

CHAPTER IX CONCLUSIONS AND SUBMISSION

299. Proceeding as it does from the view that the basis of title in this case is a negotiated arrangement embodied in the *Accords* legislation, and relegating the true basis of title, coastal geography, to the bottom of the hierarchy of relevant circumstances, Nova Scotia has failed to provide any coherent account of the principles of international law governing maritime boundary delimitation or proposed a line that has any basis in international law.
300. In proposing the line which it unsuccessfully alleged in Phase One was an agreed line, and supporting it on the basis of claims about conduct that have been dealt with already in Phase One, Nova Scotia is essentially seeking to overturn the Tribunal's Award in Phase One. Instead of making the uncontroversial claim that conduct can be a relevant circumstance in maritime boundary delimitation, Nova Scotia is making the much more inflated claim that conduct is the only relevant circumstance – one that overrides all other considerations in the process of delimitation. Such an approach flies in the face of well-established principles of the law of maritime boundary delimitation.
301. And, even when that conduct is considered, it amounts to little. Nova Scotia relies once again on the actions of provincial governments during failed negotiations with the federal government and seeks to draw conclusionary force from what the Tribunal held in Phase One to be lacking in precision, conditional and linked to provincial claims which ultimately failed.
302. Nova Scotia rehearses once more claims about conduct on the basis of permitting practice that was never mutual, consistent or unequivocal. It inflates its own practice and ignores the reality of federal control over the offshore. It takes two interim permits issued by Newfoundland and Labrador which expired almost 25 years ago, and proceeds to develop a whole theory of Newfoundland and Labrador acceptance of, or acquiescence in, a line. There is no legal basis for such an approach.
303. Ultimately Nova Scotia's claim rests on the view that it is entitled to an "apportionment of an undivided whole," and it has grotesquely inflated the area in which that "whole" is to be

determined. Nova Scotia is thereby seeking to turn delimitation into an exercise of sharing oil and gas resources between the provinces. In this regard, Nova Scotia's claims are based on nothing more than notions about the relative wealth of the provinces in respect of offshore resources.

304. None of these arguments has any basis in the principles of international law governing maritime boundary delimitation which the Terms of Reference require the Tribunal to apply. Nova Scotia has failed to advance arguments in accordance with those Terms of Reference that would either justify its proposed line, or rebut the line put forward in the Memorial of Newfoundland and Labrador.

305. Accordingly, Newfoundland and Labrador renews the request made in its Memorial that the Tribunal delimit the respective offshore areas of Newfoundland and Labrador and Nova Scotia as follows:

a) The line in the area outside the Gulf of St. Lawrence shall be constructed as follows:

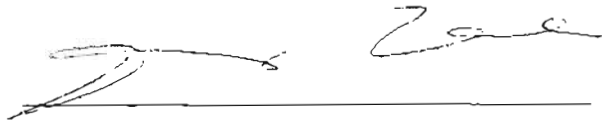
From North $47^{\circ} 19' 25''$ West $59^{\circ} 50' 46''$ (Point A) the line shall proceed on an azimuth of 123.9 degrees until it reaches North $46^{\circ} 50' 30''$ West $58^{\circ} 47' 45''$ (Point B).

From North $46^{\circ} 50' 30''$ West $58^{\circ} 47' 45''$ (Point B) the line shall proceed on an azimuth of 163.15 degrees until it reaches North $46^{\circ} 16' 13''$ West $58^{\circ} 32' 42''$ (Point C).

From North $46^{\circ} 16' 13''$ West $58^{\circ} 32' 42''$ (Point C) the line shall proceed on an azimuth of 163.2 degrees until it intersects the outer limit of Canada's continental shelf jurisdiction.

b) The line in the area inside the Gulf of St. Lawrence shall proceed from North $47^{\circ} 19' 25''$ West $59^{\circ} 50' 46''$ (Point A) on an azimuth of 321.5 degrees to the limit of the offshore area of Newfoundland and Labrador and Nova Scotia within the Gulf.

All of Which is Respectfully Submitted.

A handwritten signature in black ink, appearing to read 'McRae', is written above a solid horizontal line.

Donald M. McRae

Agent for Newfoundland and Labrador

17 October 2001