

CHAPTER I INTRODUCTION

1. This Counter Memorial is filed in accordance with Article 4.1 of the Terms of Reference established by the federal Minister of Natural Resources on May 31, 2000.¹

2. This Counter-Memorial will rebut the errors of fact and law in the Nova Scotia Memorial and refute the claim made by Nova Scotia that the line dividing the respective offshore areas between Newfoundland and Labrador and Nova Scotia has been "resolved by agreement." In doing so, Newfoundland and Labrador will affirm the position set out in its Memorial that the line has not been "resolved by agreement."²

3. Throughout its Memorial, Nova Scotia makes many allegations of fact and law. In this Counter Memorial, Newfoundland and Labrador has dealt only with those contentions that are central to rebutting the Nova Scotia case. Thus, the fact that Newfoundland and Labrador has not dealt with a particular factual or legal contention does not imply acceptance by Newfoundland and Labrador of the correctness of the Nova Scotia position. Newfoundland and Labrador reserves the right to return to such matters should it become necessary to do so subsequently in these proceedings.

¹ Terms of Reference, Appendix A of the Newfoundland and Labrador Memorial.

² Terms of Reference, Article 3.2 (i).

4. Chapter II of this Counter Memorial will provide a general assessment of the Nova Scotia Memorial, setting out the principal elements of Newfoundland and Labrador's rebuttal of the Nova Scotia case. Chapter III highlights some of the unsubstantiated assertions, and misleading rhetoric and illustrations in the Nova Scotia Memorial. Chapter IV corrects the errors in the Nova Scotia Memorial in its interpretation of the Terms of Reference and its identification of the law applicable to this dispute. Chapter V rebuts the Nova Scotia contention that an agreement was entered into between Newfoundland and Labrador and Nova Scotia on September 30, 1964 and shows that Nova Scotia's reliance on the conduct of the parties since that date as part of its attempt to prove that such an agreement was entered into is wrong - both as a matter of fact and as a matter of law. Chapter VI corrects the errors in the Nova Scotia Memorial regarding the law relating to acquiescence and estoppel and its applicability to this case. Chapter VII provides a recapitulation of the position of Newfoundland and Labrador in this dispute. Chapter VIII provides a summary of the principal conclusions and reiterates the submission of Newfoundland and Labrador to this Tribunal.