

CHAPTER I INTRODUCTION

1. This arbitration is before this Tribunal by virtue of the Terms of Reference¹ established by the federal Minister of Natural Resources on May 31, 2000, pursuant to the *Canada-Newfoundland Atlantic Accord Implementation Act*, S.C. 1987, c.3 (the *Canada-Newfoundland Act*)² and the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, S.C. 1988, c.28 (the *Canada-Nova Scotia Act*).³
2. This Memorial is submitted by Newfoundland and Labrador in accordance with Article 4.1 of the Terms of Reference. Accompanying this Memorial are Annexes of Documents, Statutes and Authorities.
3. The question for the Tribunal in Phase One, as set out in Article 3.2 of the Terms of Reference, is “whether the line dividing the respective offshore areas of the Province of Newfoundland and Labrador and the Province of Nova Scotia has been resolved by agreement.”
4. In this Memorial, Newfoundland and Labrador will establish that there was no agreement between Newfoundland and Labrador and Nova Scotia on the line dividing their respective offshore areas. There never was any intent on the part of the provinces concerned to enter into a legally binding agreement on the delimitation of their offshore areas and no such agreement was ever concluded.

¹ For the Terms of Reference, see Appendix A. (Also in Statutes, # 1.)

² Statutes, # 5. The provincial legislation is the *Canada-Newfoundland Atlantic Accord Implementation Act*, S.N. 1986, c.37, Statutes, # 4.

³ Statutes, # 7. The provincial legislation is the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, S.N.S. 1987, c.3, Statutes, # 6.

5. The factual record indicates that the proposals made by the Atlantic Provinces to the federal government regarding provincial ownership of the offshore contained lines of delimitation, largely within the Gulf of St. Lawrence and the Cabot Strait area. But provincial ownership of the offshore was rejected by the federal government, provincial unity dissipated, and the proposals came to nothing.
6. The various Accords⁴ and the implementing legislation, which established joint management of offshore petroleum resources and associated revenue sharing within defined offshore areas, did not assume any agreement between the provinces on the lines dividing their respective offshore areas. Instead, they provided for negotiation, and ultimately resolution of this issue by an arbitral tribunal, on the basis of the principles of international law governing maritime boundary delimitation.
7. This Memorial will set out the factual background and the legal analysis which demonstrate that the line dividing the respective offshore areas of Newfoundland and Labrador and Nova Scotia has not been resolved by agreement.

⁴ *The Atlantic Accord: Memorandum of Agreement between the Government of Canada and the Government of Newfoundland and Labrador on offshore oil and gas resource management and revenue sharing* (February 11, 1985) ("Atlantic Accord"), Doc. # 100; *Canada-Nova Scotia Offshore Petroleum Resources Accord* (August 26, 1986) ("Nova Scotia Accord"), Doc. # 108.