



SUMMARY OF  
ORAL SUBMISSIONS

JEAN G. BERTRAND  
COUNSEL

PROVINCE OF NOVA SCOTIA

13 March 2001



## *The Mandate of the Tribunal*

“3.2 The Tribunal shall, in accordance with Article 3.1 above, determine the line dividing the respective offshore areas of the Province of Newfoundland and Labrador and the Province of Nova Scotia in two phases.

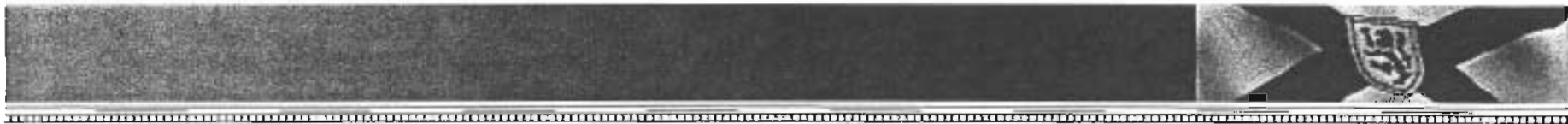
- (i) In the first phase, the Tribunal shall determine whether the line dividing the respective offshore areas of the Province of Newfoundland and Labrador and the Province of Nova Scotia has been resolved by agreement.”



## *Submissions on the Facts*

The facts reveal that in agreeing on their mutual boundary the parties:

1. **Intended** to conclude, and did conclude, a binding agreement on their boundaries;
2. Delimited the **entirety of their mutual boundary**, out to the limits of the continental shelf subject to Canadian jurisdiction at international law;
3. Described their boundary **accurately and completely**;
4. Regarded the agreement between them as of **immediate effect**;
5. Considered their agreed boundaries applicable to **all forms** of rights relating to the mineral resources of the continental shelf ...
6. **and only** to rights relating to the mineral resources of the shelf – just as in the **present-day Accords**

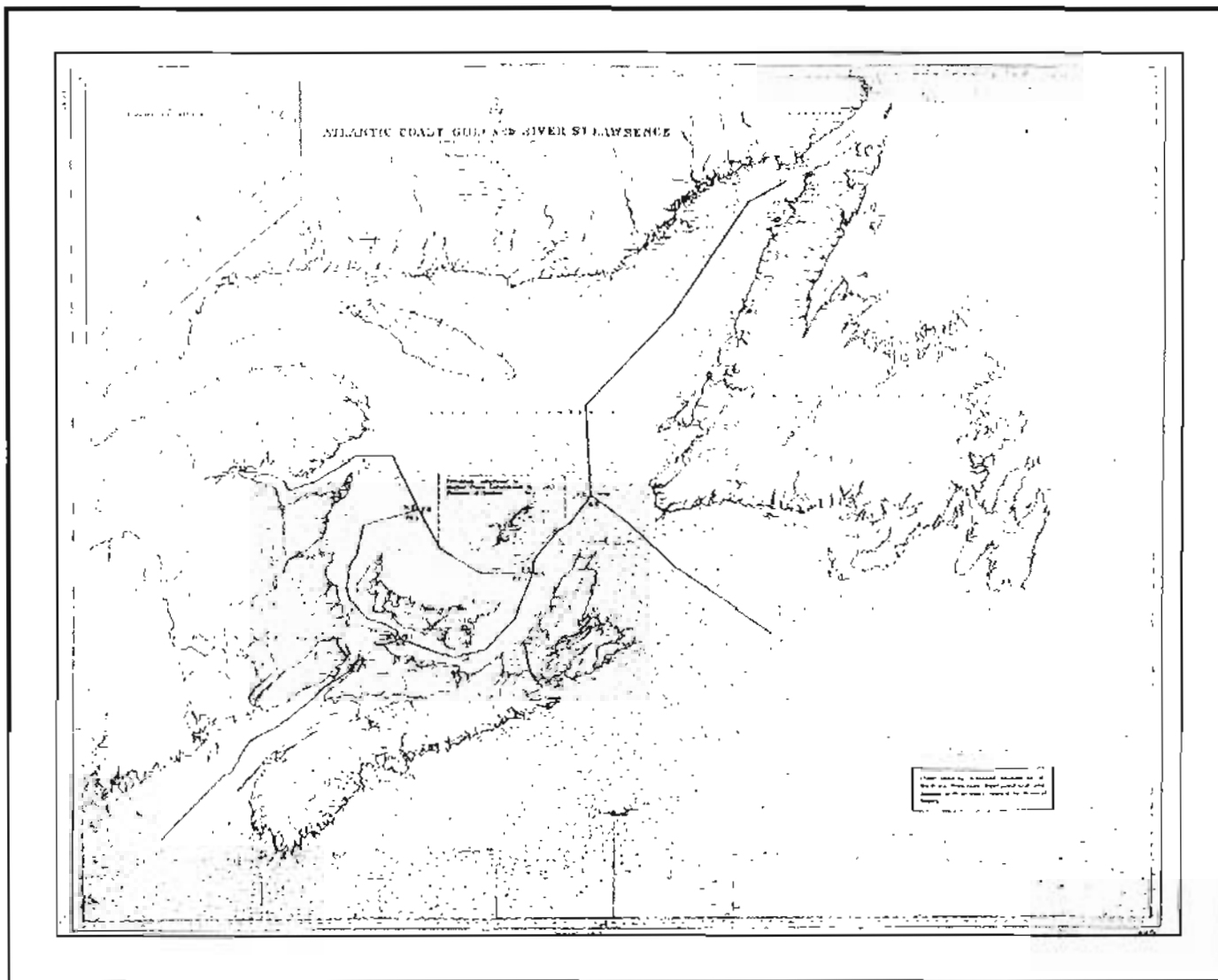


NOVASCOTIA  
FIGURE 4

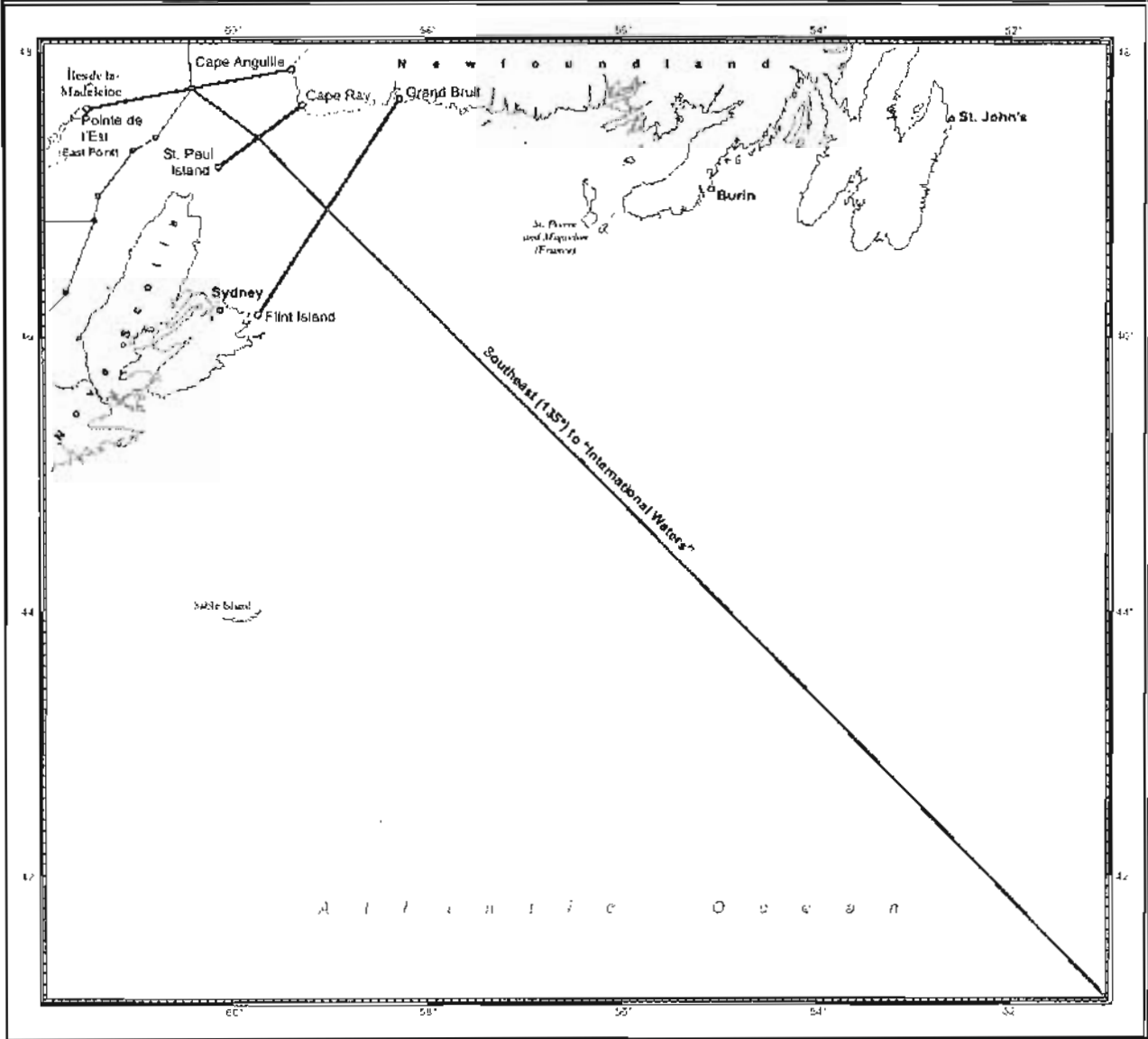
The 1964 Agreement  
as Depicted on  
Canadian Hydrographic  
Service Chart 4490  
and Presented to the  
Federal-Provincial  
Conference

The map/figure reproduces the graphic representation of the 1964 Agreement that accompanied the Atlantic Provinces ... to the Federal-Provincial Conference of October 1964.

The original representation of the Agreement was prepared prior to the identification of coordinates for boundary points, and was based on the verbal descriptions provided in the ...



Source:  
Joint Commission of Federal-Provincial  
Councilors of October 14-15, 1964  
Site Memorandum Part B  
Base: CHS Chart 4490  
Position: Terrator



NOVASCOTIA  
FIGURE 6

The 1964 Agreement:  
The Boundary Between  
Nova Scotia and  
Newfoundland and  
Labrador  
to the Outer Limits of  
State Jurisdiction

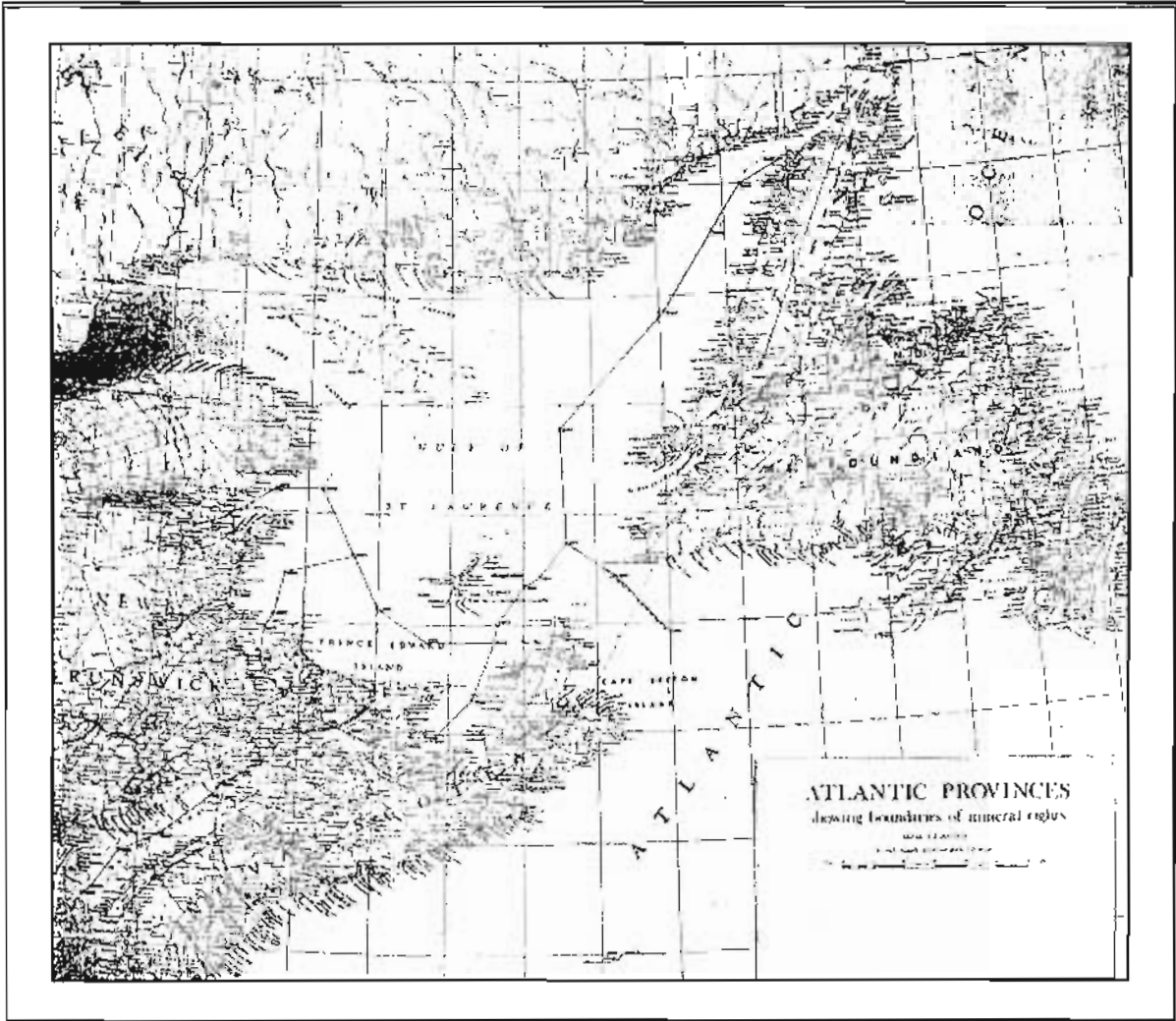
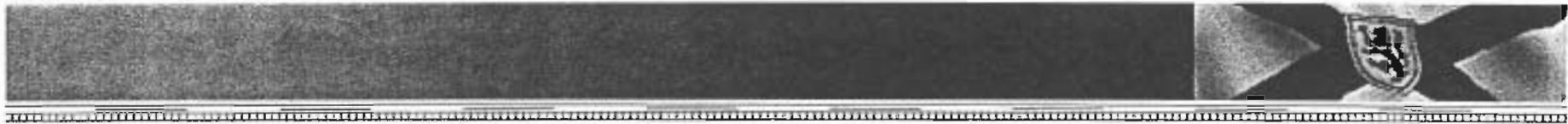
This figure shows the method used in constructing the boundary between Newfoundland and Labrador and Nova Scotia as defined in the 1964 Agreement.

Three midpoints were determined between coastal features as shown. The first segment of the boundary was defined as an azimuth line running southeast (135°) to "international waters".

Provincial boundaries as established in the 1964 Agreement



Source:  
1964 Agreement and Joint Marine Resource  
Demarcation Survey Points  
See National Parks  
Board (1983) and 1964  
Provisional Monitor

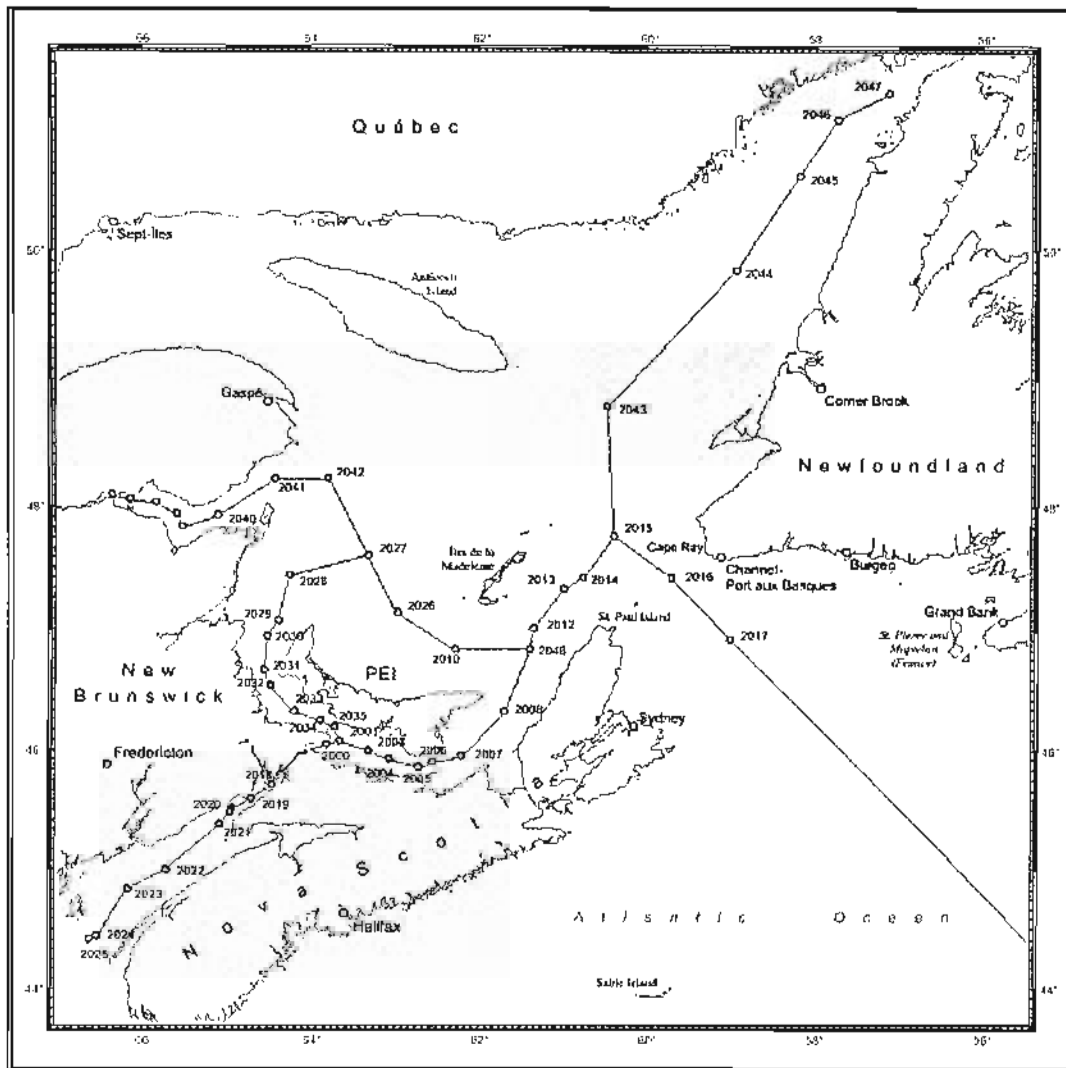
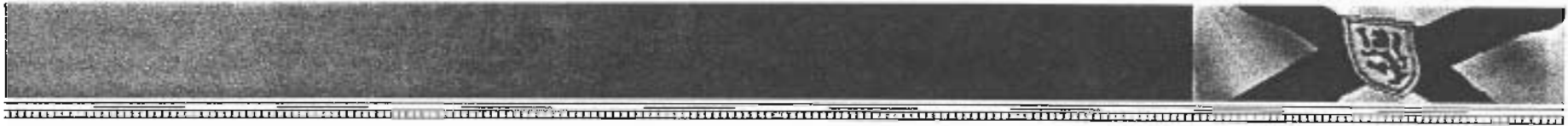


NOVASCOTIA  
FIGURE 7

Boundary Turning  
Points as Approved  
by the Premiers  
in 1972

The Figure reproduces the original Map depicting the turning points of the 1964 Agreement with coordinates by latitude and longitude as determined by the Joint Mineral Resources Committee in 1968. The Map is approved by the Premiers in 1972. The Map is restricted to the turning points, and does not show those portions of the boundary into the south-east and south-west that are defined by directions of azimuth and without endpoints.

Source:  
Joint Resources Committee, 1972  
See Memorial Part II  
Base: MCH77  
Projection: Lambert Conformal Conic  
Standard Parallels 45° and 77°



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FIGURE B

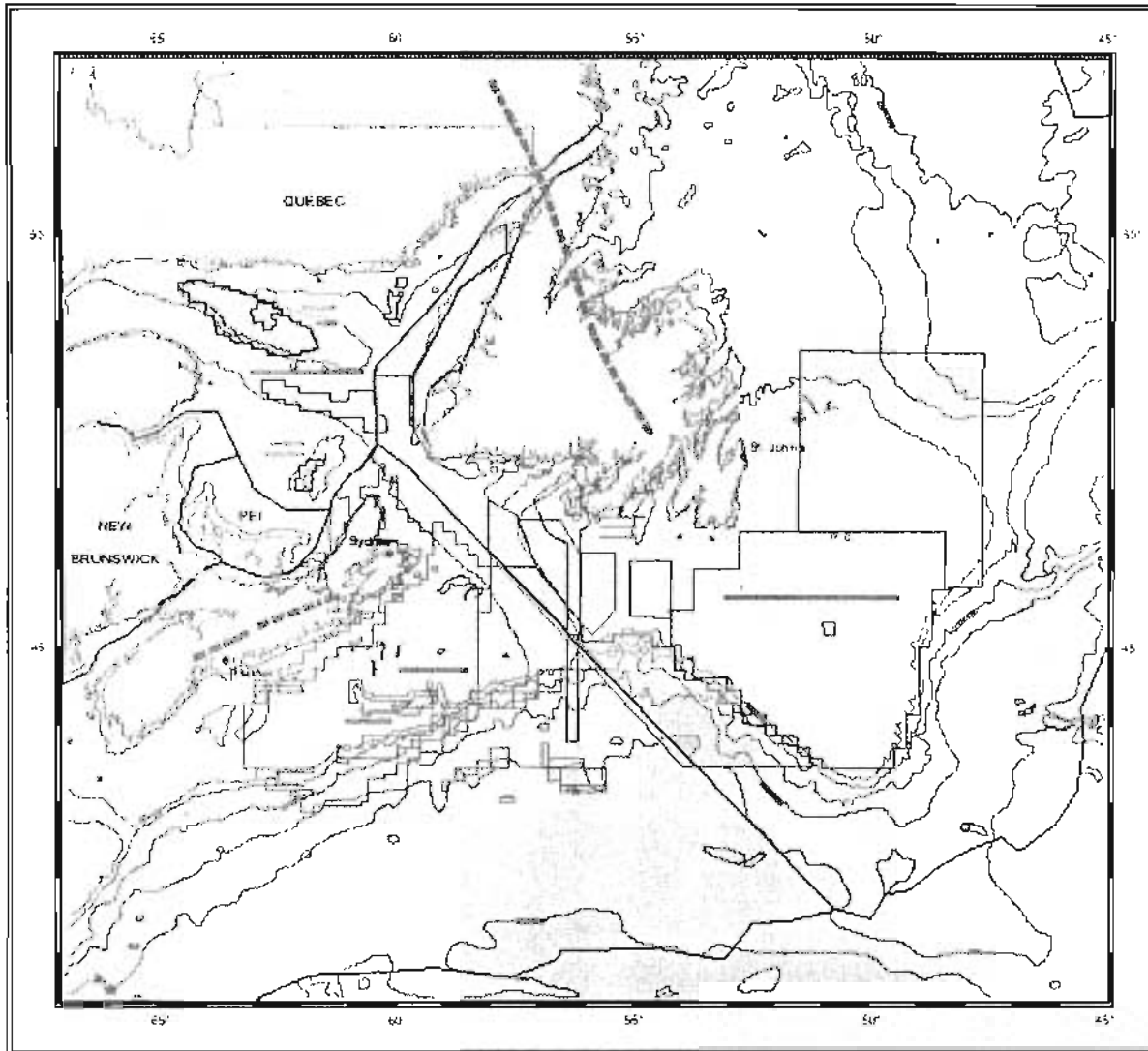
The 1964 Agreement  
with Defined  
Turning Points  
Approved in 1972

This Figure is based on the 1964 Agreement, including the non-territorial waters, as amended by the Provinces in 1972, and the actual 1964 boundary for international waters as defined in 1964.

- Provincial Boundaries as Established in the 1964 Agreement
- Turning Points









Source:  
Turning Points as Approved by  
Joint Ministerial Proceedings, 1972-73.  
See Nova Scotia  
Map 14-8-2 (July 1973)  
Revised on Atlantic



NOVASCOTIA  
FIGURE 28

### The East Coast Provinces Applied and Relied Upon the 1964 Agreement in Issuing Oil and Gas Permits

New Brunswick and Quebec have issued permits respecting the continental shelf area without regard to the 1964 Agreement. Newfoundland, St. John's, New Brunswick and New Brunswick have issued permits in conformity with the 1964 Agreement.

-  Hard-earned Permits and Gas Permits (SFA)
-  New State Permits
-  Unsettled Permits
-  Boundary Between Newfoundland and New Brunswick as Established in 1964 Agreement
-  Estimated Upper Limit of Continental Continental Shelf
-  St. Pierre and Miquelon Boundary



Scale  
Can be used for Figures 15, 17, 18, 19 and 21



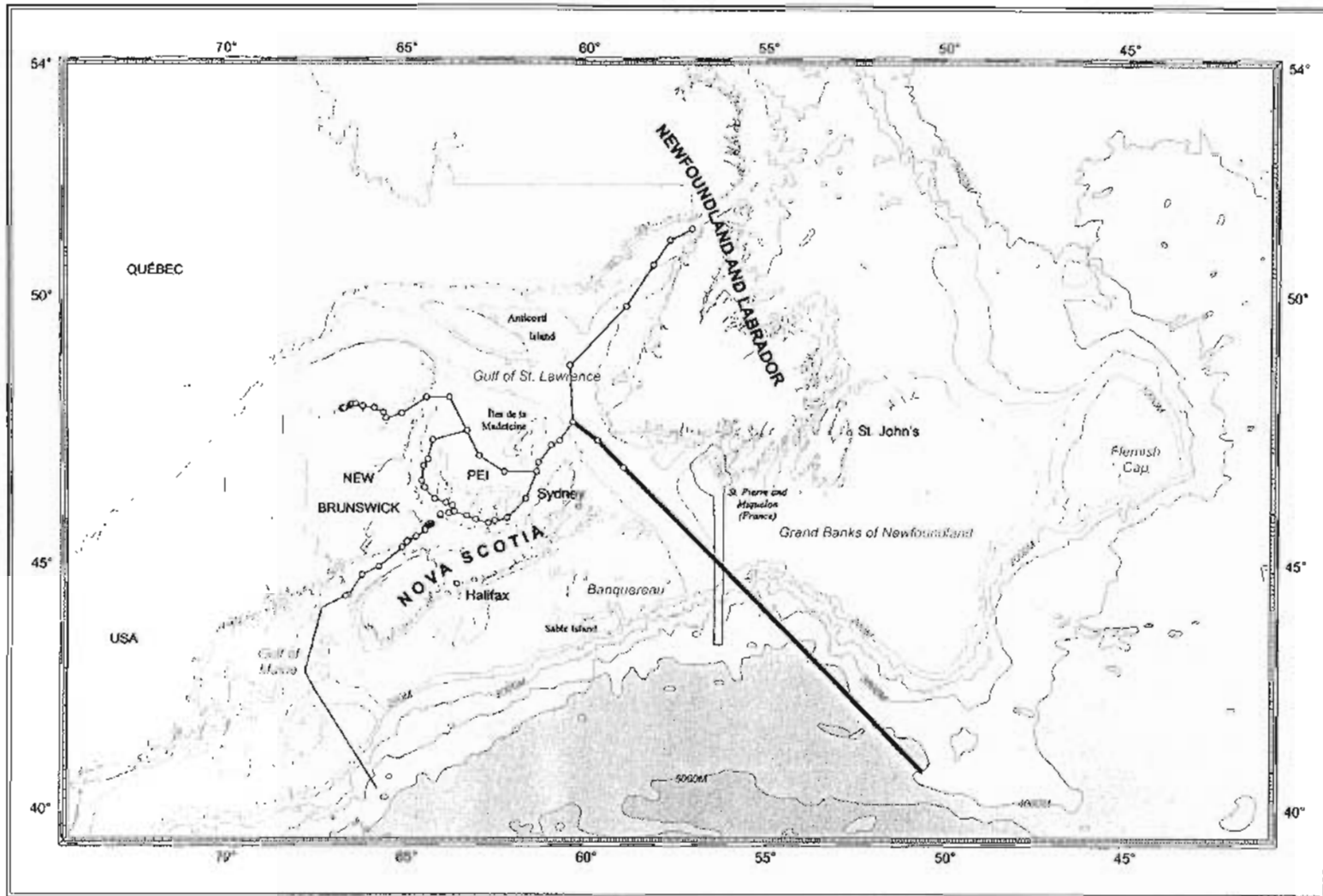
## INTERPRETATION OF THE *1964 AGREEMENT*

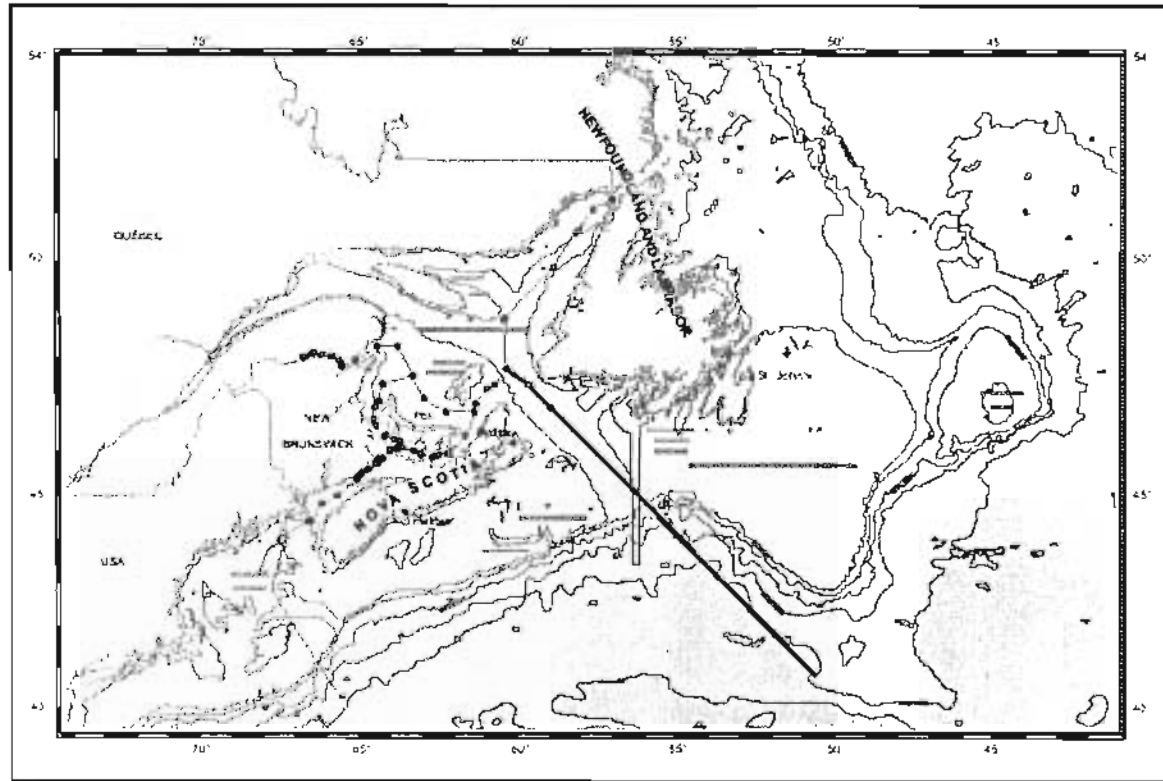


The **plain words** of the documents and the **subsequent conduct** of the parties reveal:

- 1 not a proposal on jurisdiction, but a **binding agreement** on boundaries;
- 2 not a proposition to take effect only upon Constitutional implementation, but an agreement **effective from the moment it was concluded**;
- 3 not a regime applicable only in the context of full provincial ownership of the mineral rights of the offshore, but boundary agreement **for all purposes**;
- 4 not a delimitation that was focussed on the Gulf of St. Lawrence, but a complete boundary **extending to the outer limit of the continental shelf**;
- 5 not an imprecise directional line ending at some arbitrary point in the Cabot Strait area, but an accurate directional line extending southeast **on an azimuth of 135°**.

# THE 1964 AGREEMENT BOUNDARY





NOVASCOTIA  
FIGURE 29

The 1964 Agreement  
Has Been Consistently  
Applied and Respected  
by Nova Scotia and  
Newfoundland

- Boundary Between Nova Scotia and Newfoundland and Labrador as Established in 1964 Agreement (Article 1972 Technical Demarcation)
- Other Provincial Boundaries as Established in the 1964 Agreement (Article 1972 Technical Demarcation)
- Single Maritime Boundary with USA
- St. Pierre and Miquelon Boundary

Source: Nova Scotia Memoirs, Figures 1 and 5

1962      1964-1965      1972      1977      1982      1989

- On September 30, 1964, the Premiers of Nova Scotia, Newfoundland, New Brunswick and Prince Edward Island declare that they have agreed to the Agreement.

On October 7, 1964, Quebec accedes to the Agreement.

The Nova Scotia-Newfoundland boundary is described as beginning at the three-way boundary between Quebec, Nova Scotia and Newfoundland, running to certain bearing points and, on the outer segment, bearing
- The commission established in 1968, and in turn conducted three commissions in accordance with the mandate to provide the international boundary between the two provinces.

The commission subsequently reported
- On June 17-18, 1972, the East Coast Provinces approve the work of the commission.

The following day, Premier Meeson announces the Premier's agreement in the Newfoundland House of Assembly.
- The 1964 Nova Scotia-Newfoundland boundary is incorporated into the 1972 boundary agreement between the federal government and the Premiers of Nova Scotia, New Brunswick and Prince Edward Island.

Newfoundland does not object.
- The 1964 Nova Scotia-Newfoundland boundary is incorporated into the 1982 boundary agreement between the federal and provincial governments. Legislation describes the outer segment of the boundary as running from the seal harpin on the

Newfoundland does not object.
- The 1964 Nova Scotia-Newfoundland boundary is incorporated into the 1985 Canada-New Brunswick and Labrador Agreement and is implemented in legislation. The outer segment is described as running from the seal harpin point.

Newfoundland does not object.