

PART VI: CONCLUSION AND SUBMISSION

1. The Tribunal is to determine whether the line dividing the respective “offshore areas” of Nova Scotia and Newfoundland has been resolved by agreement. The Tribunal’s mandate, stated unequivocally in the Terms of Reference, requires it to resolve this issue by applying principles of international law governing maritime boundary delimitation, as if the parties were States at all relevant times.
2. The question is therefore the following: under international law, would two States that conducted themselves as have Nova Scotia and Newfoundland be found to have concluded a binding agreement on their offshore boundary? The answer, based on all of the evidence, must be *Yes*.
3. The evidence, as contained in the documents submitted by both parties, reveals that the Nova Scotia-Newfoundland boundary was established in 1964, in the context of an Agreement concluded among the Premiers of Canada’s five East Coast Provinces. The *1964 Agreement* in fact established boundaries between and among all five East Coast Provinces, specifically for the purpose of facilitating the exploration and development of the mineral resources of the continental shelf. Those boundaries were reconfirmed by the Provinces on numerous occasions, were respected and applied by them in their subsequent conduct and have in fact stood unchallenged – that is, until Newfoundland initiated this dispute.
4. Newfoundland claims that Nova Scotia and Newfoundland never agreed on their boundary. In this Counter-Memorial, Nova Scotia has demonstrated that there is no basis, in law or in fact, on which that claim can be sustained.
5. Applying the principles of international law relevant to this arbitration, including the principle of *pacta sunt servanda*, one is led inescapably to the conclusion that the line dividing the respective offshore areas of Nova Scotia and Newfoundland has been resolved by agreement. To conclude otherwise would be to erase boundaries that have been in place since 1964, that have been relied upon and that have provided stability and economic benefits to all parties in the region over 30 years.


6. Accordingly, and for the reasons expressed in its Memorial dated December 1, 2000 and in this Counter-Memorial, the Province of Nova Scotia submits that the Tribunal, in accordance with Article Thirteen and following of the *Terms of Reference*, should DECLARE:

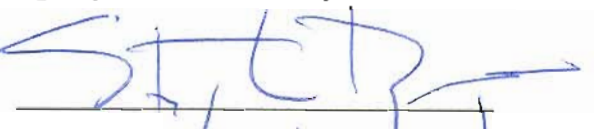
- (1) THAT the line dividing the respective offshore areas of the Province of Newfoundland and Labrador and the Province of Nova Scotia has been resolved by agreement;
- (2) THAT this finding determines the line dividing the respective offshore areas of the Province of Newfoundland and Labrador and the Province of Nova Scotia, in accordance with Article Three of the *Terms of Reference*;
- (3) THAT the delineation of that line is correctly set out in the *Canada-Nova Scotia Offshore Petroleum Resources Implementation Act* (S.C. 1988, c. 3), Schedule I, as it relates to the limits of the offshore area of Nova Scotia along the boundary with Newfoundland and Labrador, as follows:
 - from a point at latitude 47° 45' 40" and longitude 60° 24' 17", being approximately the midpoint between Cape Anguille (Newfoundland) and Pointe de l'Est (Québec);
 - thence southeasterly in a straight line to a point at latitude 47° 25' 28" and longitude 59° 43' 33", being approximately the midpoint between St. Paul Island (Nova Scotia) and Cape Ray (Newfoundland);

- thence southeasterly in a straight line to a point at latitude 46° 54' 50" and longitude 59° 00' 30", being approximately the midpoint between Flint Island (Nova Scotia) and Grand Bruit (Newfoundland);
 - thence southeasterly in a straight line and on an azimuth of 135° 00' 00" to the outer edge of the continental margin.
- (4) THAT the Federal Minister of Natural Resources should recommend that the Governor-in-Council, by regulations made pursuant to sections 5(1), 6(5) and 7 of the *Canada-Newfoundland Atlantic Accord Implementation Act*, prescribe the line dividing the parties' respective offshore areas for the purpose of paragraph (a) of the definition of "offshore area" in section 2 of the *Canada-Newfoundland Atlantic Accord Implementation Act* in accordance with the delineation set out in the relevant parts of Schedule I to the *Canada-Nova Scotia Offshore Petroleum Resources Implementation Act*.

THE WHOLE, respectfully submitted by the Province of Nova Scotia.

Montréal, 15 February 2001.


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