

**The Comments Made by H.E. Dr. Ros Chantraboth, Member of the Royal Academy of Cambodia on the Causes of Tension between Cambodia and Thailand**

The inscription of The Temple of Preah Vihear on the World Heritage List is not a cause of tension between Cambodia and Thailand. I wish to inform the public the following main issues:

Firstly, the ultra-nationalist Thais are rooted with the ambition of influence and territorial expansion on Cambodia, and in general on all its neighbors. For these reasons, Thailand has always had border problems with Myanmar, Malaysia, Lao P.D.R., and lately with Cambodia. Thai's Pan-Thai concept can be traced back to 1932. It aims at expanding Thai territory. Thai people have been taught that whatsoever located near its border belongs to Thailand, including The Temple of Preah Vihear although it belongs to Cambodia legally. These were the root causes resulted in the Preah Vihear issues to be taken to the International Court of Justice at which Cambodia won the case in 1962. Due to the legal proceedings and the ICJ judgment, Thailand cannot obtain the Temple of Preah Vihear and the case will never ever be forgotten by Thailand. Until the present day, Thailand has been saying consistently that The Temple of Preah Vihear belongs to Siam and the replica of The Temple of Preah Vihear was built in a resort in Sisaket with the same name. In the future, it is predictable that Thailand will sing the same old song. Due to its greediness, ignorance of the past history, the facts and the truth, and its neighbor [Khmer], Cambodia-Thai history is distorted in favor of Thai nationalism. Thailand's expansionism and arrogance are the first reason.

Secondly, it is clear that since 1962, Thai King and Government have recognized the Judgment of the International Court of Justice; yet in 2008 there are tension, skirmish, diplomatic tension, which are the current, existing unsolved problems. These problems are not aroused by The Temple of Preah Vihear but by the military coup on 19 September 2006 and the Yellow Shirts who toppled Thaksin Shinawatra from power while he was on a mission to the United Nations; therefore, we can see that the main causes of the problems are the Yellow Shirts and Abhisit who are the trouble makers. However, Abhisit and cronies shifted all these issues on The Temple of Preah Vihear and the Cambodian territory which are deeply rooted in the Thai people's heart in order to gain their supports for the Abhisit, the Yellow Shirts or Kasit. Therefore, they take Cambodia and Preah Vihear as a hostage while the real issue is its own internal problem. The internal problem is fighting for power and taking Cambodia hostage. I just inform the main issues which are totally created by Abhisit, Kasit, Yellow Shirts and their cronies by taking Cambodia as hostage and turning Cambodia to a victim. It is very clear that Cambodia cannot start the fighting, but it was the Thais who started the fighting, in which a Cambodian local market near the Temple was totally burned down and left more than 300 Cambodian families live in pain.

As stated by **Samdech Akka Moha Sena Padei Techo Hun Sen**, Prime Minister of the Kingdom of Cambodia, Cambodia's position is peace, harmony, good bilateral cooperation between the two people for the development and poverty eradication and being brothers and sisters in the name of neighbors. What had happened were the results of Abhisit, Prime Minister of Thailand, who come to power by the military coup and set up the court system to exploit the situation of deposed Thai Prime Minister, Thaksin. So far we have never had such a problem, but just recently a group of power hunger, selfish politicians causes headache to Cambodia.

Therefore, all the causes are created by Thailand.

**The appointment of Thaksin as a personal adviser to Samdech Techo Hun Sen and as an economic advisor to the Royal Government of Cambodia has angered the Thai people, what is your point of view about that?**

The appointment of Thaksin as personal advisor to **Samdech Hun Sen** did not hurt the feeling of the Thai people rather Abhisit himself was unhappy with that. This is an issue we should take into consideration whether Thaksin is the first advisor for Cambodia or not? In this context, there are many countries that requested Thaksin to be their advisor because they believe Thaksin is an educated and experienced man in solving the economic issues, especially dealing with the current context of the global downturn we are facing. We, therefore, do need the qualified person with a great experience like him who knows how to handle and solve such the issue. This is good for Cambodia, and I do believe that the majority of Thai people also shared their happiness with us thanks to their hero (Thaksin) who has been recognized worldwide including Cambodia which also called upon him to help solve the problems. Thaksin's supporters, which outnumbered Abhisit's supporters, also hailed (the appointment). What the Yellow-shirt group, which is allied with Abhisit, raised the issue of Thai people being angry with this matter (of appointing Thaksin) is totally untrue but this tends to poison the atmosphere of the Cambodia-Thailand relations. That tends to instigate as well as to fuel the hostility between Cambodia and Thailand to grow at a larger scale. For this part, I wish to affirm that those who are upset most with the Yellow-shirts allied to Abhisit, are Cambodians, and not the other way around. That means Cambodian people have been insulted by Abhisit and his group who violated and attacked Cambodia, burning down the market of Cambodian people causing more than 300 families homeless and living miserably, and Thailand has never thought of any compensation to that lost it made to Cambodia. We are angry with the Thai extremists who had insulted Khmer ancestors, and late Khmer's King as well as looked down on the head of the Royal government of Cambodia and the Cambodian people as a whole. Hence, the starting point of the anger was resulted from Abhisit and his Yellow-Shirt group. Now, if we look back to the conflict, which has occurred over the last one year, it was created by the Yellow-Shirt group of Abhisit and Kasit Piromya only—not by Cambodia. So, Khmer is the real victim as stated by Samdech Techo that he has never taken any leading step to create the problems as Thailand had. He (Hun Sen) has only followed the action taken by Thailand, which means Thailand is a trouble maker and we are the problem solver and we just took measure as a self defense only. Those, who verbally attacked us daily are the Yellow-Shirt group and the Abhisit clique.

**Related to the threat of sealing the border, what is your Excellency point of view about that?**

The border has not yet been sealed off, and the intention of sealing the border did not come from Cambodia. Samdech Hun Sen has clearly stated that Cambodia has never taken any initiative to seal the border but Abhisit himself, who is the incumbent Thai Prime Minister, is the one who shouted and warned as well as threatened Cambodia that he will find all means to seal the border with Cambodia. Prime Minister Hun Sen, in response, told Thailand to seriously take into consideration the bilateral trade relation in which Thailand's export to Cambodia amounted to more than \$2 billion (based on the 2008 statistics) while Cambodia's export to Thailand amounted to only \$90 million, which is 20 times lower as compared with Thailand's export to Cambodia. So, Thailand should think whether Cambodia is a Thai's market or not. Thailand will be the loser in terms of bilateral trades with Cambodia, if Thailand decides to seal the border. Samdech Hun Sen also explained to Abhisit that the Thai people will be the first to suffer because they cannot export their products worth \$2 billion to Cambodia. Samdech Hun Sen also asked Thailand to give consideration to the importance of living harmoniously together, of having good economic and trade relations which are the formula contributing to the progress of both countries' development. So, it was neither Cambodia nor Samdech Hun Sen who has taken initiative to seal the border rather the Thai Primer Abhisit instead. He failed to take into account of both the Thai and Cambodian interests. What the Yellow-Shirt and Abhisit groups have been doing today, has not served the interest of Thailand and their people and that of Cambodian people as well as the interest of the region, especially the interest of ASEAN as a whole. So their objective is to win regardless of whatever damages being done to their nation; to win over Cambodia and to

grasp power in Thailand. What he (Abhisit) fears most is the presence of Thaksin in Thailand and has taken Cambodia hostage, which becomes the victim of Abhisit's politics. So, the tense situation has been created by the politics initiated by Abhisit, Kasit Piromya and the Yellow-shirt group. They keep creating problems one after another so that Cambodia continued to be the hostage of the Thai politics and to instigate their own people to become more hostile against each others. So, those Thai leaders must take into consideration the joint interest of the two nations and the only solution is to stop using Cambodia as the hostage, then Cambodia and Thailand will live in harmony together.

**The Comments Made by H.E. Lam Chea, Vice-Chairman of the Council of Jurists**

**Question : According to the principles of the international law, is the unilateral revocation of the 2001 MOU right or not ?**

Answer : In the morning of 10<sup>th</sup> of November, 2009, the Cabinet of Thailand approved the revocation of 2001 MOU on the Overlapping Maritimes Claims to the continental shelf. Regarding the unilateral revocation of the MOU by Thai government, in my capacity as a jurist, especially according to the principles of the international law, I regret and don't understand at all that as a developed country which can be said to be a state of law and especially as a member of the United Nations, Thailand violates the principles of international laws and international norms. By examining the Vienna Convention on the Law of Treaty in 1969, it is clear that the convention stipulates common principles for the formulation of all treaties and conventions between state and state, thus becoming the principles of common international law. Although a country is not a state party to the convention, it must respect the international practices containing in the convention. The provisions set out in the convention as well as the international practices stem from a famous principle of the international law "Pacta Sunt Servanda" in latine. This famous principle refers to the fact that all states must honor their promises such as agreement, convention and treaty they have signed with other states. Concerning the Thai's declaration of unilateral revocation of the MOU on the Overlapping Maritimes Claims to the continental shelf, dated on June 18, 2001, I think that the Thai government is violating the principles of international laws respected by all countries around the world. Moreover, if the international community allows one or more countries to revoke any agreement or treaty on his or their own will, it will firstly be anarchic in the field of international relation and secondly be harmful to the peaceful inter-state relationship. I think it is not beneficial to Thailand and will just discredit Thailand on the international stage. Furthermore, as a civilized nation and a member of the UN, Thailand must respect the international laws. In the principle of international laws, every nation is not allowed to use domestic court or domestic laws to cover the principle of international law, especially in the case that two or more nations sign agreement or treaty. Any revocation is allowed only in exceptional case. I would like to elucidate that firstly, unilateral revocation of any agreement can be made only if there is any provision in the treaty or agreement stipulating that any involved party can propose revocation. Secondly, revocation of or withdrawal from any agreement or treaty must be agreed by all concerned parties in the agreement or treaty. Regarding this revocation case, it is very confusing if Thai Government deems this revocation as a revenge on Cambodian government for the said violation to the 1998 Treaty on Extradition between Cambodia and Thailand. The other point is that the revocation of the Thai government this morning (November 10, 2009) will not benefit Thailand. Instead, this act is the violation of the principles of international laws and international practices which are complied with by all states. If a nation signing any agreement or treaty with another nation is allowed to unilaterally revoke the agreement or treaty in such a way, it will create chaos. The 1969 Vienna Convention on the Law of Treaty has many provisions, one of which states that any unilateral revocation or adjustment must be strictly prohibited. This matter, as stated in Article 54, 56, 62, especially in MOU, concerns with the future border delimitation between Thailand and Cambodia because there are two remarkable points in the MOU: Maritime border delimitation and Joint Development Area. Therefore, this unilateral revocation does

not only violate the international principles but also violates the sovereignty of another nation. The Thai reaction from day to day and the excuse of Thai government, especially a small number of Thai extremists, has further discredited Thailand itself, and the international community will no longer trust it for such unilateral, mindless acts.

**Question : Can the revocation of the 2001 MOU be considered as official ?**

Answer : I would like to talk about the domestic laws of Thailand. It is a little bit complicated. It can cause problems to other countries which are to sign agreement with Thailand because before signing it, the agreement must be approved by the parliament. So, the revocation of the 2001 MOU must be *a priori* approved by the parliament. So we can conclude that the approval of the Thai cabinet to revoke the MOU this morning (10 November 2009) could not be considered as official.