

PREAH VIHEAR: A KHMER HERITAGE

(Revision 1)

By
Kenneth T. So

THE KHMER EMPIRE

The Khmer Empire was at its apogee during the reign of Jayavarman VII (1181-1215 A.D.). Its territory covered the current Cambodia, all of southern Vietnam, all of the current Laos, all of the current Thailand, and part of the current Malaysia.

Unlike the Khmers, Thais, known then as Siameses, were not natives of the region. The kingdom of Thailand, known then as Siam, did not appear in Southeast Asia until the mid-14th century.

A well-known Thai historian, Sulak Sivarak, who was a Nobel Peace Prize nominee and the winner of the Right Livelihood Award said of the Khmer Empire: "It included everything right up to Lopburi and all of what is now Bangkok".

Again, describing the Khmer Empire, Peter Janssan of the Hindustan Times quoted Sulak Sivarak in his article on 18 June 2008: "Thai invasions of Cambodia, then in its decline, led to the adoption of many Khmer cultural traditions by the Thais, including the Hindu concept of god-kings and court rituals, and an ongoing fondness for Brahman-inspired black magic, especially among Thai politicians". Peter Janssan went on to describe that there are many more Khmer temples located in Thailand, especially along the northeast Thailand-Cambodian border like Buriram, Surin, and Sisaket. The map depicting the Khmer Empire at its height is shown in Figure 1.

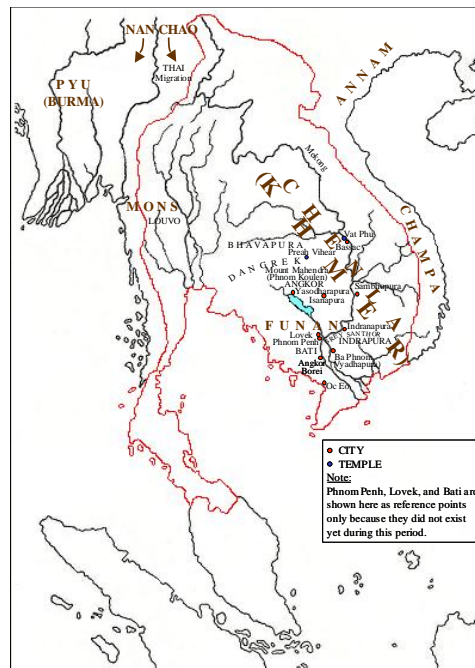


Figure 1. Khmer Empire during the Height of its Civilization, Before the Appearance of Siam (From Jayavarman II to Jayavarman VII)

THE FRENCH PROTECTORATE

Cambodia was a vassal state under Siam during the reign of King Ang Duong. Cambodia had lost Battambang, Sisophon, and Siem Reap to Siam. Siam had placed spies everywhere at the court of Oudong. To get out of the Siam's manacles, King Norodom who succeeded his father, King Ang Duong, sought out help from France.

On 23 March 1907, under the reign of King Sisowath who succeeded his brother, King Norodom, France (as the protectorate of Cambodia) and Siam signed a border treaty that completed the 1904 treaty. In the 1904 treaty Siam ceded Tonlé Repou, Mlou Prey, Koh Kong, and Stung Trèng to Cambodia. The 1907 treaty subsequently produced the French-Siamese Commission 1907 Frontier Line (Figure 2), placing Preah Vihear under the control of Cambodia. The French-Siamese 1907 treaty had Siam ceded almost all Cambodia ancient territory of the 16th century back to Cambodia. The territory included Battambang, Sisophon, Siem Reap, Mongkol Borei, and Tnot (Figures 3 and 4).

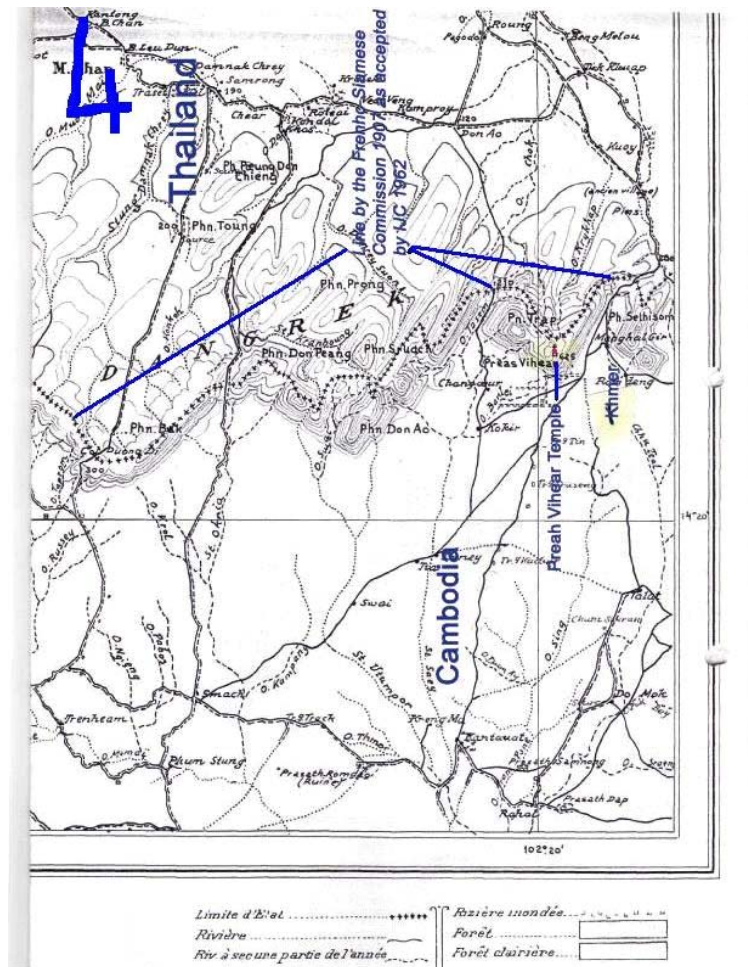


Figure 2. Extract from the International Court of Justice Report 1962 – The French-Siamese Commission 1907 (Scale 1:200,000) (Courtesy Bora Touch. Note in blue added by Bora Touch for clarity)

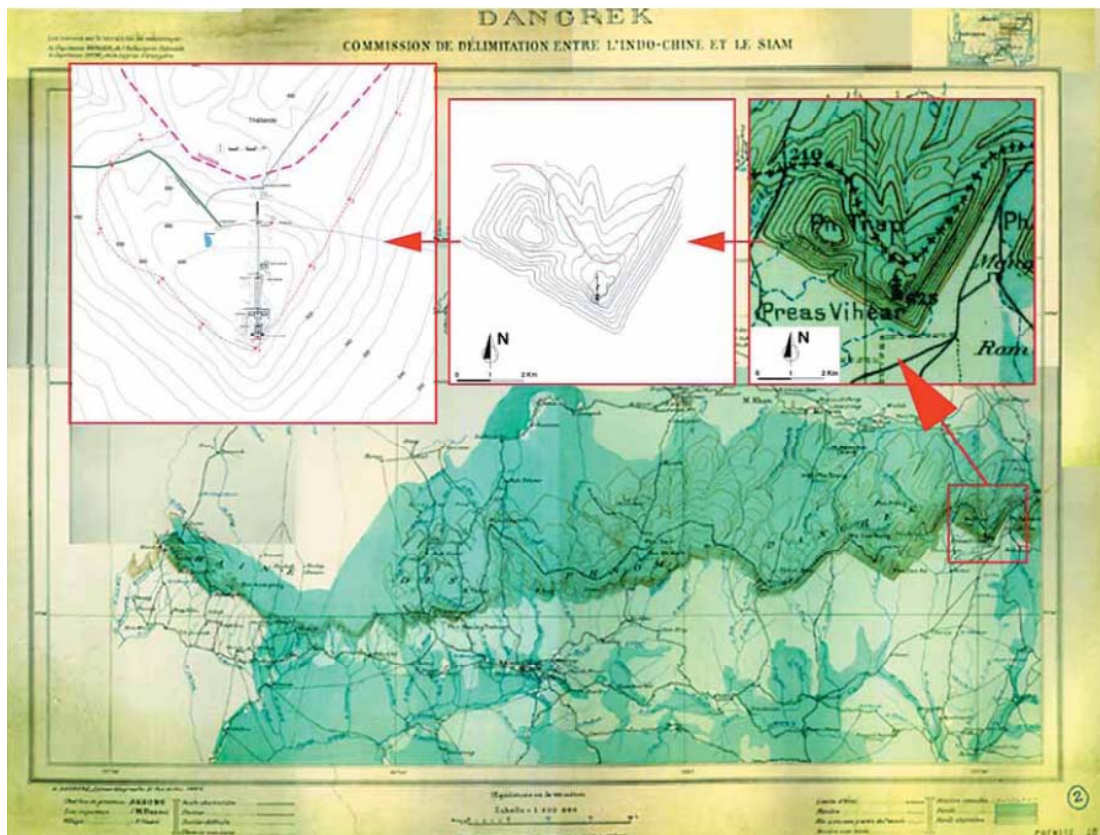


Figure 3. Map of Cambodia Showing the Territory That Siam Ceded To France in 1907



Figure 4. Map of Present Day Cambodia
 Courtesy: Official Map by the Royal Government of Cambodia
 Submitted to UNESCO for Preah Vihear World Heritage List

In spite of this agreement, Thailand contested in 1934 that the Temple of Preah Vihear belonged to her and their surveyors redrew the frontier to locate Preah Vihear in Thailand's territory. In 1954 Thailand occupied Preah Vihear. On 6 October 1959, Cambodia, under the leadership of Prince Norodom Sihanouk, petitioned the International Court of Justice (ICJ) of the Hague, Netherlands, to rule on the dispute. By the end of the year, Thailand retaliated with a claim listing Preah Vihear as a national archeological site. On June 15, 1962, the ICJ made a judgment recognizing that the Temple of Preah Vihear belonged to Cambodia using the French-Siamese Commission 1907 Frontier Line as one of the supporting arguments (Figure 5). A satellite photo showing Preah Vihear and its surrounding region with demarcations of the frontier established by the French-Siamese Commission 1907 is presented in Figure 6. Figure 7 shows another satellite photo of Preah Vihear and the Dangrek mountain range. Thailand never protested against the verdict. However, over the years Thailand has unilaterally redrawn the map that contradicts the ICJ judgment (Figures 8-10).



**Figure 5. Area of the Temple of Preah Vihear in the Dangrek Range of Mountains (Extrapolation from the map recognized by the International Court of Justice, 15 June 1962)
 Courtesy: Official Map by the Royal Government of Cambodia submitted to UNESCO for Preah Vihear World Heritage List**

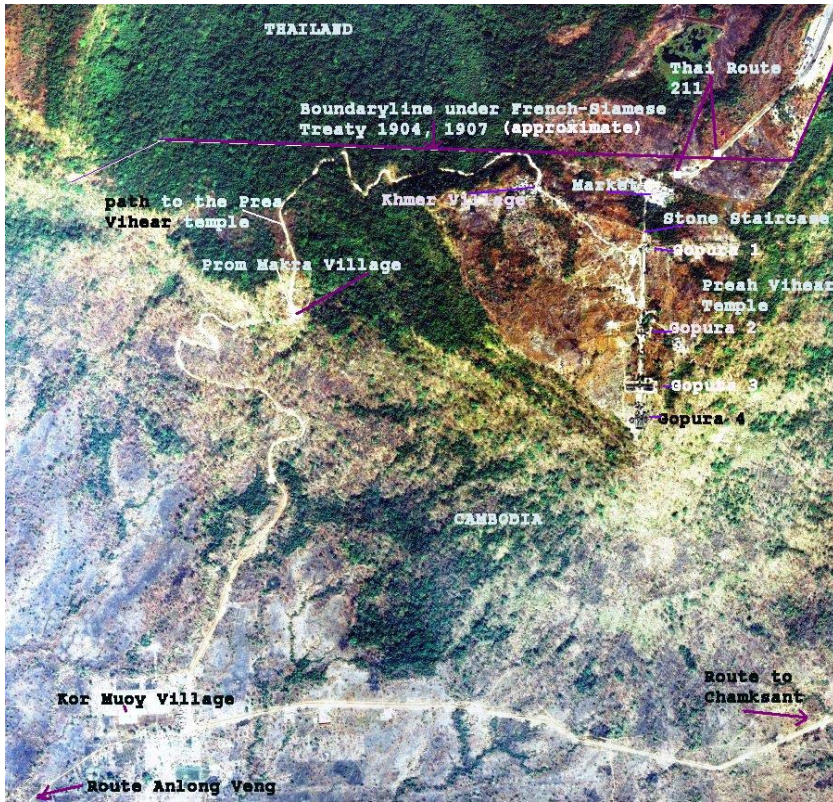


Figure 6. Satellite Photo of Preah Vihear and its Surrounding Region (Courtesy: Bora Touch)



Figure 7. Satellite Photo of Preah Vihear and its Surrounding Region (Courtesy: Bora Touch)

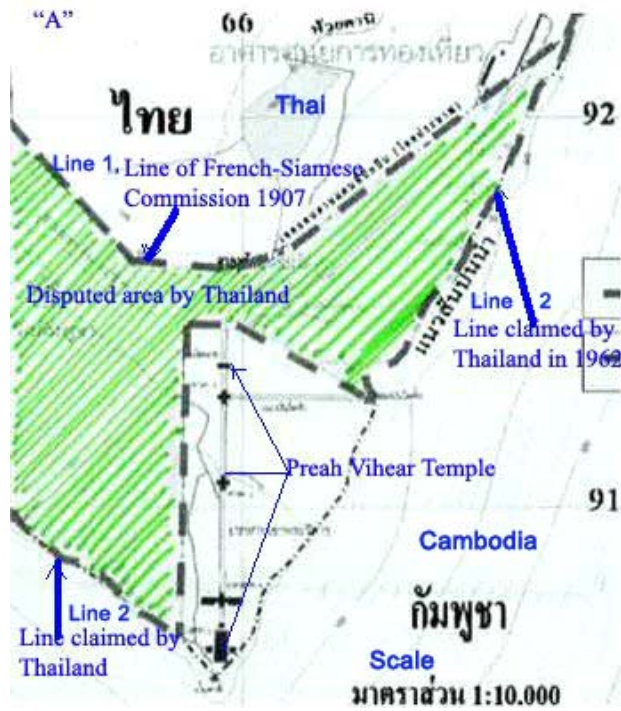


Figure 8. Thai Internal Working Document – The Official Thai Map (Scale 1:10,000) Courtesy Bora Touch. Notes in blue and green Colors added by Bora Touch for clarity

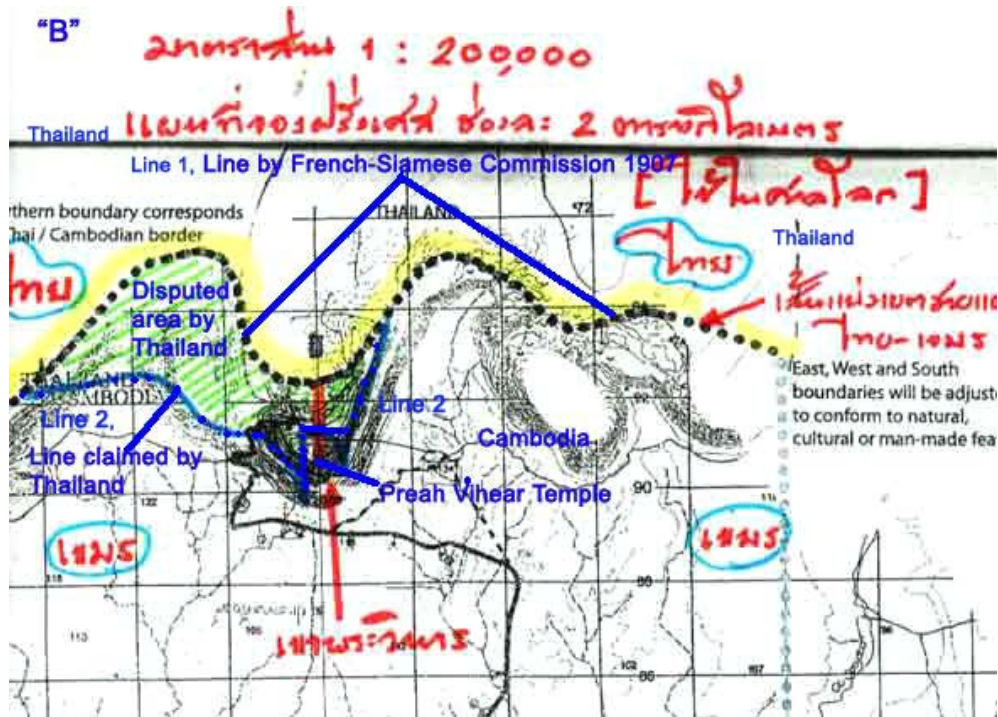


Figure 9. Thai Internal Working Document – The French-Siamese Commission Map Made in 1907 (Scale: 1:200,000) (Courtesy Bora Touch. Notes in blue by Bora Touch for clarity)

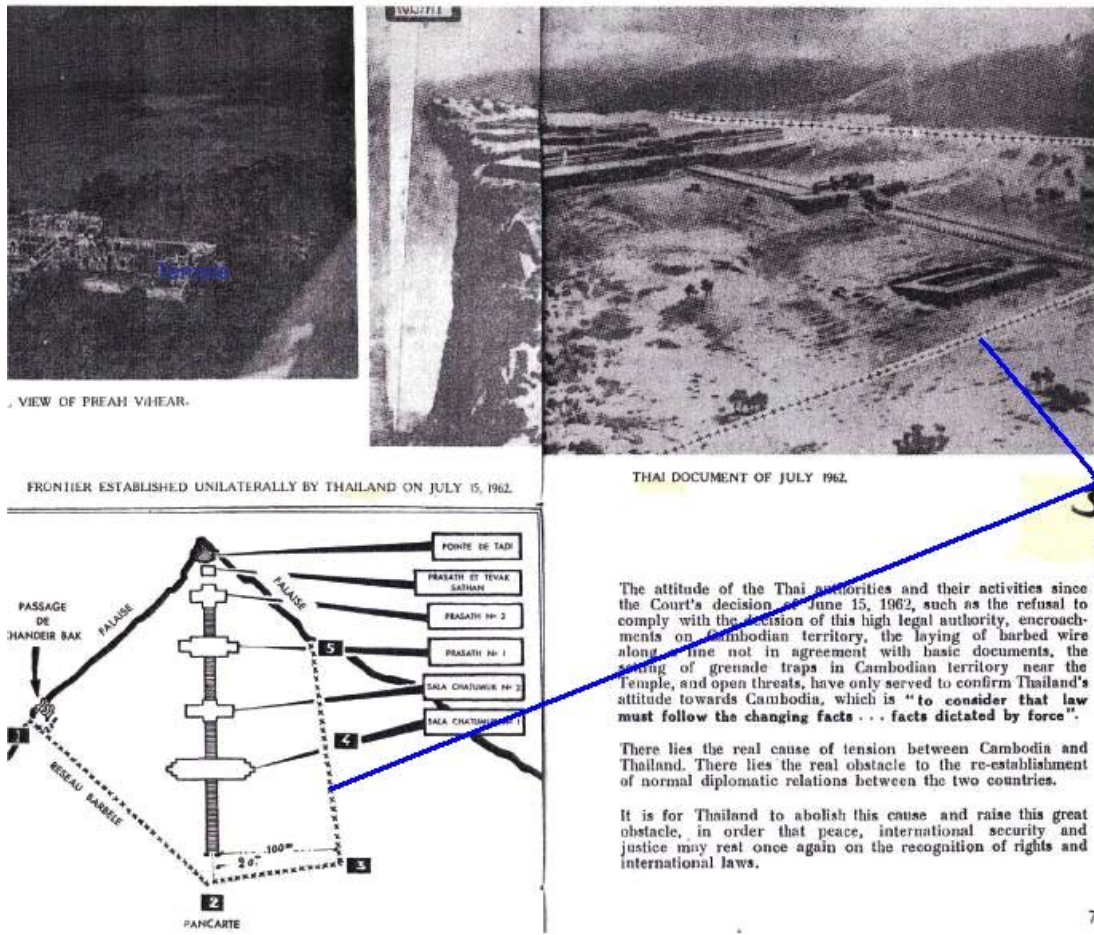


Figure 10. Extract from the Aide Memoire of Cambodia Royal Government 1962 (Scale: 1:6,000) (Courtesy Bora Touch. Note in blue by Bora Touch for Clarity)

The temple of Preah Vihear was originally built under Yasovarman I, a Khmer king who reigned from 889 to 910 A.D. The building started in light material, but its completion in stone was carried on later by his successors. The temple was dedicated to Shiva (God of destroyer).

The setting of Preah Vihear was ideal for a Khmer monarch who dedicated the temple for Shiva because of its spectacular location sitting atop of a high cliff over 500 meters above the lower ground. Aerial views of the Preah Vihear temples are shown in Figures 11 and 12.



**Figure 11. Aerial View of Preah Vihear Hanging Over a Cliff
On Cambodia Territory**
(Courtesy: Official Photo by the Royal Government of Cambodia
Submitted to UNESCO for Preah Vihear World Heritage List)



Figure 12. Aerial View of Preah Vihear

THE THAI TWISTED THESIS OF THEIR ORIGIN

There are some Thais in the academic, the press, and the media who fantasize in their justification of Preah Vihear belonging to Thailand by advancing a twisted thesis claiming that Khmer is not the same as Khorm (note: the Thai used to call Khmer as either Khamin or Khorm). They say that Khmer is Khamin, which is different from Khorm. Furthermore, they say that Khorms are the real inhabitants of what is now Thailand and they were the builders of Preah Vihear, Angkor, and all the ancient temples found in Cambodia and Thailand. They

are saying that Khmers are not the descendents of the Angkor builders. Therefore, they try to justify by implication that Thai people are the true descendents of the Khorms, the original inhabitants of Thailand and builders of Preah Vihear and Angkor.

The Thai people have such a twisted mind. Believing in this twisted thesis is like believing that a bullet firing from a gun can be curved around a corner. The Thais are not only satisfied to steal everything that are precious to Khmers and then claimed them to be their own, such as Preah Ko Preah Keo, Preah Khan Reach, Khmer classical dance and music, Khmer style boxing, and Khmer scripts “Aksor Moul” (the Thai called it sacred scripts instead of Khmer scripts), but now they try to even steal Khmer identity. They want to strip Khmer people bare of any ancestry.

OBSERVATIONS

A few important observations to the central issue of the Preah Vihear temple must be brought up to the attention of the world. The following are two immediate points of interest concerning the affair of the Preah Vihear temples:

1. The press keeps mentioning that Preah Vihear was an ancient Hindu temple instead of a Khmer temple. Preah Vihear is not a Hindu temple but a Khmer temple built under the reign of Yasovarman I, a Khmer king in the 9th century, dedicated to Shiva, one of the Hindu gods. When the press says that Preah Vihear is a Hindu temple, it deemphasizes Khmer ownership and legitimacy to the temple. In modern time, the war of words is very important. This clarification is very important and it must be emphasized at all time.
2. Thailand kept insisting on using her own map to claim the disputed area around Preah Vihear instead of the French-Siamese Commissioned Map of 1907, where the International Court of Justice (ICJ) based its judgment on to award Preah Vihear to Cambodia. The map was the product of the treaty signed by Thailand and French (Cambodia was under the French protectorate) in 1907. It is legal and binding. Thailand wants to use its own map that is not binding and not recognized by the International Court of Justice. Cambodia must not give in to the Thai insistence of using her own map to settle the dispute of Preah Vihear and its surrounding area.

CAMBODIA AND THAILAND JOINT COMMUNIQUE

Originally, Thailand was opposed to Cambodia’s proposal to UNESCO for the inscription of the Temple of Preah Vihear on the World Heritage List. Thailand was objected to the languages and maps in the document that Cambodia submitted to UNESCO showing the contested areas surrounding Preah Vihear as belonging to Cambodia (Figures 5 and 13).

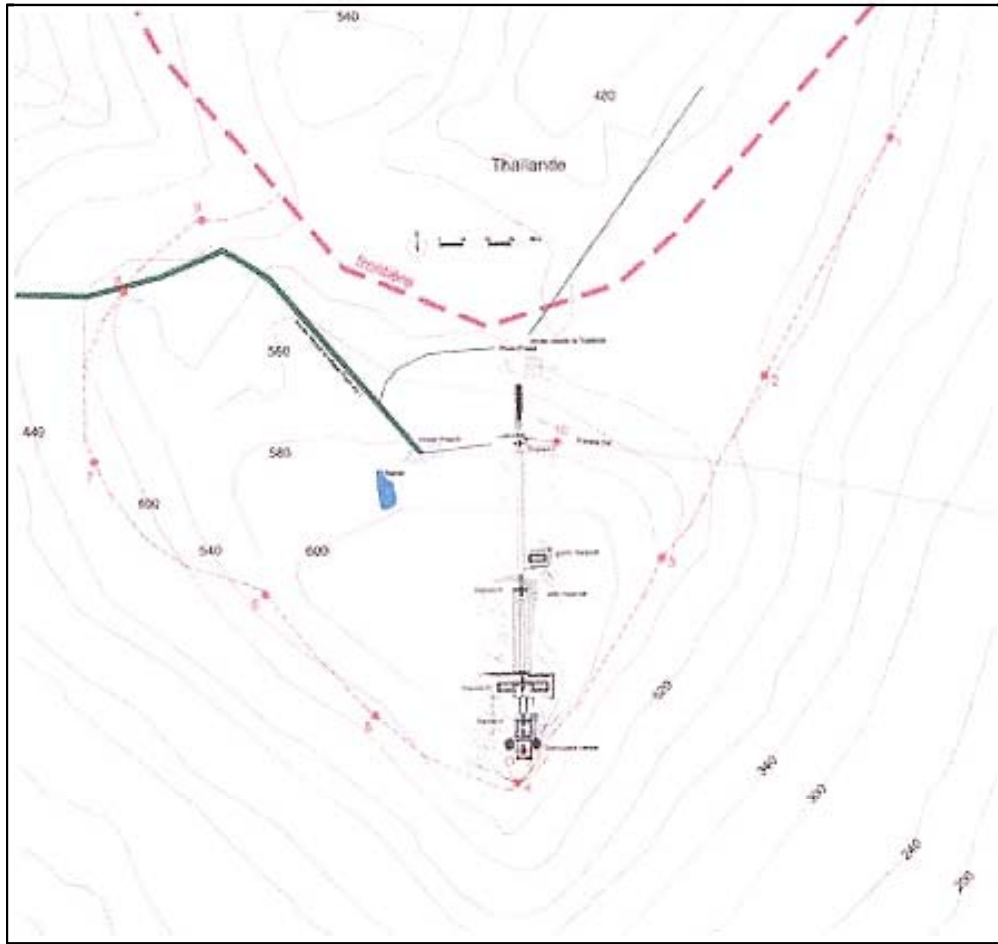


Figure 13. Map Used by the Kingdom of Cambodia Based On the Map Recognized by the ICJ as an Integral Part of The Treaty Settlement in its Judgment of 15 June 1962 (Courtesy: Official Map by the Royal Government of Cambodia submitted to UNESCO for the inscription Of the Temple of Preah Vihear on the World Heritage List)

In order to enlist Thailand's support, Cambodia agreed to put aside her claim to the disputed areas around the Temple of Preah Vihear. A Joint Communiqué was signed on 18 June 2008 by H.E. Deputy Prime Minister Sok An, representing Cambodia, and by H.E. Minister of Foreign Affairs Noppadon Pattama, representing Thailand. The Representative of the United Nations Educational, Scientific, and Cultural Organization (UNESCO), Assistant Director-General for Culture Françoise Rivière, was the witness. The Joint Communiqué is presented herein.

JOINT COMMUNIQUE

On 22 May 2008, a meeting took place between H.E. Mr. Sok An, Deputy Prime Minister, Minister in charge of the Office of the Council of Ministers of the Kingdom of Cambodia and H.E. Mr. Noppadon Pattama, Minister of Foreign Affairs of the Kingdom of Thailand, to continue their discussion regarding the inscription of the Temple of Preah Vihear on the World Heritage List. The meeting was held at UNESCO Headquarters in Paris in the presence of Mrs. Françoise Rivière, Assistant Director-General for Culture of UNESCO, Ambassador Francesco Caruso, Mr. Azedine Beschaouch, Mrs. Paola Leoncini Bartoli and Mr. Giovanni Boccardi.

The meeting was held in a spirit of friendship and cooperation.

During the meeting both sides agreed as follows:

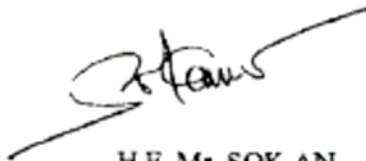
1. The Kingdom of Thailand supports the inscription, at the 32nd session of the World Heritage Committee (Québec, Canada, July 2008), of the Temple of Preah Vihear on the World Heritage List proposed by the Kingdom of Cambodia, the perimeter of which is identified as N. 1 in the map prepared by the Cambodian 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;
6. The Kingdom of Cambodia and the Kingdom of Thailand express their profound appreciation to the Director-General of UNESCO, H.E. Mr. Koïchiro Matsuura, for his kind assistance in facilitating the process towards the inscription of the Temple of Preah Vihear on the World Heritage List.

Phnom Penh, 18 June 2008

For the Royal Government
of Cambodia,



H.E. Mr. SOK AN
Deputy Prime Minister,
Minister in charge of the Office
of the Council of Ministers

Bangkok, 18 June 2008

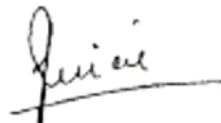
For the Government of the Kingdom
of Thailand,



H.E. Mr. NOPPADON PATTAMA
Minister of Foreign Affairs

Paris, 18 June 2008

Representative of the UNESCO



Françoise Rivière
Assistant Director-General for Culture

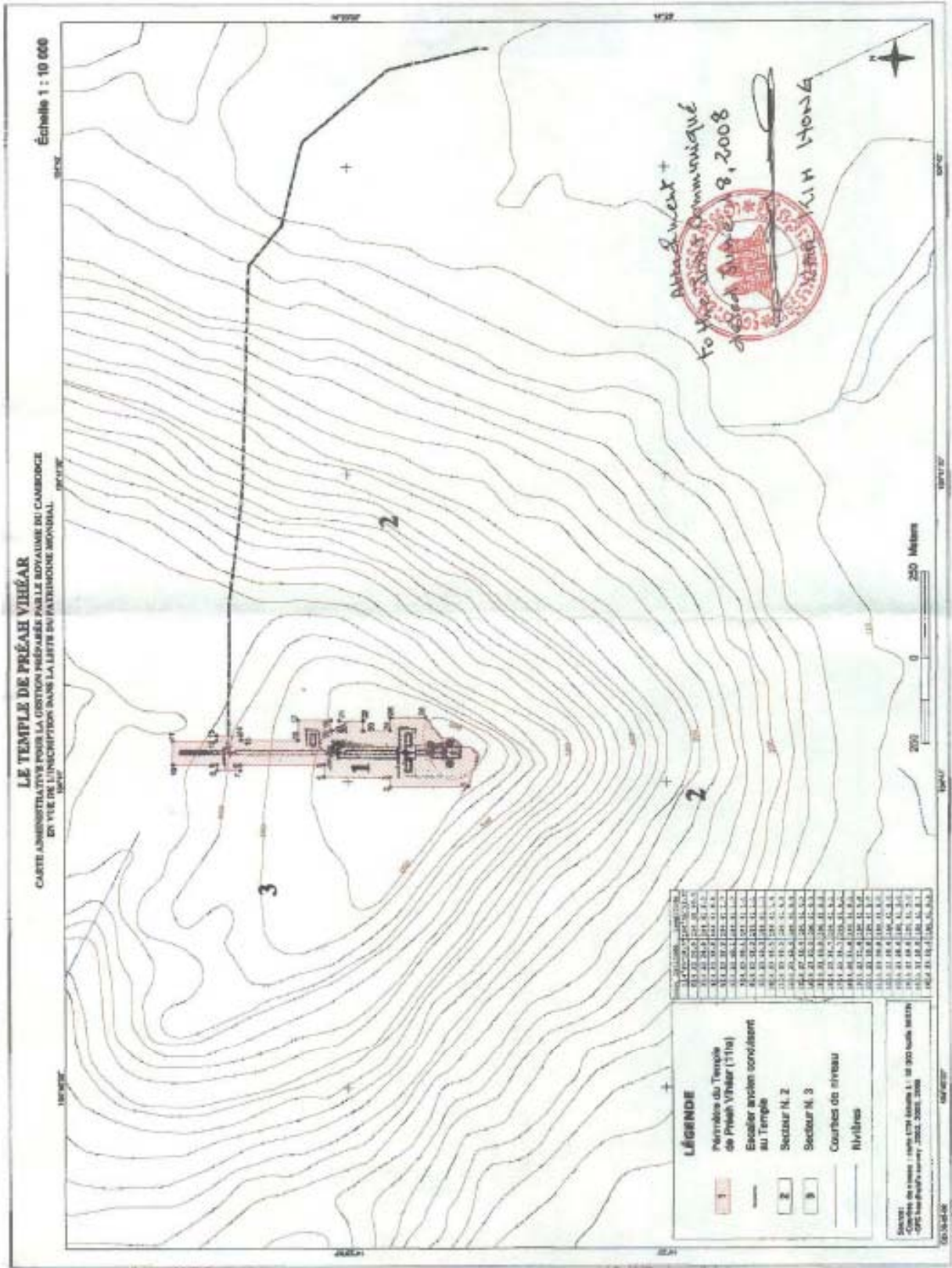


Figure 14. Map Submitted with the Joint Communiqué
 (Note: The Figure number and the title of the Figure is added by the author for clarity)

THE SIGNIFICANCE OF THE JOINT COMMUNIQUE

After the Joint Communiqué was signed, the Thai Constitutional Court voted 8-1 on 8 July 2008 that the Joint Communiqué signed by Foreign Minister Noppadon Pattama to endorse Cambodia's application to inscribe the Temple of Preah Vihear as World Heritage List was unconstitutional. The ruling stated that "The government must consult and get approval from Parliament before signing treaties with foreign countries." As a result of this ruling, the Thai government withdrew her support for Cambodia in all matters related to the inscription of the Temple of Preah Vihear as a UNESCO World Heritage Site.

In spite of Thailand's objection, the UNESCO approved to inscribe the Temple of Preah Vihear as a World Heritage List at the 32nd session meeting in Quebec, Canada, on 7 July 2008.

It seemed that Cambodia and Thailand had the same philosophy but two completely different objectives.

The philosophy from both sides was to divide and conquer. Cambodia was interested in getting UNESCO to list the Temple of Preah Vihear as a World Heritage Site first and deal with the issue of the territorial dispute around Preah Vihear later. On the other hand, Thailand was mainly interested in Cambodia to exclude the territorial dispute from the application to UNESCO.

The objective from the Cambodian government was to expect that the UNESCO approval to inscribe the Temple of Preah Vihear on the World Heritage List was a tacit way of legitimizing Cambodia's claim for the disputed areas around Preah Vihear. However, from the Thai government's point of view, the signature of the Cambodian Deputy Prime Minister on the Joint Communiqué was considered a breakthrough that opened the door for Thailand to reclaim the disputed areas around Preah Vihear that she had lost at the International Court of Justice on 15 June 1962.

The first question now ensued. Since the Thai government withdrew her support for Cambodia's application to UNESCO for the inscription of the Temple of Preah Vihear on the World Heritage List, would the Joint Communiqué that was signed by the Thai Foreign Minister Noppadon Pattama become null and void? It requires two persons to tango.

The second question ensued. Was the Joint Communiqué signed by Deputy Prime Minister Sok An constitutional under Cambodian's laws? Like Thailand, does the government of Cambodia require consultation and approval from the Parliament before any treaties can be signed with foreign governments? A treaty deals with the national security of the nation. Therefore, it is too important for the government alone to decide it without consultation and approval from the Parliament.

The third question ensued. Even though Cambodia did not recognize the claim by Thailand concerning the disputed areas around the Temple of Preah Vihear, would the Joint Communiqué somewhat give credence to Thailand's claim? Paragraph 3 in the Joint Communiqué is very disturbing because it says that the map shown in Figure 14 supersedes other maps, specifically the "Schéma Directeur pour le Zonage de Preah Vihear" and all the "core zone" mentioned in all graphics. Does this mean that the Cambodian government rejects the map from the French-Siamese Commission Frontier 1907 Line? Paragraph 4 is also disturbing because it conforms to the claim by Thailand concerning the disputed area, which is on the west and north of the Temple of Preah Vihear (Figure 15). The Joint Communiqué cannot be left in its current format and understanding because it is more detrimental to Cambodia but more advantageous to Thailand. Like the Thai, The Cambodian Constitutional Court must declare that the Joint Communiqué was unconstitutional to avoid

further challenges from Thailand. Cambodia territorial integrity is more important than the listing of the Temple of Preah Vihear as a World Heritage Site by UNESCO.

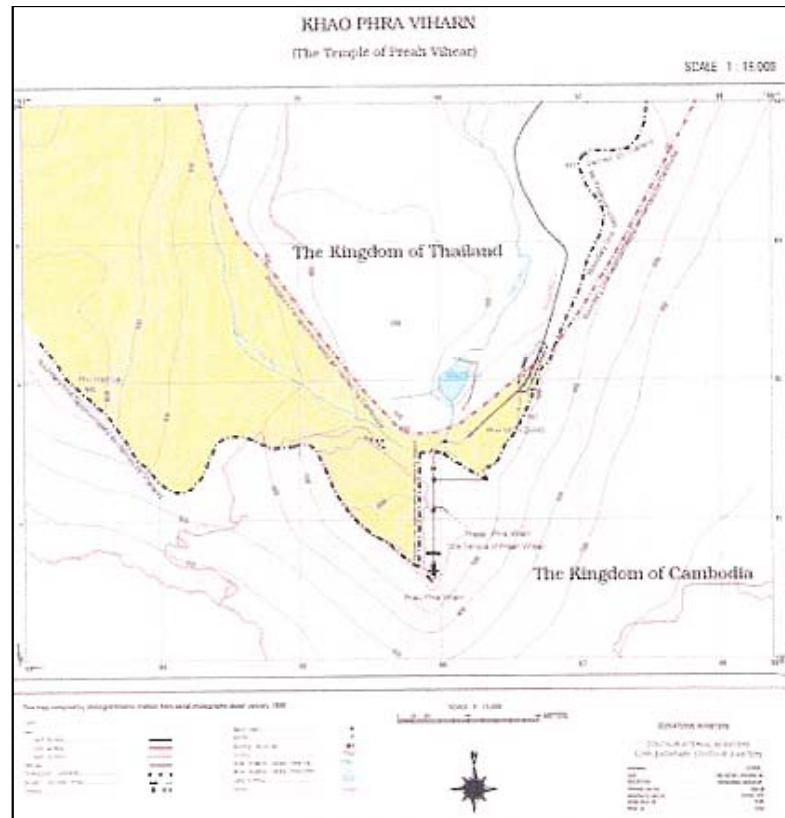


Figure 15. Recent Map for the Same Area Unilaterally Prepared and Presented by the Kingdom of Thailand. The Yellow Colored Area Indicates the Claim by Thailand (Courtesy: Official Map by the Royal Government of Cambodia submitted to UNESCO for the inscription Of the Temple of Preah Vihear on the World Heritage List)

CONCLUSION

Cambodia is doing the right thing to seek help from the United Nations (UN). It is not in the interest of Thailand to have the UN intervene in the affair of Preah Vihear, because she knows that Cambodia has more legitimacy and historical claim of Preah Vihear and its surrounding area than Thailand does. The UN will have to consider and abide by the 1962 judgment made by the International Court of Justice (ICJ) and the recent recognition by the UNESCO that included Preah Vihear in the World Heritage List. If the UN were to side with Cambodia, then they would probably ask Thailand to withdraw from the disputed area.

Thailand is playing hardball because she knows Cambodia is no match with her militarily. Cambodia has no choice but to ask the UN for help. With the UN help Thailand will not dare to encroach further into Cambodia territory. If war were to erupt, Thailand would be condemned by the world and she will lose face. Additionally, the Muslims are now waiting for the right opportunity to stir troubles again in the southern region of Thailand if

this latter decides to go to war with Cambodia. Thailand cannot afford to have war with Cambodia. Thailand may win in the short term but she will lose in the long run.

Thailand fears the UN because among the five permanent members, Cambodia can count on France, China, and Russia to side with her. As to the US and the UK positions, nothing can be certain but if these two countries interpret the laws and historical facts properly, they should come to the conclusion that Thailand has no claim and basis over Preah Vihear and its surrounding area that she had ceded to Cambodia during the French-Siamese 1907 treaty.

The UN cannot ignore the ICJ judgment that recognized Preah Vihear belonging to Cambodia, because to do otherwise would bring chaos to the international rule of laws. The French-Siamese Commission 1907 Frontier Line support Cambodia's claim concerning the disputed areas surrounding the Temple of Preah Vihear.

There is no doubt, both based on the court of laws and historical facts, that the Temple of Preah Vihear is a Khmer heritage and belonging to Cambodia, and that the disputed area also belongs to Cambodia.

Kenneth T. So
July 25, 2008

INTERNATIONAL COURT OF JUSTICE

JUDGMENT OF 15 JUNE 1962

CASE CONCERNING THE TEMPLE OF PREAH VIHEAR

Referring finally to the Submissions presented at the end of the oral proceedings, the Court, for the reasons indicated at the beginning of the present Judgment, finds that Cambodia's first and second Submissions, calling for pronouncements on the legal status of the Annex I map and on the frontier line in the disputed region, can be entertained only to the extent that they give expression to grounds, and not as claims to be dealt with in the operative provisions of the Judgment. It finds on the other hand that Thailand, after having stated her own claim concerning sovereignty over Preah Vihear, confined herself in her Submissions at the end of the oral proceedings to arguments and denials opposing the contentions of the other Party, leaving it to the Court to word as it sees fit the reasons on which its Judgment is based.

In the presence of the claims submitted to the Court by Cambodia and Thailand, respectively, concerning the sovereignty over Preah Vihear thus in dispute between these two States, the Court finds in favour of Cambodia in accordance with her third Submission. It also finds in favour of Cambodia as regards the fourth Submission concerning the withdrawal of the detachments of armed forces.

As regards the fifth Submission of Cambodia concerning restitution, the Court considers that the request made in it does not represent any extension of Cambodia's original claim (in which case it would have been irreceivable at the stage at which it was first advanced). Rather is it, like the fourth Submission, implicit in, and consequential on, the claim of sovereignty itself. On the other hand, no concrete evidence has been placed before the Court showing in any positive way that objects of the kind mentioned in this Submission have in fact been removed by Thailand from the Temple or Temple area since Thailand's occupation of it in 1954. It is true that Thailand has not so much denied the allegation as contended that it is irreceivable. In the circumstances, however, the question of restitution is one on which the Court can only give a finding of principle in favour of Cambodia, without relating it to any particular objects.

For these reasons,

THE COURT,

by nine votes to three,

finds that the Temple of Preah Vihear is situated in territory under the sovereignty of Cambodia;