



**THE ENGAGEMENT OF THE PARLIAMENT IN
THAILAND'S FOREIGN POLICY PROCESS: A NEW
INSTITUTIONALIST PERSPECTIVE**

BY

MISS YOSSAWADEE TALEERAT

**AN INDEPENDENT STUDY SUBMITTED IN PARTIAL
FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF POLITICAL SCIENCE
IN INTERNATIONAL RELATIONS
FACULTY OF POLITICAL SCIENCE
THAMMASAT UNIVERSITY
ACADEMIC YEAR 2017**

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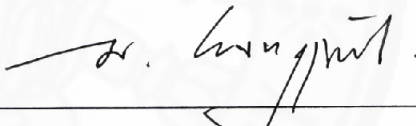
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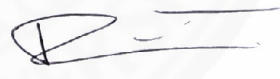
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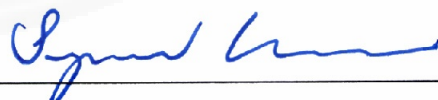
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ABSTRACT

According to Thai constitutions, parliament has legal duty and power to engage in foreign policy, but it was not until 2007 that Thai parliament could play much of an assertive role in the foreign policy process. Parliamentarians amended section 224 of the constitution of 1997 in order to control and check the cabinet and government in the matter of negotiations with other states and international organizations and to allow itself to engage in the process of foreign policy making. Through adding more stages in conduct of negotiation, parliament could be a part of consideration and approval of negotiation framework and final agreed text, not merely acknowledgment.

Section 190 could be a case to show how Thai parliament could engage more in foreign policy directly and indirectly. Therefore, it seems fitting to study how, during the period of 2007-2014, parliament as an institution and foreign policy are related through the "New Institutionalism" perspective. The case of the Preah Vihear conflict indicates how parliament as an institution inserts itself into foreign affairs of Thailand through a parliamentary mechanism of constitutional court suing (section 190 (5), general debate, debate of no-confidence of Ministry of Foreign Affairs, and an order to hold of the Joint Communiqué to the Cambodian government. The Joint

Communiqué between Thailand and Cambodia, on 18 June 2008, which was signed by Noppadon Patama, Minister of Foreign Affairs, was the turning point of parliament to have a role and to be able to engage more in foreign policy.

Considering the constitutional context of political and constitutional change in Thailand, section 190 of the constitution of 2007 was a result of the inability of parliament to engage in foreign policy, especially in the Free Trade Agreement and Preah Vihear matters. The FTA and Preah Vihear matters were a consequence of Thaksin's regime and foreign policy domination. Historical context helps in explaining this phenomenon. The driving forces that led to amendment of the constitution of 2007 were the protest of People's Alliance for Democracy (PAD) in 2006 and 2008, the election boycott by the Chart Thai and Democrat Parties in April 2006, the military coup in September 2006, the dissolution of Thai Rak Thai Party in 2007, and the drafting of the anti-Thaksin constitution.

The amendment of the constitution of 1997 was intended to decrease the power of government and prime minister, increase democratization, and strengthen the parliamentary system and institution. There was also an amendment in a section on foreign policy making which allowed parliament to be in the loop of foreign policy making through a mechanism of framework and final agreed text approval, as the constitution of 1997 made potential behavior of government (i.e., ignore and block parliament from being assertive in foreign policy making process) unnoticed. Parliament tends to be an institution that belongs to one of the mechanisms of foreign policy making, even though it is not a main institution in engaging in foreign policy.

Keywords: section 190, Thai parliament, engagement in foreign policy, constitutional amendment, constitutional context

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LIST OF ABBREVIATIONS

Symbols/Abbreviations	Terms
ABM	Antiballistic Missile
AIPA	ASEAN Inter-Parliamentary Assembly
APA	ASIAN Parliamentary Assembly
APPU	ASIAN-Pacific Parliamentarians Union
ASEAN	Association of South East Asian Nations
B.E.	Buddhist Era
CAT	CAT Telecom Public Company Limited
CEO	Chief Executive Officer
ECT	Election Commission
FAC	Foreign Affairs Committees
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
IMF	Inter Monetary Fund
IPU	Inter-Parliamentary Union
M.R.	Mom Ratchawong
NATO	North Atlantic Treaty Organization
NCCC	National Counter Corruption Commission
NPKC	National Peace Keeping Council
NSCT	National Student Center of Thailand
PAD	People's Alliance for Democracy
SEATO	South East Asia Treaty Organization
SEZ	Special Economic Zone
UNESCO	United Nations Educational, Scientific and Cultural Organization

CHAPTER 1

INTRODUCTION AND SIGNIFICANCE OF ISSUES

1.1 Introduction and Significance of Issues

Parliament and members of parliament are generally a feature of domestic politics and regarded as a legislative institution, as representatives of the people, and it is one of the three institutions that represent sovereign power in a state's administration (Bureau of Public Relations, Secretariat of the House of Representatives, 2012, 7). Apart from domestic duties, the constitution also delegates foreign power to parliament in approving of the declaration of war and in approving of the entering into a treaty¹ (Bureau of Public Relations, Secretariat of the House of Representatives, 2012, 31). Moreover, parliament has also developed their role in international affairs, especially in regional and international organizations in many ways: (1) by influencing foreign policy through congress or parliament; (2) by conducting diplomatic duty alongside of government (parliamentary diplomacy); and (3) by being part of parliamentary international organizations. Besides duties mentioned above, parliament can also engage and play its role as influencer and policy maker in policy on international affairs through acting as a member of legislative branch functions of motion, motion on organic law bill and motion on constitutional amendment submission; through vote of confidence and no-confidence; and through function of committees, in particular Foreign Affairs Committees.

Can Thai parliament engage in the process of foreign policy making? According to the Thai constitution, parliament has legal duty and power to engage in foreign policy, but it was not until 2007 that Thai parliament could play much of an assertive role in foreign policy process. Parliament was considered to have less power to control and oversee government and to be under the influence of government (Montri Tengtrakul, 1974, 153-154). Parliament has limitations in drafting acts, in

¹ treaty that would make any change in extraterritorial areas or territories that Thailand has the jurisdiction or sovereign rights under any treaties or international laws; require Act enactment for implementation; and immensely affects the economic or social security of Thailand or has a critical binding effect on investment, trade or the budget of Thailand (Office of the Council of State, 2007)

fully functioning its committees' roles and limitations in having enough experts and analyzed information to support its works (Boonchu Rojanasthien, 1988, 153-160).

Since 2007, however, parliament engaged more in foreign policy due to innovative constitutional change. This change could be seen in section 190 of the Constitution of the Kingdom of Thailand B.E. 2550 (2007) which allowed the Thai parliament to engage more in foreign policy process, especially in terms of its oversight power. In the process of treaty conclusion, Thai parliament is involved in the loop of policy making process from the beginning of the process through reviewing the negotiation framework. Before the conclusion of a treaty with other countries or international organizations under paragraph two of section 190, the Council of Ministers must submit the negotiation framework to the parliament (joint session) for approval. The Council of Ministers must also provide information thereon to the public, conduct public consultation and state information relevant thereto to the parliament². After parliament approves this negotiation framework, concerned agencies would be allowed to conduct negotiation. After the negotiation process, the Council of Ministers must submit the final agreed text to the parliament (joint session) for approval. Parliament must then complete its consideration within sixty days from the date of receipt of such matter and approve (Sitawee Teerawirun, 2010, 63).

Prior to the promulgation of section 190, even though the constitution states that a treaty that would make any change in extraterritorial areas or territories that Thailand has jurisdiction or sovereign rights under any treaties or international laws or require Act enactment for implementation requires parliamentary approval, Thai parliament could not fully function in this duty, as it had always been ignored by government and concerned agencies.

The Constitution of the Kingdom of Thailand B.E. 2550 (2007) empowered parliament to engage more in foreign policy, especially in the case of the conflict between Thailand and Cambodia over Preah Vihear on the World Heritage list inscription of Cambodia. Even though, Thailand had often reminded Cambodia for not opposing this inscription, the conflict of Thailand and Cambodia arose when

² This process has to be conducted until treaty conclusion.

Cambodia proposed a drafted Joint Communiqué³ during the formal visit on 3-4 March 2008 of Samak Sundaravej, Prime Minister of Thailand and when Noppadon Pattama, Minister of Foreign Affairs gave signature to the Joint Communiqué on 18 June 2008⁴ (Borwornsak Uwanno, 2008, 40).

This Joint Communiqué between Thailand and Cambodia on 18 June 2008, which was signed by Noppadon, caused dispute and conflict for Thai politics and Thai people. This also led to parliamentary involvement in foreign affairs of Thailand through referring opinions to Constitutional Court to judge whether the Joint Communiqué between Thailand and Cambodia on 18 June 2008 was considered as being the kind of treaty that required approval from the parliament or not⁵. The general debate on the matter whether legal action of government and Minister of Foreign Affairs in giving signature in the Joint Communiqué on 18 June 2008 was in line with section 190 paragraph 2 and questioned whether there was loss of Thai benefit on the territory matter or not. Opposition party debate of no-confidence of Minister of Foreign Affairs focused on the matter of whether the action of Minister of Foreign Affairs could be considered an act of ignoring parliamentary approval which caused territorial loss and waiver of reserving claims against the verdict of International Court of Justice (Borwornsak Uwanno, 2008, 40-41).

As the Joint Communiqué required parliamentary approval, this Joint Communiqué had been voided and Noppadon Pattama resigned from the position of Minister of Foreign Affairs on 10 July 2008 (Borwornsak Uwanno, 2008, 40-41).

Section 190 of constitution 2007 was considered to be a turning point of the role and power of parliament to engage in foreign policy, as parliament could engage in process of foreign policy making, especially for treaty conclusion. Parliamentary consideration and parliamentary approval could not be ignored. Because of the amendment in constitution and the section on treaty conclusion,

³ This Joint Communiqué provided that Thailand would support the inscription of Preah Vihear into World Heritage list and emphasize that the area of this World Heritage site would not be considered territorial boundary (Borwornsak Uwanno, 2008, 38).

⁴ This drafted Joint Communiqué had submitted to Thailand for consideration on 5 June 2008. The Office of the National Security Council approved draft Joint Communiqué on 16 June 2008 and Cabinet then approved on 17 June 2008 (Borwornsak Uwanno, 2008, 40).

⁵ according to section 190 paragraph 6 and the provisions of section 154 paragraph 1

parliament could play a more assertive role. Therefore the case of the conflict between Thailand and Cambodia over Preah Vihear on the World Heritage list inscription of Cambodia, section 190 raised the awareness of government, cabinet, parliamentarians, academics and Thai people on the significance of parliament as a part of foreign policy making.

Section 190 could be a case that shows how Thai parliament could engage more in foreign policy directly and indirectly, and it seems fitting to study how parliament, during the period of 2007-2014, as an institution and foreign policy are related through a “New Institutionalism” perspective.

1.2 Objectives

1.2.1 To use the insights of New Institutionalism to provide a better understanding of the role Thai Parliament plays in Policy on International Affairs.

1.2.2 To assess the relevance of new institutionalism to the understanding of Parliament’s role in Foreign Policy through the application of section 190 of the Constitution of the Kingdom of Thailand B.E. 2550 (2007).

1.3 Research Question

How could Thai parliament engage more in foreign policy?

1.4 Theoretical Framework

1.4.1 New Institutionalism

Nowadays parliament engages more in foreign policy directly and indirectly. To see how parliament and foreign policy are related and to answer the question of “how could Thai parliament engage more in foreign policy?”, this study takes a new institutionalism approach as the framework. As new institutionalism focuses on institution and takes institution primarily, this independent study also brings focus primarily on parliament as an institution. Institution in this sense, means “parliament”, which includes the state, constitutions, parliamentarians, the party system, committees and also other agencies and mechanisms that constitute ‘parliament’ (Lecour, 2005, 3). In this context, parliament is more supportive of

foreign policy making process, not as main actor. Parliament is in the loop and part of the process of foreign policy making.

Parliament (as institution) and parliamentarians (as actors) are related in the sense that the institution can constrain, empower, enable, fashion or even make actors to act appropriately under prescriptive rules (March & Olsen, 2006, 4-5). Institution guides actors in how to behave appropriately and work effectively, and also is a code of belief in legitimate order (March & Olsen, 2006, 9). Parliamentarians are guided by parliamentary duties and roles and/or by calculated interest. Parliamentarians' behaviors are those of interpretation and structure of meaning, choices making, rules, forms, and routines that have evolved through history-related processes (March & Olsen, 1989, 159). A main task of parliament is to educate parliamentarians into being knowledgeable members who are accustomed to the virtue of rationale and the morality of the system, and with the principle of proper action and understand institutional reasons of members' behavior. An individual member has a potential for a wide range of behavior. Each member can act ethically or non-ethically; strictly within institutional rules and obligations or act in a goal-oriented way; they may act to achieve personal goals or collective goals, and they may come from different organizations, professions or interest groups. Institutional challenges influence which of these potentials are recognized (March & Olsen, 1989, 161).

March and Olsen rediscovered institution and defined it as sets of interconnected routines and rules (Lecour, 2005, 7). Institution (parliament) uses rule (constitution) as its mechanism. These rules connected and remained through sense of membership, identities and role recognition. Rules and practices incorporate experience, norms, expectation and resources which provide justification and clarification for standard practice and regulate action of institution (March & Olsen, 2006, 13).

Laws, customary rules, and constitutions make some potential considerations or behaviors unlawful or unrecognized. Even some choices have been taken out of agendas prior to political game starts. The political process deadline, political events, the election timing, and budgets are specified. These limitations are not fully influenced by the social system of the outsider, but they evolve internally in the context of political institutions. Action taken by and within political institutions

adjusts the share of resources, rules, and political interests by forming new actors and identities, by providing actors with success and failure criteria, by formulation of rules for suitable behavior, and by providing individuals with resources and authority. Institution influences the ways in which members and groups of members become activated within and outside political institutions; the degree of trust among people and leaders; the mutual aspirations of a political community, the mutual language, perception, and norms of the community; and the definition of concepts like justice, equality, liberty and democracy (March & Olsen, 1989, 163). Political institutions respond and at the same time create those environments. Such occurrences are not regularly accommodated by contemporary political theories that recognize political outcomes as an operation of three primary factors: the allocation of supplies (power), the limitations determined under regulations (constitutions), and the allocation of favorites (interest) among politicians (actor) (March & Olsen, 1989, 162).

In New Institutionalism perspective, duties and functions of parliament are regarded as action which could lead to continuity and change in policy (constitutional amendment). New Institutionalism takes that inclusive and routine processes create the “transformation of structures into performance (political action) and turns this action into change and continuity of institution” which produces persistent mode of action and patterns (March & Olsen, 2006, 5). New Institutionalism conceived structure and agency interactions under the emphasis on dynamics of continuity rather than change. Actors would adapt their behavior to framework of institutions, by which legislature institution would prefer institutional continuity (Lecour, 2005, 11-12). Institutions change, but the changes are not predicted simply by institutional environments. Thus, New Institutionalists March and Olsen argues that we should not simply see institution as a solution of balance making to the conflict of interests among politicians. Institution is not just repercussions of present external factors or micro-action and motivations. They include historical experience into routines, forms, and rules that endure within the historical incident and restriction (March & Olsen, 1989, 167). Conflict or vagueness in institutional rule is not usually solved by changing to rational calculation and consequential logic, but by attempting to define the regulations and rules, differentiate and define the current situation and fine tune the fitted definition (March & Olsen, 1989, 161).

New Institutionalists concern with the question of to what extent, in what respect, through which processes, under what circumstances, and why institutions create change, what are institutional mechanisms that shape action, how institution weighted on agents, how deep is the institutional influence of institution on political processes (Lecour, 2005, 11). New Institutionalism shapes action and weight on action and outcome, especially the impact of institution on action (Lecour, 2005, 8). New institutionalists infer that procedural innovations are designed to force an agency to publicize their activities (Lindsay, 1994, 283).

The objective of New Institutionalism is to explain political outcome and try to give generalization, which is different from old institutionalism that focused primarily on understanding how institutions work (Lecour, 2005, 14). ('Old Institutionalism' is defined by Steinmo, Thelen and Longstreth as electoral power to rule, system of political party, government and its relation with concerned agencies like trade union and others (Lecour, 2005, 6)). New Institutionalists highlight the political institutions' relative autonomy, significance of symbolic action, and historical inefficiency potentiality to the perception of politics. In behavioral perspective, institutions with formally social organization would simply see it as an arena where the behavior of the actors (politicians) is driven by primary factors. In normative perspective, political ideology (bureaucracy and law) which embeds morals in political institution and underline sense of society as a ground for identity of each individual. This links to the concept of moral individualism and conflict of interests. From this view, new institutionalism is an aggregated result of the recent change in social institutions (March & Olsen, 2004, 734). New Institutionalists did not deny the significance of social context in politics and the motivation within each individual actor. They insist on role that is more autonomous in political institution. Not just the state that was affected by society, but society at the same time affected by the state (March & Olsen, 2004, 738).

This independent study will focus on the innovative procedural change of Thai parliament to understand how this procedural change could empower parliament to be able to engage in the foreign policy making process and play a more assertive role through an amendment of the constitution. New Institutionalism is applied in the study of section 190 of the 2007 constitution during the period of 2007-

2014, in which section 190 of the 2007 constitution was enforced to show how parliament changed the structure and utilized procedures of treaty conclusion in the executive branch to empower itself to engage in the foreign policy making process. Parliament uses the constitution as its mechanism to create procedural change and empower itself. The procedural innovation or procedural change in this context refers to a process of treaty conclusion in which parliament has to approve the negotiation framework and final agreed text, and parliament must be informed about the negotiation framework and treaty negotiation detail. This procedural change implies that parliament has power to give its consent since the beginning of each treaty negotiation until the last process of approving final agreed text or ratification. New Institutionalists may also assume that procedural innovations are aimed to push agencies to make their activities known to the public which would help parliament shift the cost of monitoring the government behavior onto others.

1.5 Hypothesis

As the constitution provides and guides duties and roles of the parliament, the parliament is able to use constitutional rules as its procedural mechanism to empower its roles in the foreign policy process.

1.6 Research Methodology

This independent study employs qualitative methods. Descriptive analysis is used in the documentary research. Most documents that have been examined here are primary data from meetings of the Standing Committee on problems and obstacles of law enforcement of the constitution of Kingdom of Thailand B.E. 2550 (2007) and parliamentary debate during the first and second amendment of section 190 of constitution of 2007. Secondary data is from report summaries, minutes, relevant official documents, books, journal articles, theses and news reports, both in Thai and in English, such as study report of standing committee on problems and obstacles of law enforcement of the constitution of Kingdom of Thailand B.E. 2550 (2007); ‘How Thai parliament implemented section 190 of Constitution of the Kingdom of Thailand B.E. 2550 (2007)’ of Sitawee Teerawirun (2010); ‘Thailand in the Changing World:

Roles of Legislatives in Foreign Policy Making Process’ of Sukhumbhand Paribatra & Chulaporn Euaraksakul (Eds.) (1988); ‘Public Report and Foreign Policy Note No. 7 and 10’ of the Secretariat of the Senate; Pamphlet on Security Study Collections of Academics Work of Faculty of Law, Thammasat University; ‘Government and Politics of Thailand’ of Somsakdi Xuto (ed.) (1987); ‘Most Confidential: Preah Vihear From 2505-2551’ of Borwornsak Uwanoo (2008); ““Good Coup” Gone Bad: Thailand’s Political Developments Since Thaksin’s Downfall’ of Pavin Chachavalpongpun (ed.) (2014); ‘Thaksin: The Business of Politics in Thailand’ of Pasuk Phongpaichit and Chris Baker (2004); ‘The Act of Government: a Comparison Study of the Case in Thailand, France, Germany and the United States’ of Kriangkrai Charoentanawat (2010); ‘The Analysis of Law and Economics of Treaty Making following Section 190 of the Constitution of the Kingdom of Thailand B.E. 2550: The Case of Free Trade Agreement’ of Kovit Charnvitayapong (2011); ‘The Parliamentary Approval of Double Tax Conventions according to Section 190 of Constitution of the Kingdom of Thailand, B.E. 2550’ of Nuttawan Sarakong (2010) and ‘Thai Parliament: Case Study of the Weakness of Parliament’ of Montri Tengtrakul (1974). This study uses document analysis and historical analysis on innovative procedural changes of Thai parliament in the process of treaty conclusion according to section 190 of the Constitution of the Kingdom of Thailand B.E. 2550 (2007).

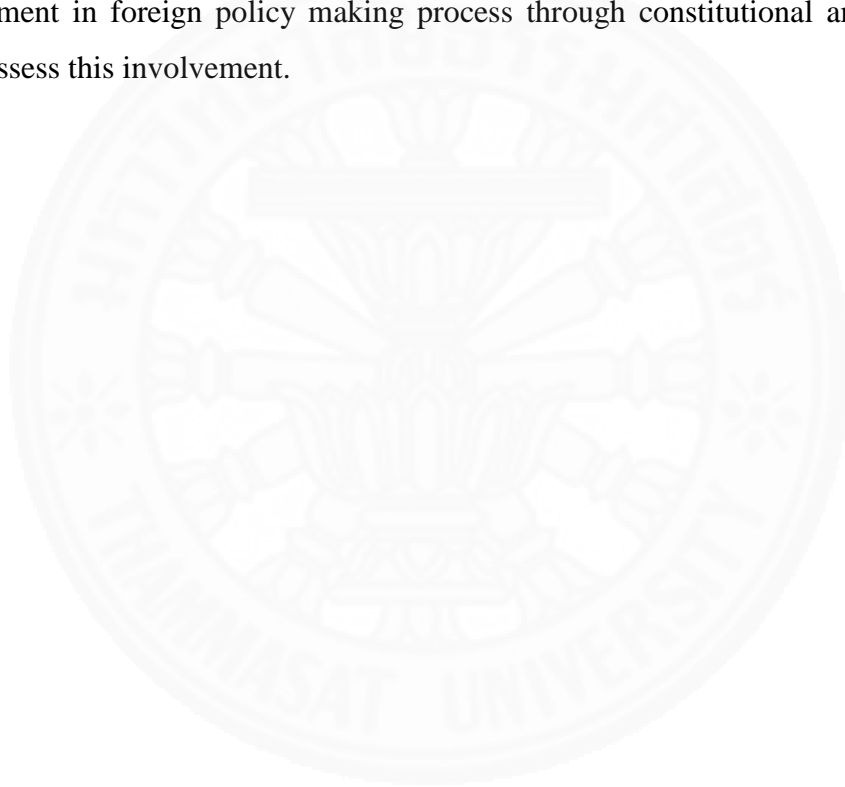
1.7 Chapter Organization

This independent study is arranged into five chapters. Chapter 1 starts with an introduction and the significance of issues, which lays out a brief discussion of how the Thai parliament could engage more in foreign policy making process through the case of the conflict between Thailand and Cambodia over Preah Vihear on the World Heritage list inscription of Cambodia. Also, chapter 1 provides the theoretical foundation, hypothesis and research methodology of New Institutionalism in analyzing the case of constitutional amendment as procedural change.

Chapter 2 will provide a review of literature that is focused on parliamentary involvement and engagement in foreign policy and congressional role in the foreign policy making process which provides reviews of academics and officials who are proficient in parliamentary engagement in foreign policy’s matter.

Chapter 3 provides historical development of constitution which demonstrates historical background and evolution of Thai constitution, particularly the section that relates to treaty conclusion and engagement of parliament in the process of treaty conclusion from the time that Thailand changed its political regime of absolute monarchy to constitutional monarchy.

Chapter 4 then gathers all findings about section 190 on the aspect of change (from section 224 of constitution of the Kingdom of Thailand B.E. 2540 (1997), problems caused by this section and amendment of this section. Finally, chapter 5 will sum up the evolution of involvement and engagement of Thai parliament in foreign policy making process through constitutional amendment and also assess this involvement.



CHAPTER 2

REVIEW OF LITERATURE

This chapter details a review of literature on legislative engagements and involvement in foreign policy making process, drawing attention to five case studies, namely; cases of the United States, Thailand; France, Germany and Switzerland.

2.1 The United States

James M. Lindsay (1993) in 'Congress and Foreign Policy: Why the Hill Matters' argued that in 1980s, Congress changed its role in foreign policy making. Congress passed laws on various issues which contradicted the administration's preferences. In defense matters, Congress halted the attempt of President Reagan to restrict the deployment of the MX missile, reconsidered the treaty on Antiballistic Missile (ABM), and withdrew a plan on constructing a series of tactical nuclear missiles of the navy. Congress placed constraints on the executives on the issues of Nicaragua and El Salvador, and set policy toward Central America by themselves (Lindsey, 1993, 609-610). Congress attempted to create institutions within executive branch agencies to shape outcomes of foreign policy, for instance; the creation of the Arms Control and Disarmament Agency (ACDA) in 1961, to monitor the issues of arms control, the Office of the Special Trade Representative in 1974 to monitor domestic interest of foreign policy, and the post of Under Secretary of Defense for Acquisition in 1986 to monitor control of weapon purchasing (Lindsey, 1993, 617).

Members of Congress who would like to influence foreign policy prefer procedural innovations over oversight of presidential control over foreign policy, as procedural innovations changes were seen to be neutral and led to the success in coalition building (Lindsey, 1993, 616-617).

Anyway, Congress tended not to overrule presidential power in foreign policy in high politics matters. Congress had lack of success in engaging in foreign policy as it concerned with presidential decision, presidential activity, presidential dispatch and secrecy. The President could derail legislative attempts to override presidential foreign policy by the use of veto and threat (Lindsey, 1993, 610-611). Moreover, congress members also had partisan and institutional division which lead to

lack of consensus in legislating foreign policy. Congress also tended not to override presidential decision in foreign policy, as they thought that legislated involvement in foreign policy might be seen as unwise and unworkable in practice (Lindsey, 1993, 612).

James M. Lindsey (1994) in 'Congress, Foreign Policy, and the New Institutionalism' studied the role that Congress plays in foreign policy through the assessment of the impact in the area of foreign policy and defense of five procedural changes, which are; the congressional veto on arms sales, the Office of the Director of Operational Test and Evaluation, the U.S. security assistance conditions, the intelligence community reporting requirements, and congressional participation in negotiations on trade. He asks: whether Congress has much role in U.S. foreign policy making; how the members of Congress could square the requirement to guarantee agency compliance with their own desire to be reelected; whether procedural innovations are successful to change executive branch's behavior; whether procedural innovations are successful to shape; and why there is a mixed record of success in procedural innovations (Lindsay, 1994, 281-304).

In his findings, he stated that procedural innovations at times do shape the substance of U.S. foreign policy – the capability of Congress to give structural and procedural mandate made a way for members of Congress to construct their preferences in the process of policy-making without having to pass substantive legislation. The success of procedural innovations usually was partially successful rather than totally successful. The opposition in the executive branch, and the monitoring of cost as well as noncompliance punishment led to partial success in procedural changes. Efforts were stymied by obstruction from the administration, by secrecy of foreign policy bureaucracy, or by the difficulties they faced in punishing agencies that refused to comply with the intent of an innovation. The five cases studied suggest that three factors were crucial: executive preference intensity, executive branch monitoring cost, and non-compliance punishing cost. Congress imposed five major categories of procedural changes on decision making in foreign policy: procedural change created new institution within the executive branch; the legislative veto; enfranchised legislative power into foreign policy decision making; to

stipulate additional procedures for executive branch; and to require reports from executive branch (Lindsay, 1994, 281-304).

Jerel A. Rosati and James M. Scott (2011) in 'The Politics of United States Foreign Policy' examined the context of congressional foreign policy making, constitutional foundation of foreign policy, and influence of Congress in foreign policy.

Rosati and Scott found that the U.S. constitution does not empower Congress to engage in foreign policy making but roughly specified the foundation for legislative and executive relations in foreign policy making process. Article 1 of the constitution specifies that legislature's foreign power shall provide, in the case of call forth of the militia to enforce the Union laws, insurrections suppression, and repelling invasions; common Defense and general Welfare; offense against law of nations; stipulate additional rules for the government and additional regulation for land and naval forces; set new regulations on foreign trade and commerce; define and punish piracies and felonies committed on the high seas; maintain and provide navy forces; war declaration; letters of reprisal and marque granting; and stipulate new rules on land and water capturing. Key diplomatic powers of the president are subject to senatorial consent and advice. Congress shall make laws that are essential and appropriate in order to execute the forgoing powers. Thus, the Constitution apparently provides the Congress great powers in the area of foreign policy. Congress is allowed to declare war and supply military funding (while the president is the commander in chief); and approve bills (president could veto and Congress is allowed to override this veto). Anyhow, the President is capable of making treaties and appointments, while the Senate is committed to give its advice and consent. Rosati and Scott argued that, even though the Constitution enables Congress to engage in foreign policy, in reality and in practice Congress has not been using their powers to influence in foreign policy consistently (Rosati & Scott, 2011, 291-293).

Although Congress has been harmed by the sequence of the practices and precedents of the decisions of the courts, executive action, and its own structural characteristics—including size, that makes capable, rational foreign policy action problematic—the institution is however a formidable actor in foreign affairs. Rosati and Scott distinguished two perspectives, along which there are four congressional

paths of influence. Paths could be either legislative or non-legislative. Legislative actions relate to those most legal processes that Congress does to enact laws, approve treaties, and appropriate and authorize funds. On the contrary, non-legislative actions includes activities of congress not involved in particular legislative documents. Additionally, there are both indirect and direct paths. When members of Congress take direct action, they would target on peculiar foreign policy issues; when they take indirect action, they typically then target at the general process, policy climate, or context to notice preferences or limitation policy. Through these different means, members can, if they have enough votes, be accumulated, directly manipulate policy by legislating action. Members can also relate their attempts across these various paths to enlarge their inherent impact and construct decision making by prompting predicted reactions (Rosati & Scott, 2011, 295-296).

Primary hints of re-assertiveness by Congress after World War II immediately gave way to reconciliation as members cooperated with the administration to counter the threat of the Soviet Union. For instance, primary congressional resistance—isolationist attitude was quite strong among members, specifically the Republicans—to President Truman on his proposal on the Marshall Plan, to counteract the destruction that Europe underwent during the war, gave way to assistance as Truman persuaded Congress. Congress also provided support for the National Security Act of 1947, foreign assistance to Turkey and Greece as part of the Truman Doctrine, remobilization of the troops, and the founding of the North Atlantic Treaty Organization (NATO) and also the permanent stationing of American militaries in Europe (Rosati & Scott, 2011, 297-298).

During 1966 - 1969 Congressional discomfiture with presidential leadership and cold war policies started to arise even before the intensification of engagement in Vietnam war. Key persons in Congress such as Stuart Symington, J. William Fulbright, Ernest Gruening and Wayne Morse led a “foreign aid revolt” that defied the purposes, priorities, and amounts of American assistance. These “entrepreneurs” defied the White House in an attempt to adjust foreign aid (from military aid) and construct conditions and restrictions on it (specifically to dictators). Such attempts worked out and, by the mid of 1960s, the Johnson administration had been pushed to accept various conditions and restrictions. Consequently, some

members started to blame the Johnson administration that lack of restriction in and over-stress on the use of force. Such blame led to a set of congressional inspections and investigations of U.S. policy during Vietnam War, best characterized by the hearings organized by the Foreign Relations Committee of the Senate (under J. William Fulbright chairmanship) (Rosati & Scott, 2011, 300-301).

This congressional action provoked a series of steps for congressional reassertion in the relationship of legislative and executive that has prevailed during the post-Vietnam War years. The Post-Vietnam War Congressional Resurgence: In the late 1960s, Congress started to reassert its constitutional power in the process of making of U.S. foreign policy. This reassertion reflected the differences in the political environment at home and abroad, and happened for quite a number of reasons, most of which were concerned with the War in Vietnam (Rosati & Scott, 2011, 301-302). In fact, by 1973, Congress suspended all aid and funding of American troops in the Vietnam War; and with the end of the Vietnam war, congressional reassertion increased. In 1973, the War Powers Act overrode President Nixon's veto, shortly followed by the Budget and Impoundment Control Act of 1974—both are symbols of reassertion of Congress. Even though President Nixon attempted to resist congressional involvement in foreign policy in every step of the way, the Vietnam War and the Watergate affair released congressional reassertion and engagement in foreign policy. Especially for the effort to end war in Vietnam, Congress could assert itself into every stage of foreign policy in practice. For instance, Congress inserted itself in the diplomatic arena in order to require review of executive agreements. Congress also was involved in reviewing foreign aid, arms sales policies and processes, and military aid. Congress involved in U.S. policies toward other states as Congress required democracy and human rights to be considered in assistance and diplomacy of the United States. Congress was also involved in defense policy and resisted numbers of arms control (Rosati & Scott, 2011, 303-304).

On intelligence matters, Congress strengthened its legislative oversight with a number of actions during 1975 and 1980, while also setting up new restrictions, requirements, and procedures on nuclear export laws. In 1980s, Congress kept asserting itself in foreign policy making by resisting President Reagan's policy on Central America and arms control. Especially for the South African case, Congress

applied sanctions against the practice of racial discrimination over government and resistant groups, and even took a presidential veto. Since the Vietnam War, the U.S. faced a less compliant and more powerful Congress. They presented greater difficulty by dominating in foreign policy (Rosati & Scott, 2011, 304).

During the cold war period, Congress was less assertive in foreign policy engagement. Congress was more deferent and supportive for consequence of cold war consensus.

Congress agreed with the White House in sharing views about the role of the United States and strategies in pursuing U.S. interests. The cold war consensus led to declining of presidential dominance and greater congressional activism. Congress made great institutional changes in order to promote and maintain its re-assertiveness as in Post-Vietnam War period. Members of Congress attempted to contribute to a more representative, open, diverse, independent, decentralized, and informed Congress. The new leader in the Democratic party and new members of Congress were active in engaging in U.S. foreign policy. Procedural and structural changes decreased, but not eliminated the significance of reciprocity, public collegiality, seniority, and other traditional norms. These procedural and structural changes also contributed to a more assertive role to engage in foreign policy. On the whole, all these changes paved the way for Congress to become an active foreign policy maker. The Cold War's end in 1989 kept Congress active in foreign policy making as the level of threat was reduced due to the decline of communism and the collapse of the Soviet Union. Besides, increasing constituency pressures and domestic matters have also led to congressional challenges to presidential domination in many issues (Rosati & Scott, 2011, 304-308).

In short, greater international security risks, a more interdependent world economy, and lack of foreign policy consensus provided more opportunity and incentive for Congress to be less deferent during the post-Cold War period. Prior to the incident of 9/11, Congress seemed poised to challenge President George W. Bush on issues of the United Nations, national missile defense spending, defense strategy, arms control and trade. The 9/11 incident that happened in New York and Washington, D.C led to cooperation and consent to grant power to intelligence operations, homeland security and other issues. Congress inserted itself greatly in a

series of international issues which include intelligence reform, trade, homeland security, and others after the no-ending American intervention into Iraq. From 2005-2006, members of Congress from Democratic party together with some members from Republican party were bold in opposing the Bush administration and policy, especially for immigration policy. During the Obama administration, Congress was more in a supportive role. Anyhow, the defense budget of Obama was ensured by members from both Democrat and Republican. The Democrats even attempted to block the elimination and funding reduction in number of weapons systems which included the F-22 fighter. Congress also succeed to reject the proposal of the Administration to close Guantanamo prison (Rosati & Scott, 2011, 308-310).

Congress has turned its roles in foreign policy making from a cold war pattern of a more active but less assertive role of being 'supportive Congress' to a post-Vietnam War pattern of being active and assertive as a 'competitive Congress', and then turned to a post-cold war pattern of less active but more assertive role as 'strategic Congress'. Hence, Presidents are more likely to dominate foreign policy during times of national emergency and war, while there seems to be more legislative and executive oversight of foreign policy domination in times of peace (Rosati & Scott, 2011, 311).

2.2 Thailand

Boonchu Rojanastien argued that Thai parliament could play several roles in the foreign policy making process. Roles of parliament in foreign policy are: (1) legislative role; (2) a role in checks and balances in the works of government through various mechanisms, such as motion submission, and vote of confidence and no-confidence, this also included the parliamentarians' role in both standing and ad hoc committees; and (3) approval of entering into a treaty according to the Constitution of the Kingdom of Thailand B.E. 2521 (1978) which provided for a change in the Thai territories or extraterritorial areas and which vastly affected Thai people (Boonchu Rojanastien, 1988, 152-153).

Thai parliament, in the view of academics and officials, is quite weak, limited to specific issues and having some other limitations. Several studies show that parliament cannot fully exercise its power and function in their duty and role. Montri

Tengtrakul studied the weakness of Thai parliament and tried to find out the reasons why parliament could not remain as an independent institution and strengthen its role. He found that parliament had less power to control and oversee government and parliament's power had been limited due to the constitution. Parliament has always been under the influence of government, so government could come into their power without requiring approval from parliament. Parliament was considered to be lacking in stability, as there were always changes that happened in parliament whether through dissolution or coup d'état. So, there was not enough time and chance to nurture 'characteristics of good institution' of parliament, and parliament was even viewed as unattractive and not recognized by the elite and other people (Montri Tengtrakul, 1974, 153-165).

As for Montri, the main causes of parliament's weakness are:

- (1) political acts of parliament;
- (2) people pay no attention to parliament;
- (3) parliament is incapable of doing its duties; and
- (4) the role of parliament is limited to bill consideration (Montri

Tengtrakul, 1974, 153-165).

Boonchu Rojanastien saw limited power of parliament. In Boonchu's view, even though parliament could play some role in foreign policy, they still had their limitations:

- (1) limitation in drafting acts;
- (2) limitation in checks and balances of committee work; and
- (3) there were conflicts of domestic law and international treaty in which

parliamentarians and government, in practice, did not strictly take treaties that required ratification into parliament (Boonchu Rojanastien, 1988, 133-140).

Jaroen Compeerapap in 'Sovereignty and Free Trade Area' showed how parliamentary power to engage in foreign policy had been weakened by government. For him, the use of sovereignty right through political institution was quite overwhelmed by government that had majority seats in the parliament. There was also an attempt of the government to conclude multilateral or bilateral agreements by avoiding the checks and balances process of the parliament. In doing so, government interpreted

that the multilateral or bilateral agreement was in line with domestic law to avoid section 224 paragraph 2; interpreted 'jurisdiction of the state' to geographical territory or jurisdiction that ignored sovereign power in the state's administration and attempted to conceal some facts about commitment in this multilateral/bilateral agreement (Jaroen Compeerapap, 2004, 73-77).

Even though parliament could be involved in Thai foreign policy, this involvement was viewed as limited to specific issues, like in Suchit Bunbongkarn's work on the involvement of Thai parliament in foreign policy during 1978-1987 (the period of change and military played significant roles both in the parliament and foreign affairs). Suchit found that, because of their (parliamentarians) short period in the position, their role in foreign policy was limited to security issues (Suchit Bunbongkarn, 1987, 133-140).

Some studies also showed how parliament had been block to engage in foreign policy making process by the cabinet, such as for the case of Special Economic Zone (SEZ)⁶. The approval of draft bill on SEZ would be made through the mechanism of Royal Decree issued through consent of the cabinet. The process of issuing Royal Decree would then lead to no parliamentary consideration and lack of a checks and balances process, as this decree required no approval of parliament⁷. The decree would merely be sent to the House of Representatives and the Senate was to be informed (Committee on Foreign Affairs, Senate, 2005, 141-176).

Dej-Udom Krairit, in 'Problem and Legal View', saw the issuing of State Enterprise Capital Act B.E. 2542 (1999) as a good example of an attempt of government to hold all power to themselves. Section 28 of this act allowed the government to issue a Royal Decree without the knowledge and consideration of parliament. This kind of problem occurred again when there were Free Trade Agreement negotiations under section 224 of constitution of Kingdom of Thailand B.E. 2540 (1997) as Thai government adopted the CEO system in FTA negotiation process in which the chief negotiator would be selected and nominated without any

⁶ There was an initiative to draft a bill on Special Economic Zone in 2004, which would set up Special Economic Zone (SEZ) to support economic development according to Strategy of International Trade Promotion (Committee on Foreign Affairs, Senate, 2005, p. 144-145).

⁷ This kind of action reflects the problems caused by legal tradition (Nitiprapeni) of centralization by the government (Committee on Foreign Affairs, Senate, 2005, p. 147).

acknowledgment and approval from parliament. The government also attempted to ignore section 224 of constitution of Kingdom of Thailand B.E. 2540 (1997) in order to avoid checks and balances (Dej-Udom Krairit, 2004, 78-81).

From most of this literature review, academics and officials suggested in the same way that the weakness of parliament could be treated by internal mechanism adjustment and internal relation adjustment. Boochoo provided advice for parliamentarians that they should attempt to have a role and be a part of the process in framing policy through amending section 162 paragraph 2 of the constitution of 1978 by adding more process in conclusion of treaties in which Council of Ministers have to ask for consent to be bound and to conclude any treaties from parliament before entering into any treaties, and there should also be mutual principles and standards for parliamentarians and government when they are to take any treaties into consideration (Boonchoo Rojanasthien, 1988, 151-167; MontriTengtrakul, 1974, ๓).

However, parliament still attempted to engage more in foreign policy, which could be seen from the work of Prasit Pivavatnapanich (2009) in Foreign Affairs and security of Thailand. Prasit provided that parliament amended the constitution in order to add the type of treaty that required approval from parliament; added some stages in the treaty conclusion process, so that parliamentarian could take part in foreign policy. Nevertheless, adding the type of treaty and adding stages in section 190 caused some problems in interpreting some words in section 190, which are: 'external territories that Thailand have sovereign right', 'jurisdiction over such territories under any treaty or an international law' and 'sovereign right', 'affects immensely', 'negotiation framework', 'Council of Ministers must state information in relevant to the parliament' and 'other countries or international organizations'. Section 190 also brought some concerns on the types of treaty that had to be confidential, such as a treaty on boundary. The constitution of Kingdom of Thailand since the first one in 1932 until the one promulgated in 2007 included foreign affairs matters in the section that related to treaty conclusion. In this, Prasit noticed that some matters in the constitution of 2007 were already out of date and not doable, such as declaration of war (Prasit Pivavatnapanich, 2009, 10-15).

Nuttawan Sarakong in 'The Parliamentary Approval of Double Tax Conventions' according to Section 190 of the Constitution of Thailand B.E. 2550.

(2010) studied legislative procedure of Thai parliament in section 190 of the constitution of Kingdom of Thailand B.E. 2550 (2007) in approving of a double tax treaty. She found that the uncertainty of the types of treaty that should be submitted to parliament for ratification caused the problem of interpretation as to whether the Double Tax treaty had to be submitted to parliament for ratification or not; and whether the agencies that were concerned with this treaty still had to submit this double tax treaty to parliament for ratification in the case that this double tax treaty had already been acknowledged under domestic law of Thailand (Nuttawan Sarakong, 2010, 104-125).

2.3 France

French parliament involves and engages in foreign policy through a parliamentary approval mechanism. According to article 53, Constitution of 4 October 1958 French parliament is empowered to approve any treaty conclusion prior to ratification or to have a binding effect. The treaties concerned in this article are peace treaties which included alliance treaty; trade treaties which included all treaties and agreements on trade; treaties or agreements that related to international organization; treaties that results in binding of budget of the country; treaties that would made any change to legislative law; treaties that affects personal status; treaties that provides for renouncing, exchanging, or merging of territories as well as new treaties and amended treaties. The executives have to submit draft treaty and draft act on implementing this treaty into enforcement to parliament for approval prior to binding in any treaty (Nuttawan Sarakong, 2010, 62-63). Even though article 53 allows parliament to engage in the foreign policy making process, parliament power and action tends to be limited by this article itself. Anyhow, in practice the executives actually seek approval from parliament more often than what is stated in this article (Eisemann & Rivier, 2005, 260).

Article 11 of Constitution of 4 October 1958 also states that treaties that affect function of state agency required parliamentary approval and approval is required for enactment of an act for treaty implementation (Kovit Charnvitayapong, 2011, 21-22).

In practice, Minister of Foreign Affairs would prepare a draft act on implementing the treaty and would later submit a draft treaty together with a draft act, as well as document the study of impact from binding in such treaty to parliament in order to examine whether this treaty requires parliamentary approval or not. After the examination, the cabinet would submit this draft treaty together with a draft act for parliamentary approval (Nuttawan Sarakong, 2010, 62-63).

Parliament could also insert itself in the foreign policy making process by submitting oral or written questions concerning international agreements under negotiation to the Government. In practice, the government traditionally hands over a list of signed agreements to the Foreign Affairs Committee of both the national assembly and the senate every two or three months (Eisemann & Rivier, 2005, 259).

2.4 Germany

German parliament is allowed to attend significant treaty negotiations by invitation from the Federal Government. Treaty policy is also being considered in detailed and critical discussions in the committees of foreign affairs in both Houses. Anyhow, in treaty negotiation process prior to ratification, there is no parliamentary control (Beemelmans & Treviranus, 2005, 323).

German parliament involves and engages in foreign policy through a parliamentary approval mechanism. According to article 59 (2), Basic Law for the Republic of Germany or Grundgesetz empowers federal parliament to approve any treaty conclusion. The treaties included are treaties which regulate political relations of the Federation and treaties which relates to subjects of federal legislation. The approval or consent to be bound by parliament would be in the form of federal law or act of assent (Zustimmungsgesetz) (Nuttawan Sarakong, 2010, 63-64). Even though parliament is an institution which approves treaty, it cannot impose conditions, require reservation, or amend that treaty (Aust, 2007, 184).

In practice, the executives would submit act of assent to Bundestag (Lower House) and Bundesrat (Upper House) for consideration and approval. Prime Minister or Kanzler/Kanzlerin would submit a draft bill of assent to Bundestag for consideration whether such bill requires Bundesrat approval or not. Then bundestag

would approve. For the case that such bill requires Bundesrat approval, Bundestag shall submit such bill to Bundesrat for approval (Nuttawan Sarakong, 2010, 64-65).

Anyhow, the engagement of Bundestag and Bundesrat in considering and approving act of assent (which means approval for treaty conclusion) is different. Bundestag has power of approval for all types of treaties, but Bundesrat has power of approval for specific types of treaties. However, for the treaties that Bundesrat has no power for approval, Bundesrat is allowed to express their opinion on such treaties (Nuttawan Sarakong, 2010, 64).

The executives also have to inform the Foreign Relations Committee of Parliament when any treaty is concluded (Aust, 2007, 184).

German Parliament also has power to approve matters concerned with foreign affairs, especially for the case of military operations outside Germany. For such cases, there is no article in the constitution which states that military operation outside Germany requires parliamentary approval. However, the Constitutional court of Germany has adjudged on 12 July 1994 that military operation outside Germany under NATO Framework requires parliamentary approval prior to each operation (Prasit Pivavattapanich, 2010, 89).

2.5 Switzerland

Swiss parliament or Federal Assembly involves and engages in foreign policy through a law enactment mechanism. Article 166 paragraph 2 of the constitution empowers the Federal Assembly to approve international treaties except one that is within Federal Government power (Wildhaber, Scheidegger & Schinzel, 2005, 644).

In 1991, the Federal Assembly promulgated the 'Federal Statute Governing the Activities of the Federal assembly and the Form, the Publication and the Entry into Forces of its Acts' which was the framework for legislative activities and law enforcement of the Federal Assembly. This statute covers the engagement in foreign policy of the Federal Assembly, in order to allow Federal Assembly to involve in treaty conclusion from the beginning of the process. As the Federal Assembly was aware that the increasing numbers of treaties might affect the significance of the Federal Assembly in enactment of domestic law, the Federal Assembly attempted to

involve and engage in foreign policy making process though this statute (Kovit Charnvitayapong, 2011, 55). Although the constitution empowered the Federal Assembly for treaty approval, in practice fifty-five percent of treaties were concluded in form of 'executive agreements' by the Federal Council, instead of by parliamentary approval from the Federal Assembly (Aust, 2007, 186).

This statute enforcement empowers the Federal Assembly to be involved in foreign policy making by sending observers from Foreign Affairs Committees (FAC) of both National Council (the House of Representatives) and Council of States (the Senate) to observe any treaty negotiations and international conferences in order to have details and be able to give advice on the negotiating matters (Kovit Charnvitayapong, 2011, 55).

The executives must provide information on the development, objectives, and negotiation process of the treaty to the President of National Council and Council of States as well as the FAC. The government must ask for advice from FAC for the negotiation guideline prior to negotiation with international organizations, as this negotiation would lead to legal implementation within the Federal level. Anyhow, the FAC has no power either to issue a directive, nor decide nor have legal responsibility of that negotiation guideline. After receiving of advice, the government has power to make any decision on the negotiation matter. Government would later inform the FAC for negotiation development and details (Kovit Charnvitayapong, 2011, 55).

2.6 Summary

Academic views the congressional role in foreign policy making process in the United States as assertive and active in some periods, except in period of war and in national security that Congress tends to be deferent and less assertive. Procedural innovations at times do shape the substance of U.S. foreign policy - the capability of Congress to give structural and procedural mandate made a way for members of Congress to construct their preferences in the process of policy-making without having to pass substantive legislation. Congress imposed five major categories of procedural changes on decision making in foreign policy: procedural change that creates new institutions within the executive branch; the legislative veto; enfranchised

legislative power into foreign policy decision making; stipulation of additional procedures for executive branch; and requiring reports from executive branch.

Academics and officials view parliamentary involvement and engagement in foreign policy of Thailand as being weak, could not play much of a role, and their roles were limited to specific issues. Parliament could play their role in enacting laws that concern foreign affairs; checks and balances through parliamentary mechanism of motion submission, vote of confidence, vote of no confidence; functions of committee; and approval of entering into treaties. During 1978-1987, parliament could engage in a foreign policy making process due to the military government and foreign policy concerned with security issues.

Anyhow, parliament is considered as being weak, as they have less power to control and oversee government. They somehow are under influence of government. Parliament lacks stability and has no characteristic of 'good institution'. Parliament duties are limited to bill consideration; law promulgation, except acts concerning budget and finance matters; and to control, supervise, and monitor administrative and state affairs. Parliamentary committees are under the influence of the ruling party. Constitution is considered to be a mechanism to win the political game. Parliament is incapable of being a representative of people, as it could not fully function in its duty and role.

Even though the constitution states that parliament has power to approve of entering into treaty, but government somehow attempted to ignore the section concerned with approval of treaty conclusion by mechanism of law interpretation and of Royal Decree issuing. Government attempted to interpret that some multilateral and bilateral agreements are in line with domestic law, so there is no need for parliamentary approval. For the case of draft bill on Special Economic Zone and State Enterprise Capital Act B.E. 2542 (1999), government formulated a section within the draft bill which stated that the draft bill would promulgate through Royal decree issuing with consent from cabinet in order to avoid parliamentary engagement.

Parliament attempted to insert its role in foreign policy making through amended constitutional section on treaty conclusion by adding types of treaty that require parliamentary approval and adding stages of framework of negotiation approval and treaty detail report. Even though parliament could play a more assertive

role after the promulgation of section 190 of constitution of 2007, but there would still be some problems in applying this section in practice, as it is not clear for the types of treaty that require parliamentary approval; uncertain interpretation for words like ‘sovereignty right’, ‘affects immensely’, ‘negotiation framework’, etc; and some types of treaty considered confidential such as treaty that concerns border areas.

For France, treaties that affects exercise of power of states and affects function of state agencies required parliamentary approval. The involvement and engagement in foreign policy of French parliament is in line with engagement in foreign policy of Thai parliament prior to 2007.

German parliament is involved and engages in foreign policy through approval of acts of assent and through the constitution for the case of military operations outside Germany. The objective of act of assent is to give checks and balances, as well as control the executive in concluding any treaties.

Swiss parliament engages in foreign policy making through the mechanism of law and constitution. Even though the Swiss Constitution or the Federal Constitution of the Swiss Confederation states that foreign affairs and treaty conclusion are under power of the Federal Assembly, in practice the executives could conclude treaties without parliamentary approval. In fact, less than half of the treaties concluded by the executives received parliamentary approval (Kovit Charnvitayapong, 2011, 55-56).

As there are a small number of researches on ‘parliament and foreign policy’ and not many people know that parliament also has a role in making and taking part in the process of making foreign policy, this independent study would be one of those researches that would yield a better understanding of the role of parliament in this aspect. This independent study would show how parliament had been involved with foreign affairs, in particular treaty conclusion, since the beginning of the regime change from absolute monarchy to constitutional monarchy in 1932. This study would also provide analysis of the attempt of parliament to expand their role in being part of process of making foreign policy through constitutional amendment particularly section 190 of the constitution of 2007.

CHAPTER 3

HISTORICAL BACKGROUND: CONSTITUTIONS AND THE ROLE OF THE PARLIAMENT IN THAILAND

This chapter will discuss development and evolution of the Thai constitution. It will focus on how constitutions describe roles and duties of the parliament, in particular the section that relates to treaty conclusion and engagement of parliament in the process of treaty conclusion from the time that Thailand changed its political regime of absolute monarchy to constitutional monarchy.

3.1 Beginning of Constitutional Monarchy Era (1932-1947)

Before Thailand changed its political system to constitutional monarchy Thailand was always under absolute monarchy. After the death of King Chulalongkorn (King Rama V) there was an attempt of a group of lesser army officials to stage a coup and replace the system of absolute monarchy with a republican government, but this plot in 1912 failed. In 1917, Prince Chakrabongse submitted a memorandum to King Vajiravudh (King Rama VI) in order to suggest the king to grant constitution to Thai people, but King Vajiravudh dismissed Prince Chakrabongse's advice for the reason of being impractical. King Vajiravudh would like his people to be more educated, so the system of parliamentary government could be sustained. In 1919, King Vajiravudh introduced the model of Dusit Thani, which was a model of self-government, but this model was limited to a small group of court officials and never spread outside the palace. King Vajiravudh passed away in November 1925 and King Prajadhipok (Rama VII) ascended to the throne and was crowned King on 25 February 1926. King Prajadhipok was aware of absolute monarchy anachronism, so he attempted to pave the way for a system of constitutional monarchy, by creating the Committee of the Privy Council in 1927, which was a training assembly for consultative legislation in a parliament-like system, and introduced self-government or municipal administration which was designed to teach Thai people the practice of voting. On 24 June 1932, the People's Party (Khana Rastr) seized power with the objective of changing the regime of government to constitutional monarchy. The people's party sent a missive to King Prajadhipok at Klai Kangwon

Palace inviting him to return to Bangkok and rule as constitutional king and promulgated the Temporary Charter for the Administration of Siam Act B.E. 2475 (1932) (Chai-anan Samudavavanija, 1987, 26-31).

This interim constitution is the turning point of parliamentary engagement in foreign policy making. During the time that Thailand was still under absolute monarchy, all foreign policy and foreign related matters were under the decision and approval of the King. This interim constitution gave the House of Representatives Committee (Kammakan Phutaenratsadorn) power to conduct negotiation with other countries (the negotiation result shall later be reported to the King) and the King could declare war with the House of Representatives Committee's advice. This interim constitution lasted only six months and the permanent constitution was promulgated on 10 December 1932⁸. The second constitution, in the matters concerning foreign policy, made small changes in giving the power to approve declaration of war and treaty conclusion to parliament instead of the House of Representatives Committee⁹. The first and second constitutions were under the government of Phraya Manopakorn Nitatada, the first Prime Minister of Thailand, who still faced the challenge of conservative and royalist opposition and at the same time the split with the people's party¹⁰ (Chai-anan Samudavavanija 1987, 43-44).

During this period, the Thai government had promulgated the Civil and Commercial Code No. 5 and 6, and the Civil Procedure Code and Statue of Courts of Justice in order to modernize the law system. Pridi Banomyong, Minister of Foreign Affairs had started to equally and reciprocally negotiate and conclude treaties with other states (Embassy of Japan, Thailand, 2017). Though mechanism of law enactment, Thai government attempted to repeal extraterritorial rights of foreigners in Thailand. In April 1933, there was a coup called the 'Bowaradej Rebellion' which seized Bangkok in order to overthrow the people's party and establish real democracy in Thailand, but this coup was defeated (Chai-anan Samudavavanija 1987, 43-44). During this period, the attempt of Thai government to repeal extraterritorial rights was

⁸ This was the first constitution that King had given his Royal Signature.

⁹ For war declaration, parliament must pass the vote of not less than two-thirds of total existing number of members.

¹⁰ The split between Phraya Songsuradej and Luang Pibun which caused the first parliament dissolution and led to set up of new cabinet under the premiership of Phraya Phahonphonphayuhasena (Chai-anan Samudavavanija 1987, 43-44)

successful. Thailand could completely repeal all extraterritorial rights in 1938 (“Discover history,” 2017). After the victory of the coup, Luang Pibun or Phraya Phahon rose to power and became a national figure with emphasis on nationalism, militarism and territorial expansionism¹¹. After Japan attacked Pearl Harbor in 1941, Japanese troops landed in Thailand and forced the Thai government to allow for passage. Phraya Phahon yielded to Japanese demands and later declared war against the Allied Powers. This war declaration showed the first success of the parliament to engage in foreign policy (Chai-anan Samudavavanija 1987, 43-44).

Phraya Phahon was defeated in parliament during the time that Japanese troops surrendered in 1945. During August 1944 to November 1947, there were conflicts among three political groups: liberal and socialist politicians led by Pridi Banomyong; conservative and royalist member of parliaments led by Khuang Aphaiwong; and the military which was forced to stay out of politics but still have power. There was a general election on January 1946 and Khuang was appointed as Prime Minister, but he resigned in April 1946 and Pridi assumed the Premiership. Pridi attempted to consolidate his power in parliament by drafting a constitution which was later promulgated in May 1946. This constitution of 1946 led to competitive party politics¹²; and a bicameral system¹³ but made little change in the section of foreign policy by adding types of treaties that require parliamentary approval in which the constitution of 1932 stated merely “treaty”, but the constitution of 1946 stated “peace treaty, armistice, and other treaties with other countries or international organizations” (Suchit Bunbongkarn 1987: 44-46).

Even though Pridi won a majority in the House of Representatives and the Senate, his party’s stability was not guaranteed as there were economic difficulties such as an inflation rate problem of 1944-1946; corruptions among government officials and politicians; and the Death of King Anandha (King Rama VIII) on 9 June 1946. The Death of King Rama VIII led to an accusation of Pridi’s involvement in the

¹¹ In 1939-1940 there was a victory of France over Indo China incident, international tension caused by German and Japanese expansionism in which Japan also targeted South East Asia including Thailand (Chai-anan Samudavavanija 1987, 43-44).

¹² First time that constitution allowed political parties to emerge and compete in election. (Suchit Boonbongkarn 1987, 44-46).

¹³ Prior to this, Thailand always had unicameral system (Suchit Boonbongkarn 1987, 44-46).

regicide and led to his resignation and had Admiral Luang Thammarong as his successor. Some of Pridi's policies affected the army – a number of troops of the military had been dismissed, treated badly and prohibited from taking political positions, and brought about the coup led by Phin Chanhawan on 9 November 1947. This led to abolishment of the constitution of 1946 and promulgation of the interim constitution of 1947 which led to the era of military rule. The section on foreign affairs related in the interim constitution of 1947 made some changes from the constitution of 1946 by removing the part of the numbers of votes that are required for parliamentary approval and for treaty conclusion; the King had the Royal Prerogative to conclude treaty with parliamentary approval (Suchit Bunbongkarn 1987, 46).

3.2 The Rise and Domination of the Military Regime (1947-1974)

There was a new election in January 1948 and Khuang's party won the majority in parliament. Khuang was in power only for three months until he was forced to resign in April 1948 to pave the way for Marshal Pibun (Phraya Phahon) to become Prime Minister again. During 1948-1951 Marshal Pibun was challenged by three unsuccessful coups of general staff on 1 October 1948; Pridi-led coup in February 1949; and the bloody so called 'Manhattan' Navy-attempted coup on 29 June 1949 with the support of the Army under Marshals Phin and Sarit Thanarat and police force under Police General Phao Sriyanond. On 23 March 1949, Marshal Pibun promulgated the new constitution of 1949 in which he took sections on foreign affairs from the constitution of 1946 that included the part of the numbers of votes that were required for parliamentary approval and parliamentary approval for the treaty conclusion (Suchit Bunbongkarn, 1987, 47; Charin Sunprasert, 2010, 49-54).

After Manhattan coup, military ruling groups were divided into three fractions: Marshal Pibun and people's party; Marshal Phin and Police General Phao with military and police officers (these two groups later merged under leadership of Marshal Pibun, Marshal Phin and Police General Phao); and Marshal Sarit with young military officers. This led to the situation that the opposition in parliament which consisted of some members of the House of Representatives and members of the Senate which were civilians, who disagreed with some behavior of Marshal Pibun, reacted to Marshal Pibun by applying parliamentary procedure to block Marshal

Pibun's action with parliamentary interpellation submission and two draft acts holding. Because of these reactions, Marshal Pibun felt that the constitution of 1949 was an obstacle in administration in which he could not govern and control the current members who were eligible to vote in parliament because the constitution of 1949 stated that government officials could not take any parliamentary position, so the supporters of Marshal Pibun who were from the military could not be parliamentarian and vote for any draft bill. On 29 November 1951, Marshal Pibun then staged a consolidating coup to overthrow the constitution of 1949. Marshal Pibun reinstated the constitution of 1932. This coup was called 'silent coup d'état' as the amendment of constitution of 1952 (revised 1932) enabled government to appoint Marshal Pibun's supporters from the military to half of the seats in parliament. However, the constitution of 1952 had no change on the sections related to foreign affairs (Suchit Bunbongkarn, 1987, 47; Charin Sunprasert, 2010, 53-55).

During 1951 - 1957, there was a conflict between Police General Phao and Army Marshal Sarit in which Marshal Pibun took the role of balancer in order to maintain his leadership. Marshal Pibun formed a political party with an objective to establish a new power base and held a general election in February 1957. This election was Marshal Pibun's first attempt to gain power and leadership through democratic means. Marshal Pibun's party won the election and this election moved General Phao closer to Marshal Pibun, but distanced the relationship between Marshal Pibun and Marshal Sarit. This general election also caused mass demonstrations, as the people disagreed with the election result. In this occasion, Marshal Sarit then appointed 'City Peace Keeper' to cope with the demonstrations without using force in order to gain more popularity and attack Marshal Pibun and General Phao in which he succeed in his attempt. On 26 September 1957 Marshal Sarit led a coup and overthrew Marshal Pibun's regime in order to expel corruption of government officials and communist threat¹⁴. Marshal Sarit's coup in 1957 led to a new military rule with stringent controls, absolute power and no constitutional constraints. However, Marshal Sarit's regime was well recognized domestically and internationally as Marshal Sarit

¹⁴ Main motive was actually to crush General Phao and his groups (Suchit Bunbongkarn 1987, 47-49).

appointed Pote Sarasin¹⁵ to be a civilian Prime Minister. There was a general election in December 1957. As there was no majority won in this election and Marshal Sarit was in the United States for his medical treatment, General Thanom Kittikachorn was appointed as a premier. After Marshal Sarit returned from the United States, he led another coup on 21 October 1958 and abrogated the constitution of 1952. He ruled under the interim constitution of 1959 with absolutism. This interim constitution under Marshal Sarit was considered to be the first constitution that had no clear section on foreign policy making, especially war declaration and treaty conclusion, but stated “where no provision under this charter is applicable in any case, the case shall be decided in compliance with the customary practices”. Parliamentary system under Marshal Sarit’s regime was also changed to be a semi-parliamentary system, in which the executive was independent of legislature (Suchit Bunbongkarn 1987, 47-49).

After Marshal Sarit passed away in 1963, there was not much change in the Thai political system. Field Marshal Thanom took over power and continued to rule under the interim constitution of 1959. Since there was a conflict within members of Field Marshal Thanom’s group between General Praphat Charusathien and Police General Prasert Rujirawong, this led to the loss of absolute control of Field Marshal Thanom. Due to this loss, his civilian political opponent demanded government to draft a new constitution and the new constitution was then proclaimed in 1968. The constitution of 1968 brought back the bicameral system and sections related to foreign affairs.¹⁶ Even though there was a new constitution, Field Marshal Thanom won the lower House election in February 1969 and became Prime Minister (Suchit Bunbongkarn 1987, 49).

During 1966-1969, elected members of parliament, both government and opposition, seemed dissatisfied with status quo. This led to interference in government administration and tension between government and elected House, such as delaying the process of passing bills on budget and attacks on government policy. Because the tension in the country, Field Marshal Thanom, with the support of the Army, staged a coup in November 1971 in order to abrogate constitution of 1968, dissolve parliament

¹⁵ A well-known diplomat and the Secretary General of the South-East Asia Treaty Organization (SEATO) (Suchit Bunbongkarn 1987, 47-49).

¹⁶ The constitution of 1968 had the same content on war declaration and treaty conclusion as the constitution of 1952.

and political party, and prohibit political gatherings. The aim of this coup was to reduce the influence of Police Chief General Prasert, who had a conflict with Field Marshal Thanom. After this coup, there was a promulgation of an interim constitution or Charter of the Administration of 1972, which has the same content on war declaration and treaty conclusion as constitution of 1959 of Marshal Sarit (Suchit Bunbongkarn, 1987, 50).

The coup of 1971 led to instability in Thailand due to the resentment among civilian politicians, students, and the public who felt disenchanted and that this coup was unjustified. The coup brought to power Colonel Narong Kittikachorn, Field Marshal Thanom's son and Field Marshal Praphat's son in law, to be in the position of Assistant Secretary General of the National Executive Council, which was a supreme body of government administration. In early 1973, an organization of students called 'The National Student Center of Thailand (NSCT)' arranged demonstration protests against termination of some activist students of Ramkhamhaeng University. Students and political activists also were arrested in October 1973 as they distributed leaflets to demand for a permanent constitution, which sparked another huge march of students organized by the NSCT, with more than 100,000 university and school students involved, to pressure this demand. Even though the government agreed to release some activist students and promised a new constitution, there erupted fighting between students and police in the early morning of 14 October 1973. This turmoil led to the request by the King for Field Marshal Thanom, Field Marshal Praphat, and Colonel Narong to leave Thailand (Suchit Bunbongkarn, 1987, 50).

3.3 Emergence of Semi-Democracy (1974-1992)

After the trio left Thailand, a parliamentary experiment, with new constitution of 1974, was once again attempted. This constitution had almost the same content on war declaration and treaty conclusion as the constitution of 1968. It added the second paragraph for the section concerning the declaration of war to allow Senate's approval for the case of parliament dissolution. A coalition of sixteen-party government was formed under the leadership of M.R. Kukrit Pramoj and lasted until the parliament dissolution of 1976. The general election was held in April 1976 and M.R. Seni Pramoj became Prime Minister. Even though there were new election and

new constitution, there would still be right wing and left-wing groups which had different ideology and became pressure groups. As Field Marshal Thanom returned to Bangkok in September 1976, the conflict between right-wing and left-wing groups erupted. The right-wing insisted Field Marshal Thanom stay in Thailand, while the left-wing insisted he be expelled. M.R. Seni was harshly criticized in the parliament of his indecision in Field Marshal Thanom's matter. He then resigned on 25 September 1976. M.R. Seni was reinstated by the King within that same day, but the situation did not get any better. As some students were accused of committing lèse majesté during demonstrations at Thammasat University, the right-wing groups together with the military took the chance to move against the students. The government of M.R. Seni could not control the situation, so the military, led by Admiral Sangad Chaloryu stepped in and staged a coup on 6 October 1976. This coup also abrogated the constitution of 1974 and promulgated the interim constitution on 22 October 1976¹⁷ (Suchit Bunbongkarn, 1987, 51; Rungpong Jayanama, 2010, 49-50).

After the coup, Thanin Kraivichien took the position of Prime Minister. The foreign policy and domestic policy of Thailand during Thanin Kraivichien's premiership was concerned mainly with communist threat and nationalism. These communist suppression policies caused different perspectives among students and intellectuals and led to refuge and cooperation with the Communist Party of Thailand. As the situations got worse, Admiral Sangad staged a coup again on 20 October 1977. This time he appointed General Kriangsak Chomanan for the position of Prime Minister and promulgated the Charter for Administration of 1977. For the section concerned with foreign affairs, this constitution had the same content of the interim constitution of 1959. The government of General Kriangsak promised to finish drafting a new constitution within a year and had set up the 'Constitution Drafting Committee' which consisted of 35 members including Jitti Tingsapat,¹⁸ M.R. Seni, M.R. Kukrit, Kantathi Suphamongkhon,¹⁹ and others. This constitution of 1978 then promulgated on 22 December 1978 (Rungpong Jayanama, 2010, 53-54). As for the

¹⁷ main motive behind was actually to crush General Phao and his groups (Suchit Bunbongkarn, 1987, 47-49).

¹⁸ former judge and law professor (Rungpong Jayanama, 2010, 53-54)

¹⁹ former Thai Ambassador to United Kingdom (Rungpong Jayanama, 2010, 53-54)

section concerned with foreign affairs, this constitution had the same content of the constitution of 1974. The period of 1977 to 1992 was considered to be a semi-democracy era in which the government attempted to redistribute the powers of government officials and politicians, and laid the foundation of democracy in Thai society.

All the endeavor of government led to realization of the significance of democracy among public and military; society and economy tended to be more capitalist democracy; and society tended to be less polarized and problems of communism had been resolved. Even though the government attempted to create collaboration among each political group in society, there still were conflicts among them which could be seen through coups on 1-3 April 1981, 9 September 1985 during the period of Prime Minister Prem Tinsulanonda, and 23 February 1991 during the period of Prime Minister Chatichai Choonhavan, which was led by the National Peace Keeping Council (NPKC) with the reason of corruption among Ministers. Political officials threatened government officials, there was parliamentary dictatorship of the government and an attempted to destroy the army. The National Peace Keeping Council (NPKC) promulgated the interim constitution of 1991. For the section concerned with foreign affairs, this constitution had the same content as the interim constitution of 1959. NPKC appointed Anand Panyarachun as a Prime Minister and also formed the Constitution Drafting Committee. Even though Anand was appointed by NPKC, he was not under control of military power and governed the country with transparency. The first task of Anand as Prime Minister was to appointed Ministers and draft a constitution with another set of the Constitution Drafting Committee. Although there was a conflict between the government and NPKC during the drafting process,²⁰ Anand could promulgate the constitution of 1991, with the condition to halt the conflict between the two sets of Constitution Drafting Committees and that General Suchinda Kraprayoon and Air Chief Marshal Kaset Rojananil would not take any political position (King Prajadhipok's Institute, n.d., 32-38).

²⁰ because of the undemocratic of this constitution, especially the transitional provisions which allowed government official to take the position of political official; allow members of the senate to amend constitution; and allow the person who would take the position of Prime Minister to be appointed and not came from an election and so on (King Prajadhipok's Institute, n.d., 32-38).

During his time as Prime Minister, Anand attempted to made transparency, increase efficiency and reduce corruption in Thailand by appointing technocrats as members cabinet, passing an Act on Private Participation in State Economic Affairs,²¹ drafting bills to decrease monopoly of TOT and CAT Telecom Public Company Limited (CAT) in granting concession, reforming TOT and CAT,²² Especially in the telecommunication area, Anand attempted to liberalize and create transparency by removing officers and ministers who were involved with TOT concessions. This also included the scrutiny of the Shinawatra satellite concession (Pasuk Phongpaichit & Baker, 2004, 47-48).

Though the constitution made changes in political position; empowerment of members of Senate; and constituency proposition, but there was no change in the section related to foreign affairs.²³ After the constitutional promulgation, there was a general election on 22 March 1992 and General Suchinda became Prime Minister. Actually, Narong Wongwan was appointed to be Prime Minister, but he was suspected of involvement with illegal business and the United States halted his visa. So General Suchinda was proposed and appointed to be Prime Minister even though he was under the condition of not taking any political position. Due to the breaking of condition; lack of legitimacy; and lack of citizenry support, there was a hunger strike by second lieutenant Chalad Worachat, Prateep Hata, Major General Chamlong Srimuang together with students and some middle-class people against General Suchinda. This hunger strike evolved into clash between citizens and officers which led to the incident of 'Black May'. The situation eased up with the involvement of King Rama VIII (King Prajadhipok's Institute, n.d., 32-36).

After 'Black May, General Suchinda resigned from his position and Anand was appointed to be Prime Minister. Three months later, Anand dissolved the parliament and generated a general election on 13 September 1992 (King Prajadhipok's Institute, n.d., 37-38).

²¹ to ensure consistency, transparency and fairness in telecommunication privatization program (Pasuk Phongpaichit & Baker, 2004, 47)

²² but the reformation of TOT and CAT was delayed and blocked by the junta as the junta did not want to stop concession business but get them under control instead (Pasuk Phongpaichit & Baker, 2004, 47)

²³ This constitution had the same content on war declaration and treaty conclusion as of the constitution of 1978.

The street demonstrations in 1992 brought about two political movements. The first one – the rural movement who protested against the downfall of agrarian and farming economy and encroachment over natural resources. The second one – a movement of middle class urban activism who demanded for political reforms in media, rights, bureaucracy, social welfare and others. These two groups shaped new public politics in Thailand in the 1990s (Pasuk Phongpaichit & Baker, 2004, 18). Even though they were different in ideology, they actually shared common opposition against a strong and over-powerful state (Pasuk Phongpaichit & Baker, 2004, 21). They would like to down weight the state and replace business orientation inside parliament with social agendas such as wealth distribution, environment protection, and human rights (Pasuk Phongpaichit & Baker, 2004, 23-24).

The crisis of 1991-1992 also made the businessmen feel that unstable politics affected economic growth, so they became more active in politics, but after the crisis had been resolved and the economy become stable, they became less active in politics (Pasuk Phongpaichit & Baker, 2004, 15). Since the elections of 1979, more businessmen sought election and became politicians (Pasuk Phongpaichit & Baker, 2004, 13)

3.4 From ‘Black May’ to Reform Democracy (1992-2006)

The Democrat party won the election and Chuan Leekpai became Prime Minister. During Chuan’s term, second lieutenant Chalad went on a hunger strike again on 9 April 1994. This time he demanded for a new constitution. During that period, there was also a trend to reform the constitution in which Prawase Wasi thought that constitutional reform would be the only means that could solve the problems in Thailand. Marut Bunnag, speaker of the parliament set up the ‘Democracy Development Committee’, which was led by Prawase as a chair of this committee, to suggest a solution for Thailand. The Democracy Development Committee suggested the necessity to reform the constitution in order to fix and improve weakness of Thai politics²⁴, economics²⁵ and society²⁶ that led to illegitimacy

²⁴ the discontinuity of the constitution; no change in construction, institution, mechanism and procedure of parliament; lack of check and balance which led to corruptions among politicians and senior government officials; competitive in taking political position led

and inefficiency of Thai politics. The suggestions of the Democracy Development Committee had been pushing forward in the period of Prime Minister Banharn Silpa-archa in 1995 to 1996, who had set up Political Reform Commission to amend constitution of 1991 in which section 211 in the amended constitution of 1995 led to the drafting of a new constitution and the setting up of a Constitution Drafting Committee. This drafted constitution entered into parliamentary consideration on 4 September 1997 and it had been widely debated in parliament. The joint session approved this drafted constitution on 27 September 1997 and it had been promulgated on 11 October 1997 during the period of General Chavalit Yongchaiyudh (King Prajadhipok's Institute, n.d., 39-45). As for the section related to foreign policy, this constitution had the same content as the constitution of 1978.

After the promulgation of constitution of 1997, General Chavalit had to resign from his position because of the 'Tom Yam Koong Crisis' that led to the involvement of Inter Monetary Fund in Thai economy. Chuan took his position as Prime Minister for the second time on 9 November 1997. For his second term, Chuan was faced with economic difficulties and conditions for a recovery package from IMF, in which there had been 11 laws issued to recover the economy. These 11 laws had been rushed in the process of consideration and enactment, and its implementation had affected foreign policy. In these 11 acts, there are: the land code amendment act (no. 2) B.E. 2542 (1999) which allows foreigners to possess land in Thailand; the condominium act (no. 3) B.E. 2522 (1979) which allows foreigner to own condominium in Thailand; the Foreign Business Act B.E. 2542 (1999) which allows foreigners to do business in Thailand without request for permission from Ministry of Commerce; the allowance for foreigners to do retail trade with minimum investment of 100 Million Baht, to set up a shop with minimum capital of 20 Million Baht, and to do retail trade with minimum investment of 100 Million Baht; to preserve ability to do

to corruption and cheat in election; political parties are mostly capitalists; and undemocratic structure of political parties (King Prajadhipok's Institute, n.d., 39-45).

²⁵ centralization led to slow process in solving the problems and piling up of problems; and government officials could not solve problem effectively which led to the intervention of politicians and patronage system (King Prajadhipok's Institute, n.d., 39-45).

²⁶ Thai society in favor of using 'power' than 'law' and led to give and take means of solving problems; polarized of people; low educated and led to academic weakness; moral weakness; familiar with uses of faith rather than thought (King Prajadhipok's Institute, n.d., 39-45).

international negotiation under the condition of General Agreement on Trade in Services (GATS); and the State Enterprise Capital Act B.E. 2542 (1999) that brought about privatization of state enterprise and allowed foreigners to hold shares (Committee on Foreign Affairs, Senate, 2006, 80-86).

After the end of Chuan's term, there was an election of 6 January 2001 which Pheu Thai Party won with absolute majority and Thaksin Shinawatra became Prime Minister. Thaksin was a representative of a new force in politics during the time that the "old politics" had been discredited because of the "Tom yam kung Crisis" of 1992 (Pasuk Phongpaichit & Baker, 2004, 7).

Thaksin returned from his education overseas with ideas of new business orientation (Pasuk Phongpaichit & Baker, 2004, 25). During 1988 to 1991, Thaksin owned a computer leasing business and became an entrepreneur with special relationship with Telephone Organization of Thailand (TOT) and Thai politicians in government concessions (Pasuk Phongpaichit & Baker, 2004, 45). Being in the business of telecommunication concessions, Thaksin could enter into a politics world. He took his step across the line that divided politics and business (Pasuk Phongpaichit & Baker, 2004, p. 53). He attempted to make his life story a legend so that he could engage in Thai politics. (Pasuk Phongpaichit & Baker, 2004, 25).

Thaksin entered into Phalang Tham party and caused turmoil in which Chamlong Srimuang had retired from politics and handed the leadership position of Phalang Tham party to Thaksin. Thaksin was elected, but Phalang Tham party did not have majority vote, so he became Deputy Prime Minister. Anyhow, Thaksin could not win the reelection in 1996. Before winning in the election of 2001, Thaksin was appointed as secretary to a cabinet ministry (1992), Foreign Minister (1994), Deputy Prime Minister (1995), and Deputy Prime Minister (1997) (Pasuk Phongpaichit & Baker, 2004, 25, 54-55).

Before 2001, Thaksin's political achievement was not promising (Pasuk Phongpaichit & Baker, 2004, 55). But after the financial crisis of 1997, his status had risen because of the change in the electoral system in the constitution of 1997²⁷ (Pasuk Phongpaichit & Baker, 2004, 62). The economic crisis of 1997 was a motivation for

²⁷ constitution favored a business-based party (Pasuk Phongpaichit & Baker, 2004, 6)

businessmen to be involved openly and directly in politics, in which the constitution of 1997 introduced them into election by adding hundreds of seats in parliament and changed the focus to national interests instead of provincial interests (Pasuk Phongpaichit & Baker, 2004, 71).

During Thaksin's era, Thai parliament represented a system of 'money' rather than 'people'. Elections were held among vote buying, pork barrel politics, professional violence and patronage. Political parties were neutral in ideology, rather they became coalitions for business interest and power. Political patterns of parliament had turned to business hands (Pasuk Phongpaichit & Baker, 2004, 13).

During Thaksin's regime, there was an initiative to have a draft bill on Special Economic Zone in 2004. This draft bill would lead to support and assist in the process of giving over sovereignty and territory of Thailand to foreigners, which could be seen as new colonialism and carried the loss of extraterritoriality or extraterritorial rights with Thailand's own consent. This draft bill was the response of free economy of capitalism which was based on a CEO system that has one stop service and top down systems. This draft bill on Special Economic Zone could be seen as the attempt of the government to have New Social Order interaction. The approval of this draft bill would be made through the mechanism of Royal Decree issuing through consent giving of the cabinet. The process of issuing Royal Decree would then lead to no parliamentary consideration and a lack of checks and balances process, as this decree required no approval of parliament. This draft bill would also allow foreign laborers to work and stay in Thailand and allowed to exceed the limit in number of laborers to work in Thailand (Committee on Foreign Affairs, Senate, 2005, 141-176).

There was also an attempt of the government to conclude multilateral or bilateral agreements by avoiding the checks and balances process of the parliament. In doing so, government interpreted that the multilateral or bilateral agreement was in line with domestic law to void section 224 paragraph 2; interpreted 'jurisdiction of the state' to geographical territory or jurisdiction that ignored sovereign power in the state's administration and was an attempt to conceal some facts about commitment in this multilateral/bilateral agreement (Jaroen Compeerapap, 2004, 73-77).

The government of Thaksin had been severely criticized in late 2003. There was even a group called People's Alliance for Democracy (PAD) that

demonstrated against Thaksin. Amidst these difficulties, Thaksin won the re-election on of 6 February 2005 and became Prime Minister for the second term. After this election, there was a group called ‘No Thaksin (Mai-ao-Thaksin)’ which did not agree with this election and sued to Constitutional Court. The election of 6 February 2005 was void and there was a Royal Decree declared for a new election on the date of 15 October 2006. The protest against Thaksin gained more supporters and worsened the situation in Thailand and led to the coup of 19 September 2006. The coup leaders led by General (ret.) Sonthi Boonyaratglin felt that the constitution of 1997 had some weakness that led Thaksin to become over-powerful, so the Council of National Security promulgated an interim constitution of 2006 to abrogate the constitution of 1997. This constitution had the same content as the other interim constitutions. During this period General (ret.) Surayud Chulanont became Prime Minister and had the main task in drafting a new constitution. The constitution of 2007 was promulgated on 24 August 2007 (Teerapat Serirangsan, 2010, 31-49).

Table 3.1 Timeline of Political Events and Constitutional Changes during 1912-2007

Year	Political Events and Constitutional Changes
1912	an attempt of a group of lesser army officials to stage a coup and replace the system of absolute monarchy with a republican government, but failed.
1917	Prince Chakrabongse submitted a memorandum to King Vajiravudh (King Rama VI) in order to suggest the king to grant constitution to Thai people, but King Vajiravudh dismissed.
1919	King Rama VI introduced the model of Dusit Thani, a model of self-government.
25 Feb 1926	King Prajadhipok ascends to the throne and crowned king (King Rama VII).
1927	King Rama VII set up the Committee of the Privy Council (training assembly for consultative legislation in parliament-like system).
24 Jun 1932	the People’s Party (Khana Rastr) seized power with the objective of changing the regime of government to constitutional monarchy.
	promulgation of the Temporary Charter for the Administration of Siam Act B.E. 2475 (1932) - First constitution of Thailand

(Continued)

Table 3.1 Timeline of Political Events and Constitutional Changes during 1912-2007
(Continued)

Year	Political Events and Constitutional Changes
	<p data-bbox="507 488 1390 696">This interim constitution gave the House of Representatives Committee (Kammakan Phutaenratsadorn) power to conduct negotiation with other countries (the negotiation result shall later report to the King) and the King could declare war with the House of Representatives Committee's advice.</p> <p data-bbox="507 741 1390 824">turning point of parliament engagement in foreign policy making</p>
10 Dec 1932	<p data-bbox="483 875 1358 909">promulgation of the permanent constitution – the second constitution</p> <p data-bbox="523 981 1401 1111">giving the power to approve of war declaration and treaty conclusion to parliament instead of House of Representatives Committee</p>
Apr 1933	<p data-bbox="488 1146 1417 1218">the 'Bowaradej Rebellion' coup seized Bangkok in order to overthrow the people's party and establish real democracy but defeated.</p>
1941	<p data-bbox="488 1254 1417 1361">Japanese troops landed in Thailand and forced Thai government to allow for passage. Phraya Phahon yielded to Japanese demands and later declared war against the Allied Powers.</p> <p data-bbox="507 1397 1382 1491">This war declaration showed the first success of the parliament to engage in foreign policy.</p>
May 1946	<p data-bbox="488 1518 1366 1590">Pridi attempted to consolidate his power in parliament by drafting a constitution and promulgated -the third constitution</p> <p data-bbox="507 1626 1366 1720">adding types of treaties that require parliamentary approval - 'peace treaty, armistice, and other treaties'</p>
9 Jun 1946	<p data-bbox="488 1758 879 1792">King Rama VIII passed away.</p> <p data-bbox="488 1850 1417 1921">Pridi was accused of involvement in the regicide which led to his resignation and abolishment of the constitution of 1946.</p>

(Continued)

Table 3.1 Timeline of Political Events and Constitutional Changes during 1912-2007
(Continued)

Year	Political Events and Constitutional Changes
9 Nov 1947	coup led by Phin Chunhawan
1947	promulgation of interim constitution of 1947 - the fourth constitution
	<div style="border: 1px solid black; background-color: #e6f2ff; padding: 5px;"> <p>removed the part of the numbers of votes required for parliamentary approval and treaty conclusion; and added that the King has the Royal Prerogative to conclude treaty with parliamentary approval</p> </div>
23 Mar 1949	Marshal Pibun promulgated new constitution of 1949 - the fifth constitution
	<div style="border: 1px solid black; background-color: #e6f2ff; padding: 5px;"> <p>included the part of the numbers of votes required for parliamentary approval and parliamentary approval for treaty conclusion</p> </div>
29 Nov 1951	Marshal Pibun staged a consolidating coup (silent coup d'état) to overthrow the constitution of 1949 and promulgate constitution of 1952 - the sixth constitution
	The sixth constitution added 'war declaration shall not violate any provision in the Charter of the United Nations' to section 91.
26 Sep 1957	Marshal Sarit led a coup to overthrow Marshal Pibun's regime and appointed Pote Sarasin to be a civilian Prime Minister.
	<div style="border: 1px solid black; background-color: #ffe6e6; padding: 5px;"> <p>to gain recognition from international community, Marshal Sarit appointed Pote, a well-known diplomat and the Secretary General of SEATO.</p> </div>
21 Oct 1958	Marshal Sarit led coup and abrogated constitution of 1952.

(Continued)

Table 3.1 Timeline of Political Events and Constitutional Changes during 1912-2007
(Continued)

Year	Political Events and Constitutional Changes
1959	<p>Marshal Sarit promulgated interim constitution of 1959 - the seventh constitution</p> <p>the first constitution that had no clear section on foreign policy making, especially war declaration and treaty conclusion, but stated 'where no provision under this charter is applicable in any case, the case shall be decided in compliance with the customary practices'.</p>
1968	<p>New constitution was then proclaimed - the eighth constitution</p> <p>brought back the bicameral system and sections related to foreign affairs</p>
Nov 1971	Because of the tension in the country, Field Marshal Thanom staged a coup in order to abrogate constitution of 1968, dissolve parliament and political parties, prohibit political gatherings.
1972	promulgation of interim constitution or Charter of the Administration of 1972 - the ninth constitution
14 Oct 1973	Fighting between NSCT and police
1974	<p>Promulgation of constitution of 1974 - the tenth constitution</p> <p>added the second paragraph for the section concerning the declaration of war to allow Senate's approval for the case of parliament dissolution</p>
6 Oct 1976	Demonstration at Thammasat University which led military to step in and stage a coup.
22 Oct 1976	Promulgation of interim constitution of 1976 - the eleventh constitution
20 Oct 1977	Admiral Sangad staged a coup and promulgated Charter for Administration of 1977 - the twelfth constitution
22 Dec 1978	Promulgation of constitution of 1978 - the thirteenth constitution

(Continued)

Table 3.1 Timeline of Political Events and Constitutional Changes during 1912-2007
(Continued)

Year	Political Events and Constitutional Changes
23 Feb 1991	NPKC led to a coup and promulgated the interim constitution of 1991 - the fourteenth constitution
1991	Promulgation of constitution of 1991 - the fifteenth constitution
1992	Incident of 'Black May'
1994	Speaker of the parliament set up the 'Democracy Development Committee' to reform constitution.
1995	Prime Minister Banharn set up Political Reform Commission to amend constitution of 1991.
11 Oct 1997	Promulgation of constitution of 1991 - the sixteenth constitution
1997	'Tom Yam Koong Crisis' and General Chavalit had to resign from his position of Prime Minister.
	Prime Minister Chuan faced with economic difficulties and condition for recovery package from IMF, and led to 11 laws issued to recover the economy.
6 Jan 2001	General Election and Pheu Thai Party won and Thaksin Shinawatra became Prime Minister.
2004	Draft bill on Special Economic Zone
6 Feb 2005	Thaksin won the re-election.
2005	'No Thaksin (Mai-ao-Thaksin)' did not agree with this election and sued to Constitutional Court.
	The election of 6 February 2005 was void and there was a Royal Decree declared for a new election.
	The protest against Thaksin gained more supporters and worsened the situation in Thailand.
19 Sep 2006	Coup led by General (Ret.) Sonthi Boonyaratglin
	Abrogation of constitution of 1997 and promulgation of interim constitution of 2006 - the seventeenth constitution
24 Aug 2007	Promulgation of constitution of 2007 - the eighteenth constitution

3.5 Summary

After Thailand changed its political system to constitutional monarchy in 1932, Thailand began to have its first constitution which was an interim one. This first constitution considered being a turning point of parliamentary assertiveness in foreign policy making. The first constitution, the 'Administration of Siam Act B.E. 2475 (1932)' empowered parliament (the House of Representatives Committee - Kammakarn Phutaenratsadorn) to be in the process of foreign policy making. The first constitution lasted only six months.

The parliament then promulgated the second constitution within the same year. Content of this constitution has since been a pattern for most of the constitutions of Thailand on the section concerned with parliamentary approval and engagement of Thai parliament in making of foreign policy, except the Charter for the Administration of the Kingdom which are in the seventh (1959), the ninth (1972), the eleventh (1976), the twelfth (1977), the fourteenth (1991), and the seventeenth (2006) constitutions.

Marshal Sarit led a coup to overthrow Marshal Pibun's regime on 26 September 1957. Later he promulgated an interim constitution of 1959 with absolutism and removed a section related to war declaration and treaty conclusion into decision in compliance with the customary practices of government. From 1972 to 2006, 13 constitutions and interim constitution had been promulgated with no major change in content. This led to instability and discontinuity of government and parliament that caused government domination over foreign policy, parliamentary dysfunction and deferent parliament.

CHAPTER 4 ENGAGEMENT OF THE PARLIAMENT IN THAILAND'S FOREIGN POLICY

4.1 Constitutional Roles of the Parliament in Foreign Policy Making Process

The first constitution of 1932 empowered parliament to be a main actor in the foreign policy process, as it allowed parliament to conduct negotiations with other states. But from the second constitution of 1932 until the seventeenth constitution of 1991, even though the constitution stated that parliament shall be an institution to approve of treaty conclusion, in practice the executive tended to ignore and avoid parliamentary approval through various means.

The eighteenth constitution of 2007 had added some content which allowed parliament to engage more in foreign policy from the beginning of the negotiation process. Before concluding any treaty with other countries or international organizations under section 190 paragraph two, the Council of Ministers must submit the negotiation framework to the parliament (joint session) for approval. The Council of Ministers must also provide information thereon to the public, conduct public consultation and state information relevant thereto to the parliament (this process has to be conducted until treaty conclusion). Then parliament shall approve the negotiation framework. Concerned agencies conduct negotiation and during the negotiation process the Council of Ministers must provide information thereon to the public, conduct public consultation and give a statement of information relevant thereto to the parliament. Concerned agencies conclude a negotiation and draft a final agreed text. Concerned agencies then submit the final agreed text to the Council of ministers for approval by giving signature to the treaty (not binding/legal effect). The Council of Ministers then gives signature to the treaty. This treaty must then state that it would have legal effect after ratification. The Council of Ministers submits final agreed text to the parliament (joint session) for approval. Within this process, parliament must complete its consideration within sixty days (from the date of receipt of such matter). Then parliament approves the final agreed text. Upon giving signature to the treaty under section 190 paragraph two, the Council of Ministers shall, prior to giving consent to be bound, facilitate the public to get access to the details of such

treaty. In the case where the application of such treaty would affect the public or small and medium entrepreneurs, the Council of Ministers must revise or render remedy to such effects rapidly, expediently and fairly. After all this process has been conducted, the Thai government would give signature to the treaty (Sitawee Teerawirun, 2010, 63).

Apart from domestic duties, the constitution delegates foreign power to parliament in approving of the declaration of war, and in approving of the entering into a treaty (Bureau of Public Relations, Secretariat of the House of Representatives, 2012, 7). Besides duties and power mentioned above, parliament can also engage and play its role in policy on international affairs through motion, motion on organic law bill and motion on constitutional amendment submission; and through functions of committees. This is considered to be a direct role of parliament in engaging in foreign policy.

Table 4.1 Parliamentary Engagement in Foreign Policy Making Process

Constitution	Section	Negotiation	Provide advice to King for War declaration	Approval of War Declaration	Approval of Treaty Conclusion	Approval of Negotiation Framework	Provide Detail on Treaty for Parliamentary Consideration
1932 (1)	36	✓					
	37		✓				
1932 (2)	54				✓		
1946 (3)	75			✓			
	76				✓		
1947 (4)	83			✓			
1949 (5)	153			✓			
	154				✓		
1952 (6)	91			✓			
	92				✓		

(Continued)

Table 4.1 Parliamentary Engagement in Foreign Policy Making Process
(continued)

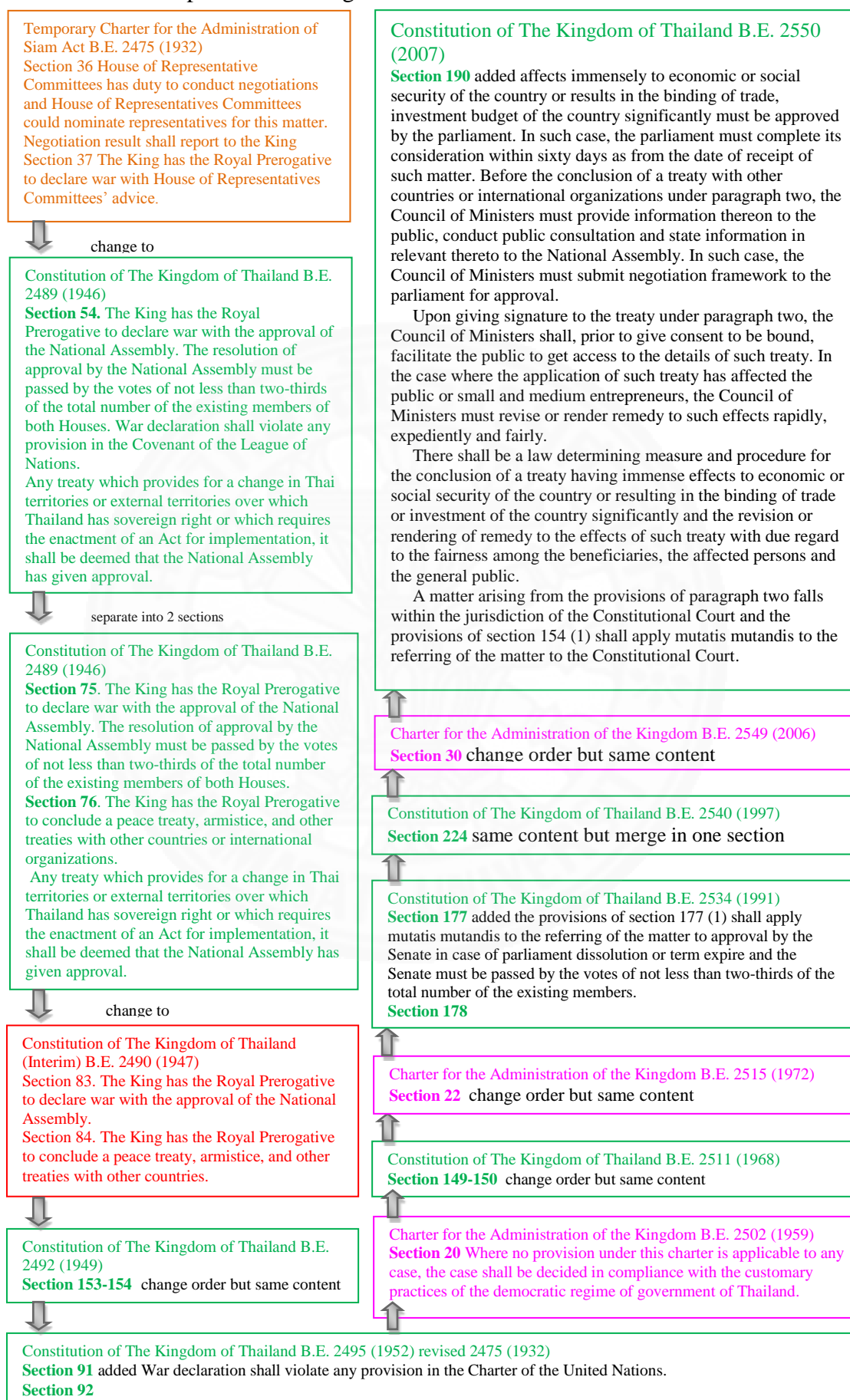
Constitution	Section	Negotiation	Provide advice to King for War declaration	Approval of War Declaration	Approval of Treaty Conclusion	Approval of Negotiation Framework	Provide Detail on Treaty for Parliamentary Consideration
1959 (7)	-						
1968 (8)	149			✓			
	150				✓		
1972 (9)	-						
1974 (10)	194			✓			
	195				✓		
1976 (11)	-						
1977 (12)	-						
1978 (13)	161			✓			
	162				✓		
1991 (14)	-						
1991 (15)	177			✓			
	178				✓		
1997 (16)	224				✓		
2006 (17)	-						
2007 (18)	190				✓	✓	✓
2014 (19)	178				✓		
2017 (20)	177			✓			
	178				✓		

From a review of history of engagement of parliament in foreign policy making through the constitution, we can see that parliament could function in its duty to approve of treaties and insert itself in the process of foreign policy making through amendment of section 224. This independent study would see the constitution as an institutional context that allows parliament to engage more in foreign policy.

If we consider the constitutional context of political and constitutional change in Thailand, we would see that section 190 of constitution of 2007 was a result of the inability of parliament to engage in foreign policy, especially in the FTA and Preah Vihear matters. The FTA and Preah Vihear matters were a consequence of the Thaksin regime and its foreign policy domination. Historical context helps explaining this phenomenon.



Table 4.2 Development and change in Thai Constitution from 1932 to 2007



4.2 Parliamentary Diplomacy

Duties and functions allow parliament to engage more in the foreign policy making process. Through functions of motion, motion on organic law bill and motion on constitutional amendment submission; vote of confidence and no-confidence; hearing in committees, in particular Foreign Affairs Committees; and through duty as a member of an international parliamentary organization, such as Inter-Parliamentary Union (IPU), ASEAN Inter-Parliamentary Assembly (AIPA), ASEAN-Pacific Parliamentarians Union (APPU) and Asian Parliamentarian Assembly (APA), parliament could be active and play assertive roles in foreign affairs and foreign policy making process.

In Supasinee Khamasuthorn (2010) work on 'Parliamentary Democracy in Rehabilitation of Thai Reputation', there is the idea that parliamentary diplomacy could be another channel of diplomacy through the means of bilateral meeting, multilateral meeting or even parliamentarians (individual) meeting with their counterparts within the community of parliamentarians around the world. As for the case of Thailand, during 2005-2010 Thailand was faced with political hardship which included demonstration against government of Thaksin Shinawatra, silk revolution, street politics, color politics and rebuilding Thailand. The situations above had some impacts to Thailand:

- (1) had a negative impact for Thailand to hold the position of President of ASEAN;
- (2) had to postpone ASEAN meeting in various levels (Summit, ministerial meeting, etc) which also affected scheduled ASEAN duties;
- (3) some states took Thailand to be in the position of ungovernable and a failing state; and
- (4) froze the IPU membership status and Thailand could not engage in any of IPU activities which also included the hosting of IPU 116 Assembly in Bangkok.

Thailand faced a crisis of confidence and left some questions in international perspective, such as: If there are any violent situations occurring in Thailand, would the Thai government choose peaceful means, military means or Coup d'état to solve this kind of situation? How could the Thai government use democratic

means to solve political crisis permanently (without the role of military)? (Supasinee Khamasuthorn, 2010, ๙-2).

To solve the problems above, Thai parliament, together with Ministry of Foreign Affairs had cooperated together and eased the situation by:

(1) After coup d'état on 19 September 2006, Thai parliament had to preserve its membership status in IPU and also preserve its IPU 116 Assembly host country status. In this, Foreign Ministry of Thailand had to use the means of bilateral talks in Bangkok and Geneva by sending Mr. Chaiyong Satjipanon, ambassador to the United Nations in Geneva, to pay a courtesy call to Mr. Anders B. Johnsson, IPU Secretary General on 11 October 2006 to ask for permission to join the IPU executive meeting (in order to report the situation in Thailand) on 13 October 2006 and IPU allowed Thailand to send Mr. Akrapol Sorasuchat, Member of the National Legislative Assembly together with Mr. Pitoon Poomhiran, Secretary General of the House of Representatives to be present (Supasinee Khamasuthorn, 2010, 55).

(2) The ambassador to the United Nations in Geneva also sent a request to have a courtesy call to IPU Secretary General together with concerned member states. From this call, the IPU changed their agenda from “Situation in certain Members – Thailand is currently eligible for suspension following the recent dissolution of its parliament” to “The case of Thailand will be discussed under Article 4.2 of the Statue”. Moreover, he also had some talks with IPU executive committee member states on 13 October 2006. These talks can be categorized in four types: (1) talks with executive committee members that would like to suspend the membership status of Thailand in IPU which were United Kingdom, Kenya, Namibia, Finland, Greece and Hungary; (2) talks with executive committee members that would like to hold the status of Thailand as member of IPU which were China, Japan, Libya, Cuba and Russia; and (3) talks with executive members that had an unidentified position which was Morocco; and (4) talks with executive members that had not attended IPU executive committee meeting on 13 October 2006 which were Togo, Brazil and Uruguay (Supasinee Khamasuthorn, 2010, 57).

(3) As Thailand was not a member of the IPU executive committee anymore, as a result of parliament dissolution, in order to defend Thailand's national interests, the ambassador to the United Nations together with Thai delegations had

talked with delegations from Japan and China to help and support Thailand in the IPU executive meeting on 13-14 October 2006. Because Japan and China firmly supported Thailand during the meeting, the IPU executive committee agreed that Thailand had to suspend all formal activities with IPU until there was a democratic election (in this, IPU would follow up the democratic process of Thailand to assess whether Thailand could return to status of member of IPU or not) and to cancel to host country status of IPU 116 Assembly (Supasinee Khamasuthorn, 2010, 57).

(4) During the time before election results came out (16 October 2006 – 21 January 2008), Thai parliament together with Ministry of Foreign Affairs had used parliamentary diplomacy means in order to hold the current status in IPU, attempted to join IPU assembly as an observer or sit-in and to regain active membership status and be able to participate in IPU activities. In this, Thailand had done many things as follows:

-General Jaran Kullavanich, 1st Deputy Speaker of the National Legislative Assembly had paid courtesy calls with delegations from Russia, China, Japan, Indonesia and Australia during the 15th Asia Pacific Parliamentary Forum which was held in Moscow, Russia (Supasinee Khamasuthorn, 2010, 61-62).

-Ms. Potjane Thanavaranit, 2nd Deputy Speaker of the National Legislative Assembly had paid a courtesy call with Mr. Geert Versnick, Member of Executive Committee of IPU during her visit to Belgium in February 2007 (Supasinee Khamasuthorn, 2010, 63).

-General Jaran Kullavanich, 1st Deputy Speaker of the National Legislative Assembly, together with Mr. Surin Pitsuwan and Mr. Akrapol Sorasuchat, Members of the National Legislative Assembly and Mr. Sihasak Phuangketkeow, ambassador to the United Nations in Geneva had paid a courtesy call with Mr. P.F. Casini, President of the IPU in Italy and a courtesy call with Mr. Anders B. Johnsson, IPU Secretary General in Geneva. In this, Thailand also provided documents about the democracy situation in Thailand and also sent letters of invitation for the IPU delegations to visit Thailand. Mr. Pitsuwan also proposed to Mr. Casini and Mr. Johnsson that IPU should take Thailand as a sample case for democracy development assistance and to bring the parliament back to work without process of sanction or

membership suspension. From the calls, Thailand was allowed to join the IPU 116 Assembly in Bali, Indonesia (Supasinee Khamasuthorn, 2010, 63).

-Mr. Surin Pitsuwan and Members of the National Legislative Assembly joined the IPU 116 Assembly in Bali, Indonesia and had an opportunity to report the situation in Thailand in an executive committee meeting. From the report, IPU executive committees were satisfied with the democracy situation in Thailand (progress in draft constitution process and election date), so they upheld the IPU membership status of Thailand and allowed the Thai delegation to report the situation in an executive committee meeting in the next IPU 117 Assembly in October 2007 in Geneva. During his time in Bali, Mr. Pitsuwan also had bilateral talks with delegates from China, Japan, Indonesia, Greece, Finland, United Kingdom, Namibia, Morocco and Uruguay which were members of the executive committee (Supasinee Khamasuthorn, 2010, 63).

-Mr. Anders B. Johnsson, IPU Secretary General visited Thailand during 8-10 May 2007 to follow up on the situation in Thailand. During his visit, he met with President of Constitution Drafting Assembly, Committee on Foreign Affairs of National Legislative Assembly, Former Members of the House of Representatives, Party leaders from Democrat Party and Thai Rak Thai Party (Supasinee Khamasuthorn, 2010, 64).

After the election of 23 December 2007, Thailand resumed IPU membership status with full participation on 21 January 2008 (the first day of the parliament session) and IPU invited Thailand to attend Parliamentary panel within the framework of the annual WTO Public Symposium at the WTO headquarters in Geneva in April 2008 (Suapsinee Khamasuthorn, 2010, 64).

During the time that Mr. Abhisit Vejjajiva became a Prime Minister, Thailand was still in the period of color politics, and political thought among Thai people was divided, which led to the disruption of the United Front of Democracy Against Dictatorship (UDD) at ASEAN Summit in Pattaya in April 2009. In this, Thai parliament had used mechanisms of parliamentary diplomacy through: an informal meeting with the delegation of the 14th ASEAN Summit in Cha-am and Hua Hin on 28 February 2009; Mr. Prasobsook Boondech, Speaker of the Senate attended the IPU 120 Assembly in Ethiopia in April 2009; hosting of the 30th General Assembly of the

ASEAN Inter-Parliamentary Assembly in Pattaya from 2-8 August 2009 (also invited IPU Secretary General to attend); and to arrange for a promotion booth for Thailand to host the IPU 122 Assembly in Bangkok during the IPU 121 Assembly in Geneva. As the result of all these attempts, Thailand could be a host country for IPU 122 Assembly in Bangkok (Suapsinee Khamasunthorn, 2010, 72-73).

Even though we could see that parliamentary diplomacy is an important means to rehabilitation of Thailand's reputation, trust and confidence from the international community, but Thai parliament still had limitations to engage in foreign policy making and foreign affairs.

4.3 Limitations of Thai Parliament in Engaging in Foreign Policy Making

Even though parliament could play some roles in foreign policy according to the constitution, parliamentarians still had their limitations in engaging in foreign policy. For this matter, Boonchoo in '*Thai Domestic Politics Trend and Foreign Policy*' stated that parliament played some roles in foreign policy, but it still had some limitations, such as parliamentarians were not allowed to draft any acts concerning finance and budget except that which the government granted permission to do so; as parliamentarians could use the mechanism of committee to do their roles in checks and balances with government, they tended not to be involved in the committee's matters as it would interfere and affect internal relations; and government in practice did not strictly take treaties that required ratification into parliament (Boonchu Rojanasthien, 1988, 151-163).

Members of the committees were from ruling party, so they tended not to involve in the committee's matter as it would interfere and affect internal relations and committee was also lack of staffs and lack of analyzed information and parliamentarians cannot take full responsible of their committee's duty due to being member of various committees, overlapping meeting and loads of works (Boonchu Rojanasthien, 1988, 158-159). Parliamentarians were not allowed to draft any acts concerning finance and budget except the government grant permission to do so. In 1988, 90 % of acts drafted by government and parliamentarians could not involve in any part of the process of act drafting (Bunchoo Rojanasthien, 1988, 154-155).

Montri in *'Thai Parliament: The Case Study of the Weakness of Parliament'*, found that parliament had less power to control and oversee the government, parliament's power had been limited to the framework of the constitution, people pay no attention to parliament, parliament is incapable of doing its duties and the role of parliament is limited to bill consideration (Montri Tengtrakul, 1974, 153-165).

Normally in the parliamentary system, parliament would be in higher position than government. Parliament considered being the highest ranking and most powerful institution. Even though Thailand has experienced parliamentary system, semi-parliamentary system and executive system, but in practice, parliament has less power and is in lower position than the executive. The routine works of parliament also limited to bill consideration, law promulgation, control, supervise and monitor administration of state affairs and other duties in giving approval of appointment of regent, succession to the Throne, declaration of war, entering into a treaty etc (Montri Tengtrakul, 1974, 153-155).

The reason that people have no interest in parliament could be that Thai parliament is unstable because of dissolution and coup d'état happen over and over again. People neither interest in any change in parliament, nor interest or willing to do anything whether to support or protect it. The evident that people not pay attention to parliament, can be seen in low election result from 1933 to 1969 and only the election of 26 February 1957 that has percentage of people come to vote more than 50% (57.50%) (Montri Tengtrakul, 1974, 155-158).

Parliament regarded as legislative institution, representatives of the people and it is one of the three institutions that represent sovereign power in state's administration. The incapability of parliament is concerned with how parliament could maintain its value as representatives of the people and how parliament could do its duty with full competency. Montri saw the instability and constitution repeal as causes of incapability of parliament (Montri Tengtrakul, 1974, 160). Parliament's role is limited to consider and pass bill. It cannot do the check and balance role, cannot make decision and cannot solve any problems of the country. As constitutions were seen as political mechanism to win political game, some Thai constitutions were

written with purposes of fear from others to gain more power and protect others in getting in position or have power (Montri Tengtrakul, 1974, 164-165).

Suchit in '*Domestic and Foreign Policy Trend of Thailand*', found limited power of parliament. Even though parliament could play some roles in foreign policy, they still had their limitations. Parliamentarians were not allowed to draft any acts concerning finance and budget except that to which the government granted permission. In doing their committees' role, members of the committees were from the ruling party, and they tended not to be involved in the committee's matters as it would interfere and affect internal relations. Additionally, government in practice did not strictly take treaties that required ratification into parliament (Suchit Bunbongkarn, 1988, 133-140).

From all these literature reviews, parliament was lacking in oversight power as parliament could not insert itself in the foreign policy making process, except when the government granted it permission. They could not fully function in their parliamentary duty as well.

4.4 Prime Minister Thaksin and Section 224 of Constitution B.E. 2540 (1997)

During Prime Minister Thaksin regimes, there was an attempt of government to have dominance in domestic as well as foreign affairs matters and attempts to block parliament from engaging in foreign policy. Dej-Udom Krairit in 'Problem and Legal View' showed a good example of an attempt of government to hold all sovereignty to themselves through section 28 of State Enterprise Capital Act B.E. 2542 (1999), which was an order to allow the government to issue Royal Decree without the knowledge and consideration of parliament (Dej-Udom Krairit, 2004, 78-81). Jaroen in '*Sovereignty and Free Trade Area*' showed an attempt of the government to conclude multilateral or bilateral agreements by avoiding the checks and balances process of parliament. In doing so, the government interpreted that the multilateral or bilateral agreement was in line with domestic law to avoid section 224 paragraph 2; it interpreted 'jurisdiction of the state' to be geographical territory or jurisdiction that ignored sovereign power in the state's administration and was an attempt to conceal some facts about commitment in this multilateral/bilateral agreement (Jaroen Compeerapap, 2004, 73-77).

Sometimes parliamentarians were blocked from being a part of consideration and approval process on matters that had wide-scale effects on the security of economy, society, or trade or investment of the country, such as the case of draft bill on Special Economic Zone in 2004 which would allow foreigners to do business in SEZ and compete with Thai exporters. The bill would also allow cabinet to pass Royal Decree in setting up SEZ without knowledge and consideration of parliament which would lead to no parliamentary consideration and thus lack of a checks and balances process. The SEZ bill would also potentially lead to the problems of over-limit and overstay of foreign laborers in Thailand (Committee on Foreign Affairs, Senate, 2005, 141-176).

In the late Thaksin era, Thaksin had been heavily criticized by PAD. There was a protest against Thaksin that worsened the situation in the country, so the military decided to stage a coup and abrogate the constitution of 1997, as this constitution allowed the Prime Minister and government to dominate in all aspects, especially in foreign policy, and parliament had been ignored and avoided through means of law interpretation and royal decree promulgation.

In order to decrease the power of the Prime Minister, empower parliament, further democratization and make treaty conclusion transparent, there was an attempt to amend the constitution of 1997. Parliament attempted to insert itself into foreign policy making process through procedural change of constitutional amendment.

4.4.1 FTA issue

The FTA issue happened because FTA gave privilege to foreign investors such that they would be allowed to sue the government of Thailand, especially the Thailand-Australia Free Trade Agreement (TAFTA) and the Japan-Thailand Economic Partnership Agreement – JTEPA. This matter affected sovereignty rights of Thailand (Kovit Charnvitayapong, 2011, 108).

For the case of highest administrative court No. 178/2550 on the issue of economic partnership between Thailand and Japan (JTEPA), or known as FTA Thailand and Japan, the administrative court did not accept a motion of halting the signature giving process. The administrative court considered these FTAs as being an administrative case and the prosecutor aimed at halting the signature giving process, which was considered to be a constitutional cabinet power. As a result, the

administrative court did not take this case for consideration (Kovit Charnvitayapong, 2011, 108).

The reasons that lead to this specific section amendment was the weakness of section 224 that could not force the cabinet and concerned agency to bring treaty that require parliamentary approval into parliament; section 224 of constitution 1997 allowed cabinet to do Free Trade Agreement and Letter of Intention (the case of IMF) with other states without knowledge and consideration of parliament and lead to negative effects to Thai people, Thai society and Thai economy; and there was uncertainty about types of treaty that require parliamentary approval.

4.4.2 Preah Vihear Issue

Due to the Prime Minister's domination during the Thaksin regime, there was also an issue of conflict between Thailand and Cambodia over Preah Vihear. Cambodia began to inscribe Preah Vihear on the World Heritage list since 2005²⁸ and Thailand supported for this inscription from 2005 until 2008²⁹ with the condition that Thailand and Cambodia would inscribe together as transboundary property³⁰ (Pipop Udon, 2009, 9-10; Borwornsak Uwanno, 2008, 35-36).

Before the inscription of Preah Vihear on the World Heritage list, Thailand and Cambodia had close cooperation, a good understanding of each other and relations of a sincere, warm and cordial nature (Pipop Udon, 2009, 9-10). In 2008, Cambodia had progress on raising funds from Preah Vihear as World Heritage inscription for economic development, both domestically and along borders and Thailand was also a part of this support (Pipop Udon, 2009, 16).

The turning point of a positive reaction of Thailand on the inscription of Preah Vihear on the World Heritage list of Cambodia was the overlapping territorial claims area. Cambodia viewed the inscription of Preah Vihear on the World Heritage list from an economic, developmental and cultural perspective, while Thailand viewed on territory and sovereignty (Pipop Udon, 2009, 16; Borwornsak Uwanno, 2008, 37).

²⁸ this inscription covered territory of Cambodia and Thailand.

²⁹ in the period of three Prime Ministers: Taksin Shinawatra; General (retired) Surayud Chulanont; and Samak Sundaravej

³⁰ proposed by Ministry of Foreign Affairs of Thailand on 20 March 2007.

Thailand attempted to resolve this overlapping territorial claims area by informing and submitting formal documents to Cambodia many times.³¹

The Joint Communiqué between Thailand and Cambodia on 18 June 2008 which was signed by Noppadon caused dispute and conflict among Thai politics and Thai people, as some Thais viewed the signature giving of Noppadon on the Joint Communiqué as a willingness to support the inscription of Preah Vihear on the World Heritage list of Cambodia which caused a change in Thai territory (Borwornsak Uwanno, 2008, 8). Members of senate, the head of opposition party, as well as members of the opposition party in the House of Representatives and some academics had the opinion that the ‘Joint Communiqué between Thailand and Cambodia on 18 June 2008’ was considered to be a treaty according to Vienna Convention on the Law of Treaties (1969) and according to section 190 paragraph 2, this treaty could make a change to the Thai territories in the Preah Vihear area, and as this treaty vastly affected social security of the country, therefore entering into this treaty required approval from parliament.

For this matter, Ministry of Foreign Affairs had the opinion that this joint communiqué was merely a political intent and not considered to be treaty. This joint communiqué made no change to Thai territory; therefore it did not require any

³¹ On 20 March 2007, Ministry of Foreign Affairs of Thailand had informed Cambodia about the overlapping territorial claims area and proposed to inscribe Preah Vihear on the World Heritage list together as transboundary property; on 17 May 2007, Thailand submitted aide-mémoire and legal documents to Cambodian Ambassador to Bangkok in order to remind Cambodia that Thailand is opposed the inscription of Preah Vihear on the World Heritage list. Thailand also provided these documents to World Heritage Committee so that the Committee would postpone the consideration of Preah Vihear inscription until Thailand and Cambodia could negotiate on their boundary matters but on 14 January 2008 Sok An, Deputy Prime Minister of Cambodia ignored expostulation of Thailand and argued that Preah Vihear inscription was a matter of culture not territory; on 10 April 2008, Thailand submitted aide-mémoire to Cambodian Ambassador to Bangkok in order to inform that Cambodia had violated sovereignty and territorial integrity of Thailand as some Cambodians, police and soldiers resided in the overlapping territorial claims area and Thailand also requested withdrawal of police and soldiers in that area but on 11 April 2008 Uch Borit, Deputy Minister of Foreign Affairs of Cambodia submitted document to Weeraphan Wacharathit, Thai Ambassador to Phnom Penh to refuse the accusation of sending polices and soldiers in that area, inform about the Cambodia residents in that area, refuse that there is no overlapping territorial claims area between Thailand and Cambodia and inform about the removal of 18 troop residences on the area; and on 6 May 2008, Nopadon Pattama, Minister of Foreign Affairs of Thailand had assigned Veerasak Footrakul, Permanent Secretary of Ministry of Foreign Affairs to have a courtesy call with Cambodia government on overlapping territorial claims area but Cambodia insisted that there is no overlapping territorial claims area (Borwornsak Uwanno, 2008, 37-39).

approval from parliament (Borwornsak Uwanno, 2008, 45-46). On 11 April 2008, Speaker of the House of Representatives had referred opinions of 151 members of the House of Representatives, as well as Speaker of the Senate who referred opinions of 77 members to Constitutional Court to judge whether the Joint Communiqué between Thailand and Cambodia on 18 June 2008 could be considered to be a kind of treaty that required approval from the parliament or not³² (Sitawee Teerawirun 2010, 1).

On 23 June 2008, members of senate had general debate on the matter of whether legal action of government and Minister of Foreign Affairs was in line with section 190 paragraphs 2 and caused the loss for Thai benefit on the territorial matter or not. During 24-26 June 2008, the opposition party called for debate of no-confidence of Minister of Foreign Affairs on the matter of ignoring parliamentary approval of Joint Communiqué between Thailand and Cambodia on 18 June 2008 which was considered to be unconstitutional according to section 190 paragraph 2, causing territorial loss and waiver of reserving claims against the verdict of International Court of Justice. In June 2008, Suwat Apaipak, Suriyasai Katasila and seven others filed a suit to the Central Administrative Court against Minister of Foreign Affairs and the Cabinet to revoke a decision and signature giving of cabinet and requested a temporary restraining order of the Joint Communiqué (Borwornsak Uwanno, 2008, 40-41).

On 27 June 2008, the Central Administrative Court had an order to lay down a measure or temporary legal protection for cabinet and Ministry of Foreign Affairs that they were not allowed to claim, apply and proceed in approval of Joint Communiqué of 17 June 2008 prior to final judgment. The cabinet then acknowledged the order and declared the holding of Joint Communiqué to Cambodian government, UNESCO, Committee of World Heritage and others on 1 July 2008 (Borwornsak Uwanno, 2008, 41).

The World Heritage Committee approved the inscription of Preah Vihear Temple as World Heritage site on 7 July 2007. On 8 July 2008, constitutional court made a final decision according to petition of 77 members of the senate and 151 members of the House of Representatives that the Joint Communiqué between Thailand and Cambodia on 18 June 2008 was considered to be a treaty that provided

³² according to section 190 paragraph 6 and the provisions of section 154 paragraph 1

change in Thai territory and also immensely affected Thailand social security and therefore this Joint Communiqué required parliamentary approval according to constitution of 2007 section 190 paragraph 2 prior to being able to be given a signature to such Joint Communiqué (Borwornsak Uwanno, 2008, 41).

After the verdict of Constitutional Court, Noppadon Pattama resigned from the position of Minister of Foreign Affairs on 10 July 2008 (Borwornsak Uwanno, 2008, 40-41).

The problem of Preah Vihear was a problem in interpreting “the act of government”. This caused the problem of implementation of the doctrine of the judiciary such as for the undecided case / black case No. 984/2551 on the issue of Preah Vihear on the World Heritage list inscription, which resulted in seeking a court injunction prior to verdict. This caused the legal confusion whether giving signature in joint communiqué was considered as being an act of government or not. In this case, administrative court considered the joint communiqué as an administrative act that required parliamentary approval.

The case of Preah Vihear conflict indicates how parliament as an institution inserted itself in foreign affairs of Thailand through parliamentary mechanism of constitutional court suing (section 190 (5), general debate, debate of no-confidence of Ministry of Foreign Affairs and order to hold of Joint Communiqué to Cambodian government.

4.5 Section 190 of Constitution of 2007 and Parliamentary Engagement in Foreign Policy Making Process

Section 190 of the Constitution of 2007 allowed parliament to engage more in foreign policy, but it also brought some problems to parliamentarians themselves as well as concerned agencies and the cabinet. To assess problems and obstacles of section 190, parliament had set up the Standing Committee to study enforcement of the constitution of 2007 on the issue of problems and obstacles of section 190 on 20 June 2008. This committee had convened 17 meetings and in these meetings they had asked officials from Ministry of Foreign Affairs, Ministry of Commerce, and Ministry of Defence as well as academics to provide information and suggestions. From Ministry of Commerce, Apiradee Tantraporn, Director General of

Department of Foreign Trade proposed that section 190 was an obstacle to the working process of the Department of Foreign Trade because the process of foreign trade negotiation required confidential negotiation and short processing time to compete with the numbers of trade competitors.

Moreover, some types of international treaty do not have legal binding, so they are not required to be submitted to parliament for approval. But under section 190, all treaties that affect immensely the economic or social security of the country or results in the binding of trade, or investment budget of the country significantly must be approved by the parliament, so this parliamentary approval delayed the working process of the department. Apiradee then suggested for the case of drafting a law on determining measures and procedures for the conclusion of a treaty which was stated in section 190 paragraph five to clearly define the types of treaty that require parliamentary approval to set standing practice for officials (Bureau of Committees 3, Secretariat of the Senate, 2009, 4).

Chutima Boonyaprapat, Director General of Department of Trade Negotiation was concerned with a problem in submitting negotiation framework for parliamentary approval because this process delays the working process of the department. She then suggested for the submitting of negotiation framework process that section 190 should clearly state the type of treaty that requires parliamentary approval, precise time of negotiation framework consideration, and exact agencies to conduct study on the matter of concerned trade negotiation/treaty (Bureau of Committees 3, Secretariat of the Senate, 2009, 4-5).

From Ministry of Foreign Affairs, Ratchanan Thanannant, Deputy Director-General of Department of Treaties and Legal Affairs, suggested that section 190 should clearly state the type of treaty that requires parliamentary approval and paragraph five should also determine the process in case parliament could not complete its consideration within sixty days. Chatree Atchananant, Director of Legal Affairs Division, Department of Treaties and Legal Affairs, proposed that different interpretation caused problems in applying section 190. To solve this problem is not to amend this section but adapt the working process and construct cooperation partnership between the executives and legislatives by allowing the legislative to take

part in drafting and preparing of international negotiation and treaty process instead (Bureau of Committees 3, Secretariat of the Senate, 2009, 5-7).

From Ministry of Defence, Lieutenant General Piyapol Wattanakul, Deputy Judge Advocate General, Colonel Krissana Bawornratayarak, Director of Military Legislation and Foreign Affairs Division, the Judge Advocate General Department and Colonel Tikamporn Chuleelung, Director of International Security Cooperation were concerned with a judicial decision of the Constitutional Court that the Thai-Cambodia Joint Communique was considered to be a treaty that requires parliamentary approval because this judicial decision was concerned with aide-mémoire conclusion (considered being treaty that required parliamentary approval or not) and weaponry procurement (affects investment budget of the country significantly) which related to section 190 and affected working procedure of officials (Bureau of Committees 3, Secretariat of the Senate, 2009, 7-8).

From academic sectors, Prof. Dr. Borwornsak Uwanno, Secretary General of King Prajadhipok's Institute Council suggested that the phrase "affects immensely the economic or social security of the country or results in the binding of trade, investment budget of the country significantly" is unclear about what types of treaty that required parliamentary approval. This uncertainty could disclose important information to trade negotiation competitors, lead to negative impact and delay in the negotiation process. Komsan Pokong, Vice-President for University Council Affairs, Sukhothai Thammathirat Open University, proposed that the spirit of section 190 was to solve the problem of FTA making because FTA merely brought benefit to some business sectors but brought negative impact to farmers (Bureau of Committees 3, Secretariat of the Senate, 2009, 8).

So, there was no need to amend section 190, but agencies concerned should adapt their working process instead.

Visut Tuwayanon, university lecturer, suggested that the problem of section 190 is a problem of interpreting the word "หนังสือสัญญาระหว่างประเทศ" to treaty but not contract. So under section 190 paragraph three, the Council of Ministers must provide information thereon to the public and conduct public consultation for the case of bilateral treaty but not for the case of multilateral treaty because of the limitation of time for treaty conclusion. To solve the problem of section 190, he then suggested that

section 190 could not be solved by providing a law determining measure and procedure for the conclusion of a treaty but should define which treaties require parliamentary approval instead (Bureau of Committees 3, Secretariat of the Senate, 2009, 8-9).

Bantoon Sethsirot, member of a study group on FTA suggested that the problem of section 190 could be solved by having clarification on types of treaty that required parliamentary approval, treaty conclusion process and steps of treaty conclusion because some types of treaty did not require the process of submitting negotiation framework to parliament. There should also be lists of treaties (from all agencies concerned) that required parliamentary approval (Bureau of Committees 3, Secretariat of the Senate , 2009, 9-10).

The Standing Committee on Studying the Constitution of 2007 Enforcement on the Issue of Problems and Obstacles of Section 190 concluded its findings that:

(1) For the matter of constitution amendment, some members of the committee did not agree with the section 190 amendment because section 190 already had a clear content. But other members of the committee did agree on the amendment as there was some uncertainty. They then proposed two recommendations: first, paragraph five should be amended to “a matter arising from the provisions of paragraph two falls within the decision of the parliament” and secondly, section 190 should have a clarification on types of treaty that required parliamentary approval.

(2) For the matter of drafting laws determining measure and procedure for the conclusion of a treaty, committees came up with the recommendation of:

2.1 During the drafting process, drafting committees should invite former members of drafting committee to be part of drafting process;

2.2 Drafted law should be adjustable;

2.3 Drafted law should not have conflict with constitution;

2.4 Drafted law should cover basic principle, basic procurement to identify which treaties were considered being treaties under section 190.

(3) Minister of Foreign Affairs, Ministry of Commerce and Minister of Defence shall conduct a study on problems and obstacles of treaty conclusion in the past and find some solutions for the current matter in each ministry.

(4) The Council of Ministers must revise or render remedy to those who had effects from treaty conclusion rapidly, expediently and fairly.

(5) Parliament should set up a Standing Committee to conduct study, consideration and facilitate the process of treaty conclusion according to section 190, in order to assist and cooperate with the cabinet and/or government. The officials should adapt their working process to be in line with section 190 (Bureau of Committees 3, Secretariat of the Senate , 2009, 11).

To understand how parliament changed the structure and procedures of approval in the executive branches in order to take part in foreign policy making process, we should study the spirit of section 190 of the constitution of 2007. Bantoon proposed that the spirit of section 190 created a checks and balances system between executives, legislatives and public sectors, allowed parliamentarians as the representatives of Thai people to examine the works of the executives as well as to be a co-decision maker together with the executives (indirect democracy), and increased negotiating power of parliament (Bureau of Committee 3, Secretariat of the Senates, 2009, 9-10).

In a new institutionalism perspective, duties and functions of parliament is regarded as action which could lead to continuity and change in policy (constitutional amendment). New institutionalism takes a view that inclusive and routine processes create the “translation of structures into political action and action into institutional continuity and change” which produces a persistent mode of action and patterns (March & Olsen, 2005, 5). Institutions change, but the changes are not predicted simply by institutional environments. Thus, to portray political institutions simply as equilibrium solution to the conflicting interests of current actors is probably a mistake (March & Olsen, 1989, 167). Parliamentarians amended section 224 of the constitution of 1997 in order to control and check the cabinet and government in the matter of negotiation with other states and international organizations and to allow itself to engage in process of foreign policy making through adding more stages in conduct of negotiation, therefore parliament could be a part of consideration and approval, not merely acknowledgement. Parliament changes the procedure of conducting negotiation and treaty conclusion in the executive branch in order to be a part of foreign policy making. Thai parliament did not fully play its role in treaty

consideration and approval as well as in foreign policy engagement. Parliament then attempted to increase its role (change) through constitutional amendment in the section concerned with treaty conclusion. The reasons that lead to this specific section amendment was the weakness of section 224 that could not force the cabinet and concerned agencies to bring treaty that require parliamentary approval into parliament. Section 224 of constitution 1997 allowed cabinet to do Free Trade Agreement and Letter of Intention (the case of IMF) with other states without knowledge and consideration of parliament and lead to negative effect to Thai people, Thai society and Thai economy. Uncertainty of types of treaty that require parliamentary approval led to the problem of ‘Joint Communiqué between Thailand and Cambodia on 18 June 2008’ in interpretation.

The attempt to increase the role in foreign policy making could be seen since the drafting process of the constitution of 2007. Komsan Pokong, member of Committee on Constitution Drafting proposed that the new constitution should have added “treaty that immensely affects economic, social security, lifestyle of the people or interest of the people of the country” in the second paragraph, in order to solve the problem of FTA impact to the people, especially the China-Thai FTA in 2003 and Thailand-Australia Free Trade Agreement (TAFTA) in 2005 that affected farmers heavily. Sakchai Ounjittikul, member of Constitution Drafting Committee, proposed that prior to conduct of any negotiation and to conclude or give signature to any treaty, the cabinet and/or the government should submit negotiation framework to the parliament for approval. Chuchai Supawong, member of Committee on Constitution Drafting, proposed that the new constitution should have added additional types of treaties which include treaty on trade, treaty on trade and investment, treaty that affects budget to the type of treaty that require parliamentary approval. Kirkkiat Pipatseritham proposed that there should be a public hearing and revise or render remedy to such effects rapidly, expediently and fairly (Sitawee Teerawirun, 2010, 64-66).

Even though parliament succeeded in attempting to engage more in foreign policy through section 190, section 190 had been amended by the government twice.

The first amendment happened during the period of Prime Minister Abhisit Vejjajiva in 2011 to provide that in enforcement of section 190, there should be an act which includes certain details on types of treaty and negotiation framework to facilitate parliament as well as hasten the consideration time. Abhisit's government then had separated the second paragraph of section 190 into 2 sections as follows:

“A treaty which provides for a change in the Thai territories or the Thai external territories that Thailand has sovereign right or jurisdiction over such territories under any treaty or an international law or requires the enactment of an Act for its implementation must be approved by the parliament.” (Paragraph 2)

“A treaty which affects immensely to economic or social security of the country or results in the binding of trade, investment budget of the country significantly must be approved by the parliament.” (Paragraph 3)

The second amendment then happened during the period of Prime Minister Yingluck Shinawatra in 2013 to provide certain treaties that require parliamentary approval which are: treaty which provides for a change in the Thai territories or the Thai external territories that Thailand has sovereign right or jurisdiction over such territories under any treaty or an international law; treaty that requires the enactment of an Act for its implementation; treaty that affects immensely to economic or social security of the country and results in open free trade or investment. Yingluck's government had specified the types of treaty that require parliamentary approval and specified that public access should be done through act issuing. But this amended constitution cut the process of parliamentary approval in the negotiation framework and the process of parliamentary consideration.

“A treaty which provides for a change in the Thai territories or the Thai external territories that Thailand has sovereign right or jurisdiction over such territories under any treaty or an international law or requires the enactment of an Act for its implementation or results in open free trade or investment must be approved by the parliament.” (Paragraph 2)

“There shall be an act to facilitate the public to get access to the details of such treaty. In the case where the application of such treaty has affected the public, there must be revised or render remedy such effects fairly.” (Paragraph 3)

“A matter arising from the interpretation of which treaty shall require for parliamentary approval following the provision of paragraph 2 falls within the jurisdiction of the Constitutional Court and the provisions of section 154 (1) and (2) shall apply mutatis mutandis to the referring of the matter to the constitutional court. The constitutional court shall make final decision within 15 days.” (Paragraph 4)

Due to the second amendment, Wirat Kalyasiri, former house of Representatives member from Democrat party sued 381 members of parliaments together with Somsak Kiatsuranint, former speaker of the House of representatives and Nikom Viratpanich, former speaker of the Senate in amending section 190 as it was considered being unlawful to Constitutional Court. The Constitutional Court then had a verdict that the act of amending section 190 during second reading was considered being unlawful. This then reflected the tie of parliament (institution) (through an act of Wirat Kalyasiri) to protect its institution as well as its rules and regulations in order to create the “translation of structures into political action and action into institution continuity and change” (March & Olsen, 2005, 5).

The nineteenth constitution of 2014 has some amendment to the eighteenth constitution by changing the institution for approval to the National Legislative Assembly and defines clearly the type of treaty that requires parliamentary approval.

“Any treaty which provides for a change in the Thai territories or the external territories over which Thailand has sovereign right or jurisdiction under a treaty or international law, or which requires the enactment of an Act for its implementation, or which has wide scale effects on the economic or social security of the country must be approved by the National Legislative Assembly. In this regard, the National Legislative Assembly shall complete its consideration within sixty days as from the date of receipt of such matter.”

“A treaty which has wide scale effects on the economic or social security of the country under paragraph two means a treaty on free trade, on common customs union, or on the permission to utilize natural resources, or which causes the country the loss of rights over natural resources, in whole or in part, or on any other matters prescribed by law.”

The latest constitution of 2017 has the mixed characteristic of the third (1946), the fifth (1949), the sixth (1952), the eighth (1968), the tenth (1974), the thirteenth (1978), the fifteenth (1991) and the sixteenth together with the nineteenth (2014) constitution. In declaring war, there must be votes of not less than two-thirds of the total number of the existing members of both Houses for resolution approval. Section 178 provided a clear consideration time for parliament and clear types of treaty that require parliamentary approval especially treaties on free trade, common customs union, and authorization of natural resources utilization.

4.6 Summary

Since 1932 the constitution of Thailand allowed parliament to be in the loop of foreign policy making, parliament, in practice, but it still could not play an assertive role in foreign policy making process until 2007 due to its limitation and its position in Thai polity. Even though parliament could not play much of a role in foreign policy making process domestically, parliament could be an active player and influencer internationally through the means of parliamentary diplomacy.

The coming of Thaksin into the position of Prime Minister and the constitution of 1997 empowered Thaksin to dominate and have more power than parliament especially in treaty conclusion. This then led to the protest against Thaksin, the divide in Thai society and coup d'état and amendment of constitution in 2006.

After the amendment of constitution, especially in the section related to treaty conclusion, parliament could engage and be in the loop of foreign policy making process again.

CHAPTER 5

CONCLUSION

5.1 Conclusion

The changing of political system from absolute monarchy to constitutional monarchy in 1932 brought about the Thai parliament as a main institution in Thai politics. Even though parliament as representatives of the people could play its role and function in bill consideration and approval, but in foreign policy making process, parliament could not play much of a role because parliament had less power to control and oversee government, and parliament's power had been limited to the framework of the constitution (domestic politics). Even though parliament could play some role in foreign policy, they still had their limitations. Parliamentarians were not allowed to draft any acts concerning finance and budget except when the government grants permission to do so. In doing their committees' role, members of the committees were from the ruling party, and they tended not to be involved in the committee's matters as it would interfere and affect internal relations. Additionally, government in practice did not take seriously any treaties that required ratification into parliament (Suchit Bunbongkarn, 1988, 133-140).

The end of the cold war and the collapse of the military regime was a political trend of Thailand in the 1990s (Pasuk Phongpaichit & Baker, 2004, 18). Thailand was in the period of changing political regime from military dominance to parliamentary democracy. As General Suchinda took the position of Prime Minister in 1992, which considered breaking the condition of not taking the position of Prime Minister; he was in power with lack of legitimacy and lack of citizenry support. This led to the hunger strike of Major General Chamlong Srimuang, Prateep Hata, Second Lieutenant Chalad Worachat with some students and middle-class activists which later evolved into a clash between officers and citizens which was called "Black May".

The 'Black May' of 1992 marked an end to a Thai military era and sparked a hope to reform in order to sweep away the military dominance. (Pasuk Phongpaichit & Baker, 2004, 18). This crisis made businessmen feel that unstable politics affected economic growth, so they became more active in politics (Pasuk

Phongpaichit & Baker, 2004, p. 15). This crisis also led to the attempt to solve political instability in Thailand by constitutional reform.

Prawase Wasi thought that constitutional reform would be the only means that could solve the problem in Thailand (King Prajadhipok's Institute, n.d., 39-45). This then led to setting up the 'Democracy Development Committee' that was chaired by Prawase himself. The necessity to reform the constitution was to fix and improve weakness of Thai politics of: discontinuity of the constitution; no change in construction, institution, mechanism and procedure of parliament; lack of checks and balances which led to corruption among politicians and senior government officials; competition in taking political positions that led to corruption and cheating in elections; political parties that are mostly capitalists; and undemocratic structure of political parties; weakness of Thai economy in a slow process in solving the problems and piling up of problems, and inability of government officials to solve problem effectively. All of which led to: the intervention of politicians and patronage system; and weakness of Thai society which was more in favor of using 'power' than 'law' and led to give and take means of solving problems; polarization of people; low education and that led to academic weakness; moral weakness; and familiarity with uses of faith rather than thought.

From this attempt at constitutional reform, the constitution of 1997 was promulgated. This so called "People's Constitution" of 1997 had established the first Constitutional Court of Thailand in order to strengthen the National Counter Corruption Commission (NCCC) (Pasuk Phongpaichit & Baker, 2004, 2). The new constitution of 1997 was a blend of several agendas from moving beyond the money politics era by enfranchising the capital, empowering the Prime Minister and establishing a new inside semi-judicial institution to do the task of checks and balances among the legislatives and the executives such as The Election Commission³³ (ECT) and NCCC³⁴ (Pasuk Phongpaichit & Baker, 2004, 22 and 173).

The constitution of 1997 was aiming for decentralization, people participation, reform of elections and media liberalization (Pasuk Phongpaichit &

³³ ECT has power to invalidate election for the case of malpractice (Phongpaichit and Baker, 2004, p. 173).

³⁴ NCCC would investigate politicians who are charged with corruption and oversee declaration of assets of the ministers (Phongpaichit and Baker, 2004, p. 173).

Baker, 2004, 22). It was intended to create more stable governments, because through 1990s, cabinets were from factions of several parties, reshuffled often, never finishing a full four-year term, and mostly accused of being corrupted. The change in electoral rules of the two-party system strengthened the Prime Minister's power by determining that there shall be demand of at least 40 percent of members of parliament for vote of no confidence, introduced new checks and balances institutions, and aired no confidence debate on televisions. The constitution of 1997 also made the opposition party inefficient (Pasuk Phongpaichit & Baker, 2004, 94-95). The Constitution of 1997 created a strong political party and at the same time a strong government.

The economic crisis of 1997 brought business leaders into politics as they felt the need to control Thai politics themselves so that they could restore state support in the market and at the same time manage globalization. (Pasuk Phongpaichit & Baker, 2004, 23). The Constitution of 1997 also created Thaksin, the authoritarian CEO type Prime Minister with a majority in parliament and the ability to control politicians and media. Thaksin was the person who closed the gap between business and politics. Thaksin's popularity invoked against rule of law. Followers of Thaksin had taken the success of the Shin Corporation against the spirit of the constitution 1997. Thaksin was a result of the conflict between "political" and "legal" aspects of the spirit of the constitution of 1997 (Pasuk Phongpaichit & Baker, 2004, 7).

Because of the strength and domination in parliament of the Prime Minister and government, there was an attempt of government to block the engagement of parliament in the foreign policy making process, especially for the case of Draft Bill on Special Economic Zone and State Enterprise Capital Act B.E. 2542 (1999). Together with the case of Preah Vihear and FTA approval, parliament attempted to insert itself into the loop of foreign policy making process through constitutional amendment.

The driving forces that led to amendment of the constitution of 2007 was the protest of People's Alliance for Democracy (PAD) in 2006 and 2008, the election boycott by the Chart Thai and Democrat Parties in April 2006, the military coup in September 2006, the dissolution of Thai Rak Thai Party in 2007, and the drafting of the anti-Thaksin constitution (Nelson, 2014, 142).

The amendment of constitution and promulgation of constitution of 2007 was the turning point of parliament to be able to engage more in foreign policy. This lead to the question of:

To what extent is parliament a force to be reckoned with in the making of Thai foreign policy?

In the past, Thailand had no specific law on treaty conclusion procedure, so the authority to conclude any treaty always belonged to the executive only, except for the treaty that made any change to territory or extra territory in which Thailand had jurisdiction or sovereign right or treaty that required act enactment for implementation. The main vehicles by which members of parliament access their legislative and power to engage in foreign policy is the constitutional amendment. After the amendment of section 224 of constitution of 1997, the constitution of 2007 had added the types of treaty that should pass parliamentary approval in five categories:

1. treaty that makes any change to territory,
2. treaty that makes any change to extra-territory in which Thailand has jurisdiction or sovereign right,
3. treaty that requires act enactment for implementation,
4. treaty that immensely affects social security and Thai economy, and
5. treaty that results significantly in trade and investment budget binding and also adds procedural stages to conclude any treaty with public and legislative checks and balances process.

The constitution of 2007 attempted to divide the stages of signature giving and consent to be bound expressly by adding several stages of procedure (Bureau of Academic, Secretariat of the House of Representatives, 2013, 1-2). For this case, new institutionalists would argue that duties and functions of parliament regarded as action could lead to continuity and change in policy. In Thai parliamentary context, this then would imply to an amendment of the constitution in order to change its role in foreign policy engagement. Parliament changes its role through constitutional amendment in the section concerned with treaty conclusion. Parliament, even though not a main actor in foreign policy making, engages in foreign policy directly and indirectly. Through the institution of parliament, parliament uses their rule which is

constitutional as its mechanism to empower and increase its engagement in foreign policy making process directly. The use of this rule brings parliament into foreign policy engagement especially in the process of treaty conclusion so that parliament could take part within the process since the beginning of negotiation framework submission until the very end of final agreed text approval.

The similarity and difference of constitution of 1997 and 2007 can be seen in Table 1.4 below:

Table 5.1 Sections on Foreign Policy Making in 1997 and 2007 Constitutions

	Constitution of 1997	Constitution of 2007
Aim of promulgation	decentralization, people participation, reform of election, media liberalization, strong political party and strong government.	decrease power of government and prime minister, democratization, strengthen parliamentary system and institution
Section on foreign policy making	no change from previous constitution	framework and final agreed text approval, receive negotiation detail
Driving force of amendment in section on foreign policy making	none	FTA approval, Draft Bill on Special Economic Zone, State Enterprise Capital Act B.E. 2542 (1999), Conflict between Thailand and Cambodia over Preah Vihear on World Heritage List inscription

Section 190 of the constitution of 2007 did not emerge by the intention of parliament (institution) itself. It emerged within the institutional context of the Thaksin system that Prime Minister and government were strong and dominant. So, the amendment of constitution of 1997 was to decrease power of government and prime minister, further democratization, and strengthen the parliamentary system and institution. There was also an amendment in a section on foreign policy making which allowed parliament to be in the loop of foreign policy making through a mechanism of framework and final agreed text approval, as the constitution of 1997 made potential

behavior of government (ignore and block parliament from being assertive in foreign policy making process) unnoticed.

How successful is parliamentary attempt to engage more in foreign policy?

To assess how successful parliament was in attempting to engage more in foreign policy, we may make the assessment based on the level of cooperativeness of cabinet, government and concerned agencies through a successful treaty conclusion. After the promulgation of constitution of 2007, Thailand successfully concluded treaties, such as the cases of Japan-Thai Economic Partnership Agreement, Japan ASEAN Comprehensive Economic Partnership Agreement, and Paris Agreement for the Protection of Industrial Property, and Patent Cooperation Treaty (PCT). These examples show that cabinet, government and concerned agencies could be in line with section 190 (Bureau of Committee 3, Secretariat of the Senate, 2009, 10). The success of an attempt to engage more in foreign policy could also be seen through the continuity of section 177 and 178 of Constitution of 2017 that maintains for the most part the content of section 190 of Constitution of 2007:

“Section 177. The King has the Royal Prerogative to declare war with the approval of the National Assembly.

The resolution of approval by the National Assembly must be passed by the votes of not less than two-thirds of the total number of the existing members of both Houses. (added)

Section 178. The King has the Royal Prerogative to conclude a peace treaty, armistice, and other treaties with other countries or international organizations.

Any treaty which provides for a change in Thai territories or external territories over which Thailand has sovereign right or jurisdiction under a treaty or international law, or which requires the enactment of an Act for implementation, and other treaties which may have wide scale effects on the security of economy, society, or trade or investment of the country must be approved by the parliament. In this regard, the parliament shall complete its consideration within sixty days as from the date of receipt of such matter. *If the parliament does not complete the consideration within such period of time, it shall be deemed that the parliament has given approval.* (added certain time frame and final decision maker)

Other treaties which may have wide scale effects on the security of economy, society, or trade or investment of the country under paragraph two are treaties pertaining to free trade, common customs union, or the authorization of natural resources utilization, or which cause the country to lose rights over natural resources, in whole or in part, or on any other treaties provided by law. (Identified specific types of treaty that required parliamentary approval)

There shall also be a law prescribing procedures for the public to participate in the expression of opinions and to obtain necessary remedy from the effects of conclusion of a treaty under paragraph three.

Where a question arises as to whether any treaty constitutes a case under paragraph two or paragraph three, the Council of Ministers may request the Constitutional Court to render a decision thereon. *The Constitutional Court shall complete its decision within thirty days as from the date of receipt of such request.*” (added certain time of court consideration)

Political institutions not only respond to their environments but create those environments (condition under constitution) at the same time. Such phenomena are not routinely accommodated by modern political theory, which makes political outcomes a function of three primary factors: the distribution of preferences (interest) among political actors, the distribution of resources (power), and the constraints imposed by the rules of the game (constitutions) (March & Olsen, 1989, 162).

From the findings of this study, Thai foreign policy would be more democratized and decentralized as we could see from the evolution of section 190 which tended to change and adapt to be practical and accepted by agencies concerned, government and parliament, as well as the public. Parliament tends to be an institution that belongs to one of the mechanisms of foreign policy making, even though it is not a main institution in engaging in foreign policy.

Even though the findings of this study show how parliament could insert itself into foreign policy process through the mechanism of constitutional amendment, it is the author’s opinion that parliament could be more assertive through amendment of the constitution.

Parliament could add to its role to approve of military operation outside the country. Thailand as a member of United Nations has duty to support the peace

keeping and enforcement operation and parliament as representatives of people should be the one to approve of this. Additionally, parliament should also insert itself into a role of approving of weapon purchasing as well as approval for infrastructure projects that are worth more than 500 Million Baht. These two issues consider to have immense effects to social security and budget of the country as well as trade or investment binding result.

This independent study does not extend to research related to treaty conclusion of the constitution of 2017, especially on its implementation and practical problems.



REFERENCES

- Aust, Anthony. (2007). *Modern treaty law and practice*. New York: Cambridge University Press.
- Beemelmans, H. & Treviranus, H. D. (2005). Germany. In Hollis, D. B., Blakeslee, Merritt R. and Ederington, L. B. (Eds.) in *National treaty law and practice* (pp. 317-348). Amsterdam: Martinus Nijhoff.
- Chai-anan Samudavanija. (1987). Political history. In S. Xuto (ed.), *Government and politics of Thailand* (pp. 1-40). Singapore: Oxford University Press.
- Eisemann, P. M. & Rivier, R. (2005). France. In Hollis, D. B., Blakeslee, M. R. & Ederington, L. B. (eds) in *National Treaty Law and Practice* (pp. 317-348). Amsterdam: Martinus Nijhoff.
- Lecours, A. (2005). *New institutionalism: Theory and analysis*. Toronto: University of Toronto Press.
- Lindsey, J. M. (1993). Congress and foreign policy: Why the hill matters. *Political Science Quarterly*, 107(4), 607-628.
- Lindsey, J. M. (1994). Congress, foreign policy, and the new institutionalism. *International Studies Quarterly*, 38(2), 281–304.
- March, J. G., & Olsen, J. P. (1989). *Rediscovering institutions: The organizational basic of politics*. New York: Free Press.
- March, J. G., and Olsen, J. P. (2004). The new institutionalism: Organizational factors in political life. *The American Political Science Review*, 78(3), 734-749.
- March, J. G., & Olsen, J. P. (2006). Elaborating the “new institutionalism”. In R.A.W. Rhodes, S. A. Binder & B. A. Rockman (Eds.). *The Oxford handbook of political institutions* (pp. 3-20). Oxford: Oxford University Press.
- Nelson, M. H. (2014). “Vote no!”: The PAD’s decline from powerful movement to political sect. In Pavin Chachavalpongpun (Ed.). *“Good coup” gone bad: Thailand’s political developments since Thaksin’s downfall* (pp. 141-161). Singapore: ISEAS.
- Office of Council of State. (2007). *Constitution of Kingdom of Thailand*. Retrieved from

http://web.krisdika.go.th/data/outsitedata/outside21/file/Constitution_of_the_Kingdom_of_Thailand.pdf

- Pasuk Phongpaichit & Baker, C. (2004) *Thaksin: The business of politics in Thailand*. Chiang Mai: Silkworms Books.
- Pavin Chachavalpongpun (ed.) (2014). *“Good coup” gone bad: Thailand’s political development since Thaksin’s downfall*. Singapore: ISEAS Publishing.
- Rosati, J. A. and Scott, J. M. (2011). *The politics of United States foreign policy*. Boston: Wadsworth Cengage Learning.
- Somsakdi Xuto (ed.) (1987). *Government and politics of Thailand*. Singapore: Oxford University Press.
- Suchit Bunbongkarn. (1987). Political institution and processes. In S. Xuto (Ed.). *Government and politics of Thailand* (pp. 133-140). Singapore: Oxford University Press.
- Sukhumbhand Paribatra & Chulaporn Euaraksakul (eds). (1988). *Thailand in the changing world: Roles of legislatives in foreign policy making process*. Bangkok: Institution of Security and International Studies, Faculty of Political Science, Chulalongkorn University.
- Wildhaber, L., Scheidegger, A. & Schinzel, M. D. (2005). Switzerland. In D. B. Hollis, M. R. Blakeslee, & L. B. Ederington (Eds.) in *National treaty law and practice* (pp. 317-348). Amsterdam: Martinus Nijhoff.

Thai Language Source

- Boonchu Rojanasthien. (1988). Thai domestic political trends and foreign affairs of Thailand. In S. Paribatra & E. Chulaporn (Eds.). *Thailand in the changing world: Roles of legislatives in foreign policy making process* (pp. 151-167). Bangkok: Institute of Security and International Studies, Faculty of Political Science, Chulalongkorn University.
- Borwornsak Uwanno. (2008). *Most confidential: Preah Vihear from 2505-2551*. Bangkok: Matichon.
- Bureau of Academic, Secretariat of the House of Representatives. (2013). *Section 190 of Constitution of Kingdom of Thailand B.E. 2550: International Treaty Conclusion*. Bangkok: Secretariat of the House of Representatives.

- Bureau of Committee 3, Secretariat of the Senate. (2009). *Report of the study of standing Committee on Constitution of 2007 Enforcement and Implementation: For the case of problems and obstacles in Section 190 Enforcement and Implementation*. Bangkok: Secretariat of the Senate.
- Bureau of Public Relations, Secretariat of the House of Representatives. (2012). *Working system of parliament*. Bangkok: Secretariat of the House of Representatives.
- Charin Sunprasert. (2010). Politics and government of Thailand during B.E. 2475-2500. In Tharnthong Thongsawas. (Ed.). *Thai social and political history* (pp. 1-65). Nonthaburi: Sukhothai Thammathirat Open University.
- Committee on Foreign Affairs, Senate. (2005). *Foreign policy note no. 10*. Bangkok: Secretariat of the Senate.
- Committee on Foreign Affairs, Senate. (2006). *Public report*. Bangkok: Secretariat of the Senate.
- Dej-Udom Krairit. (2004). Problems and legal views. In Committee on Foreign Affairs, Senate (Ed.). *Foreign policy note no. 7* (pp. 78-81). Bangkok: Secretariat of the Senates.
- Embassy of Japan, Thailand. (2014). 120 years of relationship between Thailand and Japan. Retrieved from <http://www.th.emb-japan.go.jp/th/relation/index100.htm>
- Jaroen Compeerapap. (2004). Sovereign power and free trade agreement. In Committee on Foreign Affairs, Senates (Ed.). *Foreign policy note no. 7* (pp. 73-77). Bangkok: Secretariat of the Senate.
- King Prajadhipok's Institute. (n.d.). History of Thai politics and government. Retrieved from www.senate.go.th/km/data/political.doc
- Kovit Charnvitayapong. (2011). The analysis of law and economics of treaty making following section 190 of the Constitution of the Kingdom of Thailand B.E. 2550: The case of free trade agreement. Bangkok: Thammasat University.
- Kriangkrai Charoentanawat. (2010). *The act of government: A comparison study of the case in Thailand, France, Germany and the United States*. Bangkok: Office of the Constitutional Court.

- Montri Tengtrakul. (1974). Thai parliament: Case study of the weakness of parliament [in Thai]. Bangkok: Chulalongkorn University.
- Nuttawan Sarakong. (2010). The parliamentary approval of double tax conventions according to section 190 of Constitution of the Kingdom of Thailand, B.E. 2550. Bangkok: Thammasat University.
- Pipop Udon. (2009). *Case of Preah Vihear between Thailand and Cambodia: Different sides of different currency coin*. Bangkok: The Foundation for the Promotion of Social Sciences and Humanities Textbooks Project.
- Discover history with ‘Thamrongsak’: Khana Rastr’s pin, splinter that could not be taken out. (2017, June, 23). *Prachatai*. Retrieved from <http://prachatai.org/journal/2017/04/71126>
- Prasit Pivavatnapanich. (2009). Foreign affairs and security of Thailand: Constitutional comparison perspective. *Pamphlet on Security Study*, 62, 1-31.
- Prasit Pivavatnapanich. (2010). The constitutional provisions relating to foreign affairs of states. In Collections of academics work no. 3 of 2007 of Faculty of Law, Thammasat University. Bangkok: Faculty of Law, Thammasat University.
- Rungpong Jayanama. (2010). Politics and government of Thailand during B.E. 2500-2520 Tharnthong Thongsawas (Eds.). Thai social and political history (pp. 1-65). Nonthaburi: Sukhothai Thammathirat Open University.
- Sitawee Teerawirun. (2010). *Legal implementation of section 190 of Constitution of the Kingdom of Thailand, B.E. 2550: Preah Vihear case study*. Bangkok: Secretariat of the House of Representatives.
- Suchit Bunbongkarn. (1988). Thai domestic political trends and foreign affairs of Thailand. In S. Paribatra & E. Chulaporn (Eds.). *Thailand in the changing world: Roles of legislatives in foreign policy making process* (pp. 151-167). Bangkok: Institute of Security and International Studies, Faculty of Political Science, Chulalongkorn University.
- Supasinee Khamasunthorn. (2010). Parliamentary diplomacy in rehabilitation of Thai reputation. Retrieved from <http://library2.parliament.go.th/ebook/content-ebspa/is-supasinee.pdf>

Teerapat Serirangsan. (2010) Politics and government of Thailand during B.E. 2535-2550. In *Thai social and political history* (pp. 5-71). Nonthaburi: Sukhothai Thammathirat Open University.



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