

## **IN THE INTERNATIONAL COURT OF JUSTICE**

**THE GOVERNMENT OF CAMBODIA  
APPLICANT**

**V.**

**THE GOVERNMENT OF THAILAND  
RESPONDENT**

### **MEMORIAL OF THE GOVERNMENT OF THAILAND**

COMES NOW the Government of Thailand and for their Memorial to the Court states the following:

#### **STATEMENT OF LAW**

1. Under the Franco-Siamese Treaty of 1904 which demarcates the boundary between Thailand and Cambodia. According to Article I of the Treaty the border is delineated as follows: “Thence it follows the line of the watershed between the basins of the Nam-Sen and the Mekong, on one side, and the Nam-Moun, on the other side.” Placed within the Dangrek chain of mountains, the boundary line demarcated by the Treaty is to follow the natural watershed line until the Pnom-Padang chain of mountains.
2. Article III of the Treaty established a Mixed Commission of officers selected by Siam and France which would carry out the process of demarcating the physical boundary lines between Siam and Cambodia which was to begin its work two months after the Treaty was signed by both parties. This Commission met until the 19<sup>th</sup> of January 1907 to conduct this process.
3. On 23 March 1907 the Siamese and French governments negotiated a new treaty which would render the border between the Great Lake and the Dangrek range, as laid out in the Treaty of 1904, to be obsolete. However, the 1907 Treaty was silent on the status of the boundary lines within the Dangrek range set out by the 1904 Treaty. The Mixed Commission ceased to exist in March 1907 after this treaty was signed.

#### **STATEMENT OF FACT:**

In 1903 France made territorial claims against the Siamese Government and the negotiations from these demands resulted in the Franco-Siamese Treaty of 1904. Under this treaty the Siamese ceded to the French the territories of Luang Prabang and territory south of the Dangrek range in exchange for minor frontier adjustments in other parts of the frontier. The Treaty of 1904 provided for Mixed Commissions comprised of both Thai and French surveyors which would demarcate the boundary lines in accordance with this treaty. On 29 June 1904 an agreement between the parties was made supplemental to the Treaty under which Siam ceded further territories to France. Three years later the 23 March 1907 Treaty was signed by both

parties by which Siam ceded the provinces of Battambang, Siem-Reap, and Sisophon in exchange for small parts of territory ceded by Siam in earlier treaties.

The Mixed Commissions established by the Franco-Siamese Treaty of 1904 met from the 31 January 1904 until 19 January 1907. In November 1906 the French Minister in Bangkok was instructed to suggest to the Siamese Government another cession of territory. When the Mixed Commissions under the Treaty of 1904 returned to Bangkok in early 1907 the negotiations for this territory were already underway. Upon return, the Mixed Commissions still had several boundary lines untraced, including the tracing of the watershed in the Dangrek range. By 27 March 1907 the maps being created by the surveyors had not been finished and this was used as a pretext to postpone the meeting of the Mixed Commissions. No further meeting between the Mixed Commissions had ever been held to finalize the boundary lines in the Dangrek range.

The 23 March 1907 Treaty defined borders up until it reached the Dangrek range but did not include a full description of the frontier east of the point at which it reached the Dangrek range leaving the area of the Temple of Preah Vihear defined by the Treaty of 1904. In the intervening years, Thailand has exercised sovereign acts over the Temple of Preah Vihear such as the collection of taxes on residents for chilis and rice grown in the area, surveying of the Temple grounds, and enforcement of hygienic and sanitation regulations between the years of 1908-1934. In 1954, the Government of Thailand began to exercise a continuous military presence over the Temple grounds.

#### STATEMENT OF JURISDICTION:

1. The Government of Thailand entered preliminary objections on 23 May 1960 to the jurisdiction of the Court on the grounds that Cambodia had not sufficiently proven that Thailand had accepted the compulsory jurisdiction of the Court under Article 36(2) of the Statute. The Court entertained oral arguments on this issue and ruled that Thailand had accepted the compulsory jurisdiction of the Court.
2. In accordance with the ruling of the Court and Article 36(2) of the Statute, Thailand and Cambodia have accepted the compulsory jurisdiction of the Court and therefore this case falls within the compulsory jurisdiction of the Court.

#### ARGUMENTS

1. The Treaty of 1907 was silent on the status of the boundary line in the Dangrek range around the area of the Temple of Preah Vihear, and thus the Treaty of 1904 demarcating the boundary line as being along the natural watershed is the boundary in that area. The effect of the Treaty of 1904 was to place the Temple of Preah Vihear in Thai territory.
2. The Application filed by Cambodia contends that the Treaty of 1907 was formally approved by both parties. However, this is impossible because the Mixed Commissions ceased meetings on 19 January 1907 without formally demarcating the borders in the Dangrek mountain range. Therefore, the Treaty of 1904 is the only document which this Court should consider as having received mutual consent by both parties.

3. The Government of Thailand has exercised continuous sovereignty over the area of Preah Vihear since 1907 in various forms ranging from ensuring hygienic regulations are followed to tax collection and the appointment of guardians on the Temple grounds. Nevertheless, Thailand is under no burden to prove its sovereignty over the Temple of Preah Vihear because it has rightful sovereignty over the area according to the Treaty of 1904.
4. Thailand maintains its preliminary objections under Article 36(2) of the Statute.

## SUMMARY AND REQUESTS

Reiterating the fact that Cambodia has encroached upon the sovereignty of Thailand by attempting to assert control over the Temple of Preah Vihear the Government of Thailand prays the court to adjudge and declare that the Temple of Preah Vihear falls within the borders of Thailand. The Government of Thailand further requests the court to order Cambodia to withdraw all troops from the Temple of Preah Vihear and take all compulsory steps required to meet its obligations set out by the Franco-Siamese Treaty of 1904.