

# STATEMENTS AND SPEECHES



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## REQUEST FOR AN INVESTIGATION AT KHE SANH

A Statement by Ambassador Michel Gauvin  
of Canada in Saigon, March 10, 1973.

At the twenty-third 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 Vietnam 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 Vietnam. The Republic of Vietnam request for an investigation was supported by a series of photographs purporting 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 2 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 seised of a request for an investigation from the Republic of Vietnam and the United States delegations. The International Commission for Control and Supervision thus failed to act as its twenty-third session when it had a clear obligation to do so.

On Thursday, March 1, 1973, at the twenty-fourth 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 of which had been referred to all International Commission of Control and Supervision delegations). The Canadian delegation noted that, although the Provisional Revolutionary Government statement did not include any offer of co-operation in the investigation, it afforded an occasion for the Commission to review the case and meet its obligations. After further prolonged debate, the question was inscribed on the agenda for the twenty-fifth session of the Commission on Friday, March 2, 1973.

At the twenty-fifth session, it was noted that, as a result of receiving the Provisional Revolutionary Government statement, the Commission had the opportunity to correct the wrong decision it had made as its twenty-third session when it had failed to meet its obligations under the agreement and International Commission of Control and Supervision protocol. In supporting this view, the Canadian delegation noted that the dispute between the Republic of Vietnam and the Provisional Revolutionary Government concerning this question appeared to be particularly serious, and could even lead to action by one side or the other resulting in a resumption of general hostilities.

Despite the appeal by the Canadian delegation and by another delegation, two delegations refused to agree to an investigation on the grounds that no adequate evidence existed to justify an investigation. Once again, therefore, the Commission failed to take the mandatory action required of it.

At the twenty-sixth session of the International Commission of Control and Supervision on Monday, March 5, 1973, the head of the Canadian delegation, in a further attempt to ensure that the International Commission of Control and Supervision met its responsibilities, introduced a resolution calling for the necessary action by the Commission to carry out an investigation of the complaint. One delegation supported the resolution. Two delegations opposed the resolution, stating that their position had not changed and that they continued to believe that there were no adequate grounds for investigation. It is the opinion of the Canadian delegation that the argument of "no adequate grounds" has no validity as a justification for refusal to investigate, since Article 2 of the International Commission of Control and Supervision protocol makes it quite clear that the Commission has the mandatory obligation to investigate at the request of "any party".

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