

No. 56101/376



PERMANENT MISSION OF THAILAND
TO THE UNITED NATIONS
351 EAST 52ND STREET, NEW YORK, NY 10022

21 July 2008

Excellency,

Upon the instruction of my Government and with reference to the Letter of the Permanent Representative of the Kingdom of Cambodia to Your Excellency dated 18 July 2008 concerning Thai-Cambodia relations (S/2008/470), I have the honour to inform Your Excellency as follows:

1. The Kingdom of Thailand has always attached great importance to the cordial relations with the Kingdom of Cambodia, which is her close neighbour and family member of the Association of the Southeast Asian Nations (ASEAN). Like in all regions of the world, it is not unusual for countries sharing long common border to have border/boundary issue between them. Thailand and Cambodia are no exception to this. However, through friendly bilateral consultations and negotiations, every past challenge had been resolved amicably, which underlines the depth and strength of relations between our two countries. It is with this spirit and conviction that the Royal Thai Government approaches the issue regarding the area adjacent to the Temple of Preah Vihear. From the beginning, the Royal Thai Government is determined to seek a just and peaceful solution to this challenge through the existing bilateral consultative frameworks on the basis of friendship, goodwill and cooperation that long exist between our two Governments and peoples.

2. Consistent with the above spirit, both Prime Ministers of Thailand and Cambodia have already pledged utmost restraint and expressed their conviction in resolving the issue through existing bilateral consultations and negotiations. As the first step, the Special Session of the Thai-Cambodian General Border Committee (GBC) was convened in Sa Kaeo Province of Thailand on Monday 21 July 2008, the result of which has eased the tension and allowed the situation in the area to remain calm. Both sides also agreed to have further talks and the report of the GBC is now being

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scrutinized by the Prime Ministers of the two countries. Meanwhile, both Prime Ministers have also expressed their wish to convene as soon as possible the Thailand-Cambodia Joint Boundary Commission (JBC) in order to accelerate its work of surveying and demarcating the entire stretch of the Thai-Cambodian border so that similar problems will not arise in the future to affect the cordial relations between our two countries, and the peoples on both sides of the border can enjoy the full benefit of cooperation and prosperity.

3. The aforementioned position has received a clear and unanimous support from ASEAN of which both Thailand and Cambodia are members. In a statement by the ASEAN Chair dated 20 July 2008, ASEAN Foreign Ministers expressed their hope that the bilateral talks between Thailand and Cambodia will find a way to defuse the situation, and offered facilities to be placed at the disposal of the two countries concerned. Thailand welcomes the ASEAN Chair's statement calling for ASEAN solidarity and the early resolution of the issue.

4. Nevertheless, the Royal Thai Government is obliged to provide an account of facts on certain specific issues referred to in the above letter from the Permanent Representative of Cambodia as follows:

4.1 Regarding the issue of the area of "Keo Sikha Kiri Svava Pagoda" referred to in the above letter from the Permanent Representative of Cambodia, a fact should be noted that the area adjacent to the Temple of Preah Vihear, where the said Pagoda is situated, is part of Thailand's territory. Thailand's position in this regard is fully consistent with the Judgment of the International Court of Justice (ICJ) of 15 June 1962 in the Case Concerning the Temple of Preah Vihear, which Thailand has fully and duly implemented.

Cambodia's territorial claim in this area is based on Cambodia's unilateral understanding of the said ICJ Judgment that a boundary line was determined by the Court in this Judgment. Thailand contests this unilateral understanding since the ICJ ruled in this case that it did not have jurisdiction over the question of land boundary and did not in any case determine the location of the boundary between Thailand and Cambodia. In addressing the Final Submissions of Cambodia at the end of the oral proceedings calling for pronouncements on the legal status of the "Annex I map", which was mentioned in

the above letter from the Permanent Representative of Cambodia, and the frontier line in the disputed region, the ICJ stated that the said Submissions "can be entertained only to the extent that they gave expression to grounds and not as claims to be dealt with in the operative provisions of the Judgment". (*Case Concerning the Temple of Preah Vihear (Cambodia v Thailand) (Merits) ICJ Reports 1962, p.36*) Taking into account Article 59 of the Statute of the ICJ and the fact that the issue before the ICJ in this case was limited solely to the question of the sovereignty over the region of the Temple of Preah Vihear, the boundary line claimed by Cambodia has no legal status from the Judgment.

Thus, the location of boundary line in the area adjacent to the Temple of Preah Vihear is still to be determined by both countries in accordance with international law. In 2000, Thailand and Cambodia signed the Memorandum of Understanding (MoU) on the Survey and Demarcation of Land Boundary and established a Joint Boundary Commission (JBC) to be responsible for the said survey and demarcation of the entire stretch of the common land boundary. Fact Sheet regarding the overlapping territorial claims of Thailand and Cambodia in the area of the Temple of Preah Vihear is attached herewith as Attachment 1.

It is within this context that Thailand has made repeated protests (i.e. 10 April 2008, 17 May 2007, 8 May 2005 and 25 November 2004) regarding the presence of the "Keo Sikha Kiri Svava Pagoda" and other structures as well as that of Cambodian settlers and military personnel in the area. The four protests were made in particular on the basis of Article 5 of the 2000 MoU mentioned above, under which both sides agree not to carry out any work resulting in changes of environment of the frontier zone, pending the survey and demarcation of the common land boundary. To date, no action has been undertaken by Cambodia to address Thailand's concerns, protests and requests.

4.2 Regarding the inscription of the Temple of Preah Vihear on the World Heritage List on 7 July 2008 as unilaterally proposed by the Kingdom of Cambodia, all attentions should be drawn to the statement by Minister of Foreign Affairs of Thailand at the 32nd Session of the World Heritage Committee in Quebec City, Canada on 7 July 2008. The said statement unequivocally put on the record Thailand's objection, observations and reservations on the issue concerned. Among other things, as a State Party to the 1972 World Heritage Convention, the Royal Thai Government reaffirms her right to apply Article 11 (3) which stipulates that the inclusion of a property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State will in no way prejudice the rights of the party to the dispute. Thus, the inscription of the Temple of Preah Vihear on the World Heritage List shall in no way prejudice Thailand's rights regarding her territorial integrity and sovereignty as well as the survey and demarcation of land boundary in the area and Thailand's legal position. Copy of the said statement is attached as Attachment 2.

5. In conclusion, the Royal Thai Government reiterates her firm conviction that the present challenge shall be resolved amicably through friendly bilateral consultations and negotiations within the relevant bilateral frameworks established by both countries, and on the basis of goodwill, the principle of good neighbourliness, long standing friendship between the two countries and the spirit of ASEAN solidarity that has underpinned this regional organisation since its inception.

I have the honour to request that the text of this letter and its attached documents be circulated as an official document of the Security Council.

Please accept, Excellency, the assurances of my highest consideration.



(Don Pramudwinai)
Ambassador
Permanent Representative
of the Kingdom of Thailand to the United Nations