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Chairman:	Mr. TUNCEL	Turkey
later:	Mr. AGUILAR	Venezuela
Rapporteur:	Mr. NANDAN	Fiji

CONTENTS

EXCLUSIVE ECONOMIC ZONE BEYOND THE TERRITORIAL SEA (continued)

Mr. CHAO (Singapore), summing up his delegation's views on the question of an economic zone for coastal States, said the economic zone approach was not the only practical approach nor was it the most equitable. The defect of existing law under the four 1958 Conventions was that advantages were conferred upon a small minority of States; the economic zone approach merely sought to enlarge the number of States enjoying those advantages, and in some cases would inflict harm upon land-locked and other geographically disadvantaged States. The only just approach would be to allow coastal States to claim a territorial sea of up to 12 nautical miles beyond which the whole marine area should be under the control and jurisdiction of an international ocean authority. The authority should exploit the non-living resources of the area for all mankind and should lay down rules and regulations governing the exploitation of living resources by States. That approach would give real effect to the principle of the common heritage of mankind. His delegation also favoured the regional zone approach whereby three or more adjoining or opposite States would be entitled to establish a regional or subregional zone. Adjacent and opposite States would also be entitled to join the group, although no State should be part of more than one such zone. The zone should lie within the geographical confines of each continent concerned so that no State would be excluded from a regional or subregional zone. That approach would secure justice for all States and would provide a real opportunity for regional co-operation and understanding.

If there was to be a coastal-State economic zone, his delegation's acceptance of it would be subject to two conditions: firstly, there must be adequate provisions in the treaty itself to safeguard the rights and interests of land-locked and other geographically disadvantaged States. Secondly, the breadth of the economic zone should not prejudice the economic viability of the international area. In determining the breadth, the report of the Secretary-General (A/AC.138/87) should be constantly borne in mind.

The approach taken by Nigeria in document A/CONF.62/C.2/L.21 was very constructive. Nevertheless, the provisions of article 1.2 (d) were reminiscent of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone. No cogent reasons had been put forward to justify granting coastal States further jurisdiction in the economic zone in relation to the prevention and punishment of infringement of customs, fiscal,

(Mr. Chao, Singapore)

immigration and sanitary regulations. There was no reason why those functions could not be performed effectively within the 12-nautical-mile territorial sea. He urged the Conference not to transform the economic zone into a territorial sea.

The new 12-mile limit for the territorial sea would do away with the need for a contiguous zone except where coastal States did not claim the 12-mile territorial sea. His delegation commended the draft article on the contiguous zone contained in document A/CONF.62/C.2/L.27.

Although article 3.2 of the Nigerian draft would oblige coastal States to enforce applicable international navigation safety standards, there was no mention of international standards covering the duty of the coastal States to regulate and preserve the marine environment and to prevent pollution. He hoped that the Nigerian delegation would be prepared to reconsider the question. Although there was no provision to safeguard the rights and interests of land-locked and other geographically disadvantaged States, his delegation had been assured by the Nigerian delegation that a revision would be forthcoming.

Document A/CONF.62/L.4 contained some of the most interesting ideas before the Conference. Nevertheless, his delegation looked forward to the inclusion of articles recognizing the rights de jure and interests of land-locked and geographically disadvantaged States. He hoped the sponsors of the draft would also consider the need to accommodate the interests of neighbouring States within an archipelago in their future deliberations. His delegation was unable to accept article 19 of the draft.

His delegation hoped the Conference would not repeat the mistake of the 1958 Conference on the Law of the Sea, which had carved up the most valuable areas of the sea-bed for a number of advantaged coastal States without any regard to the rights and interests of the less advantaged States.

Mr. BOTHA (South Africa) said that his delegation fully supported the concept of an exclusive economic zone extending to a maximum distance of 200 nautical miles measured from the baselines used for calculating the 12-mile territorial sea. Within that zone, the coastal State should exercise exclusive jurisdiction over the renewable

(Mr. Botha, South Africa)

living resources of the sea and sea-bed and have sovereignty over the non-renewable resources of the continental shelf, the sea-bed and the subsoil thereof.

The coastal State should have the exclusive rights to exploit the living resources within the economic zone up to the maximum sustainable yield. If, however, the coastal State did not possess the capability to harvest the maximum sustainable yield, it should, until it had that capacity, share with other States the exploitation of the resources in order to ensure that available stocks were fully utilized. Provisions should be made for suitable financial reward to the coastal State for the participation of others in the exploitation of the living resources of the zone. Such participation could be arranged through existing international fisheries conventions or on a bilateral basis. Detailed arrangements between the coastal State and its land-locked neighbours should be spelled out in bilateral agreements between the countries concerned.

In addition to its exclusive rights to exploit the living resources of the zone, the coastal State should also have exclusive jurisdiction, including enforcement powers, with regard to the proper conservation, under coastal State laws and regulations, of the living resources within the zone. Only then would the coastal State be in a position to conserve those resources effectively.

The South African delegation supported those proposals which envisaged continued coastal State sovereignty over the continental shelf in cases where it extended beyond the 200-nautical-mile limit proposed as the outer limit of the economic zone.

Coastal State jurisdiction within the economic zone should also embrace the right to prevent and combat all forms of marine pollution. Effective pollution controls could be achieved only by way of binding international standards and criteria coupled with enforcement powers. Flag States and port States had obvious responsibilities in that regard, and should be granted suitable powers of enforcement. At the same time, however, it was essential that strong and effective enforcement powers be exercised by coastal States.

The South African delegation supported the principle of maximum freedom of scientific research, excluding, of course, research of a military and proprietary character. Within the territorial sea, however, scientific research should be subject

(Mr. Botha, South Africa)

to the prior consent of the coastal State, which should, if it so desired, be able to participate in the research and have access to the results. Within the economic zone, research should be allowed subject to the control of the coastal State and with the right of the latter to participate in the research and have access to the results.

In addition to its rights within the economic zone, the coastal State should also have certain defined obligations and duties, namely the obligation not to prevent or interfere with the laying of submarine cables and pipelines, and to respect and preserve the traditional freedom of navigation and overflight in the case of straits used for international navigation.

Mr. SOTH (Khmer Republic) said that his delegation was very much in favour of the creation of an exclusive economic zone of not more than 188 nautical miles measured from the outer limit of a 12-mile territorial sea. The coastal State should enjoy sovereign rights over the natural resources of the sea-bed and ocean floor, as well as of the superjacent waters. Such sovereignty was subject to limitations imposed in the interests of the international community and included the obligation of the coastal State to respect the traditional freedoms of navigation, overflight, and the laying of submarine cables and pipelines. Those freedoms should not be abused in any way which might affect the economic character of the zone. For example, foreign fishing vessels should not be permitted to use the pretext of the freedom of navigation to engage in clandestine fishing activities in the zone. Naval manoeuvres which might disturb the living resources of the zone should be prohibited. The exercise of the other freedoms should not be prejudicial to the interests of the coastal State. It was normal for the coastal State to intervene in cases where poorly maintained pipelines threatened to pollute the marine environment or destroy the living resources of the area.

His delegation maintained that the right of innocent passage should not be recognized for warships of any type, tankers and other vessels transporting polluting, harmful or dangerous substances, and fishing vessels. The latter should be denied the right of innocent passage because of their tendency to fish clandestinely in the territorial waters of the coastal State. All such vessels must remain outside the territorial sea. Merchant ships must not use their right of innocent passage for purposes other than trade.

(Mr. Soth, Khmer Republic)

The legal régimes of the contiguous zone and the continental shelf should not be retained in the new law of the sea. A large number of States, including many signatories of the 1958 Geneva Convention, in extending their territorial seas to a breadth of 12 nautical miles or more, had chosen to ignore the contiguous zone. The retention of that zone, which the Geneva Convention had viewed as part of the high seas, would only complicate matters. Placing the contiguous zone between the territorial sea and the economic zone would result in a belt of high seas between two other zones which were not part of the high seas. On the other hand, a contiguous zone situated at the outer limit of the economic zone would not be very useful, since only those coastal States which possessed sufficient and effective means could exercise their competences in a zone 200 miles beyond its coasts, which was unfortunately not the case of the developing countries.

The continental shelf such as it was conceived in existing law should not be retained either since the economic goal it had been created to serve had been subsumed in the broader concept of the economic zone. It was not easy to justify the co-existence of those two régimes. The régime of the continental shelf defined according to the double criteria of depth and exploitability had given rise to many difficulties with regard to its delimitation between adjacent or opposite States which could not be easily solved. Under such conditions there was no reason to retain the régime of the continental shelf which should be absorbed by the exclusive economic zone. To facilitate the resolution of any conflicts which might arise from the application of the future conventions on the law of the sea, especially the convention on the economic zone, a specialized international legal body should be created, made up of specialists competent to deal with all maritime questions and, in particular, fishing disputes. Such a body would do a great deal for the maintenance of international law and order on the seas.

Mr. ILLUECA (Panama) said that his delegation had observed with interest the emergence of a majority opinion on the general principles of the exclusive economic zone and the patrimonial sea. The latter had been advanced by various Latin American delegations which had been forerunners in the search for a solution that had since been accepted by many other delegations, particularly the States members of the OAU, as the most suitable under existing conditions of international law.

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(Mr. Illueca, Panama)

Together with Ecuador, Peru and Chile, Panama had been an early supporter of a maximum breadth of 200 nautical miles for the territorial sea calculated from the baselines to determine the area under the jurisdiction of the coastal State. When the Panamanian Government had adopted legislation in 1967 establishing a 200-mile territorial sea, it had been motivated by the same concerns as those delegations which supported the genuine exclusive rights of the coastal State over the entire exclusive economic zone.

It was reasonable to allow the free transit of vessels, overflight, and the laying of submarine cables and pipelines in the economic zone under the exclusive jurisdiction of the coastal State.

His delegation continued to give proof of its flexibility and attitude of conciliation. Like the rest of the Latin American countries, Panama would continue to be jealous of those rights which third States claimed over any part of its territory. Throughout its existence as a Republic, Panama had had to endure against its will, an anachronistic colonial situation based on brute force. Consequently, Latin America was particularly vigilant with regard to any attempt to perpetuate colonialist or neo-colonialist exploitation of the resources of the people of that region, and particularly of the Isthmus of Panama. The doctrine of the permanent sovereignty of nations over their natural resources was the economic corollary of the right of the self-determination of peoples.

The exclusive economic zone was one of the key concepts of the Conference and was closely interrelated with the concepts of the territorial sea, contiguous zone and continental shelf. Consequently, it had to be dealt with in such an over-all context and the method of reaching agreement had to take that reality into account.

It was necessary to reach promptly an internationally accepted agreement incorporating the principles of sovereignty and exclusive jurisdiction of the coastal State over all resources and related matters in a zone of up to 200 nautical miles adjacent to its coasts. Such a régime was quite reasonable provided that it took into account regional and subregional realities, as well as the legitimate interests of the land-locked States. The recognition of the rights of the coastal State over the exclusive economic zone should not affect its sovereign rights over the territorial sea or its continental shelf and "national sea-bed", whose characteristics had been defined in his delegation's statement on item 5.

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Mr. AKYAMAC (Turkey) said that his delegation supported in principle the idea of an exclusive economic zone beyond the territorial sea. Such a zone would probably offer to the developing countries the best opportunity for bolstering their economic development.

The coastal State should have sovereign rights within the economic zone of up to 200 miles from its shores for the purpose of exploring and exploiting the living and non-living resources of the sea, the sea-bed and subsoil thereof, and for regulating scientific research. Those rights should not affect the freedom of navigation and overflight, and the freedom of laying submarine cables and pipelines outside the territorial sea.

Residual rights should be carefully determined and regulated in such a manner as to preclude the misuse of rights recognized in connexion with the economic zone.

Although Turkey was a developing State surrounded on three sides by seas, it stood to receive no direct benefit from the establishment of economic zones since the narrow and semi-enclosed nature of those seas would prevent it from extending its jurisdiction to more than a fraction of the intended maximum breadth of the economic zone. Furthermore, as FAO profiles had demonstrated, those seas were not well endowed in living resources.

Turkey like most of the coastal States bordering on the Black Sea and the Mediterranean, fell into the category of geographically disadvantaged States, as did roughly half of the States participating in the Conference. With the addition of the land-locked countries, approximately 100 of the participants did not stand to derive any direct benefit from the exclusive economic zone.

It would appear that to date efforts to reach an agreement had been directed to reconciling the interests of the oceanic coastal States and the major maritime Powers. It was equally necessary, perhaps even more so, to strike a balance between the interests of the geographically disadvantaged States and those of the oceanic coastal States which also included the big maritime Powers. Only then would the new legal order respond to the realities and requirements of the times.

His delegation supported the statement made by the representative of Trinidad and Tobago at the 22nd meeting of the Committee in which he had said that the dictates of justice and equity required that the geographically disadvantaged States in

a given region should enjoy preferential rights in the exploitation of the living resources within the economic zones of the other coastal States of that region. The Turkish delegation was particularly pleased with the clear emphasis which the representative of Trinidad and Tobago had placed on the role of the principles of justice and equity in the regulation of the legal norms for the sea, a notion which it had itself consistently supported and upheld.

As distinct from disadvantages for which redress could be found within a given region, there existed in different parts of the world disadvantaged regions such as the Mediterranean or Baltic, where all or the greater part of the States were disadvantaged, and because of the characteristics of those areas, no redress could be found for the situation within the region concerned. Such situations should not be overlooked. The 1973 London Conference for the Prevention of Pollution from Ships had designated five semi-enclosed seas as special areas with regard to pollution. That classification could also serve as a basis for the identification of disadvantaged regions and could be complemented or corrected for the purposes of the new convention to include all the disadvantaged States of the world.

Individual States of disadvantaged regions should be granted the right to participate in the exploitation of the living resources within the economic zones to be established in the oceans to which such regions were in close proximity. Mere recognition of that right might none the less prove to be unrealistic in the short term, particularly in the case of developing States which would not for some time to come be able to engage in distant fishing. To compensate for such situations, special arrangements could be made for those States to have a higher share of the profits to accrue from the exploitation of the international area.

Certain proposals before the Conference had recommended that the traditional distant-water fishing States be granted fishing rights within the economic zones of ocean States. The creation of such a privileged club would be highly detrimental to the developing States which in the future might have to turn to distant-water fishing to sustain the growth of their economic and social development. Preferential fishing rights to be granted to States within the economic zones of other States should be accorded on the basis of the criteria referred to previously.

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(Mr. Akyamac, Turkey)

An accurate definition of the term "disadvantaged State" was of crucial importance. The Jamaican draft proposal (document A/CONF.62/C.2/L.30) provided a number of criteria for that purpose, while another delegation was working out related but different criteria. Perhaps a method combining the two approaches would produce the desired definition.

Given the close connexion between the exclusive economic zone and the territorial sea, his delegation hoped that the Conference would be able to adopt a régime for the territorial sea which, while setting forth a uniform maximum breadth, would also provide for satisfactory regional arrangements in order to avoid creating problems for States in areas with special geographical characteristics.

In view of the large areas which the economic zone would include, the question of delimitation between adjacent and opposite States assumed great importance. The guiding principle of the Turkish proposal contained in document A/CONF.62/C.2/L.34 had been the achievement of a just and equitable delimitation between adjacent and/or opposite States based upon the agreement of the parties concerned.

While there was no reference to any specific method of delimitation in the Turkish draft proposal, no method, including that of the median line, had been excluded. States would have to use the most appropriate method, or combination of methods, in accordance with the particular circumstances and equity.

The median line was one of the methods of delimitation, but should not enjoy preference over other lines of delimitation such as the "equitable dividing" line which had been proposed in document A/CONF.62/C.2/L.28, or any other line to be agreed upon by States concerned. As the International Court of Justice had confirmed in its judgement in the North Sea Continental Shelf Case, the application of the median line was not obligatory. Furthermore the Court had clearly indicated in paragraph 89 of its judgement that the application of the equidistance or median line led unquestionably to inequity in the sense that the slightest irregularity in the coastline was automatically magnified by the median line.

International practice had shown that the median line could not be applied unilaterally. The decision whether or not to apply the equidistance line had to be reached by agreement among the States concerned.

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(Mr. Akyamac, Turkey)

Paragraph 1 of document A/CONF.62/C.2/L.34 dealt in a non-exhaustive manner with special circumstances. Islands, islets and rocks within the area to be delimited deserved special attention since their presence could have such a distorting effect as to deprive a State from having any meaningful economic zone. Neither the coastal State nor the State to which the islands belonged should be made to suffer from that situation. The principle of equity and all other relevant factors should therefore be taken into account in negotiations between the parties concerned. The foregoing references to islands had been made within the context of special circumstances, and not with regard to the régime of islands in general.

The provisions for the pursuit and conclusion of negotiations in the Turkish draft proposal guaranteed that the matter would not drag on to the detriment of either of the parties. An attempt had been made to enable the States concerned, irrespective of their size, to negotiate on an equal footing without inhibition and without being subjected to pressure or intimidation. His delegation believed that paragraph 2 of its draft represented an effective and desirable improvement over the negotiating machinery provided by the 1958 Geneva Conventions.

Mr. UNIS (Libyan Arab Republic) said that the economic zone was directly linked with the vital interests of nations and was an important factor in the prosperity and well-being of mankind.

There were two distinct and even conflicting approaches to the economic zone: firstly, peoples who were struggling to achieve a standard of living approaching that of the developed countries favoured the establishment of an exclusive economic zone in which the coastal State would exercise sovereignty over living and non-living resources. Secondly, there were those who sought to reduce to a minimum the sovereignty of the coastal State over its economic zone in order to maintain and increase differences in standards of living. The aim of the latter was to enable their fishing fleets to invade the coastal waters of the developing countries, monopolize fishery resources, transform them into finished products and sell them at high prices. That was contrary to the equitable principles that should prevail in the elaboration of a new law of the sea. His delegation therefore favoured the establishment of exclusive economic zones in which the coastal State would have complete sovereignty over living and non-living resources.

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(Mr. Unis, Libyan Arab Republic)

A number of draft articles had put forward the idea of the median line as the only solution to the problem of delimitation; others had pressed for a special treatment for islands. The finding in the North Sea case had clearly shown that the median line approach was not satisfactory in all cases. In order to provide greater flexibility with respect to methods of delimitation and to minimize differences of interpretation of the expression "special circumstances", delimitation methods should be agreed on by the various parties concerned, having due regard to prevailing conditions and special circumstances.

Mr. VALENCIA RODRIGUEZ (Ecuador) said that his country had noted the interest shown by all countries in the rights and powers of coastal States in the sea adjacent to their coasts up to a distance of 200 miles. That interest was encouraging to the Latin American countries, including his own, which had extended their sovereignty over the 200-mile zone some 25 years earlier, on the basis of legitimate economic, legal and security considerations, without prejudice to any provisions of international law. What had seemed at the time a legal heresy was now accepted even by the powerful countries which belittled the rights of the developing countries. No one now denied that the 200-mile limit was the only means of relieving the acute and growing subsistence problems of the developing world.

His delegation had also noted the somewhat discouraging fact that there was no uniformity of opinion on what was meant by the economic zone. For example, some texts referred to the coastal State's rights of sovereignty while others referred merely to sovereign rights; but no wording had been found which explicitly described the new legal concept and it finally had to be admitted that sovereign rights simply meant sovereignty. Although it was argued that sovereign rights did not devolve from the exercise of sovereignty, a State could hardly exercise sovereign rights without possessing sovereignty. Presumably with the object of establishing other shades of meaning, it was also said that the coastal State should exercise sovereign rights in, but not over, the zone in which case the State would exercise its rights over certain constituent parts of the zone, such as renewable or non-renewable resources, but not over the zone itself.

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(Mr. Valencia Rodriguez, Ecuador)

Such notions could only be a source of controversy in the future. The disparity of concepts was compounded by talk about a State's preferential rights, or special powers or authority in the 200-mile zone - which suggested doubts regarding sovereign rights - while at the same time it was maintained that the State in question could exercise authority over the continental shelf. That would mean that the State's sovereignty, while extending over the sea-bed and subsoil, was in some doubt where the superjacent waters of the same zone were concerned. Yet the resources of the continental shelf and the resources in the superjacent waters were equally important to the coastal State.

Furthermore, if, as proposed in some texts, the economic zone should be exclusive in favour of the coastal State, how was it possible to talk both of exclusiveness, which suggested sovereignty, and of the coastal State having no sovereignty? If the coastal State exercised its rights to the exclusion of third States, that was nothing other than sovereignty.

Some delegations - no doubt with a view to overcoming those disparities - had drawn up lists of rights and powers for the coastal State over its exclusive economic zone, ranging from exploration and exploitation of the renewable living resources of the sea-bed and the non-renewable resources of the continental shelf to exclusive jurisdiction over fiscal matters and authorization and control of scientific research. Those were important economic rights which, again, must involve the coastal State's sovereignty.

He wondered whether such rights - however exhaustive the list - would really meet the future needs of the developing peoples, needs which were increasing by leaps and bounds as a result of the population explosion, the deterioration in international terms of trade and the discriminatory measures adopted by the powerful States in their own interests. In other words, were those the only economic rights that coastal States could exercise in the proposed 200-mile economic zone? They would never meet those countries' needs, because they would be only partial rights if the coastal State did not have sovereignty over the zone and the great Powers were allowed to assert their claims with respect to it.

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(Mr. Valencia Rodriguez, Ecuador)

The inevitable conclusion was that the only legally acceptable and economically viable solution for the developing peoples lay in the doctrine of sovereignty over a 200-mile zone, in other words, a 200-mile territorial sea. That doctrine also had the important advantage that residual rights and powers in the zone would be duly recognized as belonging to the coastal State. With a territorial sea of 200 miles the coastal State would exercise rights and privileges deriving from sovereignty and at the same time allow the international community freedom of sea and air communication and permit the laying of cables and pipelines subject only to the restrictions resulting from the coastal State's exercise of its rights.

Mr. Aguilar (Venezuela) took the Chair.

Mr. REMY (Haiti) said that his country was interested in the sea as a source of wealth, since it had few natural resources. It was anxious for the developing countries to be enabled to exploit the biological and mineral resources of the seas adjacent to their coasts. Some species were in danger of extinction owing to unrestricted exploitation by fishing fleets from distant lands. The 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas recognized the coastal State's vital interest in the resources adjacent to its coast but did not meet the legitimate aspirations of the developing countries regarding fishing and the conservation of the sea's biological resources. His country had taken part in consultations with other Caribbean countries concerning joint policy on various aspects of the law of the sea to meet present-day political, economic and social conditions, giving special attention to the question of a fairer share for the developing countries. Those consultations had resulted in the Declaration of Santo Domingo, 1972, introducing - among other things - the new concept of the patrimonial sea or exclusive economic zone, which gave the coastal State sovereign rights over the renewable and non-renewable natural resources in the sea and on the sea-bed and its subsoil up to a 200-mile limit measured from the applicable baseline. Under that concept, the coastal States also had the duty to promote and the right to regulate scientific research in that zone and to adopt measures to prevent pollution of the marine environment.

(Mr. Remy, Haiti)

The notion of the patrimonial sea was new to international maritime law and represented a means of replacing a system of inequality, injustice and under-development by a more viable, just and humane order. There was no justification for doubt concerning the new concept on the ground that it might impede navigation and other uses of the sea. In that connexion he recalled the statement made by the President of Venezuela at the opening of the Conference that Venezuela defended the sea as an instrument of peace and justice, of collective wealth for all nations and as a compensating factor in establishing a world equilibrium.

The idea of justice which must be embodied in the new law of the sea would be illusory if it benefited only the coastal States. The land-locked and geographically disadvantaged countries must also share in the exploration and exploitation of the biological and mineral resources in the economic zone and their rights should be explicitly recognized in the Convention. Details could be negotiated by the parties concerned.

One of the problems connected with the exclusive economic zone or patrimonial sea was recognition of the rights of third States exploiting the pelagic resources of the zone where the coastal State lacked the technical capacity to take the maximum allowable catch and there was a surplus of exploitable resources. While his delegation understood the concern of such States about possible wastage due to under-exploitation, it could not countenance misuse of resources, particularly at a time when land-based natural resources were insufficient to meet the growing needs of an expanding world. However, it considered that in the patrimonial sea the coastal State should have the right to determine the conditions of any agreement on exploiting the zone, particularly on methods of exploitation. That would open the way to bilateral and regional agreements and would at the same time encourage technical co-operation.

His delegation was somewhat concerned at proposals for eliminating the contiguous zone and the continental shelf. The contiguous zone could well be preserved as part of the economic zone or patrimonial sea adjacent to the territorial sea of 12 nautical miles - which was a reasonable limit - since the considerations justifying the contiguous zone, i.e. the need to prevent and punish infringement of the coastal State's territorial sea, were still valid. Moreover, in a number of countries

(Mr. Remy, Haiti)

regulations to that effect were still in force. Haiti, for example, had issued a decree in 1972 establishing a contiguous zone of three nautical miles beyond the limits of its territorial sea. As to the continental shelf, he thought that the 200-mile limit would eliminate it, since its régime would be covered by the régime of the patrimonial sea. He therefore favoured adoption of the African proposal to reduce its extent, in order to avoid a plurality of régimes and taking into account the fact that the concept of the common heritage of mankind had already begun to be downgraded.

Mr. KIM (Democratic People's Republic of Korea) said that his delegation fully supported the concept of the establishment of the economic zone or patrimonial sea to a limit of 200 nautical miles, which appeared to be supported by most delegations. Some imperialist Powers, however, were opposing it. One, for example, was opposed to the establishment of exclusive rights over fishery resources in a zone extending beyond the limits of the territorial sea, while another proposed that foreign fishermen should have non-discriminatory rights to fish in a coastal State's economic zone when the latter was not using its resources in the zone to the full. Those Powers were attempting to harvest the living resources in the economic zones of other States beyond the limits of the territorial sea and were a threat to developing coastal States. He was particularly concerned about imperialist pillage of fishery resources in Korea's southern sea and in the fishing grounds of other developing countries.

The following were important and essential elements in the concept of the economic zone or patrimonial sea and should be included in the new Convention. Firstly, the coastal State should have within its economic zone or patrimonial sea sovereign rights over living and non-living resources, including preservation and protection of those resources, up to a limit of 200 nautical miles, and jurisdiction over scientific research and control of marine pollution. Secondly, the land-locked countries should have reasonable rights and interests and should be given the possibility of participating in exploitation of the living resources in the economic zone or patrimonial sea of neighbouring coastal States, such rights and interests to be provided for under bilateral or regional agreements. Thirdly, the coastal State

(Mr. Kim, Democratic People's Republic of Korea)

without prejudice to its sovereign rights and exclusive jurisdiction over the zone, and subject to its consent to delineation of the course for the laying of such cables and pipelines. Fourthly, the boundary of the economic zone or patrimonial sea between adjacent or opposite States should be determined by consultation in accordance with the principle of an equidistant line or a median line.

Mr. MANGAL (Afghanistan) said that his delegation, as a matter of principle, did not support unilateral action by States aimed at broad seaward extension of their national jurisdiction. Such action was not consistent with the concept of the common heritage of mankind and might result in conflicts in the seas and delay the codification of the international law of the sea.

The concept of the economic zone or patrimonial sea would be just and acceptable only if the rights and interests of other States, particularly the land-locked and other geographically disadvantaged States, were taken into account. His delegation, which represented a land-locked country, would not be satisfied with a legal régime for the economic zone under which the coastal State would exercise sovereign rights or jurisdiction over all the resources of the area. In the first place, the concept of the economic zone did not provide for a balanced accommodation of the interests of States. The extension of a coastal State's sovereignty to the area adjacent to its territorial sea for the purpose of exclusive exploitation by that State would be neither just nor conducive to international co-operation. The rights and interests of land-locked and other geographically disadvantaged States with respect to the natural resources of the economic zone must be taken into account.

A consensus seemed to be emerging in favour of the 12-mile limit for the territorial sea where coastal States would exercise full sovereignty. His delegation would support such a limit measured from the applicable baseline. There must be two distinct legal régimes for the territorial sea and the economic zone.

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(Mr. Mangal, Afghanistan)

The economic zone, if agreed on by the Conference, would consist of an area which had previously been part of the high seas. By any reasonable standard, land-locked and other geographically disadvantaged States should therefore have equal rights with coastal States to explore and exploit the living and non-living resources of that area on a non-discriminatory basis, and the right to free access to and from the sea and the economic zone. That legitimate claim should not be construed as prejudicial to the coastal State's interests: such rights would be exercised in a peaceful and orderly manner, in accordance with the provisions of the new Convention and having regard to the legitimate interests of the coastal States concerned and of the international community. Land-locked States would be required not to transfer their rights in the economic zone to third States, but they would be entitled to obtain technical and financial assistance from other States and from international organizations to develop their own industries.

He did not share the view, nor the arguments underlying it, that the present continental shelf régime should be retained within the framework of the new economic zone concept. Acceptance of the economic zone should supersede the 1958 continental shelf régime. A plurality of régimes in the economic zone would not provide a just accommodation of the interests of other States, including the land-locked States. The 1958 Convention on the Continental Shelf totally disregarded the rights and interests of land-locked States in the resources of the continental shelf. For that reason his country had not acceded to the Convention. It could not accept the notion of the continental shelf as a natural prolongation of a country's territory to the outer limit of the continental margin and the extension of full sovereignty to the area.

The economic viability of the international area should be preserved and maintained in terms of both size and resources, so as to give effect to the concept of the common heritage of mankind. That viability could be adversely affected by broad seaward extensions of the jurisdiction of coastal States.

Mr. ABAROA (Spain) said his delegation attached great importance to the question of participation by third States in the rational exploitation of the resources of the econimic zone. While the non-renewable resources of the zone should be reserved

(Mr. Abaroa, Spain)

exclusively to the coastal State, the nature of living resources justified the participation of third States in their exploitation. There were a number of criteria he wished to put forward as a basis for regulating such participation.

His country had to rely on marine protein to cover its shortfall in meat protein caused by geographical and climatic factors. It also had a very narrow continental shelf, particularly in the north, and that shelf was generally poor in fishery resources. In addition, most of its coastline was on the Mediterranean Sea, a marine area that was ecologically endangered. Consequently, his country had been obliged to build up a large fishing fleet. It had an obvious interest in seeing that the future Convention would contain provisions governing the participation of third States in the exploitation of the living resources of the zone for the mutual economic advantage of coastal and third States.

It must also be established that, when certain conditions set out in the future Convention were met, the coastal State would authorize third States to participate in the rational exploitation of the living resources of the zone. Such participation could be based on international co-operation and mutual advantage, without discrimination between possible participants but without prejudice to preferential treatment that might be granted to specific States. The latter was an important issue that required accurate definition; special account should be taken of States whose vessels had habitually fished in the waters of the zone.

The coastal State should authorize third States to fish when it was unable to take all of the allowable catch. In determining the allowable catch, the coastal State must take into account biological and statistical data: neighbouring States should exchange information on fish populations common to their economic zones in order to avoid a biological imbalance in any of the zones. The allowable catch should be the maximum that would permit the attainment, maintenance or recovery of the maximum sustainable yield.

Within the zone, the coastal State should promulgate and enforce rules and regulations for the conservation and rational exploitation of the resources of the zone. Such measures could include the specification of permitted fishing gear and methods, the establishment of closed seasons and areas, the establishment of minimum allowable

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(Mr. Abarca, Spain)

sizes for fish taken, the regulation of fishing activity, the establishment of catch quotas, and the establishment of over-all catch levels for fishermen from third States.

His delegation considered that FAO and the regional and international fishery organizations could be of great assitance to coastal States in establishing allowable catches and ways to regulate the conservation and rational exploitation of the living resources of the zone.

The coastal State should also regulate the granting of fishing licences in its zone to fishermen from other areas.

The régime of the zone gave rise to such other problems as the question of its delimitation. That was a matter that would have to be considered at a later stage of the Committee's work.

Mr. SANTISO (Guatemala) said he preferred the term "patrimonial sea" to the term "territorial sea". The concept of the patrimonial sea had become the subject of greater attention from his delegation from the time of the Venezuelan proposal that it should become part of a package deal intended to reconcile the interests of all concerned. The concept was of vital importance for peace and justice and for higher living standards throughout the world.

His delegation was in favour of the establishment of a territorial sea extending 12 miles from the low-water line; the coastal State would have full sovereignty over the sea-bed, subsoil and superjacent waters and resources thereof without prejudice to the principle of innocent passage. It also supported unreservedly the establishment of a zone adjacent to the territorial sea extending up to 200 miles from the baseline established for the territorial sea. In that area the coastal State would have full sovereignty over the renewable and non-renewable resources of the sea-bed, subsoil and superjacent waters. The coastal State would be responsible for anti-pollution measures and the regulation of scientific research, without prejudice to freedom of navigation, overflight, and the laying of cables and pipelines. As a signatory to the 1958 Convention on the Continental Shelf, Guatemala considered that the continental shelf should extend to the 200-metre limit or the limit of exploitability. Nevertheless, its position was flexible and it was in a position to consider and support other proposals.

He shared the views expressed by the representative of El Salvador regarding the contents of document A/CONF.62/L.4.

The meeting rose at 11.05 p.m.