

**TABLE OF CONTENTS**  
**PART I : INTRODUCTION**

<b>A.</b>	<b>THE DISPUTE.....</b>	<b>2</b>
i)	The Underlying Legislation.....	2
ii)	The History Of The Dispute.....	6
iii)	The Dispute Settlement Provisions.....	8
iv)	The Recourse To Arbitration And The Establishment Of The Tribunal .....	10
<b>B.</b>	<b>THE MANDATE OF THE TRIBUNAL .....</b>	<b>10</b>
i)	The Question To Be Determined By The Tribunal.....	11
ii)	The Law To Be Applied In Answering The Question.....	13
<b>C.</b>	<b>OVERVIEW OF NOVA SCOTIA’S ARGUMENT .....</b>	<b>14</b>

\* \* \* \* \*

**TABLE OF CONTENTS**  
**PART II: THE FACTS**

A.	Introduction .....	1
B.	In 1964 The Five East Coast Provinces Concluded An Agreement Dividing Their Respective Offshore Areas.....	3
i)	Initial Consideration Of Mineral Rights And Boundaries: 1958-1964 .....	4
ii)	The Agreement of September 30, 1964 .....	8
a)	The Conference Of Premiers Of The Atlantic Provinces Of September 30, 1964.....	9
b)	Accession Of Québec To The <i>1964 Agreement</i> .....	12
c)	Joint Submission To The Federal-Provincial Conference Of October 14-15, 1964 .....	14
C.	The Boundaries Established In The <i>1964 Agreement</i> Are Described In The Annex To The <i>Joint Submission</i> To The Federal-Provincial Conference Of October 14-15, 1964 .....	17
D.	In 1972, The Technical Coordinates Of The Agreed Boundaries Were Fixed .....	19
i)	Specification Of Coordinates For The <i>1964 Agreement</i> : 1968- 1969 .....	20
ii)	Approval Of Technical Coordinates By The Five Premiers: June 1972 .....	23
E.	In 1973, Newfoundland Initiated Separate Negotiations With The Federal Government Regarding Jurisdiction Over Submarine Minerals While Confirming The Interprovincial Boundaries Established In The <i>1964 Agreement</i> .....	32
i)	Newfoundland's Reasons For Initiating Separate Negotiations With The Government Of Canada In 1973 Did Not Relate To Interprovincial Boundaries .....	33
ii)	Newfoundland's 1973 Proposal Affirmed The <i>1964 Agreement</i> .....	35

F.	The <i>1964 Agreement</i> Has Been Consistently Applied By Nova Scotia In Intergovernmental Agreements And In Legislation .....	37
i)	The <i>1977 MOU</i> .....	37
ii)	The <i>1982 Canada – Nova Scotia Agreement</i> .....	39
iii)	The 1986 Canada – Nova Scotia Accord And 1988 Canada- Nova Scotia Act .....	41
G.	The <i>1964 Agreement</i> Has Also Been Applied By Prince Edward Island, New Brunswick And Québec.....	42
i)	New Brunswick.....	42
ii)	Prince Edward Island .....	42
iii)	Québec.....	43
H.	The <i>1964 Agreement</i> Has Been Applied As Well By Newfoundland And Nova Scotia In Issuing Offshore Exploration Permits .....	44
i)	Nova Scotia .....	45
ii)	Newfoundland .....	46
iii)	Summary Of The Parties’ Permit Activity.....	50
I.	In 1985 Newfoundland Finally Concluded An Accord With The Government Of Canada .....	50
J.	Summary Of The Facts .....	51

**TABLE OF CONTENTS**  
**PART III: THE APPLICABLE LAW**

<b>A.</b>	<b>THE <i>TERMS OF REFERENCE</i> REQUIRE THE APPLICATION OF INTERNATIONAL LAW.....</b>	<b>1</b>
<b>B.</b>	<b>THE FUNDAMENTAL REQUIREMENT FOR CONCLUSION OF A BINDING AGREEMENT AT INTERNATIONAL LAW IS THE PARTIES' INTENT TO BE BOUND.....</b>	<b>3</b>
	i) International Law Requires No Particular Form For Binding Agreements .....	3
	ii) The Parties' Intent To Be Bound Is The Key .....	6
<b>C.</b>	<b>THE PRINCIPLES OF INTERNATIONAL LAW GOVERNING THE INTERPRETATION OF AGREEMENTS ARE WELL SETTLED .....</b>	<b>8</b>
	i) Agreements Are to Be Interpreted in Good Faith in Accordance with the Ordinary Meaning of their Terms.....	8
	ii) The Subsequent Conduct Of Tbe Parties .....	9
<b>D.</b>	<b>THE PRINCIPLES OF ACQUIESCENCE AND ESTOPPEL CONSTITUTE ALTERNATIVE GROUNDS FOR FINDING THAT THE BOUNDARY BETWEEN NOVA SCOTIA AND NEWFOUNDLAND HAS BEEN RESOLVED BY AGREEMENT .....</b>	<b>12</b>
	i) The Principles Of Acquiescence And Estoppel Are Well Recognised At International Law .....	12
	ii) The Concepts Of Acquiescence And Estoppel Are Interrelated.....	13
	iii) There Is Considerable International Jurisprudence Applying The Doctrine Of Estoppel .....	15
<b>E.</b>	<b>SUMMARY OF THE APPLICABLE LAW.....</b>	<b>16</b>

## TABLE OF CONTENTS

### PART VI: APPLICATION OF THE LAW TO THE FACTS

A.	INTRODUCTION .....	1
B.	THE APPLICATION OF THE PRINCIPLES OF INTERNATIONAL LAW CONFIRMS THAT ON SEPTEMBER 30, 1964, NOVA SCOTIA AND NEWFOUNDLAND, AS WELL AS THE OTHER EAST COAST PROVINCES, CONCLUDED A BINDING AGREEMENT DIVIDING THEIR RESPECTIVE OFFSHORE AREAS.....	1
i)	An Agreement Was Concluded At The Conference Of September 30, 1964 .....	1
ii)	The Parties Intended To Be Bound By The <i>1964 Agreement</i> .....	3
a)	The Terms Of The <i>1964 Agreement</i> Demonstrate Binding Intent .....	4
•	The Plain Words Of The 1964 Agreement .....	4
•	The Object And Purpose Of The 1964 Agreement.....	5
b)	The Subsequent Conduct Of The East Coast Provinces, In Particular Newfoundland And Nova Scotia, Demonstrates Their Intent To Be Bound .....	6
•	The Conduct Of Newfoundland .....	6
•	The Conduct Of Nova Scotia .....	10
•	The Conduct Of New Brunswick, Prince Edward Island And Québec.....	11
C.	THE APPLICATION OF THE PRINCIPLES OF INTERNATIONAL LAW CONFIRMS THAT THE PROVINCES AGREED IN 1964 TO BOUNDARIES THAT EXTEND TO THE OUTER LIMITS OF STATE JURISDICTION OVER THE CONTINENTAL SHELF.....	11
i)	The Terms Of The <i>1964 Agreement</i> Confirm That The Provinces Established Boundaries Extending To The Limits Of The Continental Shelf Subject To State Jurisdiction .....	11

a)	<b>The Plain Words Of The <i>1964 Agreement</i> Reveal That The Provinces Established Boundaries Extending To The Limits Of The Continental Shelf Subject To State Jurisdiction .....</b>	<b>11</b>
•	<b>The Method Used To Delimit The Outer Segment Of The Boundary .....</b>	<b>13</b>
•	<b>The Direction Of The Outer Segment Of The Line Dividing The Parties' Offshore Areas: The 135° Azimuth.....</b>	<b>14</b>
•	<b>The Extent Of The Line: "To International Waters" .....</b>	<b>15</b>
•	<b>The Map Depicting The Boundaries Established In The 1964 Agreement.....</b>	<b>16</b>
b)	<b>The Object And Purpose Of The <i>1964 Agreement</i> Confirm That The Provinces Established Boundaries Extending To The Limits Of The Continental Shelf Subject To State Jurisdiction .....</b>	<b>18</b>
ii)	<b>The Subsequent Conduct Of The Parties Confirms That The <i>1964 Agreement</i> Established Boundaries To The Limits Of The Continental Shelf Subject To State Jurisdiction .....</b>	<b>20</b>
a)	<b>Offshore Permit Issuance By Nova Scotia And Newfoundland .....</b>	<b>20</b>
b)	<b>The 1972 Technical Delineation Of The Turning Points .....</b>	<b>22</b>
c)	<b>The 1973 Newfoundland Proposal To The Federal Government.....</b>	<b>23</b>
d)	<b>The <i>1982 Canada – Nova Scotia Agreement</i> And Implementing Legislation.....</b>	<b>24</b>
D.	<b>THE BOUNDARIES ESTABLISHED IN THE <i>1964 AGREEMENT</i> APPLY FOR "ANY AND ALL" PURPOSES.....</b>	<b>26</b>

i)	<b>The Terms Of The <i>1964 Agreement</i> Require The Provinces To Apply Their Agreed Boundaries For Any And All Purposes Relating To Submarine Minerals .....</b>	<b>26</b>
ii)	<b>The Subsequent Conduct Of The Provinces Supports This Interpretation .....</b>	<b>26</b>
a)	<b>In 1972, The Provinces Were Already Considering A Range Of Possible Jurisdictional Deals .....</b>	<b>26</b>
b)	<b>The Provinces In Fact Incorporated Their Agreed Boundaries In Subsequent Intergovernmental Agreements .....</b>	<b>29</b>
•	<b>Agreements Entered Into By Nova Scotia, New Brunswick And Prince Edward Island .....</b>	<b>29</b>
•	<b>The Conduct of Newfoundland.....</b>	<b>30</b>
E.	<b>NEWFOUNDLAND HAS ACQUIESCED IN THE <i>1964 AGREEMENT</i> AND IS ESTOPPED FROM DENYING ITS AGREED BOUNDARY WITH NOVA SCOTIA .....</b>	<b>30</b>
F.	<b>CONCLUSIONS .....</b>	<b>33</b>

**APPENDIX A:**  
**PROVINCIAL OFFSHORE EXPLORATION PERMITS**

<b>A.</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>B.</b>	<b>THE NOVA SCOTIA OFFSHORE PERMITS RESPECTED THE 1964 AGREEMENT BOUNDARY .....</b>	<b>3</b>
	i) Description And Location Of Nova Scotia Permits .....	4
	ii) Summary: Nova Scotia Permits.....	6
<b>C.</b>	<b>NEWFOUNDLAND'S OFFSHORE PERMITS ALSO APPLIED THE 1964 AGREEMENT .....</b>	<b>6</b>
	i) The Technical Inadequacies Of The Newfoundland Permit System.....	6
	ii) Overview Of Permits Issued By Newfoundland.....	8
	iii) Newfoundland Permits In The Area Of Its Agreed Boundaries.....	10
	a) Mobil Oil Permit Of September 15, 1967.....	10
	b) Katy Industries Permit Of May 19, 1971: Grand Banks To The South Of Saint-Pierre-And-Miquelon.....	12
	iv) Summary: Newfoundland Permits.....	16



**TABLE OF CONTENTS**

**PART V: CONCLUSION**

**Signature Page ..... 5**