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No. 28

NOT FOR RELEASE BEFORE 24:00  
MARCH 9, 1973

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STATEMENT BY AMBASSADOR GAUVIN IN SAIGON, MARCH 10, 1973  
REQUEST FOR INVESTIGATION AT KHE SANH

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DEPARTMENT OF EXTERNAL AFFAIRS  
MINISTÈRE DES AFFAIRES EXTÉRIEURES

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

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 cooperation 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 25th session of the commission on Friday, March 2, 1973.

At the 25th 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 at its 23rd 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 Viet-Nam 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 26th 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 quite clear that the commission has the mandatory obligation to investigate at the request of "any party".