Confusion over the Use of ‘‘UNCLOS’’, and References to other Recent Agreements*

The purpose of this note is to explore the use of the acronym “UNCLOS” when used in relation to the United Nations Convention on the Law of the Sea,¹ and to recommend the adoption of certain citations for two other recent agreements in the area of fisheries. The background to the problem is that for over two decades, UNCLOS had been used to refer to the United Nations Conferences on the Law of the Sea: hence UNCLOS I to refer to the 1958 Geneva Conference on the Law of the Sea, UNCLOS II to refer to the unsuccessful 1960 Geneva Conference on the Law of the Sea, and UNCLOS III to refer to the Conference held between 1973 to 1982. The use of these abbreviations in this way became widespread after the UN General Assembly² called for a “Third” UN Conference on the Law of the Sea in 1973 to follow on from the two earlier conferences of 1958 and 1960.

In addition, a wide variety of acronyms has been adopted in respect of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, with some, though less, potential for confusion than is the case with “UNCLOS”. On the other hand, the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas has not been the victim of a variety of acronyms.

It is proposed to deal first with UNCLOS, and then consider these two recent agreements concerning fisheries.

Who Uses UNCLOS and Who Does Not

The problem over usage has been raised in the last 12 months due to the fact that sharply diverging practices have developed in relation to its use. On the one hand, the last two Annual Reports of the Secretary-General to the General Assembly have started using UNCLOS to refer to the 1982 UN Convention, and

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* The views expressed in this paper are personal and do not necessarily reflect the views of the FAO.
¹ Referred to here, unless the context otherwise requires, as the “1982 UN Convention”, or just the “Convention”.
² GA Resolution 3067 (XXVIII), 1973.
in this they are being followed by the Commission on Sustainable Development. The IMO and UNESCO are also believed to use the acronym in this way.

On the other hand, ITLOS (the International Tribunal for the Law of the Sea) has clearly not followed that practice, using frequently in its recent judgments UNCLOS I, II and III in relation to the Conferences, while, for the Convention, it cites the name of the Convention in full, and then states that it is to be referred to as "the Convention". Indeed, a brief glance at its judgments, in particular in its judgments in the M/V Saiga (No. 2) case and in the Camouco case, will indicate the problems that could arise if we move away from the citation used by the Tribunal.

In addition to ITLOS, the International Seabed Authority avoids using UNCLOS to refer to the Convention. There is not one known instance in their documents of its use in such a way. The Commission on the Limits of the Continental Shelf in its principal documents on its website does not use UNCLOS, though the term in reference to the 1982 UN Convention is found in some correspondence included in their website. The General Assembly in its resolutions on the law of the sea carefully avoids using it, even though the report accompanying it uses it.

At the FAO, UNCLOS is listed in FAOTERM to refer to the Conference as opposed to the Convention. In official texts of the FAO, such as agreements, conference resolutions and reports, care is usually taken to ensure consistency with that listing.

The confusion which is creeping in can be illustrated by the fact that in the M/V Saiga case before ITLOS, the submissions of St Vincent and the Grenadines referred to UNCLOS in reference to the Convention, while the judgments studiously avoided that acronym. In Australia, explanatory memoranda for legislation giving effect to the 1995 UN Fish Stocks Agreement use UNCLOS to refer to the Convention, though the legislation itself avoids it. Likewise, when Australia presented its brief to ITLOS in the Southern Bluefin Tuna dispute with Japan, it avoided the use of UNCLOS to refer to the Convention. However, it is understood that, in the most recent submissions to the arbitral tribunal, UNCLOS is now being used once more to refer to the Convention.

Further, it should be noted that the great majority of academic journals and writers have continued to avoid using UNCLOS to refer to the Convention. Of the generalist journals on international law in the English language, for example, the American Journal of International Law and the British Yearbook of International Law, the use of UNCLOS to refer to the Convention is avoided.

In specialist journals devoted to marine affairs, for example, the International

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3 Case No. 2, 1 July 1999.
4 Case No. 5, 7 February 2000.
5 See, for example, its most recent resolution, Resolution A/54/31. In its Resolution A/54/32, the 1982 UN Convention is referred to by its full title throughout.