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Second Session

### PROVISIONAL SUMMARY RECORD OF THE TWENTY-SIXTH MEETING

Held at the Parque Central, Caracas,  
on Monday, 5 August 1974, at 3.20 p.m.

President:

Mr. NJENGA

Kenya

Rapporteur:

Mr. NANDAN

Fiji

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EXCLUSIVE ECONOMIC ZONE BEYOND THE TERRITORIAL SEA (A/CONF.62/L.4, A/CONF.62/C.2/L.17, L.18, L.21, L.22, L.28, L.30 and L.32) (continued)

Mr. VONAU (Poland), maintaining that the maximum breadth of the territorial sea should be 12 nautical miles, said that his delegation's position on the question of the rights of the coastal State beyond the territorial sea was flexible. On the question of fishing beyond the territorial sea, he urged delegations to be guided by the principle of mutual benefits and to take account of the facts of geography, economics and other relevant factors. The fishery resources of the world were distributed unevenly, and while a few coastal States might satisfy their demand for protein by engaging in coastal fishing, other geographically disadvantaged States, both developing and developed, could obtain the necessary protein only through distant water fishing. Although it had been argued that the unilateral appropriation of fish resources in a wide coastal zone would serve the interests of all developing States, he pointed out that more than 50 developing coastal States could be regarded as geographically disadvantaged, while 19 developing States were land-locked. Granting unconditional rights in major fishing grounds to coastal States would mean giving geographically privileged States additional privileges under international law. He therefore hoped that the Conference would decide that it would not be consistent with the principle of equity recognized by contemporary international law if additional privileges were granted to a few States, while the rest of the world was deprived of an important part of its food supply. In seeking a reasonable solution that would safeguard the interests of the international community and the special needs of developing countries, account should be taken of the fact that the only justification for granting special rights was the existence of a special economic situation.

Poland, despite its distant water fishing interests, was prepared to acknowledge that developing coastal States and States whose economy depended mainly on coastal fisheries should have the right to establish an economic zone in which they would be entitled to exercise special rights with respect to living marine resources. Those special rights should depend upon the fishing capacity of the coastal State, so that it could reserve for itself the exploitation of any specific stock it could utilize fully and part of the maximum allowable catch, corresponding to the capacity of its fishing fleet, of other stocks which it could not fully utilize. Other States would then have the right to exploit the unreserved fishery resources in the economic zone of the

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coastal State so that those resources would not be underfished. If other States were not given that right, there could be a decline in the world supply of protein from the sea, international conflicts could arise if distant water fishermen were forced to seek access to the economic zone contrary to the regulations of the geographically privileged coastal State, and the cost of protein from the sea would rise, so that geographically disadvantaged States would be unable to secure adequate fish protein supplies.

His delegation would recognize the economic zone beyond the 12-mile territorial sea only if the right of innocent fishing within the zone was accepted. Where the coastal State entitled to establish an economic zone did not fish for some stocks found in the zone or did not catch the maximum allowable yield of those stocks, nationals of other States should have the right of innocent fishing. Fishing within the economic zone would be regarded as innocent if it did not interfere with the exploitation of stocks which were fully or partially utilized by the coastal State by disturbing the ecological balance or by reducing the amount of the allowable catch reserved for the coastal State. The conditions for the exercise of the right of innocent fishing could be defined by regional fishery organizations composed of all interested States in the region and other States fishing there. Regional fishery organizations should also be competent to make recommendations in all matters connected with the conservation of living resources in the economic zone or beyond it. The Food and Agriculture Organization should co-ordinate the activities of the regional fishery organizations.

Mr. MAROTTA RANGEL (Brazil) reaffirmed his delegation's support for the 200-mile territorial sea, the most logical expression of the irreversible trend towards a new legal order for the oceans. However, in view of the wide acceptance of the concept of the exclusive economic zone and the patrimonial sea, his delegation was willing to consider those concepts, particularly as interpreted by African delegations to mean full sovereignty over the resources of the zone and sovereign rights for the purpose of exploration of the resources therein.

Referring to document A/CONF.62/L.4, he said he would wait for further provisions to be presented to complement and clarify the original draft, as he had some difficulty with it as it stood. One of the sponsors of the draft had stressed the difference between the rights of the coastal State in the economic zone and the rights of the same State in

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the continental shelf as expressed in the Geneva Convention and in article 19 of the draft (A/CONF.62/L.4). He failed to understand why the rights of the coastal State in the economic zone should be defined in narrower terms than those admitted in the continental shelf.

As it would be almost impossible to enumerate exhaustively the rights and duties of coastal States and third States in the economic zone, it should be clearly stated that the residual competence belonged to the coastal State in recognition of the priority of the interests of the coastal State. Under the draft articles (A/CONF.62/L.4), coastal States would have, in the economic zone, the right to explore and exploit natural resources, rights, not specified, with regard to the preservation of the marine environment and the conduct of scientific research, and the right to authorize and regulate artificial installations. Third States, on the other hand, would enjoy freedom of navigation and overflight and the right to "other legitimate uses of the sea", including the laying of cables and pipelines. Each party should ensure that it did not interfere with the rights of the other party in exercising its rights. Although coastal States and third States thus seemed to be placed on an equal footing, doubts might arise over what rights derived to third States from the broad concepts of freedom of navigation and other legitimate uses of the sea. For example, would ships of third States, in the economic zone, have the right to engage in naval exercises, launch missiles or aircraft, load or unload cargo, embark or disembark persons, establish floating casinos or television stations? Those actions were not, in his opinion, permissible, and he raised the question of who should decide that they did not fall under the broad category of legitimate uses of the sea.

The Conference must decide whether it would apply, in the economic zone, a régime of complete freedom, as had traditionally existed in the high seas, limited only by the obligation not to fish, mine, pollute or conduct research without authorization from the coastal State, or if it would create a régime in which foreign vessels would have the right only to free, unhindered and unimpeded transit. The Conference must also decide who was to enforce the provisions of the Convention in the economic zone, the coastal State or the international community which under the present decentralized system of

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international law, should mean every single State but in practice meant the big maritime Powers. The answers to those two questions would depend on whether the Conference decided that the economic zone should be recognized as part of the high seas in which coastal States would have only certain specified rights, or that it should be recognized as falling clearly under the sway of coastal States, with proper guarantees being given to third States. His delegation supported the second of those two approaches.

Mr. ZEGERS (Chile) said that the economic zone could be defined legally as a jurisdictional zone over which the coastal State exercised sovereign rights of a primarily economic nature, without prejudice to the freedoms of navigation and overflight, up to a distance of 200 miles. That definition was no longer an abstract concept; it had been supported in the general debate by more than 100 States.

Turning to document A/CONF.62/L.4, of which Chile was a sponsor, he observed that article 12 defined similar rights to those in existence for the continental shelf. Mention was made in articles 14 and 15 of the freedoms of navigation, overflight and the laying of cables and pipelines, and article 16 defined the discretionary power of the coastal State to authorize the emplacement and use of artificial islands and installations. Thus it could be seen that the competences or powers of the coastal State were all directly or indirectly related to its resources and their use and preservation, while the rights of third States were directly linked with the requirements of international communication.

Summing up the response in the Committee to the working paper (A/CONF.62/L.4), he observed that the representatives of Tanzania and Kenya, in accordance with the position of the majority of countries on the African continent, had interpreted the definition of the economic zone as being of a primarily "national" character, i.e. one unmistakably under the jurisdiction of the coastal State, in which the international community was entitled to exercise the three freedoms to which he had referred earlier. They had explained why the weakening of the legal concept of the economic zone and its equation with the theory of preferential rights were not acceptable to them. That position in fact coincided with the views expressed by delegations from other continents.

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The representatives of Kenya and El Salvador had both been of the opinion that the definition in the working paper should be couched in stronger language. The representative of El Salvador had felt that the wording should be even closer to that in the 1958 Convention on the Continental Shelf. His delegation agreed that such wording - which emphasized the "spatial" aspect of the economic zone - was more favourable to the coastal State than the wording employed in the definition prepared by the Organization of African Unity.

The representative of El Salvador had suggested the addition of the words "other economic uses of the sea" in the article relating to the competences of the coastal State. Although he could not speak on behalf of the other sponsors of the working paper, his delegation was amenable to their inclusion.

The representative of El Salvador, who wished to emphasize the national character of the economic zone, and the representative of the United States, who, on the contrary, favoured a more international definition, had referred to the problem of residual powers. The representative of El Salvador had suggested that such powers should be vested in the coastal State, while the representative of the United States preferred that they should be vested in the international community - which was tantamount to granting them to the major maritime Powers. His delegation preferred the wording proposed by the representative of El Salvador because it was more consistent with the legal nature of the zone and with the political and economic solutions it was intended to provide. However, if, as a basis for negotiation, agreement could be reached on the five areas of competence of the coastal State to which he had referred earlier and on the three freedoms or powers of third States, that would reduce the importance of the residual element and might facilitate consensus.

Many delegations had shown an eagerness to discuss fisheries problems in their statements on the economic zone, thereby raising the question of the relationship between the economic zone and the régime for the high seas. He agreed that the duties of the coastal State in the economic zone could not be discussed without taking into account the obligations of the great maritime Powers in the international area. Unrestricted freedom had led to the pollution of the high seas, the extinction or debilitation of many species of fish and the monopolization of scientific knowledge. It was therefore essential to discuss ways of subjecting such freedoms to international regulation.

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In conclusion, he expressed regret at a statement heard at the preceding meeting, which had no bearing on the deliberations of the Conference and in which the representative concerned had referred, in terms which were not historically accurate, to events which had occurred a century earlier and for which, in any event, a solution had been found through the diplomatic channel. Such statements fell outside the scope of the Conference and placed unnecessary obstacles in the path of international negotiation.

*✓ Summary*  
Mr. BEN ALEYYA (Tunisia) said that, since the principle of the exclusive economic zone seemed to have been accepted by almost all delegations, the Conference should now consider exactly what was meant by the economic zone. His delegation supported the position taken by the Organization of African Unity as set forth in document A/CONF.62/33. Accordingly, he supported an exclusive economic zone in which the coastal State would have the exclusive right to exploit the renewable and non-renewable resources up to a limit of 200 miles, to participate in controlling pollution and to undertake scientific research. Pollution in the zone would affect primarily the interests of the coastal State, but would also be of concern to mankind as a whole; international *research* many countries to fulfil their obligations with regard to controlling pollution. In the case of scientific research, coastal States should be entitled to authorize other countries to carry out basic or applied scientific research under reasonable conditions, including scientific and technological co-operation with the coastal State, so that not only would the results of the research be made available to that State but it would also benefit from having some of its nationals directly involved in the research.

*fish*  
 Tunisia had no land mineral or oil resources, and was concentrating on agriculture and fishing for development. The current 10-year development plan gave top priority to the development of fisheries, involve training personnel and establishing the necessary industrial, port and transport Fishing would take place in the economic zone which, in the case of Tunisia, could extend for only 120 nautical miles for geographical reasons. Although there was legislation in force to prevent any irrational exploitation of the fish resources of that zone, considerable

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(Mr. Ben Aleya, Tunisia)

difficulties were experienced in trying to apply those laws to foreign fishing fleets. That was why his delegation attached vital importance to the concept of the exclusive economic zone.

His delegation was, however, aware of the concerns of land-locked and geographically disadvantaged developing countries and of the interests of the international community with regard to the peaceful uses of the sea, freedom of navigation and overflight, and freedom to lay pipelines and cables. With regard to the exploitation of the living resources of the sea by land-locked or geographically disadvantaged countries, he said that, in the case of developing African countries, the Organization of African Unity should provide the institutional framework for working out regional, subregional and bilateral agreements. In the case of developed countries, the right to engage in fishing in the economic zone should be linked to the transfer of technology and technical assistance. Care should also be taken to prevent over-fishing, as foreign fishing fleets did not always respect the need for rational exploitation.

Any hasty or insufficiently thought-out decision concerning the facilities to be granted to land-locked or geographically disadvantaged countries could lead to confusion in inter-State relations. For example, there was a question whether a coastal State which had exhausted its resources through bad management would be regarded as geographically disadvantaged, and whether a rich land-locked country should be entitled to share in the fish resources of coastal States which depended heavily on fishing, without any compensation to or control by the coastal State. Such matters must be resolved to avoid confusion.

His delegation could not accept the argument of under-fishing put forward by certain delegations in support of rights for third countries in the economic zone. The argument was fallacious: in the Mediterranean there were two categories of zones that could be regarded as over-fished, the first more severely than the second, so that the second zone could be considered to be under-fished by comparison with the first. Moreover, if the same argument was applied to land resources, excess food resources which certain countries enjoyed and sold at high prices to others, should also be shared.



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Turning to the question of the régime of islands, he said that island States should have the same rights as continental States. In the case of other islands, and where there was a problem of overlapping of economic zones, the median line should not necessarily be the only method of delimitation. Further study was needed in the case of islands and islets, which should not automatically have the same exclusive economic zones as island States. In that connexion, he referred to document A/AC.138/SC.II/L.40, article XII of which set forth criteria for determining the economic zone of islands. He also drew attention to document A/CONF.62/C.2/L.28, sponsored by his delegation, which dealt with the delimitation of the exclusive economic zone between adjacent and opposite States.

Mr. ABDEL HAMID (Egypt) observed that although one of the main purposes of the United Nations was to achieve co-operation between nations by solving international problems of an economic nature, neither the United Nations nor any of its agencies had so far been able to meet the challenge which the problems of economic development currently posed. Consequently, and as a result of the growing scarcity of land-based resources and total exclusion of developing countries from the benefits of the exploration and exploitation of the sea-bed, those countries had turned to the resources of the sea areas adjacent to their territorial sea, as vital sources for economic development and even survival. Their claims in that regard were based, first, on the traditional concept of sovereignty and the residual rights it entailed, and, second, on a legitimate concern to narrow the gap between developing and developed countries. No country could remain indifferent any longer to the pressing needs of its population; consequently, whatever jurisdiction was eventually given to the coastal State, there should be safeguards to ensure that national programmes of development were not frustrated.

The concept of the exclusive economic zone or patrimonial sea, as embodied in the Declarations of Santo Domingo and the Organization of African Unity, was a natural outcome of the developing countries' philosophy and was designed to overcome the numerous shortcomings of the régime of the continental shelf as prescribed in the 1958 Geneva Convention.

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(Mr. Abdel Hamid, Egypt)

Both the Organization of African Unity and the League of Arab States had issued Declarations in 1973 and 1974 in which they firmly supported the concept of an exclusive economic zone. It was gratifying to note that that concept was now accepted by an overwhelming majority of nations. Both approaches - the one based on sovereignty and the one based on the concept of the economic zone or patrimonial sea - had certain fundamentals in common. A precise determination of the rights and duties of coastal State and third parties, particularly in respect of the legitimate uses of the sea, was a first and important step in reaching a rapprochement between the two schools of thought.

In defining the concept of the economic zone, account must be taken of the interests of the international community and of the land-locked or geographically disadvantaged developing countries, which should be entitled to participate in the exploitation of the living resources of neighbouring economic zones on an equal footing with the nationals of coastal States. Such participation should be regulated by regional or bilateral agreements, in accordance with the new law of the sea.

The success of the future negotiations depended on the many details to be worked out. To endorse the concept and at the same time to seek to denude it of its substance was meaningless. If the countries of the third world found that their aspirations were not being considered in a spirit of understanding, their only option would be to take unilateral action.

Egyptian authorities exercised jurisdiction with regard to national security, customs and fiscal control, sanitation and immigration regulations in a six-mile contiguous zone measured from the seaward limit of its 12-mile territorial sea. The right to exercise such jurisdiction derived from customary international law and had the positive effect of expediting transit navigation and safeguarding the security of the coastal State. Egypt believed that the functions exercised in the contiguous zone derived from the residual rights of the coastal State and were different in nature from the jurisdiction to be exercised in the exclusive economic zone, but that both areas were compatible. Thus, his delegation firmly believed that the concept of the contiguous zone should be adopted simultaneously with that of the 12-mile territorial sea. While his delegation was open to suggestions regarding the breadth of the ocean space over which jurisdiction would be exercised, it would insist on a differentiation between a State bordering an ocean and a State bordering a narrow semi-enclosed sea.

Mr. HARRY (Australia) said that his delegation welcomed the almost general acceptance of the concept of a 200-mile economic zone and looked forward to drafting articles defining the legal content of the concept.

The economic zone should not be regarded merely as a special zone of the high seas in which the coastal State had certain preferential or exclusive rights. In order for the concept to be meaningful, the coastal State must have sovereign rights in relation to the natural resources. It should also have a defined jurisdiction and specified rights to enforce international standards - and, in certain circumstances, to make supplementary regulations designed to prevent pollution of the marine environment - and the jurisdiction necessary to ensure orderly and responsible scientific research. However, in the interests of the world community, the newly acquired rights of the coastal State should be accompanied by duties - for instance the duty to ensure the rational utilization of renewable resources and to respect the freedoms of navigation, overflight, and the laying of cables and pipelines. There should be a fairly direct connexion between the need to protect resources and the jurisdiction claimed. For example, there was a direct connexion between discharge from ships and protection of living resources.

His delegation believed that articles 10-18 of document A/CONF.62/L.4 formed a good framework for a chapter on the economic zone in the Convention. They contained a careful balance between the specified rights of the coastal State in respect of the exploitation of natural resources, the protection and preservation of the marine environment and the conduct of scientific research, on the one hand, and the rights of the international community to the other legitimate uses of the sea, on the other. Moreover, the articles did not prejudice the rights of a coastal State over the natural resources of its continental margin. There was a need for further articles on fisheries, the development of which could probably be assisted by the Australian-New Zealand paper now under revision.

Broadly speaking, the Australian approach to the management of fisheries in the economic zone was that a coastal State should have the right and duty to conserve and manage stocks of fish in the 200-mile zone. The coastal State should have the exclusive right to determine the allowable catch and the proportion of that catch, up to 100 per cent, which its own fishermen had the capacity to harvest. If a State's own fishermen were not in a position to take the full optimum yield, then the coastal

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(Mr. Harry, Australia)

State should have a duty to grant fishermen from other countries permission, under equitable conditions, to take the balance of the allowable catch. The extent to which preferences might be given to fishermen of countries which had traditionally fished in those waters or to neighbouring States would need careful definition.

The Nigerian articles in document A/CONF.62/C.2/L.21 and Corr.1 reflected a systematic approach to the subject and should be of considerable use in future negotiations.

Mr. KORCHEVSKIY (Byelorussian Soviet Socialist Republic) expressed sympathy to the delegation of Bangladesh in connexion with the recent catastrophic floods.

Byelorussia was a land-locked socialist State and attached special importance to the exploitation of the living and mineral resources of the world ocean. Other aspects of the law of the sea were also important, however, and the Conference could be successful only if it considered all problems of ocean space as a whole.

On the question of the economic zone, the position of his delegation was similar to that of many other States which were land-locked, had narrow shelves or short coastlines. Extending the rights of coastal States beyond the territorial sea would seriously interfere with the interests of geographically disadvantaged States. Some representatives of land-locked countries had already said that the concept of an exclusive economic zone was similar to the concept of the annexation or nationalization of the seas. He agreed with those who had claimed that developing coastal States which had unilaterally extended their national jurisdiction to wide zones had themselves undermined the principle of the common heritage of mankind adopted in General Assembly resolution 2749 (XXV), as their action reduced the size of the international area. Such unilateral action also increased the imbalance between the economic situation of coastal States and land-locked States, which was not in accordance with the objective of the United Nations to close the economic gap between different groups of States.

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(Mr. Korchevskiy, Byelorussian SSR)

His delegation approached the matter from a position of principle to justify its view that the rights of coastal States over 200-mile economic zones should be subject to certain conditions to ensure that the legitimate interests of third States, including land-locked States would be protected in the zone, together with the right of all members of the international community to freedom of navigation, freedom of laying cables and pipelines, freedom of overflight, freedom of scientific research, and freedom of access to the high seas and the international sea-bed area through straits used for international navigation. He opposed the view that coastal States should be entitled to unlimited rights in the economic zone, and agreed with other delegations who had interpreted sovereignty, not as absolute sovereignty, but as sovereignty with due respect for the rights of other States. Accordingly, he believed that coastal States should have sovereign rights only over the resources of the economic zone. He had no objection to proposals that the coastal State should have competence with respect to the mineral resources of the economic zone, the conservation and rational exploitation of the living resources, and the right to reserve, for itself, in the economic zone, as much of the maximum allowable catch as it had the capacity to fish. The coastal State should not, however, disregard the interests of other members of the international community, particularly land-locked countries. Where a coastal State could not fully utilize the fish resources in its economic zone, it should grant access to its zone to nationals of other States, such as geographically disadvantaged States, States which had spent considerable amounts on research, exploration and evaluation of the living resources of the zone, and States which had traditionally fished in that zone.

His delegation fully supported the more detailed proposals made by the representatives of the Soviet Union, Bulgaria and other countries, which were fully in accordance with the interests of all States, particularly developing coastal and land-locked States.

Referring to document A/AC.138/SC.II/L.41, he noted that the sponsors had tried to provide for distribution of the living resources of the economic zone in accordance with the principle of regional solidarity. That approach did not take account of the interests of all land-locked States and other members of the international community, particularly those which were not able to resolve the fisheries problem on a regional or subregional level. He shared the views of those geographically disadvantaged States that felt that the question of the exploitation of the living resources of the economic zone should not be settled by bilateral, regional or subregional agreement, but should be resolved in a universal international instrument.

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Mr. UPADHYAY (Nepal) said that the concept of the economic zone had been born of an awareness on the part of the developing countries that they had to protect their interests against the onslaught of technically developed countries if they were to maintain their political independence and ensure economic progress.

The growing realization that many land-based resources would be exhausted within a short time had led scientists to look towards the sea as a potential source of food, energy and minerals for the whole world. Later, however, when it had been discovered that the living resources of the sea were diminishing fast and were not inexhaustible, it had been deemed necessary to arrange for the scientific management of marine resources. One school of thought, regarding the sea as "res communis", had advocated entrusting such management to an international organization, while another, maintaining that the sea was "res nullius", had suggested that exploration and exploitation should be left to whomever would undertake it. The developing countries were naturally alarmed by the second approach, which could further widen the gap between them and the developed countries. With the rise of nationalism and in their growing determination to defend political freedom, they had resolved to examine past norms of international conduct with a view to setting the world on a right path of even development.

The concept of the economic zone was designed to protect developing countries from further exploitation. Nepal visualized the economic zone as a zone of resource jurisdiction, extending beyond the territorial sea up to a fixed limit, and comprising the water column, the sea-bed and subsoil. It should safeguard the interests of the developing countries, which would not be in a position to compete with the developed countries without it. In fixing the limits of the zone, full account should be taken of the Declaration of Principles governing the sea-bed and the ocean floor and also the report of the Secretary-General contained in document A/AC.138/37. Since the economic zone would have the sole purpose of protecting the interests of all developing countries and would be created out of the area that belonged to all mankind, it should be under the common jurisdiction of all neighbouring States, whether coastal or land-locked. The modalities of such jurisdiction would, of course, be decided by the States themselves on a regional or subregional basis. All States exercising jurisdiction should also share in the responsibilities.

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(Mr. Upadhyay, Nepal)

His delegation welcomed A/CONF.62/L.4 because it represented a co-operative effort between developed and developing countries. It was particularly reassuring to note that some developing countries no longer feared that the developing countries were intent on undermining feelings of solidarity between nations of the third world.

His delegation could not endorse article 10 of the nine-Power draft (A/CONF.62/L.4) since it spoke of the sovereign rights of the coastal States over the zone, thus conflicting with the philosophy on which the Declaration of Principles was based. Furthermore, article 13, which provided for an outer limit of 200 miles, was totally incompatible with the concept of the common heritage of mankind. In the bracketed text following article 13, the obvious reluctance of the sponsors to accord land-locked and geographically disadvantaged States any worth-while rights augured ill for constructive negotiations. In short, the draft suffered from serious drawbacks, was regressive and, in his delegation's opinion, could not provide a basis for starting negotiations.

Mr. van der ESSEN (Belgium) said that Belgian fishermen depended for their living on the traditional practice of fishing off the coast of other States. Although Belgium was a maritime country it was not oceanic - an important distinction, since coastal States were divided into a small group of oceanic States and a large group of maritime States most of which adjoined closed, semi-closed or narrow seas.

The concept of a 200-mile economic zone appeared attractive at first sight, because of its simplicity. However, such a formula did not take account of the interests of all States, and it was therefore unreasonable to try to apply it universally. Any attempt to do so would give rise to more problems than it would solve.

His country accepted the trend towards increased rights and obligations for the coastal State. Instead of the coastal State having absolute rights, however, it was better to emphasize the rational exploitation and conservation of fishery resources for the benefit of all. His delegation acknowledged that the coastal State should determine within reasonable limits the extent of a zone adjacent to its territorial sea where it would exercise fisheries jurisdiction enabling it, for example, to fix the maximum permissible catch, after consultation with the regional fisheries organizations.

His delegation agreed that the coastal State could reserve for ships flying its flag the maximum catch of which they were capable, but on the condition - which seemed equitable - that account was taken on a regional basis of the rights of States that

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(Mr. Flaka, Albania)

wished to impose inequitable economic relations on the world to the detriment of the interests of the developing countries, monopolize raw materials and fix world prices for them with a view to controlling the world economy. Furthermore, zones adjacent to the coasts of sovereign countries were often used as naval exercise areas or centres for massing the navies of the super-Powers, which had created permanent tension in the seas and oceans particularly through their policy of hegemony.

In those circumstances, sovereign coastal States had the right to adopt appropriate measures with a view to defending their sovereign economic rights over the resources in their marine zone. The coastal State had the right to establish an exclusive economic zone or an exclusive fishery zone of reasonable extent, with due respect for the rights of international shipping and the interests of neighbouring countries. His delegation shared the point of view expressed by a large majority of delegations that the economic zone should extend to a limit of 200 nautical miles from the baselines. International navigation and overflight should not interfere with the sovereign rights of the coastal State in that zone.

The creation of such a zone, based on the distance criterion, would represent an equitable solution for all countries, since the depth and exploitability criteria were no longer adequate. Coastal States should retain their sovereign rights over the resources of their continental shelf even when the continental margin lay beyond the 200 mile limit; the outside limits of the shelf itself would be established by regional agreement.

His country supported those coastal States which had extended their territorial waters to 200 miles and exercised economic and political sovereignty over that zone.

The coastal State should exercise permanent sovereignty and jurisdiction over all natural resources in the sea, sea-bed and subsoil of the economic zone adjacent to its coast. Most participating States recognized the right of the coastal State to establish such a zone, but the United States of America and the Soviet Union obstinately opposed that general trend. Their obstructive attitude was quite unjustified. The establishment of an exclusive economic zone would not prejudice their national rights; on the contrary, they would be among the countries most favoured by the establishment of such a zone.

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(Mr. Plaka, Albania)

Their attitude stemmed from their determination to continue their expansionist policy in the seas and oceans and to go on plundering the living resources of sovereign coastal States on the pretext that the sea was a res nullius and that freedom of navigation and freedom of fishing were rights, or by calling for the application in the exclusive economic zone, of so-called preferential rights, maximum exploitation and international conservation of living and other resources, or talking sententiously about the "balance of interests" and "freedom of research".

The argument of preferential rights and maximum exploitation put forward by the United States and the Soviet Union would reduce the sovereign rights of coastal States and enable the fishing fleets of the two super-Powers to pillage the major part of their fishery resources. The "maximum exploitation" argument had the same aim. Conservation of such resources could no longer be used as a pretext for limiting the rights of coastal States. The coastal State should have the exclusive right to lay down rules for the protection and management of the zone, and to take anti-pollution measures and control fishing methods. Scientific research in the exclusive economic zone should be subject to the prior consent of the coastal State, particularly since the two super-Powers used humanitarian pretexts to ensure their military presence in marine zones adjacent to sovereign States and to gather military information concerning those countries or the subsoil of the zone. Furthermore, their evil aim of using their science and technology as an instrument of their neo-colonialist policy must also be borne in mind.

In order to maintain their privileged position, the two super-Powers resorted to economic pressure and threats to sovereign countries, at the present Conference and elsewhere, in an attempt to make those countries back down on the important issues before the Conference and fall in with their imperialist designs, so as to ensure the failure of the Conference. The coastal States should guard against efforts by the United States and the Soviet Union to internationalize the exclusive economic zone and to substitute a pitifully reduced régime of competences for the sovereign rights and exclusive national jurisdiction of coastal States in order to perpetuate the infamous freedom of fishing in the zone.

His delegation emphasized that the concept of the exclusive economic zone should be embodied in concrete terms in the convention to be adopted to ensure that coastal States would have international legal protection of their sovereign rights in the marine

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space adjacent to their coasts. Coastal States should share the resources of the zone with land-locked and other geographically disadvantaged countries, on a reasonable basis. Precise provisions should be formulated to defend the legitimate rights of such countries to exploit, on the basis of negotiated agreements, the resources in the exclusive economic zone of a region, with due respect for the interests and sovereign rights of coastal States. The convention should contain precise regulations prohibiting the massing of foreign fleets and manoeuvres by warships in their zones.

The countries of Asia, Africa and Latin America and other sovereign States should strengthen their solidarity in order to achieve those results and defeat the concerted efforts of the two super-Powers to impose their domination. That solidarity would enable them to defend the legitimate interests of all peace-loving peoples and countries against the super-Powers' policy of aggression and enslavement.

His delegation would support any proposals to codify the rules of international law in a convention that would strengthen the concept of the exclusive economic zone or patrimonial sea.

Mr. DJALAL (Indonesia) outlined the reasons for his country's support of the concepts of the economic zone and the patrimonial sea. Firstly, it considered that the ancient freedom of the seas applied only to those who possessed the capacity to deplete the resources of the seas adjacent to other countries. Secondly, the resources in the economic zone might provide the answer to the development needs of developing countries which had long been the victims of economic exploitation. Thirdly, from the point of view of adjacency, coastal States had a better right to the resources in the zone than distant countries. The problem of overlapping economic zones was a question of delimitation which in no way negated the concept of the economic zone. Fourthly, his delegation did not agree with the view that the economic zone would result in under-exploitation of resources. Methods of co-operation could be devised to enable distant countries to use resources not yet fully exploited by the coastal State.

With regard to the legal régime in the exclusive economic zone, he noted that in the Declaration of the Organization of African Unity (A/CONF.62/L.33), the proposals submitted by 14 African countries to the Sea-Bed Committee (A/AC.138/SC.II/L.40), the

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Santo Domingo Declaration (A/AC.138/80), document A/CONF.62/L.4 and the statements of certain delegations at the present Conference, different wordings had been used to define the nature of the coastal State's rights in the exclusive economic zone.

Since the protection of the marine environment and scientific research were closely connected with the exploration and exploitation of natural resources, the rights connected with them should be sovereign rights, on the same footing as sovereignty over natural resources.

The concept of "sovereignty" or "sovereign rights" should be clearly defined in order to facilitate the correct choice of words. His delegation considered that if the term "sovereignty" was used to denote the nature of the right of the coastal State over its territorial sea, it might be preferable to use the words "sovereign rights" in relation to the economic zone. However, his delegation could support the terminology used in the Declaration of the Organization of African Unity, namely, "sovereignty" or "permanent sovereignty" of the coastal State over the resources of the economic zone, or the terminology used in the Santo Domingo Declaration, namely "sovereign rights".

The view had been expressed that there was a difference between the nature of the coastal State's rights over resources, on the one hand, and over the conduct of scientific research and the protection of the marine environment, on the other, in the economic zone. His delegation considered that such a distinction was not justified and that those rights should be parallel.

Whatever terminology was ultimately agreed upon, it was the view of his delegation that, firstly, the coastal State alone should have competence in the form of "permanent sovereignty" or "sovereignty" over resources, or "sovereign rights" for the purpose of exploration and exploitation of those resources in its exclusive economic zone; secondly, the coastal State alone should have competence which might be classified as "sovereign rights" or "exclusive jurisdiction" with regard to the regulation of scientific research and control over the marine environment of the exclusive economic zone. Such provisions should not prejudice any arrangement which a coastal State, in exercise of its sovereignty or its sovereign rights over resources, might make with other countries or international organizations in order to obtain maximum benefits from its economic zone.

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His delegation was sympathetic to the position of the land-locked and geographically disadvantaged countries in relation to the exclusive economic zone of coastal States. Referring to remarks by the representative of Malaysia, who had seemed to question the right of an archipelagic State to have an economic zone, he emphasized that the concepts of the economic zone and the archipelagic State were of a different nature and were not interchangeable. With or without the archipelagic concept, the area which would fall within the economic zone of an archipelagic State would necessarily cover all areas within the archipelagic waters.

Mr. STEWART (Guyana) expressed his sympathy to the people of Bangladesh for the tragic disaster which they had suffered.

His Government was already on record as supporting and undertaking to promote the doctrine of the patrimonial sea or exclusive economic zone of coastal State jurisdiction. Its position was based on the conviction that that doctrine offered the most viable compromise likely to emerge from the current clash of competing claims in that it accommodated the economic interests of developing coastal States and the vital strategic and security interests of the developed States while taking account of the interests of geographically disadvantaged States and the international community.

His delegation viewed with concern and regret the growing propensity to disturb the consensus emerging around that doctrine by the introduction of outrageous qualifications which were postulated as prior conditions to the acceptance of that doctrine by certain States. The most untenable of those qualifications pertained to the recognition of a right of access by other States to the living resources in the exclusive economic zone of a coastal State which might temporarily be incapable of fully exploiting those resources.

His delegation categorically rejected such qualifications for three principal reasons. Firstly, they incorporated an unacceptable bias in favour of technologically advanced States. Any arrangement that tied control of fisheries by the coastal State to indigenous exploitative capability discriminated heavily in favour of technologically advanced States, with probable adverse consequences for the rapid transfer of technology. Secondly, such qualifications were predicated on certain scientifically unverified assumptions such as the concept of "maximum sustainable yield", and that of the "underexploitation of a species" which was thought to result in the loss of valuable

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protein resources of the world community. In the view of his delegation, it was virtually impossible to determine with scientific exactitude the maximum sustainable yield and, a fortiori, the optimum catch of a particular stock. Furthermore, yields from the vast majority of marine species were limited by natural conditions over which man had little or no control, thus rendering only a few of the species valuable to man amenable to conservation practices that were economically viable. Thirdly, those qualifications ignored the vital economic component of opportunity costs, which should of necessity enter into any determination of the competence of the coastal State in the management of the living resources in its adjacent ocean space. In implementing conservation measures, many States, including his own, sacrificed projects of value to them, such as the establishment of industrial complexes that emitted pollutants or the implementation of hydroelectric schemes for the generation of cheap power, so that living resources could survive and reproduce. It was reasonable therefore that such States which, by a conscious policy decision, had incurred such opportunity costs should have the determining voice in the exploitation of such resources.

His delegation was opposed to any international arrangements for the management of coastal fisheries along the lines of existing fisheries organizations. Those organizations, which were de facto exclusionary in nature, represented a convergence of exaggerated unilateral claims to vast competences regarding the exploitation of fisheries in ocean space. Their record of achievement in the management and conservation of fisheries demonstrated their inadequacy in the light of present-day requirements, and his delegation considered that their structure and manner of functioning were not worthy of emulation.

Mr. LUPINACCI (Uruguay) reiterated the view expressed by his delegation in the plenary meeting that the concept of a plurality of territorial sea régimes and that of an economic zone, or patrimonial sea, with broad sovereign powers for the coastal State had much in common. Firstly, the territorial sea of 12 miles was intrinsically linked to the economic zone of 200 miles, the common denominator being the principle of the sovereignty of coastal States over the whole, though the limits to the exercise of that sovereignty might vary. Secondly, both were subject to the regulations formulated by the coastal State in exercise of its exclusive jurisdiction over the entire belt of sea

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within the 200-mile limit. In that connexion, his delegation did not agree with the definition in article 12 of document A/CONF.62/L.4. The coastal State should exercise control over the actual zone and not merely the resources in it. He endorsed the view expressed by the representative of Tanzania that the 200-mile limit applied to fishermen and not to fish. Thus conceived, the economic zone was not part of the high seas. His delegation shared the view expressed by the representative of Kenya that, instead of enumerating the rights of the coastal State in the economic zone, the important point was to establish clearly what rights the international community would have in that zone.

Any régime which might be established and guaranteed freedom to carry out certain activities in an area over which a State exercised sovereignty should protect the legitimate interests of all concerned. The rights of States in respect of freedom of navigation and overflight and the laying of pipelines and submarine cables were subject to limitations deriving from the exercise by the coastal State of its rights with regard to the exploration, conservation and exploitation of resources, the protection and preservation of the environment, scientific research and the construction and emplacement of installations. With the exception of the aforementioned freedoms, the coastal State should exercise sovereignty over all uses of the sea in the zone.

The term "economic zone" or "territorial sea" embraced different concepts some of which sought to deprive it of some of its meaning to the extent of virtually equating it with the concept of preferential rights. The best means of protecting the legitimate rights and interests of the coastal State against that risk was to apply the principle of sovereignty with regard to residual competences. The proposals of certain Powers to reduce to a minimum the competences of the coastal State beyond the 12-mile limit and to deny its sovereignty in the 200-mile zone implied that they suspected that developing countries lacked a sense of responsibility. His delegation shared the view, expressed by the representative of Tanzania, that those who made those veiled accusations had used the freedom of the sea in an irresponsible manner to impose their domination over the seas.

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Sovereignty implied rights and obligations. States, such as Uruguay, which had proclaimed their sovereignty over zones up to 200 miles were prepared to assume the obligations devolving from that sovereignty particularly with regard to the protection of the marine environment, the preservation and rational exploitation of species, the promotion of scientific research subject to the right to participate in and have access to the results of such research. They were also prepared to guarantee the legitimate and normal exercise of the freedom of navigation and overflight, and to assume responsibility for any damage to vessels of third States that might result from their activities.

Mr. FARES (Democratic Yemen) said that the seas adjacent to the coast of his country were rich in living resources that were being depleted without concern for the need to protect them.

His delegation believed that coastal States should have full sovereign rights over the seas adjacent to their coasts for the purpose of regulating the exploitation and conservation of their resources. It firmly supported the concept of the full sovereign rights and exclusive jurisdiction of coastal States over their economic zones up to 200 miles measured from the appropriate baselines, and was pleased to note the growing recognition of the concept by a large majority of States, particularly developing States. It could not accept the argument that the concept of the exclusive economic zone would leave little for the common heritage of mankind, believing that the two concepts were complementary.

It was unjust for a few advanced countries to exploit the seas for their own benefit: they should provide the assistance needed by the coastal States to utilize the resources of the sea, which offered an important means of remedying the poverty and backwardness of many countries of the third world. That did not mean, however, that land-locked and other geographically disadvantaged States would be deprived of the benefits to be derived from exploiting the living resources in the economic zone. The developing coastal States had always demonstrated their readiness to give special consideration to the interests and needs of those States.

On the other hand, in their desire for a package deal, the developed maritime Powers were trying to impose restrictions of all kinds in order to render the concept



(Mr. Fares, Democratic Yemen)

meaningless. Instead of trying to assist the developing countries, they used their economic, scientific and political power to maintain the status quo, providing only charitable assistance, thus helping to widen the ever-increasing gap between them and the developing countries.

His delegation subscribed to the following views on the exclusive economic zone. Firstly, coastal States should maintain exclusive jurisdiction over the zone up to a distance of 200 miles in order to protect their legitimate rights over the renewable and non-renewable resources, subject to permitting freedom of navigation, overflight and the laying of cables and pipelines.

Secondly, such jurisdiction would allow coastal States to regulate and control scientific research, taking into account their need to train personnel, to participate in such research and to have access to the results thereof. It would also permit the protection of the marine environment, the prevention of pollution and the preservation of resources.

Thirdly, for the purpose of delimitation between opposite or adjacent States, the median line should be used in the absence of any clear agreement.

Fourthly, coastal States should have the right to establish a contiguous zone bordering the territorial sea for customs and health control and other such purposes.

Fifthly, all the foregoing principles should be applied to the islands of a coastal State, since they formed an integral part of the territory of that State.

Mr. ROBLEH (Somalia) said that near anarchy reigned in the seas and oceans and, but for General Assembly resolution 2574 D (XXIV), which had imposed a moratorium on all activities in the international area, the world would today be witness to a wild scramble by a few highly developed States for the acquisition of ocean space beyond the limits of national jurisdiction.

His delegation fully endorsed the reasons underlying the doctrine of the exclusive economic zone, the principal aim of which was to introduce social and economic justice into the law of the sea, which had hitherto greatly favoured the major maritime Powers. However, the Committee had heard a multiplicity of different interpretations of the economic zone concept: for some, it meant control by the coastal State over all the resources of the sea for the purposes of exploration and exploitation.

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The draft articles submitted by Nigeria (A/CONF.62/C.2/L.21) would endow the coastal State with more competence over the economic zone than any other proposal. Under the Nigerian proposal, in addition to coastal State jurisdiction over resources, powers would be conferred upon the coastal State that were usually exercised under the régime of the contiguous zone.

Certain late converts to the doctrine of the exclusive economic zone would accept it only if they were guaranteed - under the guise of so-called "maximum utilization of available living resources" - the right or privilege of access to the fishery zones of developing coastal States. Other delegations would accept the doctrine only with the proviso that unfettered freedom of scientific research was permitted within national ocean space, subject to prior notification but without the need for the consent of the coastal State concerned. Others again maintained that the economic zone was an integral part of the high seas. Yet the doctrine of the freedom of the open sea had never been an absolute one: rules for the exercise of jurisdiction over vessels at sea had been universally adopted so as to avert complete anarchy. In any case, the concept must be radically revised in the light of recent developments concerning the rights of coastal States over the continental shelf and adjacent underwater areas. It could hardly be argued that the frantic search for oil on the sea-bed had not unavoidably restricted the traditional freedom of the high seas.

In his delegation's view, the most logical régime for the national maritime zone was that of the territorial sea rather than that of the exclusive economic zone. The interests of developing States would best be served by a territorial sea of not more than 200 miles. Those who unreasonably opposed the territorial sea concept did so not because they believed that freedom of navigation, international trade and communications would be hampered, but because they feared a loss of their strategic freedom. It was not the exclusive economic zone idea but only the territorial sea doctrine that could effectively meet the serious challenge of distant-water fishing fleets. The major naval Powers would rather endorse a diluted version of the exclusive economic zone than the territorial sea doctrine, since the adoption of the latter would jeopardize the military and strategic interests of a number of States or alliances by the banning of military installations within the maritime zones of coastal States.

The so-called "package deal" was an undisguised invitation to developing coastal States to sign away their territorial sovereignty in exchange for lesser rights. His delegation categorically rejected it.

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Mr. MOLODTSOV (Union of Soviet Socialist Republics), speaking in exercise of his right of reply, said that at the 24th meeting of the Committee one delegation had again sought to sow the seeds of discord among participants in the Conference and to divert them along the wrong path. That delegation had repeated baseless stories about the so-called plundering of the developing countries by certain super-Powers.

That delegation had tried to prevent the adoption of the concept of an economic zone in which the coastal State, in cases where it did not take 100 per cent of the permissible catch within the zone, would allow the entry of foreign vessels. It was well known, however, that a number of developing countries which, for reasons of logic, supported the concept of the economic zone, held similar views, which they based on the need to exploit natural resources in a rational manner. That fact clearly showed that the statement by the delegation in question was based on demagoguery.

The same delegation particularly disliked the determination of a number of socialist countries to safeguard their security by maintaining freedom of navigation through important maritime zones connecting one part of their territory with another. He reaffirmed that the countries whose peoples had undergone intolerable suffering in the cause of freedom would not sign away their vital interests to those who sought to establish one-sided control over those zones.

Nor could his country ignore either the aggressive plans of imperialism or its international duty when reference was made to the victims of imperialism and aggression.

At the current meeting, another delegation had spoken against the USSR. In doing so, it had borrowed ideas taken from the same source and he would not therefore deign to refute them.

Mr. PLAKA (Albania), speaking in exercise of the right of reply, said that the USSR representative had provided clear proof of the chauvinistic policy followed by the Soviet Union since the betrayal of Marxism-Leninism: it was establishing links with its satellites on the basis of principles followed by a large chauvinistic Power. The statement of the representative in question had clearly demonstrated the imperialist and expansionist policy followed by the USSR, based on the domination and exploitation of man.

In his own statement earlier in the meeting, he had asked whether the USSR recognized the sovereign rights of coastal States over the resources of the sea adjacent to their coast up to a 200-mile limit. Yet the USSR representative had not

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replied. Furthermore, representatives of the both the Ukrainian SSR and the Byelorussian SSR had spoken in favour of the policy of limited sovereignty of coastal States.

He had asked the USSR representative to declare that the Soviet Union was ready to withdraw its warships from the maritime space of other States. The reasons why it would not do so were clear: it kept them there for the purpose of dominating other peoples.

He had also asked whether the USSR recognized the sovereign rights of coastal States in respect of scientific research. However, the Ukrainian representative had demanded freedom of scientific research. It was clear what that freedom entailed - freedom for the USSR to send warships and reconnaissance vessels in order to obtain military information and establish military and economic control over other States.

If the USSR really clung to worthy principles, why had the Ukrainian representative stated that the USSR wanted to impose a package deal on other States?

The USSR representative had said that the manoeuvres of the imperialists had not been forgotten; that was a statement with which he fully agreed.

Finally, he had asked the USSR whether it was prepared to accept the concept of the exclusive economic zone. If it did, it should say so.

Mr. LING (China), replying to the USSR representative, said that the facts spoke for themselves. The USSR had large numbers of fishing vessels which plundered the fishery resources of other coastal States. The Chinese delegation affirmed that, within the economic zone, coastal States should have the right to exercise full sovereignty over their resources.

His delegation resolutely opposed the use of the issue of free passage for warships as a precondition for a package deal concerning the economic zone.

The meeting rose at 6.20 p.m.