

At the 23rd session of the International Commission of Control and Supervision on Wednesday, February 28, 1973, the commission considered a request dated February 26, 1973, from the Republic of Viet-Nam delegation to the Central Joint Military Commission to the International Commission of Control and Supervision to investigate a complaint alleging that three SAM-2 rocket sites with missiles had been introduced into the Khe Sanh area, contrary to Article 7 of the agreement on ending the war and restoring peace in Viet-Nam. The Republic of Viet-Nam request for an investigation was supported by a series of photographs purported to have been taken between January 24 and February 12 to 18, 1973. The United States delegation to the Central Joint Military Commission, in a letter dated February 28, 1973, confirmed that the Central Joint Military Commission had been unable to agree on joint action concerning this complaint. The Canadian delegation, supported, by one other delegation, considered that the International Commission should immediately investigate this alleged violation because of its seriousness and the obligation of the International Commission of Control and Supervision to do so under Article 2 of the International Commission of Control and Supervision protocol.

Article 4 of the International Commission of Control and Supervision protocol provides that "the International Commission shall investigate violations of the provisions described in Article 18 of the agreement on the request of the four-party Joint Military Commission, or of the two-party Joint Military Commission, or of any part...." In the circumstances there was, in the opinion of the Canadian delegation, no alternative under the agreement and the relevant protocol but for the International Commission of Control and Supervision to begin an immediate investigation. Nevertheless, despite this clear and mandatory obligation, opposition was expressed to an investigation on the basis, inter alia, that there were no adequate grounds for an investigation. Also, the view was put forward that the other party in the dispute should be consulted before any investigation was launched. The Canadian delegation could not accept this view. If the International Commission of Control and Supervision on each occasion had to consult the other party or parties involved before acting on a request by a party for an investigation, the result would be interminable delays with the prospect that no investigation would ever be undertaken. Furthermore, the Canadian delegation pointed out that it was because the Central Joint Military Commission had failed to agree to an investigation that the International Commission of Control and Supervision was seized with a request for an investigation from the Republic of Viet-Nam and the United States delegations. The International Commission for Control and Supervision thus failed to act at its 23rd session when it had a clear obligation to do so.

On Thursday, March 1, 1973, at the 24th session, the Canadian delegation raised the Khe Sanh incident on the basis of a public statement of February 28, 1973, by the Provisional Revolutionary Government (copies