: Boribot Kotmai Lae Kanmueang* [The Temple of Phra Viharn: Legal & Political Perspectives], ed. Surachart Bamrungsuk, *Chunlasan Khwam Mankhong Sueksa* [Security Studies Booklet], (Bangkok: Security Studies Project, August, 2008); Surachart Bamrungsuk, ed., *Sewana Phra Wihan* [The Phra Viharn Forum], *Chunlasan Khwam Mankhong Sueksa* [Security Studies Booklet]. (Bangkok: Security Studies Project, 2008); Surachart Bamrungsuk, ed., *Kan Borihan Chatkan Chaidan* [Border Management], *Chunlasan Khwam Mankhong Sueksa* [Security Studies Booklet] (Bangkok: Security Studies Project, 2009); Surachart Bamrungsuk, *PhromDaen Sueksa* [Boundary Studies], ed. Surachart Bamrungsuk, *Chunlasan Khwam Mankhong Sueksa* [Security Studies Booklet], (Bangkok: Security Studies Project, August, 2009); Bamrungsuk, *Panha Khetdaen Thai Chak 2484 - Patchuban* [Thai Boundary Problems From 1941 - The Present]; Prasit Pivavatnapanich, *Khadi Prasat Phra Wihan* [Case Concerning the Temple of Phra Viharn (Preah Vihear)], ed. Surachart Bamrungsuk, *Chunlasan Khwam Mankhong Sueksa* [Security Studies Booklet], (Bangkok: Security Studies Project, October, 2009); Pongpun Puington, *Prasat "Phra Wihan": Prawattisat Kap Chatniyom Kamphucha* [The Temple of "Preah Vihear": History and Cambodian Nationalism], ed. Surachart Bamrungsuk, *Chunlasan Khwam Mankhong Sueksa* [Security Studies Booklet], (Bangkok: Security Studies Project, May, 2010); Supamit Pitipat, *Khetdaen Chaidan Phromdaen* [Boundary Frontier Border], ed. Surachart Bamrungsuk, *Chunlasan Khwam Mankhong Sueksa* [Security Studies Booklet], (Bangkok: Security Studies Project, June, 2010); Surachart Bamrungsuk, *Sen Khetdaen Thai - Kampucha: Bot Thopthuan* [Thai-Cambodian Boundary: Revisited], ed. Surachart Bamrungsuk, *Chunlasan Khwam Mankhong*

In defense of the joint communiqué and in reaction to the alleged malfeasance pertained to Article 190, Foreign Minister Noppadon and senior MFA officials testified before the courts and later the NCCC. Amongst the points raised, firstly, is the fact that the international law dictates that the prime minister and the foreign minister can convey the expression of state consent to an international obligation. Since the Foreign Minister had repeatedly and publicly rejected the treaty character of the joint communiqué, there is no expression of intent that makes the agreement an international treaty as accused.¹¹¹ Secondly, while the fourth point of the joint communiqué discusses a creation of a management plan, it is in the spirit of world heritage protection and does not impact the countries' rights over the area as

Sueksa [Security Studies Booklet], (Bangkok: Security Studies Project, February, 2011); Bamrungsuk, *Sen Khetdaen Thai - Kamphucha: Khosangket 12 Prakan* [Thai-Cambodian Boundary: 12 Points of Concern]; Surakiart Sathirathai, *Phuenthi Thap Son Thang Thale Thai - Kampucha: Panha Lae Phatthanakan* [Thai-Cambodian Maritime Overlapping Area: Options and Recommendations], ed. Surachart Bamrungsuk, Chunlasan Khwam Mankhong Sueksa [Security Studies Booklet], (Bangkok: Security Studies Project, May, 2011); Sathirathai, *Phuenthi Thap Son Thang Thale Thai - Kampucha: Thanglueak Lae Khosanoenae* [Thai-Cambodian Maritime Overlapping Area: Options and Recommendations]; Thanom Charoenlap, *Khetdaen Thang Thale Khong Thai* [Thai Maritime Boundary], ed. Surachart Bamrungsuk, Chunlasan Khwam Mankhong Sueksa [Security Studies Booklet], (Bangkok: Security Studies Project, June, 2012); Surachart Bamrungsuk, ed., *Ramluek 50 Pi Phra Wihan (Phoso 2502-2555)* [The 50th Anniversary of the Temple Case (1962-2012)], Chunlasan Khwam Mankhong Sueksa [Security Studies Booklet] (Bangkok: Security Studies Project, 2012); Surachart Bamrungsuk, ed., *Kham Tatsin San Lok Khadi Phra Wihan 2505* [ICJ Judgment in the Case Concerning the Temple of Preah Vihear 1962], Chunlasan Khwam Mankhong Sueksa [Security Studies Booklet] (Bangkok: Security Studies Project, 2013).

¹¹¹ Pattama, *Banthuek Prawattisat "Maha Kap Khao Phrawihan"* [Historical Record "The Epic of Preah Vihear"], 123.

stipulated in the World Heritage Convention. Furthermore, the management plan has only existed in prospect therefore there is no binding obligation to be pertinent on the two states. Thirdly, the fifth point of the joint communiqué only reaffirms Article 11 of the World Heritage Convention as well as existing agreement under the MoU 2000. Fourthly, the joint communiqué does not have a wide scale effects on the social security of Thailand. It is the nationalist sentiments that precipitated resistance and protests against the joint communiqué. Lastly, paragraph 5 of the Constitution's Article 190 specifies, "there shall be a law on the prescription of stages and procedures for the conclusion of a treaty that has a wide scale effect on the economic or social security of the country" However, during the process of negotiation and finalization of the joint communiqué, the law prescribing the stages and procedures has not been enacted therefore the MFA could not infringe on the Article.¹¹²¹¹³



¹¹² Krit Kraijitti (former ambassador and director of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, March 5, 2019. Anonymous (former senior official in the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, May 15, 2019.

¹¹³ According to Noppadon Pattama, Nitya Pibulsonggram, the foreign minister during the interim government, proposed a draft law that defines the treaty that has a wide scale effect on the economic or social security to be an agreement that obligates Thailand to liberalize trade or investment. Although the law was not enacted, the MFA officials honestly believe that the joint communiqué is not a treaty that has a wide scale effect on the economic or social security of the country due to the draft law that they had proposed. Pattama, *Banthuek Prawattisat "Maha Kap Khao Phrawihan"* [Historical Record "The Epic of Preah Vihear"], 126-27.

Despite the MFA's efforts, the Administrative Court issued an injunction to suspend the joint communiqué. Also, when the Cabinet and the MFA filed an appeal to the Supreme Administrative Court, the high court upheld the injunction.¹¹⁴¹¹⁵ On 1 July 2008, the Cabinet resolved to suspend the effect of the joint communiqué. To inform them of the Cabinet's resolution, Foreign Minister Noppadon sent letters to Prime Minister Hun Sen, Deputy Prime Minister and Foreign Minister Hor Namhong, and UNESCO Director-General Kōichirō Matsuura.¹¹⁶ And in accordance to the ruling, the MFA's white paper was withdrawn from circulation and the Director-General of the Department of Treaties and Legal Affairs retracted his acceptance to participate in

¹¹⁴ Chamnan Chanrueng, "Kan Chai Amnat Tulakan An Pen Itsara Kap Kan Kra Tham Phit To Tamnaeng Nathi Nai Kan Yutitham "[The exercise of independent judicial power and the abuse of judicial position], *Prachatai* (Bangkok), 9 March 2011, <https://prachatai.com/journal/2011/03/33456>.

¹¹⁵ In fact, the Supreme Administrative Court judges had decided to overturn the initial Administrative Court's decision. However, before the ruling has been signed, the case was transferred to another team upon which the injunction of the Administrative Court was upheld. In 2010, the Counter Corruption Commission (CCC) began reviewing the Court's conduct. Seven years later, the CCC dismissed the case with the reasoning that the first decision was made informally and "some members of the CCC Committee saw that the issue has long passed and a decision to prosecute the judge of the Supreme Administrative Court may cause contention." *Ibid.*; Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 68; "Wan Taekyaek! Popocho Mati 5-4 Yok Khamrong Charan Khadi Plian Ong Khana Prasat Phra Wihan ", [Worried of conflict! CCC decision 5-4 acquitted Charan in the case of changing team on Preah Vihear temple], *Isranews* (Bangkok), 24 June 2016, <https://www.isranews.org/isranews-news/47960-iidm.html>.

¹¹⁶ Thanu Duangratana (former Thai ambassador to Paris and former director –general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, September 8, 2017

the academic discussion.¹¹⁷ Subsequently, when the Constitutional Court ruled against the joint communiqué as a violation of Article 190 of the Constitution and the Democrat Party filed for the impeachment of the Foreign Minister, Noppadon resigned.¹¹⁸

With the letter from the Foreign Minister, in the 32nd session of the World Heritage Committee that took place from 2 to 10 July in Quebec, the Committee recognizes,

that the Joint Communiqué signed on 18 June 2008 by the representatives of the Governments of Cambodia and Thailand, as well as by UNESCO, including its draft which was erroneously referred to as having been signed on 22 and 23 May 2008 in the document WHC-08/32.COM/INF.8B1.Add.2, must be disregarded following the decision of the Government of Thailand to suspend the effect of the Joint Communiqué, pursuant to the Thai Administrative Court's interim injunction on this issue.¹¹⁹

Under the circumstances, the Thai delegates to the WHC in Quebec, headed by Foreign Minister Noppadon Pattama, retracted Thailand's support for Cambodia's

¹¹⁷ Uwanno, "Bot Wikhro Thang Wicha Nitisat To Khamsang Sanpokkhong Klang Kamnot Withikan Khumkhong Phuea Banthao Thuk Chuakhrao Nai Khadhi Thalaengkanruam Thai Kamphucha" [The Legal Field Analysis of the Central Administrative Court Injunction in the Case of the Thai-Cambodian Joint Communique].

¹¹⁸ Nopporn Wong-Anan, "Thai foreign minister quits over temple row", *Reuters* (London), 10 July 2008, <https://www.reuters.com/article/thailand/update-1-thai-foreign-minister-quits-over-temple-row-idUSBKK19631820080710>.

¹¹⁹ *Decisions Adopted at the 32nd Session of the World Heritage Committee (Quebec City, 2008)*, World Heritage Committee, United Nations Educational, Scientific and Cultural Organization (Paris: Scientific and Cultural Organization United Nations Educational, 31 March 2009), 221, <https://whc.unesco.org/archive/2008/whc08-32com-24reve.pdf>.

application of the temple as a World Heritage Site. In addition, the team requested another deferral of the temple inscription and insisted on the joint nomination of the Preah Vihear complex.¹²⁰ In the session, with regards to the Revised Graphic Plan of the Property (R.G.P.P.) born out of the aforementioned negotiations between Thailand and Cambodia, the ICOMOS evaluation also raised issues on the nomination of the site. Included in the conclusion of the ICOMOS Evaluation is the remark that,

In the original nomination the promontory on which the temple sites was included in the core area. The revised core area is smaller enclosing only the main linear monument. ICOMOS considers that the values of the Preah Vihear are not limited to the monument alone: they extend into its setting. What is nominated is a small part of this overall picture, but is the kernel of it all.

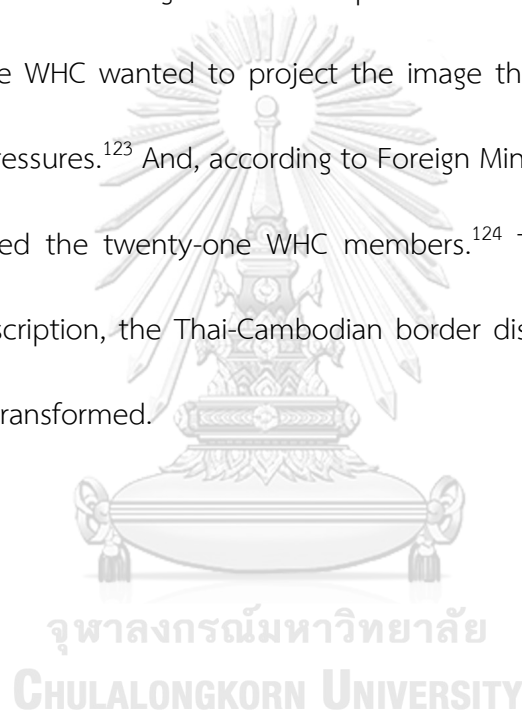
ICOMOS considers that the decision to reduce the core zone to the temple and its immediate surroundings has had a significant impact on the way the boundaries encompass the attributes that reflect outstanding universal value, and thus on the outstanding universal value of the property.

[...] ICOMOS considers that this [inscription] would occur without an adequate map and delineated boundaries, and would limit the appropriate recognition of all the cultural values of the property. On that basis, ICOMOS does not wish formally to recommend this to the Committee.¹²¹

¹²⁰ Supalak Ganjanakhundee, "Delay Sought on Temple Decision", *The Nation* (Bangkok), 5 July 2008; "PongPhon Din Hueaksutthai Mot Thang Yue Phra Wihan ", [Pongpol fights on the last breath no way of saving Preah Vihear], *Post Today* (Bangkok), 8 July 2008.

¹²¹ *Addendum2: ICOMOS Evaluations of nominations of cultrural and mixed properties to the World Heritage List*, ICOMOS, United Nations Educational, Scientific and Cultural Organization (Paris, 2008), Section 7, <https://whc.unesco.org/archive/2008/whc08-32com-inf8B1ADD2e.pdf>.

Nevertheless, on 7 July 2008, the World Heritage Committee inscribed the Preah Vihear Temple, despite Thailand's objection and ICOMOS's wary evaluation. Thailand's further insistence for the joint nomination was again rejected by Cambodia, especially since Cambodia had conceded to alter the R.G.P.P. Also, another deferral was not an option of the WHC as the decision had once been delayed based on the Thai government's promise of support.¹²² Moreover, it is presumed that the WHC wanted to project the image that the Committee did not bow to political pressures.¹²³ And, according to Foreign Minister Noppadon, Cambodia had heavily lobbied the twenty-one WHC members.¹²⁴ Thereafter, along with the World Heritage inscription, the Thai-Cambodian border dispute and the Thai foreign policy realm was transformed.



¹²² "PongPhon Din Hueakutthai Mot Thang Yue Phra Wihan ", [Pongpol fights on the last breath no way of saving Preah Vihear], 36; Robinson, "UNESCO and the Preah Vihear Dispute: Challenges Facing Cosmopolitan Minded International Institutions in Dispute Resolution."

¹²³ Tim Williams, "The Curious Tale of Preah Vihear: The Process and Value of World Heritage Nomination", *Conservation and Management of Archaeological Sites* 13, no. 1 (2011): 3.

¹²⁴ "Kham Khan Thai Thueng Mue 21 Prathet Nop Don Oktua Kamphucha Lopbi Wai Mot Lao ", [Objection letter in hands of 21 countries Noppadon claimed Cambodia had lobbied them all], *Matichon* (Bangkok), 6 July 2008.

5.5 Conclusion

From the 1990s into the 2000s, Thailand and Cambodia witnessed proactive cooperation in border affairs under the NRC of ally. In spite of Cambodia's nomination of the Preah Vihear Temple to the WHC and the unilateral inclusion of the controversial area in 2005, Thailand maintained the NRC until the middle of year 2008. In the period after the nomination, ardent efforts in part of the MFA to collaborate with Cambodia were evident. In the subsequent governments after the overthrow of Thaksin, the MFA held the helm to diplomatic negotiations and there was relative consensus with other governmental agencies. With regards to the efforts, while objections were made in part of Thailand, they were primarily against Cambodia's inclusion of the map that encompassed the obscured territory and not the nomination of the temple. Also, although the Cambodian party rejected the proposal, the MFA officials appealed for a joint nomination of the disputed area that, in the same line as the MoU 2000 and ToR 2003, indicated the recognition of overlapping claim to be resolved through cooperation.

Moreover, in Thailand's actions, the MFA gave importance to international agreements and international community that as well concurred with the NRC of international collaborator strongly adhered by the ministry. This can be seen in the MFA's support for the military's initiative to pressure Cambodia into accepting that there is an unsolved border dispute and aspire to negotiate with Thailand for a joint

solution for the area. Albeit the support, the MFA officials suggested to the military that the deployment of demining mission should be based on the principle of humanitarian act and the existing Mine Ban Treaty. Also, the MFA orchestrated many attempts to articulate Thailand's stance to the WHC members and UNESCO. The attempts include the MFA's invitation for WHC delegates to visit Thailand and diplomatic engagements with the members at their home countries. Additionally, the Thai-Cambodian joint communiqué in May 2008 resulted from the MFA's contact with UNESCO headquarter in Paris. In the joint communiqué, Thailand agreed to support the inscription of Preah Vihear at the WHC, Cambodia agreed to withhold the submission of the contested buffer zone, the JBC was emphasized as the border negotiation platform, and Thai and Cambodian authorities agreed to prepare a management plan to the disputed area in a concerted manner. Significantly, in view of the MFA, the joint communiqué resulted from the patronage of UNESCO. Therefore, Thailand's agreement displayed to the international community that the country played by international rules and earnestly sought solutions with Cambodia.

While Thailand's approach towards the Thai-Cambodian contested claim was consensually under the stewardship of the MFA, domestic changes were unfolding. In 2008, opposing opinions to Thailand's founded standpoint, predominantly driven by the anti-government civil society network, began to louden. Prevalent in the opposing viewpoints include the stances that Thailand should strictly reject the acknowledgement of the Annex I Map, base the country's borderline on the Cabinet

Resolution in 1962, and that Thailand retains the rights to reclaim the temple in accordance to the reservation made by Foreign Minister Thanat Khoman. Therefore, it was conceived that the Thai government's signing of the joint communiqué and the support for Cambodia's nomination of the temple were traitorous acts that jeopardize Thailand's sovereignty.

Concurrently, the Thai governmental apparatus was altered after the ouster of Thaksin in 2006. The newly inaugurated 2007 Constitution imposed more procedures and actors into the foreign policy action channel. Significantly, the decision-making circle was elaborated as the Constitution entrusted the parliament with augmented authority associated to treaty-making and requires that international agreements with character of a treaty be approved by the parliament prior to negotiations and after they have been signed. In view of the opposition party and portion of the senates, who were agreeable to the opposing public opinions, the joint communiqué allegedly was an act of constitutional violation; since Foreign Minister Noppadon had failed to acquire parliamentary approval for it. For the MFA, the ministry relied on international law to interpret that the joint communiqué did not constitute a treaty. Nevertheless, the MFA's standpoint was defeated in the new political dynamics. At the time, the judicial branch garnered increased authority in political matters and had the endeavor to maintain the post-coup political order. The courts imposed an injunction on the joint communiqué and later declared the

document as unconstitutional. Therefore, Foreign Minister Noppadon resigned and lawsuits were filed against officials involved.

In resultant, the MFA's attempts to clarify to the public of the validity and merit of the joint communiqué were aborted. Internationally, MFA was unable to implement the NRC of ally with Cambodia and the NRC of international collaborator was as well shaken. As the joint communiqué was abrogated, the MFA informed Cambodian government and UNESCO. Then, Foreign Minister Noppadon retracted Thailand's support for the inscription of the Preah Vihear Temple as a World Heritage site and requested another deferral. In fact, Noppadon mentions that the initial evaluation of the MFA was accurate. The WHC members were in agreement that the nomination of Preah Vihear Temple is important. Since the deferral of the WHC decision in Christchurch, it was perceived that Cambodia had worked in accordance to ways anticipated by the international committee. Also, the WHC Convention specifies that the inscription is not related to territorial claim. In resultant, the WHC did inscribed the temple at the WHC 32nd session in Quebec.¹²⁵ With the abovementioned developments, the Thai-Cambodian relations were engulfed in a new flare-up of territorial conflict.

¹²⁵ Pattama, *Banthuek Prawattisat "Maha Kap Khao Phrawihan"* [Historical Record "The Epic of Preah Vihear"], 60-61.

Chapter 6

The Height of the Conflict

After the cancellation of the Thai-Cambodian joint communiqué and the WHC's inscription of the Preah Vihear Temple, tensions heightened at the disputed area. In the years 2008 and 2011, border clashes incurred casualties on both sides. With regards to the heated atmosphere in these years, the MFA's perceptions and roles are scrutinized. Firstly, the MFA's attempts to maintain cooperative stance with Cambodia after the WHC inscription in the year 2008 is presented under Prime Minister Somchai Wongsawat, Thaksin's brother-in-law, that replaced Samak Sundaravej. Secondly, when the Constitutional Court dissolved the PPP and its political allies, Prime Minister Somchai was forced to resign. The Democrat party leader, Abhisit Vejjajiva, became the prime minister. The MFA's changes and actions that ensued during the new administration are examined. And thirdly, as the shift to Abhisit's government precipitated the exacerbation of conflicts between the two countries, the military clashes in the year 2011 as well as Thailand's participation at the World Heritage Committee will be deliberated.

6.1 The Border Clashes of 2008

With the WHC's inscription of the Preah Vihear Temple in July 2008, tensions loomed at the disputed area. Around the disputed area, nationalist groups marched in protest of the World Heritage listing. In addition, Cambodian authorities arrested Thai protestors as they allegedly crossed over the Cambodian border. For six weeks, from July to August, up to one thousand Thai and Cambodian troops stationed against each other within the area adjacent to the Preah Vihear Temple. Then, in October 2008, serious military clashes occurred which resulted in casualties on both sides.¹

The series of events occurred alongside the transition in Thailand's domestic politics. After the Constitutional Court ruled that the joint communiqué signed by Foreign Minister Noppadon Pattama was an unconstitutional act and led to the Foreign Minister's resignation; in September 2008, the Constitutional Court forced Prime Minister Samak Sundaravej to resign after its unanimous ruling that the Prime Minister had violated the Constitution's conflict of interest provisions.² On 17

¹ Anchalee Kongrut, "Thais stage protest at border area as tensions rise", *Bangkok Post* (Bangkok), 13 July 2008; Wassana Nanuam, "Armed and wary but still friendly for now", *Bangkok Post* (Bangkok), 21 July 2008; ICG, *Waging Peace: ASEAN and The Thai-Cambodian Border Conflict*, 5-6; Raymond, *Thai Military Power A Culture of Strategic Accomodation*, 187.

² This was due to Samak's hosting of a televised cooking show. The Court saw the Prime Minister's action as an action of an employee. In Article 267 of the 2007 Constitution, it states that public officeholder may not "hold any position in an organization carrying out business... nor be an employee of any person". At the same time, it is claimed that the Court's definition of an

September, the PPP dominated parliament elected Somchai Wongsawat, the brother-in-law of Thaksin Shinawatra, as prime minister. Then, the domestic strains intensified when the PAD protestors gathered outside the National Assembly to obstruct the Prime Minister's policy statement. Subsequently, there were clashes between the police and the protestors that resulted in serious injuries and deaths.³ The crackdown heightened the PAD's efforts, including the shutting down of Bangkok's international airports, which called the government's power into question.⁴

Despite the intensification of tensions in the Thai domestic environment, consensus between the government agencies dealing with the matter of the Preah Vihear dispute remained apparent. In response to the police crackdown on the PAD protestors, Army Chief Anupong Paochinda remarked in a televised interview that the government should take responsibility after the spilling of people's blood and "there's no point in staying on when the country has already been damaged."⁵

employee did not correspond to Thailand's civil code and labor laws. Dressel, "Judicialization of politics or politicization of the judiciary? Considerations from recent events in Thailand", 682; Constitution of the Kingdom of Thailand, Short.

³ "Tamruat Patha Mop Nonglueat Phanthamit Ying Dap ", [Police bloody clashes with mob! Female PAD dead], *Thairath* (Bangkok), 8 October 2008.

⁴ Ferrara, *The Political Development of Modern Thailand*, 244-45.

⁵ Wassana Nanuam, Pradit Ruangrit, and Nattaya Chetchotiros, "PM must resign says Anupong", *Bangkok Poist* (Bangkok), 17 October 2008.

Nevertheless, with regards to the aggravating atmosphere at the border, the military maintained a restrained stance that synchronized with the MFA's.

The consensus can be seen in many instances. Firstly, as protests were rallied in Sisaket in response to the listing of the temple, Anupong reaffirmed that the army will not force out Cambodians residing in the disputed area and that the army has no policy to use military measures to end the dispute.⁶ Secondly, while military buildups increased in the area, the Thai-Cambodian General Border Committee (GBC), dominated by the Defense Ministry, convened on 21 July in the attempt to defuse tensions. At the meeting, General Boonsrang Niumpradit, the head of the Thai delegation, agreed that while the troops remained in position, both sides would restrain from the use of force against each other.⁷ Thirdly, after Foreign Minister Tej Bunnag succeeded to negotiate with the Cambodian counterpart to reduce the number of Thai and Cambodian troops in the area, it was reported that, "Thai military leaders have assured the Foreign Ministry that forces will not react to any provocation in the disputed border area. Contacts will be made with Cambodia to find a diplomatic solution before any military action is taken. The first shot will not be fired by Thai soldiers."⁸

⁶ "Army will not force out Cambodians", *Bangkok Post* (Bangkok), 11 July 2008.

⁷ "Temple issue bogged", *The Nation* (Bangkok), 22 July 2008.

⁸ "Cambodia decides not to seek help from UN", *Bangkok Post* (Bangkok), 30 July 2008.

On the side of the MFA, the diplomatic attempts to moderate the conflict with the neighbor were undertaken. The aforementioned negotiation between Tej Bunnag and Hor Namhong in Siem Reap on 28 July made headway for the reduction of troops on both sides.⁹ However, after the invalidation of the Thai-Cambodian joint communiqué, the MFA's ability to implement its perceived national role conception was severely handicapped. This is evident in the replacement of the minister of foreign affairs after the resignation of Noppadon. The difficulty imposed upon the position had deterred candidates into the post. As described by Marukatat, "perspective candidates must meet the following criteria: an ability to stand up to criticism and allegations from anti-government protesters; a thorough knowledge of Article 190 of the Constitution; be ready to sign any international agreement in the national interest with no hesitation."¹⁰

After two weeks of vacancy Tej Bunnag was appointed the new foreign minister. In fact, due to the highly vocal public discontent against the government's handling of international affairs, Prime Minister Samak needed to unprecedentedly request the permission from His Majesty King Bhumibol Adulyadej to allow Tej to serve the post. Tej is a retired diplomat and former permanent secretary of the MFA,

⁹ The Thai negotiating team include MFA's Permanent Secretary Virasakdi Futrakul, Ambassador Virachai Plasai, Ambassador Viraphan Vacharathit, Chief of the Second Army Region Lt. General Sujit Sithiprapha and Head of Border Patrol Lt. General Nipat Thonglek. "Preah Vihear Stand-Off: Temple Talks Stall", *The Nation* (Bankok), 29 July 2008.

¹⁰ Saritdet Marukatat, "A headless ministry", *Bangkok Post* (Bangkok), 22 July 2008.

who was serving as an adviser to the Office of His Majesty's Principal Private Secretary; therefore, under the circumstances, a wise and acceptable candidate for the position.¹¹² Nonetheless, after thirty-nine days in office and initiating some progress in the normalization of Thai-Cambodian relations, the Foreign Minister resigned. One of the reasons is primarily due to his wife's health. As quoted from his interview with *Matichon* newspaper, "my resignation letter states that in the duration of my assumption of office I had been heavily pressured from many sides. This had impacted my wife emotional well-being."¹³

In relations to the MFA's decision-making authority, the ministry was given full consent from the government. As former Foreign Minister Tej stated, "Prime Minister [Samak] gave me high respect and trust. He told me that I could proceed in negotiations or do anything however I wanted."¹⁴ Also, Prime Minister Samak and later, Prime Minister Somchai held the defense portfolio along which, as previously mentioned, the military gave their assurance to cooperate. Nevertheless, albeit the

¹¹ In Tej Bunnag's interview with Nation Group's Editor-in-Chief Sutichai Yoon, when asked whether it was a difficult decision to take on the position, Tej states, "it had nothing to do with making a decision because Prime Minister Samak Sundaravej sought His Majesty the King's permission [for me] to take up this post. As a civil servant, I could not say no. It's a duty." "Tej: I would quit if I face undue political pressure", *The Nation* (Bangkok), 5 September 2008.

¹² "Can New Foreign Minister Tej Salvage Thai Foreign Policy?", *The Nation* (Bangkok), 28 July 2008.

¹³ Worarat Taniguchi, "Samphat Phiset: Wong Trakun-Phanya-Kho Klaoha Chiwit Chom Namta Tej Bunnag "[Special Interview: Family-Wife-Accusations Life Drowned in Tears Tej Bunnag], *Matichon* (Bangkok), 15 September 2008.

¹⁴ *Ibid.*

supports, the MFA's performance was inhibited by the context of the 2007 Constitution that endorses more actors in foreign policymaking.

Since Article 190 of the 2007 Constitution stipulates that international agreements that could result in wide scale effects on the economic or social security of the country must be approved by the parliament prior to negotiations and after they have been settled, the players in the domestic arena are imperative to the foreign policy maneuvers. Accordingly, the opposition party conceivably continued to be responsive to the viewpoints of the nationalist groups. As can be seen in the remark by the Democrat Chief Adviser Chuan Leekpai, with regards to the protesters' transgression into Cambodian soil. Chuan said, "the premier should carefully consider their reasons. No one wants to risk his life by doing anything wrong."¹⁵

Moreover, after Foreign Minister Tej's negotiation with the Cambodian counterpart on 28 July to agree on the reduction of troops on both sides, the ministers met again on 18 August with the agreement to convene a meeting of the Joint Commission on Demarcation for Land Boundary (JBC) by early October.¹⁶ However, it is problematic for the MFA because the framework for negotiation must be approved by the parliament, which led to the delay of negotiations. Furthermore,

¹⁵ "Worried Thai hands leaving Cambodia", *Bangkok Post* (Bangkok), 19 July 2008.

¹⁶ Supalak Ganjanakhundee, "Preah Vihear Dispute: Plan to Cut More Troops", *The Nation* (Bangkok), 20 August 2008.

as explicated by Foreign Minister Tej, another reason for his resignation is the due to the difficulty to proceed with the pending negotiation. He articulated that,

Under the circumstances, it is hardly possible to achieve. And if you don't comply, which you have to comply, the compliance is to what. The compliance is to the demands of the nationalist groups in and outside of the parliament. If we don't succeed then the Foreign Minister and the Ministry of Foreign Affairs are branded as selling the nation. The nationalist side they don't think of the root of the problem since the time of Rama V and they don't respect the World Court's ruling in 1962. They still say that the matter of the Preah Vihear Temple is still an issue. Then, how can we negotiate with Cambodia?¹⁷

The requirement that the framework of the JBC negotiations be passed by the parliament contributed to the escalation of conflict between Thailand and Cambodia in October 2008. Despite Foreign Minister Sompong Amornviwat's visit to Cambodia on 13 October, Hun Sen immediately announced an ultimatum that the Thai troops must leave the disputed area within 24 hours or face military attacks. After which, on 15 October, the tension led to armed clashes between the two parties with two Cambodian soldiers killed and at least seven wounded on both sides. Hun Sen identified that the talk with the Thai Foreign Minister was a failure because Sompong could not make agreement on account of the legal constraint stipulated in Article 190 the constitution.¹⁸¹⁹

¹⁷ Taniguchi, "Samphat Phiset: Wong Trakun-Phanya-Kho Klaoha Chiwit Chom Namta Tej Bunnag " [Special Interview: Family-Wife-Accusations Life Drowned in Tears Tej Bunnag].

¹⁸ "Kan Thut Onhat Kanmueang On Ae Kamphucha Sop Chong Ruk Thai ", [Amature Diplomacy Weak Politics Cambodia Found Chance to Aggress Thailand], *Post Today* (Bangkok) 2008; Chor

To resolve the armed hostility between the two countries, the MFA tried to push forward for parliamentary approval. This can be seen in Foreign Minister Sompong's discussion with Nattawut Saikua, the government spokesman, in the first occurrence of "Ratthaban Khong Prachachon" (People's Government) televised program. The Foreign Minister stated,

In the future, everything will be sorted if we get the approval for the JBC negotiation framework that will be introduced in the parliament on the 28th of October. However, we have informed the Cambodian side of this limitation in a letter, explained to them about the process, and that if the negotiation framework is approved by the parliament, we will arrange a meeting immediately.²⁰

Also, in the discussion, the Foreign Minister pleaded to the senates and the opposition party to attend and participate in the inquiry of the framework. He elaborated,

Not that you don't help and it turns out unfavorable. That can't be. The senators are people who are educated. The opposition party has a lot of experience. All should come help because without the framework there could

Sokunthea, "Thai, Cambodian troops clash on border, two killed", *Reuters*, 15 October 2008, <https://www.reuters.com/article/us-cambodia-thailand1/thai-cambodian-troops-clash-on-border-two-killed-idUSTRE49E3U720081015>.

¹⁹ At the time, Hun Sen's frustration is seen to derive from the pressure to submit a management plan at the WHC in February 2009. Settlements between Thailand and Cambodia on the disputed area are essential to the formulation of the plan. Supalak Ganjanakhundee, "The Real Reason Behind Hun Sen's Belligerence Over Temple", *The Nation* (Bangkok), 16 October 2008.

²⁰ "Khamen Rong UN Sat Thai Ying Charuat Tham Phra Wihan Phang BuaKaeo Pat Thankhwan ", [Cambodia complained to UN claimed Thailand fired rocket wrecking Preah Vihear MFA quickly object claim], *Matichon* (Bangkok), 27 October 2008.

be conflicts. I believe that in the past Cambodia was frustrated because they invited us to the meeting, but we could not go because we don't have the framework. Today please come help the country, politics can be dealt with later.²¹

Then, in the joint parliamentary session on 28 October, as part of the attacks by the senates and the opposition MPs in the government's handling of the situation, Democrat Leader Abhisit proposed that the Annex I Map be withdrew from the approved negotiation framework. Henceforth, Foreign Minister Sompong complied with no objection.²² Later, according to Virachai Plasai, who resumed the position of director-general of the Department of Treaties and Legal Affairs, the MoU 2000 already encompassed the Annex I Map and it would not be possible for Thailand to forbid Cambodia from referring to the map. However, Thailand could present a stance against the recognition of the Annex I Map and the stance would be suggested to the Thai co-chair of JBC.²³

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²¹ Ibid.

²² Alongside the parliamentary meeting was the protest against the reference to the Annex I Map on the PAD stage located in the occupied Government House in Bangkok. "Sapha Fai Khiao Krop Cheracha Pak Pan Khet Thai Khamen ", [Parliament's green light on negotiation framework for Thai-Cambodian boundary], *Kom Chad Luek* (Bangkok), 29 October 2008.

²³ Virachai also stated that the map withdrew from the parliament approval was an example attached to the proposal document for the negotiation framework, not the map that is constituted in the MoU 2000. "BuaKaeo Yan Krop Cheracha Thai-Khamen ", [MFA affirm Thai-Cambodian negotiation framework], *Matichon* (Bangkok), 30 October 2008.

"Kor Tor Pat Phaenthi Farangset Thok Che Bi Si 11-14 Phoyo Ni ", [MFA denies French map in JBC this 11-14 November], *Post Today* (Bangkok), 30 October 2008.

Since the 2007 Constitution also demands that “the Council of Ministers must provide information thereon to the public, conduct public consultation and declare the details of such treaty to the National Assembly”; after the National Assembly had approved the JBC negotiation framework on 28 October, on 6 November the MFA and Chulalongkorn University’s Institute of Asian Studies organized a public forum to discuss the details of the framework. Notably, it was criticized by right-wing academics such as Prakasit Kaewmongkol that the forum was just pretense for the MFA to achieve its negotiation goal because there was little opportunity for the general public as well as academic to ask questions or give input.²⁴²⁵ Thereafter, three JBC meetings convened between November 2008 and April 2009, but no substantial agreement between the two countries emanated. Concurrently, the negotiations paralleled a major overturn in the Thai domestic politics, which exasperated the Thai-Cambodian relations and the MFA’s role.



6.2 The Ministry during Abhisit Vejjajiva’s Administration

Of similar trend, on 2 December 2008, the Constitutional Court dissolved the PPP and its political allies, Chat Thai and Matchimathippatai, after the PPP leader was

²⁴ Constitution of the Kingdom of Thailand, Short, 65-66.

²⁵ "Nak Wicha Kan Tan Krop Cheracha Phra Wihan Chuak BuaKaeo Mok Met ", [Academics against Preah Vihear framework attacked MFA of covering up], *Manager Daily*, 8 November 2008.

convicted by the Supreme Court for vote buying in the previous general election.²⁶ Prime Minister Somchai was forced to resign. Resultantly, Abhisit Vejjajiva, as the leader of the new majority coalition brokered by the military, assumed office of the prime minister on 17 December 2008.²⁷ The political change ultimately impacted the role as well as the national role conception of the MFA towards Cambodia and the temple dispute.

In the position of the minister of foreign affairs, Prime Minister Abhisit chose Kasit Piromya, a retired diplomat who has taken the PAD stage multiple times. Even prior to his assumption of the foreign minister office, Kasit admitted that he held dual standpoints as a spokesman for the PAD and as a shadow deputy prime appointed by the Democrat Party.²⁸ Firstly, in line with the aforementioned opposing viewpoints, Kasit was a major antagonist against the Thai-Cambodian joint communiqué. In an interview in the “Kom Chad Luek” program of Nation Channel on

²⁶ In fact, Wasan Soipisut, the former President of the Constitutional Court later revealed, “if the country had proceeded in an orderly manner, the government and the opposition can cooperate, and the country can continue to run; I believe that the majority of the judges will not decide to dissolve the parties so that the country can continue on its conduct. However, it was chaotic at the time with no solution in sight, the Constitutional Court therefore decided in a way to maintain order.” “Rap Eng San Rothono Phlat Khadi Samak Wasan Lut -Tho Kae Wun”, [Admitted himself, the Constitutional Court mistaken the case of Samak, Wasan slipped - Hectically call to fix], *Matichon* (Bangkok), 16 March 2013.

²⁷ Dressel, “Judicialization of politics or politicization of the judiciary? Considerations from recent events in Thailand”, 683; Ferrara, *The Political Development of Modern Thailand*, 245; Chambers, “A Short History of Military Influence in Thailand,” 314-15.

²⁸ Pravit Rojanaphruk, “Conflicts of Interest Abound in Dubious Democrat-PAD Roles”, *The Nation* (Bangkok), 29 October 2008.

18 June 2008, Kasit voiced his suspicions against the government's orchestration of the joint communiqué without a parliamentary discussion. Also, he stated,

The World Court clearly decided that only the temple structure belongs to Cambodia therefore there is no overlapping area. The claim over the 4.6 kilometers ergo has no necessity to be developed jointly with Cambodia since we are already capable. However, is there a problem because there are other reasons, for example about Koh Kong and maritime overlapping area? I don't believe that the press is reporting about the matter by themselves, rather the people in the ministry probably disclosed it.²⁹

Then, Kasit mentioned in a news report on 13 July 2008 that,

The government should present the claim of ownership by managing the area around the temple, especially in the area at the Preah Vihear national park where there are houses and shops. If not through demolition, then through rent since the area is the Thai territory and we should not allow anyone to seek benefits without any reaction from the government.³⁰

Furthermore, prior to the JBC meeting on 28 July 2008, Kasit commented,

Thailand should not take the stance of following the standpoint of Cambodia and should not be worried that Cambodia will play the game to stall the negotiations on 28 July. That is because the stall will only make Cambodia suffer from not being to proceed with any actions upon the Preah Vihear Temple. Also, not to worry that Cambodia will try to file a suit with the World Court by sabotaging the meeting on 28 July because there is no reason for that. The

²⁹ "Khao Phra Wihan... Moradok Khong Khrai ", [Preah Vihear... whose heritage], *Kom Chad Luek* (Bangkok), 19 June 2008.

³⁰ "Botrian Kongthap Ten Chet Phra Wihan ", [Lesson for the Military Hassle to Clean Up Preah Vihear], *Thai Post* (Bangkok), 13 July 2008.

World Court cannot enforce anything upon Thailand since Thailand is a sovereign state.³¹

Secondly, Kasit had publicly insulted the Cambodian Prime Minister. For instance, two months prior to his new undertaking as the foreign minister and in response to Hun Sen's ultimatum, Kasit rebuked in an interview,

Let him threaten us, a threat from a crazy person, what to worry about? He is also playing in Cambodian domestic politics. He is trying to garner points from nationalism because in the previous general election few weeks earlier he did not get too many votes... I think internationally, Thailand has a culture of diplomacy that is renown. We cannot act like a "kui" [gangster] like Hun Sen... In English, all that had happened, they are bullshit, cannot find any substance, right? Hun Sen is crazy because he has other agendas. You don't want good relations because your heart is evil or because you are a slave of Thaksin. Then, you come play tricks with Thailand.³²

Nevertheless, immediately after Kasit's assumption of office, the Foreign Minister expressed a more restrained tone. In fact, the first country that the Foreign Minister visited was Cambodia. He reaffirmed the Cambodian government of the continuity of Thai foreign policy to push forward the implementation of bilateral and multilateral cooperation frameworks involving the two countries. Also, of Thailand's intent to find solutions to the Preah Vihear dispute through existing mechanisms.³³ In

³¹ Chanikarn Karnjanasalee, "Prachum Siam Riap Le Khamen Pu Thang Su Wethi Yu En [Siem Reap Meeting Cambodian Scheme to Lead to UN]", *Post Today* (Bangkok), 26 July 2008.

³² Quoted in "Phra Wihan Pom Ron Khong Aphisit Kab Kasit ", [Preah Vihear Temple Heated Problem of Abhisit and Kasit], *Kao Hoon* (Bangkok) 2009.

³³ "Kasit renews bid to get muslims freed", *Bangkok Post* (Bangkok), 25 January 2009.

relations to the MFA's stance to engage in the Thai-Cambodian dispute, the Foreign Minister publicly addressed that "the Preah Vihear case would be handled in line with the 1904 and 1907 Siam-Franco treaties, the 1962 International Court of Justice ruling and the Memorandum of Understanding on boundary demarcation of the year 2000."³⁴ Furthermore, in an interview by the author, Kasit states,

In the consideration of foreign policy, as the minister of foreign affairs who conversed with the ministry officials, I must look at the constitution and the aim of the Democrat Party. The constitution's directive principles of foreign policies stipulate that the state shall promote friendly relations and cooperation with other countries as well as to honor international obligations and commitments. And, the Democrat government, stood for regionalism and internationalism. Therefore, in implication, we seek to promote relations and solve problems through peaceful means that are diplomacy and negotiations. Also, the MFA appears for international cooperation. That's our job.³⁵

At the same time, Kasit pleaded to the media and later the PAD not to bring up sensitive issues and incite nationalist sentiments that could jeopardize the Thai-Cambodian relationship.³⁶ On 27 January 2009, Kasit explicated in the parliament,

I attacked Samdech Hun Sen at the time because Samdech Hun Sen commanded Thai troops to leave the proximity of the Preah Vihear Temple. I said it as a citizen who cherished the nation's sovereignty. I said it in the midst

³⁴Supalak Ganjanakhundee, "Kasit rules out Thai ownership", *The Nation* (Bangkok), December 26 2008, http://www.nationmultimedia.com/2008/12/26/politics/politics_30091895.php.

³⁵ Kasit Piromya (former foreign minister, MFA), interviewed by author, Bangkok, May 24, 2019.

³⁶ "Kasit Yon Sue Sak Phra Wihan Chut Chanuan Khamen Thalo Thai ", [Kasit pointed at media asking question to set fuel for Cambodia to fight with Thailand], *Thai Post* (Bangkok), 16 January 2009; "Wip RorBor Phawa Photomo So Tang Komotho Ruam ", [Government's Whip Affright of PAD Joint Committee in Prospect], *Matichon* (Bangkok), 2 November 2010.

of the people's movement. However, at the present I am in the position of the minister of foreign affairs. I need to have discipline and follow the government's policy. Everyone has a battled past, but don't worry that I will not be able to do the job.³⁷

Moreover, in a censure debate against the cabinet members, Kasit was grilled for his seemingly lack of legitimacy. In response to the charge on his verbal attack on Hun Sen in October, Kasit explicated that it was only due to his patriotism. And to alleviate the diplomatic repercussions from his reference to Hun Sen as a gangster, Kasit rephrased his statement to describe Hun Sen as "a gentleman who has a heart of a gangster" and sent the premier a letter of apology.³⁸

While the maintenance in the MFA's standpoint can be seen, public opinion driven by nationalism still had an impact on the ministry's NRC. This can be seen especially when Prime Minister Hun Sen appointed Thaksin Shinawatra as a Cambodian economic adviser. The MFA claimed that Hun Sen's appointment of

³⁷ Samran Rodpetch, "Pen... Kasit Pirom "[Being... Kasit Piromya], *Manager Daily* (Bangkok), 28 January 2009.

³⁸"Kasit' Kang Udomkan To "Ko Khae... Nithan Kohok" ", ['Kasit' laid down ideology argued "just... a tale"], *Matichon* (Bangkok), 21 March 2009. Chachavalpongpun, "Diplomacy under Siege: Thailand's Political Crisis and the Impact on Foreign Policy", 459; Yun Samean and Fran Radosevich, "PM Seeks Apology for 'Gangster' Remark", *The Cambodia Daily*, 1 April 2009, <https://www.cambodiadaily.com/news/pm-seeks-apology-for-gangster-remark-62910/>; "Suek Chaidan Khamen ", [Cambodian Border Battle], *Matichon* (Bangkok), 6 April 2009.

Thaksin is considered as interference in the domestic politics of Thailand.³⁹ In part of the MFA, a plan of action was expounded by Chavanon Intarakomalyasut, the secretary to the minister of foreign affairs, which include the recall of the Thai ambassador to Phnom Penh as well as the revision of all bilateral agreements and cooperation projects. The revision led to the cancellation of the Memorandum of Understanding on the Areas in the Overlapping Maritime Claims (MoU 2001) and Prime Minister Abhisit stated to the press that the Thai government would suspend a soft loan for a road construction in Cambodia. Then, MFA sent a letter requesting the extradition of Thaksin Shinawatra, which was rejected by Cambodia.⁴⁰ Moreover, the opposition Pheu Thai party revealed a MFA document stamped “secret and urgent” that was signed by the Foreign Minister and sent to the Prime Minister.⁴¹ In the document, the ministry defined Thaksin as a “major threat” that aims for the deterioration of the country’s affairs by cooperating with the Cambodian Premier as

จุฬาลงกรณ์มหาวิทยาลัย

CHULALONGKORN UNIVERSITY

³⁹ "Thai Topto Khamen Tang Maeo Nang Thiprueksa ", [Thai responds to Cambodian appointment of Maew as advisor], *Matichon* (Bangkok), 6 November 2009; "Pak Pha Chon ", [Out of the mouth comes repentance], *Matichon* (Bangkok), 16 November 2009.

⁴⁰ Supalak Ganjanakhundee, "Face-off", *The Nation* (Bangkok), 6 November 2009; "Cambodia refuses Thaksin extradition", *RTE* (Dublin), 11 November 2009, <https://www.rte.ie/news/2009/1111/124076-thailand/>; Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 72.

⁴¹ MFA Spokesman Thani Thongpakdi explained that the document was an analysis report of the development and trend of Thai-Cambodian relations that should not be disseminated to the public. "KhamRop Poet Tua Pat Charakam Tu Khayao Kasit Chae Ekkasan Lap Hai Khachat Maeo ", [Kamrop denied robbery Tu shook Kasit revealed secret documet to get rid of Maew], *Matichon* (Bangkok), 19 December 2009.

well as his Thai supporters or the “United Front for Democracy Against Dictatorship” (UDD) to overthrow the Thai government. Therefore, measures should be taken to get rid of the threat and undermine the relationship between Thaksin and Hun Sen. The document also identified best to worst scenarios that demanded responses ranging from maintaining the current status quo to the usage of military force, respectively.⁴²

According to former Foreign Minister Surakiart Sathirathai, an inflated sense of nationalism can lead to poor judgment in foreign policy. In the case of the MFA’s measure to revise the countries’ bilateral agreement and cooperation projects, the government can be seen to be making an exaggerated move that can obstruct the normalization of relations and the benefits to the country in the long run.⁴³ In connection to the Thai-Cambodian cooperation projects, Thailand pursued investments and aids since the late 1980s. Nevertheless, while Thailand significantly pioneered economic activities in Cambodia, Thailand was not the dominant investor in the country, which by mid 2000s was increasingly engaged by China and other ASEAN members. Also, cross-border economic activities were productive to the Thai

⁴² "Songkhram Khomun 2 Khua ", [Battle of 2 Information Poles], *Matichon* (Bangkok), 19 December 2009.

⁴³ Hataikarnjana Trisuwan, "Surakiat Wiphak Kem Kan Thut Thai Khamen "[Surakiart criticizes Thai-Cambodian Diplomatic Game], *Matichon* (Bangkok), 16 November 2009.

economy.⁴⁴ As Pawakapan remarks, “the actions by both the PAD leader and the Abhisit government are noteworthy because they are not only reflected a nationalistic and superior attitude toward Cambodia, but also showed lack of understanding on the part of the Thai public in general as well as some political leaders of the complexity of the economic relationships that Thailand had developed with neighboring countries since the end of the Cold War.”⁴⁵

With regards to the government’s foreign policymaking, Foreign Minister Kasit elucidates,

The MFA always directed the Thai foreign policy. Of course, all the decisions were made after discussions with Prime Minister Abhisit and the final decisions laid with the Prime Minister. However, all discussions went smoothly and I have to thank Abhisit that he backed me up hundred percent.

With regards to the way of working on the Cambodian dispute, I’ve never done anything that I have not consulted with the Permanent Secretary of Foreign Affairs and senior officials, especially the Director-General of the Department of Treaties and Legal Affairs. Internal consultation within the ministry was conducted openly. Also, all matters were discussed in the National Security Council that is the clearinghouse for security and foreign policies of Thailand. Discussions were made with the Secretary-General as well as in the council that includes the prime minister as the chair, the ministers, supreme commander of the armed forces, military generals, chief of police, attorney general, and the

⁴⁴ This included railroad and road projects as well as the establishment of Thai industries in the neighboring country. Pawakapan, *State and Uncivil Society in Thailand at the Temple of Preah Vihear*, 19-27.

⁴⁵ *Ibid.*, 14.

national intelligence unit. In addition, we always report to the Cabinet, as a whole or in the sub-Cabinet meeting dealing with security issues.⁴⁶

With respect to the internal working of the MFA, prior to Foreign Minister Kasit's assumption to the post, he lambasted the MFA officials on their conformity with the former government's direction in the Preah Vihear conflict. In an interview in the Thai *Daily News* newspaper, Kasit stated,

The country should be the basis for civil servants and they should argue with the government so that the society will know the whole truth. Civil servants do not have any rights to serve the immorality of politicians instead they should fight for what is right. When the national interest is served, the society will take care of them. All are grown-ups, are scholarship students, and are students who have studied abroad. Your father and your mother, many have served the country. Yet, today [you] conformed to the evil of politics. It can't be help that [you] will bring detriment to the country and lose the dignity of being good civil servants.⁴⁷

Although the ministry is divided in their agreement with the new Foreign Minister, a new consensus was created within the MFA decision-making circle with the change of government.⁴⁸ Essentially, this can be seen in the reshuffling of

⁴⁶ Kasit Piromya (former foreign minister, MFA), interviewed by author, Bangkok, May 24, 2019.

⁴⁷ Pornthip Suwanpichakorn, "Tha Pen Ratthaban Phom Cha Yuet Sonthisanya Sayam Farangset "[If I'm the government I will adhere to the Siam-Franco Treaty], *Daily News* (Bangkok), 26 July 2008.

⁴⁸ As noted in the previous chapter, while there were relative consensus between the major internal actors in the dealings that concern the Preah Vihear dispute, primarily the foreign minister, the secretary-general, the director-generals of the Department of Treaties and Legal Affairs and the Department of East Asian Affairs, as well as the head of JBC, fragmentation in

authoritative posts. In January 2009, Preudtipong Kulthanan, the son-in-law of Prasong Soonsiri who is a major critic of Thaksin, was appointed the director-general of the Department of Treaties and Legal Affairs from the post of the ambassador attached to the ministry. At the same time, Kittiphong Na Ranong who had publicly criticized the working of Samak's administration was also designated as the director general of the East Asian department.⁴⁹ Later, Kasit nominated Asda Jayanama, his co-participant on the PAD stage, to be the co-chairman of the Thai-Cambodian JBC.⁵⁰ As elaborated by Kasit, authority was given to people who he, as the foreign minister, could confer with comfortably and could oversee. Also, he should be able to trust the people as they had agreeable beliefs and political direction.⁵¹

Additionally, against the backdrop of the 2007 Constitution, the parliamentary players as well served as major constraints and determinants for the government's action. On the side of the opposition Pheu Thai party, the same employment of

viewpoints was prevalent within the ministry as a whole before and after the change of government. Vasin Teeravechyan (Permanent advisor in border issues, former director-general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, November 2, 2018; Anonymous (former senior official in the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, August 9, 2019.

⁴⁹ "Yai 30 Thut- Rong Palad Buakaeo Dan Khoei Prasong Du Phra Wihan ", [Move 30 ambassadors-deputy secretary general push Prasong son-in-law to oversee Preah Vihear], *Matichon* (Bangkok), 19 January 2009; Wimolpan Pitatawatchai, "'Kittiphong Na Ranong" one who did not bow to evil", *Post Today* (Bangkok), 20 November 2013, <https://www.posttoday.com/politic/report/259950>.

⁵⁰ "Chong Asda Prathan Che Bi Si ", [Nominate Asda as JBC chair], *Matichon* (Bangkok), 23 November 2010.

⁵¹ Kasit Piromya (former foreign minister, MFA), interviewed by author, Bangkok, May 24, 2019.

nationalist rhetoric and the denunciation of the government's handling of the Thai-Cambodian relations were projected against the new government.⁵² After the inauguration of Abhisit's administration, Noppadon Pattama, the former foreign minister of the PPP, publicly reminded the Democrat government of Abhisit's prior claim that the land where the temple is located is owned by Thailand. Therefore, the government must keep the word to demand the return of or the rent for the land surrounding the temple.⁵³ Then, in the censure debate in March 2009, Pheu Thai MP accused the MFA for its acquiescence to Cambodian road developments in the disputed area.⁵⁴ At the same time, the opposition party condemned the Prime Minister and the Foreign Minister's actions against Hun Sen's appointment of Thaksin as jeopardizing the Thai-Cambodian relations.⁵⁶

On the other side, the old nationalist allies of the Democrat party such as part of the Thai senates and the PAD continued to demand a steadfast stance from the government in its dealing with Cambodia. For instance, in August 2009, the Thai senates organized a seminar to discuss the issue of the Preah Vihear. In the seminar,

⁵² The Pheu Thai party is a new party founded by Thaksin as a replacement for the dissolved People's Power Party (PPP).

⁵³ "Noppadon to Abhisit: Get temple back", *Bangkok Post* (Bangkok), 27 December 2008.

⁵⁴ The same issue was also raised by the UDD, also known as the "Red Shirts".

⁵⁵ Supalak Ganjanakhundee, "Politicising Preah Vihear issue could make things worse", *The Nation* (Bangkok), 26 March 2009. "Thanet Khruerat Rat Tong Khlia Pom Khao Phra Wihan", [Thanet Khruerat State Must Clear Problem of Preah Vihear], *Post Today* (Bangkok), 31 March 2009.

⁵⁶ "Mark Dan Panha Phra Wihan Duet Thok Asean Sam [Mark pushes the issue of Preah Vihear to discuss in ASEAN again]", *Thai Post* (Bangkok), 6 April 2009.

Paiboon Nititawan, an appointed senate, reiterated that Thailand should not settle for a joint management of the area adjacent to the temple since the area wholly belongs to Thailand.⁵⁷ Similarly, in September 2009, the PAD questioned Foreign Minister Kasit's standpoint to negotiate with Cambodia on the 4.6 kilometers disputed area. Also, Sondhi Limthongkul, insisted on the use of military force to push the Cambodians out of the disputed area before negotiations can take place.⁵⁸ Subsequently, PAD launched an act of protest against Cambodian settlements in the disputed area by reading a protest statement near the Thai-Cambodian border declaring that the Preah Vihear and its surrounding area belong to Thailand based on the 1904 Treaty.⁵⁹

While there was a restrained stance projected by the MFA, the influence of nationalism onto the organization's NRC affected its role in the engagement of foreign affairs with Cambodia. To illustrate, after the MFA announced the plan to revise all bilateral agreements and cooperation projects with Cambodia, Hun Sen publicly announced,

I told Abhisit that the Cambodian population and I felt hurt when we heard that all aids and loans to Cambodia would be suspended. Cambodia declares that

⁵⁷ "Sowo Chap Mue Nak Wicha Kan Chi Ror Bor Loek Mati Nun Khamen Khuen Thabian Phra Wihan ", [Senates collaborate with academics pressure gov't cancel resolution to support Cambodian inscription of Preah Vihear], *Matichon* (Bangkok), 26 August 2009.

⁵⁸ "Phothomo Chi Phlakdan Khamen Phon Phuenthi Thap Son ", [PAD pressures to push Cambodians out of overlapping area], *Matichon* (Bangkok), 9 September 2009.

⁵⁹ Chambers and Wolf, *Image-Formation at a Nation's Edge: Thai Perceptions of its Border Dispute with Cambodia –Implications for South Asia*, 24.

we will not accept any more assistance from Abhisit's government. Even scholarships, we are able to be responsible of our students studying in Thailand. If any Cambodian official dare seek help from Thailand, I will dismiss him. In exception, if Abhisit and Kasit leave office, then we can reconsider the matter.⁶⁰

Thereafter, it was the other agencies that played a leading role in diplomacy to mend the relations. This was despite the other agencies in the security sector also showing approval to the MFA's plan of action.⁶¹ For instance, the GBC headed by the countries' defense ministers convened in December 2009 to preserve civil exchanges between each other. Concurrently, prior to the resignation of Thaksin on 23 August 2010, Minister of Defense General Prawit Wongsuwon as well as Deputy Prime Minister Suthep Thaugsuban maintained contacts with the Cambodian leaders.⁶² Moreover, when Sivarak Chutipong, the Thai engineer stationed in Cambodia was arrested for espionage in Cambodia, the engineer's mother requested the help of the Pheu Thai party leaders and asked the Thai government and the MFA not to intervene due to their feud with Hun Sen.⁶³

⁶⁰ "Hun Sen Krao Mark-Kasit Tham Samphan Thai Kamphucha Yae ", [Hun Sen aggressive Mark-Kasit made Thai-Cambodian relations bad], *Matichon* (Bangkok), 2 December 2009.

⁶¹ "Thai Khamen Laek Mat Sang Thut Klap BuaKaeo Leng Phaen 2-3 ", [Thai Cambodia exchange fists ambassador recalled MFA looks at plan 2-3], *Matichon* (Bangkok), 6 November 2009.

⁶² For example, within the period in question, Suthep paid two visits to talk to Prime Minister Hun Sen. Charan Phongjeen, "Luek Tae Mai Lap "[Deep but not hidden], *Matichon Weekly* (Bangkok), 9 August 2010.

⁶³ "Photho Ching Kem Aphaiyathot Witsawakon Yuen 3 Cho Mor Chuai Mae Yam Ror Bor BuaKaeo Yu Ning Ning ", [Pheu Thai joins the game for the amnesty of engineer handed in 3 letters to help mother states gov't-MFA do nothing], *Matichon* (Bangkok), 10 December 2009.

6.3 The Three JBC Meeting Minutes

In relations to the Preah Vihear dispute, as the foreign minister, Kasit asserted that the MoU 2000 would be the basis for the countries' border engagement.⁶⁵ Nevertheless, the MFA's role to push forward border settlements under the negotiation framework was also limited. In the period between November 2008 and April 2009, three JBC meetings actualized. The meetings made headway as agreements were reached to continue the joint demarcation projects and to prioritize the disputed areas as opposed to the untroubled areas initially agreed on. Especially at the technical level, the agreements for the production of maps, boundary pillar surveys, and the English translation of survey reports upon the area near the Preah Vihear Temple were concluded. However, no substantial progress was made because the two countries could not agree on the name for Preah Vihear and, importantly, because parliamentary approval was expected for the three meetings minutes.⁶⁶⁶⁷

⁶⁴ On 15 December 2009, Sivarak, who was arrested for leaking information about Thaksin's flight schedule, was released after a royal pardon. According to Hun Sen's spokesman, Eang Sopheleth, the release was due to "Prime Minister's Hun Sen's concern for the love between a mother and son and also the intervention from his excellency Thaksin Shinawatra." Cheang Sokha and James O'Toole, "Thai spy released from jail", *The Phnom Penh Post* (Phnom Penh), 15 December 2009, <https://www.phnompenhpost.com/national/thai-spy-released-jail>.

⁶⁵ "Wip RorBor Phawa Photomo So Tang Komotho Ruam ", [Government's Whip Affright of PAD Joint Commitee in Prospect].

⁶⁶ ICG, *Waging Peace: ASEAN and The Thai-Cambodian Border Conflict*, 7-11; MFA, *Short Khomun thi prachachon khuan sap kiaokap korani prasat phrawihan lae kan cheracha khetdaen Thai -*

The three JBC meeting minutes took almost two years to receive a green light from the Thai parliamentary process. To elaborate their lengthy parliamentary course, the minutes were initially proposed by the Cabinet on 2 July 2009, but were dismissed from consideration on 10 November 2009. Again, on 7 April 2010, the Cabinet resolved to propose the minutes to the National Assembly and they were dismissed from the assembly's decision in May 2010. On 2 November 2010, the minutes were directed to a 30-person committee (comprising of senators and house of representative members) before gaining parliamentary consideration. Moreover, on December 2010, the Committee received a deadline extension of 90 days to report to the parliament on the Committee's examination of the JBC meeting records; whereas in the late of March 2011, the parliamentary hearing of the Committee's report was postponed. Due to the delay, a group of 80 Democrat MPs filed a request that was forwarded to the Constitutional Court to rule whether the three JBC minutes were considered as a treaty in accordance to Article 190 of the 2007 Constitution. Eventually, on 30 March 2011, the Court ruled that the minutes were

Kamphucha [Information that the people should know concerning the Preah Vihear case and Thai-Cambodian border negotiation], 29-33; Thanida Tansubhapol, "Headway in demarcation talks with Cambodia", *Bangkok Post* (Bangkok), 12 November 2008.

⁶⁷ Cambodia insisted on calling the temple "Preah Vihear" while Thailand contended to call it "Phra Viharn," which is the term used in the negotiation framework approved by the Parliament. Supalak Ganjanakhundee, "Temple name dispute diverts officials from bigger issues", *The Nation* (Bangkok), 14 November 2008; Thanida Tansubhapol, "Border dispute talks getting bogged down", *Bangkok Post* (Bangkok), 7 February 2009.

still within the process of negotiation. Hence, they did not have a character of a treaty and did not need parliamentary approval. Thereafter, on 12 April 2011, the Cabinet withdrew the records from the Assembly's agenda and allowed the agencies involved to continue the negotiations.⁶⁸

In the parliamentary arena, as previously mentioned, oppositions to the ministry's direction came from the opposition Pheu Thai party, portion of the senates, and the loud-spoken civil society driven by nationalism. On one hand, the Pheu Thai party employed the nationalist rhetoric, which included the attack on the MoU 2000. In the statement of Leader of the Opposition Chalerm Yubamrung, he said,

The problem started from the Democrat government that orchestrated the MoU 2000 and made recognition to the map that was unilaterally drew by the French, also known as the 1:200,000 Map. This resulted in the loss of 4.6 kilometers of territory. Although the World Court ruled the Preah Vihear Temple to be under the ownership of Cambodia, the Thai-Cambodian border is based on the

⁶⁸ MFA, Short *Khomun thi prachachon khuan sap kiaokap korani prasat phrawihan lae kan cheracha khetdaen Thai - Kamphucha* [Information that the people should know concerning the Preah Vihear case and Thai-Cambodian border negotiation], 31-33; "Yue Che Bi Si Tang Komotho Sueksa 30 Wan Ratthaban Lan Mai Khaichat-Sia Daen ", [Stalled JBC create committee to study for 30 days. Gov't exclaimed not selling the nation-not losing territory], *Matichon* (Bangkok), 3 November 2010; Clancy McGilligan and Van Roeun, "Another delay in Thailand for border meeting records", *The Cambodia Daily*, 2 December 2010, <https://english.cambodiadaily.com/news/another-delay-in-thailand-for-border-meeting-records-107821/>.

watershed line. However, the MoU led to the loss of the territory. Therefore, the government must cancel to MoU 2000.⁶⁹

To obstruct the approval of the JBC minutes, the party requested the JBC minutes to be withdrawn from parliamentary consideration and resolution. Also, the opposition MPs attempted to boycott the parliamentary session. According to Surapong Tovichakchaikul who was an MP of the Pheu Thai party at the time, on 1 November 2010, the party had a resolution to boycott the approval of the three JBC meeting records because the party did not want to be tricked into the political game between the government and the yellow shirts (PAD).⁷⁰

On the other hand, in opposition to the MoU 2000 and consequently the three JBC memos, appointed Senator Kamnoon Siddhisamarn expressed that he is against the MoU 2000 and the related TOR 2003 because they accepted the inclusion of the Annex I Map as one of the documents in negotiations. Hence, he found it necessary to cancel the MoU 2000 and for the government to draft, with parliamentary approval, a new MoU that adhere to only the watershed line based on

⁶⁹ "Ror Bor Thoi Khetdaen Thai Khamen Ang Wara Prachum Ratthasapha Tem ", [Government withdraw Thai-Cambodian Border claiming full parliamentary agenda], *Matichon* (Bangkok), 17 August 2010.

⁷⁰ Chambers and Wolf, Image-Formation at a Nation's Edge: Thai Perceptions of its Border Dispute with Cambodia –Implications for South Asia, 25; "Mop Yoei Chukchoen Bi Ror Bor Khap Khamen 24 Chomo ", [Mob mocks emergency pushes gov't force out Cambodia 24 hours], *Matichon* (Bangkok), 18 August 2009; "Yue Che Bi Si Tang Komotho Sueksa 30 Wan Ratthaban Lan Mai Khaichat-Sia Daen ", [Stalled JBC create committee to study for 30 days. Gov't exclaimed not selling the nation-not losing territory].

1904 and 1907 Franco-Siamese treaties.⁷¹ Thereafter, while the government had tried to push forward for the ratification of the meeting minutes since the mid of 2009, Kamnoon illuminates in his book that “a portion of my senate friends and I had, through the time, diligently objected, suggested, and bargained with the government in both open and closed channels.”⁷²

Significantly, the unyielding demands echoed from the PAD’s civil society network. Through public demonstrations, three following points were reiterated from the groups:

1. The government must cancel all obligations pertained to the 1:200,000 Map and the MoU 2000.
2. The government must withdraw from the World Heritage Convention.
3. The government must force out the Cambodian people in the Thai territory, especially on the overlapping area around the Preah Vihear Temple.⁷³⁷⁴

⁷¹ Sidhisamarn, *Chutyuen Chutplian Chutchop Prasat Phrawihan* [Standpoint, Point of Change, End Point Preah Vihear Temple], 92, 179-80.

⁷² *Ibid.*, 97.

⁷³ "Korani Phanit Khlai Kap Sinsut Yuti Tae Yang Mai Chob ", [The case of Panich seems like finished but not ended], *Matichon* (Bangkok), 24 January 2011.

⁷⁴ While the MoU 2000 preceded the Thai-Cambodian joint communiqué of 2008, the problem against the agreement only became salient under Abhisit’s administration. The emergence of the issue during this time by the PAD can be attributed to the creation of the movement’s own “New Politics Party” (NPP) and the effort to augment their influence onto the disappointing government’s minimally altered direction."Naeorop Phra Wihan Phanthamit Mai Plianplaeng Phaendin Ni Tong Khong Kru ", [PAD’s Preah Vihear battle direction unchanged this territory must be mine], *Matichon Weekly* (Bangkok), 30 August 2010, Nai Prathet; Michael H. Nelson, "Thailand’s People’s Alliance for Democracy: From “New Politics” to a “Real” Political Party?," in *Legitimacy Crisis in Thailand*, ed. Marc Askew (Chiang Mai: Silkworm Books, 2010), 148-49;

With regards to the MoU 2000, appeasements from the government were apparent under the pressure. For instance, in response to the gathering of thousands of protestors at the Thai-Japanese Stadium in Din Daeng as well as hundred of protestors in front of the government house, Prime Minister Abhisit agreed on a televised debate with the civil society groups.⁷⁵ In the debate on 8 August 2010, Abhisit asserted that Cambodia transgressed onto Thailand's territory surrounding the Preah Vihear Temple and suggested, "how about this... to be at ease, before the government introduce the issue in the parliament... have an open forum to discuss how to proceed. I have no problem with that, like I have said, since we have the same intention, we should come and examine the best way to proceed."⁷⁶ Consequently, the Prime Minister's remark catapulted the JBC meeting minutes to the joint parliamentary committee on 2 November 2010 as the senate quoted the Prime Minister and delayed the approval by proposing the creation of study committee. Also, on 2 November, a group of around 2,000 PAD protestors gathered in front of the Parliament House to express their objection of the National Assembly's pending ratification of the JBC minutes. Later that day, Foreign Minister

Chachavalpongpun, "Diplomacy under Siege: Thailand's Political Crisis and the Impact on Foreign Policy", 462.

⁷⁵ "Abhisit and PAD to join together for show", *Bangkok Post* (Bangkok), 8 August 2010.

⁷⁶ Aekarach Sattaburuth, "Govt and PAD arm reach temple accord", *Bangkok Post*, 9 August 2010; Sidhisamarn, *Chutyuen Chutplian Chutchop Prasat Phrawihan* [Standpoint, Point of Change, End Point Preah Vihear Temple], 100.

Kasit, through his secretary, informed the PAD leaders of the decision to establish the committee instead.⁷⁷ Antecedently, on 29 October, the PAD filed a petition with the Central Administrative Court against the Foreign Minister and the Cabinet for their proposal of the JBC memos to the assembly.⁷⁸

To gain parliamentary approval and for the MFA to proceed on the course of negotiation, the ministry's efforts can be seen, but also mollifying. Since November 2008, Virachai Plasai, then the director-general of the Department of Treaties and Legal Affairs, pleaded in a press interview for a parliamentary decision. He said, "the Assembly should approve right away, and if possible, voted for it right away. So, that there will be a way to lead to further negotiations. If not, there is nothing that can be done... Just give us some votes and we can proceed right away. Doesn't have to be overwhelming, this is democracy."⁷⁹ In Abhisit's government, Prasas Prasasvinitchai expresses that MFA officials did not make much clarification to the actors involved or the public as this duty was superintended by the Prime Minister and the Foreign

⁷⁷ "Yue Che Bi Si Tang Komotho Sueksa 30 Wan Ratthaban Lan Mai Khaichat-Sia Daen ", [Stalled JBC create committee to study for 30 days. Gov't exclaimed not selling the nation-not losing territory].

⁷⁸ Nevertheless, the Administrative Court dismissed the lodged complaint as the foreign minister and the Cabinet were exercising their authoritative rights to forward the memo for parliamentary approval. "PAD border demands fall on deaf ears", *Bangkok Post* (Bangkok), 2 November 2010.

⁷⁹ "Khophiphat Chaidan Thai Kamphucha Wira Chai Yuenyan Phra Wihan Cha Dai Khoyuti ", [Thai-Cambodian border dispute Virachai confirms Preah Vihear will have a conclusion], *Thanksettakij* (Bangkok), 20 November 2008.

Minister.⁸⁰ Nevertheless, Foreign Minister Kasit defended the MoU 2000 in the National Assembly as well as with the PAD leaders. He affirmed that the MoU 2000 only serves as a bilateral negotiating tool that presents the related referencing documents and not a delimitation settlement.⁸¹ Also, Foreign Minister Kasit stated,

In the talk with the PAD leaders, [we] met tens of times both formally and informally. There was a televised debate with the Prime Minister. However, after all being said, [they] still claim that Thailand loss territory. This shows that this is their only political standpoint... Everyone equally cherish our territory, but by doing this it is like being fooled to explain. No matter what have been said, it remained at the same point. In this matter the National Assembly has the highest authority to decide. If this issue leads to the loss of territory, it is impossible for Mr. Kasit or the Ministry of Foreign Affairs to trick those in the parliament. Please talk with reason, don't let nationalism cause a problem. There is nothing being twisted. Don't stick to one's gun. I can confirm that Thailand will not lose territory. This is a matter of negotiation based on reasons and facts and on the international law.⁸²

After over a year of delay, the MFA seemingly attempted to neutralize the galvanized parliamentary obstruction through concession. This can be seen in the

⁸⁰ Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.

⁸¹ Sidhisamarn, *Chutyuen Chutplian Chutchop Prasat Phrawihan* [Standpoint, Point of Change, End Point Preah Vihear Temple], 32; MFA, Short *Khomun thi prachachon khuan sap kiaokap korani prasat phrawihan lae kan cheracha khetdaen Thai - Kamphucha* [Information that the people should know concerning the Preah Vihear case and Thai-Cambodian border negotiation], 32; "Yue Che Bi Si Tang Komotho Sueksa 30 Wan Ratthaban Lan Mai Khaichat-Sia Daen ", [Stalled JBC create committee to study for 30 days. Gov't exclaimed not selling the nation-not losing territory].

⁸² "Wip RorBor Phawa Photomo So Tang Komotho Ruam ", [Government's Whip Affright of PAD Joint Committee in Prospect].

resignation of Vasin Teeravechyan from the position of the Thai chair of JBC on 1 November 2010.⁸³ While the reason for his resignation was not elaborated in the news, in the author's interview of Vasin, he reveals,

At time of heightened domestic tensions and incitements against Cambodia from political actors, I was ordered to state in an interview that Thailand did not recognize the 1:200,000 Map pertaining to the Thai-Cambodian border. In the belief that the statement would jeopardize the efforts that have been made, I resigned. It was also related to the case of the Thai border relations with Laos. I could not do that. Although I did wait to see who in the ministry would dare claim that, no one did.⁸⁴⁸⁵

According to Prasasvinitchai, as a member of Vasin's team, he was also removed from participating in the JBC's operations and new members were instated.⁸⁶ As the new Thai chair of the JBC, Foreign Minister Kasit assigned Asda Jayanama, who had

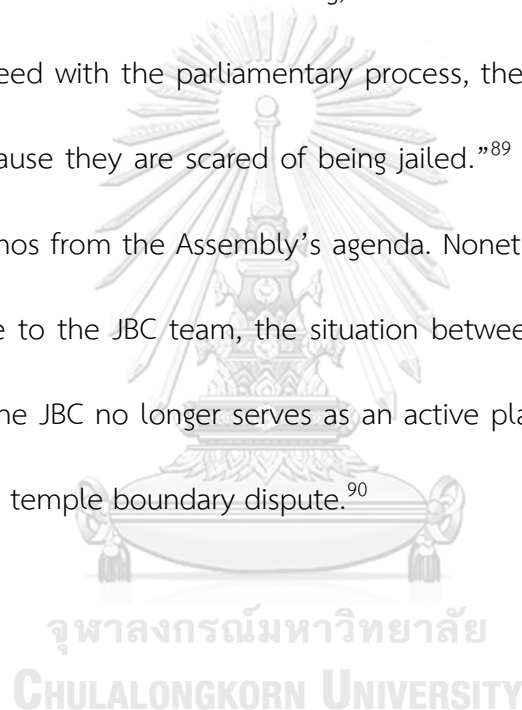
⁸³ Vasin Teeravechyan is the MFA's permanent advisor in border issues and a former-general of the Department of Treaties and Legal Affairs in the 1990s. He co-chaired the Thai-Cambodian JBC since October 2008.

⁸⁴ Vasin Teeravechyan (Permanent advisor in border issues, former director-general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, November 2, 2018.

⁸⁵ As explicated in Chapter 4, in the border negotiations with Laos, the Franco-Siamese 1:200,000 Map is advantageous for Thailand in the Romklat dispute. In fact, in March 2009, the Thai parliament approved the negotiation framework for the survey and demarcation of Thai-Laotian boundary that include the 1:200,000 Map as one of the references. Ekkasan Khao Ratthasapha [National Assembly News Document], ISSN 0125-0833 (Bangkok: The Secretariat of the House of Representatives, 2010); Wichitra Wacharaporn and Tuangrat Laohatapongpuri, *Ek Sanprakop Ka Raphi Chara Na* [Supporting Documents], อ.พ. 23/2552 (Bangkok: National Assembly Library, 2009).

⁸⁶ Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.

once mentioned a possible use of force towards Cambodia.⁸⁷ However, it was the request of the group of Democrat MPs for the Constitutional Court ruling that allowed the JBC minutes to overcome the parliamentary hurdle. Although, worthy of note is that the MFA and the Cabinet articulated that they wanted the meeting records to gain parliamentary approval based on Article 190, to protect themselves.⁸⁸ Also, even after the Court declared its ruling, in the Cabinet meeting, Kasit reiterated, “if we don’t proceed with the parliamentary process, the Royal Survey Department will not work because they are scared of being jailed.”⁸⁹ The Cabinet did decide to withdraw the memos from the Assembly’s agenda. Nonetheless, with the delay and the changes made to the JBC team, the situation between Thailand and Cambodia was altered and the JBC no longer serves as an active platform for Thai-Cambodian cooperation in the temple boundary dispute.⁹⁰



⁸⁷ ICG, *Waging Peace: ASEAN and The Thai-Cambodian Border Conflict*; "Asda Jayanama rabu Hun Sen tangchai yaek kongthap kap ratthaban Abhisit ", [Asda Jayanama points Hun Sen intentionally separate military and Abhisit's government], *Prachatai*, November 13 2009, <https://prachatai.com/journal/2009/11/26596>.

⁸⁸ "62 Pochopo Khaochue Tikhwan Banthuek Che Bi Si ", [62 Democrats sign name for JBC records to be interpreted], *Matichon* (Bangkok), 1 December 2010.

⁸⁹ "Ror Bor Thon Che Bi Si 3 Chabap Chak Ratthasapha ", [Gov't withdrew 3 JBC memos from National Assembly], *Matichon* (Bangkok), 13 April 2011.

⁹⁰ Cheang Sokha, "Indonesia talks yield little border progress", *Phnom Penh Post*, April 11 2011, <https://www.phnompenhpost.com/national/indonesia-talks-yield-little-border-progress>

6.4 The Border Clashes of 2011

With exception to the nationalist junctures, the MFA had tried to maintain a cooperative stance with Cambodia. This can be seen in the Foreign Minister's actions after the resignation of Thaksin Shinawatra from the post of economic advisor to Cambodia. After Cambodia released an official statement for the resignation of Thaksin on 23 August 2010, on the next day Kasit ordered the return of Ambassador Prasas Prasasvinitchai to Phnom Penh. At the same time, the Foreign Minister thanked the Cambodian government for its willingness to cooperate and the MFA expressed its readiness to negotiate in all matters.⁹¹ Then, the Royal Kathin Ceremony was organized by the Thai embassy in Phnom Penh, which presented the normalization of relations between the two countries.⁹² Moreover, in the ministerial Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS) meeting in Phnom Penh, Kasit Piromya and Hor Namhong signed a visa-free agreement between the two countries.⁹³ Taken together, by 20 December 2010, Hun Sen stated

⁹¹ "Ang La ok Maeo Phon Kunsue Hun Sen Thai Song Thut Klap Khamen Thanthi ", [Thaksin claimed to resign from Hun Sen advisor, sent ambassador back to Cambodia immediately], *Matichon* (Bangkok), 24 August 2010.

⁹² Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018. Worarat Taniguchi, "Kathin Phraratchathan Chueam Samphan Thai-Kamphucha "[Royal Kathin Connecting Thai-Cambodian Relations], *Matichon* (Bangkok), 23 November 2010.

⁹³ Instead of a 30-day tourist visa, Thai and Cambodian tourists are allowed to stay in Thailand and Cambodia without visa for 14 days. Marisa Chimprabha, "Cambodia deal will eliminate visas for short term travellers", *The Nation* (Bangkok), 17 November 2010.

in an interview with the Thai reporters on the 60th anniversary of diplomatic ties between Thailand and Cambodia that, “I have taken the whole day to greet the Thai delegates including Foreign Minister Kasit Piromya and Commander-in-Chief Prayut Chan-ocha. I am most delighted in the mark of the 60th anniversary of the two countries because all problems had been completely resolved. It can be said that Thai-Cambodian relations have been normalized. The pending tasks would be how to better our existing relations. We still have many things to do as friendly neighbors.”⁹⁴

Nevertheless, another nationalist eruption occurred on 29 December 2010 when seven Thai nationals trespassed into Cambodian soil near the disputed area. The Thai people arrested comprised of a Democrat MP claiming to inspect the demarcation at the village near the disputed border and PAD activists including Veera Somkwamkid, the PAD co-leader who had been arrested before for trespassing.⁹⁵ In the event of the arrests, the Foreign Minister expressed his opposition to the PAD-led action. In response to the event, Kasit remarked in the Cabinet meeting that, “in this case, Cambodia must be irritated by Mr. Veera Somkwamkid, the leader of the Thai

⁹⁴ "Samphan Thai-Kamphucha Phan Saita Somdet Hun Sen ", [Thai-Cambodian relations through lens of Samdech Hun Sen], *Matichon* (Bangkok), 22 December 2010.

⁹⁵ The Democrat MP was first released on bail on 13 January and fined on 21 January for trespassing with four other arrested individuals. However, Veera Somkwamkid and his assistant Ratee Pipatanapaiboon were charged with illegal entry and espionage. They were given jail terms of 8 years and 6 years, respectively. Later, Ratee was released in 2013 and Veera in 2014. "Cambodia finds two Thai nationalists guilty of spying", *BBC News*, 1 February 2011.

Patriot Network, who went into the area three times already. Therefore, they made the arrest to bring the issue into the justice system. The action of the Thai group is considered as amateur and is oblivious to the process of international relations.”⁹⁶ At this time, the PAD network was resentful against the government and the MFA for its inability to secure the release of the PAD members. For example, on 13 January, group of protestors gathered in front of the MFA building to announce their criticisms against the MFA’s handling of the case and bid to investigate the workings of the MFA officials. Moreover, the protestors demanded the resignation of Prime Minister Abhisit, Foreign Minister Kasit, Secretary to the Foreign Minister Chavanon, and Ambassador Prasas. Additionally, the PAD later threatened to move to pressure the government at the Government House.⁹⁷

In the turn of events, on 8 January 2011, Cambodia put up a placard in front of Kaew Sikha Khiri Sawara Temple, in the disputed area near the Preah Vihear Temple, accusing the Thai military of trespassing Cambodian soil.⁹⁸ Then after the military objection, the sign was destroyed. However, it was replaced by a stone

⁹⁶ "Kasit At 7 Thai Nai Khoromo Phuak Onhat ", [Kasit attacked 7 Thais in Cabinet, the amateurs], *Matichon* (Bangkok), 5 January 2011.

⁹⁷ "Phanit-Naruemon Phon Khuk-Lun Ik 5 Ham Ok Khamen ", [Panich-Naruemon out of prison - Anticipate five more prohibit to leave Cambodia], *Matichon* (Bangkok), 14 January 2011; "Wit Patha Thai-Khamen Thup Pai ", [Dodge Thai-Cambodian fight destroyed sign], *Matichon* (Bangkok), 27 January 2011.

⁹⁸ The sign read, “Here, the Thai troops invaded Cambodia on 15 July 2008 and withdrew on 1 December 2010.”

tablet that declared, “Here! Is Cambodia”. In response, the Thai soldiers erected a metal sign stating, “This is Thailand”. Then, on 26 January, a military talk between the 2nd Army Chief Tawatchai Samutsakhon and his counterpart led to the removal of the plaque.⁹⁹

Nonetheless, according to Wassana Nanuam, rather than the talk, the military was earlier given a green light by the Prime Minister to display its strength. This included the conduct of military exercise near the disputed area; the deployment of infantrymen near the Kaew Sikha Khiri Sawara Temple; the execution of artillery drills near the border; and the employment of fighter jets that projected “sonic boom” to threaten the Cambodian soldiers.¹⁰⁰ Furthermore, on 27 January, Abhisit demanded the Cambodian flag flying over the Kaew Sikha Khiri Sawara pagoda to be removed. The Cambodian Foreign Ministry issued a statement to reason that the Cambodian people built the temple in 1988, upon which the flag had been hoisted. The statement articulated, “the question is why has Thailand only now demanded the Cambodian flag be removed... and by no means will Cambodia relocate this pagoda elsewhere and Cambodia will continue to fly its flag there.”¹⁰¹ In fact, the Cambodian statement was a response to an objection lodged by the MFA. The MFA

⁹⁹ Wassana Nanuam, *Lap Luang Phrang: Suek Phra Wihan* [Secret Lies Camouflage: Battle of Preah Vihear] (Bangkok: Post Books, 2011), 114-16.

¹⁰⁰ *Ibid.*, 120-121.

¹⁰¹ Supalak Ganjanakhundee, “Cambodia refuses to remove pagoda or flag”, *The Nation* (Bangkok), 2 February 2011.

asserted that the temple is located on Thai soil and requested that the temple be demolished and the flag be removed.¹⁰² Thereafter, Foreign Minister Kasit publicly equated Hun Sen to a “trouble-making kid next door” in a seminar organized by the Senate’s Foreign Affairs Committee.¹⁰³

With regards to the Thai security agencies, there was relative consensus between the military and the MFA towards the country’s dealing of the Thai-Cambodian border dispute. As part of the Thai-Cambodian normalization of relations after the resignation of Thaksin as the Cambodian economic adviser, Army Commander-in-Chief Prayuth visited Cambodia and agreed with Hun Sen to maintain peaceful negotiations to settle disputes.¹⁰⁴ Then, in reaction to the PAD’s trespassing in late December 2010, Prayut commented that the group should have informed the army in the region before going into the area. That is because it is the area with overlapping claims, actions must be with mutual respect for each other.¹⁰⁵

Nevertheless, pressure from the civil society onto the military was also evident. Apart from the denunciation by the PAD for not forcefully rescuing the

¹⁰² "Kot Chut Krao Yuen Khamkhat Khamen Rue Wat Kaeo ", [MFA toughened gave Cambodia ultimatum demolish Kaew temple], *Matichon* (Bangkok), 1 February 2011.

¹⁰³ "Cha Hun Sen Dek Kere Mi Tae Chep Tua ", [Kasit attacked Hun Sen trouble-making kid only hurt oneself], *Matichon* (Bangkok), 10 February 2011.

¹⁰⁴ "Thai Army Chief Visits Cambodia to Seek Better Relationship between Two Countries", *Xinhua*, 20 December 2010, http://news.xinhuanet.com/english2010/world/2010-12/20/c_13657267.htm.

¹⁰⁵ "Bik Tu Ploi San Khamen Chikhat 7 Khon Thai", [Big Tu lets Cambodia Court Dictates for 7 Thais], *Komchadluek* (Bangkok), 7 January 2011, <https://www.komchadluek.net/news/politic/85000>.

people arrested, the military was also heavily criticized by the news of the signs erected by Cambodia. That is because the signs were located in the disputed area where the Thai soldiers had gained grounds when the armed tensions escalated in the year 2008. Amidst the resumption of relations between the two countries, in the GBC meeting in November 2010, Defense Minister Prawit and his counterpart, Tea Banh, agreed to the “adjustment of forces”. Although no details had been given to the public, it became clear that, in part of the military, there was a compromise with the neighboring country.¹⁰⁶ In resultant to the nationalist pull, as previously elaborated, the military began to display tougher stance against Cambodia. Also, as declared by Prawit to the Thai infantrymen at the border in February, the Thai military departed from the standpoint of being purely defensive.¹⁰⁷

With the escalated tensions and troops on alert at the border, in February and again in April and May, deadly clashes occurred between the two countries. The clashes involved heavy weapons by which eight soldiers were killed in February and another eighteen were killed between 22 April and 3 May. As the bilateral approach was seen as insufficient, especially by Cambodia, international intervention was sought. On 5 February 2011, one day after the fight had broken out at the border, Hun Sen wrote to Maria Luiza Ribeiro Viotti, President of the United Nations Security

¹⁰⁶ Nanuam, *Lap Luang Phrang: Suek Phra Wihan* [Secret Lies Camouflage: Battle of Preah Vihear], 109-12.3"3 Po 3 Pot Kap Thueak ", [3 Ps 3 Cowards and Thueak], *Matichon*, January 28 2011.

¹⁰⁷ "Cha Hun Sen Dek Kere Mi Tae Chep Tua ", [Kasit attacked Hun Sen trouble-making kid only hurt oneself].

Council (UNSC), to request an urgent meeting on the issue. On 14 February 2011, the Security Council asked the two parties to display maximum restraint and supported ASEAN's active efforts to resolve the conflict.¹⁰⁸

At times, Cambodia can be seen to discourage third party intervention. For instance, in response to the armed hostilities in October 2008, Malaysian Foreign Minister Rais Yatim had offered to mediate talks between the two parties. Then, Hun Sen responded by saying that he did not see the necessity for assistance from the U.N. or ASEAN as Thailand and Cambodia had agreed to solve the problem bilaterally.¹⁰⁹ However, Cambodia later sought the multilateral approach to deal with the dispute between the two countries. According to Pou Sothirak, the reasons for the Cambodian government to resort to the multilateral approach include: Cambodia's long-standing anxiety on Thailand's potential use of force to reclaim the temple that was triggered by the PAD's demands and Cambodia's frustration on the Thai government's inconsistency and ability to withstand pressures from the PAD in dealing with the issue.¹¹⁰

Additionally, it can be comprehended that Cambodia's frustration was well founded as Cambodia had been shown to appease Thailand. This is evident in the

¹⁰⁸ Maria Luiza Ribeiro Viotti, "Security Council Press Statement on Cambodia-Thailand Border Situation," news release, 14 February, 2011, <https://www.un.org/press/en/2011/sc10174.doc.htm>.

¹⁰⁹ "Hun Sen On-Kho Cheracha ", [Hun Sen softens - asks for negotiation], *Thairath* (Bangkok), 18 October 2008.

¹¹⁰ Pou Sothirak, "Cambodia's Border Conflict with Thailand," in *Southeast Asian Affairs 2013*, ed. Daljit Singh (Singapore: ISEAS Publishing, 2013), 93-94.

signing of the joint communiqué. The Cambodian party had agreed to withdraw its claim in the disputed area pending the results from the JBC and edited the perimeters of the area in the attached Revised Graphic Plan of the Property (R.G.P.P.) presented to the WHC. Also, while Cambodia waited to proceed with the JBC negotiations, Thailand's parliamentary process was stagnated. Resolutely, in February 2011, Cambodia JBC Chair, Senior Minister Var Kim Hong, declared that there will be no JBC meeting between Thailand and Cambodia and that "bilateral mechanism cannot solve this problem."¹¹¹

On the Thai side, bilateral negotiations were strongly prioritized. According to Gregory Vincent Raymond, "The Preah Vihear/Phra Viharn crisis was diplomatically difficult for Thailand, which was accustomed to playing the role of a small country in a world of superpowers. But Cambodia usurped the position of small state. This left Thailand nervous that it would be portrayed as the bully, and concerned that it would lose the battle for world public opinion."¹¹² Since the international community significantly impacts the Thai foreign-policy choices, Thailand invariably participated in all related platforms motioned. Whereas, the participations were in order to convince the international community on the sufficiency of the existing

¹¹¹ "Hun Sen Chi Samphan Thai-Khamen Khae Phiophoen ", [Hun Sen points Thai-Cambodian relations superficial], *Matichon* (Bangkok), 3 September 2010; "Mark Rathuek Yu en Es Si Lun Fi Pak Kasit Khamen Lom To Thawiphakhi ", [Mark stirred UNSC anticipate Kasit's words Cambodia throw out bilatera], *Matichon* (Bangkok), 13 February 2011.

¹¹² Raymond, *Thai Military Power A Culture of Strategic Accomodation*, 204.

Thai-Cambodian bilateral channels.¹¹³ For instance, in the mid of 2008, Cambodia attempted to bring the issue to the UNSC in the claim of Thailand's encroachment onto Cambodian soil as the two countries were building up troops in the area. At the time, Deputy Prime Minister Sahas Bunditkul and MFA's Permanent Secretary Virasakdi Futrakul lobbied the U.N. Security members to agree that the issue can be resolve through bilateral talks. Then, with the discussion between the foreign ministers to cut down the troops during the brief term of Foreign Minister Tej Bunnag, the tension deescalated and Cambodia decided not to forward the issue to the UNSC.¹¹⁴

Similarly, in August 2010, after Prime Minister Abhisit's televised debate with the civil society groups to appease the PAD, Hun Sen sent letters in the request of international assistance to the UNSC and the U.N. General Assembly. Hun Sen claimed that Abhisit declared that Thailand would resort to both diplomatic and military means to resolve the issue although Abhisit refuted that he was misquoted. Also, Cambodia appealed for ASEAN intervention to prevent the probable large-scale conflict. Again, the Thai government maintained their insistence to resolve the

¹¹³ Kasit states, "We had been consistent. We went to every negotiating forums, ASEAN, UNESCO, UNSC, and the World Court. To show the Thai people and the world that we stand for peaceful negotiations." Kasit Piromya (former foreign minister, MFA), interviewed by author, Bangkok, May 24, 2019.

¹¹⁴ Wassana Nanuam, "Cambodia complains to UN", *Bangkok Post* (Bangkok), 20 July 2008; Thanida Tansubhapol and Wassana Nanuam, "Thailand lobbies for UN backing", *Bangkok Post* (Bangkok), 24 July 2008; "Cambodia decides not to seek help from UN".

problem between the two countries.¹¹⁵ As seen in Foreign Minister Kasit's letter to Foreign Minister Pham Gia Khiem of Vietnam, who was the ASEAN chair, Kasit reiterated, "It is our goal to resolve this issue peacefully and in good faith, through bilateral channels in accordance with existing bilateral agreements and international law."¹¹⁶ At this time, Surin Pitsuwan, the Secretary General of ASEAN, met with Hun Sen to encourage talks between the Thai and Cambodian prime ministers.¹¹⁷ Ultimately, the normalization of relations resumed after Thaksin resigned from the post of Cambodia's economic advisor.

With the military clashes in 2011, as previously stated, Cambodia returned to the UNSC; ASEAN was then allocated an active role by the international organ. On 14 February, Kasit still affirmed to the UNSC members in New York that there were bilateral mechanisms between the two countries that were the JBC and the GBC.¹¹⁸ Nevertheless, given the current nationalist pull, continuous delay of the approval of the JBC minutes, and fatal sporadic clashes at the border; Thailand's position to contain the dispute negotiations within the bilateral frameworks was inconceivable.

¹¹⁵ "Temple row is hot, Hun Sen complains", *The Nation* (Bangkok), 10 August 2010; "Thailand Declines ASEAN Help in Border Dispute", *The Nation* (Bangkok), 19 August 2010; "PM welcomes direct talks with Hun Sen", *The Nation* (Bangkok), 23 August 2010.

¹¹⁶ Supalak Ganjanakhundee, "Hun Sen ready for discussions", *The Nation* (Bangkok), 21 August 2010.

¹¹⁷ Ibid.

¹¹⁸ "Konkai Thawiphakhi Nan MiYu Tha Chai Thuk Yang Ko Khuiep Pai Dai ", [There are bilateral mechanisms, if used everything can progress], *Matichon* (Bangkok), 16 February 2011.

Significantly, as remarked by Surachart Bamrungsuk, “if there is no negotiation, I don’t know what can be done. We want negotiation to take place at the bilateral level, but the principal agency having the duty to negotiate, the Ministry of Foreign Affairs, holds an aggressive stance that it is impossible to see negotiations taking place at the moment.”¹¹⁹ Also, in retaliation to Kasit’s verbal attack against the Cambodian Prime Minister, Hun Sen and Hor Namhong refused to negotiate with the Thai Foreign Minister.¹²⁰ As the UNSC asked the two parties to display maximum restraint and deferred the mediating role to ASEAN, Don Pramudwinai noted that although the UNSC did not intervene as desired by Cambodia, the dispute ultimately has shifted onto the multilateral level.¹²¹¹²²

In compliance to the UNSC’s call for ASEAN’s mediation, on 22 February, the Meeting of the Foreign Ministers of ASEAN convened in Jakarta. At the meeting, it was agreed that Indonesia, as the ASEAN chair, would send unarmed military and civilian observers to the disputed area on both sides to observe the parties’ commitments to avoid further hostilities. In fact, the idea of inviting Indonesian observers to the

¹¹⁹ "Chamlae Bot Kraw Kasit ", [Dissect Kasit’s Aggressive Role], *Matichon* (Bangkok), 11 February 2011.

¹²⁰ "Hun Sen Fak Thueng Aphisit Mai Chenracha Kasit Khaen Don Da Nakleng-Kere ", [Hun Sen to Abhisit no negotiation with Kasit enraged being rebuked gangster-troublemaker], *Matichon* (Bangkok), 19 February 2011.

¹²¹ Don Pramudwinai is a former diplomat and permanent representative to the UN in New York and is currently serving as the Thai foreign minister.

¹²² "Yu en Es Si Sang Thai-Khamen Yut Ying Thawon ", [UNSC called for Thai-Cambodian ceasefire], *Matichon* (Bangkok), 16 February 2011.

disputed area was proposed by Foreign Minister Kasit. Also, the countries agreed that future bilateral talks between the two countries would take place in Indonesia.¹²³

On the side of the MFA, as previously mentioned, bilateral negotiations had been strongly prioritized. However, when the bilateral approach had been exhausted in 2011, the MFA's national role conception to be an "international collaborator" was retained by the ministry. This can be seen, unlike the military's refusal to attend the GBC, in the MFA's participation in the JBC meeting in Bogor, Indonesia in April.¹²⁴ Also, in relations to the Indonesian observers, Kasit states, "when there is some peacekeeping efforts, it could relieve the tension and prevent the clashes; work like a talisman. And how can we call it intervention? When the Cambodians were fighting intensely among themselves, we participated a lot in the U.N. administration in Cambodia. Later, we did the same at Aceh and East Timor. It is something that countries which are amicable and are neighbors do for each other during tough times."¹²⁵

¹²³ Thanida Tansubhapol and Pichai Chuensuksawadi, "ASEAN meet brokers deal over border", *Bangkok Post* (Bangkok), 23 February 2011; Thanida Thansubhapol and Pichai Chuensuksawadi, "Jakarta to join bilateral efforts", *Bangkok Post* (Bangkok), 23 February 2011; "Nayok Tok Kasit-Phobothobo Kae Kem Khamen ", [PM discusses with Kasit-Commander-in-Chief to beat Cambodia's game], *Matichon* (Bangkok), 21 February 2011.

¹²⁴ Although, no substantial progress had been made due to the pending approval of the JBC meeting minutes. "Kao Yu Kap Thi ", [Moving in the same place], *Matichon* (Bangkok), 11 April 2011.

¹²⁵ Kasit Piromya (former foreign minister, MFA), interviewed by author, Bangkok, May 24, 2019.

Upon the Foreign Minister's return, objections against the regional third-party intervention were rampant. Firstly, in their protest against the government, the PAD expressed their criticism of the Indonesian observers because the deployment of the observers would lead to a ceasefire that prohibits the Thai soldiers' ability to force out the Cambodians in the disputed area.¹²⁶ Secondly and significantly, the observers were rejected by the Thai military. On 25 February, the Defense Council resolved that, "Thai-Cambodian situation is not in a state of war, but only clashes in the area. If foreign observers are sent into the area, it may lead to the misunderstanding of information."¹²⁷ In March, Army Commander-in-chief Prayut mentioned that the observers' area coverage should be outside of conflict area. The military also insisted that the observers must only be civilians and settled with the MFA for the ministry to negotiate with Cambodia for the compromise. Then, the talks were deadlocked, as Thailand further demanded that Cambodia unilaterally withdraw its forces before the observers could be deployed. Moreover, Supreme Commander Songkitti Jaggabatar and Commander-in-chief Prayut declared their refusal to go to Bogor, Indonesia, for

¹²⁶ "Mong Kham Phap Yai Phu Sangketkan Indonesia Su MoradokLok Baren ", [Skip the big picture Indonesian observer to World Heritage Bahrain], *Matichon* (Bangkok), 11 March 2011.

¹²⁷ "Rapmue Khamen Fong San Lok ", [Dealing with Cambodia Complaint to World Court], *Matichon* (Bangkok), 26 February 2011; "Nayobai Tangprathet Nai Kamkap Haeng Sapha Kalahom Panha Thai Kamphucha ", [Foreign policy under the direction of defense council Thai-Cambodian problem], *Matichon* (Bangkok), 18 April 2011.

the defense's GBC bilateral meeting with Cambodia, thereafter the meeting was postponed indefinitely.¹²⁸

To explain the apparent confrontational action channel, with the military, Kasit Piromya attributes the conflict to the divisions between the security agencies. Prior to the ASEAN meeting in February, Kasit had received the NSC approval for the proposal for the Indonesian observers, but subsequently there was resistance from the army. According to Kasit, "the problem with Thailand's unity, apart from the protests, was that the government did not get serious cooperation from the Thai army. There are internal problems within the defense sector therefore I have to always try to find the point of compromise, but I couldn't take it the whole way."¹²⁹

Additionally, the International Crisis Group elaborates,

When Thailand backtracked, some said it showed two things: first, that the military still calls the shots in Thai politics; and secondly, how uncoordinated policymaking is, with the prime minister, foreign minister, defence ministry, armed forces and army headquarters constantly contradicting each other. In the absence of a clear national policy, decisions seem to be made according to the interests of one group or another. With five separate headquarters in Bangkok, no secure email system and a paper-based bureaucracy, it is difficult for the Thai

¹²⁸ ICG, *Waging Peace: ASEAN and The Thai-Cambodian Border Conflict*, 21; "Mark Yue Tuathaen Indo Truat Chaidan ", [Mark stalled Indo Representative to check border], *Matichon* (Bangkok), 1 March 2011; "Kasit Pat Khatyaeng Thahan Harue Khamen - Indo ", [Kasit denied conflict with military discuss Cambodia-Indonesia], *Matichon* (Bangkok), 8 April 2011; "Chotmai Ho Nam Hong Banyakat Na Boko Indonesia Kasit Phirom Ngutngit Ying ", [Hor Namhong's letter atmosphere at Bogor Indonesia Kasit Piromya very frustrated], *Matichon Weekly* (Bangkok), 8 April 2011.

¹²⁹ Kasit Piromya (former foreign minister, MFA), interviewed by author, Bangkok, May 24, 2019.

military to develop and coordinate border policy between the different elements responsible or involved.¹³⁰

Nonetheless, according to Nopphadon Chotsiri, the military are expected to be the forefront guardian of the country's sovereignty.¹³¹ At the same time, Nanuam illustrates that the Thai military had always been skeptical of foreign interventions into the dispute because they perceived that Cambodia had the military backing of the major powers. Especially, it is viewed that Cambodia had portrayed Thailand as the villain who is willing to use any means to recapture the Preah Vihear Temple. In fact, Army Commander Prayut had been quoted saying "if there's a war, we won't be at war with only Cambodia. Instead, Thailand will be at war alone."¹³² Also, Indonesia is viewed as having close military relations with Cambodia since the Indonesian special forces often train with Cambodia's 911 Special Forces Regiment.¹³³

Albeit the MFA's posture, the MFA was unable to influence the foreign policy outcome in the action channel. In May, in reaction to the 18th ASEAN Summit in Jakarta, Malaysian Deputy Minister of Foreign Affairs Datuk Richard Riot Jaem, publicly denounced Thailand. He stated, "an agreement had been agreed upon, [Thailand]

¹³⁰ ICG, *Waging Peace: ASEAN and The Thai-Cambodian Border Conflict*, 22.

¹³¹ Nopphadon Chotsiri (former director-general of the Royal Thai Survey Department, Thai Armed Force Headquarter), interviewed by author, Bangkok, October 10, 2019.

¹³² Nanuam, *Lap Luang Phrang: Suek Phra Wihan* [Secret Lies Camouflage: Battle of Preah Vihear], 172-73.

¹³³ *Ibid.*, 220.

should adhere to it... I wouldn't say lacking in faith [but] they did not adhere to the agreement."¹³⁴ Subsequently, after the summit, the foreign ministers of Cambodia, Thailand and Indonesia hammered out a package of solutions for a compromise in the procedures to allow the operation of the Indonesian observers.¹³⁵ In a press interview, Kasit stated, "it is necessary for Thailand to follow through these initial procedures quickly. It is to present that we are serious and sincere to solve the problem under the coordination assistance of ASEAN and to prevent Cambodia from accusing us. The more we let time pass, the more it is detrimental to us... Since the problem has moved beyond the bilateral framework, what we have to think of is not only what we want. We have to think of how to get what we want in ways that are acceptable in the eyes of the international community."¹³⁶ However, after the meeting, the MFA obviously met another barrier. Kasit retracted Thailand's agreement to the solution and reiterated Thailand's steadfast stance that demanded



¹³⁴ Neou Vannarin and Zsombor Peter, "Malaysia faults Thailand for latest border clashes", *The Cambodia Daily* (Phnom Penh), 10 May 2011, <https://english.cambodiadaily.com/news/malaysia-faults-thailand-for-latest-border-clashes-101611/>.

¹³⁵ The package of solutions mapped out a strict cluster of procedures to bypass the ongoing disagreement on the initial step to be made. Worarat Taniguchi, "Pha Thang Tan "[Breaking the Stalemate], *Matichon* (Bangkok), 16 May 2011; MFA, Short *Khomun thi prachachon khuan sap kiaokap korani prasat phrawihan lae kan cheracha khetdaen Thai - Kamphucha* [Information that the people should know concerning the Preah Vihear case and Thai-Cambodian border negotiation].

¹³⁶ Taniguchi, "Pha Thang Tan " [Breaking the Stalemate].

Cambodia to withdraw its troops before Indonesian observers could be accepted.¹³⁷

Concurrently, Cambodia took the dispute back to the International Court of Justice (ICJ), which will be further discussed in the next chapter.

To scrutinize the MFA's inability to implement its policy stance in favor of the international collaborator role, according to Panuwat Panduprasert, Eric A. Nordlinger's "praetorian moderators" and Samuel Finer's "limited indirect rule" characterize the military's control during Abhisit's administration. Praetorian moderators are "military that exercise power over a civilian government without taking control of the government itself, often aiming to protect the status quo rather than to instigate major societal changes." The limited indirect rule connotes "a situation in which the military allows civilian to govern and intervenes only from time to time to secure limited objectives."¹³⁸ The condition is accounted to the military's involvement in the coalition formation that instated the government. Also, the political instability caused by the PAD and UDD protests called for the military's assertive role. Therefore, being beholden, the government granted the military with

¹³⁷ ICG, *Waging Peace: ASEAN and The Thai-Cambodian Border Conflict*, 24.

¹³⁸ Panuwat Panduprasert, "The Military and Democratic Backsliding in Thailand" (Ph.D. thesis University of Leeds, 2019), 136-37; Eric A. Nordlinger, *Soldiers in Politics: Military Coups and Government* (New Jersey: Prentice-Hall, 1977), 22-23; Samuel Finer, *The Man on Horseback: The Role of the Military in Politics* (London: Pinter Publishers, 1988), 150-51.

decision-making autonomy.¹³⁹ Furthermore, Thailand scheduled a general election for July 2011, consequently, as the International Crisis Group illustrates, “with the vocal PAD demonstrators still camping outside the Government House, Abhisit was even less likely to advance any policy that might attract nationalist backlash and undermine his Democrat Party’s popularity.”¹⁴⁰

6.5 Thailand’s Participation at the World Heritage Committee

On 7 July 2008, the World Heritage Committee (WHC) inscribed the Preah Vihear Temple. Although ICOMOS’s stance against the inscription of the site with the minimized area did not deter the Committee, their expert opinion was taken into account in the inscription decision. In resultant, in the WHC’s inscription decision, the Committee:

14. Requests the State Party of Cambodia, in collaboration with UNESCO, to convene an international coordinating committee for the safeguarding and development of the property no later than February 2009, inviting the participation of the Government of Thailand and not more than seven other appropriate international partners to examine general policy matters relating to the safeguarding of the Outstanding Universal Value of the property in conformity with international conservation standards;

¹³⁹ Panduprasert, "The Military and Democratic Backsliding in Thailand," 136-37; Paul Chambers, "Where Agency Meets Structure: Understanding Civil-Military Relations in Contemporary Thailand", *Asian Journal of Political Science* 19, no. 3 (2011): 301.

¹⁴⁰ ICG, *Waging Peace: ASEAN and The Thai-Cambodian Border Conflict*, 22.

15. Requests the State Party of Cambodia to submit to the World Heritage Centre, by **1 February 2009**, the following documents:

- a) a provisional map providing additional details of the inscribed property and a map delineating the buffer zone identified in the RGPP;
- b) updated Nomination dossier to reflect the changes made to the perimeter of the property;
- c) confirmation that the management zone for the property will include the inscribed property and buffer zone identified in the RGPP;
- d) progress report on the preparation of the Management Plan;

16. Further requests the State Party of Cambodia to submit to the World Heritage Centre by **February 2010**, for submission to the World Heritage Committee at its 34th session in 2010 a full Management Plan for the inscribed property, including a finalized map.¹⁴¹

While the inscription of the temple had led to armed tensions in 2008, the requests of the WHC precipitated the site to continue to be an active source of conflict between the two countries. In the study of Thailand's subsequent actions at the WHC, Thailand's position as an international collaborator was advocated by the MFA. Additionally, apart from gaining international prestige, states with World Heritage sites are entitled to the World Heritage fund for monetary assistance, access to equipment and skills needed to maintain the site as well as benefit from

¹⁴¹ *Decisions Adopted at the 32nd Session of the World Heritage Committee (Quebec City, 2008), 221-22.*

increased public awareness, tourism and economic development.¹⁴² Nevertheless, with regards to the Preah Vihear contention, nationalist impacts and decline in the MFA's influence can as well be seen.

In line with the governmental changes in the late 2008 that include Abhisit's appointment of Kasit Piromya as the foreign minister, in January 2009, the government replaced the members of the National Committee on the Convention for the Protection of World Culture and Natural Heritage. Adul Wichiencharoen became the advisor of the committee. Minister of Natural Resources and Environment Suwit Khunkitti replaced Pongpol Adireksarn as the head of the Thai delegates. Adul and Suwit were fervent critics of the joint communiqué. In fact, Suwit was part of the People's Power Party-led coalition. However, in July his Puea Pandin pulled out of the coalition in disagreement with the government's initiatives, including the dealing in the Preah Vihear dispute. Suwit was also the only deputy prime minister that did not undergo the impeachment motion since he objected to the signing of the joint communiqué.¹⁴³ Additionally, while Pongpol saw the

¹⁴² Meskill, "States of Conservation: Protection, Politics, and Pacting within UNESCO's World Heritage Committee", 221; "Thontua MoradokLok Thai Daisia Arai ", [Withdrawal from WHC what does Thailand win or lose], *Thairath* (Bangkok), 1 July 2011, <https://www.thairath.co.th/content/182831>.

¹⁴³ Sanoh Worarak and Prasit Tangprasert, "New faces on heritage panel", *Bangkok Post* (Bangkok), 11 February 2009; "Lo Pok Phon Bot MoradokLok Tang Adun Siap Lui Phra Wihan", [Rid Pok off board world heritage appoint Adul proceed Preah Vihear], *Naewna* (Bangkok), 11 February 2008; "Suwit pulls party out of coalition", *Bangkok Post* (Bangkok), 30 July 2008.

usefulness of the International Coordinating Committee (ICC) requested by the WHC, Adul was skeptical of the committee's possible leanings towards Cambodia. Also, Adul had hitherto articulated the idea of Thailand's withdrawal from the WHC.¹⁴⁴

In the year 2009, the MFA's outlook in favor of the international collaborator NRC was evident. MFA supported the Thai campaign to be elected as one of the twenty-one members of the WHC. As stated by Touchayoot Pakdi, "being part of the Committee, you get to be part of the management. The states try to get elected. Of course, the MFA prefers that. If you get to be a member you have rights to vote, to debate, and to present. Others can be observers, but they don't have the same rights. So, we try hard to get elected at the same time as Cambodia."¹⁴⁵ And according to Lynn Meskell,

Both Cambodia and Thailand were elected to the World Heritage Committee for the very same period (2009-2013), undoubtedly as an internationally driven diplomatic measure to balance national interests and find a peaceful solution to the Preah Vihear conflict. There was considerable pressure on American diplomats, especially those in the US Mission to UNESCO, to support both Cambodia and Thailand, respectively. Each drew on their nation's vast heritage reserves and expertise in arguing for American backing. Showcasing the past and

¹⁴⁴ Piyaporn Wongruang, "What really happened at the WHC meeting in Quebec", *Bangkok Post* (Bangkok), 15 July 2008; "Botrian Kongthap Ten Chet Phra Wihan ", [Lesson for the Military Hassle to Clean Up Preah Vihear]; "Adun Wichian Charoen Chae Le Phra Wihan ", [Adul Wichiencharoen Expose Trick Phra Wihan], *Manager Online* (Bangkok), 11 February 2008, <https://mgronline.com/daily/detail/9520000015442>.

¹⁴⁵ Touchayoot Pakdi (former Thai ambassador to Phnom Penh and border expert, MFA), interviewed by author, Bangkok, August 16, 2018.

effectively managing it in modern “expert” ways has currency in international circles, as reinforced in the majority of my interviews with Asian representatives. Having that recognized through election to the World Heritage Committee, as a key “standard setting” body, is perceived as a positive step in gaining yet further prestige and power in other United Nations forums.¹⁴⁶

Furthermore, prior to the 33rd session of the WHC in June, the Cabinet resolved to approve the proposal of the Ministry of Natural Resources and Environment, to object the inscription of the Preah Vihear Temple at the WHC. The objection is based on the claim that the inscription of the WHC breached the principle of UNESCO that exacerbates conflict rather than conservation and Thailand reaffirmed its position for a joint listing of the site. Initially, Foreign Minister Kasit and Prime Minister Abhisit opposed the idea. The Foreign Minister claimed that the objection would impact the Thai-Cambodian relations and the Prime Minister concurred on the sensitivity of the issue.¹⁴⁷ Vasin Teeravechyan, then the head of JBC, also expressed concern upon the Thai objection, which could negatively impact the negotiation atmosphere of the JBC.¹⁴⁸

¹⁴⁶ Meskell, "World Heritage and WikiLeaks: Territory, Trade, and Temples on the Thai-Cambodian Border", 82.

¹⁴⁷ "Mark-Kasit Brek Khan Phra Wihan MoradokLok Ang Rueang Onwai Hai KlapPai Thopthuan Mai ", [Mark-Kasit blocked objection on Preah Vihear as World Heritage, claim sensitive issue must reconsider], *Matichon* (Bangkok), 17 June 2009; "Govt renews Preah Vihear push", *Bangkok Post* (Bangkok), 18 June 2009.

¹⁴⁸ "Thai Khamen Yang Rawaeng Soem Thap Chit Chaidaeen", [Thai-Cambodia still paranoid reinforce troops near border], *Matichon* (Bangkok), 23 June 2009.

In the WHC 33rd session on 22-30 June 2009, Cambodia was given an extension to submit a report on the progress made in the implementation of the requests made by the Committee in the previous session.¹⁴⁹ Then, at the 34th session on 25 July to 3 August, Thailand was able to defer the Committee's discussion of the management plan submitted by Cambodia to the following session.¹⁵⁰ Notably, at the WHC 34th session, Thailand had maintained the same stance of objection and non-cooperation with Cambodia in its temple inscription process. At the time, the Thai party was able to point out that Cambodia had violated Article V of the MoU 2000 by constructing roads in the disputed area.¹⁵¹¹⁵² Moreover, in July 2010, the

¹⁴⁹ *Report of Decisions*, United Nations Educational, Scientific and Cultural Organization (Serville: Scientific and Cultural Organization United Nations Educational, 20 July 2009), <https://whc.unesco.org/archive/2009/whc09-33com-20e.pdf>.

¹⁵⁰ *Report of the Decisions Adopted by the World Heritage Committee at its 34th Session (Brasilia, 2010)*, United Nations Educational, Scientific and Cultural Organization (Paris: Scientific and Cultural Organization United Nations Educational, 3 September 2010), 113, <https://whc.unesco.org/archive/2010/whc10-34com-20e.pdf>.

¹⁵¹ This fact was pointed out by the director-general of the Royal Thai Survey Department. Nopphadon Chotsiri (former director-general of the Royal Thai Survey Department, Thai Armed Force Headquarter), interviewed by author, Bangkok, October 10, 2019.

¹⁵² Article V of the MoU stipulates, "To facilitate the effective survey along the entire stretch of the common land boundary, authorities of either Government and their agents shall not carry out any work resulting in changes of environmental frontier zone, except that which is carried out by the Joint Technical Sub-Commission in the interest of the survey and demarcation."

Memorandum of Understanding between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on the Survey and Demarcation of Land Boundary.

Cabinet gave Suwit, the head of the Thai delegates, the authority to possibly stage a walkout and for the country to review its commitment to UNESCO's convention.¹⁵³

Since 2009, the Foreign Minister and the Prime Minister's objection was seemingly muted because in 2008, as opposition to the PPP party, they had previously pressured Noppadon to declared a similar stance at the 32nd WHC meeting.¹⁵⁴ Additionally, in 2010, with the predominance of the MFA's standpoint against Hun Sen's appointment of Thaksin as an economic advisor, the ministry's influence in the engagements with Cambodia diminished. A source from the MFA, in reaction to the position held by the Thai delegates at the WHC, showed "concern that the stance had made the country look pretty much like a villain on the international stage."¹⁵⁵ As elucidated by former Foreign Minister Surakiart Sathirathai,

In the issue of sovereignty, we have to fight. There's no concession by any party. It is an important issue. But we have to admit that this time we used strong medicine by threatening to walkout or withdraw from the World Heritage Committee, or even sending signals that there may be clashes. By using the strong medicine, it is because we didn't prepare. Here, [I] agree that we use strong medicine, because it is time of emergency. However, to ask back, is it necessary if we had been negotiating the whole year? Then we won't need to use the strong medicine. The past year we lack continuity in work.¹⁵⁶

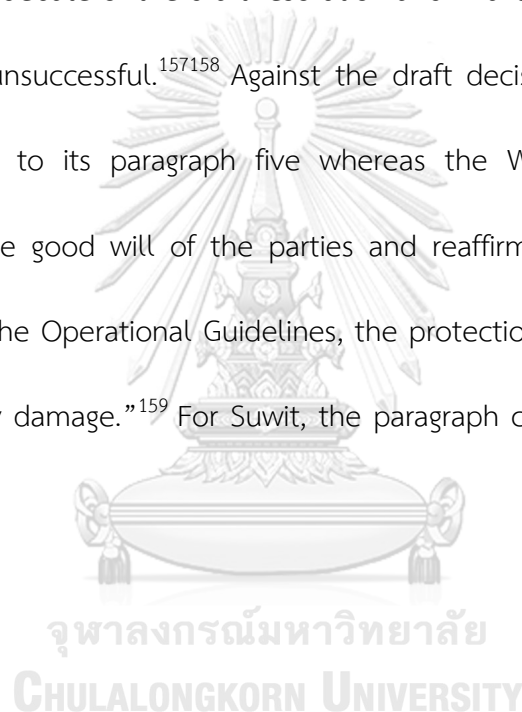
¹⁵³ "The Mot Natak-Chak ThongRop Khamen ", [All-in- Flying the Battle Flag with Cambodia], *Matichon* (Bangkok), 30 July 2010.

¹⁵⁴ Worarat Taniguchi, "Nguean Thi Phuk Eng "[The Knot Oneself Tied], *Matichon* (Bangkok), 22 June 2009.

¹⁵⁵ "Suwit manages to buy time on preah vihear", *The Nation* (Bangkok), 31 July 2010.

¹⁵⁶ "Surakiart Tew Mark ", [Surakiart tutors Mark], *Khaosod* (Bangkok), 1 August 2010.

Ultimately, in 2011, at the 35th session of the WHC, Thailand staged a walkout from the WHC meeting and declared its withdrawal from the World Heritage Convention, the move that was authorized a year earlier. Before the meeting, closed door consultations between Thailand and Cambodia were mediated by the World Heritage Center. However, an agreement was not reached between the two parties before the WHC's debate of the draft resolution and Thailand's attempt to postpone the debate was unsuccessful.¹⁵⁷¹⁵⁸ Against the draft decision, Minister Suwit stated that he objected to its paragraph five whereas the World Heritage Committee "acknowledges the good will of the parties and reaffirms the need to ensure, in accordance with the Operational Guidelines, the protection and conservation of the property from any damage."¹⁵⁹ For Suwit, the paragraph can allow Cambodia to act



¹⁵⁷ Robison, "UNESCO on the Preah Vihear Dispute: Challenges Facing Cosmopolitan Minded International Institutions in Dispute Resolution," 40-41.

¹⁵⁸ In fact, based on the WHC's Summary Record, the adjournment required at least one other Delegation to support the position, but there was no support.

Summary Record, United Nations Educational, Scientific and Cultural Organization (Paris: Scientific and Cultural Organization United Nations Educational, 19-29 June 2011), 214-18, <https://whc.unesco.org/archive/2011/whc11-35com-inf20.pdf>.

¹⁵⁹ *Decision adopted by the World Heritage Committee at its 35th Session (UNESCO, 2011)*, United Nations Educational, Scientific and Cultural Organization (Paris: Scientific and Cultural Organization United Nations Educational, 7 July 2011), 103, <https://whc.unesco.org/archive/2011/whc11-35com-20e.pdf>.

upon the protection and conservation of the site even when the management plan had yet to be approved, resulting in the loss of Thai sovereignty.¹⁶⁰

On one hand, the denouncement of the WHC was well received by the PAD, the Senates' Foreign Affairs Committee and the Thai military. The PAD claimed that the withdrawal signified the protestors' victory. On 30 June, the Senate' Committee provided a public statement in support of the Thai delegates' move. And, at Suvarnabhumi airport, Prayut Chan-ocha greeted and shook hands with Suwit. Additionally, as reported in *Matichon* newspaper, along with his praise for Minister Suwit, the Commander-in-Chief remarked that the military would do their best to take care of the territory.¹⁶¹

On the other hand, conflict with the MFA was noticeable. Since April 2011, Minister Suwit announced his resignation from the Thai World Heritage team due to the conflict of standpoint with the MFA. The reason for his resignation, according to Suwit was that "the policy of the Ministry of Foreign Affairs and my policy do not align. Right now, the proceeding policy diverge into 2 ways. My approach wants a clear demarcation of Thai-Cambodian border first since Cambodia's management plan still transgress into the Thai territory. While the opinion of the Ministry of

¹⁶⁰ "Wi Ki Liks Chae Thai-Khamen ", [Wikileaks reveal Thai-Cambodia], *Matichon* (Bangkok), 15 July 2011.

¹⁶¹ "Prayut Chom Suwit Yiam BuaKaeo At Woe ", [Prayut praised Suwit great MFA attacked overreacted], *Matichon* (Bangkok), 29 June 2011; "Komotheo Wuthisapha Nun Thontua MoradokLok ", [Senate committee backs world heritage withdrawal], *Krungthep Turakit* (Bangkok), 30 June 2011.

Foreign Affairs wants a joint management between Thailand and Cambodia.”¹⁶²

However, Prime Minister Abhisit restored Suwit as the head of the Thai delegates, which again signifies the decline of the MFA’s influence. Henceforth, the Thai team pursued the stance of postponing the process of inscription before a clear demarcation of boundary between the two countries is accomplished.¹⁶³

As the Thai delegates staged a walkout from the WHC meeting, differing viewpoints were as well evident. Based on a newspaper report of the meeting, the MFA was satisfied with the negotiation progress during the close door consultation mediated by the World Heritage Center while Minister Suwit and the Fine Arts Department of the Ministry of Culture were not.¹⁶⁴ To further elaborate, a source from the MFA stated that,

Minister Suwit was worried that Cambodia will slip in the management plan in the final resolution, which the Ministry had argued that in a multilateral negotiation there certainly would not be such action because customarily there will only be discussion based on what had been put forward... What Mr. Suwit had done is considered as disregarding the diplomatic etiquette because it presented the lack of trust on the negotiating party and judging beforehand,

¹⁶² "Rai Ngan Phiset Su Wit Chaeng KhaiKok Hono Cheracha MoradokLok ", [Special Report Suwit explains leaving head negotiator World Heritage], *Khaosod* (Bangkok), 20 April 2011.

¹⁶³ "Suwit KlapLam-Phisut Khwam Khiao Khongsengkongwa ", [Suwit u-turn - proves maintained toughness], *Manager Daily* (Bangkok), 22 April 2011; "Suwit Sanoe Luean Phra Wihan ", [Suwit proposed postponing Preah Vihear], *Khaosod* (Bangkok), 25 April 2011.

¹⁶⁴ "Government to pull out of WHC", *Bangkok Post* (Bangkok), 26 June 2011.

which led to the decision. It is unnecessary to go to that extent because there are other possible options to pursue.¹⁶⁵

Additionally, according to Touchayoot Pakdi,

Thailand had attempted to lobby the other WHC members, but the efforts seemed to be futile. While the others members observed Article 11 section 3 of the World Heritage Convention and saw the WHC as a platform for preservation, Thailand was steadfast in its concern for sovereignty and attacked the Convention. Therefore, more members leaned towards Cambodia as its delegates had overtly spoken that they only want to preserve the World Heritage. For Thailand it was largely based on politics. I was there at the walkout; we had to respect the head of the delegates because he was given the authority. Although what he disagreed with may not be wrong, it is offending to the other members, especially as a member ourselves because we disagreed with the rules. Therefore, it is difficult to achieve what was wanted because it was a stage for experts that wanted to take care of the World Heritage.¹⁶⁶

Significantly, the process of Thailand's withdrawal from the World Heritage Convention did not continue. With reference to Article 35 of the World Heritage Convention,

1. Each State Party to this Convention may denounce the Convention
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

¹⁶⁵ "Prayut Chom Suwit Yiam BuaKaeo At Woe ", [Prayut praised Suwit great MFA attacked overreacted].

¹⁶⁶ Touchayoot Pakdi (former Thai ambassador to Phnom Penh and border expert, MFA), interviewed by author, Bangkok, August 16, 2018.

3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation. It shall not affect the financial obligations of the denouncing State until the date of which the withdrawal takes effect.¹⁶⁷

Since the verbal announcement for Thailand's withdrawal from the World Heritage Convention occurred during the governmental transition in Thailand, the decision to proceed with the withdrawal process was left to the new government. With the shift to the government of Yingluck Shinawatra who is Thaksin's sister, there was a turnaround in the Thai-Cambodian relations. Henceforth, as Touchayoot Pakdi elucidates,

We didn't leave the Convention yet because we didn't complete the withdrawal process. With the change to the new government, the government didn't review or revoke Mr. Suwit's statement of withdrawal. Nevertheless, we continue to send new delegates to meetings, as if nothing had happened. UNESCO accepted that. No one wanted to acknowledge that the action of Thailand happened or that it should be taken seriously. Instead, they took the action of the new government to stand for Thailand, which is seeing that the Convention is merited.¹⁶⁸

¹⁶⁷ *Convention Concerning the Protection of the World Cultural and Natural Heritage.*

¹⁶⁸ Touchayoot Pakdi (former Thai ambassador to Phnom Penh and border expert, MFA), interviewed by author, Bangkok, August 16, 2018.

6.6 Conclusion

After the WHC inscribed the Preah Vihear Temple, tensions arose in the disputed area. Also, the WHC requested Cambodia to further submit a map that delineates the buffer zones and a full management plan. Therefore, the site continued to be an active source of conflict between the two countries. Within three months after the inscription, Prime Minister Samak was forced to resign and was briefly replaced by Thaksin's brother in law, Somchai Wongsawat. Albeit the change in premiership and the rise of tensions at the border, the MFA's pursuit of bilateral cooperation to resolve the conflict remain discernable. This can be seen in the negotiations conducted during Foreign Minister Tej for the reduction of troops in the area and later Foreign Minister Sompong's visit to Cambodia. Moreover, although there were military buildups at the Thai-Cambodian border, the security agencies expressed agreement with the direction of the MFA to refrain from initiating the use of force.

Nonetheless, confrontational governmental politics bolstered by the 2007 Constitution prevailed with the presence of parliamentary opposition. The anti-government parliamentary players responsive to the nationalist civil society group hindered the MFA's line of action. With regards to border settlements with Cambodia, cooperation could be fully realized only by the JBC platform wielded by the MFA. The ministry found difficulty in pushing forward the border negotiations

because parliamentary approval must be sought for negotiation frameworks. Through the MFA's insistence and seeming appeasement, the negotiation framework was approved. However, the delay led to the escalation of conflict between Thailand and Cambodia and armed clashes eventuated.

When the Democrat Party was able to form the government after the Constitutional Court dissolved the PPP, political change ultimately impacted the role and the NRC of the MFA in the Preah Vihear dispute. In position of the minister of foreign affairs, Prime Minister Abhisit installed Kasit Piromya who had taken the PAD stage multiple times, had publicly denounced the Cambodian Prime Minister, and was a fervent critique of former government's approach in the Preah Vihear dispute. And inside the ministry, authoritative posts were replaced with personnel who the Foreign Minister could oversee and trust that they had agreeable beliefs and political direction.

Notably, the NRC of ally remained observable despite the changes in the MFA. For instance, the first country that the Foreign Minister visited was Cambodia. There, he affirmed the Cambodian government of the continuity of Thai foreign policy to advance the implementation of bilateral cooperation between the two countries. Other diplomatic engagements can also be seen in the course of two and a half years in ministerial visits and the foreign ministers' visa-free agreement. In addition, the MFA maintained its adherence to the MoU 2000 as the document for

negotiation and attempted to push forward the three JBC minutes to achieve progress in border settlements with the Cambodian party.

While the organizational mission of diplomatic service and external conditions attributed to the MFA's apparent efforts to push forward bilateral cooperation, the atmosphere of nationalism in the public and the parliament impacted the ministry's perception. The events proceeding Former Prime Minister Thaksin's appointment as Cambodia's economic advisor offer evidence. The Thai ambassador to Phnom Penh was recalled and bilateral agreements were revised. The MFA's actions inhibited the ministry's ability to manage external relations and were incompatible to its core professional skills. Thailand's undertaken economic interests were also counteracted by the move. Additionally, when another nationalist eruption occurred with the trespassing of the PAD group onto Cambodian soil and the discontent against the MFA's initial conciliatory stance ran high; the ministry decided to placate the group by requesting that Cambodia demolish its temple located in the disputed area.

Furthermore, the Thai parliamentary involvement continued to be a bulwark against the MFA's NRC of ally. While some headways were made in the JBC meetings between November 2008 and April 2009, parliamentary approval was expected for the three meeting minutes; especially after the MFA's joint communiqué had been deemed unconstitutional. In the parliamentary arena, oppositions to the JBC minutes came from the opposition Pheu Thai party and portion of the senates that played on nationalist sentiments prevalent in the civil society. The three JBC minutes took

almost two years to receive a green light from the Thai parliamentary process, during which appeasement from the MFA can also be seen. This included the pressure on the Thai chair of the JBC, Vasin Teeravechyan to proclaim in an interview that Thailand did not recognize the 1:200,000 Map. All things considered, the MFA's projected NRC of rival at times of heightened nationalism and the inability to advance its stance to actualize border settlements curtailed the role of the MFA in the conduct of diplomatic activity and closed the doors for bilateral solutions with Cambodia.

Amid the escalation of conflicts and clashes at the border, Cambodia took the dispute to the UNSC in 2011 and ASEAN was given an active role to mediate the problem. Since bilateral approach had been exhausted, in an ASEAN meeting in Jakarta, the Thai Foreign Minister proposed the employment of Indonesian observers at the disputed area. In the governmental politics of the 2000s, oppositions to the MFA in the decision-making circle had predominantly emanated from the parliamentary actors. However, in regards to the observers, strong objections came from the Thai military as the forefront guardian of the country's sovereignty. On one hand, the military's concern was related to the military backing of Indonesia and other international players for Cambodia. On the other hand, the MFA's decision infers more importance given to the opinion of the international community and as a member of the UN and ASEAN. Nonetheless, albeit the MFA's maneuvers for the

acceptance of the Indonesian observers, the dominating influence of the military in Thai politics sustained the military's objection.

Moreover, the MFA consistently advocated the NRC of international collaborator in Thailand's participation at the WHC. This can be seen in the support for Thailand's campaign to be elected as a member of the WHC and gain understanding from other WHC members. Also, Foreign Minister Kasit voiced his opposition to Thailand's direction to object to the WHC's inscription of the Preah Vihear. However, with the nationalist impact and the diminished role of the MFA in the engagement with Cambodia, the MFA's opposition was ineffectual. Then, when the head of the Thai delegates, Suwit Khunkitti, staged a walkout and announced Thailand's withdrawal from the WHC, MFA's criticisms of the act as lack of diplomatic etiquette and understanding of the World Heritage Convention echoed. At the same time, Suwit's action was commended by the military as well as supporters in and outside of the parliament. Nevertheless, in the period of governmental transition, the MFA was able to delay the implementation of the withdrawal and later maintained its stance to collaborate with the organization. Although cooperative approach would be undertaken by the new government, the aforementioned strains in relations had taken the case back to the ICJ, which will be elaborated in the next chapter.

Chapter 7

The Decline of Tensions

Along with the aforementioned conflict with Cambodia, the Abhisit government also faced augmented pressures from the pro-Thaksin United Front for Democracy Against Dictatorship (UDD), commonly called the Red Shirts. Abhisit's government, formed through parliamentary coalition after the dissolution of the PPP and resignation of Somchai Wongsawat, was viewed as illegitimate by the group. The Red Shirts' efforts included their storm upon the ASEAN Summit venue in Pattaya in 2009, the occupying of streets around the Government House, the blocking of important roads and intersections in Bangkok, and the permanent rally at the Bangkok commercial hub at Ratchaprasong intersection in 2010. The latter precipitated the military dispersal of the protestors between 10 to 19 May 2010, which incurred many casualties. The incidents eventuated the dissolution of government and an election taken place in the year 2011. The Thai General Election of 2011 gave rise to Yingluck Shinawatra, Thaksin's younger sister.¹

The Thai-Cambodian relations ameliorated with the arrival of the government of Yingluck. Nevertheless, this chapter will illustrate that, with regards to the Preah

¹ Plerng Bhubha, *13 Ratthaprahan Yuet amnat: Botrian Prachathippatai Thai* [13 Coup d'états: Lessons of Thai Democracy] (Bangkok: Siam Kwamru, 2014), 259-64; Nick Nostitz, "The Red Shirts: From Anti-Coup Protesters to Social Mass Movements," in *"Good Coup" Gone Bad: Thailand's Political Developments since Thaksin's Downfall*, ed. Pavin Chchavalpongpun (Singapore: ISEAS Publishing, 2014), 182-85.

Vihear dispute with Cambodia, the MFA's national role conceptions remain unaltered from the previous administration. Firstly, the dynamics in the MFA and between the decision-making agencies will be explicated. Secondly, the MFA's perceptions and actions in Thailand's relations with Cambodia, in the compliance to the ICJ's provisional measures and in the case at the ICJ (2013), will be presented. Lastly, the MFA's active involvement to predispose Thailand's reaction to the 2013 ICJ judgment, enabled with the change of government, is demonstrated.

7.1 The Shift to Yingluck Shinawatra's Administration

Towards the end of Prime Minister Abhisit's administration, a stalemate ensued between Thailand and Cambodia. In resultant, on 28 April 2011, Cambodia took the dispute back to the International Court of Justice (ICJ). Cambodia submitted a request for the World Court's interpretation of the 1962 ruling and an urgent request for provisional measures.² On 18 July 2011, the ICJ laid down that,

Both Parties shall immediately withdraw their military personnel currently present in the provisional demilitarized zone... and refrain from any military presence within that zone and from any armed activity directed at that zone;

² The provisional measures are in accordance to Article 41 of the Statute of the Court that stipulates that "the court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party". *Statute of the International Court of Justice*.

Thailand shall not obstruct Cambodia's free access to the Temple of Preah Vihear or Cambodia's provision of fresh supplies to its non-military personnel in the Temple;

Both Parties shall continue the co-operation which they have entered into within ASEAN and, in particular, allow the observers appointed by that organization to have access to the provisional demilitarized zone; [and]

Both parties shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.³

In line with the MFA's adherence to the NRC of "international collaborator", Kasit Piromya informed the public that the World Court does not have the power to enforce to ruling. However, the decision would be enforced by the United Nations Security Council (UNSC), which is the highest body of the international community. "In principle [we] must accept the decision as a good member of the U.N., if not then we have to go to the UNSC."⁴ Then, immediately after the Court's indication, Kasit told the reporters that, "Thailand will start talks with Cambodia to withdraw troops from the disputed area surrounding the ancient temple to comply with the

³ *Request for Interpretation of the Judgment of 15 June 1962 in te Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand), Provisional Measures*, International Court of Justice (18 July 2011), 22-23, <https://www.icj-cij.org/files/case-related/151/151-20110718-ORD-01-00-EN.pdf>; Travis, "Temple of Preah Vihear: Lessons on Provisional Measures".

⁴ "Thai-Khamen Manchai Su Pom Phra Wihan ", [Thailand-Cambodia confident to fight Preah Vihear problem], *Matichon* (Bangkok), 3 June 2011.

demilitarized zone drawn up by the United Nations court.”⁵ Nevertheless, with the parliament officially dissolved on 10 May 2011, the acting Prime Minister Abhisit Vejjajiva announced that no action would be taken until the inauguration of the new government.⁶

On 5 August 2011, Yingluck Shinawatra became the new Thai prime minister with clear majority of seats in the parliament. Prior to her assumption of office, Yingluck had pledged that priority would be given to the restoration of bilateral relations with neighboring countries. Then, on the same note, Cambodia Foreign Minister Hor Namhong commented, “it’s obvious – we cannot hide that we are happy with the Pheu Thai Party’s victory.”⁷ Also, Hun Sen ordered all Cambodian press agencies to withhold from reports that can attack or negatively impact the image of the new Thai government.⁸

Thereafter, attempts of reconciliation and improvement in the Thai-Cambodian relations were evident. This can be seen in the changes in the cases of the remaining PAD members that were arrested, with a pardon for Ratee

⁵ Daniel Ten Kate and Anuchit Nguyen, "Thailand to Comply With Cambodian Temple DMZ Imposed by UN", *Bloomberg*, 19 July 2011, <https://www.bloomberg.com/news/articles/2011-07-18/thailand-to-comply-with-cambodian-temple-dmz-imposed-by-un>.

⁶ "Aphisit Chi Kham Tatsin Phra Wihan Khamen Khatthun ", [Abhisit points Preah Vihear ruling Cambodia at a loss], *Matichon* (Bangkok), 20 July 2011.

⁷ Supalak Ganjanakhundee, "Restoration of relations with Cambodia ‘a priority’", *The Nation* (Bangkok), 5 July 2011.

⁸ "Hun Sen Um Ying Lak Sang Sue Khamen Ham Tae ", [Hun Sen backs Yingluck commands Cambodian press ot back off], *Matichon* (Bangkok), 10 August 2011.

Pipatanapaiboon and a reduction of prison term for Veera Somkwamkid.⁹ When Cambodian soldiers accidentally shot down a Thai navy helicopter, the Thai officials played down the issue.¹⁰ Also, in September 2011, a friendly football match was held between the countries' high-ranking officials.¹¹ Significantly, Cambodia started to reconsider the countries' bilateral mechanisms. For instance, since August 2011, Thai Defense Minister General Yuthasak Sasiprapha received an invitation from the Cambodian counterpart, General Tea Banh, to organize a GBC meeting to normalize the conflict at the border.¹²

With reference to the MFA, the foreign affairs portfolio was given to Surapong Tovichakchaikul. Notably, the appointment of Surapong was controversial. The foreign affairs posting especially called for a person with expertise on and experience in the international relations field, instead Surapong is an expert in information technology, telecommunications, and finance. Many critics argued that Surapong was

⁹ "PM thanks Cambodia for pardon", *Bangkok Post* (Bangkok), 5 February 2013, <https://www.bangkokpost.com/world/334259/pm-thanks-cambodia-for-pardon>.

¹⁰ Army Commander-in-Chief Prayut stated that he "did not think the incident would have an adverse impact on border-dispute talks between the two countries". Foreign Minister Surapong also stated in a press interview that the incident was a misunderstanding and Cambodia had expressed their regrets therefore the Ministry would not send a protest letter as demanded by the Democrat party. "Cambodia expresses regret for shooting at chopper", *The Nation* (Bangkok), 20 December 2011; "Bik Ot Nam Thok Chi Bi Si Thi Khamen 21 Thokho ", [Big Ot leads to discuss GBC in Cambodia 21 Dec], *Matichon* (Bangkok), 21 December 2011.

¹¹ Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations," 245.

¹² "Yutasak Phoei Tia Ban Kho Prachum Chi Bi Si ", [Yuthasak reveals Tea Banh requested GBC meeting], *Matichon* (Bangkok), 12 August 2011.

given the post due to his close ties with Thaksin and could help Thaksin regain his Thai passport, which was revoked by former Foreign Minister Kasit.¹³ Nevertheless, Foreign Minister Surapong expressed that he would listen to the advice and information given by the ministry's officials. In an interview with the press, the Foreign Minister stated, "I consider myself as one of the managing executives, the ministry's officials will be preparing the information and we discuss that information. Consultation will be made with senior officials of the ministry before making a decision. I consider myself as only one part of the whole to help make decisions."¹⁴ Therefore, in reflection of the Thai foreign policy during Yingluck's administration, Thitinan Pongsudhirak describes that, "with a relatively lightweight minister, senior bureaucrats at the Foreign Ministry have been more visible and demonstrable in their overall professionalism and expertise."¹⁵

As the bureaucrats played a prominent role in the ministry's policymaking, internal changes concurrently took place, which contributed to the reversal of action with Cambodia. This can be seen in the change of the Thai JBC members. According

¹³ "Pharakit Lap Chaokrasuang BuaKaeo ", [Secret Mission MFA Head], *Siamrath* (Bangkok), 12 August 2011; "Foreign minister pleads for a chance, evasive on Thaksin", *The Nation* (Bangkok), 11 August 2011.

¹⁴ "Phom Cha Thamnathi Raksa Nata Prathet ", [I will perform the duty to protect the country's image], *Dailynews* (Bangkok), 13 August 2011.

¹⁵ Thanida Tansubhapol, "Foreign affairs policy 'adrift' under Surapong's stewardship", *Bangkok Post* (Bangkok), 20 August 2012, <https://www.bangkokpost.com/thailand/politics/308400/foreign-affairs-policy-adrift-under-surapong-stewardship>.

to Prasas Prasasvinitchai, a member of the JBC team during the chairmanship of Vasin Teeravechyan, “after having been removed during Abhisit’s period, I was put back in the team. Bandit Sotipalalit replaced Asda Jayanama as the chair. We then went back to the old way of negotiation.”¹⁶ With reference to Foreign Minister Surapong, the shift was consulted with senior officials of the MFA. Also, he stated, “I saw that Ambassador Bandit is a person with knowledge of and good relations with Cambodia, which should help solve the problem. As the person to do the work, I am asking for a chance for a new person to try to carry out the task and let us work. The opposition please don’t accuse or condemn that we change people because in politics when you worked you also reshuffled.”¹⁷ Additionally, apart from the MFA, former Foreign Minister Noppadon unofficially served as part of Prime Minister Yingluck’s advisory team and former Ambassador of Thailand to France during the time of the joint communiqué in 2008, Thana Duangratana, held the position of vice minister attached to the Prime Minister’s office.¹⁸¹⁹

¹⁶ Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.

¹⁷ "Nap Muen Heha Bon Daeng Khamen ", [Almost Ten Thousand Enjoyed Football Red-Cambodia], *Matichon* (Bangkok), 25 September 2011.

¹⁸ Matichon Editorial Division, *Krabi Phrae Phan “Ying Lak” Kanmueang Nam Kanmueang* [Silken Sword “Yingluck” Politics Lead Politics] (Bangkok: Matichon, 2013), 47-48.

¹⁹ As the vice minister, Thana Duangratana provided service that concerned foreign affairs issues. Thana Duangratana (former Thai ambassador to Paris and former director –general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, October 10, 2019.

While the Thai-Cambodian relations essentially improved, progress related to the Preah Vihear dispute remained stagnated. During the fifth Thai-Cambodian JBC meeting convened between 13 to 14 February 2012, the two countries agreed on: an opening of a new international point of entry in Thailand's Sakaeo Province and Cambodia's Banteay Meanchey Province; the beginning of a joint survey by the two countries in the area of the new point of entry; and the preparation for production of orthophoto maps. While the contested area was prioritized in the previous meetings, in the fifth JBC meeting, it was concluded that, "both sides had agreed to implement what could be done first with a view of moving forward the JBC's work. As for issues yet to be agreed upon, both sides would set those aside until conditions were conducive."²⁰ At the time, Bandit Sotipalalit stated that the conclusion was attributed to the case being dealt with in the ICJ therefore further negotiations pertained to the disputed area should be withheld until the Court's decision is announced.²¹

Furthermore, in the new administration, the military remained predominant. While there were considerable divisions within the military, the top positions were consolidated by the faction of loyalist Army Commander Prayut Chan-ocha. At the

²⁰ MFA, "Results of the Fifth Meeting of the Thai Cambodian Joint Commission on Demarcation for Land Boundary," news release, 15 February 2012, 2012, <http://www.mfa.go.th/main/en/media-center/1925/27001-Results-of-the-fifth>.

²¹"Ro San Tatsin Khetdaen Khao Phra Wihan ", [Awaits Court Ruling Preah Vihear Border], *Siamrath* (Bangkok), 15 February 2012.

same time, there was modest accommodation within the civil-military relations. On the side of the government, the Pheu Thai leadership acknowledged the indispensable backing of the military that they made no attempt to transfer Prayut.²² And, according to Wassana Nanuam, the government always gave green light to the requests of the military including internal promotions and various arms procurements.²³ On the side of the military, as stated by John Blaxland, “General Prayuth Chan-o-Cha, has avoided overstepping constitutional boundaries and has been largely compliant – despite some bluster and perception that he would be harsher than his predecessor, General Anupong.”²⁴ Therefore, it was observed that the military might have switched their position from supporting the Democrat government and suppressing the UDD’s movement to embrace the Pheu Thai’s government and to reinforce Prime Minister Yingluck’s position. According to Nanuam, there were close consultations between Yingluck and Prayut.²⁵ Also, the discernible détente between Yingluck’s government and the military can be attributed to the military’s intention to “separate the prime minister from the power

²² This was despite the fact that Prayut’s faction led the suppression of the UDD or the Red Shirt protestors in 2010. James Ockey, "Thailand in 2012: Reconciling a New Normal", *Asian Survey* 53, no. 1 (2013): 128-29.

²³ Wassana Nanuam, *Lap Luang Phrang: Awasan Ying Lak* [Secret Lies Camouflage: Ending of Yingluck] (Bangkok: Matichon, 2014), 45,160.

²⁴ "Reconsidering the role of the military in Thailand," [2012, accessed 16 October, 2019, <https://www.eastasiaforum.org/2012/04/26/reconsidering-the-role-of-the-military-in-thailand/>].

²⁵ Nanuam, *Lap Luang Phrang: Awasan Ying Lak* [Secret Lies Camouflage: Ending of Yingluck], 35,144.

shadow of Thaksin so that she becomes a real prime minister that listens to the military and depends on the military as backup and buttress for her government.”²⁶

As previously stated, the ICJ’s provisional measures indicate a demilitarized zone (DMZ), require the immediate withdrawal of military personnel, and insist on the countries to allow observers from ASEAN to access the area. According to Achara Ashayagachat, “military officers and diplomats have been at odds over whether to comply with the ICJ’s ruling. Sources say the military’s stance has not changed, although communication and coordination with political leaders have improved.”²⁷ While there was truce between the government and the military, with regards to Thai-Cambodian Preah Vihear conflict, the military held sway of the decisions pertained to the provisional measures called for by the ICJ.

With the ministry’s adherence to the NRC of “international collaborator”, the MFA attempted to persuade the military to follow the World Court’s order and allow the entry of Indonesian observers. By the mid of August 2012, to push forward the process and avoid direct conflict with the military, the issue was planned to be raised in the parliament. To convince the military to at least allow a parliamentary debate, Ashayagachat further illustrates, “diplomats have been whining, dining and golfing

²⁶ Ibid., 36.

²⁷ Achara Ashayagachat, "PM wants parliament to debate troop move", *Bangkok Post* (Bangkok), 16 August 2012.

with the military in recent weeks to press home that message.”²⁸ Nevertheless, as the decision to submit the terms of reference (TOR) for Indonesian observers to the parliament depended on the military, it has never materialized and no Indonesian observer had entered the area.²⁹

Concurrently, the military did not want to be seen as a bulwark against the government. Since the government held overt position towards improvements in the Thai-Cambodian relations that include the MFA’s continued stance for Thailand to satisfy the ICJ’s ruling, the military did try to present some gestures of compliance. As the World Court demanded the immediate withdrawal of military personnel from the indicated demilitarized zone, the military display measures to implement the ruling with its counterpart. This can be seen in the establishment of the Joint Working Group (JWG) to discuss troop withdrawals. However, in the first and second JWC meeting, rather than immediate withdrawal, the two parties agreed that mine-clearing operations in the DMZ would be launched before both sides would withdraw their troops.³⁰³¹ Even when Cambodia pressured Thailand by planning to

²⁸ Ibid.

²⁹ Supalak Ganjanakhundee, "Preah Vihear terms may be changed", *The Nation* (Bangkok), 30 August 2012; Request for Interpretation of the Judgment of 15 June 1962 in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand) 294 (International Court of Justice 11 November, 2013).

³⁰ Wassana Nanuam, "Deal struck to launch joint mine clearing", *Bangkok Post* (Bangkok), 6 April 2012.

announce troops pullout from the DMZ in July 2012, Army Commander Prayut maintained the agreement made by the JWG and stated that, “it is a mechanism to help implement the ICJ’s order for troop withdrawal. We won’t discuss it until the de-mining operation is completed.”³² According to Field Marshal Nopphadon Chotsiri, the former Director-General of the Royal Thai Survey Department, the military was expected to be the physical frontline protector of Thai sovereignty therefore the military held a steadfast stance against troops withdrawal and the allowance of Indonesian observers into the area. With the agreement to clear the landmines in the area first, the military foresaw that operation could take the matter of years before it is accomplished and delay the tackling of the issue.³³³⁴

Additionally, it can be seen that the compliance to the ICJ’s provisional measures involved the presence of foreign personnel and concerned the inconclusive activities of the troops on the ground; therefore, the security issue was

³¹ The DMZ was bounded to cover approximately 17.3 square kilometers with 8.5 square kilometers of Thai soil and 8.8 kilometers of Cambodian soil. Terry Fredrickson, "Let Yingluck decide", *Bangkok Post* (Bangkok), 20 July 2011, <https://www.bangkokpost.com/print/247891/>.

³² Additionally, the Thai military claimed to believe that Cambodia’s planned withdrawal would not be genuine. Wassana Nanuam, "Troop recall a ploy, army source says", *Bangkok Post* (Bangkok), 10 July 2012.

³³ Nopphadon Chotsiri (former director-general of the Royal Thai Survey Department, Thai Armed Force Headquarter), interviewed by author, Bangkok, October 10, 2019.

³⁴ The expectation was bolstered by the pressures from nationalist activists and the senates who demand tougher response and against the withdrawal of the Thai troops from the area. "Army asked to keep troops at Preah Vihear", *Bangkok Post* (Bangkok), 21 March 2012; "Sowo Chi Ror Bor Khlia Phuenthi 4.6 ToroKomo ", [Senates push gov’t clear 4.6 sq km area], *Matichon* (Bangkok), 7 February 2012.

within the realm and guardianship of the military. Especially, with the heightened public concern of the country's territorial sovereignty, the military obviously experienced mounted pressures. A contrast is evident in the actions with regards to legal battle at and the ruling of the ICJ that will be discussed subsequently. With the basis on legal technicalities and rather conclusive outcomes, the military was more in agreement with the direction of the government and the MFA.

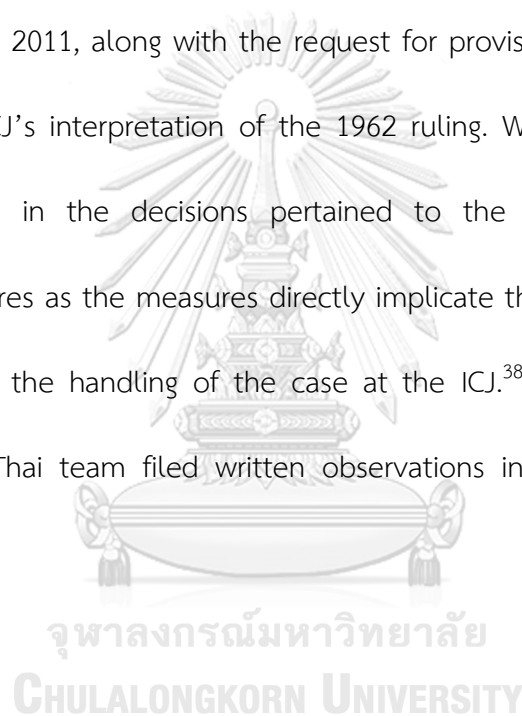
Along the same line, with one-year anniversary of the ICJ's indication of the provisional measures approaching and in response to Cambodia's announcement of plans to withdraw troops, Yingluck agreed with Hun Sen to mutually redeploy troops at the DMZ. Prior to the agreement in Siem Reap, Yingluck consulted upon the move with the Thai Minister of Defense, Supreme Commander of the Armed Forces, and the three armed-forces commanders. In resultant, the redeployment of troops did not mean the withdrawal of troops, but the replacement of troops by the countries police forces.³⁵ According to Foreign Minister Surapong, actions in compliance to the ICJ's order were needed before the parties go back to provide further oral arguments

³⁵"Chak Thon Thahan Phra Wihan Thueng Khamen-Chin-Me Ka- Nasa-U Tapao ", [From Preah Vihear troops withdrawal to Cambodia-China-USA-NASA-U Tapao], *Siamrath* (Bangkok), 16 July 2012. Cheang Sokha and David Boyle, "Troops to withdraw from Preah Vihear", *The Phnom Penh Post*, 16 July 2012, <https://www.phnompenhpost.com/national/troops-withdraw-preah-vihear>.

at the ICJ in April 2013.³⁶ Nonetheless, apart from the redeployment of troops on 18 July 2012, troops withdrawal did not happen on both sides.³⁷

7.2 The Preah Vihear Case at the International Court of Justice (2013)

On 18 July 2011, along with the request for provisional measures, Cambodia applied for the ICJ's interpretation of the 1962 ruling. While the military played a predominant role in the decisions pertained to the compliance to the ICJ's provisional measures as the measures directly implicate the security realm, the MFA took the helm in the handling of the case at the ICJ.³⁸ According to the Court's procedures, the Thai team filed written observations in response to Cambodia's



³⁶ "Song Tochodo Khum Phra Wihan Thaen Sura Phong Chong Khao Khoromo-Sapha ", [Send border patrol police to oversee Preah Vihear instead, Surapong to raise in Cabinet and parliament], *Matichon* (Bangkok), 17 July 2012.

³⁷ "Troops withdraw from temple", *The Nation* (Bangkok), 19 July 2012; Richard Q. Turcsányi and Zdeněk Kríž, "ASEAN and the Thai-Cambodian Conflict: The Final Stage at Preah Vihear?," in *Unresolved Border, Land and Maritime Disputes in Southeast Asia: Bi-and Multiplaterla Conflict Resolution Approaches and ASEAN's Centrality*, ed. Alfred Gerstl and Mária Strašáková (Leiden: Brill, 2017), 89.

³⁸ "San Lok Khit Sen Thai 22 Kokho Yuen Su Kamphucha ", [World Court gave Thailand deadline to submit to fight Cambodia 22 July], *Matichon* (Bangkok), 21 July 2011.

request in November 2011, provided further written explanations by June 2012, and furnished further oral explanations at hearings held in April 2013.³⁹

At the start of the new millennium, with the realization that Thailand was in a disadvantaged position, Thailand's shift to advocate a conciliatory stance towards Cambodia prompted the two parties' concurrence to achieve border settlements through technical collaborations and negotiations. In resultant, agreements such as the MoU 2000, TOR 2003 and Thai-Cambodian Joint Communiqué in 2008 were procured. In the agreements, Thailand's steadfast stance against the Annex I Map adhered in the first Preah Vihear case at the ICJ was overturned and the map was acknowledged as one of the documents to be referenced in the negotiating platform. Alongside the spirit of cooperation, bilateral solutions were prioritized, which compelled the orchestration of the agreements.

Through the reexamination of documents in the late 1990s, the 1962 ICJ ruling was seen as unhelpful to Thailand by awarding the sovereignty over the temple to Cambodia; by the Court's integration of the Annex I map into its reasoning for the conclusion to confer the sovereignty of the temple to Cambodia; and by the recognition that, despite Foreign Minister Thanat's reservation, a revision of the case could not be made after 10 years of the ICJ's ruling. Therefore, the return to the ICJ

³⁹ "Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand)," [International Court of Justice, updated 2019, n.d., accessed 20 October, 2019, <https://www.icj-cij.org/en/case/151.245678>

should be avoided as the ruling would only maintain Thailand's status quo or incur more losses to the country.⁴⁰

Nonetheless, change was evident with the ascension of the Democrat party in the year 2008. The sprouts of nationalist sentiments led to tougher stances executed by Thai government agencies, including the MFA. Despite a more restrained tone that is evident in the MFA's attempts to maintain amicable relations with Cambodia, bilateral propensity was precarious. Therefore, the return to the ICJ to settle the border disagreement was anticipated, which can be seen in the reshuffling of MFA's in January 2009. Apart from the aforementioned changes of authoritative posts that orchestrated a new consensus of hardliners in the decision-making circle, Virachai Plasai was transferred to the ambassadorial post in The Hague, Netherlands, which is the location of the ICJ.⁴¹ According to Kasit, he states, "there are two schools of thought in the Department of Treaties and Legal Affairs, one that thought we would lose and one that thought we could win. As the foreign minister, I have to choose the one that believe in the win."⁴² As Cambodia returned to the ICJ, the Thai team's

⁴⁰ Prasas Prasasvinitchai (former Thai ambassador to Phnom Penh and former director of the Boundary Division, MFA), interviewed by author, Bangkok, July 11, 2018.; Thana Duangratana (former director-general of the Department of Treaties and Legal Affairs and former Thai ambassador, MFA), interviewed by author, Bangkok, August 10, 2018.; Pattama, *Banthuek Prawattisat "Maha Kap Khao Phrawihan"* [Historical Record "The Epic of Preah Vihear"], 21.

⁴¹ Virachai was the director-general of the Treaties and Legal Affairs Department who was transferred to an inactive position by former Foreign Minister Noppadon Pattama and was reinstated by Foreign Minister Tej Bunnag.

⁴² Kasit Piromya (former foreign minister, MFA), interviewed by author, Bangkok, May 24, 2019.

standpoint was a revamped unyielding position held by the Thai counsel team in the 1960s Preah Vihear case.

Cambodia applied for the ICJ's interpretation of the 1962 ruling by evoking Article 60 of the ICJ's Statute. Article 60 stipulates, "the judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party."⁴³ According to the elaboration by Prasit Pivavatnapanich, an interpretation by the Court is possible in so far as there is "the existence of an actual dispute" of which the parties hold "divergence of view" in a specific point of the judgment. Also, Pivavatnapanich cites the World Court that "any request for interpretation must relate the operative part of the judgment and cannot concern the reasons for the judgment except in so far as these are inseparable from the operative part."⁴⁴ In part of Cambodia, Daniel Peat states, "Cambodia argued that an interpretation of 1962 Judgment was imperative, predominantly because of the differing views as to what constitute 'vicinity' of the Temple referred to in the second operative clause of the Judgment. This term, it

⁴³ *Statute of the International Court of Justice*.

⁴⁴ Prasit Pivavatnapanich, "Kan Tikhvam Khong San Lok Khadi Prasat Phra Wihan "[The Interpretation of the World Court, The Case of the Preah Vihear Temple], *Matichon* (Bangkok), 7 May 2011.

argued, should necessarily be determined by reference to the Annex 1 Map upon which the Court's reasoning was based."⁴⁵⁴⁶

In part of Thailand, the Thai ICJ team as well preferred the continuance of bilateral solutions. This can be seen in Virachai's interview with the press in July 2011 that the best option for Thailand is for the ICJ to dismiss the case. Nevertheless, the Ambassador expressed that while Thailand was forced to work in the frame of the unfavorable first Preah Vihear case at the ICJ, the team's undertaking of the inherited case could also lead to agreeable result for Thailand.⁴⁷⁴⁸ Therefore, primarily, the propositions contended by the Thai team included: the claim that the ICJ does not have jurisdiction to interpret the 1962 ruling in accordance to Article 60 of the ICJ

⁴⁵ Daniel Peat, "Interpreting Reasons: The Interpretation of the 1962 Temple of Preah Vihear Judgment," in *Hague Yearbook of International Law*, ed. Nikolas Lavranos and Ruth A. Kok (Leiden: Brill, 2014), 205.

⁴⁶ The second operative clause of the 1962 ruling states, "that Thailand is under an obligation to withdraw any military or police forces, or other guards or keepers, stationed by her at the Temple, or in its vicinity on Cambodian territory." *Temple of Preah Vihear (Cambodia v. Thailand)*, 37.

⁴⁷ "Thai Lun San Lok", [Thailand anticipates World Court], *Matichon* (Bangkok), 18 July 2011.; Virachai Plasai (former Thai ambassador, former director-general of the Department of Treaties and Legal Affairs, and the head of the Thai delegation at the ICJ, MFA), interviewed by author, Washington, D.C., May 23, 2018.

⁴⁸ Additionally, Virachai mentioned that his move to The Hague helped him lay down the groundwork to be ready for ICJ. By 2011, he was able to set up the team, have efficient communication line with the Court as well as delve into the Court's old archives. Virachai Plasai (former Thai ambassador, former director-general of the Department of Treaties and Legal Affairs, and the head of the Thai delegation at the ICJ, MFA), interviewed by author, Washington, D.C., May 23, 2018.

Statute; and that the Annex I Map cannot be merited as the basis for border delimitation of the area.

Firstly, one of the major arguments forwarded by Thailand is the legal principle of “non ultra petita” by which the court cannot rule on more than what was asked. That is, to define the borderline, the Court would have provided more than what was included in the operative part of the judgment, which only ruled on the sovereignty over the temple. Also, there is no existence of actual dispute upon the 1962 judgment as Thailand argued that Thailand had complied with the ruling by withdrawing its troops from the area deemed to be under the sovereignty of Cambodia in 1962. And, Cambodia had failed to object the withdrawal that was based on the line drew by the Thai Cabinet. Then, the dispute remerged when Cambodia submitted the nomination and later the management plan to the WHC, which is related to the question of frontier and not the same dispute as one ruled by the ICJ in 1962.⁴⁹

⁴⁹ Ibid.; *Public sitting held on Wednesday 17 April 201, at 10 a.m., at the Peace Palace, President Tomka presiding, in the case concerning the Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand)(Cambodia v. Thailand)*, International Court of Justice (The Hague: International Court of Justice, 17 April 2013), 3-6, <https://www.icj-cij.org/files/case-related/151/151-20130417-ORA-01-00-BI.pdf>; Ciorciari, "Request for Interpretation of the Judgment of 15 June 1962 in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand)", 291-92; Supalak Ganjanakhundee, "Thai team at the ICJ confident", *The Nation* (Bangkok), 15 April 2013.

Secondly, while Cambodia appealed for the Court to define the vicinity and implicate the boundary based on the Annex I Map, Thailand argued the contrary. In conjunction with the aforementioned argument, Thailand recalled that the operative part of the 1962 judgment is limited to the sovereignty of the temple as well as that the ICJ ruling only pertains to the geographical extent of the temple ruins. Also, Thailand attested that the Annex I Map could not constitute an inseparable component from the operative part as the Court could have arrived at the same judgment without the reference to the map.⁵⁰⁵¹ Furthermore, the Thai team attacked the validity of Cambodia's claim to substantiate the Annex I Map. This included the team's postulation to the Court that the Cambodian delegates presented different Annex I Maps to court, one in their petition and another in the presentation of their statement to the court.⁵² Also, new findings presented by the Thai team demonstrate that the Annex I Map is imprecise as well as that there are many versions of the

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⁵⁰ For instance, by the event emphasized by the Court of Prince Damrong Rajanubhab's visit to the temple under the French hospitality. *Public sitting held on Wednesday 17 April 201, at 10 a.m., at the Peace Palace, President Tomka presiding, in the case concerning the Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand)(Cambodia v. Thailand)*, 71.; Virachai Plasai (former Thai ambassador, former director-general of the Department of Treaties and Legal Affairs, and the head of the Thai delegation at the ICJ, MFA), interviewed by author, Washington, D.C., May 23, 2018.

⁵¹ Ibid.

⁵² Terry Frederickson, "Thailand gives tough ICJ response to Cambodia's fake map", *Bangkok Post*, April 18 2013, <https://www.bangkokpost.com/learning/advanced/345860/thailand-gives-tough-icj-response-to-cambodia-s-fake-map>.

map. As addressed by Alina Miron, Thailand's co-counsel, the Thai team had requested experts at International Boundaries Research Unit (IBRU), Durham University, to carry out an exercise to transpose the Annex I Map onto a modern map. In the IBRU's report, the transposition of the Annex I Map can give a variety of frontier lines.⁵³ At the same time, there are several versions of the Annex I Map in existence, Miron stated, "to date, the Thai team has counted six, three of which are in the archives of the Court dating from the time of the original proceedings."⁵⁴

Although there was a change of government and the reversal in the Thai-Cambodian relations, the same legal team was maintained to fight in the ICJ. According to the author's interviews with former senior MFA officials in the Treaties and Legal Affairs Department, the Pheu Thai's government decisions to keep the team can be attributed to two reasons. Firstly, to be able to reject the responsibility associated to the handling of the sensitive case to the former Democrat government. In fact, the major junctures in dealing with the Preah Vihear dispute had always been in the hands of the Democrats. In the first ICJ battle, the main component of the Thai delegation was Democrat Party's Seni Pramoj. The JBC and the MoU 2000 also initiated during the Democrat Chuan Leekpai's government. Then, the Thai-

⁵³ *Public sitting held on Wednesday 17 April 201, at 10 a.m., at the Peace Palace, President Tomka presiding, in the case concerning the Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand)(Cambodia v. Thailand), 47-48.*

⁵⁴ *Ibid.*, 46.

Cambodian temple dispute returned to the ICJ during the Democrat government of Abhisit Vejjajiva. Secondly, the outcome from the ICJ would still be consequential to the current Pheu Thai government therefore the government sustained the Thai team's unyielding and consistent direction.⁵⁵ As stated by Deputy Prime Minister Phongthep Thepkanjana, "the government only has the role to provide advice. In making any decision, the government gives full authority to the Thai delegation team in their judgment to pursue the case. That is because they had the duty to handle this issue since the beginning."⁵⁶ Also, Virachai reiterated that the Thai legal team was given full support from both governments.⁵⁷

Noteworthy was that the shift to Yingluck's government coincided the internal changes in the MFA. The decision-making circle that prioritized cooperation between Thailand and Cambodia was reassembled. At the same time, as previously mentioned, before Abhisit's administration, the ICJ ruling on the Preah Vihear dispute was predominantly perceived to only maintain Thailand's status quo or incur more losses to the country. Additionally, it was acknowledged in the MFA that one of the

⁵⁵ Anonymous (former senior official in the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, October 25, 2018.; Anonymous (former senior official in the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, May 15, 2019.

⁵⁶ "Khon Chaidan Won Kho Santi ", [People at the border plea for peace], *Khaosod* (Bangkok), 9 January 2013.

⁵⁷ Virachai Plasai (former Thai ambassador, former director-general of the Department of Treaties and Legal Affairs, and the head of the Thai delegation at the ICJ, MFA), interviewed by author, Washington, D.C., May 23, 2018.

ICJ's judges in the Preah Vihear case is Abdulqawi Ahmed Yusuf. Yusuf was UNESCO's legal adviser from 2001 to 2009 who had extensively dealt with the issue of the inscription of the temple at the WHC. As the decision adopted at the 32nd session of the WHC mentions the importance of the promontory to the outstanding value of the temple that included the area claimed by Thailand; there was also a likelihood that the ruling of the ICJ would lean towards that line of thought.⁵⁸⁵⁹

On that account, the Foreign Minister's actions did show the hesitance to fight in the ICJ. On 1 January 2013, Foreign Minister Surapong signaled his view of the case to the press that,

Thailand only will lose or break even. If defeated we will lose [territory]. However, if it remains the same it is to break even. That means the temple belonging to Cambodia and the area around the temple remains as had been ruled in the 1962 judgment. The people at the Thai-Cambodian border have to live with each other like this for generations. And in the future, when we transit into ASEAN Community, which is like the European Community, border issues will be almost meaningless. I don't want to see clashes along the border happen because we are neighbors. We should live together in peace, not with division.⁶⁰⁶¹

⁵⁸ Thana Duangratana (former Thai ambassador to Paris and former director –general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, October 10, 2019

⁵⁹ In the decision of the WHC 32nd session, a part of the Statement of Outstanding Universal Value for the Temple include “the attributes of the property comprise the temple complex; the integrity of the property has to a degree been compromised by the absence of part of the promontory from the perimeter of the property.” *Decisions Adopted at the 32nd Session of the World Heritage Committee (Quebec City, 2008)*, 221.

⁶⁰ "Romowo Topotho Hai Tham Chai Khadi Phra Wihan Thai Mai Chana Khae Samoetua Lae Phae ", [Foreign Minister Let Thais Prepared Themselves to Accept the Preah Vihear Case Thailand Won't Win Only Break Even or Lose], *Phim Thai* (Bangkok), 2 January 2013.

Besides, Surapong revealed,

Both the Prime Minister and I had gone to talk to Samdech Hun Sen, the Cambodian Prime Minister, to ask him if he could withdraw the case that was filed against Thailand by Cambodia at the World Court. However, Samdech Hun Sen replied that the case had gone to Court and it should end at the Court. Samdech Hun Sen also said that if it was this government that administered the country since the beginning, the issue would not have gone to the World Court.⁶²

Furthermore, according to Thana Duangratana, some senior MFA officials were as well reluctant about the Thai ICJ team's ardent attacks against the Annex I Map; the map strongly adhered by Cambodia. This was due to the concern for future cooperation between Thailand and Cambodia. Also, the 1:200,000 Map is beneficial to Thailand in some sections such as in case of the Thai-Laotian claims over the area of Ban Romklao. Nevertheless, in the legal battle at the ICJ, the team's stance was maintained and given full support.⁶³

On the side of the security agency, there were some displays of toughened stance against the ICJ and Cambodia from the military, especially in response to the

⁶¹ The Foreign Minister's stance was seemingly overturned after heavy criticisms from the oppositions and the yellow shirt network. "Pueng Tilangka Khadi Khao Phra Wihan Wa Chana Nae", [Ping Somersault Preah Vihear Case Claim Sure Win], *Thairath* (Bangkok), 8 January 2013.

⁶² "Hun Sen Moen Pu Kho Thon Fong", [Hun Sen ignores Pu request to withdraw], *Matichon* (Bangkok), 6 January 2013.

⁶³ Thana Duangratana (former Thai ambassador to Paris and former director –general of the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, October 10, 2019.

PAD's criticisms that they did not vigorously try to protect the country's sovereignty.⁶⁴ From Supreme Commander Thanasak Patimaprakorn, a strong stance was echoed that he would not abide Thailand's loss of territory to Cambodia and war may be resorted. Or similarly from Army Commander-in-Chief Prayut, he was quoted saying that if war is needed; the military is prepared and can execute the action anytime.⁶⁵ Nonetheless, as previously stated, the ICJ's provisional measures implicated activities of the troops and the security realm. Since the adherence to the measures was directly under the jurisdiction of the military, steadfast opposition resulted. On the other hand, the case at the ICJ was a battle based on legal technicalities and could be acknowledged as within in the responsibility of the MFA. For the responses in regards to the outcome of the case, the military did display a stance more agreeable with the MFA.

The MFA's direction, as will later be explicated, favored the acceptance of the ICJ's ruling and the assurance of neighborly relations with Cambodia despite the legal territorial dispute. Cooperative actions signaled from the military were apparent to present relative agreement in the MFA's direction. While the readiness for war was mentioned, the military also repeatedly expressed to the public that war would only

⁶⁴ In an interview in January 2013, Army Commander-in-chief Prayut had clearly stated his objection against the PAD's insistence to reject the ICJ's ruling. "Pantamit Kue Krai Pom Mai Sai Jai ", [Who are the PAD I don't care], *Siamrath* (Bangkok), 11 January 2013.

⁶⁵ Nanuam, *Lap Luang Phrang: Awasan Ying Lak* [Secret Lies Camouflage: Ending of Yingluck], 180. "Ekapap Yangni Pid Patu Pae ", [Unity like this is closing doors to lose], *Thairath* (Bangkok), 25 January 2013.

be considered as last resort. Prior to the resort to war, as stated by General Prayut in many occasions, there must be consultation with the government as well as negotiations with Cambodia. Moreover, Supreme Commander Thanasak affirmed that the military would not object to the ICJ's ruling.⁶⁶

To further elaborate, apart from the NSC's and the Cabinet's approvals of the Thai team's oral explanations for the court hearings, the NSC favored the formation of the information operation center tasked to the MFA to provide accurate information to the public.⁶⁷ Then, towards the ICJ's reading of the ruling on 11 November, Foreign Minister Surapong revealed that in the meeting at the Defense Ministry on 21 October, the military confirmed that the military would comply with the government's direction that is in accordance to the Thai laws.⁶⁸⁶⁹ Furthermore, in line with the approach taken by the MFA, the Foreign Minister stated that, "the military also submitted via the Foreign Ministry a proposal on rules of engagement

⁶⁶ "Khamen Yok Teem Buk San Lok ", [Cambodia brought team to World Court], *Naewna* (Bangkok), 2 April 2013. "Ekapap Yangni Pid Patu Pae ", [Unity like this is closing doors to lose]; "Thai military 'has confidence' in ICJ", *Bangkok Post* (Bangkok), 18 April 2013, <https://www.bangkokpost.com/world/345890/thai-supreme-commander-icj-ruling-on-preah-vihear-case-will-be-fair>.

⁶⁷ "Pueng Chong Khoromo Tok Lap Thoithalaeng Phra Wiharn ", [Pueng propose Cabinet for secret discussion on Preah Vihear oral explanation], *Naewna* (Bangkok), 1 April 2013; "Sormorchor Pad Kor Sanur Pantamit ", [NSC brushed aside PAD's proposal], *Krungthep Turakit* (Bangkok), 6 January 2013.

⁶⁸ "Tong Patibat Pai Tai Kormor Thai Kong Thap Lan ", [Must act in accordance to Thai laws military proclaimed], *Naewna* (Bangkok), 22 October 2013.

⁶⁹ At the time Prime Minister Yingluck also held the defense portfolio.

between both countries' armed forces, before representatives of both countries' military meet and talk directly, before or after November 11."⁷⁰ And notably, while visiting the soldiers at the border, Prayut stated that, "in part of the soldiers who want to fight by acting beyond the command of the commanders and against the policy, they must be discharged. This is because caution must be taken against misunderstandings that can happen in all dimensions."⁷¹

Albeit the relative consensus among the government agencies, counter approach emanated from the civil society network and within the parliament. On 8 January 2013, a group of PAD protestors gathered in front of the Government House and handed a letter of demands to the Prime Minister. In the letter, the demands principally encompassed: the rejection of the ICJ's jurisdiction; the insistence that the U.N. and ASEAN do not have the authority to intervene in the domestic affairs of member states; the refusal to comply to the ICJ's provisional pressures and to pressure the Cambodians out of Thailand's territory; and the enablement for the people to receive information from groups that want to protect the country's sovereignty as opposed to the information fed by the government to accept

⁷⁰ "Team of lawyers to review ICJ ruling", *The Nation* (Bangkok), 22 October 2013.

⁷¹ "Nat Ruampon Tuang Kao Pha Wiharn Wannu Big Tu Ku Prot Taharn Yark Rob ", [Plan to assemble set to recall Preah Vihear mountain today Big Tu threatened to discharge soldiers wanting to fight], *Manager Daily* (Bangkok), 1 November 2013.

Cambodia's acquirement of the Thai territory.⁷² In the parliament, the stance was echoed in the upper house meeting in which many senators proposed that the government refuse to accept the pending ICJ's ruling.⁷³ On the side of the opposition Democrat Party, Abhisit inferred Foreign Minister's Surapong statement for the Thai people to concede to unfavorable demands as being related to the government's personal benefits in maritime negotiations.⁷⁴ And Chavanon Intarakomalsut, the party's spokesperson, maintained that Thailand must adhere to the watershed line and the government should not declare whether it will accept the ICJ's ruling until after the judgment has been read.⁷⁵

Efforts of the MFA to implement the ministry's direction in favor of cooperation with Cambodia and for the general acceptance of the ICJ's ruling as a member of the international community are clearly evident. These can be seen in the MFA's attempts to prepare for the judgment with Cambodia and to communicate with the Thai public. Firstly, in order to prevent the eruption of

⁷² "Phothomo Bi Patiset San Lok Ying Lak Choei Chumnum Yai ", [PAD push for the rejection of World Court if Yingluck unconcerned there will be big protest], *Thai Post* (Bangkok), 9 January 2013.

⁷³ "Thang Diao Thi Thai Mai Tong Sia Dindaen Hai Khamen", [Only way Thailand won't lose territory to Cambodia], *Phim Thai* (Bangkok), 16 January 2013; "Mop Chaeng Khaeng Phak 2 ", [Frozen Mob Part 2], *Matichon* (Bangkok), 11 January 2013.

⁷⁴ Ibid. "Pueng Chaeng Phra Wihan Pat RapChop Hua Khamen ", [Pueng explains about Preah Vihear, denies job for benefits with Cambodia], *Thairath* (Bangkok), 5 January 2013.

⁷⁵ "Phra Wihan So Wun Nak Sowo Bi Ya Rap Amnat Santhahan Thang 2 Fai Yang Chuenmuen", [Preah Vihear seemingly problematic, Senates push don't accept court's authority, Soldiers on both sides still happy], *Dailynews* (Bangkok), 9 January 2013.

hostility between the two countries, the MFA orchestrated a formation of a Thai-Cambodian special joint commission comprised of border-related agencies. Foreign Minister Surapong proposed this initiative to his Cambodian counterpart Hor Namhong.⁷⁶ Deputy Permanent Secretary Nattavudh commented in a press interview that, “we need this mechanism as a pre-emptive measure to prevent trouble. It’s good if nothing happens after the court’s judgment. Whatever the judgment is, we want to tell the people that business will go on as usual.”⁷⁷ On 29 October, immediately before the ruling, Surapong and Hor Namhong met near the border and reiterated that, “no matter what the result of the World Court judgment would be, we would not let it affect our relationship. That is because we are neighbors and have to live with each other forever. To execute any action, there must be negotiation on the basis of the intention to maintain peace along the border and within the two countries. Also, [we] will not let anything impact the good relationship.”⁷⁸

Secondly, in relations to public diplomacy, MFA’s Permanent Secretary Sihasak Phuangketkaew explicated,

⁷⁶ "Bilateral plan to handle ICJ fallout", *The Nation* (Bangkok), 21 October 2013.

⁷⁷ Supalak Ganjanakhundee, "Pre-emptive steps ahead of ICJ ruling", *The Nation* (Bangkok), 23 October 2013.

⁷⁸ "Suraphong-Hor Nam Hong Thok Rapmue Khadi Phra Wihan Yan Thai-Khamen Yuet Santi", [Surapong-Hor Namhong Discuss handling of Preah Vihear case confirm Thailand - Cambodia stick to peace], *Matichon* (Bangkok), 29 October 2013.

It is not just diplomacy for the public. But we need to make the people understand and know more about international affairs and it is a job that the Ministry of Foreign Affairs need to do more. In democratic countries, they maintain that works related to foreign affairs need to be consistent and have national interest as the basis. No matter which party becomes the government, the approach is emphasized.

At the moment, what can clearly be seen is, in part, that there is more participation. However, what is concerning is the taking of international affairs to be part of internal politics... In the case of the Preah Vihear dispute, [I] understand everyone's position. If the debate is based on the truth then it is correct. But if it is a debate with political intentions, we are worried because there are impacts on Thailand's credibility. Also, we are concern because there are incitements of nationalism. When nationalism is awakened, it is impossible to talk with reason. In fact, for many countries, the resort to the World Court's adjudication to resolve the problem is considered as a good approach and could be a solution that lead to the end of conflicts.

All parties must come to the understanding that when the Court has decided, it is an obligation that we must comply because we are part of the international community. There are rules. [We] cannot use only feelings because long-term interests must be accounted. We protect the national interests and fight the case with all efforts. At the same time, after the Court has decided, Thailand and Cambodia still have to live together and cooperate. That is the point that all sides must consider.⁷⁹

To provide the public with information relevant to the Preah Vihear dispute, MFA published various printed resources that include a cartoon booklet, a pamphlet that summarizes the current developments of the case, a question and answer

⁷⁹ "Pi Haeng Khadi Prasat Phra Wihan Thang ok Su Santiphap Thi Yangyuen ", [The year of the Preah Vihear temple case, Solution to sustainable peace], *Matichon* (Bangkok), 1 January 2013.

booklet, a book that explicates the history of the issue and agreements made between Thailand and Cambodia, and a book that detailed the MFA's efforts at the ICJ.⁸⁰ Also, the ministry released a documentary infographic clip to explain the grounds of the dispute, the countries' positions and possible outcomes at the ICJ.⁸¹ There were meetings with the salient areas' provisional governors to brief them on the issue, clarifications to the columnists and editors of the Thai press, public seminars conducted, and explanations made at the parliamentary general committees.⁸² Additionally, on 9 November 2013, Foreign Minister Surapong appeared on the Prime Minister's program, *Yingluck Pob Prachachon*. In the program

⁸⁰ MFA, *Short Khomun thi prachachon khuan sap kiaokap korani prasat phrawihan lae kan cheracha khetdaen Thai - Kamphucha* [Information that the people should know concerning the Preah Vihear case and Thai-Cambodian border negotiation]; *Sarup Khomun Sathana Khong Khadi Tikhvam Khamphiphaksa Khadi Prasat Phra Wihan Pi 2505* [Information Summary of the Case of the Interpretation of The Preah Vihear Case Year 1962], (Bangkok: Ministry of Foreign Affairs, 2012); MFA, *Pritsana Khadi Prasat Phra Wihan* [Mystery of the Case of Preah Vihear Temple] (Bangkok: Ministry of Foreign Affairs, August, 2013); MFA, *50 Pi 50 Praden Tham-Top Korani Prasat Phra Wihan* [50 Years 50 Points Question-Answer in the Case of the Preah Vihear Temple] (Bangkok: Ministry of Foreign Affairs, February, 2013); MFA Department of Treaties and Legal Affairs, *Bueang Luek Bueanglang Kan Su Khadi Tikhvam Prasat Phra Wihan* [The Depth and the Offstage in the Battle of the Interpretation of the Preah Vihear Case] (Bangkok: Ministry of Foreign Affairs, 2013).

⁸¹ MFA Thailand, "Khadi Prasat Phra Wihan - Infographic Clip," (Bangkok: MFA Thailand, 7 November 2013). https://www.youtube.com/watch?v=wK_Y-zPNhmo.

⁸² Thanida Tansubhapol, "Surapong sweats on verdict", *Bangkok Post* (Bangkok), 31 December 2012; Paiboon Krajangvutichai, "Reng Kae Khoraha Khao Phra Wihan Sang Kro Pongkan Pu [Quickly resolve doubts, Make shield to protect Pu], *Post Today* (Bangkok), 5 February 2013; Thitapa Siripipat, "Krasuang Tangprathet Tham Khwam Khao Chai Phra Wihan [Ministry of Foreign Affairs Make Understanding of Preah Vihear]," (Bangkok: Thairath TV, November 13 2013). <https://www.youtube.com/watch?v=DKHS1LSijo>.

session, apart from the explanation of the issue, he asked that the people listen to the ruling sensibly and with reason to avoid problems that could arise from nationalist incitements.⁸³

Significantly, as stated by the MFA's deputy permanent secretary, Nuttavudh Photisaro,

The public relations strategy is to make the team earn confidence from the public. That the team will be working professionally and that there is transparency in every working procedure. Also, the people could engage in the following of the Court's ruling. Therefore, the team is not only fighting the "external battle" at the World Court, but also need to overcome the "internal battle". The fight in the frontline can only be done at ease when the rear is a hundred percent.⁸⁴

For this reason, the oral explanations and the ICJ's ruling were presented to the people through live broadcasts.⁸⁵ The idea was pressed forward by the MFA as the only way to ensure that the people will receive clear facts. Ambassador Virachai said that, "the MFA officials saw that it should be broadcasted. It is the only way to cut

⁸³ "Suraphong Huang Koet Het Wunwai Nai Prathet Hak San Lok Tatsin Phra Wihan Hai Phon Lop To Thai ", [Surapong worried for troubles in the country if World Court ruled negatively for Thailand], *Thai PBS* (Bangkok), 9 November 2013, <https://news.thaipbs.or.th/content/206043>.

⁸⁴ Department of Treaties and Legal Affairs, *Bueang Luek Bueanglang Kan Su Khadi Tikhwam Prasat Phra Wihan* [The Depth and the Offstage in the Battle of the Interpretation of the Preah Vihear Case], 63.

⁸⁵ The hearings of the ICJ provisional measures were not broadcasted during the administration of Abhisit. While the senior MFA officials did propose for live broadcast, the issue was seen as too sensitive and the proposal was rejected. Anonymous (former senior official in the Department of Treaties and Legal Affairs, MFA), interviewed by author, Bangkok, April 24, 2018.

out the people that claim to know the facts and use the misunderstood knowledge to incite the public. The people should be allowed to hear it for themselves. Also, it let the people know what the team has been doing behind closed doors.”⁸⁶ For the live broadcasts through the Internet, television and radio channels, the MFA employed professional translators. To avoid misunderstanding in complicated subjects, the MFA prepared detailed translations and summaries for the people.⁸⁷ An excerpt from Krairawee Sirikul’s depiction of the efforts is the following,

The team from the Department of Information prepared the technical aspect of the live broadcast, uploaded the information on the website so the people could follow, and coordinated with the press team and the team at The Hague for interviews related to the case and laws. The team from the Department of Treaties and Legal Affairs, who were all the ministry’s scholarship students in the field of international law that use both English and French language, of more than 10 people helped summarize key legal points, translated the explanations in Thai, prepared the translator for legal terms, and coordinated with the legal team at The Hague.⁸⁸⁸⁹

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⁸⁶ Virachai Plasai (former Thai ambassador, former director-general of the Department of Treaties and Legal Affairs, and the head of the Thai delegation at the ICJ, MFA), interviewed by author, Washington, D.C., May 23, 2018.

⁸⁷ "Pueng Chong Khoromo Tok Lap Thoithalaeng Phra Wiharn ", [Pueng propose Cabinet for secret discussion on Preah Vihear oral explanation]; "Thai Sia Dindaen ", [Thailand lose territory], *Thai Post* (Bangkok), 12 November 2013.

⁸⁸ Department of Treaties and Legal Affairs, *Bueang Luek Bueanglang Kan Su Khadi Tikhwam Prasat Phra Wihan* [The Depth and the Offstage in the Battle of the Interpretation of the Preah Vihear Case], 71.

⁸⁹ Krairawee Sirikul was the deputy director-general of the Department of Treaties and Legal Affairs.

7.3 Thailand's Reaction to the 2013 Judgment of the International Court of Justice

On 11 November 2013, the ICJ rendered its judgment in the case concerning the request for the interpretation of the ICJ's 1962 ruling. In the judgment, it states,

The Court,

(1) Unanimously,

Finds that it has jurisdiction under Article 60 of the Statute to entertain the Request for interpretation of the 1962 Judgment presented by Cambodia, and that this Request is admissible;

(2) Unanimously,

Declares, by way of interpretation, that the Judgment of 15 June 1962 decided that Cambodia had sovereignty over the whole territory of the promontory of Preah Vihear, as defined in paragraph 98 of the present Judgment, and that, in consequence, Thailand was under an obligation to withdraw from that territory the Thai military or police forces, or other guards or keepers, that were stationed there.⁹⁰

In the ruling, while the Court maintains the jurisdiction over the case and adjudicated that Thailand has the obligation to withdraw from Cambodia's territory, it only defines Cambodian territory as within the limit of the promontory of Preah Vihear. That is, to the north, the promontory is marked in accordance to the Annex I Map, but to the west, the two countries shall negotiate the territorial line.⁹¹

⁹⁰ *Request for Interpretation of the Judgment of 15 June 1962 in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand)*, 318.

⁹¹ Ciorciari, "Request for Interpretation of the Judgment of 15 June 1962 in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand)", 293.

After the ruling, anti-government activists started to bemoan that Thailand had lost the case as the promontory defined by the ICJ encompassed more territory than the line stipulated in the 1962 Cabinet Resolution.⁹²⁹³ In the parliament, the MPs of the opposition party and the senators voiced the same concern. Thereafter, Yingluck affirmed that the government would not implement the ICJ's judgment without a parliamentary decision.⁹⁴

At the same time, the role of the MFA was prominent in trying to reassure the public that the ICJ produced a win-win resolution. After consultation with the Thai legal team, Prime Minister Yingluck addressed the nation that the Court gave importance to negotiations between the two countries and that many parts of the

⁹² Paritta Wangkiat, "Critics bemoan Thai 'defeat' in World Court", *Bangkok Post* (Bangkok), 13 November 2013.

⁹³ Foreign news as well reflect the same position as can be seen in the *UN News*' headline, "UN court rules for Cambodia in Preah Vihear temple dispute with Thailand." And on the side of Cambodia, Hor Namhong told the reporters, "we cannot say the verdict of this court today satisfies our aim 100 per cent, but we are happy, as the ruling met the majority of our demands." "UN court rules for Cambodia in Preah Vihear temple dispute with Thailand", *UN News*, 11 November 2013, <https://news.un.org/en/story/2013/11/455062-un-court-rules-cambodia-preah-vihear-temple-dispute-thailand>.

"Partial victory at the ICJ", *The Phnom Penh Post*, 12 November 2013, <https://www.phnompenhpost.com/national/partial-victory-icj>.

⁹⁴ "Kham tatsin sanlok mi khodi - sia Virachai chaeng ratthasapha ", [World Court ruling has good and bad points Virachai informs parliament], *Thairath*, November 14 2013, <https://www.thairath.co.th/content/382712>; "Thai-Cambodia relations one year after the ICJ judgement," [East Asia Forum, 2014, accessed January 2, 2019, <http://www.eastasiaforum.org/2014/11/11/thai-cambodia-relations-one-year-after-the-icj-judgement/>].

verdict are favorable to Thailand.⁹⁵ Ambassador Virachai as well elucidated, “[to determine if the judgment is positive or negative to Thailand] we should look at what the demander asked and whether it has got what it asked. You will see that [Cambodia] did not obtain many of the things they have asked from the court. On the other hand, we obtained many things from the court.”⁹⁶ On 13 November, Virachai and senior MFA officials attended the parliamentary session to provide explanations on the ruling.⁹⁷ Virachai was also presented at the seminar organized by the Department of Law, Chulalongkorn University. And, the MFA orchestrated a translation committee to translate the ICJ ruling to the Thai language for public reference.⁹⁸

⁹⁵ "Rathuek Chikhat Phra Wihan Pu Lan Hai Yomrap Kham Tatsin [Nervous of Preah Vihear ruling, Pu said to accept judgment]", *Thai Post* (Bangkok), 11 November 2013; "Nayok Pu Thalaeng Sarup Kham Tatsin ", [Prime Minister Pu address ruling summary], *Matichon* (Bangkok), 12 November 2013.

⁹⁶ Thanida Tansubhapol and Apinya Wipatayotin, "ICJ delivers win-win ruling", *Bangkok Post* (Bangkok), 12 November 2013, <https://www.bangkokpost.com/thailand/politics/379318/icj-delivers-win-win-ruling>.

⁹⁷ Other senior MFA officials include Sihasak Phuanketkaew (Permanent Secretary), Sek Wannamethee (Director-General of the Department of Information), and Voradet Viravakin (Director-General of the Department of Treaties and Legal Affairs). "Kham tatsin sanlok mi khodi - sia Virachai chaeng ratthasapha ", [World Court ruling has good and bad points Virachai informs parliament].

⁹⁸ "Thut Wirachai Yuenyan Mai Sia Dindaen Ro Poet Cheracha Kamphucha ", [Amb Virachai confirm no lost of land awaits the opening of negotiations with Cambodia], *Dailynews* (Bangkok), 16 November 2013.

There are many points of the ICJ ruling emphasized by the MFA as positive to Thailand. Firstly, in accordance to Thailand's argument, the judgment is only limited to the issue of sovereignty and not boundary delimitation. Secondly, the ICJ defines the promontory to incorporate a very small area and not all of the 4.6 kilometers of the disputed territory whereby the Phnom Trap hill (or Phu Makhua in Thai) is not included as part of the vicinity. Thirdly, while the Court saw the Annex I Map as an integral part of Cambodia's claim for the disputed territory, its recognition is only limited to the area stipulated in the first ruling and does not see it to constitute the boundary of the whole disputed area.⁹⁹ Additionally, Ambassador Virachai's response to the Democrat MPs' insistence for the government to clarify Thailand's possible loss of territory gained much attention. When Sirichoke Sopha, to the parliament, presented a map with speculated area lost based on the Annex I Map, Ambassador Virachai aggressively denounced the analysis. In his response, Virachai said,

It's the line Cambodia has drawn up by their own discretion. Our team has been working very hard, to the point that our eyes almost spill blood, to destroy that line of claim. And we succeeded, because the ICJ has clearly stated in the 99th paragraph of its judgment that a unilateral [border] line is unacceptable. But what Mr. Sirichoke has been doing tonight is validating the line Cambodia has drawn up. He is damaging the interest of the nation... if the Cambodians are watching the broadcast of this debate right now – and I believe that they are –

⁹⁹ Ibid.; "Thai Sia Dindaen ", [Thailand lose territory]; Tansubhapol and Wipatayotin, "ICJ delivers win-win ruling"; "Kham tatsin sanlok mi khodi - sia Virachai chaeng ratthasapha ", [World Court ruling has good and bad points Virachai informs parliament]; "Faikhan Sowu Rum Bi Nak Pom Yot Khao ", [Opposition and senates heavily pressure on point of promontory], *Matichon* (Bangkok), 14 November 2013.

they would be smiling. As the head of the legal team [to the ICJ], let me stress here on behalf of the Thai people and the Thai nation, that Mr. Sirichoke's comments belong to only one Member of Parliament. They have no legal binding in international laws. Mr. Sirichoke's acceptance of the border drawn by Cambodia is not the official position of Thailand.¹⁰⁰

Furthermore, the issue was accentuated as complicated and sensitive. As seen in an interview of Yingluck, the Prime Minister pleaded to the opposition to withhold from making interpretations of the Court's verdict as the MFA would form a committee to analyze the ruling and to avoid problems in the relations between Thailand and Cambodia.¹⁰¹ Ambassador Virachai asserted that,

For the MFA and diplomats to say something, it must be done with responsibility and caution because what is said can implicate the country. Right now, we can say that we are at the stage of speculation, therefore we cannot disclose guesswork to the people. However, we are working to surpass the stage of speculation to the stage of professional analysis based on academic evidence. Then, it will be presented to the government and when the government allowed it to be disclosed, we will immediately disclose it. After that is the stage of facts, which is negotiation; it is important because if we go to negotiate and all tactics has been revealed, it is not negotiation. At this time, Thai people shouldn't reveal our tactics and shouldn't have discordant views. Any action that would reveal the tactics would all negatively impact the negotiation.¹⁰²

¹⁰⁰ "Hague Ambassador Blasts Democrat's Preah Vihear Claim", *Khaosod English* (Bangkok), 14 November 2013, <http://www.khaosodenglish.com/politics/2013/11/14/1384422530/>.

¹⁰¹ "Won Ya Phoei Tai Phra Wihan ", [Plead not to reveal Preah Vihear tactics], *Thai Post* (Bangkok), 15 November 2013.

¹⁰² *Ibid.*

Also, while the Thai-Cambodian Preah Vihear settlement, at the time of writing, has not reached the stage of negotiation, Permanent Secretary Sihasak assured that the Thai endeavor would be based on: the resolution of the problem through peaceful methods; the protection of the Thai sovereignty and national interests; the maintenance of good relations with Cambodia as a neighbor and member of ASEAN; the protection of Thailand's reputation in the world community.¹⁰³

At the time of the ruling, there were heightened tensions in Thai politics. In the attempt to find reconciliation to the domestic political turmoil, the government pushed for a controversial bill to grant amnesty to those involved in politically motivated violence since 2006. Concurrently, the ruling party attempted to amend the constitution that would change the upper house to a wholly elected body. These actions precipitated demonstrations on the street spearheaded by resigned Democrat MPs such as former Party Deputy Leader Suthep Thuagsuban.¹⁰⁴ Nevertheless, in the midst of these tensions, the ICJ results did not “give bullets” to the protestors. In reference to Thitinan Pongsudhirak, “the verdict had taken some fuel out of the anti-government protest, as well as defusing tensions at the border. This is not the bombshell decision that the Thais were fearing. If the decision had been completely in Cambodia's favour, it would have fanned the flames [of these

¹⁰³ Ibid.

¹⁰⁴ James Ockey, "Thailand in 2013: The Politics of Reconciliation", *Asian Survey* 54, no. 1 (2014).

protests] and the downside was dire.”¹⁰⁵ In like manner, the aforementioned points emphasized were agreed by the Thai government agencies as comprising of a satisfactory outcome for Thailand.¹⁰⁶ For the immediate outcome, the MFA succeeded in pushing forward the stance to maintain peace between the two countries. Significantly, the MFA’s handling of the case at the ICJ is hailed as one of ministry’s major achievement of the year 2013.¹⁰⁷

7.4 Conclusion

The tensions at the Thai-Cambodian border subsided with the change of government. Thakin’s younger sister, Yingluck Shinawatra, won the 2011 election with majority of seats in the parliament. Since the beginning, the government pronounced that priority would be given to the restoration of bilateral relations with the neighboring countries. And within the MFA, the reshuffling of key personnel in line with the approach followed; in which Foreign Minister Surapong’s lack of experience

¹⁰⁵ "Partial victory at the ICJ".

¹⁰⁶ Virachai Plasai (former Thai ambassador, former director-general of the Department of Treaties and Legal Affairs, and the head of the Thai delegation at the ICJ, MFA), interviewed by author, Washington, D.C., May 23, 2018.

¹⁰⁷ Nantida Puangthong, "Kan To Su Khadi Phra Wihan Thisut Phonngan BuaKaeo Haeng Pi "[The Battle of Preah Vihear, The Best Work of MFA of the Year], *Kom Chad Luek* (Bangkok), 13 January 2013.

in foreign affairs gave lead to the MFA's bureaucrats. Regardless, in relations to bilateral settlements at the Preah Vihear area, the solution to forward a cooperative atmosphere was to set aside the contested area to avoid the resumption of nationalist ordeal. Moreover, it was apprehended that the dispute should be withheld until the case at the ICJ had been resolved.

In regards to the MFA's reinvigorated stance for cooperation, the case at the ICJ countervailed its NRC of ally. In adherence to the NRC of ally, apart from the MFA's organizational temperament for negotiations, the reasoning of the 1962 ICJ's ruling and the Statute of the International Court of Justice were put under consideration. The ICJ's reasoning integrates the Annex I Map to confer sovereignty of the temple to Cambodia and the Statute indicates that a revision of the case cannot be made after 10 years of ruling, which negates Foreign Minister Thanat's reservation. Moreover, Abdulaqwi Ahmed Yusuf, one of the judges overseeing the Preah Vihear case at the ICJ, was UNESCO's legal adviser from 2001 to 2009 and extensively dealt with the issue of the inscription of the temple at the WHC. The WHC decision adopted at the 32nd session was therefore also taken into account. All things considered; the Foreign Minister displayed a lack confidence that the ICJ's ruling would bestow victory to Thailand. The Prime Minister and Foreign Minister appealed to Hun Sen to withdraw the case from the ICJ. And, concerns were raised among senior MFA officials that the Thai ICJ team's fervent attack on the Annex I Map could jeopardize future relations with Cambodia.

At the same time, the Thai ICJ Team installed during the administration of Abhisit was retained and given full support by the new government. The legal team was formed when bilateral propensity between Thailand and Cambodia was precarious. Along with the new consensus of hardliners in the decision-making circle, the team formed in preparation for the possible return to the ICJ held an unyielding position that resembled the standpoint held by the Thai counsel team in the 1959-1962 Preah Vihear case. While the legal team also showed preference for the continuance of bilateral solutions, when that option had been exhausted Ambassador Virachai expressed confidence to work in the frame of the unfavorable 1962 case at the ICJ. The Thai ICJ team argued that the court did not have jurisdiction to interpret the 1962 ruling based on Article 60 of the ICJ's Statute evoked by Cambodia. Significantly, the team also attacked the validity of Cambodia's claim to substantiate the Annex I Map.

Towards the issues concerning the Preah Vihear dispute in this period, governmental politics leaned towards confrontational, but the role of the MFA was consequential to the outcome. With the military, separation of tasks in which the military dominated the decision pertained to the ICJ provisional measures and the MFA oversaw the legal battle at the ICJ was evident. While there was relative accommodation in the civil-military relations, the military held sway of its aversion to the ICJ's provisional measures and the acceptance of Indonesian observers. Yet, given that the government held overt position towards improvement in the Thai-

Cambodian relations and stance pressed forward by the MFA for Thailand to satisfy the ICJ's commands, the military displayed some gesture of observance to international principals in its attempt to delay the undertaking.

On the side of the ICJ's interpretation of the 1962 case, the military expressed that the military would comply with the government's direction that is in accordance to the Thai laws. Counter approach primarily resonated from the civil society network and within the parliament. Henceforth, to ensure the atmosphere of cooperation after the Court's ruling, preventive measures against the eruption of hostility between the two countries were orchestrated by the MFA. The efforts include the formation of a Thai-Cambodian special unit commission and a meeting between Surapong and Hor Namhong near the border to avow the maintenance of peace with each other.

Additionally, to offset the domestic oppositions that were against the acceptance of the ICJ ruling, public diplomacy was earnestly conducted by the MFA. The MFA provided the public with access to information relevant to the Preah Vihear dispute that detailed the history, MFA's actions, and explanations of related international agreements and laws. Apparently, the MFA attempted to illustrate to the public the ideational elements integral in external politics. To avoid misunderstandings and nationalist incitements, the oral explanations and the ICJ's ruling were as well broadcasted to the people with commentaries from MFA legal

experts. In fact, the NSC also favored the formation of the information operation center under the management of the MFA to provide accurate information.

Furthermore, when the ICJ delivered its ruling, the Court affirmed that it has jurisdiction over the case and adjudicated that Thailand has the obligation to withdraw from Cambodia's territory. At the same time, the Court defines Cambodia's territory as within the limit of the promontory of Preah Vihear where the promontory is marked in accordance to the Annex I Map to the north and the two countries shall negotiate the territorial line for the area to the west. In line with the NRC of international collaborator, the role of the MFA was prominent in trying to reassure the public that Thailand had also won in the ICJ's interpretation. While the opposing public opinion and the reluctance prevalent in the parliament pressed the Prime Minister to affirm that the government would not implement the ICJ's judgment without a parliamentary decision, the ruling did not incite hostilities. In addition, the MFA's publicity of the workings of international affairs in the dealings of the Preah Vihear case and the accentuation of the issue as complicated and sensitive provide resuscitation to the recognition of MFA's professional skills and the ministry's sense of autonomy.

Chapter 8

Conclusion

In this dissertation, to shed light on Thailand's action in the Preah Vihear dispute, firstly, the MFA is studied to understand its perceptions of the roles the country should take or the national role conceptions (NRCs) in international affairs. Secondly the sources of those conceptions are identified. Thirdly, the policy options the MFA perceived as viable to the situations translated from the NRCs are explicated. Fourthly, the various phases of governmental politics, especially between the years 2008 and 2013 are explored and unraveled to see the different forms of action channels. Lastly, the policy outcomes in each phase of the dispute are scrutinized to grasp the influence of the MFA.

The Thai Ministry of Foreign Affairs (MFA), like other foreign ministries in the world, is considered as a core institution of the government that deals with the promotion and protection of state's interests in the external environment. The tasks accorded to the foreign ministries principally encompass the actions of diplomacy. As Yolanda K. Spies describes, there is a discernable notion of diplomatic culture or "the idea that diplomacy in practice cultivate a kind of supra-culture, socio-professional layer that transcends the individual cultures, religion, ethnicity or political persuasion of individual diplomats."¹ Therefore, the elements crucial to the

¹ Spies, *Global Diplomacy and International Society*, 255.

formation of NRCs and policy options are substantially accentuated in accordance to the inscribed organizational tasks and professional culture of the MFA.

As stipulated in role theory, its analysis focuses on the examination of national role conceptions. NRCs are social constructions of “the policy-makers’ own definitions of the general kinds of decisions, commitments, rules and actions suitable to their state, and of the functions, if any, their state should perform on a continuing basis in the international system or in subordinate systems.”² The perceptions, values, and attitudes of the actor occupying a position formulate the NRCs and they become the crucial independent variables explaining the role performance of the national actor. Therefore, the MFA’s NRC is determined by the MFA’s approach to its own roles that equals to the different importance given by the organization to material and ideational elements with internal and external origins of foreign policy orientation.

In accordance to the organizational characteristics of the MFA, there is propensity for cooperation and importance given to external sources of foreign policy formulation. In the course of fifty-four years of the Preah Vihear dispute, the swings of the NRCs of ally and rival in Thailand’s bilateral relations with Cambodia can be identified. Also, there is the constant NRC of international collaborator, which connotes a government that envisages its role to have far-reaching commitments to cooperative efforts in and support for the international community.

² Holsti, "National Role Conceptions in the Study of Foreign Policy", 245-46.

In bilateral relations, while the institutionalized tasks of diplomatic service are put into consideration, external conditions are prominent determinants of the MFA's NRC. Firstly, this can be seen in the period prior to the first Preah Vihear case at the ICJ. In the atmosphere of rising tensions after Thailand occupied the Preah Vihear Temple, there were attempts of negotiations by Foreign Minister Thanat Khoman. Nevertheless, when the Thai Cabinet rejected the proposal for cooperative solutions, the MFA did not present insistence to pursue the path of cooperation. Apart from the decision-making power predominated by the military, the events also coincided the environment of the rising Cold War competition.

Secondly, during and after the political swings of the 1970s, the MFA's approaches to Cambodia were based on the changes in the external environment, given that the institutional diplomatic disposition is held constant. In the 1970s, Thailand faced the unpredictability of the US role as a guarantor of security and there was a period of détente in the international Cold War arena. The NRC pressed forward by the MFA became one of ally towards the Khmer Rouge. In fact, when the United States pursued the policy of Vietnamization in the late 1960s, Thanat began gearing Thailand to initiate limited relations with the communist states, as seen in the case with the PRC. While the attempt by Foreign Minister Thanat was deterred under Thanom's leadership, the shift in Thai foreign policy after 1973 was possible due to the intermission from military rule and the conducive popular pressure of the time.

Then, the NRC changed back to be one of rival during the Prem Government. The military was ushered back into the political scene in 1976. Under General Prem, Thailand witnessed the period of semi-democracy that provided the military with reserved position in Thai parliamentary politics. However, the MFA had an active role in foreign policymaking due to Foreign Minister Siddhi Savetsila's close ties with the military leader and the NSC. The NRC of rival and Thailand's antagonistic relations with the People's Republic of Kampuchea (PRK) was well attributed to the ending of the détente and immediate threat from the Vietnamese-dominated neighbor.

Thirdly, when the Cold War ended in the early 1990s, the NRC of ally came to the fore as traditional security threats were superseded by the gains from economic linkages. This external condition stood well into the new millennium. Domestically the condition was coupled with the phase of civilian rule that began with Prime Minister Chatichai Choonhavan, in which business interests in electoral politics favored economic liberalization. In spirit of cooperation, border affairs between the countries observed the establishment of the GBC, RBC and joint development plains. Also, in line with the MFA's organizational mission, the domestic ideational approach of "depoliticization of boundary dispute" had taken hold within the ministry. Concerning the Preah Vihear Temple complex, the external ideational element in part of the legal constraint of the ICJ's ruling in 1962 was taken into account. This include the acknowledgement that the ICJ has awarded the sovereignty over the to Cambodia, the Court's integration of the map into its

reasoning in the 1962 ruling, and that the revision of the case cannot be made after 10 years. Therefore, after the establishment of the JBC, the Thai MFA orchestrated the signing of the MoU 2000 that was reiterated with the TOR in 2003. Moreover, even after Cambodia's nomination of the Preah Vihear Temple to the WHC in 2008, the MFA continued to favor collaborative efforts between the two countries, as seen in the resultant joint communiqué.

Nonetheless, while the MFA's NRC of ally predominated since the 1990s, it is stirred at times of heightened nationalist sentiments among the public. Evidently, the effect is observable during the government of Abhisit Vejjajiva. The MFA under Foreign Minister Kasit displayed restrained stance based on the organizational institutionalized tasks and external sources of foreign policy orientation, which included the existence of MoU 2000 and the JBC platform as bilateral mechanisms. During times of nationalist incitements, the MFA's NRC of ally was altered. When former Prime Minister Thaksin was appointed as Cambodia's economic advisor, the MFA severed diplomatic relations with Cambodia. The MFA's actions inhibited the ministry's ability to manage external relations and were incompatible to its core organizational function. Moreover, Thailand's gains in economic interests were compromised. Then, when another nationalist eruption occurred as the PAD group trespassed into Cambodia and discontent against the MFA's initial conciliatory stance was rampant, the MFA displayed a change of standpoint. The ministry appeased the group with an aggressive measure by requesting that Cambodia demolish its temple

that was built in the disputed area. The action further closed the doors to the possibility of bilateral cooperation with Cambodia beneficial to Thailand, especially in light of the ICJ Statue and the reasoning in the 1962 ICJ's ruling. Nationalist public opinion therefore counteracted MFA's task of diplomatic service and pragmatism in its dealings of external affairs.

In conjunction, the autonomy of the MFA must be taken into account. While the MFA is one of Thailand's oldest state agencies, its autonomy was increasingly called into question in the past decade. As described by Pavin Chatchavalpongpun,

Some people may call it the "twilight zone" or "wonderland". But one has to concede the Foreign Ministry is the only state agency that has for a long time, enjoyed a high level of autonomy since its establishment over a century ago. Traditionally, it has managed to stay above politics. It has been left largely untouched by successive governments of varying guises, ranging from the most despotic to the democratic. It's only recently that the Foreign Ministry has fallen into the pit of political conflict. Never before has it been turned into a playground for fierce political competition.³

Since the administration of Thaksin Shinawatra, there were changes to the ministry's operation as the policymaking structure was under the helm of the majority TRT party. To accommodate the government's assertive foreign policy direction and to increase bureaucratic efficiency, the CEO managerial scheme was implemented in foreign policymaking. While the remodeling of the operating procedures enhanced the MFA's posture, the ministry also became subjected to the responsibility of

³ Pavin Chatchavalpongpun, "A sad state of affairs at the Thai Foreign Ministry", *Bangkok Post* (Bangkok), 2 March 2009.

executing policy directions pressed forward from the governing politicians and the political domain. While the MFA became exposed to the domain of politics, the advancements in the Thai-Cambodian border affairs spearheaded by the ministry were well in line with the direction of Thaksin-dominated administrations. Despite interference in the transfer of Virachai Plasai, the director general of the Treaties and Legal Affairs Department, which was in the matter related to the classified documents of the Asset Scrutiny Committee's investigation of Thaksin. After the ouster of Thaksin, the Thai political scene was dominated by opposing factions. When Abhisit's administration was installed as a result to the anti-Thaksin and nationalist movement, a fervent critic of the past government was appointed as the foreign minister. Thereafter, the MFA's authoritative positions dealing with the Preah Vihear dispute were reshuffled with personnel who Foreign Minister Kasit could oversee and trust to have agreeable beliefs and political direction. Then, officials were again reshuffled after the election of Yingluck Shinawatra. The new government's direction in Thai-Cambodian relations corresponded more to the organizational disposition of the MFA, still the government was politically motivated to retain the Thai ICJ team installed by the previous administration.

Significantly, albeit the shifts in the MFA's NRC in Thailand's bilateral relations with Cambodia, the NRC of international collaborator nevertheless remained constant. Firstly, after the ICJ's ruling in 1962, while the MFA's NRC towards Cambodia was one of rival and despite the minimum area indicate to withdraw the

Thai troops and the statement of reservation, the MFA earnestly pressed forward for the government's acquiescence to the Court's decision. At the time, the material external condition revealed the US overt support for Cambodia and Cambodia's closer relations with the PRC. Moreover, the ideational external elements of Thailand's obligations under the U.N. Charter and the country's standing in the international community were crucial in view of the MFA.

Secondly, during the administration of Prime Minister Chartchai, the end of Cold War politics was unfolding. The MFA still maintained the NRC of rival and avoided bilateral engagement with the PRK. This was despite the change of tone in the Thai domestic atmosphere and the increase of business interests in politics with preference for economic liberalization. That was because the MFA had engaged ASEAN in its policy during the administration of Prem by which rapprochement with the PRK could be considered as a disregard and jeopardy to the ASEAN efforts that had perceived headway.

Thirdly, in regards to UNESCO's WHC, the MFA's displayed ardent efforts to assure the understanding of Thailand's stance from the WHC members. Furthermore the MFA expressed disagreement of Thailand's direction to object the WHC's inscription of the Preah Vihear Temple and Thailand's withdrawal from the World Heritage Convention; the MFA officials perceive that the WHC member's decisions were based on the principal of preservation as opposed to territoriality that is clearly stipulated in Article 11 Section 3 of the Convention.

Fourthly and notably, bilateral negotiations with Cambodia were strongly prioritized by Thailand. In part, this is related to Gregory Raymond's observation that, "the Preah Vihear/Phra Viharn crisis was diplomatically difficult for Thailand, which was accustomed to playing the role of a small country in a world of superpowers. But Cambodia usurped the position of small state. This let Thailand nervous that it would be portrayed as the bully, and concerned that it would lose the battle for public opinion."⁴ At times, in the years 2008 to 2011, Cambodia attempted to interlace the dispute to the UNSC, U.N. General Assembly, ASEAN, and the ICJ. Albeit to convince the international community on the sufficiency of the existing Thai-Cambodian bilateral channels, the MFA participated in all of the platforms mentioned by Cambodia. When the bilateral solutions had been exhausted under the given circumstances, the MFA's stance was to comply with the demands of the international organizations. This can be seen in the UNSC's and the ICJ's support for the intervention of ASEAN. While the Thai military found concerns in the material external condition, the MFA stressed on the ideational external factor for its policy formulation. The Thai military was skeptical of foreign intervention because they gave weight to the perception that Cambodia has the military backing of the major powers in the dispute and has close military relations with Indonesia. However, the MFA emphasized Thailand's participation as a member of the international organizations

⁴ Raymond, *Thai Military Power A Culture of Strategic Accomodation*, 204.

and community. The MFA's line of thought can also be seen in the ministry's support for the acceptance of the ICJ's ruling in 2013.

When the MFA's NRC are translated into policy options, the policy outcomes depend on the interplay in governmental politics of the time. As stipulated in the hypothesis, Thailand's foreign policy does not represent the NRC held by the MFA when governmental politics is high in confrontation and the MFA possess low influence in the action channel. The following Figure 5 and Figure 6 are timelines that illustrate the types of governmental politics and the MFA's NRCs in the different periods related to the Thai-Cambodian relations and the Preah Vihear dispute discussed in this work.

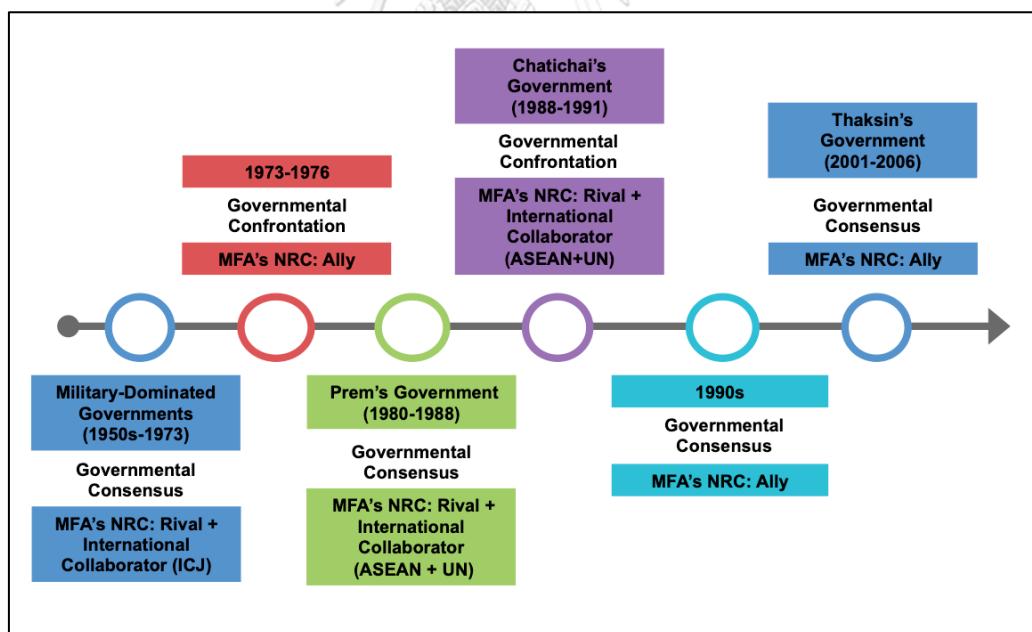


Figure 5: Timeline of Thailand's Governmental Politics and the Ministry of Foreign Affairs' National Role Conceptions Concerning the Thai-Cambodian Relations from the 1950s to the Period of Thaksin Shinawatra's Government.

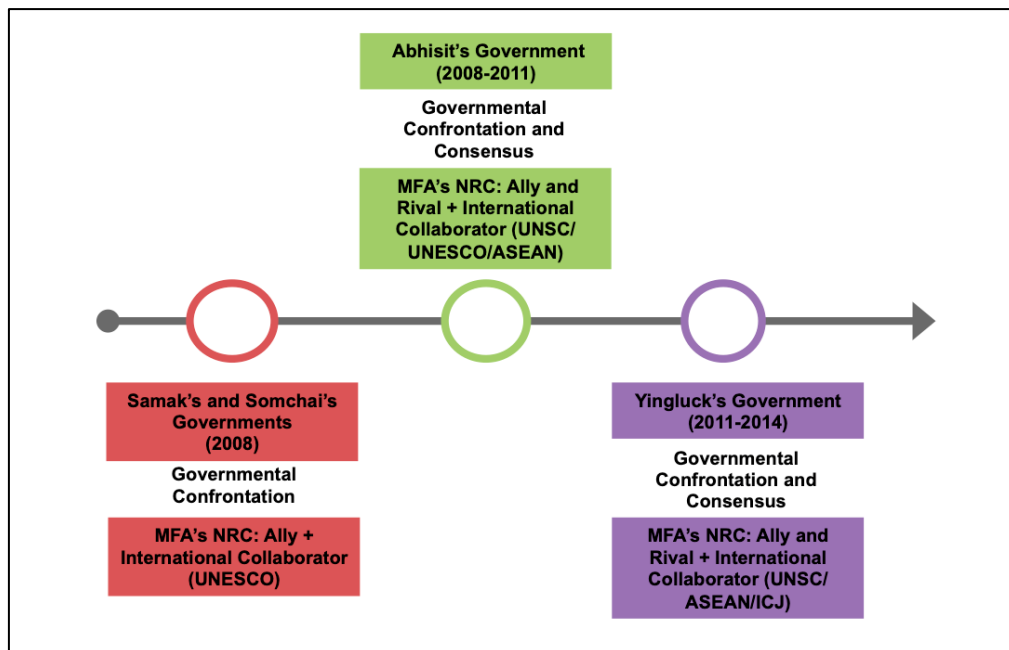


Figure 6: Timeline of Thailand's Governmental Politics and the Ministry of Foreign Affairs' National Role Conceptions Concerning the Thai-Cambodian Preah Vihear Dispute from the Period of Samak Sundaravej's Government to the Period of Yingluck Shinawatra's Government.

With the focus on the Preah Vihear conflict that resurfaced in the years 2008 to 2013, the observations are as follow. To begin, in the 1990s to the mid-2000s, the MFA's NRC of ally procured; the JBC was created and the MoU 2000 and the TOR 2003 was signed. The documents, as opposed to the steadfast stance held after the ICJ ruling in 1962, recognize that there are overlapping claims between the two countries to foster negotiations. In the 1990s, with the military to an extent sidelined and the frequent changes in premierships, the civil officials in the MFA are major actor in the conduct of border affairs. Then, as aforementioned, in the years of the administration of Thaksin, with the change towards the centralization of the action

channel under the dominant TRT party, consensus was maintained in the dealings in the Preah Vihear dispute.

It was in the year 2008 that changes in governmental politics were apparent. With the MFA's NRC of ally, the ministry advocated cooperation even though Cambodia unilaterally nominated the Preah Vihear Temple and the surrounding area. The MFA only objected the Cambodia's inclusion of the map that encompassed the obscured territory and aimed for the countries to come to an agreement on the disputed area. There was agreement in the direction of the MFA among the governmental agencies involved. However, when the joint communiqué culminated, the anti-Thaksin civil society network found its nationalist voice. The oppositions were primarily against negotiations that acknowledge the overlapping claims. Confrontation in the action channel surfaced alongside the new procedures proclaimed in the 2007 Constitution. The newly inaugurated 2007 Constitution imposed more procedures and actors into the foreign policy action channel. The Constitution entrusts the parliament with augmented authority associated to treaty-making and requires that international agreements with character of a treaty be approved by the parliament prior to negotiations and after they have been signed. Also, the judicial branch that concurred with the post-coup order garnered increased authority in political matters. The opposition party and portion of the senate responsive to the nationalist viewpoints alleged the joint communiqué as a conduct of constitutional violation. Henceforth, the courts imposed an injunction on the joint

communiqué and later declared the document unconstitutional, with the MFA's clarification efforts ineffectual. The weakened influence of the MFA, in contrast to the new actors in foreign policymaking, inhibited the manifestation of the MFA's NRC of ally. Also, the NRC of international collaborator was not realized as the MFA was forced to withdraw Thailand's given support to Cambodia's nomination in the WHC.

Subsequently, when tensions engulfed the Thai-Cambodian relations after the inscription of the Preah Vihear Temple, the Thai MFA, with support from the security agencies, maintained the stance of the restraint on the use of force. Nevertheless, the confrontational governmental politics bolstered by the 2007 Constitution prevailed with the presence of parliamentary opposition. Together with the nationalist civil society, they hindered the MFA's line of action. Although the JBC platform was forwarded by the MFA for the advancement in border settlement negotiations, its policy option for the NRC of ally did not sufficiently materialize. As the parliamentary approval for the negotiation framework was needed, the delay of parliamentary approval thus escalated the conflict between Thailand and Cambodia and armed clashes eventuated. (See Figure 7.)

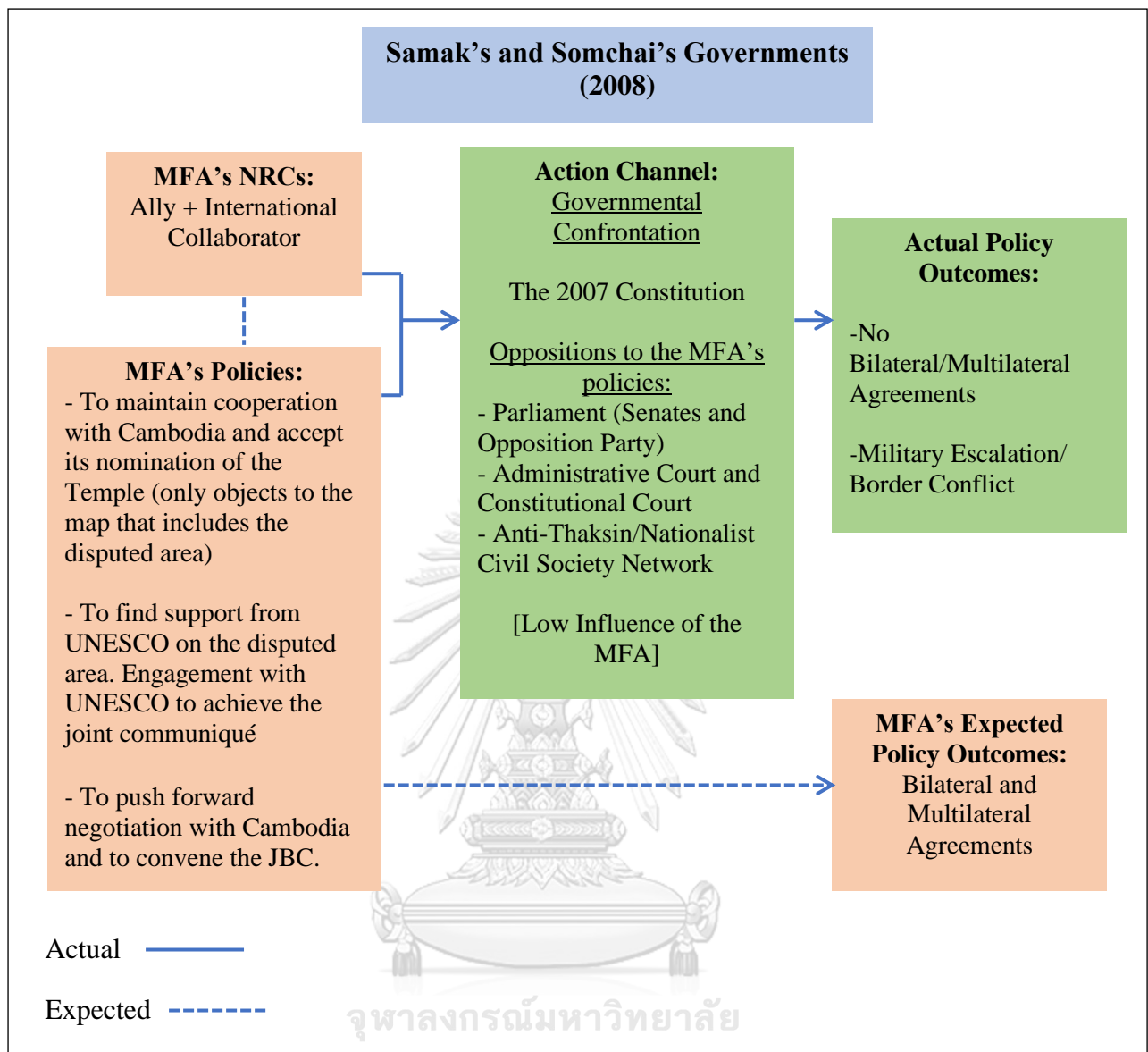


Figure 7: Diagram of the MFA's NRCs and Policies through Governmental Politics on the Preah Vihear Dispute during the Governments of Samak Sundaravej and Somchai Wongsawat

When Abhisit assumed premiership, the NRCs of ally and rival were at times held by the MFA. The MFA continued to advocate cooperative measures with Cambodia by adhering to the MoU 2000 and promoting the JBC platform for negotiations. It was again met by the parliament with the opposition Pheu Thai party and portion of the senates that played on nationalist sentiments prevalent in the civil society. The three JBC minutes took almost two years to receive a green light from the Thai parliamentary process. Concurrently, during the heights of nationalism, the MFA's NRC towards Cambodia shifted to rival. While the shift was rather unopposed in the policymaking circle, the move negated the ministry's own role and its influence in the dealings in international affairs was further curtailed. At the same time, the NRC of international collaborator was constantly pushed forward by the MFA. It resulted in the MFA's policy preference for the acquiescence to the entry of Indonesian observers based on the UNSC's call for ASEAN mediation as well as the stance to cooperate along the lines of the WHC. Yet, the MFA's NRC was not realized through the action channel. The military's strong objection to the Indonesian observers was retained, as the military has proven to reign supreme in security affairs, to be a monumental force in Thai politics, and as well to be under pressure from the nationalist civil society groups. (See Figure 8.)

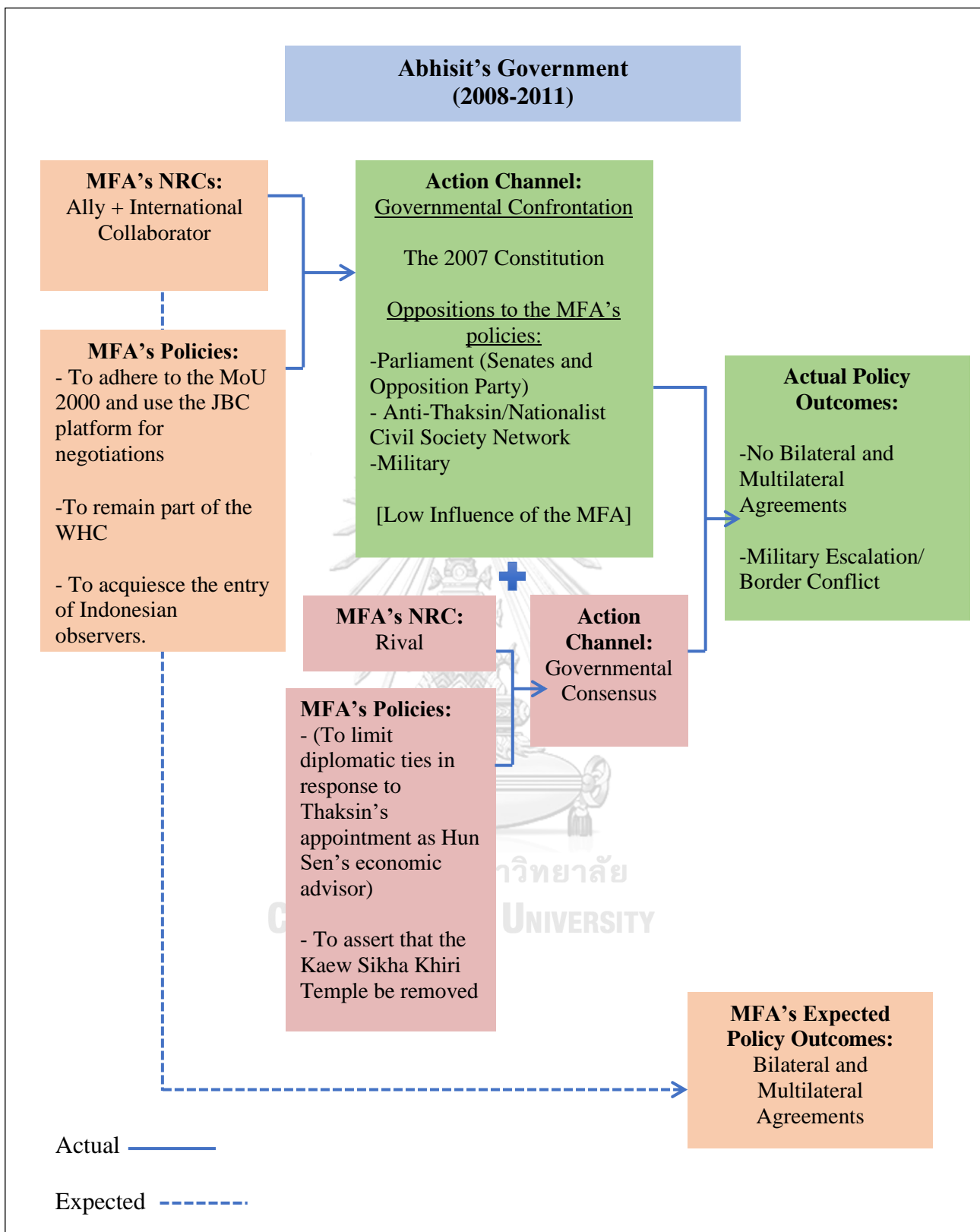


Figure 8: Diagram of the MFA's NRCs and Policies through Governmental Politics on the Preah Vihear Dispute during the Government of Abhisit Vejjajiva

Moreover, Foreign Minister Kasit voiced his opposition to Thailand's plan to object the WHC's inscription of the Preah Vihear Temple. However, the MFA's opposition was ineffectual due to the nationalist impact and the diminished role of the ministry. And significantly, as previously mentioned, the ministry was subsumed by politics in the recent decade. The cooperative stance was to an extent muted as the former opposition party, now the government, had pressured the previous administration against the act. For instance, the Democrat's opposition preceded former Foreign Minister Noppadon's withdrawal of Thailand's support for the inscription of the temple at the 32nd session of the WHC. Additionally, the fact could be seen to constrain much public diplomacy in part of the MFA during Abhisit's administration. Although noteworthy, in the case of Thailand's withdrawal from the WHC membership, the MFA was able to delay and eventually halt its implementation by Yingluck's administration.

With the commencement of Yingluck's government in 2011, the governmental politics was less confrontational. There was relative accommodation in the Thai civil-military relations. Although the military was steadfast in its objection to the acceptance of the ICJ's provisional measures that as well reiterated the UNSC recommendation, compromise was evident. Given that the MFA's NRC of international collaborator led to the appeal for the military to satisfy the ICJ's command, the military displayed some gesture of observance to international principles albeit to delay the undertaking.

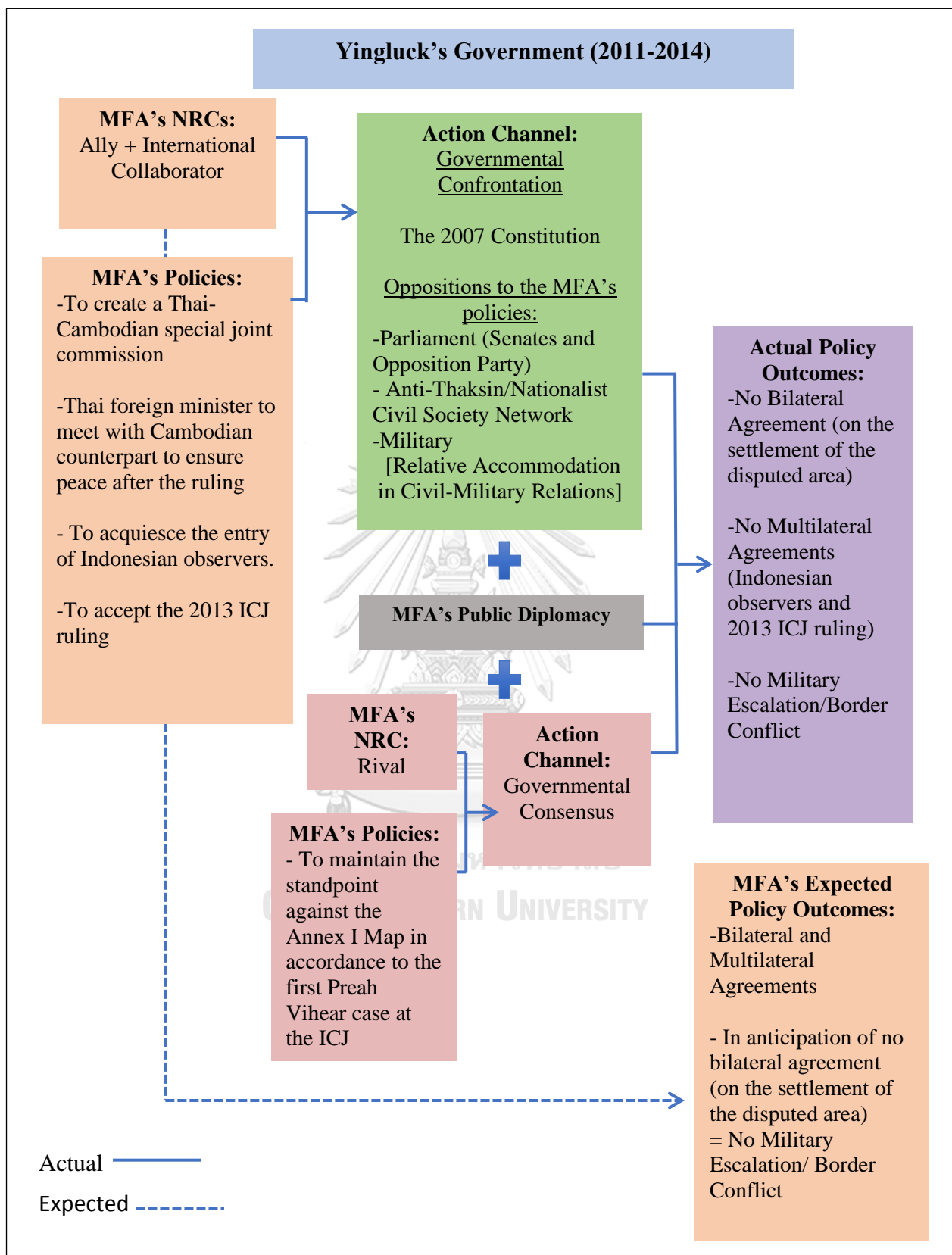


Figure 9: Diagram of the MFA's NRCs and Policies through Governmental Politics on the Preah Vihear Dispute during the Government of Yingluck Shinawatra.

In the Thai-Cambodian relations, the NRC of ally resumed with the installation of the new government. Nevertheless, in the legal battle concerning the Preah Vihear dispute, the NRC of rival was maintained, as the team installed under the directorship of Foreign Minister Kasit was not altered. While bilateral solutions were preferred, when the option was exhausted, the team pressed forward an unyielding position under the frame of the 1962 case at the ICJ. That was, apart from claiming that the Court did not have jurisdiction to interpret the 1962 ruling, the legal team attacked the validity of Cambodia's claim to substantiate the Annex I Map. At the time, the MFA legal team was given full support by the government as opposition from the Democrat party was pacified. Also, in accordance to the MFAs NRC of ally in the Thai-Cambodian relations, to prevent the eruption of hostility between the two countries, Thai-special joint commission and meeting between Foreign Minister Surapong and his Cambodian counterpart, Hor Namhong, were initiated. (See Figure 9.)

In this period, confrontation emanated from the civil society network and within the parliament. While the MFA's NRC of international collaborator ensued the acceptance of the ICJ's jurisdiction, the counterforce demanded the contrary. In order to implement the ministry's direction towards cooperation with Cambodia and for the general acceptance of the ICJ's ruling, ardent public diplomacy was pursued by the MFA. In fact, the governmental agencies like the military and the NSC also favored the formation of the information operation center under the

management of the MFA to provide accurate information. Henceforth, the MFA provided the public with access to information and broadcasts relevant to the Thai-Cambodian Preah Vihear dispute, providing a glimpse of the international domain to the domestic domain. The implementation of the NRC of international collaborator was not fully accomplished as the opposing public viewpoints and the reluctant parliament pressed the Prime Minister to affirm that the government would not comply with the ICJ's judgment without a parliamentary decision. Nevertheless, the ICJ result did not give fuel to hostilities within Thailand and Cambodia.

All in all, the research presented another expansion of the avenue in the employment of role theory and the governmental politics approach to the case outside of the western hemisphere. That is, to investigate Thailand's foreign policies pertaining to the Thai-Cambodian border dispute. Also, with the focus on the MFA, the study of NRCs can be aimed at particular agencies from which there can be vertically-contested roles and horizontally-contested roles within the state. For the MFA, the organizational characteristics of the ministry conduced the propensity for cooperative national role conception. At the same time, as the agency dealing with foreign affairs, the material and ideational in the external environment were important determinants of the MFA's NRC. Nevertheless, the nationalist public opinion had proven to impact the MFA's conception. Concurrently, the decline in the ministry's autonomy at times counteracted its organizational standpoint in task of diplomacy and pragmatism in the dealings of external affairs.

Whether the MFA's NRC is translated to actual policy outcomes, it depended on the MFA's influence in the action channel of the time. In relations to the governmental politics, the case of Thailand demonstrates that there can be different degrees of governmental/bureaucratic politics in the policymaking structures and processes. In the various periods covered, Thai governmental politics shifted between governmental consensus and governmental confrontation. Meanwhile, in different government situations, the ability of the MFA to push forward the realization of its NRC through the action channel waxed and waned in relations to the influences of other governmental agencies and actors residing broader in the political game. In conclusion, it is presented in this dissertation that while the policymakers' role conceptions are translated into the state's actions, the role conceptions are not monolithic. Additionally, Thailand's foreign policies do not represent the national role conceptions held by the MFA when governmental politics is high in confrontation and the MFA possesses low influence in the action channel.

In final thought, after the military coup in the year 2014, cooperation with Cambodia continued. At the same time, until the time of writing, no developments have been made in the settlements upon the area surrounding the Preah Vihear complex. Prawit Wongsuwan, the former minister of defense and current deputy prime minister, had remarked that the Thai-Cambodian relations is currently agreeable and there is yet to be plans for discussion with Cambodia in regards to the

issue of the Preah Vihear directed by the ICJ's ruling.⁵ After the ICJ's ruling in 2013, border settlement negotiations were and are postponed, as the issue of territoriality is susceptible to nationalist incitements in both countries.⁶ The question is whether the issue will forever be swept under the carpet. Or, negotiations over the remaining overlapping claim will resume and the third Preah Vihear conflict is a possibility, as Cambodia maintains its adherence to the Annex I map and Thailand has again overtly rejected the validity of the map. Especially, when the current NRC in the Preah Vihear border settlement is one of rival and progress can only occur when there is mutually accepted agreement to negotiate. Especially, when heightened nationalist sentiments in public opinion had proven to inhibit the MFA's organizational stance in favor of diplomatic service and pragmatic assessment of external affairs. Especially, when the autonomy of the MFA was called into question and became susceptible to the direction of governing politicians and the domestic political realm. And especially, when domestic actors in and outside of parliament have substantial influence in the action channel for the making of foreign policy.

⁵ "'Bik Pom' nam thim thok chi bi si Thai - Kamphucha pat khui khao Phrawihan yan mai mi nok rop ", ['Big Pom' leads the team to discuss Thai-Cambodian GBC. Rejects unofficial talk of Preah Vihear], *Thairath*, March 29 2017, <https://www.thairath.co.th/content/898956>.

⁶ Touchayoot Pakdi (former Thai ambassador to Phnom Penh and border expert, MFA), interviewed by author, Bangkok, August 16, 2018.

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APPENDICES



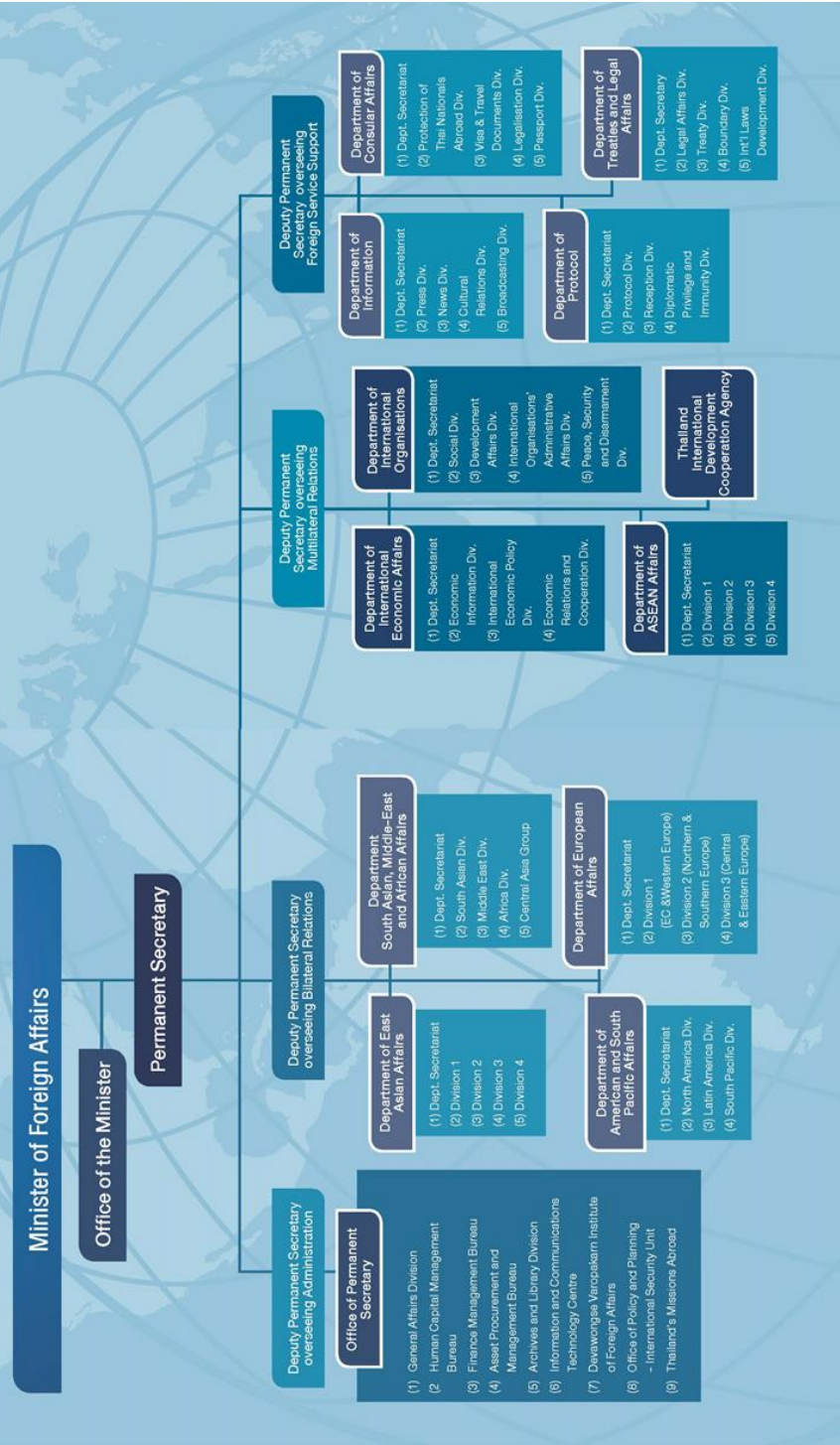
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Appendix A

Ministry of Foreign Affairs' Organizational Chart⁷⁵³

⁷⁵³ MFA, *Annual Report 2012*, 8-9.

Organization Chart



Appendix B

Thailand's Timeline of Prime Ministers and Foreign Ministers⁷⁵⁴



⁷⁵⁴ "History of Thai Prime Ministers," [The Secretariat of the Cabinet, 2018, accessed 3 March, 2020, http://www.soc.go.th/eng/bb_main21.htm; "Lamdap Khwam Pen Ma Khong Khanaratthamontri Thai " [Timeline of the Thai Cabinet], The Secretariat of the Cabinet, 2018, accessed 3 March, 2020, http://www.soc.go.th/bb2_main11.htm; "Names of Past Foreign Ministers," [Ministry of Foreign Affairs of the Kingdom of Thailand, 2014, accessed 3 March, 2020, <http://www.mfa.go.th/main/en/organize/19299-Names-of-Past-Foreign-Ministers.html>].

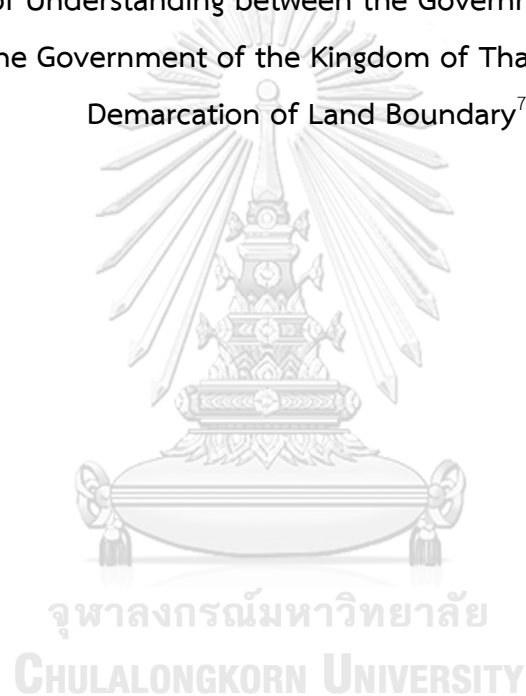
Prime Minister	Period in office	Foreign Minister	Period in Office
Phraya Manopakorn Nitithada	28 June 1932- 21 June 1933	Phraya Sri Visarn Vacha	29 June 1932 – 24 June 1933
General Phraya Phahon Phonpayuhasena	21 June 1933 – 16 December 1938	Phraya Abhibal Rajamaitri	1 September 1933 - 22 September 1934
"	"	Phraya Paholpolpayuhasena	22 September 1934 - 1 August 1935
"	"	Phraya Srisena	1 August 1935 – 12 February 1936
"	"	Pridi Banomyong	12 February 1936 - 21 December 1938
Field Marshal Plaek Phibunsongkhram	16 December 1938 - 1 August 1944	Jitt Na Songkhla	21 December 1938 - 14 July 1939
"	"	Field Marshal Plaek Phibunsongkhram	14 July 1939 – 22 August 1942
"	"	Direk Jayanama	22 August 1941 – 14 December 1941
"	"	Field Marshal Plaek Phibunsongkhram	15 December 1941 - 19 June 1942
"	"	Vichit Wichitwathakan	19 June 1942- 18 October 1943
"	"	Direk Jayanama	20 October 1943 – 1 August 1944
Major Kuang Abhaiwongse	1 August 1944 – 31 August 1945	Srisena Sampatisiri	2 August 1944 - 31 August 1945
Tawee Punyaketu	31 August 1945 – 17 September 1945	Tawee Punyaketu	31 August 1945 – 17 September 1945
M.R. Seni Pramoj	17 September 1945 - 30 January 1946	M.R. Seni Pramoj	17 September 1945 - 24 March 1946
Major Kuang Abhaiwongse	31 January 1946 - 24 March 1946	"	"
Pridi Banomyong	24 March 1946 – 23 August 1946	Direk Jayanama	24 March 1946 – 6 February 1947
Rear Admiral Thawan Tamrongnawasawat	23 August 1946 – 8 November 1947	Rear Admiral Thawan Tamrongnawasawat	6 February 1947 – 31 May 1947
"	"	Attakij Banomyong	31 May 1947 – 11 November 1947
Major Kuang Abhaiwongse	10 November 1947 - 8 April 1948	Phya Sri Visan Vacha	12 November 1947 - 15 April 1948
Field Marshal Plaek Phibunsongkhram	8 April 1948 – 16 September 1957	General Priditheppong Tewakul	15 April 1948 – 29 June 1949
"	"	Field Marshal Plaek Phibunsongkhram	29 June 1949 – 13 October 1949
"	"	Pote Sarasin	13 October 1949 –

			1 March 1950
"	"	Worakarnbancha (Boongerd Sutantanont)	1 March 1950 – 28 March 1952
"	"	H.R.H Prince Naradhip Bongsarabandh	28 March 1952 – 20 October 1958
Pote Sarasin	21 September 1957 - 1 January 1958	"	"
Field Marshal Thanom Kittikachorn	1 January 1958 – 20 October 1958	"	"
Field Marshal Sarit Thanarat	9 February 1959 – 8 December 1963	Thanat Khoman	10 February 1959 - 17 November 1971
Field Marshal Thanom Kittikachorn	9 December 1963 - 14 October 1973	"	"
"	"	Charunpan Israngkul Na Ayuthaya	17 November 1971 - 18 December 1972
"	"	Field Marshal Thanom Kittikachorn	19 December 1972 - 14 October 1973
Sanya Dharmasakti	14 October 1973 - 15 February 1975	Charunpan Israngkul Na Ayuthaya	16 October 1973- 21 February 1975
M.R. Seni Pramoj	15 February 1975 - 14 March 1975	Bhichai Rattakul	21 February 1975 - 14 March 1975
Major General M.R. Kukrit Pramoj	14 March 1975 – 20 April 1976	General Chatichai Choonhavan	17 March 1975 – 21 April 1976
M.R. Seni Pramoj	20 April 1976 – 25 September 1976	Bhichai Rattakul	21 April 1976 – 6 October 1976
Thanin Kraivixien	8 October 1976 – 20 October 1977	Upadit Pachariyangkul	22 October 1976 - 11 February 1980
General Kriangsak Chomanan	11 November 1977 - 3 March 1980	"	"
General Prem Tinsulanonda	3 March 1980 - 4 August 1988	Air Chief Marshal Siddhi Savetsila	11 February 1980 - 26 August 1990
General Chatichai Choonhavan	4 August 1988 – 23 February 1991	"	"
"	"	Subin Pinkayan	26 August 1990 – 14 December 1990
"	"	Arthit Ourairat	14 December 1990 - 23 February 1991
Anand Panyarachun	2 March 1991 - 7 April 1992	Arsa Sarasin	6 March 1991 – 21 April 1992
General Suchina Kraprayoon	7 April 1992 – 10 June 1992	Pongpol Adireksarn	22 April 1992 – 15 June 1992
Anand Panyarachun	10 June 1992 – 23 September 1992	Arsa Sarasin	15 June 1992 – 23 September 1992
Chuan Leekpai	23 September 1992 - 13 July 1995	Prasong Soonsiri	2 October 1992 - 25 October 1994
"	"	Thaksin Shinawatra	25 October 1994 -

			10 February 1995
"	"	Krasae Chanawongse	16 February 1995 - 19 May 1995
Banharn Silapa-Archa	13 July 1995 – 25 November 1996	M.R. Kasem S. Kasemsri	20 May 1995 – 27 May 1996
"	"	Amnuay Viravan	28 May 1996 – 14 August 1996
General Chavalit Yongchaiyudh	25 November 1996 - 9 November 1997	Prachuab Chaiyasan	29 November 1996 - 24 October 1997
Chuan Leekpai	9 November 1997 - 9 February 2001	Surin Pitsuwan	14 November 1997- 17 February 2001
Thaksin Shinawatra	9 February 2001 - 19 September 2006	Surakiart Sathirathai	17 February 2001 - 10 March 2005
"	"	Kantathi Suphamngkhon	11 March 2005 – 18 September 2006
General Surayud Chulanont	1 October 2006 – 29 January 2008	Nitya Pibulsonggram	8 October 2007 – 6 February 2008
Samak Sundaravej	29 January 2008 – 8 September 2008	Noppadon Pattama	6 February 2008 – 23 July 2008
"	"	Tej Bunnag	26 July 2008 – 3 September 2008
"	"	Saroj Chavanaviraj	7-9 September 2008
Somchai Wongsawat	18 September 2008 - 2 December 2008	Sompong Amornvivat	24 September – 2 December 2008
Abhisit Vejjajiva	17 December 2008 - 5 August 2011	Kasit Piromya	20 December 2008 - 9 August 2011
Yingluck Shinawatra	5 August 2011 – 7 May 2014	Surapong Tovichaikul	9 August 2011 – 7 May 2014

Appendix C

Memorandum of Understanding between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on the Survey and Demarcation of Land Boundary⁷⁵⁵



⁷⁵⁵ *Memorandum of Understanding between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on the Survey and Demarcation of Land Boundary.*

MOU 2000

Memorandum of Understanding
between the Government of the Kingdom of Cambodia
and the Government of the Kingdom of Thailand
on the Survey and Demarcation of Land Boundary

THE GOVERNMENT OF THE KINGDOM OF CAMBODIA
AND THE GOVERNMENT OF THE KINGDOM OF THAILAND;

Desiring to further strengthen the existing bonds of friendship
between the two countries;

Believing that the demarcation of land boundary between the
Kingdom of Cambodia and the Kingdom of Thailand will help prevent
border conflicts arising out of boundary questions and will further strengthen
existing friendly relations between the two countries and facilitate the travel
and cooperation of the peoples along the border;

Recalling the Joint Communiqué of the Prime Ministers of the
Kingdom of Cambodia and the Kingdom of Thailand, dated 13 January
1994, in which it was agreed to establish the Cambodian-Thai Joint
Committee on Boundary in due course;

Recalling also the Joint Statement on the Establishment of the
Cambodian-Thai Joint Commission on Demarcation for Land Boundary,
dated 21 June 1997, in which it was agreed to establish the Cambodian-Thai
Joint Commission on Demarcation for Land Boundary, entrusted with the
task of placing markers in order to indicate the land boundary between the
two countries;

HAVE AGREED AS FOLLOWS:

Article I

The survey and demarcation of land boundary between the
Kingdom of Cambodia and the Kingdom of Thailand shall be jointly
conducted in accordance with the following documents:

(a) La Convention entre la France et le Siam modifiant les stipulations du Traité du 3 Octobre 1893 concernant les territoires et les autres Arrangements, signée à Paris, le 13 février 1904 (Convention between France and Siam modifying the Stipulations of the Treaty of the 3 October 1893, regarding Territorial Boundaries and other Arrangements, signed at Paris, 13 February 1904);

(b) Le Traité entre Sa Majesté le Roi de Siam et Monsieur le Président de la République Française signé à Bangkok, le 23 mars 1907 (Treaty between His Majesty the King of Siam and the President of the French Republic, signed at Bangkok, 23 March 1907) and le Protocole concernant la délimitation des frontières et annexé au Traité du 23 mars 1907 (Protocol concerning the delimitation of boundaries and annexed to the Treaty of the 23 March 1907); and

(c) Maps which are the results of demarcation works of Commissions de Délimitation de la Frontière entre l' Indo-Chine et le Siam (the Commissions of Delimitation of the Boundary between Indo-China and Siam) set up under the Convention of 1904 and the Treaty of 1907 between France and Siam, and other documents relating to the application of the Convention of 1904 and the Treaty of 1907 between France and Siam.

Article II

1. There shall be a Cambodian-Thai Joint Commission on Demarcation for Land Boundary, hereinafter referred to as "the Joint Boundary Commission", consisting of two Co-Chairmen and other members appointed by their respective Governments. The Adviser to the Royal Government in charge of State Border Affairs of the Kingdom of Cambodia and the Deputy Minister of Foreign Affairs of the Kingdom of Thailand shall be the Co-Chairmen. Appointments of other members shall be communicated between the two Governments within one month after the entry into force of this Memorandum of Understanding.

2. The Joint Boundary Commission shall hold its meeting once a year alternately in Cambodia and Thailand. If necessary, the Joint Boundary Commission may hold a special meeting to discuss urgent matters within its purview.

3. The terms of reference of the Joint Boundary Commission shall be as follows:

- (a) to be responsible for the joint survey and demarcation of land boundary in accordance with Article I;
- (b) to consider and approve the terms of reference and master plan for the joint survey and demarcation;
- (c) to determine the priority of areas to be surveyed and demarcated;
- (d) to assign the survey and demarcation works to the Joint Technical Sub-Commission as referred to in Article III and to supervise and monitor the implementation of the assignment;
- (e) to consider reports or recommendations submitted by the Joint Technical Sub-Commission;
- (f) to produce maps of the surveyed and demarcated land boundary; and
- (g) to appoint any sub-commission to undertake any particular task within its purview.

Article III

1. There shall be a Joint Technical Sub-Commission consisting of two Co-Chairmen and other members to be appointed by the respective Co-Chairmen of the Joint Boundary Commission.

2. The terms of reference of the Joint Technical Sub-Commission shall be as follows:

- (a) to identify the exact location of the 73 boundary pillars set up by Commissions de Délimitation de la Frontière entre l' Indo-Chine et le Siam (the Commissions of Delimitation of the Boundary between Indo-China and Siam) in the period of 1909 and 1919, and to report its findings to the Joint Boundary Commission for its consideration;

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26.5

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Memorandum of Understanding.

DONE in duplicate at Phnom Penh on 14 June 2000 in the Khmer, Thai and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

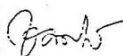
FOR THE GOVERNMENT OF
THE KINGDOM OF CAMBODIA

FOR THE GOVERNMENT OF
THE KINGDOM OF THAILAND



Var Kim Hong
Adviser to the Royal Government
in charge of State Border Affairs
of the Kingdom of Cambodia

M.R. Sukhumbhand Paribatra
Deputy Minister of Foreign Affairs
of the Kingdom Thailand



Appendix D

Deputy Prime Minister Hor Namhong's Letter to Foreign Minister Tej Bunnag
Concerning the Status of the Thai-Cambodian Joint Communiqué⁷⁵⁶



⁷⁵⁶ In Pooprasert, *Rai ngan Phon Kan Phicharana/Phon Kan Damnoenkan Khong Khanaratthamontri*

KINGDOM OF CAMBODIA



NATION - RELIGION - KING

*Deputy Prime Minister
Minister of Foreign Affairs
and International Cooperation*

Phnom Penh, 1 September 2008

*H.E. Mr. Tej Bunnag
Minister of Foreign Affairs
Kingdom of Thailand
Bangkok*

Excellency, Dear colleague

I have the honour to acknowledge receipt of your letter dated 25 August 2008, concerning the Joint Communiqué signed between Cambodia and Thailand on 18 June 2008.

In this regard, I would like to recall that during our working lunch in Siem Reap on 28 July 2008, talking about the said Joint Communiqué, I said that "it is not an international treaty", thus its value is worth what it is.

Taking this opportunity, I would like to refer to our 2nd Meeting in Hua Hin on 18-19 August 2008, during which we agreed to convene the 2nd meeting between the Cambodian Temporary Coordinating Task Force and the Thai Regional Border Committee on 29 August 2008. However, this planned meeting was postponed upon Thai request. With a view to maintaining the positive momentum and encouraging environment for a peaceful settlement to the border problems between our countries, I wish to seek your kind cooperation in holding this meeting as soon as possible, without much further delay, so as to expedite the removal of both sides' remaining troops from the region of Preah Vihear Temple.

I would like to further propose that the meeting between the Thai-Cambodian Joint Commission on Demarcation for Land Boundary (JCB) together with Thai and Cambodian legal experts be convened in early October 2008 as agreed during our 2nd meeting.

May I also assure Your Excellency of Cambodia's commitment and readiness to work closely with Thailand to amicably resolve all differences between our two countries and to further promote close ties of friendship between our nations.

Please accept, Excellency, the assurances of my highest consideration.

*H.E. Mr. Nam Hong
Deputy Prime Minister
Minister of Foreign Affairs
and International Cooperation*

VITA

- NAME** Ornthicha Duangratana
- DATE OF BIRTH** 23 March 1988
- PLACE OF BIRTH** Bangkok
- INSTITUTIONS ATTENDED** - Mahidol University International College (B.A. with First Class Honors in Social Science (International Studies))
- London School of Economics and Political Science (MSc. with Merit in Comparative Politics (Politics and Markets))
- HOME ADDRESS** 76/9 Soi Langsuan Ploenchit Rd. Pathumwan Bangkok 10330
- PUBLICATION** Duangratana, Ornthicha. "Dynamic Roles and Perceptions: The Thai Ministry of Foreign Affairs in the Temple Dispute." *International Journal of East Asian Studies* 23, no.1 (2019): 58-83.
- AWARD RECEIVED** - Mahidol University International College's Award for Outstanding Academic Performance in 2008 and 2009
- Thai Airways International's 'Varapat' Master's Degree Scholarship in 2010