

Competing Theories

Theory 1

Theory 2

***Process Between
Provinces***

***Agreed on Proposal to
Federal Gov't, including
boundaries***

***Related to Offshore
Ownership, but
Separate***

***Proposal Contemplated
Federal & Provincial
Legislation***

***No Requirement
for Federal Gov't
Approval***

***Boundaries Set Out in
64 Were Refined in 68
& Proposed Again in 72***

***Agreement Amongst
Provinces, inter se***

***Both 64 & 72 Proposals
Were Rejected and
Agreement Never
Concluded***

Substance of N&L Case is Simple

The Line Dividing the Respective Offshore Areas of NS And N&L Has Not Been Resolved by Agreement

***NS Has the Burden of Proving
an Agreement Exists***

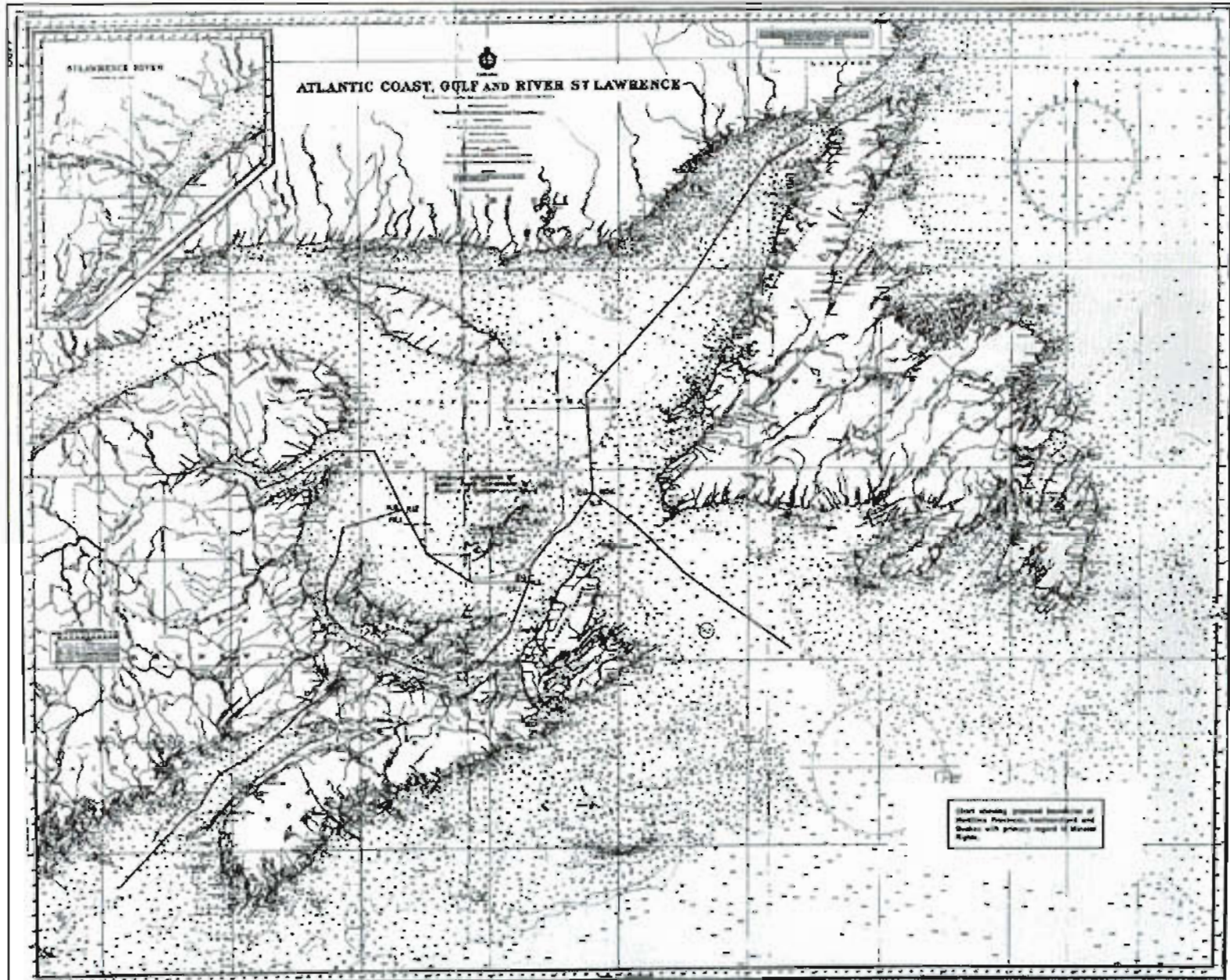
***NS Has Not Shown the Intent to Create
a Legally Binding Agreement***

***NS Has Not Shown How Boundaries
Could Exist Separate From Ownership***

***NS Has Not Shown That the Federal
Government Was Irrelevant***

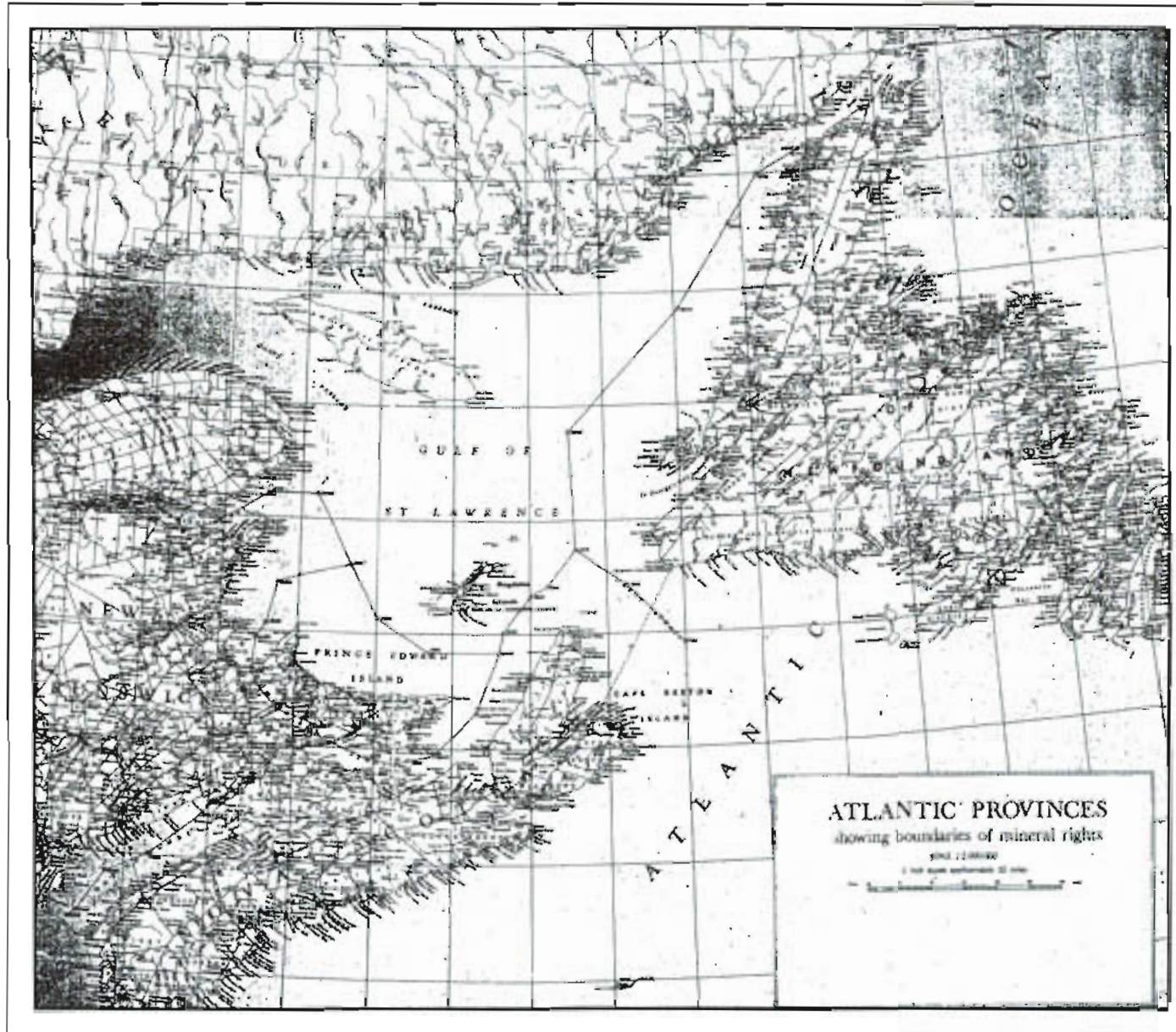
***NS Has Not Shown That the
Applicable Law is the
International Law of Treaties***

Map That Accompanied the Stanfield Submission in 1964

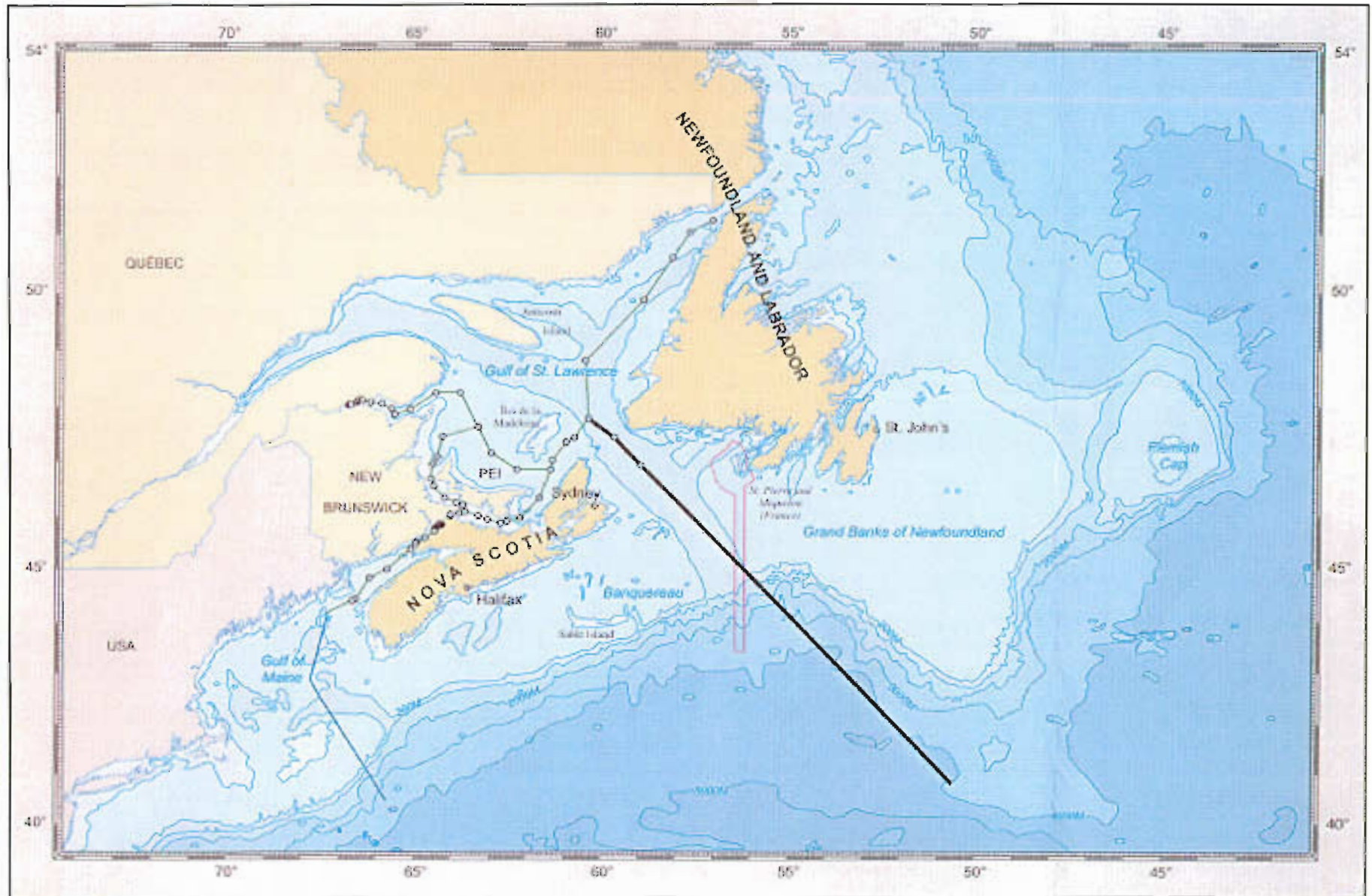


Oral Presentation Figure 103

**Map Produced by JMRC in 1969 With Defined Turning
Points Which Was Before the Premiers in 1972**



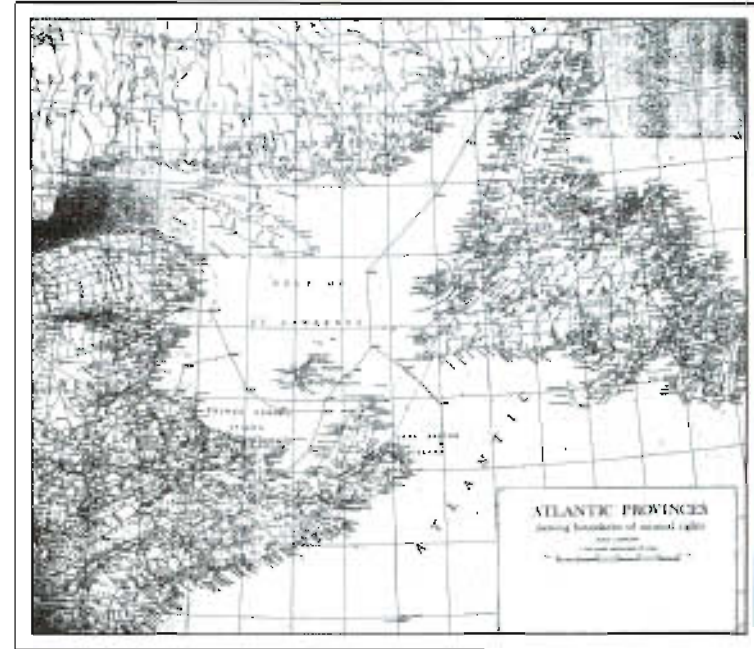
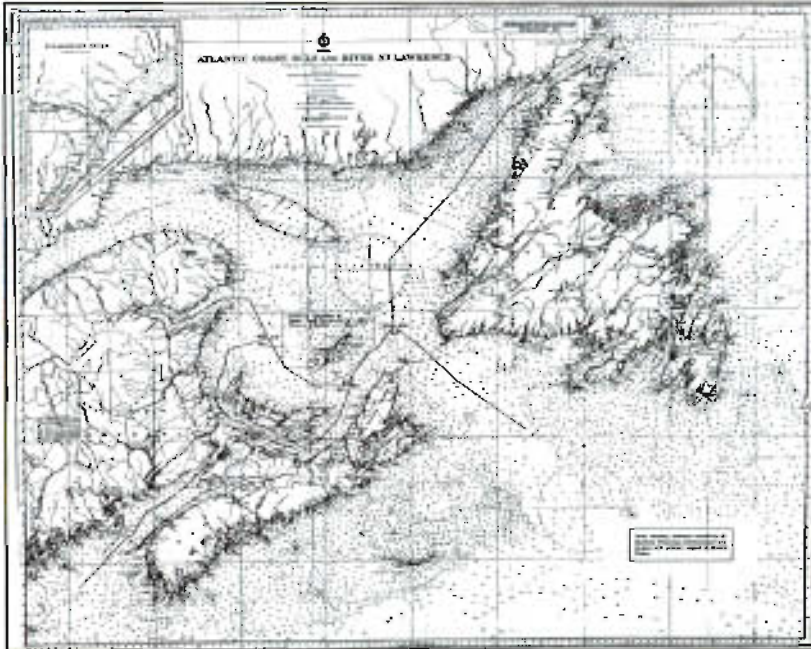
In Figure 29 of the NSCM, Nova Scotia Claims That “The 1964 Agreement Has Been Consistently Applied and Respected by Nova Scotia and Newfoundland”



Oral Presentation Figure 105

NSCM Figure 29

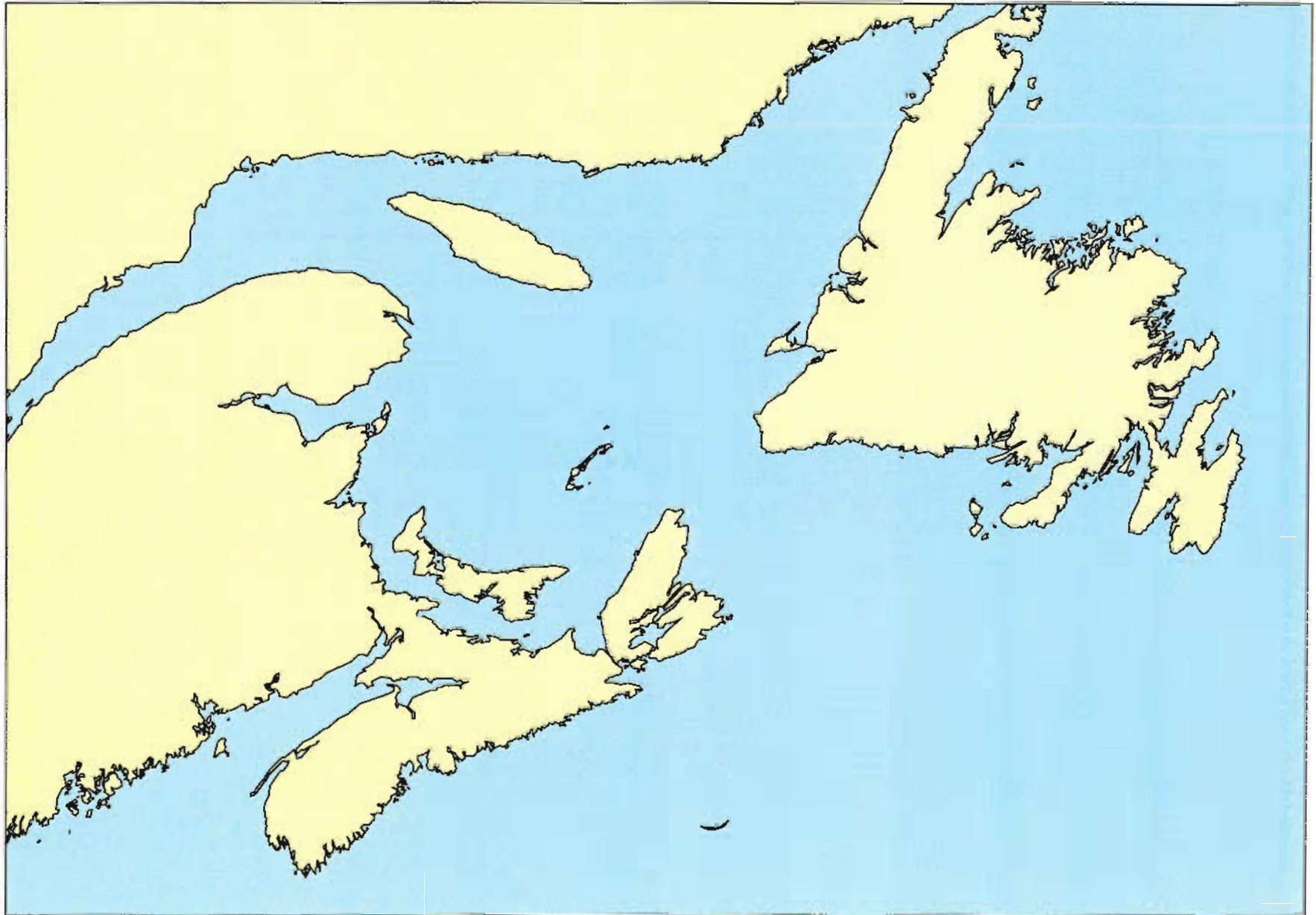
Will The Real 1964 Agreement Map Please Stand Up



Oral Presentation Figure 106

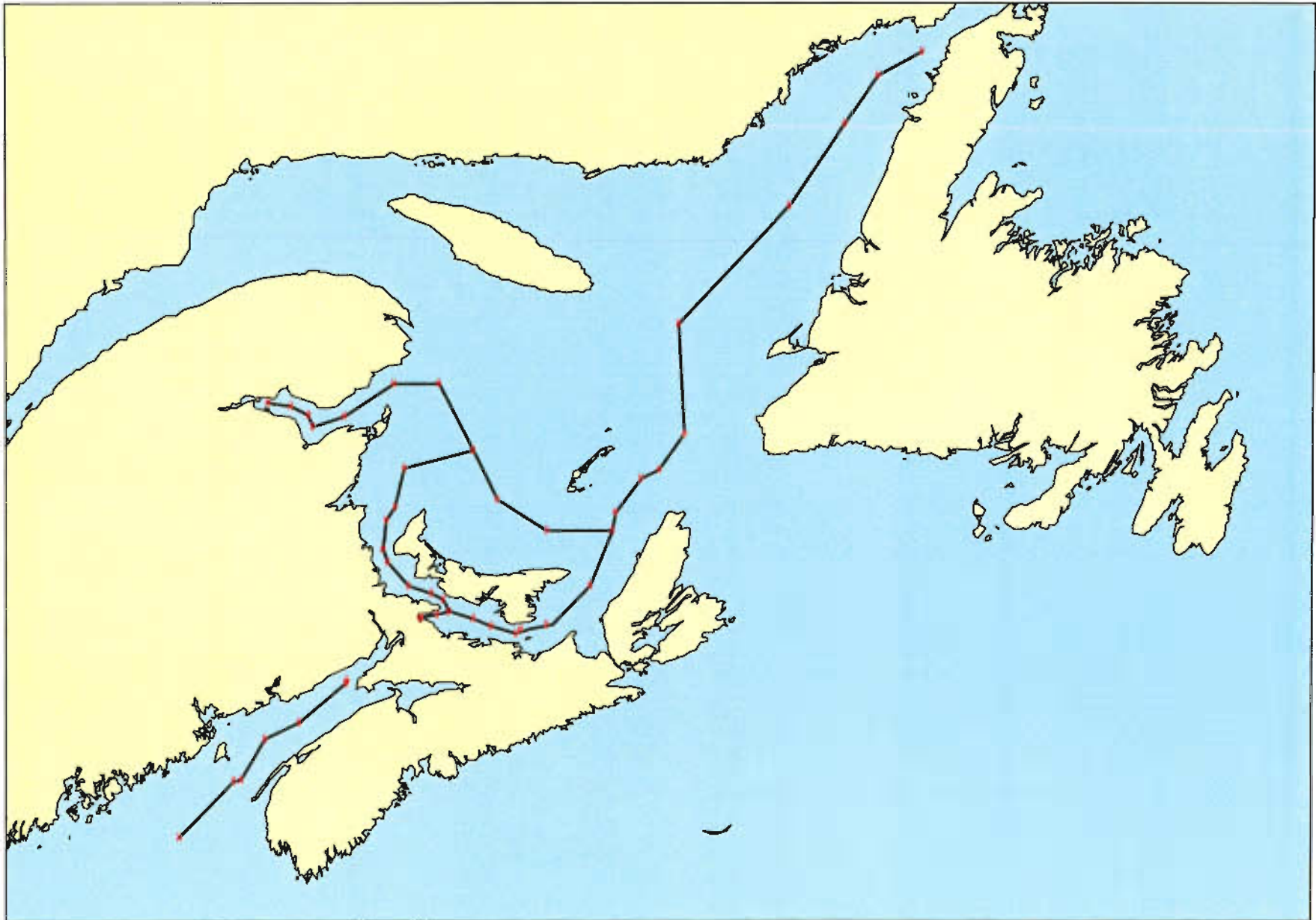
N&L Memorial Pocket, Doc 31 and NSCM Figure 29

***The Dispute Before the Tribunal Does Not Call Into Question
Other Arrangements Between Provinces***



Oral Presentation Figure 107

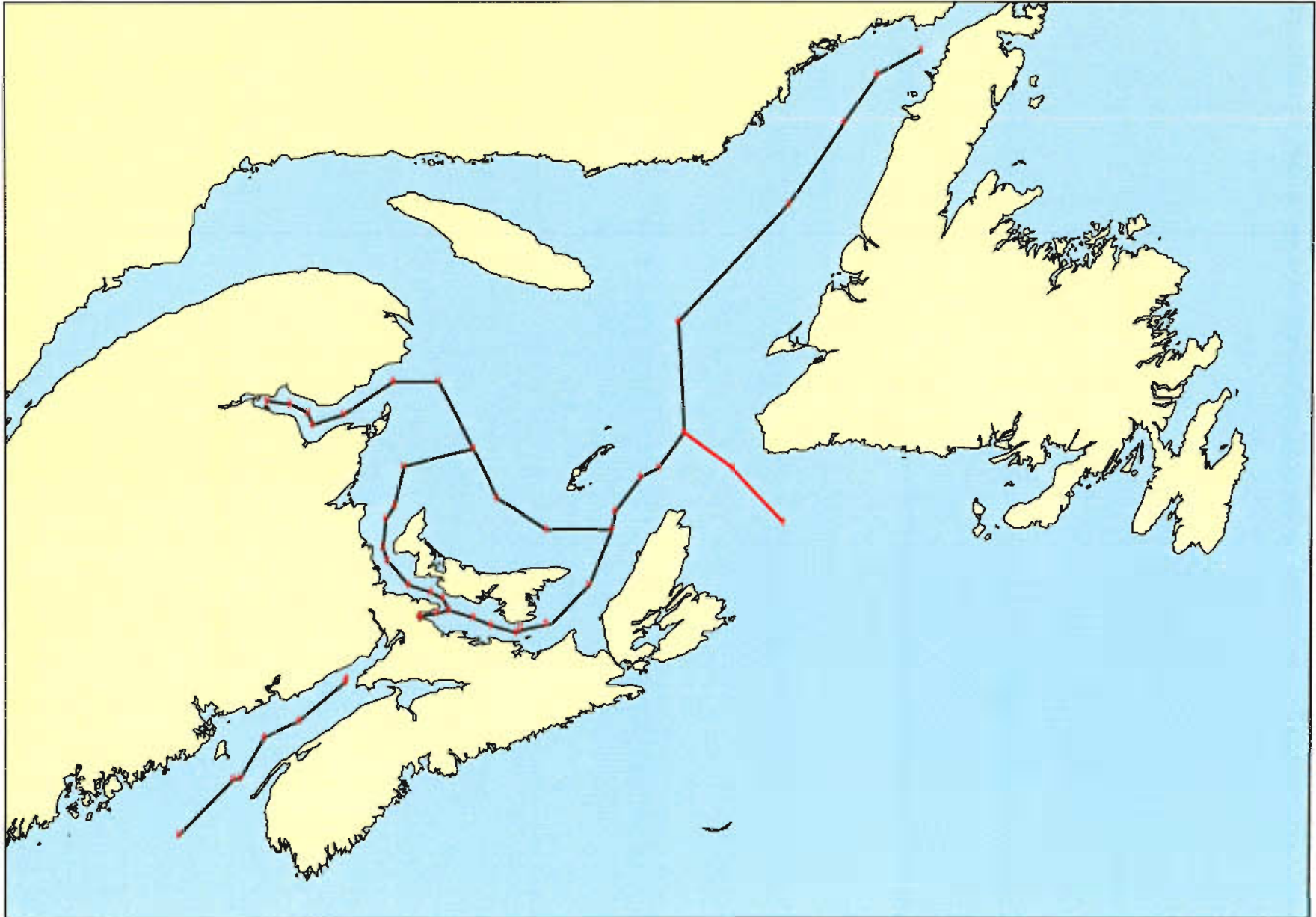
***The Dispute Before the Tribunal Does Not Call Into Question
Other Arrangements Between Provinces***



Oral Presentation Figure 108

N&L CM Figure 11

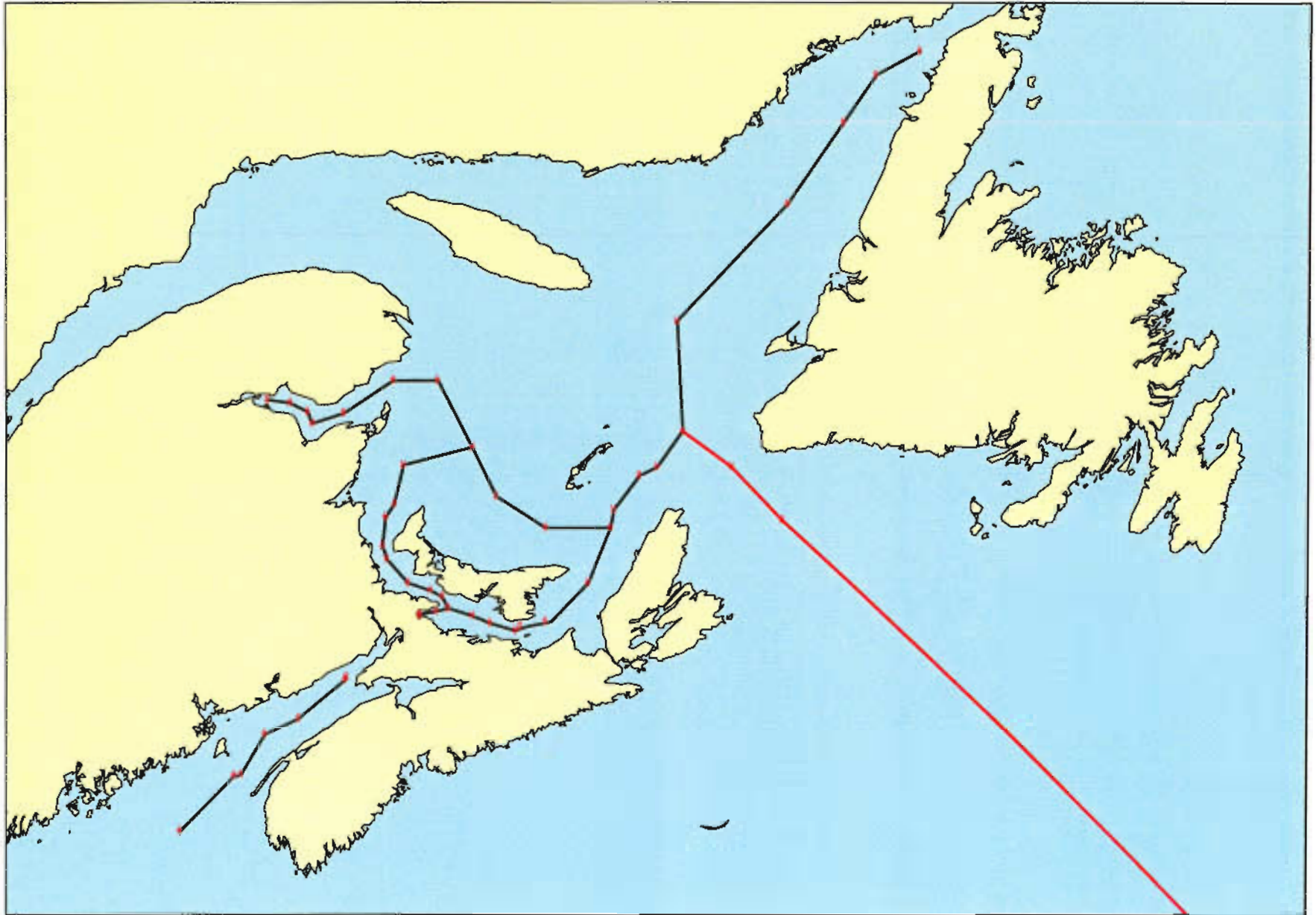
***The Dispute Before the Tribunal Does Not Call Into Question
Other Arrangements Between Provinces***



Oral Presentation Figure 109

N&L CM Figure 11

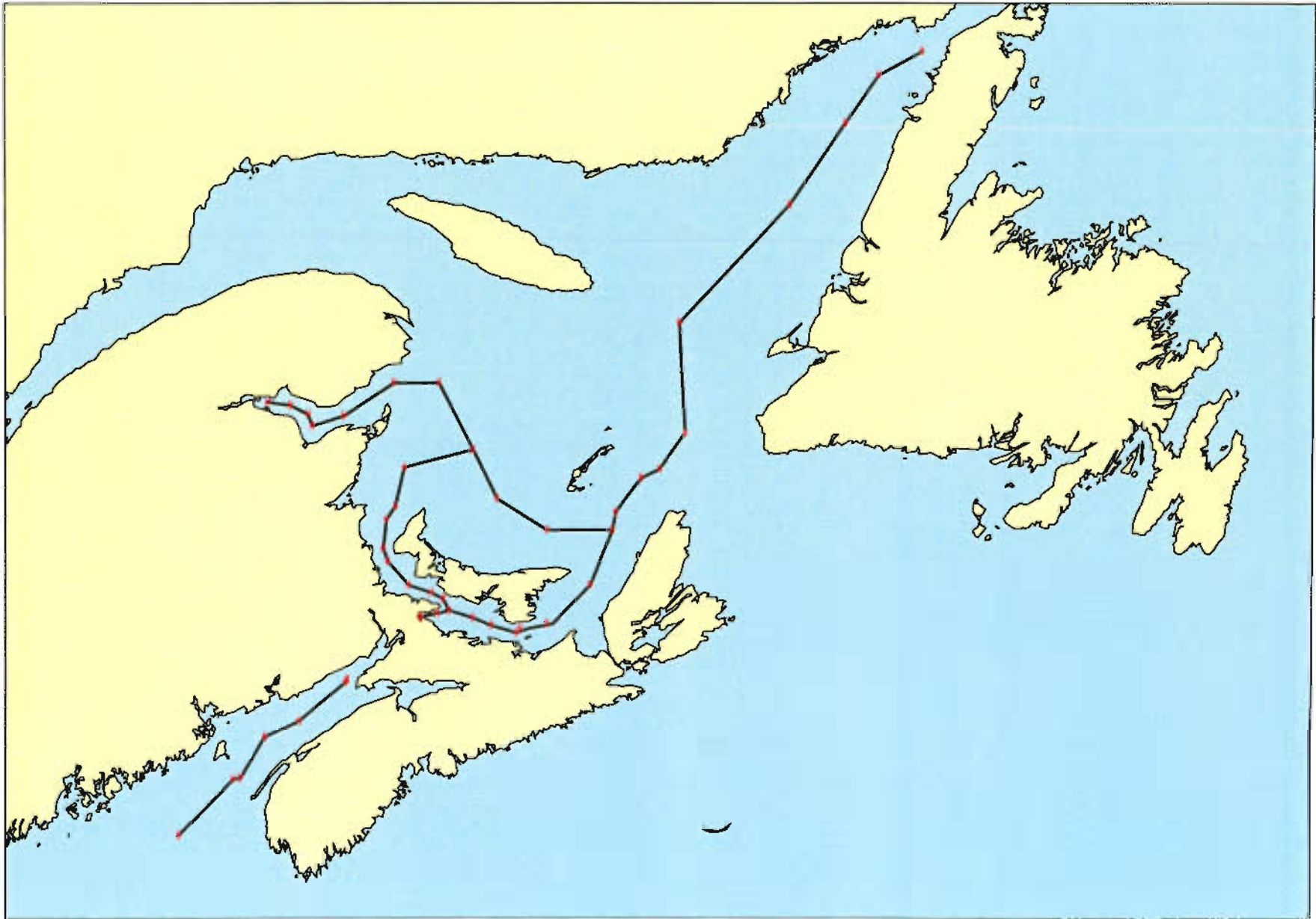
***The Dispute Before the Tribunal Does Not Call Into Question
Other Arrangements Between Provinces***



Oral Presentation Figure 110

NS Memorial Figure 8

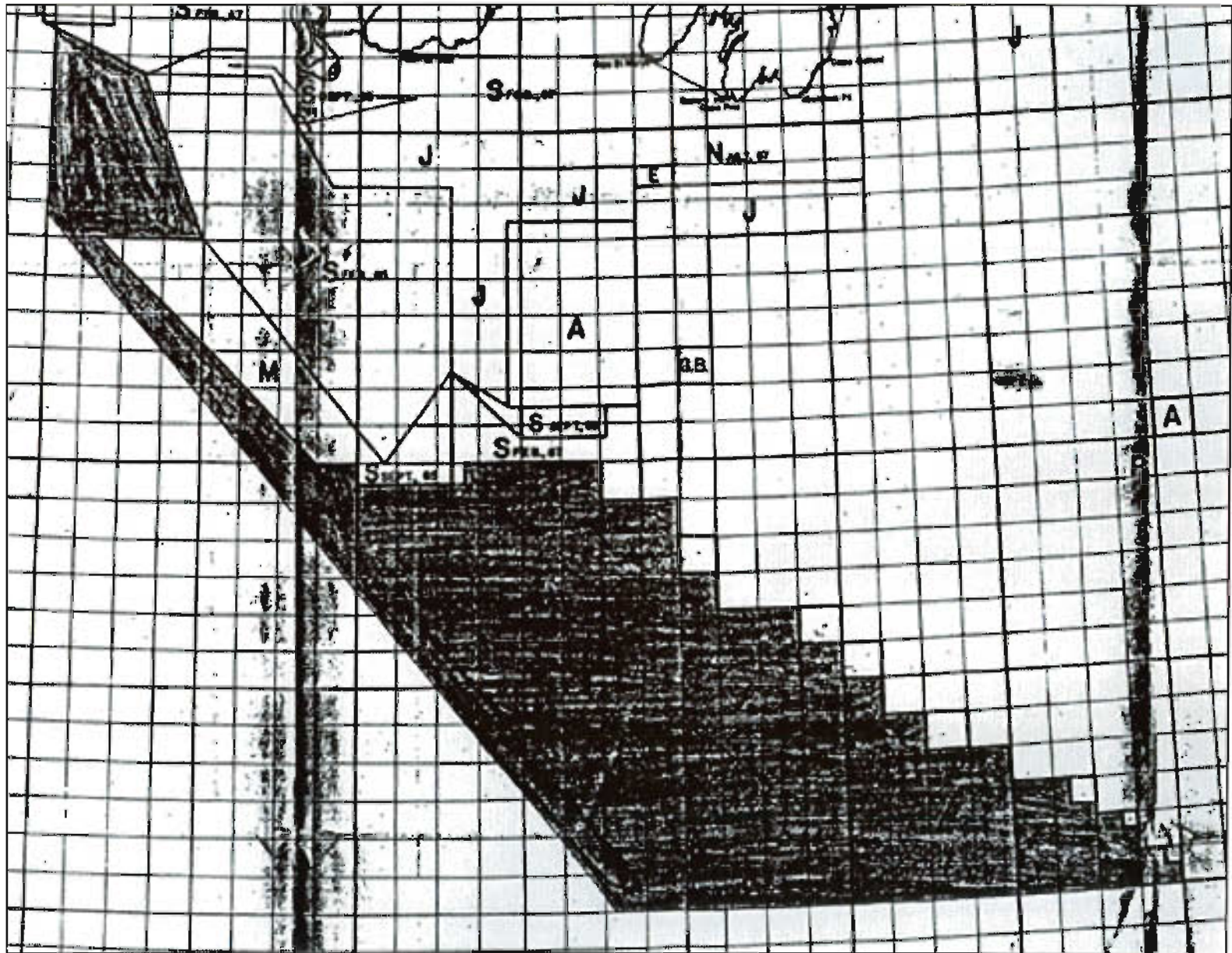
***The Dispute Before the Tribunal Does Not Call Into Question
Other Arrangements Between Provinces***



Oral Presentation Figure 111

N&L CM Figure 11

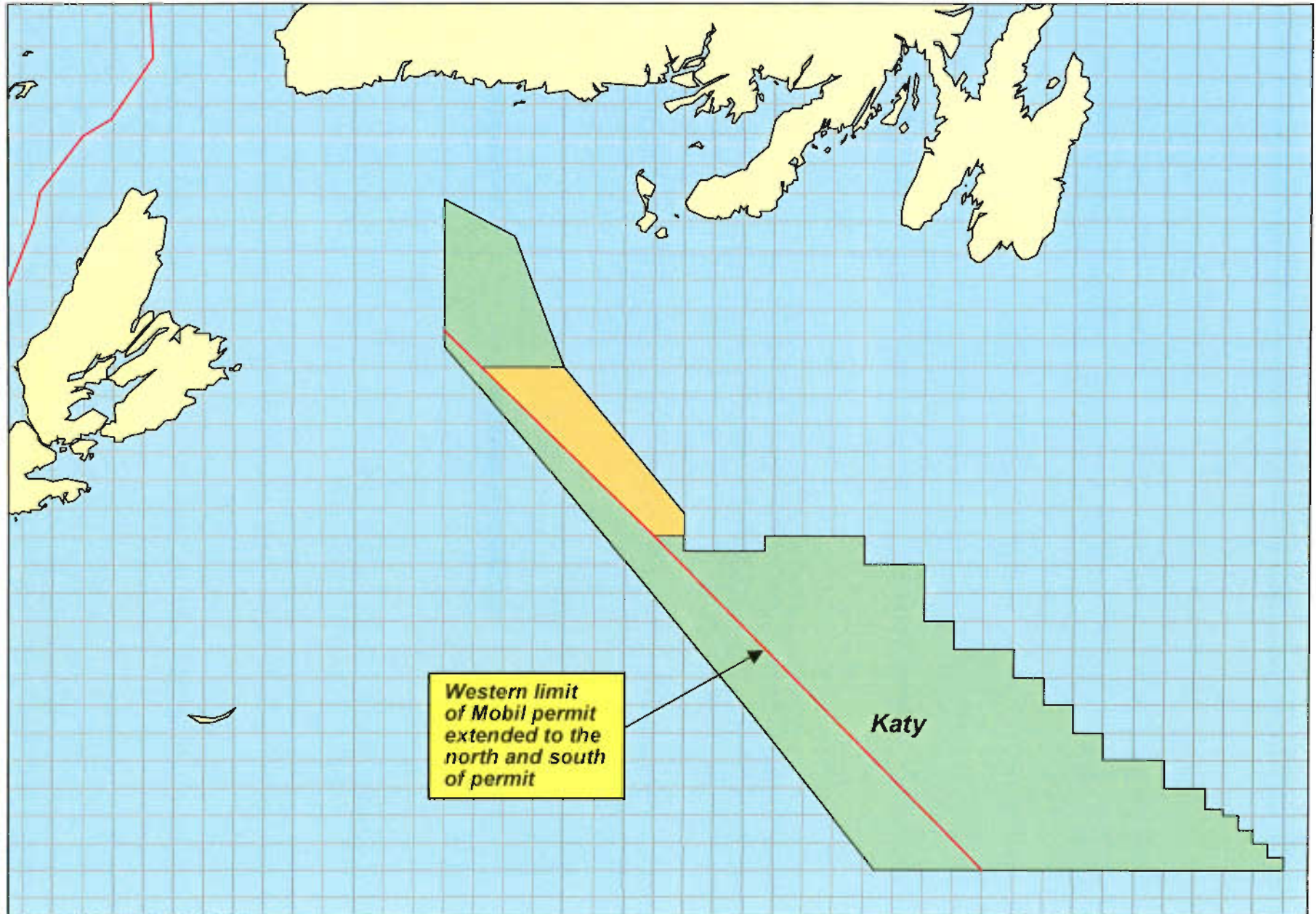
*Interim Permit Issued to Katy on May 19, 1971
Plan Attached to Katy Permit*



Oral Presentation Figure 112

N&L CM Figure 9

Interim Permit Issued to Katy on May 19, 1971

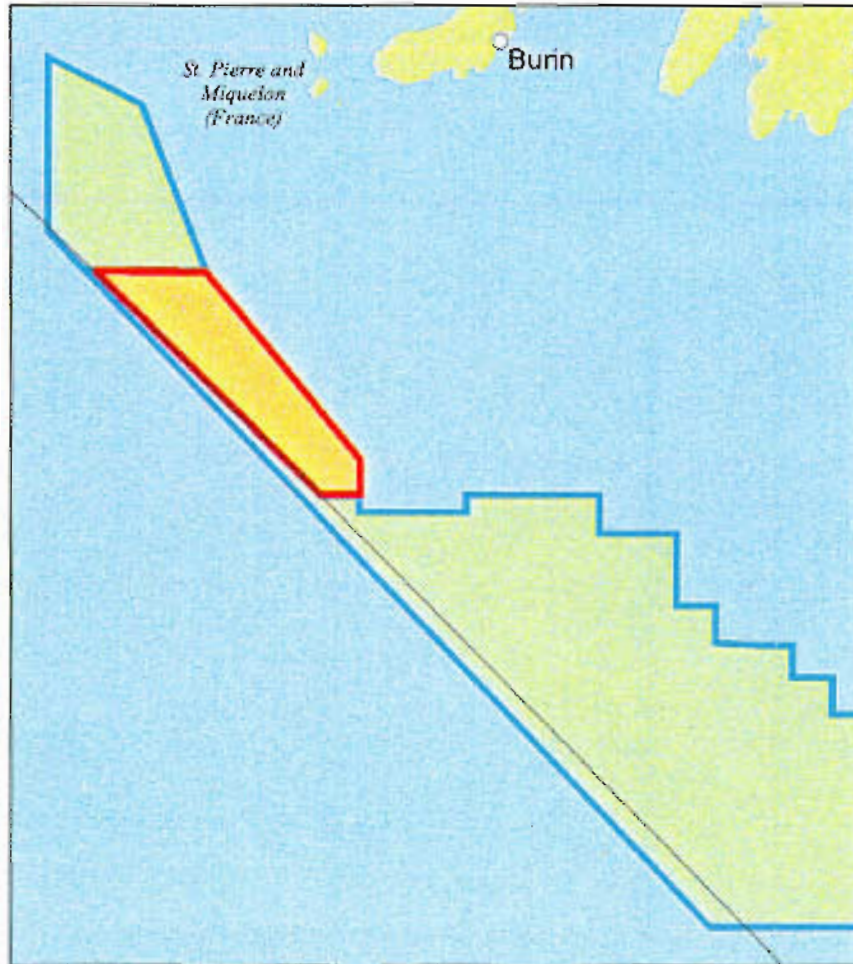


Oral Presentation Figure 113

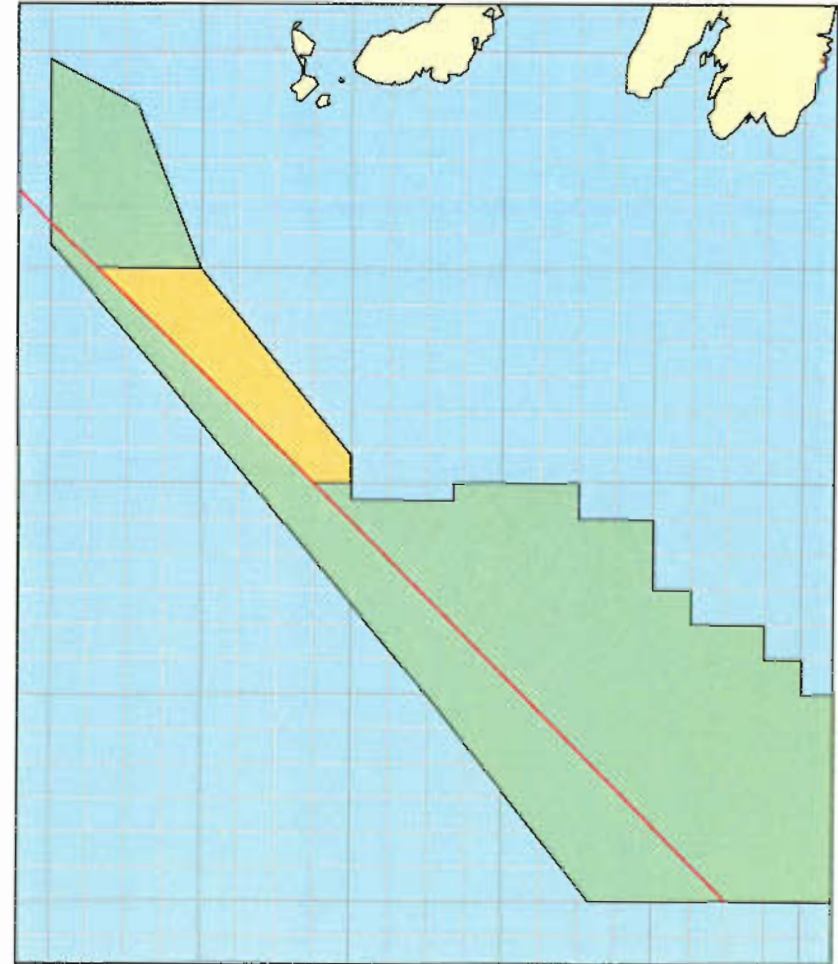
N&L CM Figure 9

Interim Permit Issued to Katy on May 19, 1971

NS Version of Katy Permit on a Mercator Projection as Illustrated in NS Memorial Figure A-4

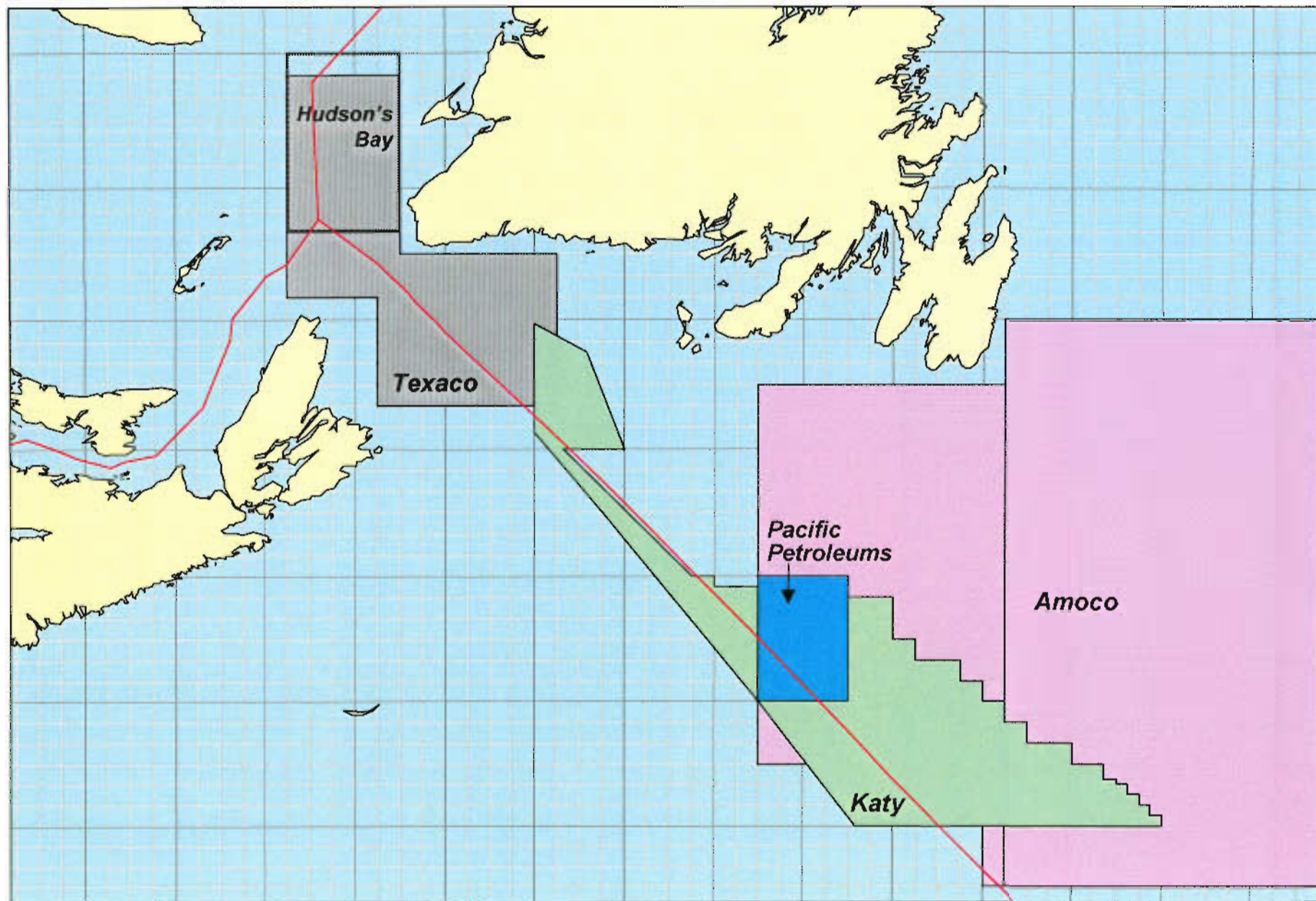


Accurate Depiction of Katy Permit on a Mercator Projection as Illustrated in N&L CM



Nova Scotia's depiction of the Katy permit is based on the assumption that the drafter wanted the western limit of the permit to conform to the alleged 135° line, despite the fact that the Mobil permit was already drawn to a 135° line.

N& L Conduct Did Not Respect the Alleged 135° Line



Oral Presentation Figure 115

Composite of N&L CM Figure 12 & 13

Framework to Assess the Nova Scotia Claim

Claim of 1964 Agreement

Elements of Alleged Agreement

***Description
of Boundaries***

All Purposes

135° Line

***To the
Edge of the
Continental
Margin***

Essential Assumptions

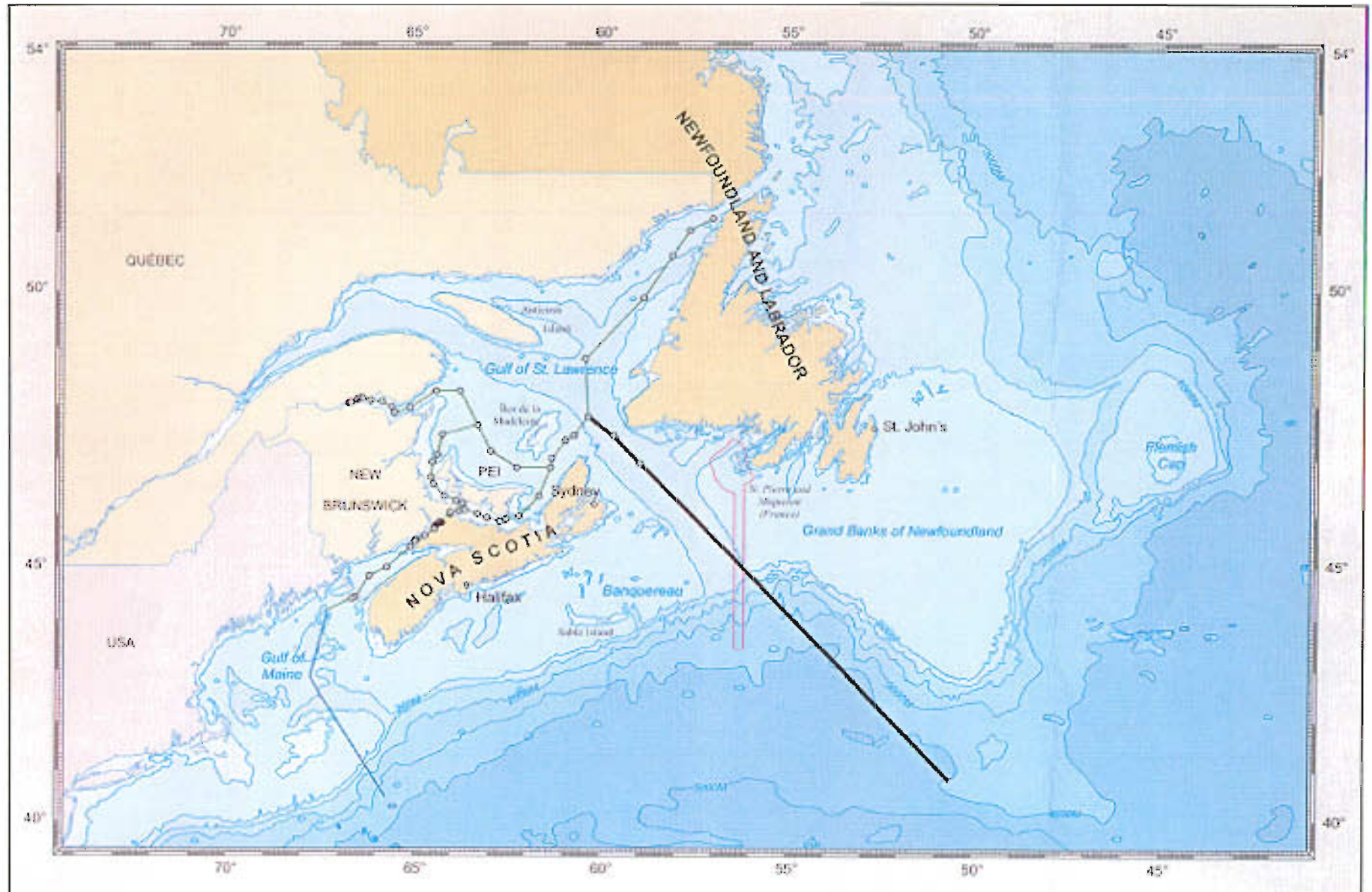
***Intention
to Create a
Legally Binding
Agreement***

***Boundaries Were
Separate From
Ownership***

***The Federal
Government
was Irrelevant***

***Applicable Law
is International
Law of Treaties***

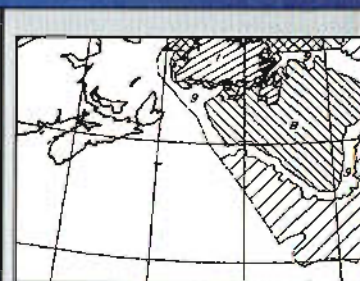
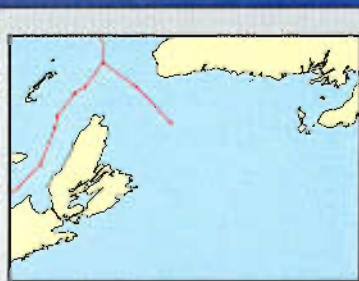
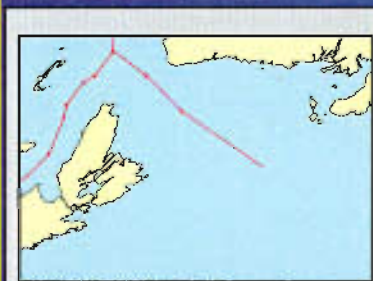
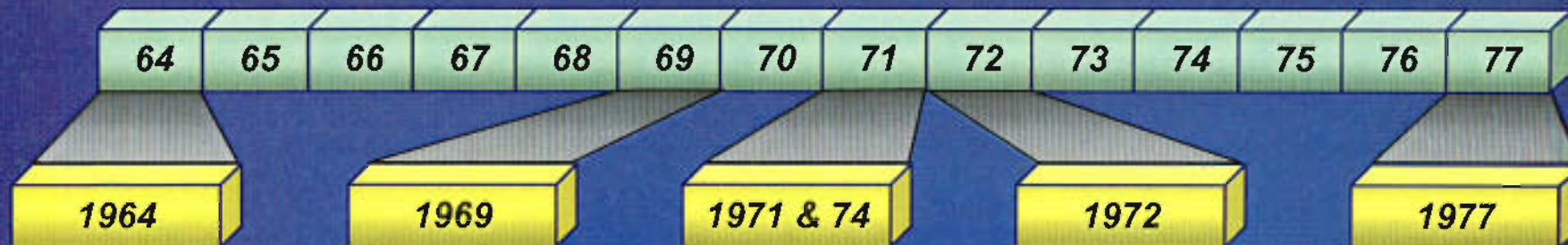
In Figure 29 of the NSCM, Nova Scotia Claims That “The 1964 Agreement Has Been Consistently Applied and Respected by Nova Scotia and Newfoundland”



Oral Presentation Figure 117

NSCM Figure 29

The Inconsistent Application of the Alleged 135° Line



Stanfield Proposal Map
Line extends 85NM beyond TP 2017 on azimuth of about **125°**

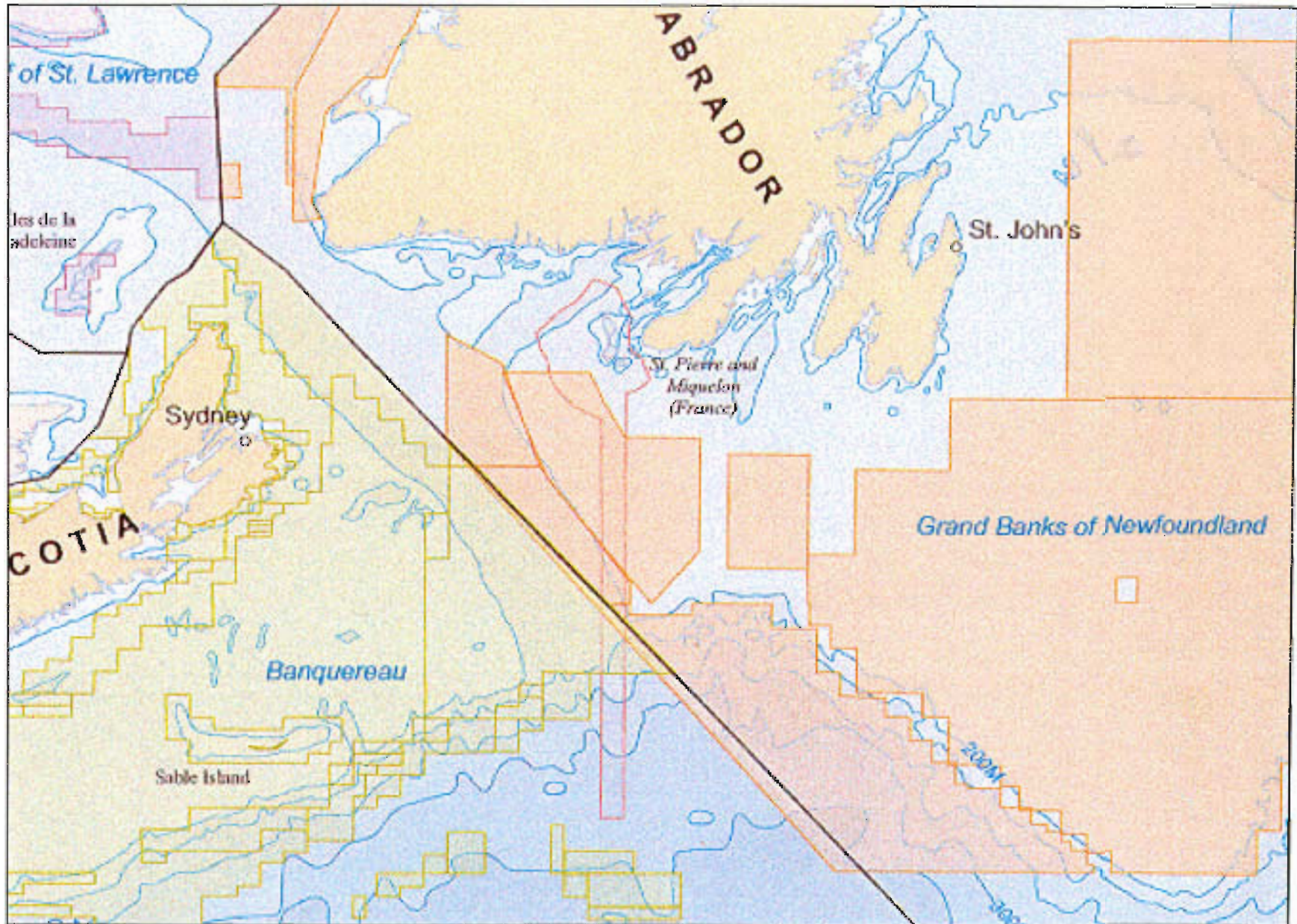
JMRC Map Boundary ends at 2017

Katy, Texaco & Hudson Bay Permits
Clearly **do not respect 135° line.**
NS did not protest

Doody Sketch Stanfield proposal line & dashed line on azimuth of about 145°

1977 N&L Petroleum Regulations
MGT areas clearly **do not respect 135° line.**
NS did not protest

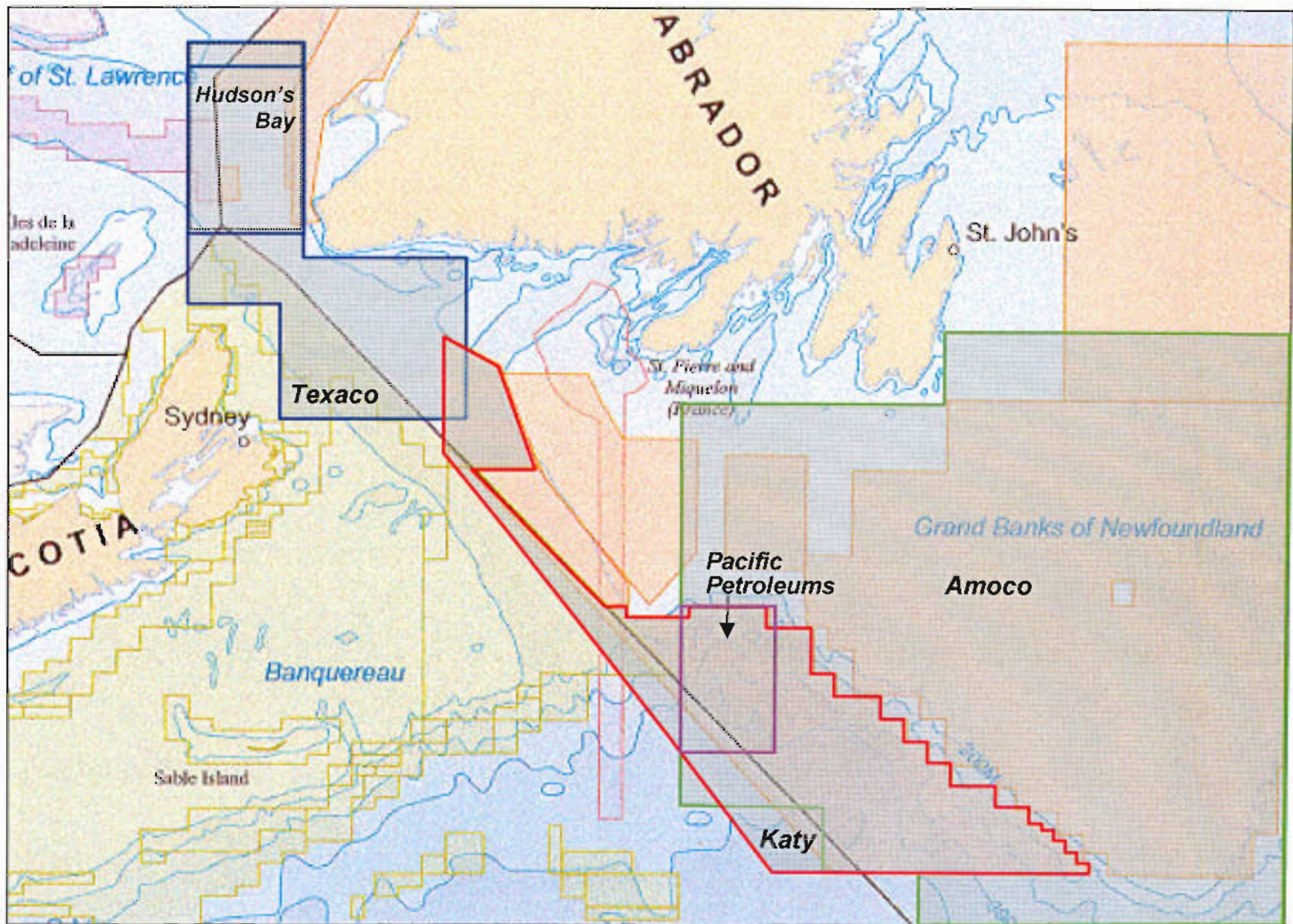
N& L Conduct Did Not Respect the Alleged 135° Line



Oral Presentation Figure 119

NSCM Figure 28

N & L Conduct Did Not Respect the Alleged 135° Line



Oral Presentation Figure 120

Framework to Assess the Nova Scotia Claim

Claim of 1964 Agreement

Elements of Alleged Agreement

***Description
of Boundaries***

All Purposes

135° Line

***To the
Edge of the
Continental
Margin***

Essential Assumptions

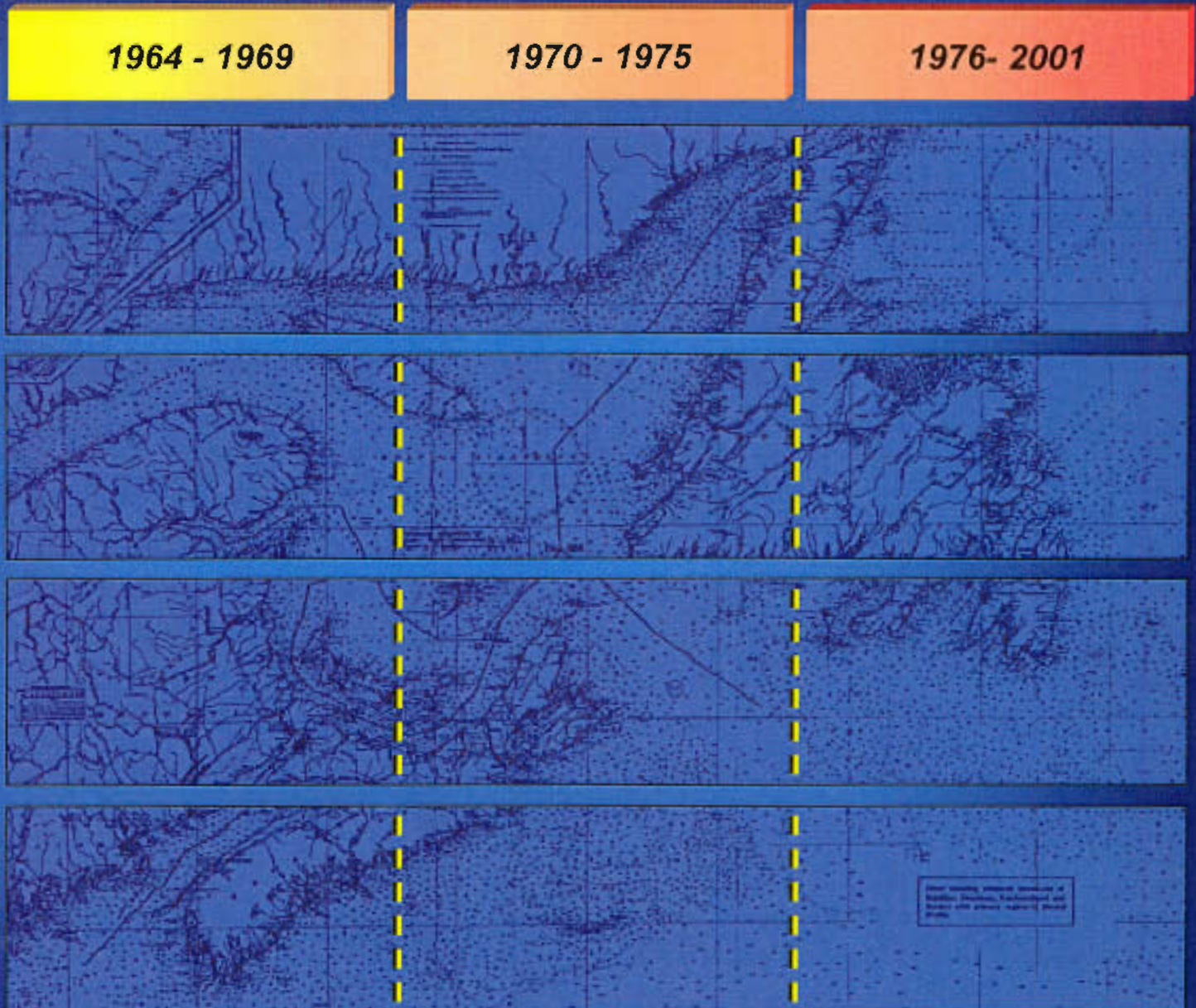
***Intention
to Create a
Legally Binding
Agreement***

***Boundaries Were
Separate From
Ownership***

***The Federal
Government
was Irrelevant***

***Applicable Law
is International
Law of Treaties***

Elements of Alleged Agreement Did Not Exist in 1964 and Were Cobbled Together From a Variety of Sources Spanning 21 Years



Oral Presentation Figure 122

**Description
of Boundaries**

***Elements of Alleged Agreement Did Not Exist
in 1964 and Were Cobbled Together From a
Variety of Sources Spanning 21 Years***

1964 - 1969

***Desirable to agree
on description of
boundaries - only
partially described***

1970 - 1975

***Federal Gov't
rejects ownership
proposal***

1976- 2001

***Boundaries are
resurrected &
modified by NS for
Fed / Prov Accord***

**All
Purposes**

***Elements of Alleged Agreement Did Not Exist
in 1964 and Were Cobbled Together From a
Variety of Sources Spanning 21 Years***

1964 - 1969

***Introduced in
1969 Allard letter***

1970 - 1975

***Allard letter
conditions not
implemented***

1976- 2001

***Allard letter
conditions not
implemented***

135° Line

***Elements of Alleged Agreement Did Not Exist
in 1964 and Were Cobbled Together From a
Variety of Sources Spanning 21 Years***

1964 - 1969

***Southeasterly
Stanfield map
extends 85NM
at about 125°
JMRC ends at 2017***

1970 - 1975

***N&L conduct does
not confirm 135°
Doody line uses
azimuth of 145°***

1976- 2001

***N&L Petroleum
Regulations -
management
areas do not
respect 135°***

To the
Edge of the
Continental
Margin

***Elements of Alleged Agreement Did Not Exist
in 1964 and Were Cobbled Together From a
Variety of Sources Spanning 21 Years***

1964 - 1969

***Southeasterly
to “international
waters”***

1970 - 1975

***JMRC map ends
at 2017***

1976- 2001

***Continental margin
introduced in 82
NS Agreement***

Elements of Alleged Agreement Did Not Exist in 1964 and Were Cobbled Together From a Variety of Sources Spanning 21 Years

	1964 - 1969	1970 - 1975	1976- 2001
Description of Boundaries	Desirable to agree on description of boundaries - only partially described	Federal Gov't rejects ownership proposal	Boundaries are resurrected & modified by NS for Fed / Prov Accords
All Purposes	Introduced in 1969 Allard letter	Allard letter conditions not implemented	Allard letter conditions not implemented
135° Line	Stanfield map extends 85NM at about 125° JMRC ends at 2017	N&L conduct does not confirm 135° Doody line uses azimuth of 145°	N&L Petroleum Regulations - management areas do not respect 135°
To the Edge of the Continental Margin	Southeasterly to "international waters"	JMRC map ends at 2017	Continental margin introduced in 82 NS Agreement

Framework to Assess the Nova Scotia Claim

Claim of 1964 Agreement

Elements of Alleged Agreement

Desirable to Agree on Described Boundaries

All Purposes

135° Line

To the Edge of the Continental Margin

Essential Assumptions

Intention to Create a Legally Binding Agreement

Boundaries Were Separate From Ownership

The Federal Government was Irrelevant

Applicable Law is International Law of Treaties

Essential Assumptions of Alleged Agreement Are Incorrect

1964 - 1969

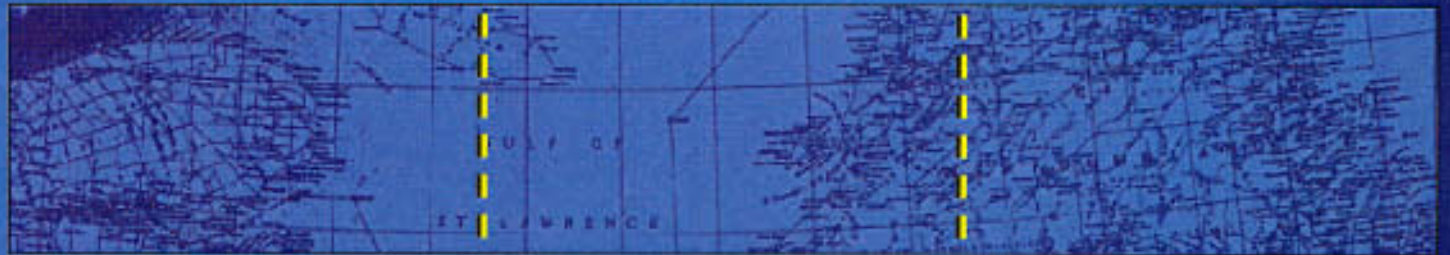
1970 - 1975

1976- 2001

**Intention
to Create a
Legally Binding
Agreement**



**Boundaries
Were Separate
From
Ownership**



**The Federal
Government
was Irrelevant**



**Applicable Law
is International
Law of Treaties**



**Intention
to Create a
Legally Binding
Agreement**

Essential Assumptions of Alleged Agreement Are Incorrect

1964 - 1969

***Desirable to agree
on description of
boundaries - only
partially described***

1970 - 1975

***Allard conditions
not implemented
N&L conduct
does not confirm***

1976- 2001

***Allard conditions
not implemented
N&L conduct
does not confirm***

**Boundaries
Were Separate
From
Ownership**

Essential Assumptions of Alleged Agreement Are Incorrect

1964 - 1969

***64 joint statement
clearly links both
69 Allard letter
clearly links both***

1970 - 1975

***NS abandons
ownership
N&L pursues
own proposal***

1976- 2001

***NS Agreement
and Accord with
Federal Gov't***

**The Federal
Government
was Irrelevant**

Essential Assumptions of Alleged Agreement Are Incorrect

1964 - 1969

***Agreement on
negotiating
position with
Federal Gov't***

1970 - 1975

***Federal Gov't
rejects proposal***

1976- 2001

***NS Agreement
and Accord with
Federal Gov't***

**Applicable Law
is International
Law of Treaties**

Essential Assumptions of Alleged Agreement Are Incorrect

1964 - 1969

***Desire to agree
on proposal to
Federal Gov't -
domestic legal
framework***

1970 - 1975

***Federal Gov't
rejects proposal
Supreme Court
decision
Domestic legal
framework***

1976- 2001

***Accords: delimitation
under Int'l maritime
boundary law
TOR: law of
agreements
requires real intent***

Essential Assumptions of Alleged Agreement Are Incorrect

	1964 - 1969	1970 - 1975	1976- 2001
Intention to Create a Legally Binding Agreement	Desirable to agree on description of boundaries - only partially described	Allard conditions not implemented N&L conduct does not confirm	Allard conditions not implemented N&L conduct does not confirm
Boundaries Were Separate From Ownership	64 joint statement clearly links both 69 Allard letter clearly links both	NS abandons ownership N&L pursues own proposal	NS Agreement and Accord with Federal Gov't
The Federal Government was Irrelevant	Agreement on negotiating position with Federal Gov't	Federal Gov't rejects proposal	NS Agreement and Accord with Federal Gov't
Applicable Law is International Law of Treaties	Desire to agree on proposal to Federal Gov't - domestic legal framework	Federal Gov't rejects proposal Supreme Court decision Domestic framework	Accords: delimitation under Int'l maritime boundary law TOR: law of agreements requires real intent

Basis of the Nova Scotia Claim

Claim of 1964 Agreement

Elements of Alleged Agreement

Desirable to Agree on Described Boundaries

~~All Purposes~~

~~135° Line~~

~~To the Edge of the Continental Margin~~

Essential Assumptions

~~Intention to Create a Legally Binding Agreement~~

~~Boundaries Were Separate From Ownership~~

~~The Federal Government was Irrelevant~~

~~Applicable Law is International Law of Treaties~~

There is no Basis to the Nova Scotia Claim

Claim of 1964 Agreement

Elements of Alleged Agreement

Desirable to Agree on Described Boundaries

All Purposes

13th June

Edges of the Continental Shelf

Essential Assumptions

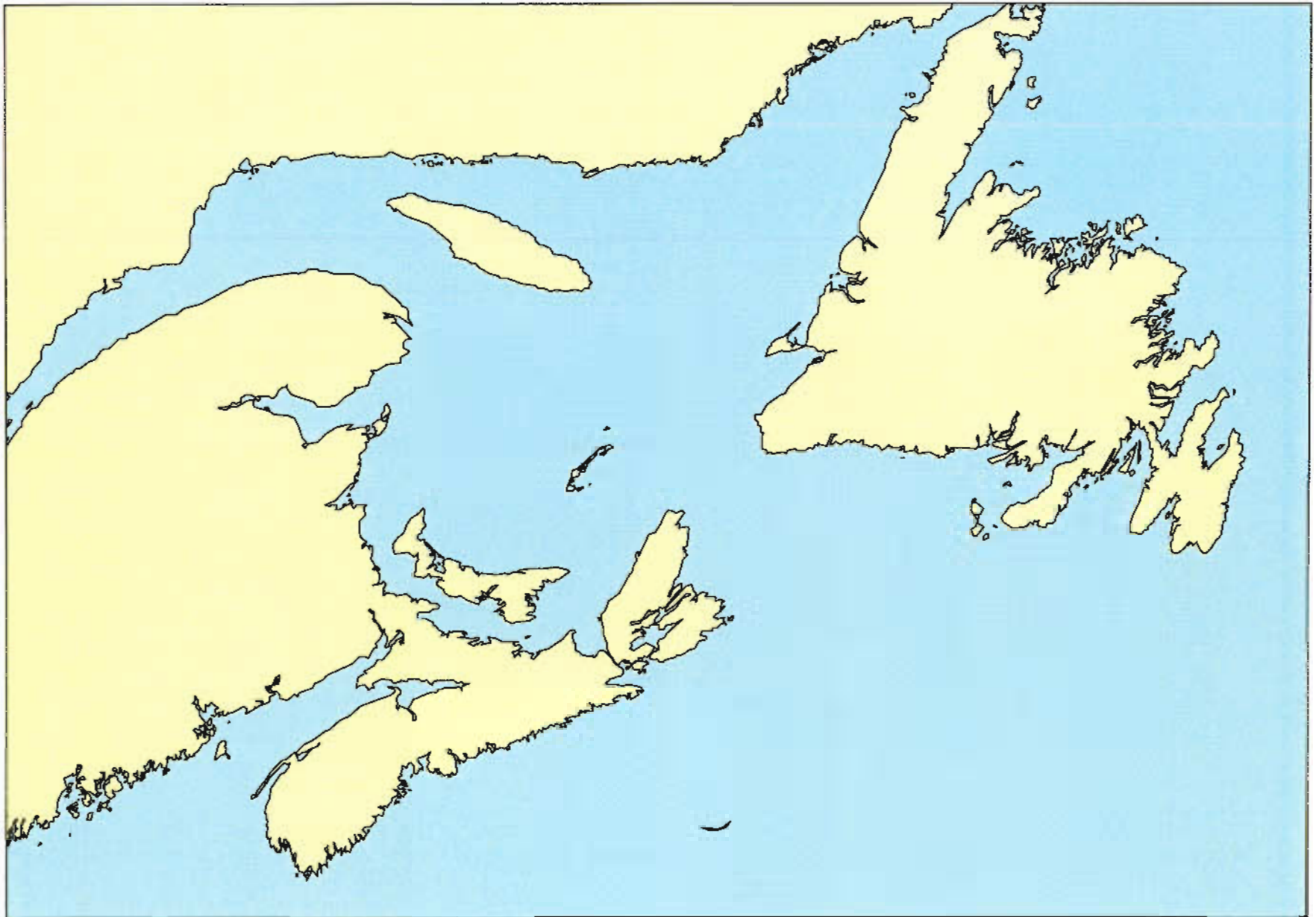
Intention to Create a Legally Binding Agreement

Boundaries Were Separated From Ownership

The Federal Government was Relevant

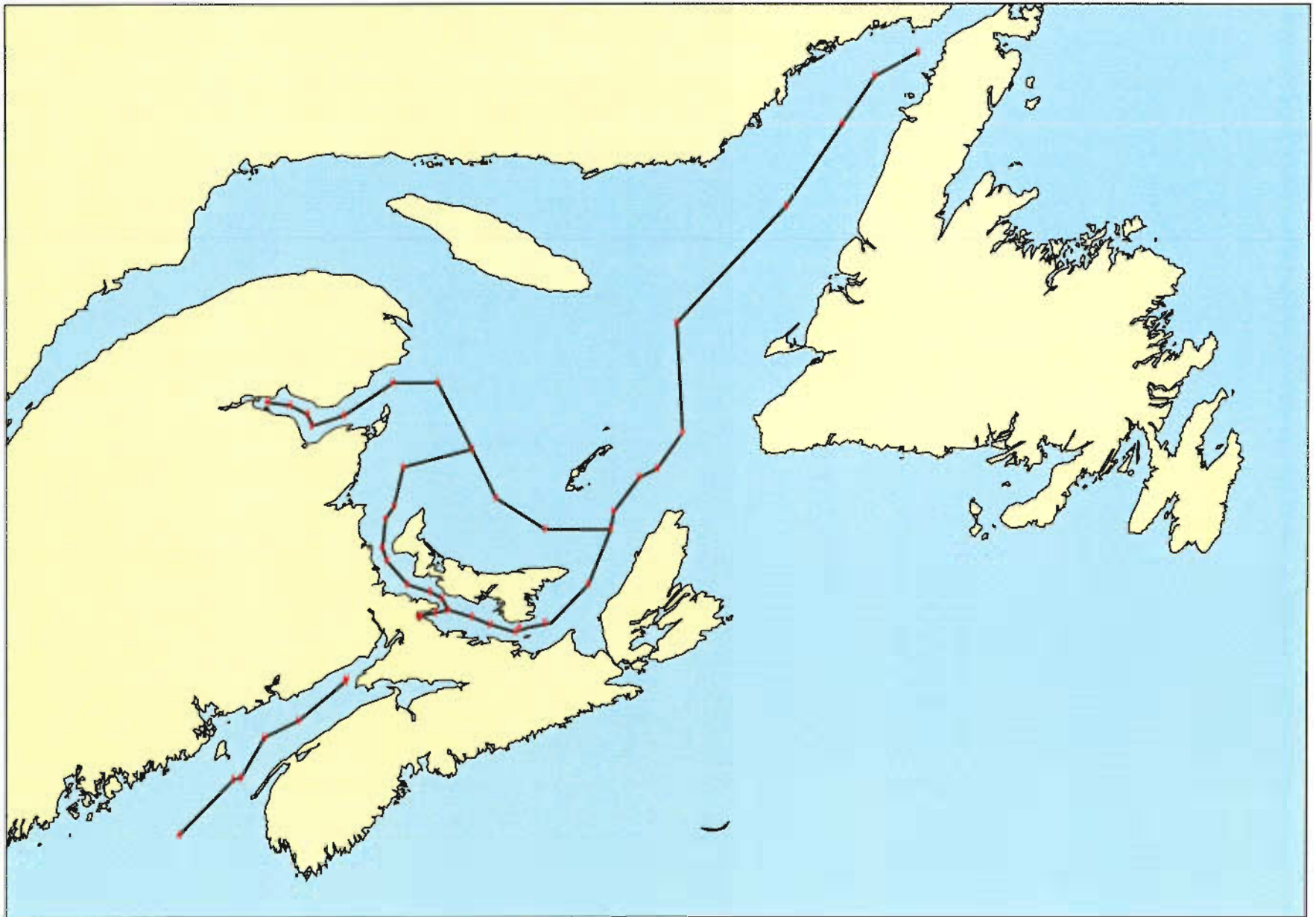
Applicable Law is International Law, Not Treaties

The Lines in Question Before the Tribunal



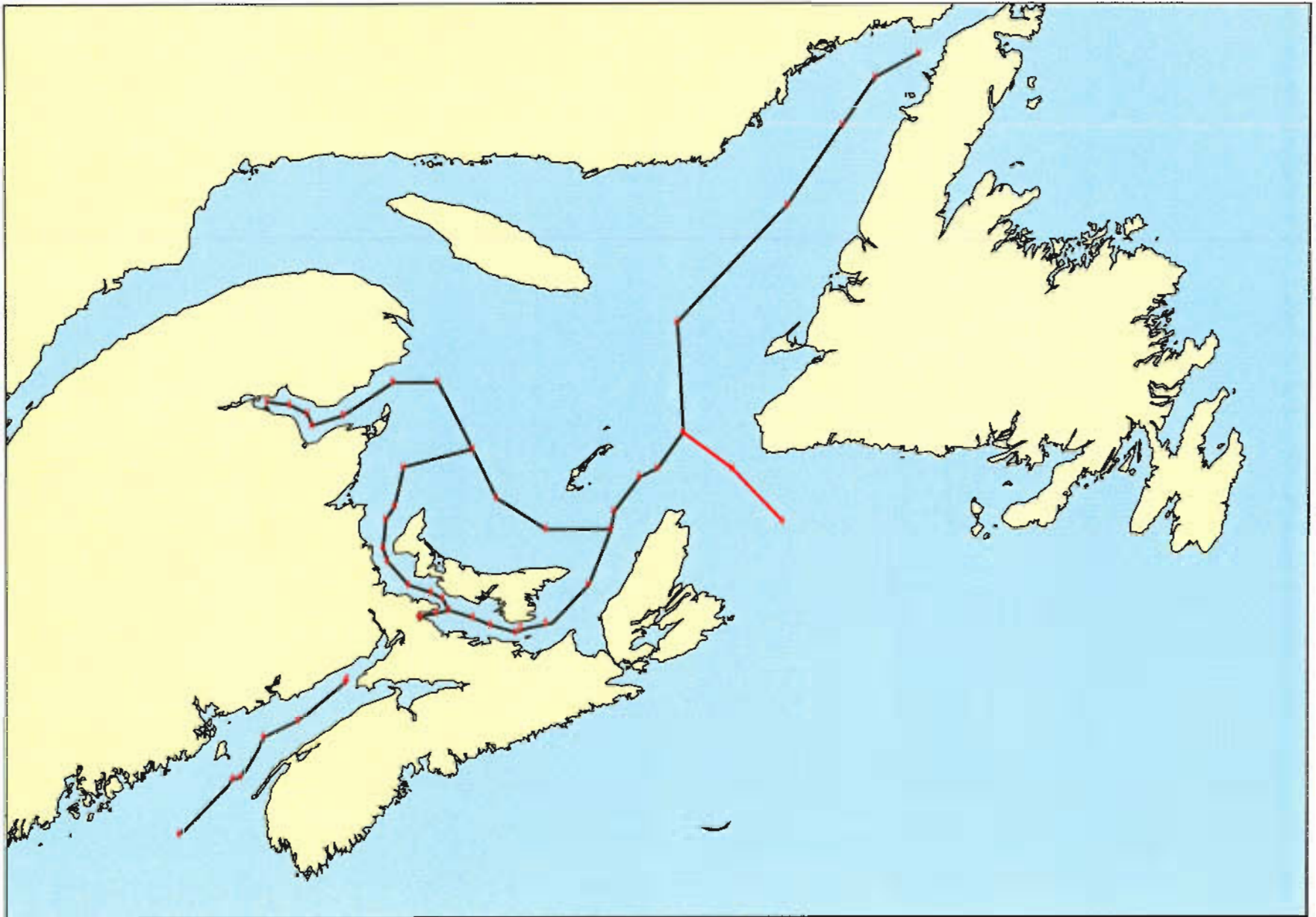
Oral Presentation Figure 137

The Lines in Question Before the Tribunal



Oral Presentation Figure 138

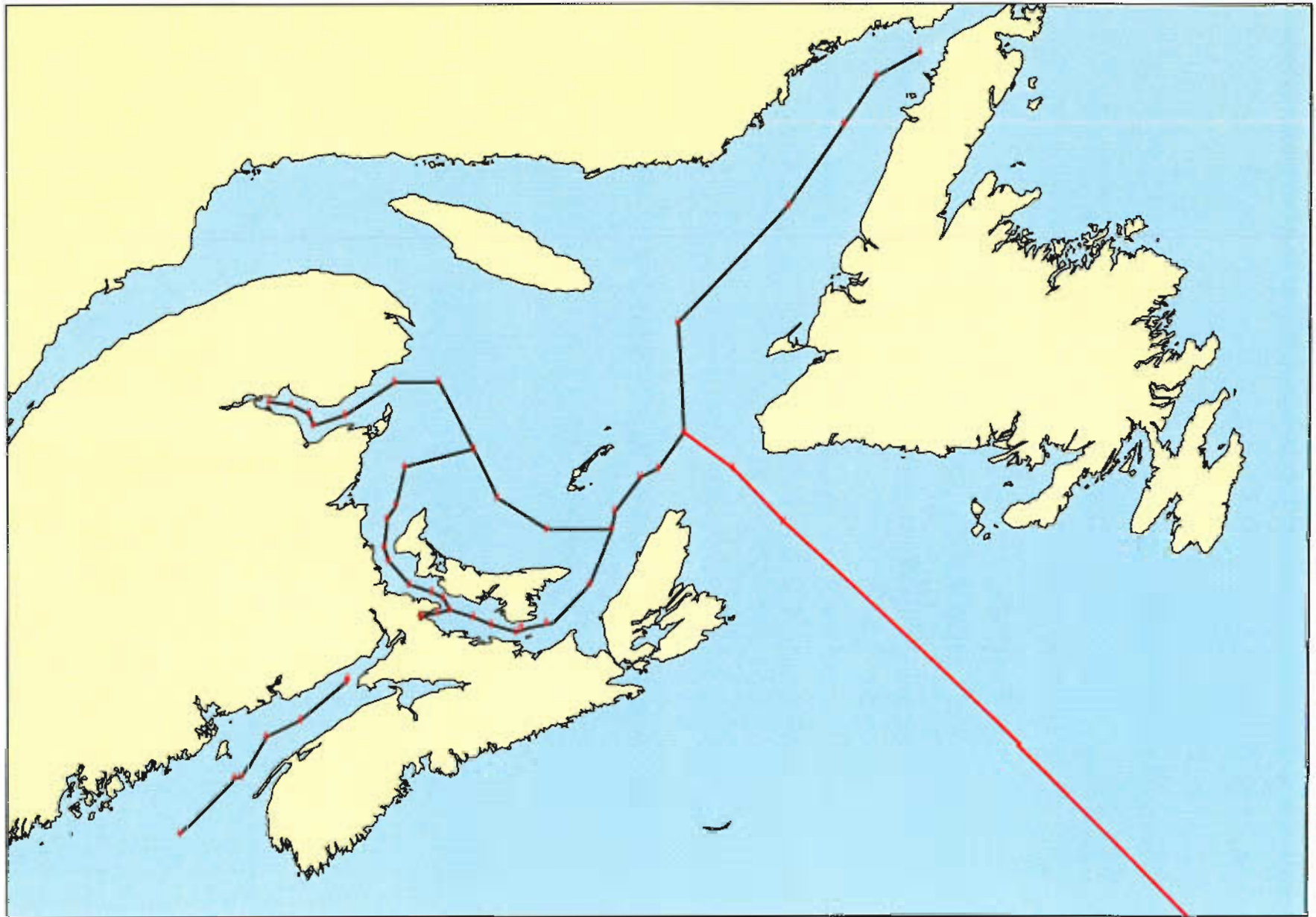
The Lines in Question Before the Tribunal



Oral Presentation Figure 139

N&L CM Figure 11

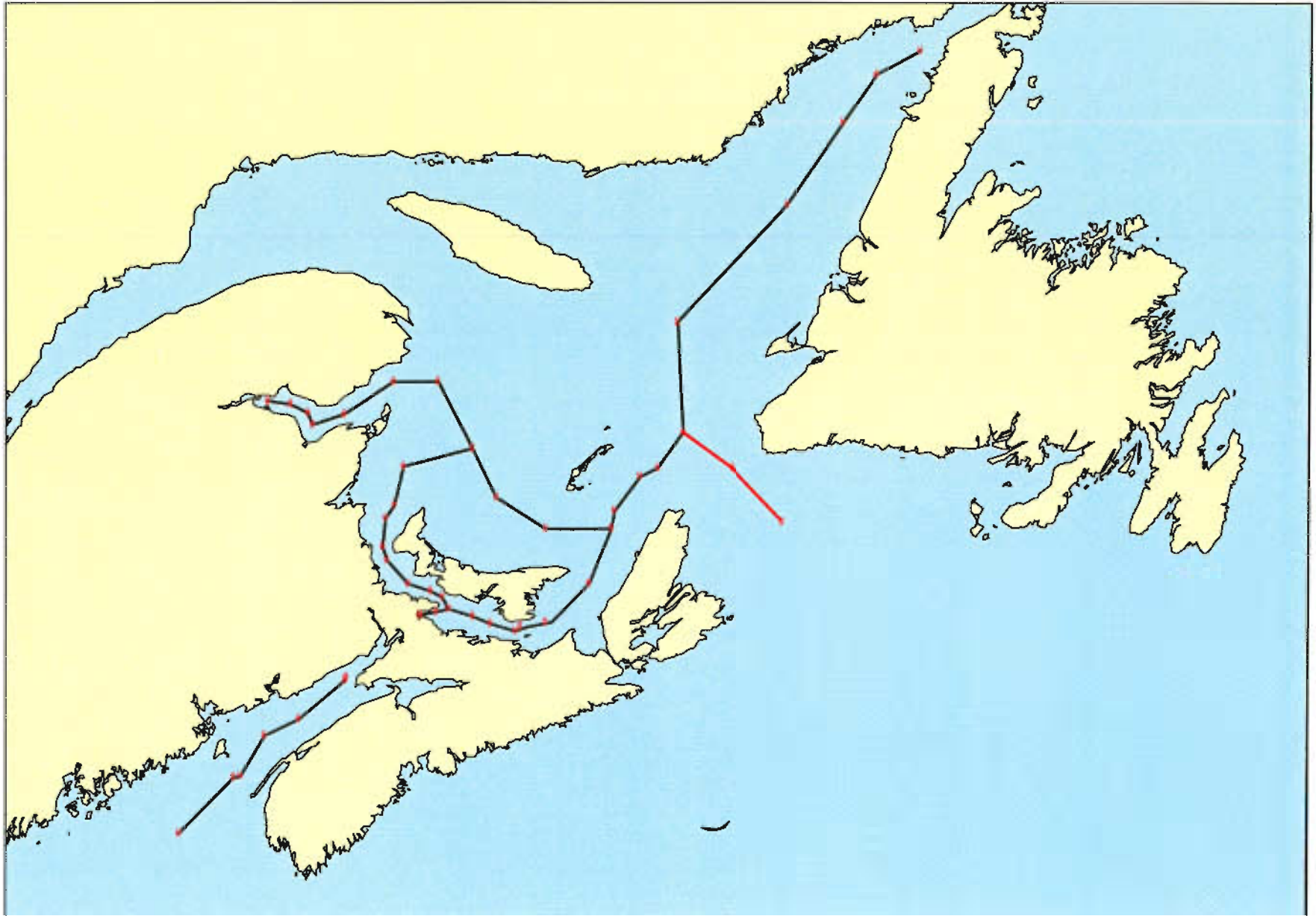
The Lines in Question Before the Tribunal



Oral Presentation Figure 140

NS Memorial Figure 8

The Lines in Question Before the Tribunal



Oral Presentation Figure 141

N&L CM Figure 11

There is no Basis to the Nova Scotia Claim

Claim of 1964 Agreement

Elements of Alleged Agreement

Desirable to Agree on Described Boundaries

All Expenses

13% Fine

Edge of the Continental Shelf

Essential Assumptions

Intention to Create a Legally Binding Agreement

Boundaries Were Separated From Confederation

The Federal Government was Relevant

Applicable Law is International Law of Treaties