THE ROLE OF INDONESIA AS A MEDIATOR IN THE BORDER DISPUTE BETWEEN THAILAND AND CAMBODIA DURING INDONESIA’S CHAIRMANSHIP IN ASEAN 2011

An Undergraduate Thesis
Submitted to the Faculty of Social and Political Sciences
In Partial Fulfilment of Requirement
For Bachelor of Arts in International Relations

Seruni
108083100016

INTERNATIONAL RELATIONS
FACULTY OF SOCIAL AND POLITICAL SCIENCES
STATE ISLAMIC UNIVERSITY SYARIF HIDAYATULLAH
JAKARTA
2013
DECLARATION OF ORIGINALITY

I declare that this thesis, entitled "The Role of Indonesia as A Mediator in the Border Dispute between Thailand and Cambodia" is, to the best of my knowledge and belief, an original piece of work that has not been submitted, either in whole or in part, to another university to obtain a degree.

Jakarta, 13 September 2013

Seruni
APPROVAL

THE ROLE OF INDONESIA AS A MEDIATOR IN THE BORDER DISPUTE BETWEEN THAILAND AND CAMBODIA DURING INDONESIA’S CHAIRMANSHIP IN ASEAN 2011

An Undergraduate Thesis
Submitted to the Faculty of Social and Political Sciences
In Partial Fulfilment of Requirement
For Bachelor of Arts in International Relations

by
Seruni
108083100016

Thesis Advisor
Dr. Pribadi Sutiono S.S. M.A

INTERNATIONAL RELATIONS
FACULTY OF SOCIAL AND POLITICAL SCIENCES
STATE ISLAMIC UNIVERSITY SYARIF HIDAYATULLAH
JAKARTA
2013
PANEL OF EXAMINER
APPROVAL SHEET

THESIS
THE ROLE OF INDONESIA AS A MEDIATOR IN THE BORDER DISPUTE BETWEEN THAILAND AND CAMBODIA DURING INDONESIA’S CHAIRMANSHIP IN ASEAN
2011
by
Seruni
108083100016

Has been defended in thesis oral defense in the Faculty of Social and Political Sciences of State Islamic University Syarif Hidayatullah Jakarta on 26 September 2013. This thesis was assessed and approved as partial fulfillment of the requirements for Bachelor of Arts (BA) in International Relations.

Head of Oral Defense,

Kiky Rizky, M.Si
NIP. 1973032112008011002

Secretary of Oral Defense,

Agus Nilmada Azmi, M.Si
NIP. 197808042009121002

Examiner I,

Drs. Armein Daulay M.Si

Examiner II,

Debbie Affianty, MA

Head of Department

Faculty of Social and Political Sciences

Kiky Rizky, M.Si
NIP. 1973032112008011002
ABSTRACT

This thesis analyze about how does Indonesia play its role as the chairman of ASEAN 2011 in bridging the border conflict between Thailand and Cambodia. The purpose of this research is to understand how a leader or chairman in one of a regional organisation deals with the issue within the organisation. The period in the title of this thesis aims that this thesis has the limitation of time, in order to focus in one year when Indonesia became the chairman of ASEAN. Foreign policy, the concept of role and the concept of mediation are the theoretical framework that used in this thesis. This thesis used the qualitative research methodology by collecting the data from the books, news paper and some articles from internet sites and interview that are relevant to the case of this thesis.

The writer finds some the data that the border dispute between Thailand and Cambodia was actually happened many centuries ago. The conflict is about the seizure of Preah Vihear temple which is located between the two countries. The conflict escalated Preah Vihear listed as the World Heritage Site by United Nations Educational Scientific and Cultural Organisation (UNESCO) in 2008. The gunfire between the two countries happened in 2011. In 2011, Indonesia became the chairman of ASEAN. There are some policies that Indonesia applied in bridging the conflict. Indonesia applied “shuttle diplomacy” in mediating the two countries. “Shuttle diplomacy” aims to get information from both sides. Besides that, Indonesia proposed the “package solutions” to the two countries in resolving the case. The “package solutions” are (a) Joint Border Committee, (b) boundary demarcation process, (c) ceasefire, and (d) sending Indonesian Observer Team (IOT).

As a conclusion, the writer finds out the new way of ASEAN in solving the problem amongst the members under Indonesia’s chairmanship in 2011. In solving the border dispute between Thailand and Cambodia, Indonesia and ASEAN tried to discuss openly, mediate directly, and send observers to the conflict, while ASEAN never did those way before when there were conflict amongst member.
PREFACE

In the name of Allah, the most Gracious and the most Merciful

First of all the writer would be especially grateful to Allah SWT, the lord of the universe. Peace and blessing be upon the prophet Muhammad SAW, his fellows and followers.

Consequently, the writer also thanks to these following people:

1. Asmadi Dasman and Susy Suswaty, her beloved parents, thanks for the great advice, pray and financial support.
2. Dr. Pribadi Sutiono, SS.,MA, her thesis advisor, thanks for great patient and contribution to finish this thesis.
3. All the lecturers of International Relations Department, for being taught and educated her during she studies at the university.
4. Asih Wahyuni, Sary Oceansy, Wida Ningtyas and Fadel Ahmad, the siblings, thanks for the support
5. Festy Nur Anjas Sari, Asri Mustikawati and also as her bestfriends thanks for never ending friendship, Cihuyy.
6. All her classmates in International class of International Relations Department; Asep Zulhijar, Rizkika adi Rahmawati, Nadia Ayu Safitri, Arrum Pandan Selasih, Siska Budiarti, Siti Novita Rosanti, Dhea Yolanda F, Yurizka Nurrahmah, Mazhar Sandy, Fajar Fiqh, Faruq Muhandis, Akbar Fitriyasa, Aryo Dewanto, Noviar Nurdiansyah, M.Q. Rusydan.
7. All her roomates in the lodging house; Taqiyatul Husna, Siti Subdanah, Eni Nuraeni, Annisa Novitri, Mutiara Ilyas.
8. For another bestfriends who give support in finishing this theses; Anah Luwiyanah, Arif Hanif Hidayat, Farida Riyani, Ninis Ch, Tuti Alawiyah, Lukman Mansur, Roni Syarif, Syifa Iswaqi, Dhini Utami .

Finally, the writer realizes that this paper is not perfect yet, it is a pleasure for her to receive some critics and suggestions.
TABLE OF CONTENTS

ABSTRACT .............................................................................................................................. iv
PREFACE ................................................................................................................................. v
TABLE OF CONTENTS ........................................................................................................ vi
TABLE OF FIGURE ............................................................................................................... vii

CHAPTER I INTRODUCTION
A. Problem Statement ........................................................................................................ 1
B. Research Question ......................................................................................................... 7
C. Purpose and Advantages of the Research .................................................................... 7
D. Literature Review ......................................................................................................... 7
E. Theoretical Framework ............................................................................................... 8
F. Research Methodology ............................................................................................... 15
G. Outline ......................................................................................................................... 17

CHAPTER II BORDER DISPUTE BETWEEN THAILAND AND CAMBODIA
OVER PREAH VIHEAR TEMPLE
A. The History of Preah Vihear ...................................................................................... 19
B. The Location of Preah Vihear .................................................................................... 20
C. The Decision of International Court of Justice of 1962 ............................................. 21
D. The Listing of Preah Vihear as World Heritage Site .................................................. 24
E. Domestic Politics in Thailand and Cambodia ............................................................... 25
F. The Dispute between Thailand and Cambodia over Preah Vihear Area .................... 27
G. The Intervention of United Nations of Security Council .......................................... 29

CHAPTER III THE ROLE OF INDONESIA AS A MEDIATOR IN THE BORDER
DISPUTE BETWEEN THAILAND AND CAMBODIA DURING INDONESIA’S
CHAIRMANSHP IN ASEAN 2011
A. ASEAN Response toward the Conflict ...................................................................... 31
B. The Analysis of the Role of Indonesia as a Mediator in the Border Dispute
between Thailand and Cambodia as the Chairman of ASEAN in 2011 .................... 36

CHAPTER IV CONCLUSION ................................................................................................. 49

BIBLIOGRAFY ..................................................................................................................... 55
ATTACHMENTS .................................................................................................................. 63
TABLE OF FIGURE

Figure 1 Preah Vihear’s Disputed Border .......................................................... 23
CHAPTER I

INTRODUCTION

A. Problem Statement

Indonesia is one of the member states of Association of South East Asian Nations (ASEAN) since 1967. Indonesia is also one of the five founding countries of ASEAN in addition to Malaysia, Philippine, Singapore and Thailand.\(^1\) In the ASEAN Charter, ASEAN is defined as a regional organisation which aims to maintain and improve peace, security, and stability and also strengthen the welfare of the members.\(^2\) To achieve these goals, one of ASEAN member countries is elected as the chairman of ASEAN to actively promote and enhance the interests and goals of the organisation. According to ASEAN Charter in Article 31, the chairmanship of ASEAN shall be rotated annually, based on the alphabetical order of the English names of member states. In 2011, Indonesia became a chairman of ASEAN. One of the roles of ASEAN chairmanship is ensuring effective and timely giving response to urgent issues or crisis situations affecting ASEAN, including providing its good offices and other arrangements to immediately address these concerns.\(^3\)


\(^{2}\) ASEAN Charter, Chapter I Purposes and Principles (Article 1 Purposes, point 1)

\(^{3}\) ASEAN Charter, Chapter X Administration and Procedure (Article 32 Role of The Chairman of ASEAN, point (c))
Indonesia has some successful in intervene the conflict in ASEAN. Indonesia ever interfered in some conflict, one example is when the civil war of Cambodia\(^4\) was happened. Indonesia tried to reconcile the warring parties or fight with them in a way of bringing the negotiations. Indonesia formed the Jakarta Informal Meetings (JIM) in 1988 to discuss about the problem solving of the conflict in Cambodia. Jakarta meeting chaired by Foreign Minister Ali Alatas as a mediator between the warring parties. By holding the JIM, parties agreed to conduct peace. Jakarta meeting was then followed up with holding of peace talks in Paris, France in 1989 and Indonesia successful managed to reconcile the warring parties.\(^5\)

ASEAN faced the border dispute of its two member countries, Thailand and Cambodia in 2011. The border dispute between Thailand and Cambodia affected the stability and security in ASEAN. The border dispute indeed caused many eighteen victims\(^6\) and 34,000 refugees of Cambodia people\(^7\), and it challenged ASEAN to actively intervene in resolving the issue.

---

\(^4\) There was a coup d’etat in Cambodia in 1970 between Prince Norodom Sihanouk (the leader of Cambodia) and his nephew called matak Prince Sisowath Sirik. The civil war, prolonged and protracted. Cambodia became a state of dissarray, its people were suffering.


\(^6\) Eighteen victims from the people of Cambodia and Thailand, the last report until 22 April 2011. [http://international.okezone.com/read/2011/05/03/411/452753/thailand-kamboja-kembali-baku-tembak](http://international.okezone.com/read/2011/05/03/411/452753/thailand-kamboja-kembali-baku-tembak)

Thailand and Cambodia’s conflict began with the fighting over the ownership of Preah Vihear temple. Preah Vihear is really important for the people of Thailand and Cambodia; they do their activities to worship in that temple. Preah Vihear is located between Thailand and Cambodia. It becomes the root of the conflict between Thailand and Cambodia. The two countries claimed that the temple is located in their territory. Cambodia claimed that the temple is in their territory based on the 1907’s map, while Thailand’s claim was based on the 1904’s map. Cambodia took the issue to the International Court of Justice (ICJ) in 1959. In 1962, ICJ decided that Preah Vihear belongs to Cambodia. The conflict was not over; Thailand persisted in their claim that Preah Vihear is in their territory based on the 1904’s map. Besides that, Thailand still disputed about the 4.6 sq km over the Preah Vihear temple which was not included in the decision of ICJ 1962.

The border conflict between Thailand and Cambodia escalated when the United Nations Educational Scientific and Cultural Organisation (UNESCO) listed the temple Preah Vihear as the World Heritage Site in 2008. Cambodia’s successful attempt to list the Preah Vihear temple as a World Heritage Site and the situation made Thailand fear that the World Heritage Site status would consume

---

8 Preah Vihear is an ancient Hindu temple situated on Thailand and Cambodian border.
the area surrounding the temple, which is still in dispute between Thailand and Cambodia. The actual conflict characterized by the occurrence of gunfire soldiers of both countries and two people were killed from Cambodia and five soldiers from the Thailand armies were injured.\(^{12}\)

There were several phases to the conflict between them. From 2008 to mid 2011, the relations between Thailand and Cambodia deteriorated greatly. Both countries called their ambassadors; the leaders of both countries engaged in unsympathetic verbal attacks.\(^{13}\) Besides that, people of both countries were arrested and accused of spying. Thailand and Cambodia reinforces their military presence in disputes border areas. The conflict became more serious in 2011, when there were much causalities caused by the dispute between Thailand and Cambodia.\(^{14}\) Since the crossfire in 2008, the conflict between two countries worsen until in 2010 and in the early 2011. Prior to 2011, there was no third party intervention to mediate or solve this conflict. This is because there was a different opinion between both countries in the need of third party to solve the conflict. Cambodia wants the United Nations or ASEAN to become a third party to solve the conflict. Thailand however disagrees with that way and prefers bilateral engagement between Thailand and Cambodia.\(^{15}\)

---

\(^{12}\) Marily Van Nevel, “The Thai-Cambodian border: a growing role for ASEAN” EIAS Newsletter, 2011

\(^{13}\) The leaders of both countries accused each other that his opponent is a start up the problem, that their opponent troops had been injured their citizens

\(^{14}\) Kimly Ngoun, “Thai-Cambodian Conflict Rooted in History” East Asia Forum. (27\(^{th}\) January 2012)

\(^{15}\) Sandy Nur Ikffal Raharjo, “Menanti Diplomasi Tingkat Tinggi Dalam Konflik Thailand Kamboja” The Center for Political Studies LIPI. (28\(^{th}\) April 2011)
The conflict between Thailand and Cambodia were escalating in 2011. There were many victims caused by the gunfire between soldiers of Thailand and Cambodia. In February 2011, the UN Security Council (UNSC) members held consultations on the issue of Thailand and Cambodia. The members of the UNSC expressed support to the mediation efforts undertaken by the chair of ASEAN, the Foreign Minister of Indonesia.¹⁶

Indonesia as the chairman of ASEAN in 2011 tried to bridge the conflict. Indonesia helped to stem the border dispute between Thailand and Cambodia by visiting both countries in the early 2011 to offer mediation. The intervention of Indonesia in bridging the conflict enhanced Indonesia’s foreign policy figure in ASEAN.¹⁷ Indonesian Foreign Minister, Marty Natalegawa met with the Cambodian Foreign Minister, Hor Namhong, in Phnom Penh on the 7th February 2011. Meanwhile, Foreign Minister Marty Natalegawa met the Thailand Foreign Minister, Kasit Piromya, on the 8th February 2011 in Bangkok. Following these meetings Foreign Minister Marty Natalegawa said that ASEAN supported the two neighbours working out a bilateral solution to end the dispute.¹⁸

Indonesia tried to persuade Thailand to accept Indonesia’s involvement in bridging this problem. Since Thailand rejected any interference from outsiders and prefer to use bilateral channel with Cambodia. Responding to a proactive attitude

---


of Indonesia, Thailand received Indonesia's involvement as a mediator in bridging border conflict between the two countries. In February 2011, the two countries finally agreed to ceasefire in the region of Preah Vihear. The signing of the ceasefire agreement was attended by Indonesia, as a facilitator.

On the 22nd February 2011, there was ASEAN informal Foreign Ministers’ Meeting in Jakarta with the sole agenda was to discuss the solution of border conflict between Thailand and Cambodia. In the meeting, Indonesia as a mediator proposed the three steps. Firstly, ASEAN will asked Thailand and Cambodia to confirm the commitment to solve the conflict peacefully through Treaty of Amity Cooperation (TAC) mechanism which is both countries have signed. Secondly, Thailand and Cambodia are required to stabilize the ceasefire between them. Thirdly, the two nations should roll back to the Joint Boundary Committee (JBC), the forum that has been established by both countries.

Therefore, the writer’s goal in making this study is to examine how does the role of Indonesia as the chairman of ASEAN in responding the issue which might affect ASEAN stability. This thesis examines about the role of Indonesia as ASEAN chairman 2011 in bridging the conflict between Thailand and Cambodia.

19 Aris Heru Utomo, “Peran ASEAN dalam Penyelesaian Konflik Thailand-Kamboja” Jurnal Diplomasi 3 (Maret 2011) p.47
B. Research Question

In examining and elaborating the role of Indonesia as ASEAN chairman 2011 in bridging the conflict between Thailand and Cambodia, this study will use the following research question:

“How does Indonesia play its mediating role in bridging the conflict between Thailand and Cambodia during its ASEAN chairmanship in 2011?”

C. Purpose and Advantages of the Research

The purpose of this research is in order to understand how a leader or chairman of one of a regional organisation deals with the issue raised within the organisation. The research aims to give the advantages for all to know how Indonesia plays its role as the chairman of ASEAN to maintain the peace and stability between ASEAN members state. This research will inform how Indonesia influences other countries especially in ASEAN.

Indonesia as the chairman of ASEAN for 2011 period was hoped to give a great contribution as mediator to bridge the conflict between Thailand and Cambodia. Indonesia has to be an initiator to collect strength to find the solution. The writer will elaborate and identify more about this by proposing this thesis with the title “The Role of Indonesia in Bridging the Border Dispute between Thailand and Cambodia during Indonesia’s Chairmanship in ASEAN 2011.”

D. Literature Review

There had numerous studies that examined the border conflict between Thailand and Cambodia. Some of those studies there were examined the role of ASEAN in solving the conflict, the writer found the thesis that wrote by Dwi
Retno (2011) with the title *Peran ASEAN dalam Upaya Penyelesaian Sengketa Candi Preah Vihear antara Kamboja-Thailand Pada Tahun 2011*. This thesis analyzes the role of ASEAN in resolving the dispute between Cambodia and Thailand in the disputed Preah Vihear temple. The purpose of this study was to analyze the role of ASEAN in resolving the dispute between Cambodia and Thailand in the disputed Preah Vihear temple in 2011. The research was conducted through a literature study and interviews. Theoretical framework used in this thesis is the role of organizations and regional organizations. The basic principle of non-intervention of ASEAN, it hindered ASEAN to intervene the conflict. The writer attained much information from the thesis of Dwi Retno about the role of ASEAN as an organisation, while compare with her thesis, the writer will explain more a specific role of Indonesia as mediator in solving the conflict between Thailand and Cambodia during its chairmanship in ASEAN.

E. Theoretical Framework

The writer uses foreign policy theory which is very important to be used as theoretical framework. This is because by using this theory, we can understand that Indonesia should make a specific foreign policy toward Thailand and Cambodia either as a single country or as the chairman of ASEAN. Democratic peace theory is benefit in knowing how Indonesia creates the peace between Thailand and Cambodia. Concept of diplomacy is also important to play Indonesia’s mediating role in bridging the conflict. Besides that, the concept of role is relevant to be used as theoretical framework in this thesis because to know the role of Indonesia in bridging conflict between Thailand and Cambodia during
its chairmanship in ASEAN, it is important to understand first about the concept of role. Meanwhile the concept of mediation is used to explain more about how Indonesia mediates the conflict. Those concepts are relevant to answer “how does Indonesia play its role as mediator in bridging the conflict between Thailand and Cambodia during its ASEAN chairmanship in 2011?” as the research question of this thesis.

a. Foreign Policy

According to James Rosenau, foreign policy is presumably something less than the sum of all policies which have an effect upon a national government’s relations with other national governments.\textsuperscript{22} Foreign policy analysis of the comparative sort has a central intellectual puzzle to solve. Foreign policy analysis can thus take the perspective of problem-solving as its base, and add to it elements of the goal-oriented model.\textsuperscript{23}

Foreign policy is the system of activities evolved by communities for changing the behaviour of other states and for adjusting their own activities to international environment. Behaviour of states has favourable or adverse effects on other states confronts every state with a problem; that of minimizing the adverse actions and maximizing the favourable actions of foreign states. Thus, the foreign policy problem is essentially a question of adjusting the actions of states to each other.\textsuperscript{24}

\textsuperscript{24} George Modelski, \textit{A Theory of Foreign Policy} (New york: Center of International Studies, 1962) p.72
Foreign policy goals have been the subject of extensive investigation and have been classified and conceptualized in countless ways. Peace, security, power and prosperity have been identified as long range goals and differentiated from short range object.\textsuperscript{25}

b. Democratic Peace Theory

Democratic peace theory, the claims that democracies rarely fight one another because they share common norms of live and let live and domestic institutions that constrain the recourse to war, is probably the most powerful liberal contribution to the debate on the causes of war and peace.\textsuperscript{26} The theory of democratic peace raises important theoretical issues, the contention that democratic states behave differently toward each other than toward no democracies cuts to the heart of the international relations theory debate about the relative salience of domestic politics and systemic structure explanations of international political outcomes. Democratic peace theory has also come to have a real world importance as well.\textsuperscript{27}

Democratic peace theory should account powerfully for the fact that serious crises between democratic states ended in near misses rather than in war. If democratic norms and culture explain the democratic peace, in a near-war crisis, certain indicators of the democratic peace theory should be in evidence, first,

\textsuperscript{25} Rosenau, \textit{Foreign Policy}, p.142
public opinion should be strongly pacific. Public opinion is important not because it is an institutional constraint, but because it is an indirect measure of the mutual respect that democracies are said to have for each other. Second, policymaking elites should refrain from making military threats against other democracies and should refrain from making preparations to carry out threats.\textsuperscript{28}

c. Concept of Diplomacy

R.P. Barston in his book Modern Diplomacy said that Diplomacy related with the management of relations between states and between other actors. The core of diplomacy is negotiation. Hence the scope of diplomacy is relations between state and with foreign parties conducted through meeting and negotiation. Negotiation can be defined as an effort to explore and reconcile conflicting positions in order to achieve an acceptable result. The purpose of negotiation is the identification of areas of common interest and conflict.\textsuperscript{29}

According to John. R Wood and Jean Serres, Diplomacy is art resolving international difficulties peaceful. It is technique or skill which reigns over development, in a harmonious manner, of international relation. Art and technique obey convention and rules. The ritualistic aspect of diplomacy activities have always been striking. Whereas state, government and international organization frequently find their interest clashing in the course of international events, their representatives, the diplomats, making use traditional methods, apply their

\textsuperscript{28} Kant, Democratic Peace, 5
instruction without passion and together seek harmonious solution to various interests even, should the occasion aeries, to pride as well.\textsuperscript{30}

d. Concept of Role

Role is a social position as well as a socially recognized category of actors that are constituted by ego and alter expectations regarding the purpose of an actor in an organized group. The positions function in the group is limited in time and scope and it is depending on the group’s structure and purpose. Whereas some roles are constitutive to the group such as recognized as a member of international community, and other roles or role are sets functionally specific such as balancer or initiator.\textsuperscript{31}

Role theory attempts to explain the interactions between individuals in organizations by focusing on the roles they played. Role behaviour is influenced by role expectations for appropriate behaviour in that positions and changes the role behaviour occur through a recurrent process of role sending and role receiving.\textsuperscript{32} Role theory deals with organisation of social behaviour at both individual and collective levels. In social context, individual behaviour is organized and acquires meaning in term of roles. Work responsibilities in organizations are organized into roles, as is participation in group and also in

\textsuperscript{31} Sebastian Harnisch, Cornelia Frank, and Hanns W. Maull, \textit{Role Theory in International Relations} (New York: Routledge, 2011), p. 8
\textsuperscript{32} Cynthia A Thompson, \textit{Conservation of Resources Theory, A Sloan Work and Family Encyclopedia Entry} (MA: Boston College, 2001)
society. Collective levels are differentiating sets of task which is assigned by particular individuals.  

Role theory builds an empirical bridge between agent and structure in international relations. Agents or individuals working singly or in groups are embedded in the social and culture institutions of the states they represent as foreign policy decision makers. The agents navigate the structure of the international system, which can present both opportunities and constraints. Role theory centrally concerns itself with this interaction between agent and structure. It is surprisingly that role theory is largely absent from the theoretical debated regarding the agent-structure problem, as well as from the scholarship that investigates norms, identity, self-image and collective identity. Role theory deserves to be better integrated, not only because it provides the link between identity and behaviour but also because the relative importance of agent and structure as determinants of foreign policy behaviour. 

Role can be defined as behaviour of someone or group which has an important status. Role also can be seen as a task or obligation of status and right of status of an organisation which has been agreed together. If structures did the roles, so that the role can be assumed as a function in reaching a certain purpose. 

---

34 Harnisch, *Role Theory*, p. 16
e. Concept of Mediation

Mediation is a process for resolving conflict in which an impartial third party assists disputants to negotiate an informed and consensual agreement for themselves. Mediation can be characterised as conflict resolution by the involved parties with the help of a neutral agent, who is referred to as the mediator. The role of the mediator is to identify the interests or needs of those involved. The mediator can reduce obstacles to communication through identifying cultural issues.

Mediation involves the intervention of third party: it is a voluntary process in which the parties retain control over the outcome (pure mediation), although it is sometimes combined with positive and negative inducements (mediation with muscle).

Mediation is especially important at a stage when at least some of the conflicting parties have come to accept that pursuing the conflict is unlikely to achieve their goals. Mediation process is got from the learning of negotiation. The aim of mediation is to find a commitment that fits all parties. There are five stages of mediation, they are:

---

38 Oliver Rambostham, Tom Woodhouse and Hugh Miall, *Contemporary Conflict Resolution* (United Kingdom: Polity Press, 2006), p. 29
39 Rambostham, *Conflict Resolution* p. 168
40 Kappacher, *Mediation* p. 24
1. Contracting; the mediator controls and manages the process when one party has to listen to other party and let the conflict partner talk without interruption.

2. Developing Issues; the mediator gathers a lot of information, identifying areas of agreement and disagreement.

3. Resolving the Conflict; the mediator helps the partners to find out what needs and interests are their position. The mediator guides the parties with the relevant skills and technique of asking and intervention.

4. Reaching Agreement; in reaching agreement the mediator may use the technique of brain storming, which means gathering all the proposed suggestions for solution without evaluating the parties.

5. Concluding; the mediator write down agreements in an advisor’s review and after reading, clarifying, thinking it over, finalizing and finding a solution for all parties.

F. Research Methodology

The method in this study uses qualitative research methodology. Since in this study uses an inductive process of thinking and the application of ideas and theories are not strictly defined. Qualitative research is an inquiry process of understanding based on distinct methodological traditions of inquiry that explore a social or human problem. The researcher builds a complex, holistic picture, analyzes words, report detailed views of information, and conducts the study in a
natural setting.\textsuperscript{41} Meleong, defining that qualitative research is a scientific study, which aims to understand a phenomenon in the context of natural social interaction processes by promoting in-depth communication between researcher and researched phenomenon.\textsuperscript{42}

Based on the goal, this research is descriptive. Descriptive research is used to describe or explain how something is happening and to identify and explore the occurrence of something. The data collected are words, pictures and not numbers. Process is more important than product: qualitative research more focus on the process than product or result. Researched parts’ relationship will be clearer if they are observed in the process. Special criteria for data validity: Qualitative research requires valid, reliable and objective data. Descriptive research focuses on a topic and look at the phases for the occurrence of something.\textsuperscript{43}

Data collection methods used in this research is a qualitative method through secondary data such as an academic book, some journals, news paper, and websites. The writer collected the data by visiting some libraries, such as the library of Ali Alatas in Ministry of Foreign Affairs, Freedom library, the library of University of Indonesia and State Islamic University. Another source in collecting the data, the writer discussed with Mr. Eddy Mulya, the chief of ASEAN Polkam, about the conflict of Thailand and Cambodia and also the role of Indonesia in solving the case.

\textsuperscript{42} Lexy J, Meleong. Metode Penelitian Kualitatif, Bandung: PT Remaja Rosdakarya, 2006
G. **Outline**

Chapter I  Introduction

A. The Background of Problem
B. Research Question
C. Purposes and Advantages
D. Literature Review
E. Theoretical Framework
F. Research Methodology
G. Tentative Outline

Chapter II  Border Dispute between Thailand and Cambodia over Preah Vihear Temple

A. The History of Preah Vihear
B. The Location of Preah Vihear
C. The Decision of International Court of Justice of 1962
D. The Listing of Preah Vihear as World Heritage Site
E. Domestic Politics in Thailand and Cambodia
F. The Dispute between Thailand and Cambodia over Preah Vihear Area
G. The Intervention of United Nations of Security Council

Chapter III  The Role of Indonesia as A Mediator in the Border Dispute between Thailand and Cambodia during Indonesia’s Chairmanship in ASEAN 2011
A. ASEAN Response toward the Conflict

B. The Analysis of the Role of Indonesia as Mediator in the Border Dispute between Thailand and Cambodia

Chapter IV Conclusion
CHAPTER II

BORDER DISPUTE BETWEEN THAILAND AND CAMBODIA OVER PREAH VIHEAR TEMPLE

A. The History of Preah Vihear

Preah Vihear (or Khao Phra in Thailand) is the Sacred Hindu Monastery Temple located in the southern part of Cambodia bordering with Thailand. It sits on a promontory of the sandstone of Dangrek mountain range and ends on a cliff overhanging the Cambodian plains. The temple was dedicated to Shiva, the Hindu’s God of destruction, known as Shikhareshvara (Lord of the Summit) and a Bhadreshvara linga was installed in the main temple.44

Preah Vihear was constructed during Khmer Empire; the direct period between the 11th to 12th centuries. The Khmer Empire was led by King Norodom. The Khmer people were the direct ancestors of modern Cambodians, who still refer to themselves as Khmers. However, although the Preah Vihear was built the Khmers, it has not always been under Cambodian control. The area has been governed or occupied also by Siamese Kingdom or Modern Thai and they stated that they also succeeded the temple.45 After the fall of the Khmer Empire in the beginning of 14th century, the boundaries of the Khmer kingdom had been shrinking and the temple was temporarily abandoned. Khmer monarch weakened

44 Leang Thearith and Vannarith Chheang. “Cambodia-Thailand Dispute and Its Impacts on Southeast Asian Community Construstion” Cambodian Journal of International Affairs (CJIA) Vol. 1 Number 1, October 2008, p 15-16
45 John D. Ciorciari, Thailand and Cambodia: The Battle for Preah Vihear (Spice Digest: Stanford University, 2009) [database on-line]
in 1974, while the Siam gradually chipped away at Cambodia territory, and Siam taken over the northwestern province in Cambodia. So, the Khmer requested the French protactorate status.\textsuperscript{46} In 1863, French took the authority over Cambodia until the beginning of 20\textsuperscript{th} Century.

The people of Thailand and Cambodia do their activities to worship in the temple of Preah Vihear and it also becomes a social culture for both of them. Preah Vihear bears the influence of Hinduism, the predominant religion of Khmer monarchs at that time. It also reflects elements of Buddhism, which became ascendant in the surrounding region. So, Preah Vihear temple has two meaning for the people in the border. The temple can be said as a cultural symbol and also a religious place of worship.\textsuperscript{47}

**B. The Location of Preah Vihear**

In 1904, French and Siam decided to mark out the Cambodian border. Therefore, a Mixed Commission of French and Siamese officials were appointed to carry out the project. In the eastern sector of the Dangrek range, in which Preah Vihear was situated, the frontier was to follow the watershed line. For the purpose of delimiting that frontier, it was agreed, at a meeting held on the 2\textsuperscript{nd} December 1906, that the Mixed Commission\textsuperscript{48} should travel along the Dangrek range carrying out all the necessary reconnaissance, and that a survey officer of the French section of the Commission should survey the whole of the eastern part of

---

\textsuperscript{46} Peter Tan Keo, “Deal with Preah Vihear Peacefully” PacNet Number 19. (30\textsuperscript{th} March 2011)

\textsuperscript{47} John D. Ciorciari, *Thailand and Cambodia*. 2009

\textsuperscript{48} Mixed Commission is the Commission was formed by the two countries (Thailand and Cambodia) which surveyed and stated that the boundary over Preah Vihear
the range. In 1907, French officers claimed that Preah Vihear was under Cambodia’s sovereignty after they surveyed before, as evidenced by a topographic map showing the border. The border line indicated that the temple was on the Cambodian side. In another side, Thailand argues that the map was not made by the formal Mixed Commission. Besides that, for them, the line that used in the map was not the true watershed line, and the true watershed line indicated that Preah Vihear temple is in Thailand’s territory.\textsuperscript{49}

C. The Decision of International Court of Justice of 1962

The border dispute between Thailand and Cambodia over Preah Vihear became more complex with the rejection of Thailand to recognize the map that drawn by French officers. Therefore, the Cambodian government took the issue to the International Court of Justice (ICJ) on the 6\textsuperscript{th} October 1959. Cambodia requested that ICJ to take the rule on a dispute over the Preah Vihear’s sovereignty. Before the Court, Cambodian representatives argued that Cambodian sovereignty over Preah Vihear was clear from the treaty of 1907. The treaty subsequently produced the French-Siamese Commission 1907 Frontier Line, and it indicates that Preah Vihear is in Cambodia territory. Cambodia argued that the applicable international agreements delimiting the frontier between Cambodia and Thailand clearly placed the temple of Preah Vihear in the chain of the Dangrek Mountains belong to Cambodia. In addition, they emphasised that Cambodia had

\textsuperscript{49} International Court of Justice, “Judgement of 15\textsuperscript{th} Juni 1962, Case Concerning The Temple of Preah Vihear” Thailand Law Forum [database on-line] available at www.thailaw.com/laws/international-court-of-justice.pdf downloaded on 7\textsuperscript{th} March 2013
never abandoned its sovereignty over the territory.\textsuperscript{50} Thailand also protested that Cambodia presented an invalid map which violated the border commission’s working principle. Thailand considered the treaty of 1907 was invalid because it was only signed by the Mixed Commission; which has no authority to do so. Moreover, it was only prepared by the French section of Mixed Commission and published only in the name of the French section. Thailand concluded that the boundary between Thailand and Cambodia should be based on the legal boundary convention of 1904 that indicates that Preah Vihear was in Thailand.\textsuperscript{51} In responding the proposal of those countries that asked the decision of the ownership of Preah Vihear to International Court of Justice, the ICJ took the attention of this case and tried to analyze where the Preah Vihear was located. In May 1961, the Court rejected the preliminary objections of Thailand government.\textsuperscript{52}

On the 5\textsuperscript{th} June 1962, International Court of Justice placed the Temple under Cambodia sovereignty. By a majority vote of 9 against 3, the ICJ upheld Cambodian sovereignty over the temple of Preah Vihear. In explaining this decision, the president of the Court observed that the Thailand government, as it had earlier accepted the terms of the 1904 convention, could not deny that it was ever a consenting party to the pact. In support of its decision, the Court pointed out that the government of Thailand after 1904 had continued to use and even to publish maps showing Preah Vihear as being situated in Cambodia. ICJ also asked

\textsuperscript{50} International Court of Justice, \textit{Case Concerning of Preah Vihear}, 1962
\textsuperscript{51} In 1959, Cambodia brought the conflict of the ownership Preah Vihear to the ICJ by proposing the map of 1907 which indicates that preah Vihear in their territory. Thailand responded to the Cambodia’s act, they proposed the map of 1904 which indicates that Preah Vihear was in Thailand’s territory.
\textsuperscript{52} Ronal Bruce St John, “Preah Vihear and The Cambodia-Thailand Borderland” \textit{IBRU Boundary and Security Bulletin}. January 1994, p.66
Thailand to remove its troops, because the dispute should not to be happen since the ICJ ruled that Preah Vihear was clearly under Cambodia’s territory. However, the judgment of the Court was not ruled the 4.6 sq km in the area of Preah Vihear. Further, Thailand strongly claimed that 4.6 sq km in the area of Preah Vihear is Thailand’s territory. In that case, the conflict was not finished even though the judgement of the Court has been released.

Figure 1 Map of Preah Vihear’s Disputed Border

Source: Cambodian Council of Ministers

---

53 International Court of Justice, Case Concerning of Preah Vihear. 1962
54 Marily Van Nevel, The Thai Cambodian Border. 2011
D. The Listing of Preah Vihear as World Heritage Site

The conflict is getting increase when Cambodia proposed to United Nations Education, Scientific and Cultural Organisation (UNESCO) in 2001 that Preah Vihear should be added to the World Heritage list for properties of outstanding cultural or natural value. Cambodia believes that the temple has to be exceptional because of the quality of its carved stone ornamentation and architecture, adapted to the natural environment, and religious function. On the 22nd May 2008, Joint Communique between Cambodia and Thailand was issued under the presence of H.E. Mr. Sok An, Deputy Prime Minister of the Kingdom of Cambodia and H.E. Mr. Noppadon Pattama, Minister of Foreign Affairs of the Kingdom of Thailand. Both parties agreed to register Preah Vihear temple as a World Heritage Site but without buffer zone northern and western areas of the Temple. On the 7th July 2008 UNESCO approved the application of Cambodia to list Preah Vihear as World Heritage Site and Cambodia as the owner of the temple. The existence of Preah Vihear in UNESCO as World Heritage Site created the disaffection for Thailand. Although the proposal was supported by the Thailand government, the Thailand’s army decided to protest the move of Cambodia by taking over the temple. Thailand claimed that the application of

56 Preah Vihear is cultural properties that used to worshiping God for the people around it. The culture of Hindu is deeply embedded in that temple.

57 Asia report, ASEAN and Thai-Cambodia Border Conflict. 2011 p.3


59 Peter Tan Keo, “Deal with Preah Vihear Peacefully” Pacnet Number 19
Cambodia was not only about the temple of Preah Vihear but also the 4.6 km² surrounding area which was still disputed between Thailand and Cambodia.⁶⁰

In Thailand, the listing of the Preah Vihear temple was also protested by the People’s Alliance for Democracy (PAD) in 2008. In fact, the Democratic Party fervently took up the temple issue and accused the government of the People’s Power Party of losing territory and sovereignty to Cambodia. While actually the unpublished white paper prepared by Foreign Minister of Cambodia and Thailand (under Samak Sundaravej, the Prime Minister of Thailand), explained that the listing covered only the temple buildings and would not affect Thailand’s right regarding the boundary, however the arguments could not finish by the PAD’s protest.⁶¹

**E. Domestic Politics in Thailand and Cambodia**

The tensions of domestic politics and nationalism in both Thailand and Cambodia influenced greatly the border situation. The dispute has been exploiting by domestic political factions in both Thailand and Cambodia to forward their own interests. Both countries could have a peaceful environment if there were no accusations and protest by PAD or Yellow Shirt in Thailand.⁶² Actually, Noppadon, the Minister of Foreign Affairs of the Kingdom of Thailand, had tried to explain that Thailand should not oppose the communique a treaty, as neither

---

⁶⁰ Murray Hiebert, Thailand, Cambodia Spar at UN Court over Preah Vihear Temple, *CSIS*, 23⁴th April 2013.


UNESCO nor Cambodia did. Since Court rulings were political victories by conservative activist judges.  

As part of the establishment’s efforts to subvert the elected government, the PAD stepped up a nationalist scare campaign around Preah Vihear that exploited deep-rooted nationalism against the pro-Thaksin government and Cambodia. At this point, Thailand mentioned their objection to UNESCO in the listing of Preah Vihear. That because the border around the temple was unresolved. Opponents of the Samak government took to the streets and they increased the pressure. Foreign Minister Noppadon felt exhausted and frustrated because of the pressure from the PAD and other opponents. He resigned on the 10th July to save the government after his return from UNESCO meeting.

Although the government in Thailand changed in the late 2008, however, it could not bring any positive result towards settling the dispute nor in improving the bilateral relations with Cambodia. The conflict getting worse, it characterized by dispatching the troops of both countries in the dispute area. Instead, the conflict reached a new height. The new Prime Minister of the Kingdom of Thailand, Abhisit Vejjajiva, took an aggressive stand on the Preah Vihear dispute and stated that he would never sacrifice or compromise on his nations’ sovereignty. He rejected the proposals for any third party mediation in the dispute and emphasized that it should be settled bilaterally.

Meanwhile, not only the Thailand political factions that have used the dispute as a political weapon, but also, the issue has been equally exploited to get

63 Asia report, ASEAN and Thai-Cambodia Border Conflict. 2011
64 Asia report, ASEAN and Thai-Cambodia Border Conflict. 2011
65 Panchali Saikia, The Dispute over Preah Vihear. 2012
political support in the national elections by the Cambodian Prime Minister Hun Sen. For Hun Sen, manipulated the dispute is the right strategy to boost up his party’s popularity. Prime Minister Hun Sen exploited the armed clashes to strengthen his power position by displaying his nationalistic emotions.\textsuperscript{66}

Hun Sen’s provocative approach of announcing the appointment of the former Thailand Prime Minister Thaksin Shinawatra as his personal and economic advisor inflated the political situation in Bangkok. The close cooperation between Thaksin and Hun Sen could have resulted in a settlement, but the military coup had overthrown Thaksin’s government and Abhisit took over as the new Prime Minister. Although Abhisit and his government tried to maintain a stable relationship with the Cambodians and settle the boundary dispute peacefully through bilateral negotiation, the bitter relationship between Abhisit and his counterpart Hun Sen overshadowed any such initiatives.\textsuperscript{67}

\textbf{F. The Dispute between Thailand and Cambodia over Preah Vihear Area}

Lately, by the listing of Preah Vihear in July 2008 the tensions increased. Both armies sent troops to the frontier and occupied other minor temples in the area. Thailand’s soldiers occupied near by Preah Vihear and within 4.6 sq km area. Thailand nationalists’ protesters marching to the temple clashed with locals who resented that domestic politic had closed public access to Preah vihear harmed their live hoods. In August 2008, Thailand soldiers occupied the Ta Moan complex about 150km to the west and building temporary fence around the Hindu

\textsuperscript{66} Pavin Chachavalpongpan, “ASEAN and A Manufactured Crisis”, \textit{Asia Sentinel}. (9\textsuperscript{th} February 2011)
\textsuperscript{67} Panchali Saikia, \textit{The Dispute over Preah Vihear}. 2012
ruins. Cambodia responded by occupying the Ta Krabe temple, about 13km east of Ta Moan, sending 70 soldiers to the previously non-militarised site.\textsuperscript{68}

The conflict had subsided in October 2008, when the two Prime Ministers met in Beijing to discuss peace between the two countries and avoid armed clashes. Unfortunately, peace did not last long as a statement from Cambodia who viewed Thailand’s troops crossed the border near the temple but it denied by the Thailand side. From 2008 to mid 2011, the relations between Thailand and Cambodia deteriorated greatly and had no progress in solving the conflict. Both recalled their ambassadors; the leaders of both countries engaged in unsympathetic verbal attacks. In addition, people of both countries were arrested and accused of spying by the others. Thailand and Cambodia reinforces their military presence in disputes border areas. The conflict became more seriously complicated in 2011, when there are many fall victims appeared caused by the dispute between Thailand and Cambodia.\textsuperscript{69}

There are many efforts to resolve or ease the conflict between Thailand and Cambodia. For instance, the negotiation between two countries in October 2008, they had a meeting to discuss about peace way in solving the conflict. However, the difference in perception between Thailand and Cambodia was complicating the problem solving between them. Thailand believed that the conflict can be resolved in bilateral way, while Cambodia did not believe that the conflict can be resolved only in bilateral way, Cambodia argued that they need a third party

\textsuperscript{68} Asia report, ASEAN and Thai-Border Conflict. 2011. p.5
\textsuperscript{69} Kimly Ngoun, Thai-Cambodia Conflict. 2012
intervention to bridge the conflict.\textsuperscript{70} For Thailand, a third party was not important in solving the countries. Thailand assumed that by the presence of third party would break the credibility of Thailand in the whole world that Thailand was not able to solve its own problems. It’s not the same as Cambodia who considered that the presence of a third party will help this border dispute and the conflict will be not prolonged.

G. The Intervention of United Nations of Security Council

The conflict between Thailand and Cambodia were getting worse in 2011. There were many victims caused by the crossfire between soldiers of Thailand and Cambodia. Thailand and Cambodia are both sent a letter to the President of the UN Security Council. Cambodia asked to the Council to convene a meeting to stop Thailand aggression. While Thailand asked to the Council to give Thailand’s position in the commitment to using bilateral and communication in resolving the conflict.\textsuperscript{71}

On the 7\textsuperscript{th} February 2011, the UN Security Council members held consultations on the issue of Thailand and Cambodia. Subsequently the president of the Council, Maria Luiza Viotti, announced some agreed elements, confirming several things. Firstly, the Council had taken the responsible of the letters received from the Governments of Cambodia and Thailand concerning the military incident on the border between the two countries, one letter from Cambodia requested an urgent meeting of the Council. Secondly, the members of the Council had

\textsuperscript{70} Sandy Nur Ikhsal Raharjo, \textit{Menanti Diplomasi Tingkat Tinggi}. 2011
expressed grave concern at the aggravation of the tensions on the border and called for a ceasefire and urged parties to resolve the situation peacefully. Thirdly, the members expressed support to the mediation efforts undertaken by the chair of ASEAN, the Foreign Minister of Indonesia, but expressed willingness to hold a Council meeting pending an assessment of the ongoing regional mediation efforts. Fourth, members of the Council would continue to follow this issue closely.72

In conclusion, Preah Vihear dispute was actually happened since the beginning of 20th century. The different claim of the location of Preah Vihear between Thailand and Cambodia was the main cause of the conflict. The different perception of the importance of third party also became a complicated thing in solving the conflict. The International Court of Justice decided that Preah Vihear was under Cambodia’s territory, but Thailand still disputed about 4.6 sq km around the temple. The conflict also triggered by domestic politics of both countries and the listing of Preah Vihear as the World Heritage by UNESCO in 2008. The conflict was brought to United Nations of Security Council to get a better solution. Indonesia facilitated the two countries by assisting them to attend the UNSC meeting in New York as discussion of solving the border dispute between them. As the result of discussion, UNSC mandated ASEAN under Indonesia’s chairmanship as a mediator to solve the conflict between both countries.

CHAPTER III

THE ROLE OF INDONESIA AS A MEDIATOR IN THE BORDER DISPUTE BETWEEN THAILAND AND CAMBODIA DURING INDONESIA’S CHAIRMANSHIP IN ASEAN 2011

A. ASEAN Response toward the Conflict

Thailand and Cambodia are both signatories to the 1976 Treaty of Amity and Cooperation (TAC) in Southeast Asia, which commits them to reject the use or threat of force in the relations between states and to the peaceful settlement of inter-state disputes. The overriding purpose in this regard is to avoid and prevent actions that result in the death or injury of human beings. Already, between ten and twenty persons are reported have been killed and countless others were injured or displaced in the border fighting between Thailand and Cambodia.\(^73\) In addition to the provisions of TAC, certain facts have to be kept in mind to avoid the repetition of violence in the future.

The worsening situation of the conflict over Preah Vihear made ASEAN has to do something to solve the conflict. It became the challenge for ASEAN, as a regional organisation, to ensure that the peoples and Members States of ASEAN live in peace with the world at large in a just, democratic and harmonious environment.\(^74\) This border dispute also became a test for the credibility and

---


\(^74\) ASEAN Charter, Chapter I Pruposes and Principles (Article 1, 4)
responsibility of ASEAN as a regional organisation. Since the border dispute may affect the stability and security in Southeast Asia region and ASEAN.

ASEAN is a regional organisation with the main purpose to promote and enhance the peace and stability in the Southeast Asia. It was also described in some agreements where all of the members of ASEAN were there and agreed that peace is the main purpose of ASEAN. On the 8th August 1967, Bangkok Declaration stated that one of the aims of ASEAN is to promote regional peace and stability.75 ASEAN defines itself as an organisation of peace loving nations. In the Treaty of Amity Cooperation (TAC) in Southeast Asia, the purpose of the establishment of ASEAN is to promote perpetual peace, everlasting amity and cooperation among their peoples which would contribute to their strength, solidarity and closer relationship.76 The aims and purposes of ASEAN also are listed in ASEAN Charter. One of them is to maintain and enhance peace, security, and stability and further strengthen peace-oriented values in the region (Article 1, 1).77

Since the formation of ASEAN 1967, there is none of the members of ASEAN that used violence in solving the problem between them, either in solving diplomatic tensions, controversies, and also the different opinion. That because all of the members of ASEAN agreed to solve all of the conflicts that happened between them by peace way. It can be seen when the Treaty of Amity Cooperation (TAC) in the first ASEAN Summit of 1967 that a mechanism for dealing with conflicts. In the TAC was written:

---
76 Treaty of Amity and Cooperation in Southeast Asia, Chapter 1 Purposes and Principle, 1976
77 ASEAN Charter, Chapter 1 Purposes and Principles.
“The High Contracting Parties shall have the determination and good faith to prevent disputes from arising. In case disputes on matters directly affecting them should arise, especially disputes likely to disturb regional peace and harmony, they shall refrain from the threat or use of force and shall at all times settle such disputes among themselves through friendly negotiations.”78

The member countries signed the Treaty of Amity and Cooperation (TAC), which required the signatories to respect the sovereignty of fellow member countries, to avoid intervention in their internal affairs, to solve problems between them peacefully, and to renounce the threat or use of force. In facing the sensitive issues such as territorial disputes and border disputes, ASEAN members tried not to use the military force. ASEAN members tried to solve the conflict in a peaceful manner over the disputed border area and tried to avoid open conflict. Moreover, if the conflict continuous, they can propose the conflict to the International Court of Justice (ICJ) to handle over it, including the case of Preah Vihear.79

ASEAN never resolved the conflict among its members before the conflict between Thailand and Cambodia; it has generally focused its attention over security issues and economic cooperation. If there is a conflict amongst members, they prefer to seek the involvement of international organisations. For example, the territorial dispute between Malaysia and Indonesia over Sipadan and Ligitan islands. They went to the International Court of Justice (ICJ). The court handed down its judgement in 2001, granting sovereignty over the islands to Malaysia. A conflict between Malaysia and Singapore over the islands of Pedra Branca,

---

78 Treaty of Amity and Cooperation. Chapter IV Pacific Settlement of Dispute (Article 13)
79 Rizal Sukma, “Indonesia dan Sengketa Wilayah ASEAN,” CSIS, 2nd May 2012
Middle Rocks, and South Ledge also found its way to the World Court. In 2008, the court found that sovereignty over Pedra Branca belongs to Singapore and sovereignty over Middle Rocks belongs to Malaysia. As for the remaining islands, South Ledge, both countries were told to return to the negotiation table in order to decide on delimitation of the maritime boundary in their territorial seas.

Following the TAC, Thailand and Cambodia are the members of ASEAN; they agreed and signed the agreement. They suppose to follow the TAC signed in 1976 containing principle to solve problems between members by peaceful way and to reject the threat and the use of force in solving disputes. In fact, Thailand and Cambodia also brought the problem of the case of Preah Vihear to International Court of Justice (ICJ). ICJ has decided that Preah Vihear fall in Cambodia’s territory, but however the ICJ did not decided over the 4.6 sq km of Preah Vihear. So, the conflict was not resolved yet for both countries. On the contrary, the conflict was getting worse when Preah Vihear listed in the World Heritage by UNESCO in 2008. Meanwhile, serious violence happened between two countries in 2011.

The involvement of ASEAN in the Thailand and Cambodia conflict is important since ASEAN’s goal is enhance the peace between members. ASEAN Charter listed that the member states of ASEAN which are in the dispute may ask ASEAN to resort good offices, conciliation or mediation in order to resolve the dispute within an agreed time limit. Thailand and Cambodia held totally

---

81 Rizal Sukma, Sengketa Wilayah ASEAN, 2012
82 ASEAN Charter, Chapter VIII Settlement of Disputes (Article 23, 1)
contrasting stances, Thailand stressing the need for bilateral talks while Cambodia was pushing for mediated multilateral talks. Cambodia asked ASEAN to give the contribution in solving the conflict over Preah Vihear, even though the proposal of Cambodia was not supported by Thailand.\(^3\)

The problem was challenged the ASEAN’s image and credibility, at a time when it had just promulgated the ASEAN Charter and set the goal to become an ASEAN Global Community. However, in responding the conflict, ASEAN supported the two countries to carry out negotiations based on the framework of the Thailand-Cambodia Joint Commission on Demarcation for Land Boundary. ASEAN believed that the conflict can be resolved through bilateral way.\(^4\)

ASEAN has a strong desire to ensure that this commitment is always upheld by both parties. Moreover, the involvement of ASEAN also gained support from UN Security Council (UNSC). The UNSC believed that the conflict between Thailand and Cambodia could be solved by ASEAN as a regional organisation that shades those two countries. So, the UNSC asked ASEAN to find a solution in resolving the conflict.\(^5\)

ASEAN intervened to resolve the issue under Indonesia chairmanship in 2011. The dispute of Thailand and Cambodia became a test for both ASEAN and Indonesia. ASEAN would take a role as a regional organisation since peace is the main goal of ASEAN. The conflict between Thailand and Cambodia shown that ASEAN was not actually in peace. It became the challenge for ASEAN in

---

\(^3\) Sandy Nur Ikhsal Raharjo, “Menanti Diplomacy Tingkat Tinggi Dalam Konflik Thailand Kamboja”, The Center for Political Studies LIPI, (28\(^{th}\) April 2011)

\(^4\) Asian report, Waging Peace. 2011

achieving the main goal of ASEAN, enhance the peace between members. Indonesia would play a facilitating role in bridging the conflict. Indonesia was one of ASEAN’s founders, the biggest member and the chair in 2011. Indonesia was there when the 1976 Treaty of Amity and Cooperation was signed by all of the ASEAN members and the Blueprint for an ASEAN Political and Security Community was adopted, in 2003. It is the leading proponent of the Political and Security Community, which calls for the prevention of disputes and conflicts from arising between member-states. Thus, after the UN Security Council forwarded the Preah Vihear matter to ASEAN, Indonesia, which was the ASEAN chairman in 2011, decided to take the active role of mediator in the dispute. By taking the active role of mediator, Indonesia could show its capability amongst the ASEAN members and in the international community.

B. The Analysis of the Role of Indonesia as a Mediator in the Border Dispute between Thailand and Cambodia as the Chairman of ASEAN in 2011

Indonesia’s turn to chair the ASEAN and taken over the ASEAN Chairmanship from the 1st January 2011 until 31st December 2011. During its chairmanship in ASEAN 2011, Indonesia has the role function in charging the ASEAN’s principle and goals. However, Indonesia has its own way and principle in reaching ASEAN’s goals. As in the first chapter of this thesis explained that role is a social positions as well as a socially recognized category of actors that are constituted by expectations regarding the purpose of an actor in an organized

86 K. Kesavapany, “ASEAN and The Cambodia Thailand Conflict”, East Asia Forum (1st March 2011)
There were many goals that Indonesia would achieve for a better ASEAN. Indonesia showed its leadership in promoting the achievement of three main priorities. First, to ensure that significant progress is being made in the three communities’ pillars. Second, maintenance of the conditions of Asia Pacific region to be safe and stable. Those two goals would then open the way of third main goals of Indonesia’s chairmanship; to maintain ASEAN’s centrality in shaping regional architecture and to develop the vision of the “ASEAN Community in a Global Community of Nations” beyond 2015.

The border dispute between Thailand and Cambodia became the challenge for Indonesia as the chairman of ASEAN in 2011. Indonesia should take the role to resolve the conflict. Since the chairman of ASEAN has the responsibility to provide its good offices in responding to the issues. Therefore, the chairman of ASEAN has the role to ensure an effective and timely response to urgent issues or crisis situations affecting ASEAN, including providing its good offices and such other arrangements shall be settled in accordance with the ASEAN Protocol on Enhanced Dispute Settlement Mechanism.

In addition to the challenge, the border conflict between Thailand and Cambodia also can be an opportunity of Indonesia as chairman of ASEAN in 2011 to prove its influence to ASEAN and member states. Since, the position

---

88 Three Communities’ Pillars of ASEAN; (a) ASEAN Political Security Community, (b) ASEAN Economic Community, (c) ASEAN Socio-Cultural Commnity
90 ASEAN Charter, Chapter X Administration and Procedure (Article 32 Role of The Chairman of ASEAN, point (c))
function in the group is limited in time and scope and it is depending on the group’s structure and purpose.91 In the years leading up to its projected transformation into an integrated and interdependent economic community by 2015, ASEAN should not miss any opportunity to resolve tensions and enhance cooperation between member states. The Preah Vihear dispute is such an opportunity, the peaceful resolution of which would gain Indonesia the respect and confidence it desperately needs to table other regional economic, security and human rights initiatives this year to bring ASEAN closer together.

According to Harnisch, role builds an empirical bridge between agent and structure in international relations. Agents of individuals working singly or in groups are embedded in the social and culture institutions of the states they represent as foreign policy decision makers.92 Indonesia in his capacity as Chairman of ASEAN helped to resolve Thailand and Cambodian border conflict. The settlement of border dispute between the two neighbours by bilateral and global. Foreign Minister of Indonesia, Marty Natalegawa asserted that the military approach is not a solution to the border dispute between two countries.93 Although in resolving the border dispute between the two countries is too hard, but Indonesia underlined this problem should be resolve by peaceful means, through dialogue and negotiation.

There were some policies that Indonesia took as representative of ASEAN in solving the border conflict between Thailand and Cambodia. Indonesia believed that there is a desire and commitment of both parties to resolve the differences and disputes between them by peaceful means. Surely it is, in line with the principles of ASEAN countries as reflected in the Treaty of Amity and Cooperation (TAC) and ASEAN Charter. Through this core document of ASEAN, all of ASEAN member states including Thailand and Cambodia promised to resolve the difference and disputes by peaceful means and to resist the aggression and the use or threat of force. Besides that, Indonesia believed that both parties would recognize the need to stabilize the situation in the border region, implemented to ensure the ceasefire. Military incidents that occurred between Thailand and Cambodia illustrated that there was a communication gap and misperceptions between the two sides. This led in the end, a series of real violence and unwanted conflict between two countries. Therefore, Indonesia argued that there is a need to build a reliable communications system at the local level and a high level between Thailand and Cambodia. By the support of a third party, it can be guaranteed that a ceasefire can be implemented. Third party might strengthen confidence in the commitment of each party to implement a ceasefire and to avoid the worst assumptions and reactions reply. At least, there is a real need for both parties to make a commitment to a higher level in order to respect the ceasefire.  

In bridging the border dispute between Thailand and Cambodia, Indonesia tried to intervene by offering mediation. Mediation can be characterized as

---

conflict resolution by the involved parties with the help of a neutral agent, who is referred to as the mediator. In mediating the two countries, Indonesia should follow the rules of mediation in ASEAN. According to the annex of 2010 Protocol to the ASEAN Charter, mediator shall help to facilitate communication and negotiation between the parties to the dispute and assist them in independent, neutral, and impartial manner in order to resolve the dispute. Besides that, mediator also may invite the Parties to the dispute to meet with him or her or may communicate with them orally or in writing. The mediator may meet or communicate with the Parties to the dispute together or with each of them separately. Indonesia as the chairman of ASEAN visited both countries in February 2011. Indonesia tried to persuade Thailand to accept Indonesia’s involvement in bridging the dispute. The effort was in respond to Thailand’s rejection of any interference from the third party to solve the problem. In responding to a proactive attitude Indonesia, Thailand agreed Indonesia’s involvement as a mediator between Thailand and Cambodia.

Indonesia began its mediator role by sending Foreign Minister Marty Natalegawa to Thailand and Cambodia. Foreign Minister of Indonesia, Marty Natalegawa, as the representatives of ASEAN also, conduct shuttle diplomacy to meet Cambodian Foreign Minister, Hor Nam Hong in Pnom Penh on 7th February

---

95 Selma Myers and Barbara Filner, Conflict Resolution Across Culture: From Talking It Out to Third Party Mediation, (1997)
96 Protocol to The ASEAN Charter on Dispute Settlement Mechanism, Annex 2 Rules of Mediation, 2010
97 Protocol to The ASEAN Charter on Dispute Settlement Mechanism
98 Aris Heru Utomo, “Peran ASEAN dalam Penyelesaian Konflik Thailand-Kamboja” Jurnal Diplomasi 3 (Maret 2011) p. 47
99 Shuttle diplomacy is the use of a third party to serve as an intermediary or mediator between two parties who do not talk directly
2011 and Foreign Minister of Thailand, Kasit Piromya in Bangkok on 8th February 2011 to get the information from the first parties. After that, Foreign Minister Marty Natalegawa with Thailand and Cambodian Foreign Minister went to the UN Security Council (UNSC) in New York to give considerations and inputs on the role of ASEAN in resolving internal conflicts in the region. The UNSC supported all parties to resolve disputes by peaceful means, in accordance with the Treaty of Amity and Cooperation/ TAC and ASEAN Charter.100 This movement has shown the effectiveness of the solutions in bridging the conflict between Thailand and Cambodia. Although the conflict of 4.6 sq km was still in tension, but the two sides tried to refrain from an open arms conflict.101

Indonesia’s arrivals to Thailand and Cambodia were aimed to find out what actually happened in the region. This matter in line with Selma Myers who explained that the role of mediator is to identify the interests or needs of those involved.102 Indonesia asked both parties, Thailand and Cambodia, to negotiate each other to get a good solution for resolving the conflict. The stages of mediation adopted by Indonesia were also in accordance with Kappacher’s mediation concept.103 At the beginning, Foreign Minister of Indonesia, Marty Natalegawa on his visit to the two countries in February 2011 tried to listen to Thailand and Cambodia’s position on what was happened between them. After

101 Aris heru Utomo, “ASEAN dan Penyelesaian Konflik Thailand – Kamboja”, Kompasiana, 22nd February 2011
102 Selma Myers and Barbara Filner, Conflict Resolution Across Culture: From Talking It Out to Third Party Mediation, (1997)
attained much information from the two countries, Foreign Minister Marty Natalegawa knew that the difference perception of both countries is the main problem in the dispute. Each alleged that their opponent was the first that start the conflict.

The differences of opinion in the agreement of joining the third party intervention. Thailand did not wish any involvement of third party, while Cambodia wanted to have a third party to resolve the conflict. In resolving the conflict, Foreign Minister Marty Natalegawa offered mediation to Thailand and Cambodia with Indonesia as the mediator. Thailand and Cambodia agreed of involvement of Indonesia in mediating both countries. In mediating the dispute, Indonesia asked to Thailand and Cambodia to make an agreement to stop the violence and held a ceasefire. In February 2011, finally the two countries agreed to have a ceasefire in the region over Preah Vihear which attended by Indonesia as an observer. The conclusion of the mediating role of Indonesia as chairman of ASEAN is the implemented of ceasefire in the region over Preah Vihear with Indonesia as an observer.

Based on the mandate that is given by the UNSC to ASEAN to resolve the border dispute between Thailand and Cambodia, on the 22nd February 2011, chairman of ASEAN, Foreign Minister Marty Natalegawa invited Foreign Ministers of ASEAN and the representatives to meet in the informal meeting in Jakarta to discuss about the resolving of border conflict between Thailand and Cambodia. The meeting was also participated by the Secretary-General of ASEAN. The meetings was concluded that ASEAN invites and encourages both
parties to realize its commitment to peacefully resolve existing disputes and reject
the use and threat of use of force as embodied in the TAC in Southeast Asia and
the ASEAN Charter. Besides, ASEAN supports the efforts made by both parties
to ensure respect for the ceasefire. Strengthening communication modalities can
presumably begin. ASEAN presumably intended to facilitate bilateral talks and
always informed its development by both parties concerned about the outline
development.\textsuperscript{104}

A bilateral talk was held between Thailand and Cambodia through what it
called “The Thailand-Cambodia Joint Commission on the Demarcation for Land
Boundary (JBC)” in Bogor on 7\textsuperscript{th}-8\textsuperscript{th} April 2011.\textsuperscript{105} The Joint Commission
Meeting was a forum that discussed about the border dispute between two
countries. The meeting discussed the interests to stabilize or perpetuate the
ceasefire in the disputed border area and had shown the diplomatic process was
being put forward and acts of violence renounced. In this meeting Indonesia as a
facilitator, not to interfere in the bilateral but continuously helped the consultation
in the informal meetings in order to align the views between them.\textsuperscript{106}

Indonesia supported the way that the two countries’ effort solve the border
conflict, namely by way of diplomacy. However, in its capacity as the chair of
ASEAN in 2011 and also as a facilitator in bridging the dispute, Indonesia

\textsuperscript{104} Statement by the Chairman of the Association of Southeast Asian Nations (ASEAN) following
the Informal Meeting of the Foreign Ministers of ASEAN, Jakarta, 22\textsuperscript{nd} February 2011 available at
\texttt{www.asean.org/news/asean-statement-communiques.htm} (23\textsuperscript{rd} February 2011) downloaded on 28\textsuperscript{th}
September 2011

\textsuperscript{105} Aditya Budiman, “Pemerintah RI Fasilitasi Pertemuan Thailand-Kamboja di Istana Bogor”,
\textit{Tempo}, (8\textsuperscript{th} April 2011)

\textsuperscript{106} Marty Natalegawa, “Pertemuan Joint Border Committe (JBC) Kamboja-Thailand Memilih Jalur
Diplomasi”, \textit{Tabloid Indonesia}. (23\textsuperscript{rd} April 2011)
proposed to send Indonesian Observer Team (IOT) in the dispute area. Since, Indonesia would like to find the real root of the problem; the observation team could be finding the solution of the border dispute. Since the beginning of resolving the conflict, Cambodia wished to have interference from a third party. Thus, Cambodia approved immediately the proposal of Indonesia. This is not the case of Thailand; Thailand considered that a third party is not important to enter into the region to resolve the conflict because Thailand believed the conflict can be resolved by bilateral talk. So, Thailand did not make clear its position on Indonesia’s proposal to send the observer over the disputed land.

Indonesia waited for the approval of both parties, Thailand and Cambodia, by sending them the Terms of References (ToR). Before officially approved the Indonesian application, Thailand requested that Cambodia should withdraw its troops from the disputed area. However, the request was denied by Cambodia, because according to Cambodia, Thailand would not likely to withdraw its troops afterwards. That causes Indonesia increasingly difficult to send observer team over the disputed area.

On the 6th May 2011, informal meeting held again between Foreign Minister of Thailand, Cambodia and Indonesia at Jakarta Convention Centre (JCC). The result of informal meeting was the approval by both sides to receive the observers. Indonesian Observer Team tasked as a mandates set is to create conducive environment in the border area.107

Unresolved the border dispute between Thailand and Cambodia by peace way and bilaterally required this issue to be discussed ASEAN Summit. As listed in ASEAN Charter, when a dispute remains unresolved, after the application of the proceeding in resolving the conflict, the dispute should be referred to the ASEAN Summit, for its decisions.\textsuperscript{108} The conflict between Thailand and Cambodia was discussed in the eighteenth ASEAN Summit was chaired by President Susilo Bambang Yudhoyono. It held in Jakarta on 7\textsuperscript{th}-8\textsuperscript{th} May 2011. There are several things that are discussed in the ASEAN Summit, one of them is about the unresolved border conflict between Thailand and Cambodia. One of the Chair’s Statements of 18\textsuperscript{th} ASEAN Summit:

“...We welcomed Cambodia’s and Thailand’s commitment to peacefully resolve their differences through political dialogue and negotiations with a view to achieving mutually acceptable solution through the fullest utilization of their existing bilateral mechanism, with appropriate engagement of Indonesia, current Chair of ASEAN. In this regard, we appreciate that Cambodia and Thailand have agreed on the text of the Terms of Reference (TOR) on the Indonesian Observers Team (IOT) in the affected areas following the incidents in February 2011 and encourage the attainment of an environment conducive to their assignment. We also expressed our appreciation and support for the continuing effort of Indonesia, current Chair of ASEAN, to facilitate the process through its appropriate engagement which would help advance our collective efforts to attain the ASEAN Community...”\textsuperscript{109}

Discussion about the border dispute between Thailand and Cambodia could not be concluded, especially on Indonesia’s plan to send the observers to the area. So, the two countries are still need to have another meeting. The President SBY asked the Prime Minister of Thailand, Abhisit Vejjajiva, and Cambodian

\textsuperscript{108} ASEAN Charter, Chapter VIII Settlement of Disputes (Article 26)

\textsuperscript{109} ASEAN Summit, Chair Statement of 18\textsuperscript{th} ASEAN Summit, 11\textsuperscript{th} May 2011, [database online] available at http://ASEAN/summit-18/2011/OutDocs/ChairStatement/ downloaded on 24\textsuperscript{th} May 2013
Prime Minister, Hun Sen, to extend their visit in Jakarta in order to discuss more about the solution to the conflict between Thailand and Cambodia. So that the invented informal meeting between the Prime Minister of Thailand and Cambodia by Marty Natalegawa, the Foreign Minister of Indonesia as mediator was held on the 9th May 2011. In this meeting, Foreign Minister Marty Natalegawa proposed 'package solution' approach which contains: (a) Joint Border Committee; (b) boundary demarcation process; (c) cease-fire and (d) sending a team of Indonesian observers. All of these solutions became one and implemented jointly in order to speed up the process of conflict resolution that does not take a long time. Indonesia hoped that a “package solution” would pave the way for Indonesian observer team to the border region. Besides that, Foreign Minister Marty Natalegawa also explained that the “package solution” approach was not the emphasis of the party went so quickly before the other party, but the settlement was preceded by a synergistic process.\(^{(110)}\)

The proposal of Indonesia to send observer to the location of Preah Vihear was supported also by International Court of Justice (ICJ). On the 18th July 2011, the ICJ issued a new decision related to Preah Vihear temple and the disputed territory. The decisions of the ICJ are: 1) Order the withdrawal of military forces from the territory of both countries which defined as demilitarized zone of 17.3 s.q km. 2) Both parties must provide access to ASEAN Indonesian observer team to the disputed area. 3) Both parties must refrain from physical contact and

\(^{(110)}\) Kathy Quiano, Thailand Cambodia Make A Progress on Border Dispute, CNN (9th May 2011)
weapons that can worse the circumstances. The ICJ’s decision reflects that ICJ strongly supported the sending of Indonesian observer teams to help the peace process on both sides. Indonesian charged to change the Term of Reference (ToR) observer team in accordance with the ICJ decision to place into an area of 17.3 s.q km.

Indonesia wanted to deploy observer to over the Preah Vihear earlier after the ICJ’s decision of July 2011 but it was tactical. Indonesia set two benchmarks for success in its chairmanship. First, Indonesia aimed to stop hostilities between Thailand and Cambodia. Hostilities will not truly have been ended until the ceasefire present and observer deploy to the area to witness the withdrawal troops as ordered by the ICJ. Observers should be prepared to stay until the two countries agree on the border around Preah Vihear through a treaty that is properly approved by both countries. Second, Indonesia tried to encourage the resumptions of negotiations. Negotiations need to produce actions as well as words. The JBC’s joint survey teams had to go back to the area of around Preah Vihear and do their work. The progress can be measured in demarcated boundaries, and signed agreements.

Indonesia’s peacemaking efforts should be encouraged and continues as this conflict is not over. In the limit time of its chairmanship in ASEAN, Indonesia may not have succeeded, but it may well yet reach its objectives as it continues mediation beyond the end of its chairmanship. In the meantime, the role

---


112 Asia report, ASEAN and Thai-Cambodia Border Conflict.2011
of Indonesia in bridging border dispute between Thailand and Cambodia could have a calming effect. ASEAN has encouraged restraint but failed to resolve the conflict over Preah Vihear. Despite efforts by Indonesia (in the name of ASEAN) in 2011 to step in as mediator, national interests, especially in Thailand, took precedence over regional harmony. The issue have not been resolved, but the process has boosted those who wish to see a more proactive organisation in the field of peace and security and further eroded the sanctity of the concept of non-interference in internal affairs.
CHAPTER IV

CONCLUSION

The conflict between Thailand and Cambodia over the temple of Preah Vihear was actually ended by the decision of International Court of Justice (ICJ). The ICJ was decided that Preah Vihear is under Cambodia’s sovereignty. For Thailand, the fighting was not over since ICJ has not decided the 4.6 sq km around Preah Vihear temple. The conflict escalated when United Nations of Educational Scientific and Cultural Organisation (UNESCO) listed Preah Vihear as World Heritage in 2008 and stated that Preah Vihear under Cambodia’s territory. Thailand could not accept the World Heritage recognition, since the surrounding temple is still under the dispute between Thailand and Cambodia. Thailand disagreement reawakens the conflict. The conflict getting worse when there was an exchange of fire in the area of Preah Vihear between soldiers Thailand and Cambodia in 2011.

There were different opinions between Thailand and Cambodia in resolving the conflict. Thailand believed that the conflict can be resolved by bilateral way while Cambodia prefers to have a third party to bridge the dispute. Therefore, Cambodia took the issue to the United Nations Security Council (UNSC), requested the intervention of UNSC to solve the conflict. The UNSC mandated to ASEAN to solve the conflict by mediation.
ASEAN, aimed to stop hostilities and restart negotiations, took up the border issue in early 2011. In trying to resolve the case, ASEAN, under Indonesia’s chairmanship, has laid out a methodology for dealing the disputes. The conflict of Thailand and Cambodia remains an active challenge for ASEAN, which must achieve a certifiable peace on this disputed border to keep its own region secure in the future.

Indonesia as the chairman of ASEAN in 2011, has tried to do his duty to defend the interests of the whole ASEAN is promoting peace in the ASEAN region and by initiating the peaceful settlement of the border disputes. Indonesia encouraging and ensuring that the two countries in the region observe the principles and norms that they agreed to as ASEAN members.

This study aims to understand how a leader or chairman of a regional organisation deals with the issue raised within the organisation. In this study, the writer takes the case of Indonesia’s chairmanship in ASEAN 2011 in bridging the border dispute between Thailand and Cambodia. “How does Indonesia play its mediating role in bridging conflict between Thailand and Cambodia during its ASEAN chairmanship in 2011” is the research question of this study. In examining and elaborating this study, the writer gained some points to answer the research question of this study.

In bridging the border dispute between Thailand and Cambodia, Indonesia provided its good offices to solve the conflict as the mediator. Indonesia’s effort as the chairman of ASEAN in 2011 by sending the foreign minister to open the
path towards peace talks between Thailand and Cambodia through shuttle diplomacy was a positive sign.

There were some actions took by Indonesia in bridging the conflict between Thailand and Cambodia as mediator during Indonesia’s chairmanship in ASEAN 2011. Foreign Minister Marty Natalegawa did shuttle diplomacy, mediating the two countries by visiting Thailand and Cambodia in various occasions and places to collect the information from the parties about the conflict. The intervention of Indonesia as the chairman of ASEAN 2011 was supported by the UNSC after the meeting in New York. On the 22nd February 2011, there was informal meeting which was attended by all of the foreign ministers of ASEAN members. Informal meeting discussed about the settlement to solve the conflict between Thailand and Cambodia. Indonesia as the chairman of ASEAN mediated the two countries by facilitating the discussion through Joint Border Committee Meeting (JBC) in Bogor, on 7th-8th April 2011. However, Indonesia did not involve directly in JBC. Indonesia as facilitator helped the two countries by providing consultation in several informal meetings in order to harmonize the views of both parties. The President of Indonesia, Susilo Bambang Yudhoyono, mentioned about the border conflict between Thailand and Cambodia in 18th ASEAN Summit which held in Jakarta, on 7th-8th May 2011. SBY mentioned that ASEAN welcomed Cambodia’s and Thailand’s political dialogue with the engagement of Indonesia. The appreciation of the agreement by Thailand and Cambodia in receiving Indonesian Observers Team (IOT). Moreover, on 9th May 2011, Indonesia, Thailand and Cambodia held the informal meetings to discuss
about handling the border conflict. Since the border conflict between Thailand and Cambodia brought and talked in 18th ASEAN Summit, which means that the conflict was already complicated and should get more intentions to be resolved. In the informal meetings between two countries and Indonesia as a mediator or facilitator proposed a package solution approach. A package proposed solution aims to accelerate the solution steps at a time. The measures that are proposed Joint Border Committee, boundary demarcation process, cease-fire and sending a team of Indonesian observers.

So, the whole process of dispute settlement Thailand-Cambodia border was only arrived at a temporary solution, because of the expected final solution in the form of peace agreement binding to the two countries has not been achieved. However, all of the peace process and also mediation by Indonesia was ended successfully for several reasons. (1) Indeed of all of the settlement have not been able to achieve a peace agreement that binds both parties, but the relations between the two sides has improved and the condition of any disputed territory was more conducive, no additional troops again in the crossfire or region the dispute. (2) Indonesia managed to create an atmosphere conducive to both parties to make the process of peaceful settlement. (3) Indonesia managed to persuade Thailand to invite or allow a third party to intervene in bridging border conflict between Thailand and Cambodia. It has become clear that at least some members are willing to promote the idea of locally mediated solutions as a compromise between doing nothing and going outside the region.
There are some points that could be gained from this study: (1). Since the establishment of ASEAN, ASEAN never resolved the conflict among its own members, because of the ‘non-intervention’ principle in ASEAN was hindered ASEAN to intervene the conflict. ASEAN has generally focused its attention over security issues and economic cooperation. When there is a conflict between members, some of them prefer to seek the involvement of International organisations. For example, the territorial dispute between Indonesia and Malaysia over Sipadan Ligitan islands went to the International Court of Justice. However, as a result of Indonesia’s peacemaking effort in solving the conflict between Thailand and Cambodia during its chairmanship in ASEAN 2011, ASEAN was able intervened and tried to bridge the conflict. (2). “New way” of ASEAN to solve the problem amongst the members under Indonesia’s chairmanship in 2011. ASEAN did not have a realistic option to do nothing or recues itself when two members violated its own fundamental documents treaty and charter. In solving the border dispute between Thailand and Cambodia, Indonesia and ASEAN tried to discuss openly, mediate directly, and send observers to the conflict, while ASEAN never did those way before when there were conflict amongst member. It would be tangible evidence that ASEAN can be responsible for peace and security amongst members.

In conclusion, Indonesia’s peacemaking efforts should be encouraged and continues as this conflict is not over. In the limit time of its chairmanship in ASEAN, Indonesia may not have succeeded, but it may well yet reach its objectives as it continues mediation beyond the end of its chairmanship. In the
meantime, the role of Indonesia in bridging border dispute between Thailand and Cambodia could have a calming effect. The Thailand Cambodia border conflict underlines that ASEAN should be prepared to take role and urgent action to prevent open hostilities between member states. The role of Indonesia in bridging border conflict between Thailand and Cambodia during its chairmanship in ASEAN create ASEAN’s potential in intervene or solving the problems or challenges amongst the ASEAN member states. ASEAN was able to intervene and to ‘solve’ temporary the border conflict between Thailand and Cambodia. So that, the principle of ASEAN to enhance its capacity to ensure greater peace, security and stability in the region could be achieved including on conflict management and resolution.
BIBLIOGRAFY

A. Book


B. Journal and Articles


Anonim, “Penyelesaian Kamboja-Thailand” Tabloid Diplomasi, Jakarta, 2011


Kanparit, Sujane “A Mediator Named ASEAN: Lessons from Preah Vihear” Reporting Development in ASEAN, 21 January 2013

Keo, Peter tan. “Deal with Preah Vihear peacefully” PacNet Number 19. (Mei 2011)

Kesavapany, K “ASEAN and the Cambodia Thailand Conflict”, East Asia Forum. (April 2011)


Nevel, Marily Van. The Thai-Cambodian border: a growing role for ASEAN. EIAS Newsletter, 2011
Ngoun, Kimly. “Thai-Cambodian Conflict Rooted in History” *East Asia Forum.* (January 2012)

Quiano, Kathy. “Thailand Cambodia Make A Progress on Border Dispute”, *CNN* (May 9, 2011)

Raharjo, Sandy Nur Ikhfal “Menanti Diplomasi Tingkat Tinggi Dalam Konflik Thailand Kamboja” *The Center for Political Studies LIPI.* (April 2011)

Rahman, Taufiq “Kamboja Thailand Sepakat Genjatan Senjata,” *Republika Online,* 05 Februari 2011

St John, Ronal Bruce. “Preah Vihear and the Cambodia-Thailand Borderland” *IBRU Boundary and Security Bulletin.* January 1994,

Sukma, Rizal. “Indonesia dan Sengketa Wilayah ASEAN,” *CSIS,* (May 2012)

Thearith, Leang and Vannarith Chheang. “Cambodia-Thailand Dispute and Its Impacts on Southeast Asian Community Construction” *Cambodian Journal of International Affairs (CJIA)* Vol. 1 Number 1 (October 2008)

Utomo, Aris Heru “Peran ASEAN dalam Penyelesaian Konflik Thailand-Kamboja” *Jurnal Diplomasi* 3 (Maret 2011)


C. Websites


Kappacher, Claudia. The Concept of Mediation. Available at www.koed.hu/medit/claudia downloaded on 5th May 2013


Myers, Selma and Barbara Filner, Conflict Resolution Across Culture: From Talking IT Out to Third Party Mediation, 1997. Available at


D. **Documents**

ASEAN Charter, 2010

Bangkok Declaration “1967 ASEAN Declaration”, 1967


Treaty of Amity and Cooperation in Southeast Asia, 1976
ATTACHMENTS

1. The Preah Vihear Temple

2. The Map of Southeast Asia or ASEAN
Proceedings in the case concerning the Temple of Preah Vihear, between Cambodia and Thailand, were instituted on 6 October 1959 by an Application of the Government of Cambodia; the Government of Thailand having raised two preliminary objections, the Court, by its Judgment of 26 May 1961, found that it had jurisdiction.

In its Judgment on the merits the Court, by nine votes to three, found that the Temple of Preah Vihear was situated in territory under the sovereignty of Cambodia and, in consequence, that Thailand was 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, the Court found that Thailand was under an obligation to restore to Cambodia any sculptures, stelae, fragments of monuments, sandstone model and ancient pottery which might, 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.

Judge Tanaka and Judge Morelli appended to the Judgment a Joint Declaration. Vice-President Alfaro and Judge Sir Gerald Fitzmaurice appended Separate Opinions; Judges Moreno Quintana, Wellington Koo and Sir Percy Spender appended Dissenting Opinions.

In its Judgment, the Court found that the subject of the dispute was sovereignty over the region of the Temple of Preah Vihear. This ancient sanctuary, partially in ruins, stood on a promontory of the Dangrek range of mountains which constituted the boundary between Cambodia and Thailand. The dispute had its \textit{fons et origo} in the boundary settlements made in the period 1904-1908 between France, then conducting the foreign relations of Indo-China, and Siam. The application of the Treaty of 13 February 1904 was, in particular, involved. That Treaty established the general character of the frontier the exact boundary of which was to be delimited by a Franco-Siamese Mixed Commission in the eastern sector of the Dangrek range, in which Preah Vihear was situated, the frontier was to follow the watershed line. For the purpose of delimiting that frontier, it was agreed, at a meeting held on 2 December 1906, that the Mixed Commission should travel along the Dangrek range carrying out all the necessary reconnaissance, and that a survey officer of the French section of the Commission should survey the whole of the eastern part of the range. It had not been contested that the Presidents of the French and Siamese sections duly made this journey, in the course of which they visited the Temple of Preah Vihear. In January-February 1907, the President of the French section had reported to his Government that the frontier-line had been definitely established. It therefore seemed clear that a frontier had been surveyed and fixed, although there was no record of any decision and no reference to the Dangrek region in any minutes of the meetings of the Commission after 2 December 1906. Moreover, at the time when the Commission might have met for the purpose of winding up its work, attention was
directed towards the conclusion of a further Franco-Siamese boundary treaty, the Treaty of 23 March 1907.

The final stage of the delimitation was the preparation of maps. The Siamese Government, which did not dispose of adequate technical means, had requested that French officers should map the frontier region. These maps were completed in the autumn of 1907 by a team of French officers, some of whom had been members of the Mixed Commission, and they were communicated to the Siamese Government in 1908. Amongst them was a map of the Dangrek range showing Preah Vihear on the Cambodian side. It was on that map (filed as Annex I to its Memorial) that Cambodia had principally relied in support of her claim to sovereignty over the Temple. Thailand, on the other hand, had contended that the map, not being the work of the Mixed Commission, had no binding character; that the frontier indicated on it was not the true watershed line and that the true watershed line would place the Temple in Thailand, that the map had never been accepted by Thailand or, alternatively, that if Thailand had accepted it she had done so only because of a mistaken belief that the frontier indicated corresponded with the watershed line.

The Annex I map was never formally approved by the Mixed Commission, which had ceased to function some months before its production. While there could be no reasonable doubt that it was based on the work of the surveying officers in the Dangrek sector, the Court nevertheless concluded that, in its inception, it had no binding character. It was clear from the record, however, that the maps were communicated to the Siamese Government as purporting to represent the outcome of the work of delimitation; since there was no reaction on the part of the Siamese authorities, either then or for many years, they must be held to have acquiesced. The maps were moreover communicated to the Siamese members of the Mixed Commission, who said nothing. to the Siamese Minister of the Interior, Prince Damrong, who thanked the French Minister in Bangkok for them, and to the Siamese provincial governors, some of whom knew of Preah Vihear. If the Siamese authorities accepted the Annex I map without investigation, they could not now plead any error vitiating the reality of their consent.

The Siamese Government and later the Thai Government had raised no query about the Annex I map prior to its negotiations with Cambodia in Bangkok in 1958. But in 1934-1935 a survey had established a divergence between the map line and the true line of the watershed, and other maps had been produced showing the Temple as being in Thailand; Thailand had nevertheless continued also to use and indeed to publish maps showing Preah Vihear as lying in Cambodia. Moreover, in the course of the negotiations for the 1925 and 1937 Franco-Siamese Treaties, which confirmed the existing frontiers, and in 1947 in Washington before the Franco-Siamese Conciliation Commission, it would have been natural for Thailand to raise the matter: she did not do so. The natural inference was that she had accepted the frontier at Preah Vihear as it was drawn on the map, irrespective of its correspondence with the watershed line. Thailand had stated that having been, at all material times, in possession of Preah Vihear, she had had no need to raise the matter; she had indeed instanced the acts of her administrative authorities on the ground as evidence that she had never accepted the Annex I line at Preah Vihear. But the Court found it difficult to regard such local acts as negating the consistent attitude of the central...
authorities. Moreover, when in 1930 Prince Damrong, on a visit to the Temple, was officially received there by the French Resident for the adjoining Cambodian province, Siam failed to react.

From these facts, the court concluded that Thailand had accepted the Annex I map. Even if there were any doubt in this connection, Thailand was not precluded from asserting that she had not accepted it since France and Cambodia had relied upon her acceptance and she had for fifty years enjoyed such benefits as the Treaty of 1904 has conferred on her. Furthermore, the acceptance of the Annex I map caused it to enter the treaty settlement; the Parties had at that time adopted an interpretation of that settlement which caused the map line to prevail over the provisions of the Treaty and, as there was no reason to think that the Parties had attached any special importance to the line of the watershed as such, as compared with the overriding importance of a final regulation of their own frontiers, the Court considered that the interpretation to be given now would be the same.

The Court therefore felt bound to pronounce in favour of the frontier indicated on the Annex I map in the disputed area and it became unnecessary to consider whether the line as mapped did in fact correspond to the true watershed line.

For these reasons, the Court upheld the submissions of Cambodia concerning sovereignty over Preah Vihear.
Preah Vihear (Cambodia)

No 1224

Official name as proposed by the State Party: The Sacred Site of the Temple of Preah Vihear

Location: Kantuot Commune, Choam Ksan District, Kingdom of Cambodia

Brief description:
The buildings that make up this sanctuary dedicated to Shiva, located on the edge of a plateau that dominates the plain of Cambodia, were built in the first half of the 11th century AD and form the most important sanctuary built during the reign of King Sūryavarman I (1002–50), who seized power at Angkor around 1006.

Category of property:
In terms of the categories of cultural property set out in Article 1 of the 1972 World Heritage Convention, this is a site.

1. BASIC DATA

Included in the Tentative List: 1 September 1992

International Assistance from the World Heritage Fund for preparing the Nomination: No

Date received by the World Heritage Centre: 30 January 2006

28 January 2008

Background: This nomination was examined by the World Heritage Committee at its 31st session (Christchurch, 2007).

The World Heritage Committee adopted the following decision (31 COM 8B.24):

The World Heritage Committee,

1. Having examined Documents WHC-07/31.COM/8B and WHC-07/31.COM/INF.8B.1,

2. Having taken note of the following statement by the Chairperson of the World Heritage Committee which has been agreed to by the Delegation of Cambodia and the Delegation of Thailand:

“The State Party of Cambodia and the State Party of Thailand are in full agreement that the Sacred Site of the Temple of Preah Vihear has Outstanding Universal Value and must be inscribed on the World Heritage List as soon as possible. Accordingly, Cambodia and Thailand agree that Cambodia will propose the site for formal inscription on the World Heritage List at the 32nd session of the World Heritage Committee in 2008 with the active support of Thailand.

They also agree that the site is in need of urgent attention and requires international financial and technical assistance and close cooperation between them. They further agree that it is essential to strengthen conservation and management at the site including by the development of an appropriate management plan, as required under paragraph 108 of the Operational Guidelines, which will ensure the future protection of this property. They understand, following consultation with the World Heritage Centre, that financial and technical assistance for the development of a management plan will be available through the World Heritage Centre’s International Assistance programme.”

3. 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), (iii) 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;

4. 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;

5. Further requests the State Party of Cambodia to submit a progress report to the World Heritage Centre, by 1st February 2008.

On 28th January 2008, the State Party submitted documentation demonstrating the progress made with a Management Plan for the site. This included assessments of the extent of the property and its relationship with the surrounding landscape, and included comments on boundaries.

This documentation summarised specific advice from a number of experts from around the world and the outcome of an expert workshop in Cambodia from 11th-14th January 2008. This workshop was organised in collaboration with the World Heritage Centre.

On 22nd May 2008 the State Parties of Cambodia and Thailand submitted a joint Communiqué. This stated that:

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 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 "Schéma 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;

The map referred to in the above Communiqué was received on 18th June 2008.

This defines the core area (N.1) as being the monument and the immediate area surrounding it and is thus considerably smaller than the area originally nominated as core. It excludes much of the promontory on which the main monument sits, including the caves in its cliffs and the monumental staircase to the east. On the map, only a general area, with no boundaries, is indicated for the buffer zone (N.2) and for the area of joint management (N.3). It is not clear if the buffer zone to south and east is as extensive as that proposed in the original nomination, as the new map does not cover the extent of those areas.

No revisions have been received to the Nomination dossier to reflect these changes to the boundaries.

Consultations: ICOMOS has consulted its International Scientific Committee on Archaeological Heritage Management.

Literature consulted (selection):


Technical Evaluation Mission: 23–29 October 2006. No further mission has been undertaken.

Additional information requested and received from the State Party: ICOMOS sent a letter to the State party on 15 December 2006, and the State party submitted information on 3 January 2007.

Date of ICOMOS approval of this report: 25 June 2008

2. THE PROPERTY

The text in this section was given in the 2007 ICOMOS evaluation report.

Description

The architecture

The property is situated on a promontory of the Dangrek Range, 547m above the Cambodian Plain, known as Phnom Preah Vihear (Sacred Hermitage Mountain), close to the modern border with Thailand. It is roughly triangular in shape, defined by steep cliffs. The southern extremity of the promontory juts out to form a natural recess that is a sacred place, commanding a vast panorama, the wide expanse of land lying to the south up to Mount Koulên, the cradle of the Khmer civilisation.

The northern part of the property is an almost horizontal sandstone platform, c.100m long north–south and 50m wide, which gives access to the Temple and to the village of Phnom Kulêñ.

Like many Cambodian monuments, this sanctuary consists of a succession of courtyards on a common axis (though the north-south axis here is somewhat unusual). The sandstone blocks that were used posed enormous handling problems, and there is some indication that the entire south-west part of the property was in effect worked as a quarry.

Access is now by means of a steep, recently constructed track through the forest from the village, which houses soldiers and their families, as well as some Buddhist monks living at the pagoda, which also serves as a school. From here two paths lead to the temple, one passing through a village (Pjum Prasat), wholly dedicated to shops and other facilities for visitors; some 550 people live there.

Preah Vihear shares certain characteristics with other monuments in the north and east of Cambodia:

- It has an axial plan 800m long in which gopuras (gateway towers) and streets succeed one another on the way to the temple.
- It comprises outer buildings that are much larger than the sanctuary itself.
- There is considerable use of light materials such as tiled timber roofs.

To the north a 54m monumental stairway with 159 steps leads to a 25m long pavement flanked by enormous rampant nāgas (snakes). From here three steps reach the first of the gopuras (No. 5). This is cruciform in plan and originally had a pitched wooden roof supported on pillars. Two paths join here – one from Thailand, by means of the monumental stairway, and one from the Cambodian plain, by means of the rock-cut eastern stairway (10m wide, dropping some 400m steeply on the eastern flank of the promontory), now excluded from the core area.
From Gopura No. 5 another long pavement rises to Gopura No. 4 (similar in form to No. 5), with a large rock-cut water tank with steps around. There is another, smaller tank beside the pavement leading to Gopura No. 3. This, too, is cruciform in plan. On either side of the main gateway there are symmetrical U-shaped galleries ending in a long hall of a type known from other sites. Their function is unknown; the custom has grown up of calling them ‘palaces,’ although they were in all probability monastic.

Gopura No. 2 is reached at the end of another pavement, also lined with nāgas. It is similar in form to No. 3, but without the ‘palaces.’ It opens on to a large rectangular hall with rooms on either side, designated ‘libraries’, built in sandstone with a brick vaulted roof.

The sanctuary is enclosed by two groups of galleries laid out in cloister form, foreshadowing the ‘cruciform cloisters’ of Angkor Vat. The central enclosure is accessible only by the three passages coming from Gopura No. 1 and two small openings to east and west. The southern side is closed by Gopura No. 4 and the northern side by a structure which is in effect a false gate. Instead of opening out on the vast spaces of the Cambodian plain, it presents a blank face. The layout thus presents an increasingly closed aspect, until at the end all that is visible is the sky.

The architectural decoration

The finest decoration is to be found on the gopuras, many of which are in an excellent state of conservation and clearly visible. The compositions of the sculptures on the lintels, pillars, pilasters, and elsewhere are varied, complex, highly detailed, and harmonious, representing Hindu gods and other religious figures such as Shiva, Vishnu, Indra, and Krishna.

Constructional techniques and materials

The principal material of all the buildings at Preah Vihear is sandstone from the site itself. Structurally they have load-bearing outer walls integrated with alignments of monolithic columns linked by monolithic lintels that are decorated with religious or mythical scenes.

Laterite blocks faced with sandstone are used where foundations were needed for columns. Where the ground had to be raised because of the steep slopes, sandstone rubble was used.

Brick was also used at Preah Vihear because it was easier to bring up from the plains on the Cambodian side than the sandstone from the site itself. Small bricks were used for the construction of corbelled vaulting.

Apart from the central sanctuary, all the buildings had wooden roofs covered with fired tiles.

History and development

At the outset Preah Vihear housed an eremitic community. On the cliffs some caves in which the hermits lived, a feature of the Khmer landscape, can still be seen there. The foundation of the hermitage is often associated with the erection of a sanctuary by Prince Indrāyudha, son of King Jayavarman II, at the command of Shiva at the beginning of the 9th century. He installed there a portion of the great lingam from Vat Phou. However, the origins of Preah Vihear were probably earlier. Indrāyudha’s building was a modest wooden structure, on the site of the existing stone building, and only minor modifications were made by successive Khmer rulers in the 10th century.

There are four Khmer and Sanskrit inscriptions from the property that provide valuable dating material, confirming the close association of King Sûryavarman I with the erection of the present complex. He erected engraved pillars (lingams) at various points in his extensive lands, bearing his name and title, Sûryavarmanesvara (Lord Sûryavarman), and one of these was raised at Preah Vihear at the beginning of the 11th century, again at the command of Shiva. This was sited next to the earlier temple, which was soon rebuilt in sandstone as part of the overall campaign of extension and improvement of the temple.

By around 1050 new construction had reached Gopura No. 3, but it then proceeded more slowly, partly because of the difficult nature of the land and frequent landslips. The complex was not completed until the 12th century, when King Sûryavarman II entrusted the work to one of his best architects, Divâkarapandita.

Ownership of the property was the subject of considerable negotiation in the 19th and early 20th centuries between the French and Thai Governments. A treaty of 1904 assigned it to France, of which Cambodia was at that time a protectorate. It was reclaimed by Thailand in 1934 and occupied six years later. It was not until 1962 that the International Court of Justice in The Hague confirmed ownership by the newly independent state of Cambodia.

The site was closed from the 1970s because of the troubled history of Cambodia during more than two decades. Fortunately, its remoteness meant that Preah Vihear suffered very little damage over that period, even though it had been mined by the Khmer Rouge, who did not move out until 1998.

3. OUTSTANDING UNIVERSAL VALUE, INTEGRITY AND AUTHENTICITY

Integrity and Authenticity

Integrity

The original plan of the Temple of Preah Vihear developed in the 9th–12th centuries, and all its component parts have survived to the present day so that it is possible to trace its complex history. Some parts, such as the Sanctuary, have partially collapsed as a result of natural phenomena, especially erosion by water, but the architecture has retained all its original characteristics. The natural panorama has not changed from what the hermits saw a thousand years ago.

In its 2007 evaluation, ICOMOS considered that the nominated property included all elements that express the
values of the property. The revised boundaries mean that while the whole of the linear temple complex is within the nominated area, the monumental rock staircase to the east is excluded as is most of the rock promontory on which the temple sits, although part to the east is included in the buffer zone. As is expressed in the nomination, Preah Vihear is inseparable from its surrounding landscape. Its values relate to its strategic position on the promontory of Phnom Preah Vihear (Sacred Hermitage Mountain), rising dramatically out of the Cambodian plain.

Comparative analysis

According to the State Party, the monumental ensemble of Preah Vihear, which is inseparable from its surrounding landscape, can be differentiated from other Khmer monuments already on the World Heritage List.

The site of Angkor (Cambodia), which in fact is a series of cities, symbolises the high point of the civilisation of which it was the capital from the 9th to the 14th century. Preah Vihear differs from Angkor by virtue of the way in which it is inextricably linked with its landscape. Preah Vihear also has some unique structural features, notably the use of tiled timber roofs.

The temple of Vat Phou (Laos) and its associated structures within the Champassak landscape bears exceptional witness to the formation of the pre-Angkor and Angkor civilisations in political and social as well as religious terms, whereas Preah Vihear is exclusively religious in nature.

ICOMOS considers that this analysis is valid. Preah Vihear vividly demonstrates the intimate link between site and landscape and between spiritual and natural values that is to be found at other properties on the World Heritage List such as Mont-Saint-Michel (France) or Meteora (Greece). All these properties illustrate the strong relationship between a religion and the material world by means of a powerful integration of architecture and its natural environment.

The above comparative analysis applies to the area originally nominated: the temple and its surrounding promontory. The justification for differentiating Preah Vihear as a religious ensemble from other Khmer monuments lies strongly in its relationship with its surroundings. With the reduction in the nominated area to the temple alone, the analysis has been somewhat affected, as the setting of Preah Vihear is essential to understanding its values.

ICOMOS considers that the comparative analysis justifies consideration of this property for inscription on the World Heritage List for the uniqueness of the relationship between the temple and the natural landscape.

Justification of the Outstanding Universal Value

The State Party considers that the property is of outstanding universal value for the following reasons:

- The Sacred Site of the Temple of Preah Vihear is distinguished by its exceptional natural environment, which is difficult of access and far away from major traffic arteries. This has permitted its ‘natural’ conservation up to the present time.

- This sacred ensemble is a rare example of the close relationship between a monument and its setting. In the 9th century it was a sheltered hermitage built in the caves of sheer 500m cliffs overlooking the plain of Cambodia. From the beginning of the 11th century, when it became a Royal temple, until at least the mid 12th century, it developed progressively into a long series of sanctuaries linked by over 800m of staircases and pavements.

- The Preah Vihear group is exceptional for three reasons. First, the natural site exhibits many contrasts – a promontory, sheer cliffs, a vast plain, a mountain range, and a natural environment stretching out of sight. Secondly, the quality of its architectural composition is adapted both to the constraints of the site and to religious traditions. Finally, the property is exceptional in terms of the quality of its carved stone ornamentation, which is based either on vegetation motifs or sometimes on scenes from Hindu mythology.

In the documentation received from the State Party in January 2008, the association with Hindu beliefs is further strengthened through the idea that the sitting of the temple buildings on their massif in relation to mountain peaks to the east and west of the site, demonstrates an association with the Hindu divine triad of Vishnu, Shiva and Brahma. The vast Cambodian plain which spreads out in the foreground of the mountains is seen to unite these elements and provide the natural and spiritual setting of the monuments, essential for their understanding.

ICOMOS supports the justification put forward by the State Party. However, with the core zone being restricted to the temple and its immediate surroundings, and the temple thus being separated from its dramatic natural setting, the justification is no longer fully aligned with the boundaries put forward by the State Party and agreed by Thailand.

Criteria under which inscription is proposed:

The property is nominated on the basis of criteria (i), (iii), and (iv);
Criterion (i): represent a masterpiece of human creative genius.

The State Party justifies this criterion on the basis that The Temple of Preah Vihear is a unique architectural ensemble made up of a series of sanctuaries linked by a system of pavements and staircases on an axis c.800m long.

The site of the Temple and its environment today represent a particularly significant example of the Khmer genius for adapting monuments to their environment.

In its 2007 evaluation, ICOMOS concurred with the view that this ensemble, the broad composition of which is still especially clear, testifies to the Khmer genius for domesticking vast territories and adapting to the landscape. It went on to say that the property offers the visitor a magnificent landscape embracing nearly 360° of the plain below, a landscape opening out in front of the hermits’ grottoes in the cliffs. Furthermore, ICOMOS considered that Preah Vihear is an outstanding masterpiece of Khmer architecture. It is very ‘pure’ both in plan and in the detail of its decoration.

With the revised boundaries, ICOMOS considers that this criterion could still be justified.

ICOMOS considers that the proposed justification for this criterion cannot be accepted for the new boundaries, but suggests that the criterion could be justified for an enlarged core area.

Criterion (iii): bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared.

The State Party justifies this criterion on the basis that the promontory at the end of the Dangrek Range dominating the plain is exceptional testimony to the cultural traditions of the hermitages. The caves in this 500m high cliff, which are accessible without too much danger from the crest of the promontory, enabled the hermits to settle there. Their presence led to the foundation of a sanctuary at the beginning of the 9th century on the promontory, from which the sacred ensemble visible today developed.

It is also suggested that the Preah Vihear ensemble bears exceptional witness to the capacity of the Khmer civilisation to make use of a difficult site over a long period as a settlement site and as a source of materials. In this way the mountain was levelled over a considerable area to permit the building of the temple. The sandstone extracted for this purpose was used as the building material for the temple.

In its 2007 evaluation, ICOMOS concurred with the view that the Preah Vihear ensemble bears exceptional witness to the capacity of the Khmer civilisation to make use of a difficult site over a long period as a settlement site and as a source of materials. It went on to say that in this way the mountain was levelled over a considerable area to permit the building of the temple. The sandstone extracted for this purpose was used as the building material for the temple. Also, Preah Vihear demonstrates an important interchange in human values and developments in art, architecture, planning, and landscape design.

In light of the revised boundary proposed by the State Party, and agreed by Thailand, excluding the cliffs, caves, and much of the overall promontory, ICOMOS considers that this criterion cannot be justified.

ICOMOS considers that the proposed justification for this criterion cannot be accepted for the new boundaries, but suggests that the criterion could be justified for an enlarged core area.

Criterion (iv): be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history.

The State Party justifies this criterion on the basis that the Preah Vihear ensemble consists of the integrally connected temple and its environment: a natural landscape which is exceptional by virtue of its topography and the boundless view that it gives over the Cambodian plain. From whichever direction the temple is approached and viewed, the temple is indissolubly linked with the cliff upon which it sits and of which it is the expression.

In its 2007 evaluation, ICOMOS concurred with the view that the property should be understood at the different levels of its components: the temple, and in particular its delicately carved ornamentation of plant motifs and classical mythology, the sloping layout of the promontory jutting out from the steep slopes of the Mount Dangrek Range, the cliff and its profiles, and the plain with the natural panorama that it offers. It went on to say that the architectural ensemble is exceptional and the position of the Temple on a cliff edge site is particularly impressive. Stairs and historical access surviving for over a thousand years show a sophisticated technological understanding. The whole historic structure demonstrates the high point of a significant stage in human history.

In light of the revised boundary proposed by the State Party, and agreed by Thailand, excluding the cliffs, caves, and much of the overall promontory, ICOMOS considers that this criterion cannot be justified.

ICOMOS considers that the proposed justification for this criterion cannot be accepted for the new boundaries, but suggests that the criterion could be justified for an enlarged core area.

Taking account of the revised boundaries, which encompass the temple, rather than the temple and much of the promontory on which it is sited, and the justifications put forward by the State Party for the criteria, ICOMOS considers that two of the criteria, (iii) and (iv), cannot be justified, as they were in the original evaluation.

ICOMOS considers that the nominated property meets criterion (i) and that Outstanding Universal Value has been demonstrated.
4. FACTORS AFFECTING THE PROPERTY

Development pressures

Because the property is located in a remote and lightly populated area of Cambodia, there are no pressures related directly to development. It is also a national protected site.

In its 2007 report, ICOMOS commented on a village within the nominated property devoted to servicing tourists, an activity which is of considerable economic importance to the villagers. This village is now excluded from the nominated area.

Anti-personnel mines

The property was heavily mined during the Khmer Rouge period. The Cambodian Mine Action Centre has nearly finished clearing the area proposed for inscription. Some pockets remain to be dealt with on the north-east of the perimeter and close to the eastern stairway. After a short break this work began again in June 2006.

Disputed frontier

ICOMOS noted in its 2007 evaluation that, according to information provided to it by the World Heritage Centre, the precise location of the frontier between Cambodia and Thailand to the north of the nominated site is currently the subject of a dispute between the two States Parties. The property nominated in 2007 and parts of its buffer zone lay partly within the disputed area.

The property now nominated lies entirely within territory in Cambodia over which there is no dispute with Thailand. The issue of the buffer zone in relation to these matters is more complex and is discussed in section 5 of this report.

Environmental pressures

The region where Preah Vihear is located is in a tropical climate zone which experiences monsoons. The main part of the property is in a balanced vegetal environment, in particular in the eastern part, which is a Thai national natural and archaeological park.

However, the site of the temple at the top of a steep cliff is a very exposed one, subject to the rigours of a mountain climate exacerbated by monsoon conditions. Annual rainfall is around 1500mm, coming mainly in July–September. This causes erosion and some subsidence. Attention is being focussed on rehabilitating drainage systems or introducing new ones. It should be noted that evaporation is roughly equal to the rainfall, and so there is a risk of water shortages. This is being taken account of by constructing reservoirs on the property.

Siting on a high promontory also favours wind erosion, as well as the filling of sheltered areas. Changes in pressure can give rise to powerful erosion conditions during monsoons.

There can be temperature differences of as much as 40°C between sunny and shaded areas, a phenomenon made worse by the movement of sunny areas during the course of the day. These cycles lead to surface spalling on sandstone elements.

Natural disasters and risk preparedness

Cambodia is not in a seismic zone. Because of its altitude, the property is not at risk from flooding. However, its location in a wooded area exposes it to danger from forest fires in the dry season.

Visitor pressures

The number of visitors is low, averaging 185 a day. This is not considered to constitute a threat at present, even though the annual visitor numbers have risen from 14,719 in 1999 to 67,843 in 2004. However, once the property has been cleared from landmines, the State Party should ensure that visitor pressures do not adversely impact on the values of the property.

ICOMOS considers that the main risks to the property are environmental and climatic. It recommends that special attention is given to these in management planning.

ICOMOS also recalls that, in order to ensure the sound long-term management of the property, the processes to resolve the relationships between the boundaries of this property and the relevant national borders should continue.

5. PROTECTION, CONSERVATION AND MANAGEMENT

Boundaries of the nominated property and buffer zone

In its 2007 evaluation, ICOMOS noted that, the boundary of the nominated property coincided on the north with the existing frontier between Cambodia and Thailand. The area beyond this segment of the boundary lies entirely within what is currently the territory of Thailand.

The nominated area has now been revised so that it falls entirely within land in Cambodia not disputed by Thailand. The core zone includes the temple and a small area immediately surrounding it.

A buffer zone has been proposed to the south and east, but as no boundaries have been delineated, it is not clear how far this extends. To the north and west a zone of joint management between Cambodia and Thailand has been proposed, but has also not been delineated.

In the original nomination dossier it was stated that three protected zones of the Sacred Site of the Temple of Preah Vihear which cover both the cultural property and its environment have been defined by the Royal Decree NS/RKM/0303/115 of 11.03.2003:

Zone 1: The Central Zone, which extends over the entire upper part of the mountain on which Preah Vihear is situated (i.e. the nominated core area).

Zone 2: The Buffer Zone, corresponding to the landscape around the property and the natural environment.
ICOMOS considers that the protective measures for the Sacred Site of the Temple of Preah Vihear are adequate.

**Zone 3:** The Satellite Zone, reserved for economic and social development that preserves the traditional way of life.

The new core zone lies within Zone 1. The new buffer zone lies within Zone 2, as does the new zone of joint management.

ICOMOS notes that the documentation from the State Party received in January 2008 indicates that the significance of the temple on its mountain promontory is related to mountain peaks to the east and west that curve around the vast plain to the south. The massif on which Preah Vihear sits and two peaks to east and west are said to reflect the Hindu divine triad of Vishnu, Shiva and Brahma. Two of these peaks are outside the core zone, and one outside the buffer zone, and only part of the plain is within the buffer zone.

The documentation also suggests that a new enlarged boundary might be considered for management reasons to encompass these specific landscape relationships and thus the full cultural, natural and historic values of the site. It is noted that further survey work would be needed to define this area accurately and that this could only be undertaken after mine clearance work has been completed.

ICOMOS considers that the boundary adequately encompasses the main built remains of the temple, but excludes its landscape setting. ICOMOS cannot comment on the extent of the buffer zone or the zone of joint management without further documentation.

**Ownership**

Under the provisions of the Cambodian land legislation NS/RKM/0801/14 of 30 August 2001, the archaeological, cultural, and historical heritage and protected natural reserves are public property.

**Protection**

Preah Vihear is protected under the Law on the protection of the cultural heritage (NS/0196/26 of 25.01.1996) against illegal destruction, vandalism, illicit transfer of ownership, illicit excavations, and illegal exports and imports. It applies to both movable and immovable heritage, whether public or private. The interministerial Conseil Supérieur de la Culture Nationale (CSCN) is responsible for developing policies, and these are implemented by the Ministry of Culture and Fine Arts.

As mentioned above, the Royal Decree NS/RKM/0303/115 of 11.03.2003 defines the three protected zones of the Sacred Site of the Temple of Preah Vihear which cover both the cultural site and its environment.

A number of other decrees relate to the protection of animal and vegetal resources in the area and the protection and management of natural resources.

ICOMOS considers that there is an urgent need for a systematic and comprehensive conservation programme and the allocation of financial resources to permit its implementation according to a prioritised timetable.

**Conservation**

**History of conservation**

Because of the political situation in Cambodia over recent decades, no conservation work was possible until relatively recently. The work that has been done has been restricted by the inaccessibility of the property and the dangers from mines. There has been no major restoration work carried out at the property since the clearance work of Henri Parmentier in 1929–30.

**Present state of conservation**

The state of conservation of the monumental stairway and the pavements is variable. Stabilisation is required and a monitoring programme is needed.

The main structure is in good condition, with the exception of Gopura 5, where consolidation work is needed to rectify serious problems resulting from water infiltration and erosion. A policy should be developed for reinstating and replacing certain fallen architectural elements in order to retain the spirit of place, and also to preserve the ‘poetry of ruins’.

Systematic survey has produced a conservation inventory detailing the measures needed for each of the components of the property. Proposed actions include the re-erection and stabilisation of columns, insertion of supports, installation of tell-tales, reconstruction of stairways, reinstatement of paving, etc.

**Active conservation measures**

There are no conservation projects currently in progress, apart from those associated with minefield clearance.

ICOMOS considers that there is an urgent need for a systematic and comprehensive conservation programme and the allocation of financial resources to permit its implementation according to a prioritised timetable.

**Management**

Management plans, including visitor management and presentation

ICOMOS’s evaluation of 2007 noted that there was then no formal management plan in force, although an action plan had been prepared. This has involved the creation of an interministerial coordination committee (November 2005), amendment of Royal Decree NS/RKM/0303/115 of 11.03.2003 so as to increase Zone 2 (February 2006), issue of an order (sous-decret) implementing the above Royal Decree (July 2006), and establishment of an Authority for the Conservation and Management of Preah Vihear, based on that for Angkor Siem Reap, known as APSARA (December 2006).

Details were given of the contents of an eventual management plan, to be prepared following an exhaustive preparatory study by Cambodian and international specialists in the relevant domains.
The Committee at its 31st Session requested the Cambodian authorities to strengthen conservation and management at the site by making progress in developing an appropriate management plan.

The documentation provided by the State Party in January 2008 sets out the progress that has been made. Experts from the United States of America, France, Belgium, China, Thailand and India were invited to attend an expert workshop with experts from Cambodia in January 2008 to consider a wide range of aspects of the sites and its management challenges. Some experts had carried out preliminary missions to the site in December 2007.

The overall approach to the Management Plan is set out as to:

1) identify issues;
2) establish limits of the site;
3) establish management zones;
4) develop prescriptions or desired future conditions for each of the zones;
5) allocate the potential zones to specific locations on the map and illustrate access and circulation patterns.

Detailed information has been provided under the following headings:

- Protection of the sacred and natural surroundings
- Archaeology of the massif and the plain
- Archaeological zoning related to visitor management
- Structural stability
- Protection of the cultural landscape
- Protection and conservation of built remains
- Climate and hydrology
- Organisation of space and visitor movement
- Monitoring tools
- Objectives for social and economic development
- Objectives for the fight against poverty

In the joint Communique of 23rd May 2008, it was stated that 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, the management plan of these areas will be prepared in a concerted manner between the Cambodian and Thai authorities in conformity with international conservation standards with a view to maintaining the outstanding universal value of the property. It was further stated that such a 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 consideration by the World Heritage Committee at its 34th session in 2010.

ICOMOS considers that there is a need to delineate in some form the areas to the north and west referred to in this Communique.

There is also a need to delineate the area to be covered by the Management Plan in the light of suggestions made in information provided in January 2008 that the Management Zone could be much larger than the nominated area. As set out above, the values of Preah Vihear are linked to its position in the landscape and the way it responded to that dramatic landscape. Managing the temple alone will not ensure that its values are sustained.

ICOMOS also suggests that given the complexity of the proposed Management Plan, it would be appropriate for a progress report to be submitted in 2009.

**Resources, including staffing levels, expertise and training**

The proposed Authority for the Conservation and Management of Preah Vihear will initially have a staff of between 35 and 40, comprising administrative, scientific, documentation, security, and labouring personnel. It will be responsible for daily maintenance, field studies, and exploratory excavations preparatory to the formulation of the conservation plans.

**6. MONITORING**

Until now the level of monitoring, carried out by the Ministry of Culture and Fine Arts and local authorities, has been minimal, restricted to mine clearance, security and daily maintenance.

It is recognised that there is a need for a dynamic monitoring procedure directed towards the state of conservation of the buildings, stairways, and pavements, so as to produce a plan for conservation interventions over the next 15–20 years.

ICOMOS considers that the existing monitoring measures for the property are inadequate.

**7. CONCLUSIONS**

ICOMOS considers that the full value of the Temple of Preah Vihear is inextricably linked to its surrounding landscape. At one level it is an extraordinary interaction between the spiritual, (the temple) and the natural, (its surroundings). But in its planning and orientation, facing north, which is quite different from other Khmer temples, and in the bowl of three surrounding peaks, it has been suggested that the natural could be part of the spiritual setting, the three peaks reflecting the Hindu divine triad of Vishnu, Shiva and Brahma.

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 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 commends the State Party on the progress made with setting out a strategic framework for the development a management plan for the nominated area, that addresses the full range of issues that impinge on the site, and on the proposed joint arrangements with the Thai authorities for a management plan for the areas to the north and west of the nominated property which allows for the protection of these areas in a concerted manner.

As the landscape is so extensive, there need to be layers of protection, as suggested in the management plan papers, with the core zone being supported by buffer zones. As the promontory will now partly be in the eastern buffer zone and partly in the zone of joint management, it is essential that management of the property extends to these two zones – and thus in effect the monument and its closer setting are managed as one unit.

ICOMOS notes that although a map has been provided for the revised core area, this is at a small scale and needs to be augmented with a more detailed map. No detailed maps have been provided for the boundaries of the buffer zone and areas to the north and west, which will be subject to joint management arrangements between Cambodia and Thailand, (only general areas have been suggested).

The nominated area is now considerably smaller than in the original nomination dossier, and the nomination dossier needs to be revised to reflect changes made to the boundaries.

**Recommendations with respect to inscription**

Recalling the decision of the Committee at its 31st session which recognised '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), (iii) and (iv),' and agreed 'in principle that it should be inscribed on the World Heritage List';

ICOMOS recognises that the two State Parties of Cambodia and Thailand each support the inscription of this property on the World Heritage List, as previously recommended by ICOMOS, and have found, through extensive discussions, an agreed approach to its nomination (and cooperative management of areas to the north and west of the core zone);

ICOMOS re-affirms its original evaluation of the property, but notes that this was based on aspects of the original nomination which have now been changed in several significant ways: the core area has been much reduced and now only includes the temple and its immediate surrounding and not the wider promontory with its cliffs and caves;

ICOMOS wishes to acknowledge, and bring to the attention of the Committee, that the map submitted, with its undelineated buffer and joint management zones, is a source of concern in terms of the long-term conservation and protection of the property.

As the Committee has already determined that the property should be inscribed, it is the considered view of ICOMOS that this could now be justified only in relation to criterion (i);

The Committee might decide to inscribe the property on the basis of criterion (i) alone. ICOMOS considers that this 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;

In accordance with its original evaluation of this property, ICOMOS considers that if the property is inscribed by the Committee at this session on the basis of criterion (i) only; criteria (iii) and (iv) could be justified in the future if there is a possibility to extend the boundary of the inscribed property to include the landscape setting of the temple on its promontory;

ICOMOS encourages the State Parties of Cambodia and Thailand to commit to continuing their overall collaboration to safeguard the values of the property and expresses the hope that in the future it will be possible for them jointly to submit an extension to the boundaries which reflects the full values of this property and its landscape setting.

ICOMOS recommends that, if the property is inscribed at this session, the World Heritage Committee should invite the State Party to submit by 1st February 2009:

- Detailed map of the core area and a map delineating the buffer zone;
- Updated Nomination dossier to reflect the changes made to the boundaries;
- Confirmation that the management zone for the property will include the core zone, buffer zone and joint north and west zone;
- Progress report on the preparation of the Management Plan, including the joint management plan to be prepared with the Thai authorities for the areas to the north and west of the core zone;
- A delineation of the areas to the north and west that will be covered by the joint management plan;

And to submit to the World Heritage Committee at its 34th session in 2010:

- Completed Management Plan for the nominated site, including a joint management plan for the areas to the north and west, produced jointly by Cambodia and Thailand.