

# **Third United Nations Conference on the Law of the Sea**

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

**A/CONF.62/SR.88**

## **88<sup>th</sup> Plenary meeting**

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume IX (Summary Records, Plenary, General Committee, First, Second and Third Committees, as well as Documents of the Conference, Seventh and Resumed Seventh Session)*

# PLENARY MEETINGS

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## 82nd meeting

Tuesday, 28 March 1978, at 3.25 p.m.

*President: Mr. H. S. AMERASINGHE.*

### Opening of the seventh session

1. The PRESIDENT declared open the seventh session of the Third United Nations Conference on the Law of the Sea.

### Minute of silence for prayer or meditation

*On the proposal of the President, the representatives observed a minute of silence.*

### Question of the presidency of the Conference

2. The PRESIDENT said he understood that the Conference wished first to discuss the question of the presidency. In accordance with rule 9 of the rules of procedure, he called

upon Mr. Yunus (Pakistan), Vice-President, to replace him during the consideration of that question.

*Mr. Yunus (Pakistan), Vice-President, took the Chair.*

3. Mr. NANDAN (Fiji) requested that the Conference should consider that delicate matter in closed meeting.

*It was so decided.*

4. The PRESIDENT announced that the discussion would be continued in closed meeting.<sup>1</sup>

*The public meeting rose at 3.30 p.m.*

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<sup>1</sup>The summary record of the second part (closed) of the meeting appears as document A/CONF.62/SR.82/Add.1, the distribution of which was restricted.

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## 88th meeting\*

Thursday, 6 April 1978, at 6.10 p.m.

*President: Mr. H. S. AMERASINGHE.*

### Question of the presidency of the Conference (continued)

1. The PRESIDENT recalled that, at the 82nd meeting of the Conference on 28 March, he had said that he understood the Conference wished first to consider the question of the presidency, and he had felt it would be improper for him to remain in the Chair while that question was discussed. Acting under rule 9 of the rules of procedure, he had designated the Vice-President to act as President during the consideration of that question.

2. He himself remained attached to the principle of consensus, and had made it clear throughout that he wished the decision on the question of the presidency to be reached by consensus; but he had also said that it was for the Conference to determine the manner in which the decision was taken. Unfortunately, after many days spent in attempting to reach a consensus, it had been found necessary to resort to a vote. He was aware that many delegations had not wished a vote to be taken, so as not to establish a precedent; but the fact

that the matter had been decided by a vote would not affect his own attitude to the consensus principle, and he would try to ensure that, if possible, all decisions were taken by consensus. However, the Conference was governed by its own rules of procedure and must take its decisions in accordance with those rules.

3. He wished to thank the Vice-President, Mr. Yunus, for all his efforts to solve the problem, and he was also grateful to all the participants in the Conference for the patience they had shown. It was his fervent desire that the work of the Conference should now proceed in the same spirit of cordiality, mutual respect and tolerance which had been displayed over the preceding five years and which, he hoped, would continue to prevail. He believed that the interests of the Conference were paramount. He trusted that he had misled no one about his own position, but if he had unwittingly done so he expressed his regret. He now appealed for the co-operation of the Conference in closing a difficult chapter of its work.

4. Mr. ZELAYA UBEDA (Nicaragua) said that his delegation had supported the idea of seeking a political solution to the question of the Presidency by approaching the Government of Sri Lanka, or a legal solution, by arranging for Mr.

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\*The 83rd to 87th meetings, held on 30 and 31 March, and on 3, 5 and 6 April 1978, were closed meetings and the distribution of their summary records was restricted.

Amerasinghe to be appointed representative of a third country or by amending the rules of procedure to permit such a universally-respected figure to continue as President of the present important Conference. Throughout the period of crisis, Nicaragua had constantly supported the course of negotiation and consultation, and had participated in the efforts to maintain a consensus and to seek a solution that would be to the benefit of all. The results were obvious at the preceding meeting, during which scarcely half of those with the right to vote had done so.

5. He wished to make it clear that his delegation's relations with Mr. Amerasinghe had never changed and never would; but nevertheless, Nicaragua was not satisfied with the institutional situation resulting from the preceding meeting. He had received express instructions to the effect that efforts to find a satisfactory solution to the problem must continue since, in Nicaragua's view, the solution now arrived at was not a legal solution. Nicaragua did not challenge the freedom of other sovereign States to take such positions as they thought fit, including the position that a State which had authorized one of its representatives to accept a post, the duration of which, in accordance with rules adopted by the State, was the term of the Conference, should later decide to no longer have that official represent it. Those were matters for sovereign States to decide themselves; but, as long as the question of the presidency of the Conference remained basically unresolved, it might still be necessary—perhaps in the near future—for States to decide how such a problem could be properly dealt with under existing rules and whether the law of a State extended beyond explicit or implicit commitments it had made through a rule that it had freely adopted. Nicaragua desired to work within the existing legal framework, and would offer its full co-operation in arriving at a solution that would be fully satisfactory to all. He was convinced that Mr. Amerasinghe would duly weigh all the circumstances and the views of all concerned, and take his decision with the sense of responsibility that had won him so much admiration.

6. The PRESIDENT said that he wished to assure the representative of Nicaragua that the President's personal relations with all members of the Conference were not in any way affected by the position that they had taken on the question of the presidency. He respected representatives for adhering to their Governments' positions, and appreciated the courteous way in which the representative of Nicaragua had explained his position.

7. Mr. WITEK (Poland), speaking as the representative of the Eastern European group, expressed his pleasure at seeing Mr. Amerasinghe once more as President of the seventh session of the Third Conference on the Law of the Sea. It was his group's desire that Mr. Amerasinghe should continue to preside over the negotiation of a treaty on the law of the sea at the crucial time when the Conference was approaching the final stage of informal negotiations. The President's experience and wisdom were greatly needed in the finalization of the text of the treaty, and in achieving what the participants had promised themselves when the negotiating process had started. Everything that the participants were doing should be based on the spirit and principle of consensus, and should contribute to the progressive development of international law. The final text of the treaty should be based on the formula of the package deal and the reasonable compromise. There should be strict observance of that principle in future. The President's guidance was needed if the participants were to meet their commitments to each other and to

the international community. The Eastern European group deeply regretted that in recent days the Conference had, because of circumstances beyond its control, been unable to proceed with its work. It had been making every effort to resolve the question of the presidency in the way that the President himself considered proper, by a consensus. The interests of the Conference and the international community were paramount, and the Eastern European group was therefore ready to offer its full co-operation in carrying out the mandate of the Conference.

8. Mr. SHEHAB (Egypt), speaking on behalf of the Arab group, said that he wished to express his great satisfaction at seeing Mr. Amerasinghe back in the President's Chair—as had always been the desire of the Arab group. It had hoped for a consensus on the question, and had done everything it could to bring about a consensus; but in the end the difficulties had made it necessary to take a vote. To see Mr. Amerasinghe back as President, with his great experience and eminent qualities, gave grounds for optimism regarding the success of the Conference. He wished to express the hope, on behalf of the Arab group, that it would now be possible, under the President's guidance, to work in the spirit of unity and co-operation that had always reigned in the Conference. He hoped that all participants would display the same spirit in closing the difficult chapter of recent weeks which had led to such a long delay in the work of the Conference.

9. On the basis of the resolution adopted by the Arab group, he wished to appeal to the geographical groups in the Group of 77, whose unity the Arab group wished to preserve, to leave the way clear for action to be taken in a spirit of unity and co-operation under the distinguished guidance of the President of the Conference.

10. Mr. GAYAN (Mauritius) said that he believed he was expressing the common feeling of his African brothers in saying how pleased he was to see Mr. Amerasinghe back in the President's Chair. That happy solution to the question of the presidency augured well for the success of the session. In a real sense, Mr. Amerasinghe belonged to the Conference, and there was every hope that under his enlightened guidance the Conference could now successfully continue its work.

11. Mr. RICHARDSON (United States of America) said that, like other speakers, he regretted that it had not been possible to resolve the question by consensus. He was very pleased to see Mr. Amerasinghe back as President. The Conference as a whole would be very happy to return to its substantive work. Despite all the difficulties that had arisen, there was general agreement that the President's services to the Conference had been outstanding in terms of ability to get things moving and to focus on the real priorities. He hoped it would be possible to achieve consensus solutions on the substantive issues.

12. Mr. UPADHYAY (Nepal) said that he was pleased that, after a delay of 11 days, the Conference would at last be able to consider its programme of work. The events of those difficult days must be forgotten, since they had ended so happily and the Conference was once more under the presidency of Mr. Amerasinghe. He wished to thank delegations which had supported the members of the Asian group in its view that Mr. Amerasinghe had always remained the President of the Conference, though that group respected the views of those who had taken a different attitude.

*The meeting rose at 6.35 p.m.*