



# Royal Commission on Renewing and Strengthening Our Place in Canada

## Overview Paper on The 1985 Canada-Newfoundland Atlantic Accord

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March 2003

The views expressed herein are solely those of the author and do not necessarily reflect those of the Royal Commission on Renewing and Strengthening Our Place in Canada.

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# Introduction

I have been requested to provide the Royal Commission with an analysis and commentary on the Canada-Newfoundland Atlantic Accord on offshore petroleum resources and to give specific attention to the issue of whether the spirit and intent of the Accord has been met. My paper will concentrate first on the basic spirit and intent of the Atlantic Accord when it was entered into by the Government of Canada (Canada) and the Government of Newfoundland and Labrador (Newfoundland) on February 11, 1985 as a “Memorandum of Agreement between the two Governments on Offshore Oil and Gas Resource Management and Revenue Sharing”. I will examine the history of events leading up to the signing of the Atlantic Accord and what both parties said their intentions and aims were, as well as examine the text of the Accord, subsequent Accord implementation legislation, and other relevant documents, policy statements, speeches and events especially with respect to the question of whether the Accord enabled the Province to become the “principal beneficiary” from the development of oil and gas resources offshore Newfoundland, and whether it enabled Canada to achieve its aims or “purposes”.

In accordance with my terms, this paper will also include a brief overview of the benefits that have been enjoyed by the Province and Canada related to the exploration for and development of the offshore petroleum resources off Newfoundland and Labrador with an assessment as to whether the division of the benefits between Canada and Newfoundland has occurred in accordance with the spirit and intent of the Atlantic Accord. In considering what the benefits enjoyed by Canada or the Province have been, much will depend on whether that party has achieved the purposes it set for itself in the Accord.

This overview paper will then draw a number of conclusions from my review of the history of the Atlantic Accord and my analysis of how it has performed to date, and offer several recommendations for policy options the two partners to the Accord could adopt that might better address the spirit and intent of the Accord with respect to the original purposes for revenue sharing and fiscal benefits that would flow to Newfoundland.

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# The Long Winding Road to the 1985 Atlantic Accord

A long history of events occurred leading up to the bilateral Atlantic Accord agreement between Canada and Newfoundland. It is necessary to consider these events to understand what the basic spirit and intent of the Atlantic Accord was, particularly on the issue of the Province becoming the principal beneficiary in fiscal terms of revenue from the oil and gas resources off its shores.

The Canada Oil and Gas Land Regulations were implemented by P.C. 1961-797 of June 6, 1961 with the Regulations applying to Canada Lands defined as all land owned by the Crown in the Right of Canada that was not within any Province. Those Regulations were stated to be designed to encourage industrial operators to carry out exploration programs in the frontier regions in the Arctic and offshore. There were very important differences between Newfoundland and Nova Scotia and Canada as to which government had jurisdiction over the offshore resources and who had ownership and jurisdiction. In February, 1966 preparations were being finalized for a reference to the Supreme Court of Canada on offshore mineral rights relative to the West Coast of Canada, and plans were in process to open negotiations with France to establish an acceptable line of demarcation between areas of Canadian and French jurisdiction over submerged lands in the region of St. Pierre and Miquelon on the East Coast.

The first deep drilling program on Canada's continental shelf was carried out on the Grand Banks off Newfoundland in 1966 with one well drilled 100 miles offshore. In 1967 a deep exploratory well was drilled in the Sable Island area, off Nova Scotia.

In November 1967 Canada decided to give consideration to various forms of pooling of all offshore revenues with the provinces to determine whether there was an equitable and acceptable basis upon which the provincial share of the national pool, as Canada phrased it, could be subdivided among individual provinces, thereby allowing for special recognition of the claims of the coastal provinces.

In December, 1968 Prime Minister Pierre Trudeau announced a plan for sharing of offshore revenues so that provinces would receive half of the revenues accruing from offshore mineral resources located seaward of "mineral resource administration lines" established off provincial coasts. Landward of these lines adjacent provinces would receive all of the mineral resource revenues, and seaward a 50:50 split. The question of how the provincial share of revenues would be divided was left open to suggestions by the provinces.

Based on the Supreme Court of Canada Decision of November, 1967 on the British Columbia Offshore Reference, the federal position was confirmed that Canada was entitled to the proprietary and other rights in areas offshore from historic boundaries.

In July, 1971 Canada decided to explore with Nova Scotia, New Brunswick, P.E.I. and Newfoundland alternate measures of sharing offshore revenues more generous to the Provinces than the previous 50/50 per cent offer. A suggested formula was 20 per cent to be distributed among all four provinces with 50 per cent to be given to the province off whose coast the revenue was derived and 30 per cent to be retained by Canada.

In July, 1972 Canada continued discussions with the Atlantic Provinces but also decided to begin work on a Reference to the Supreme Court of Canada on questions of ownership and

jurisdiction with respect to mineral rights off the East Coast. In August the Prime Minister and the Premiers of the East Coast provinces decided to set aside questions of jurisdiction and ownership, and to try and reach an agreement on the practical matters of administration and revenue sharing of offshore resources.

In 1973 the federal government concluded that a proposal of the Premier of Newfoundland for a solution to the East Coast mineral rights situation was unacceptable and could not be used as a basis for further discussions. At that time Canada believed that administration and ultimate decision making authority regarding offshore mineral resources must remain essentially under federal administration in view of the many factors and responsibilities which they thought were involved of a national character including uniform and efficient management, standardized policies of resource management, optimum conservation practices, control of export arrangements, establishment of Canadian criminal and civil law in the offshore, and negotiations and agreements with foreign states. Canada also decided to continue negotiations with the four Atlantic provinces and Quebec.

During 1976, negotiations on these matters continued, and in July the federal government decided as part of its negotiating position to offer the Maritime Provinces 75 per cent of the net offshore mineral resource revenues accruing from areas offshore those provinces. It also indicated willingness to come to an agreement with the Maritime Provinces with or without the concurrence of Newfoundland and Quebec.

In February 1977 the three Maritime Provinces signed a Memorandum of Understanding (“MOU”) with the Government of Canada in the form of a Statement of Principles proposing a new regime for joint administration and management of mineral resources offshore the Maritime provinces, and with revenue sharing of 75 per cent to provinces seaward of federal-provincial demarcation lines and 100 per cent landward of these lines. In September 1978 Nova Scotia repudiated that MOU and asked that the offshore question be part of a constitutional review.

In February 1979, during the First Minister’s Conference on the Constitution, the Prime Minister tabled a draft federal government proposal accepting the principle of concurrent legislative authority over the management of offshore resources with federal paramountcy for some elements of the management regime and provincial paramountcy for others, but leaving aside the ownership question.

In June 1979 a minority Progressive Conservative government under Prime Minister Joe Clark was elected, and promised to transfer ownership and jurisdiction of offshore mineral rights to coastal provinces. Mr. Clark’s government was defeated in December 1979 before having time to implement such a policy.

In September 1980, at the First Ministers’ Conference on the Constitution, the re-elected Prime Minister Trudeau set out the position of his government on offshore mineral resources. He proposed that the question of ownership be set aside and the federal government was ready to make a proposal and agree in principle that the major benefits from development offshore should accrue to the residents of the adjacent coastal province. The federal government further proposed that until those provinces became “have” provinces, they should receive the same kinds of revenues as are derived by provinces from their onshore resources. Canada also proposed a system of joint administration for offshore mineral resources involving Canada and each of the coastal provinces.



The federal government introduced its now infamous National Energy Program (“NEP”) in October 1980, in which it expressed a desire to have the Supreme Court of Canada settle the offshore ownership question with Newfoundland, as soon as possible.

New legislation enacted as part of the NEP established a new management regime for oil and gas resource development in Canada’s offshore areas and on all Canada lands. It required a minimum of 50 per cent Canadian ownership before production could begin on Canada lands; reserved to Canada a 25 per cent interest in oil and gas discoveries on Canada lands (“Crown Share”); established a royalty system, and provided for maximum possible use of Canadian goods and services. The legislation was harshly criticized by industry, particularly in relation to the 25 per cent Crown Share that was described as a “carried interest” or popularly referred to as the Petro-Canada “back-in” provision.

From time to time during the next two years there were indications of the views of the Government of Canada and the Prime Minister with respect to how the issues of offshore resources and revenues might be settled by Canada with Newfoundland (and Nova Scotia). On July 16, 1980 Prime Minister Trudeau was questioned in the House of Commons by John Crosbie, M.P., St. John’s West, and stated:

“The commitment we have made regarding the offshore is that until the provinces with resources off their shores have reached the average income in Canada, we intend to see that they get the overwhelming part of the resources from the offshore, precisely so that they will not have to receive subsidies”.

On March 2, 1982 the “Canada-Nova Scotia Agreement on Offshore Oil and Gas Resource Management and Revenue Sharing” was entered into as a bilateral agreement and “political settlement of the issues between the two governments,” and “to be implemented through legislation which the parties shall introduce to Parliament and the legislature of Nova Scotia respectively.” These two pieces of legislation were subsequently enacted into law. Meanwhile, Newfoundland continued to completely oppose such arrangements as were proposed in the 1982 Canada-Nova Scotia Offshore Agreement.

On May 19, 1982 Prime Minister Trudeau announced that Canada would take the Newfoundland offshore jurisdiction issue to the Supreme Court of Canada. Canada and Newfoundland decided that although the offshore ownership matter was before the Courts, they would resume negotiations without pre-conditions on the issues of resource management and revenue sharing.

Then on September 2, 1982 Canada made a comprehensive proposal to Newfoundland on “offshore oil and gas resource management and revenue sharing”, very similar to the Offshore Agreement entered into with Nova Scotia six months earlier. That proposal pointed out that the oil and gas industry needed the certainty of a single offshore resource management and fiscal regime. In dealing with “Objectives”, the proposal pointed out that Canada “has a national responsibility to ensure security of energy supplies....and a fair distribution of resource revenues.” On page five of the proposal, Canada stated: “However, it is recognized that Newfoundland should enjoy the major share of the revenue that offshore resources are expected to generate...the Province deserves a full voice in development decisions to ensure that the pace of activity does not outstrip Newfoundland’s ability to cope with such activity.”

Canada stated that it had a number of objectives including increased energy security and economic prosperity for the people of Newfoundland and Labrador and for all Canadians, and that a settlement should (iv) “contribute to reducing the financial dependence of the Newfoundland government on transfer payments” and (iii) to “ensure that Newfoundlanders, and subsequently all Canadians, receive a fair share of the economic return from offshore oil and gas production.”

In discussing revenues, Canada stated that, “Newfoundland would initially receive all provincial-type and all federal resource revenues, excepting the normal federal share of corporate income tax, until the Province reaches a level of fiscal and economic capacity well above the national average, known as the sharing “trigger”.

It was also stated that in the future, once Newfoundland has benefited substantially from oil and gas production revenues, a wider sharing with all Canadians would take place after the proposed “triggering” had been reached. The “trigger” measured the economic well-being of the province using two tests:

- (1) The Government of Newfoundland and Labrador must achieve a level of fiscal capacity per capita well above the Canadian norm (fiscal capacity measures the level of tax revenues per capita the provincial government could receive based on representative Canadian tax rates). This would allow it to provide a level of public services consistent with other provinces which now enjoy a higher level of economic well being; and to reduce its current debt and tax burdens. The first test of the proposed “trigger” would be met when Newfoundland’s fiscal capacity per capita reached 110 per cent of the Canadian average.
- (2) The people of Newfoundland and Labrador must also have reached an improved level of economic prosperity as reflected by the unemployment rate in the province. The proposed 110 per cent base “trigger” is increased by two points for every percentage point by which Newfoundland’s unemployment rate is greater than the Canadian average.

It was pointed out that this dual test in 1981 would imply a “trigger” of 123 per cent of the national average fiscal capacity. In 1979-80 Newfoundland’s fiscal capacity per capita was 58 per cent of the Canadian national average.

Canada emphasized the significance of its proposal by using the example of the Hibernia-type field assuming 1.4 billion barrels of oil produced over 35 years. Under this proposed fiscal regime, approximately 75 per cent of all government revenues, excluding the return of each governments’ investment under the then Crown interest provision, would accrue to Newfoundland according to the federal government. Canada also forecast that the sharing “trigger” would not be activated over the life of oil and gas production from the Hibernia field but stated that if it turned out that twice the amount of oil from the Hibernia field were produced during the 1990s there would be some wider sharing with all Canadians. However, they estimated that even under this scenario Newfoundland would still receive 69 per cent of total government revenues.

The summary prepared by Canada stated that the people of the province would realize the greatest and the most direct benefits from the development of offshore oil and gas resources in terms of growth and income, jobs, opportunities for new businesses, and significant new provincial government revenues. The document states that:

“The Government of Newfoundland and Labrador would receive all government resource revenues except the normal federal share of corporate income tax until they reached a level of fiscal and economic health substantially above the Canadian average.” The proposal continued that it “recognizes the Government of Newfoundland and Labrador’s fundamental goal of attaining economic development and self-sufficiency by creating a strong and diversified provincial economy able to contribute fully to prosperity throughout Canada.” This goal is shared, the document states, by the Government of Canada.

This proposal clearly sets out what Canada wanted Newfoundland and the people of the province to believe were the objectives and goals, and commitments and promises with respect to how the problems of jurisdiction and control of the development of the oil and gas resources off the shores of Newfoundland should be dealt with, and who the beneficiaries of those developments should be. It is clear to anyone who reads this Canada Proposal what the objectives, purposes and intentions of Canada were with respect to the question of who would be the primary or principal beneficiaries of the revenues produced by the oil and gas resources lying off the shores of Newfoundland and Labrador.

The position of Canada led by Prime Minister Trudeau was stated clearly not just in the September 2, 1982 proposal to Newfoundland, but in other documents such as an earlier fax sent by Prime Minister Trudeau to Premier Brian Peckford on July 27, 1981 (with a similar fax sent on the same day to Premier John Buchanan of Nova Scotia), stating: “Our position on revenue sharing is that, if such sharing can be agreed upon through negotiation, Newfoundland should be entitled to all provincial-type revenues. In effect, we would for revenue purposes treat offshore revenues as though they were located on land. This system would continue for as long as Newfoundland remained a “have-not” province. After this, a sharing of benefits with other Canadians would start to take place”.

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## Consistent Policy and Political Statements

There were many public policy statements by various political leaders and members of Parliament, and provincial members during the early-to-mid 1980s. Some of the most significant of these are highlighted below.

On April 5, 1984, the Honourable Jean Chrétien, then Minister of Energy, Mines and Resources of Canada, visited St. John's, following the decision of the Supreme Court of Canada on the ownership of the offshore area and made it clear Canada was seeking an agreement with the Province on the offshore since "We recognize that the Province has a special interest in the development of its offshore and the first call on the benefits from its exploitation."

He stated that under a Nova Scotia type agreement, Newfoundland would receive more oil revenues in the early years of offshore development than if it owned the resource. The Province would receive all provincial-type taxes and petroleum and gas revenue taxes as well. He explained that the provincial government would not be expected to share some of these revenues with other Canadians "Not until the Newfoundland government's fiscal capacity reached 110 per cent of the national average, with an adjustment for regional unemployment that would now raise this to about 125 per cent. In relative terms, this would mean that the Newfoundland government wouldn't be asked to share any revenue until it was the second richest province in Canada – second only to Alberta; about 40 per cent richer than Ontario; and twice as rich as you and your neighbors in Atlantic Canada are today." He hypothesized that "Hibernia development, or even two Hibernias, would probably not provide enough revenue to reach the trigger for broader sharing – leaving almost all offshore revenue with the provincial government."

In dealing with concerns expressed about the effect of the equalization formula on the Province's net gain from the offshore, he asked how much would the new offshore revenues be offset by a one for one loss of equalization payments? He said "we have a provision under the current equalization formula that guarantees equalization payments will not decline more than 15 per cent a year" and in the Nova Scotia Agreement, there is a provision that guarantees the Province will receive payments to offset the reduction in their equalization payments. Those payments would decline over time but provide major protection in the early years." He then stated "I have always been willing to include some such arrangement in a Newfoundland deal to ensure that the Province had a real net increase in revenues from the offshore in the early years when it was still a "have-not" province."

Mr. Chrétien hypothesized that "provincial revenues from Hibernia might be large enough to make Newfoundland a "have" province within five years of production." This, he said, "should be a cause for celebration even if it entailed a loss of equalization payments."

On June 18, 1984 Hansard reports a debate on Bill C-43, an Act respecting the "Canada-Nova Scotia Agreement on Offshore Oil and Gas Resource Management and Revenue Sharing". Leonard Hopkins, then Parliamentary Secretary to the Minister of Energy, Mines and Resources, Jean Chrétien, was in charge of the Bill in that debate and stated as follows:

"One aspect of Bill C-43 that is particularly important is the formula to share revenues from the offshore. The legislation ensures that Nova Scotia will receive the lion's share of offshore petroleum revenues. In fact, in the

early years of the Agreement, the Province will receive substantially more revenues than if it owned the resource on land. There will be wider sharing of revenues only if the Province's relative fiscal capacity...exceeds that of almost all other provinces."

He continued that:

"Until Nova Scotia's per capita fiscal capacity reaches 110 per cent of the national average – adjusted upward by two percentage points for every one percentage point that the Province's unemployment rate exceeds the national average – the Province will receive all offshore revenue, including a major federal tax, the petroleum and gas revenue tax, but excluding the federal share of the corporate income tax."

Pat Carney, M.P., then the energy critic for the official Opposition (the Progressive Conservative Party of Canada) and later the federal Minister of Energy, Mines and Resources in Prime Minister Brian Mulroney's administration, in the same debate in response to Mr. Hopkins stated, "The economic discrepancy between Atlantic Canada and other regions of the country is an important fact to keep in mind. It has placed provinces like Nova Scotia, which was one of the most economically active provinces at the time of Confederation – rich with shipbuilding, forestry and fishing – in a category of the "have-not" provinces. The offshore oil and gas resources represent a unique opportunity to release Nova Scotia from that category and transform it into a "have" province."

Later in the same debate, Ms. Carney who had been involved earlier that month (June 14, 1984) in reaching a Memorandum of Understanding between the leader of the Opposition (Mr. Mulroney) and his Party, and Newfoundland Premier Brian Peckford, stated "in contrast, the Atlantic Offshore Accord proposed by Mr. Mulroney, would recognize the right of the Atlantic provinces to be the principal beneficiary of the wealth of the oil and gas off their shores consistent with a strong and united Canada."

The Mulroney-Peckford MOU was an important element of the Progressive Conservative Party of Canada's proposed new policies to promote economic development in Atlantic Canada. A major feature were policies with respect to the proper management of offshore oil and gas resources. The MOU of June 14, 1984 pointed out that the issue of ownership had been dealt with by the Supreme Court decision of March 8, 1984 but that "a Progressive Conservative Government would recognize the right of Newfoundland and Labrador to be the principal beneficiary of the wealth of the oil and gas off its shore, consistent with a strong and united Canada." Mr. Mulroney further stated that a new Progressive Conservative administration would be prepared immediately to conclude an agreement with Newfoundland on the offshore, and "that the principal of revenue sharing between the federal and provincial levels should be the same for all oil and gas producing regions without discrimination. Therefore, Newfoundland would be entitled to establish and collect resource revenues as if these resources were on land."

Mr. Mulroney further wrote in principle E13 that, "it is important that there should be no dollar for dollar loss of equalization payments as a result of offshore revenues flowing to the Province."..."Newfoundland would receive offset payments from the federal government

equal to 90 per cent of a year's reduction in equalization payments. Beginning in the fifth year of production this offset rate would be reduced by 10 per cent for each subsequent year."

Other statements making clear the intentions of the parties to the Atlantic Accord include:

On February 11, 1985 then Premier Brian Peckford gave an address on the occasion of the official signing of the Atlantic Accord pointing out provisions he thought were extremely important which included at page three "the right to establish and collect revenues as if the resource was on land," and "there will not be a dollar for dollar loss of equalization payments as a result of offshore revenues". "There will be a very gradual and generous, for Newfoundland, phase out of equalization payments which allows this province to catch up socially and economically to the rest of Canada." That was what Premier Peckford believed the Accord achieved.

On the same date while announcing the Atlantic Accord, Prime Minister Mulroney also issued a statement stating:

"We have believed firmly in the principle of equality – equality in terms of joint management and equality in terms of revenue sharing."

In addition, a statement was issued from the office of the Honourable Pat Carney, Minister of Energy, Mines and Resources, where she stated in the third paragraph:

"The Atlantic Accord is designed to facilitate the development of the vast oil and gas resources in the offshore. It is based on three fundamental concepts. The first is that the principal beneficiary of these resources should be Newfoundland and Labrador because that is in the national interest. The second concept is that these resources should contribute to energy security for all Canadians because that too is in the national interest. The third and final concept is that producing provinces should be treated equally in areas such as revenue sharing, whether the resource is on land or offshore, because equality serves the national interest."

In an Executive Summary issued by the Minister of Energy, Mines and Resources together with the Atlantic Accord documents, Ms. Carney, dealing with equalization offset payments, states "an equalization offset payment formula has been developed which will ensure that there will not be a dollar for dollar loss of equalization payments as a result of offshore revenues. Beginning in the first year of production, Newfoundland will receive offset payments from the federal government equal to 90 per cent of a year's reduction in equalization payments. Beginning in the fifth year of production, the offset rate will be reduced by 10 per cent for each subsequent year." It states "the equalization offset provisions of the Accord also protect Newfoundland from any future changes to the floor provisions of the Federal-Provincial Fiscal Arrangements Act which may result in the reduction of equalization entitlements to the Province."

When on February 7, 1986 Canada and Newfoundland introduced Bills to implement the Atlantic Accord, a joint press release was issued stating "there will not be a dollar for dollar loss of equalization payments as a result of offshore revenues accruing to the Province."

Such statements give a clear indication of the intention and the objectives and purposes of the Trudeau and Mulroney governments with respect to the question of who should be the primary or principal beneficiaries of the offshore oil and gas resources and revenues. Clearly it was to be Newfoundland and its people.



# Review of the Major Issues and Problems of the Atlantic Accord

Clause 1 of the Atlantic Accord states the two governments reached an Accord on “joint management of the offshore oil and gas resources off Newfoundland and Labrador and the sharing of revenues from the exploitation of these resources.” Legislation was to be, and was enacted by the Parliament of Canada and the Legislature of Newfoundland.

Clause 2 sets out the “Purposes of the Accord” and outlines the intent of the Accord under eight sub-sections. The intent is to achieve certain purposes that are particularly desired to be achieved by Canada and certain purposes particularly desired to be achieved by Newfoundland. For example, Purpose (a) is “to provide for the development of oil and gas resources offshore Newfoundland for the benefit of Canada as a whole and Newfoundland in particular.” The achievement of that purpose was for the benefit of both Canada and Newfoundland. Purpose (b) is “to protect, preserve and advance the attainment of national self-sufficiency and security of supply.” This is a purpose of the Accord particularly desired by and for the benefit of Canada and it should be noted here that the recent development of Newfoundland’s offshore oil resources has resulted in Canada fully achieving that purpose since we now have attained national self-sufficiency and security of supply with respect to oil and gas energy resources for Canada.

This achievement has implications for the joint management of the offshore. Under the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act, Section 33 defined what “security of supply” and “self-sufficiency” meant, and under Section 34 where a determination was made that self-sufficiency and security of supply do not exist, the federal Minister had authority in relation to certain fundamental decisions, whereas when a determination was made that self-sufficiency and security of supply existed, the provincial Minister had authority in relation to certain fundamental decisions thereafter. In 2000, Canada and Newfoundland agreed that Canada had attained national self-sufficiency with respect to oil and gas resources and security of supply and this determination is in effect for a five-year period.

It is clear that the main federal purpose for the Accord, expressed in Section 2(b) as “to protect, preserve and advance the attainment of national self-sufficiency and security of supply,” is fully met.

Purpose 2(d) “to recognize the equality of both governments in the management of the resource, and insure that the pace and manner of development optimize the social and economic benefits of Canada as a whole and to Newfoundland and Labrador in particular” will always be a “work in progress” as it depends on the exploration and development of projects and the market-forces of the global petroleum industry and the economy in general. In addition, the Newfoundland offshore sector is still in the early stages of what is expected to be 30-40 years or more of activity, and both levels of government and the industry should always be working together to “optimize the social and economic benefits to Newfoundland in particular and Canada as a whole.” Later in this paper I will discuss some key industry and economic indicators and statistics with respect to the Newfoundland offshore and the economy and the financial position of Newfoundland.

Purpose 2(e) “to provide that the Government of Newfoundland and Labrador can establish and collect resource revenues as if these resources were on land, within the Province;” was met but did not result in a net increase in revenues for the Province (i.e. revenue sharing) until the Province achieved at least 110 per cent of the national average per capita fiscal capacity, since the provisions of the equalization program of Canada, specifically the clawback mechanism under that program has prevented achieving the purpose of that subsection as well as the purpose of Section 2(c) which is “the right of Newfoundland to be the principal beneficiary of the oil and gas resources off its shores.”

Purpose 2(f) “to provide for a stable and fair offshore management regime for the industry;” was achieved and was and is for the benefit of both parties.

Purpose 2(g), “to provide for a stable and permanent arrangement for the management of the offshore adjacent to Newfoundland by enacting the relevant provisions of this Accord in legislation of the Parliament of Canada and the legislature of Newfoundland and Labrador,” was carried out and legislation enacted but clearly all of the principles and objectives of the Atlantic Accord have not yet been fulfilled.

Purpose 2(h), “to promote within this system of joint management, insofar as is appropriate, consistency with the management regimes established for other offshore areas in Canada,” was achieved.

It is clear that of these eight “purposes of the Accord”, the main federal purpose has been met fully while the main Newfoundland purpose has not been achieved in any significant way at all to date. The purpose expressed in 2(c) “to recognize the right of Newfoundland and Labrador to be the principal beneficiary of the oil and gas resources off its shores consistent with the requirement for a strong and united Canada” has not been met to date and will not be until steps are taken by Canada to remove the obstacle only Canada can remove. Subsection 2(e) “to provide that the Government of Newfoundland and Labrador can establish and collect resource revenues as if these resources were on land, within the Province;” is not yet achieved since the intended impact to ensure net increases in revenues for the Province so the Province would reach at least 110 per cent of the national average per capita fiscal capacity, has failed with Newfoundland not yet reaching even 70 per cent of the national average per capita fiscal capacity of the other provinces of Canada.

In summary, the purposes of the Accord as set out in Section 2 have been met and achieved completely with respect to the purposes of Canada, but not with respect to the purpose of recognizing the right of Newfoundland and Labrador to be the principal beneficiary of the oil and gas resources off its shores, despite what was said and intended by Canada and so induced Newfoundland to enter the Atlantic Accord.

Section 36 of the Atlantic Accord dealt with revenue sharing and stated the general principle that the revenue sharing between Canada and Newfoundland from petroleum-related activities in the offshore area should be the same as existed between Canada and other hydrocarbon producing provinces with respect to revenues from petroleum-related activities on land. Section 37 stated that Newfoundland should receive the proceeds of revenues from petroleum related activity in the offshore area from:

- (a) royalties
- (b) a corporate income tax which is the same as the generally prevailing provincial corporate income tax in the Province

- (c) a sales tax that is the same as the generally prevailing provincial sales tax in the Province
- (d) any bonus payments
- (e) rentals and license fees
- (f) other forms of resource revenue and provincial taxes of general application, consistent with the spirit of this Accord, as may be established from time to time.

Section 38 stated, “The Board (that is, the Canada-Newfoundland Offshore Petroleum Board, which is the prime regulator for the offshore) shall collect royalties, bonus payments, rentals, and license fees. These revenues and other offshore revenues referred to in Clause 37 shall be remitted to the Government of Newfoundland and Labrador.” This method of “flowing” the offshore revenues, which are later reduced by another federal government program, (Equalization), enables federal politicians of today to be “technically correct”, but misleading, when they state that the Province actually “collects and receives” 100 per cent of the above revenues.

Under Section 39, both governments recognized that “there should not be a dollar for dollar loss of equalization payments as a result of offshore revenues flowing to the Province.” To achieve this, Canada agreed to establish special new “Equalization Offset Payments” to commence on April 1<sup>st</sup> of the first fiscal year following the attainment of cumulative production of 15 million barrels of offshore oil or the energy equivalent of natural gas. Thus there are now two parts to the equalization offset payments promises of the Government of Canada, first, already in place under the general rules of the Equalization Program for all provinces offset payments would be made equivalent to the loss of any fiscal equalization payments that resulted from any future changes to the floor provisions of the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977, as amended 1982. These provisions applied with respect to the phase-out of equalization entitlements generally if the changes were detrimental to Newfoundland and this general equalization provision has the effect of providing Newfoundland, while its per capita fiscal capacity is 70 per cent or less of the national average, with 95 per cent protection from year-over-year decreases in equalization, from whatever causes, on the “floor protection” basis already in effect under normal equalization rules in 1982. This is a commitment that if under the formula the Province will receive in a year 95 per cent or less of the equalization payments it received the previous year, then the decline would not exceed 95 per cent. To this would be added the new offset payments protections of the Accord.

The additional equalization protection that the Accord was designed to provide was that “Canada will make offset payments (Part II) equivalent to 90 per cent of any decrease in the fiscal equalization payment to Newfoundland in respect of the fiscal year in comparison with the payment for the immediately preceding fiscal year, as calculated under the prevailing Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977, as amended from time to time, and taking into account both years, the offset component entitlement already available under Part One. In the fifth fiscal year after the threshold offshore production of 15 million barrels of offshore production of oil or the energy equivalent of natural gas was achieved, the new Part II offset payment rate would begin to be reduced by 10 percentage points in each subsequent year in addition to the original 90 per cent. The effect is that in year one Part II provisions would pay Newfoundland 90 per cent of the

remaining decline not covered by Part I, or approximately 4.5 per cent which would decline to zero per cent for Part II payments in year 12.

During and after the 12-year “offset mechanism” is in place, the Province has a choice or election as to whether it wants to use the “generic solution” provision of the equalization program in any particular year. With respect to certain natural resource revenues such as the offshore revenues of Nova Scotia, the offshore revenues of Newfoundland and Labrador, potash of Saskatchewan, the asbestos revenues of Quebec and certain new oil tax bases, there is this generic solution available. Where the fiscal capacity or revenues of any “tax base” of any single province represents at least 70 per cent of the total national fiscal capacity for that “tax base”, then 30 per cent of that province’s revenues from that source can stay with that province if it chooses that “generic solution”. What has to be recognized, however, is that the “generic solution” is not carved in stone but can be changed or withdrawn unilaterally by Canada since the equalization program is a federal program governed by federal legislation.

# The Financial and National Costs of Permitting a Failure of the Atlantic Accord

Contrary to the expectations of, and what has turned out to be the extremely unrealistic assumptions of, both parties who designed the Atlantic Accord in the early and mid 1980s, first oil was not produced from the Hibernia field until November 17, 1997, and the 12-year period for which Accord equalization offset payments are to be made by the federal government to Newfoundland began only in 1999.

Many unpredictable offshore and global energy events have occurred since Mr. Chrétien, Canada's Prime Minister since 1993, publicly stated in 1984 in St. John's that, "provincial revenues from Hibernia might be large enough to make Newfoundland a "have" province within five years of production." Instead, total cumulative Hibernia royalties paid to Newfoundland by 2011, the year the Atlantic Accord offset payments expire, are estimated to be between \$400 million and \$600 million, or approximately 50 per cent of just one year's equalization payments to Newfoundland in any year during the period 1997 to 2004! Once the 12-year offset payment period is over in 2011, Newfoundland will still be on equalization and will receive no further net revenue sharing under the Atlantic Accord. Because offshore revenues are a separate "tax base" in the equalization program, the Province will receive the "generic solution" protection of 30 per cent available to all Canadian provinces so long as Canada chooses.

The commitment to revenue sharing until Newfoundland becomes a "have" province, and "to recognize the right of Newfoundland and Labrador to be the principal beneficiary of the oil and gas resources off its shores," will never be achieved unless both parties to the bilateral Atlantic Accord make the necessary adjustments to reflect the changes in the actual evolution of the offshore industry as compared to their earlier analyses and assumptions.

As a side-note to the history of the federal equalization program, there have been many changes to the program since it was introduced in 1957. The most fundamental revision of the program took place effective April 1, 1982 with the changing of the previous 10-province standard to a five-province standard for calculating the national average per capita fiscal capacity and other important elements of the formula. Those revisions also changed the portion of natural resources to be equalized "from 50 per cent to 100 per cent." The effect of this was that for every dollar of offshore revenue received by Newfoundland, the normal operations of the equalization tax back mechanism would "clawback" dollar-for-dollar what Newfoundland received, as compared to 50 cents previously, a very significant change that also nullified the proposed fiscal benefits of the March 2, 1982 "Canada-Nova Scotia Agreement on Offshore Oil and Gas Resources Management and Revenue Sharing" to the point that a "Secret Letter Side Agreement" between the federal Minister of Energy, Mines and Resources Marc Lalonde and the Nova Scotia Minister was later revealed.

Several sections of the 1982 Canada-Nova Scotia Offshore Agreement are relevant to demonstrate the logic and consistency of the public policy statements and principles that surrounded the negotiation of the Newfoundland 1985 Atlantic Accord and the 1982 Nova Scotia Offshore Agreement and later the 1986 Nova Scotia Offshore Accord and why they have not, and never will until adjusted, deliver the fiscal benefits anticipated by both parties. For example, Section 15 of the 1982 Offshore Agreement, "Revenue Sharing" states, "the

intention is that resource revenues from the offshore region shall be reduced only gradually to ensure that Nova Scotia's fiscal and economic benefits are lasting."

And Section 15 (i) states, "In no case shall the total offshore revenues flowing to the Nova Scotia government have the effect of raising the Nova Scotia government's fiscal capacity beyond 140 per cent of the national average per capita fiscal capacity."

Section 13, "Crown Share" covers the terms by which Canada provides that "the Nova Scotia government shall have the right to acquire.... a 50 per cent portion of the Crown Share, in respect of a natural gas field, and a 25 per cent portion of the Crown Share in respect of an oil field." This was estimated by both parties to be a significant fiscal benefit to the Province. Most significantly, when the federal government of Prime Minister Mulroney abolished the National Energy Policy and with it the public policy of Crown Share, the replacement 1986 Canada-Nova Scotia Offshore Accord continues to contain a "Crown Share concept". This is expressed as a "Crown Share Adjustment Payment" or a proxy for the abolished Crown Share. In Article I "Objectives" of the Offshore Accord, Section 1.02(g), this proxy commitment is stated as, "to ensure that Nova Scotia will receive financial benefits equivalent to those that it would have achieved had it exercised its Crown Share option." This Objective is further operationalised in Section 45 of the Offshore Accord and Schedule IV which contains the specifics of how the Crown Share Adjustment would work, including a very significant condition that these, "adjustment payments shall terminate the year Nova Scotia reaches the national average level of fiscal capacity." This threshold is totally consistent with the many previous federal government commitments that Nova Scotia (and Newfoundland) would be the "principal beneficiary" of its offshore resources until it reached the average national level of per capita fiscal capacity.

Finally, with respect to Section 15 (l), Canada and the Government of Nova Scotia agreed that, "The sharing of revenues between the parties shall be reviewed by the parties five years after oil or gas production from the region begins, and at five year intervals thereafter." A similar clause reviewing "Objectives" is contained in the 1982 Agreement and also the 1986 Canada-Nova Scotia Offshore Accord, and clearly indicates that the Government of Canada and the Governments of Nova Scotia and Newfoundland would have discussed and recognized that the global petroleum industry, especially the "frontier East Coast" offshore sector, was and remains very cyclical and uncertain, and needs periodic reviews and adjustments if such important bilateral agreements between the two levels of Canada's governments are to "be of indefinite duration" as stated in the 1982 Agreement, or to be of a "stable and permanent arrangement" as stated in the 1985 Atlantic Accord. Furthermore, to emphasize the profound and fundamental importance all parties to both Accords agreed to at the time of signing, each Accord has a "Constitutional Entrenchment" section containing commitments by Canada to entrench the Accords in the Constitution of Canada, following certain approval procedures and/or requests.

In my opinion, it is clear that while Newfoundland fulfilled its major responsibilities under the Atlantic Accord, the federal government has not to date, and will increasingly fall short since Newfoundland clearly is not the principal beneficiary of Newfoundland's offshore resources. Under current projections, it is the view of Newfoundland that Canada is receiving the dominant share of offshore revenues, estimated at 79 per cent when its incremental corporate, personal, sales and other taxes as well as its "equalization savings" from the clawback are taken into account. Because many companies doing business in Newfoundland's offshore are

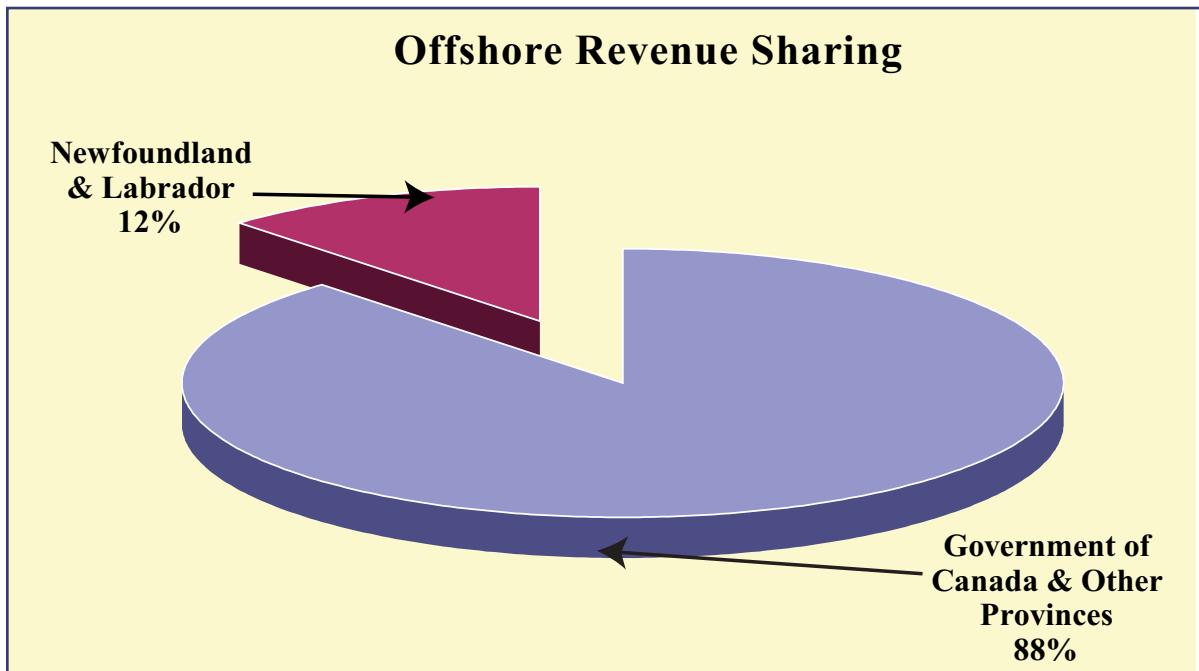
headquartered in other Canadian provinces, particularly Alberta, approximately nine per cent of projected offshore revenues will be allocated or distributed to those provinces through the federal-provincial tax collection system. Thus under current projections, Newfoundland will have a net fiscal impact from its offshore revenues of approximately 12 per cent while Canada and other provinces will receive an estimated 88 per cent of these offshore revenues.

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## Sharing of Total Offshore Revenues

The following Chart clearly shows that Newfoundland and Labrador does not receive the “principal” amount of the total revenues generated from petroleum projects off our shores. In fact, in this particular analysis we only take about 12 per cent of all revenues and the rest of Canada takes 88 per cent. Therefore, Canada as a whole is benefiting significantly from these projects whereas Newfoundland and Labrador receives a minor share of the total revenues generated.



The projects included in this analysis are Hibernia, Terra Nova and White Rose.

The analysis considers all government-type direct, indirect and induced taxes (e.g. corporate, personal and sales tax), royalties, federal Hibernia net profits interest and equalization impacts. It does not include revenues the federal government receives from its investment in Petro-Canada or the Canadian Hibernia Holding Corporation. The share of revenues going to other provinces consists of direct provincial corporate income tax only. This is the result of the allocation mechanisms associated with corporate income taxes. Depending on the assumptions used, the above percentages may vary slightly, however, the fact that the Province is not the principal beneficiary of these offshore projects will remain.

Clearly Newfoundland is not the primary or principal beneficiary of the offshore resources, nor of offshore revenues, but a minor beneficiary when compared to the federal government. The importance of this is that unless the Atlantic Accord is honored and implemented as to its original intent, Newfoundland is unlikely ever to become a self-sufficient province within the Canadian federation.

A fundamental principle of the Canadian federation is each province has the opportunity to utilize natural resources to build its economy and society. The central public policy

commitment of the 1985 Canada-Newfoundland Atlantic Accord is that Newfoundland will be the “principal beneficiary” of the oil and gas resources off its shores through the “joint management and revenue sharing” of these natural resources.

The Atlantic Accord was always discussed, negotiated and created on the basis of building a better nation together. To quote Prime Minister Chrétien from his days as Minister of Energy, Mines and Resources in 1984, “to ensure the Province (Newfoundland) has a real net increase in revenues from the offshore in early years when it was still a have-not Province.”

Since the first production of oil from the Hibernia field on November 17, 1997, to the end of 2002 Hibernia has produced approximately 235 million barrels of oil. Terra Nova started up in 2002 and produced 38.5 million barrels in 2002. This has resulted in total royalty revenues from both projects of \$154 million to the end of 2002. When White Rose reaches its production phase, the offshore of Newfoundland and Labrador could be producing over 400,000 barrels of oil per day, which will then account for more than one-third of Canada’s total conventional light crude oil.

Despite the increased economic activity, revenues and employment of the early stages of Hibernia, Terra Nova and White Rose as shown in Table I, on page 43, the net increase in provincial treasury revenues are not projected to be sufficient to remove the eligibility of the Province for equalization nor to enable Newfoundland to improve public services such as health and education, reduce crushing taxation levels and interest carrying costs, nor stop the growth in its enormous debt burden. (see Table II on page 44.) This appears to fly in the face of widely published national economic statistics that show Newfoundland’s Real Gross Domestic Product (“GDP”) growing at 8.2 per cent in 2002 versus a budgeted growth of 3.7 per cent, and exceeding five per cent annually in four of the past five years. The oil and gas sector in 2001 represented 8.6 per cent of the province’s total GDP. However, most of the oil produced is directly exported and there is modest impact on employment and relatively little net direct revenue impact to the provincial treasury.

It is important not to forget that the oil and gas resources off the shores of Newfoundland are depleting natural resources which will likely be gone in 30-40 years. Therefore, how can the Province build a long-term sustainable and growing economy as promoted by both levels of government during the negotiation of the Atlantic Accord; an economy that is self-sufficient, when the “principal beneficiary” of its only foreseeable substantial natural resource revenues is the federal government?

Remember that even as late as 1999 in Atlantic Canada, equalization payments represented on average more than 25 per cent of the total revenues transferred by Canada to the Atlantic equalization-receiving provinces and with respect to Newfoundland transfer payments, were 30 per cent of provincial current account revenues. In 2001-02 Newfoundland received in equalization \$1,073 million, PEI \$261 million, Nova Scotia \$1,323 million and New Brunswick \$1,192 million. The program is a generous one, but is it as effective and beneficial to the recipient provinces as it should be? Section 36(2) of the Canadian Constitution says that the main principal of equalization is to make “payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable public services at reasonably comparable levels of taxation.” Despite the tremendous transfer of funds from Canada since 1957 to “have-not” provinces (approximately \$200 billion), there are still great fiscal capacity deficiencies in comparison to a standardized or average Canadian provincial mark.

In 2002-03, Newfoundland's fiscal capacity per capita as compared to the national average is still only 68.5 per cent of the all-province national average. For Newfoundland to reach the national average per capita fiscal capacity in Canada in 2003-2004 would require additional annual revenue of almost \$1 billion, an amount substantially more than the total direct current offshore revenues. Alberta, which received equalization payments from 1957 to 1965, had in 2002-2003 an estimated per capita fiscal capacity equal to 151.4 per cent of the national average, down from 168.9 per cent in 2000-2001. When federal Finance revises these percentages to take into account recent sharp increase in oil and gas prices, Alberta's per capita fiscal capacity will likely rise even higher!

It is estimated that total royalties and taxes from the three currently approved offshore projects (Hibernia, Terra Nova and White Rose) could peak at between \$600 million and \$900 million in the 2008-2011 time period, an amount which is less than today's annual equalization payments to the province. In 2011 when the Atlantic Accord "equalization offset payments" expire, the total royalties from these projects could be in the range of \$300-\$500 million. This does not include the real possibility that there could be substantially more revenues in this period and beyond due to potential add-ons to these projects as well as additional oil and natural gas developments on the Grand Banks and the Laurentian Sub-Basin. By 2011, "the generic solution" of 30 per cent will be the only equalization protection available to the province. Under the current implementation structure of the Atlantic Accord, and given the economic and population challenges Newfoundland is facing in the decade ahead, even with these projected offshore revenues there will be little "net revenue growth" to the provincial treasury to build a sustainable and self-sufficient economy. The net revenues from our depleting resources will not be sufficient to make us a "have" province.

A brief history of the equalization payments, and the "offset mechanism" payments since Hibernia production "commenced" under the Atlantic Accord "trigger" is contained below. Because equalization entitlements were expected to grow year-over-year in 1999-2000 and 2000-2001, Newfoundland opted for the 30 per cent 'generic solution' to apply to offshore revenues. This demonstrates the difficulties of projecting revenues for a Newfoundland economy with volatile offshore prices, an otherwise weak economy and declining population. The very "protection from riches" of rapid offshore oil project developments and rapid economic development that would immediately drive down equalization payments before the Province's own source revenues could increase, has been replaced by a "protection from drowning" by applying the "offset payment" mechanism in 2001-2002 and 2002-2003 because equalization payments generally are dropping sharply (approximately \$300 million annually before Accord floor protection since 1999-2000 with the floor payment included in 2002-2003 but not Accord payment).

<b>(\$Millions)</b>	<b>EQUALIZATION ENTITLEMENTS</b>	<b>GENERIC MECHANISM(1)/ OFFSET PAYMENTS(2)</b>
2002-03	903,931	163.4 (2)
2001-02	1,072,673	44.8 (2)
2000-01	1,122,401	13.6 (1)
1999-00	1,168,508	6.1 (1)

The Atlantic Accord “offset payment” protection is already beginning to decline and will drop sharply within three to four years and expire totally in 2011. Therefore, despite rapidly growing offshore revenues there will be little net revenue gain from the Atlantic Accord and the Province’s treasury will be under severe stress from the combined impacts of declining population, the Province’s weak financial position and an uneven economic performance.

# History of Canada's Natural Resources

It is both interesting and significant to note the evolution of most Canadian provinces with respect to the acquisition and development of natural resources. Historically we should note how our Province has been treated compared to other provinces that benefited from the territorial expansion of Canada into the north and west, which occurred before Newfoundland joined Confederation in 1949. In 1869, a steady territorial expansion of Canada began into the north and west, embracing huge areas of Crown held "dominion lands". This led to the creation of what is now Northern Ontario, Nouveau Quebec, Saskatchewan, Alberta and Manitoba. It was the understanding of the founding provinces that these north-west territories were to be held in common for the benefit of all Canadians. As it turned out, these areas were rich in valuable minerals and petroleum deposits, and later would also generate vast inexpensive hydro-electric power from the water natural resources. Canada, however, gave large tracks of these Northwest Territories to provinces or created new provinces out of them.

For example, in 1889 the boundaries of Ontario were extended northwards as far as James Bay while almost a decade later the same process occurred for Quebec. In 1912 the boundaries of Ontario, Quebec and Manitoba were extended to their current delimitations and for Quebec and Ontario this expansion included the granting to those provinces in those territories of subsoil rights.

In 1930 the Constitution Act of that year ceded subsoil rights to the Prairie provinces of Alberta, Saskatchewan and Manitoba who thus achieved a position of equity within Confederation by acquiring the right to profit from their own natural resources. While grants of subsoil rights were made to those provinces, no balancing concession was made to Nova Scotia or the other Maritime provinces, nor to Newfoundland in 1949 when it became part of Canada and brought its vast offshore resources off its coasts into the Canada federation.

Is it any wonder that there is a great sense of grievance both in Newfoundland and in Nova Scotia with respect to how they are being treated, particularly when compared to the policies of Canada with reference to Ontario, Quebec and the western provinces who were granted their natural resources and subsoil rights in the huge areas of what were Crown-held "dominion lands" and are now Northern Ontario, Northern Quebec, Saskatchewan, Alberta and Manitoba? Today, as a result of decades of tortured negotiations that finally resulted in offshore Accords between Canada and Nova Scotia (1986), and Canada and Newfoundland (1985), Nova Scotia will receive just 19 cents from every dollar of offshore revenues generated compared to 81 cents to Canada while Newfoundland will receive 12 cents only with Canada receiving, with other provinces, the remaining 88 cents from every dollar of offshore revenues.

In spite of the intent built into the Atlantic Accord and the Agreements with Nova Scotia and Newfoundland, neither has become nor will become the "principal beneficiary" of the oil and gas resources off their shores, without major changes to the Accord agreements to ensure that the stated intentions and purposes becomes reality.

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# What Needs to Be Done?

What is obviously needed is for Canada to work out with Newfoundland (and Nova Scotia) new or amended arrangements with respect to the use of the equalization program relative to their revenues from offshore oil or natural gas so that Canada and the Province achieve the intent and purposes of the Atlantic Accord, particularly the purpose “to recognize the right of Newfoundland and Labrador to be the principal beneficiary of the oil and gas resources and revenues off its shores.” The intention was that steps be taken to minimize the impact of the separate federal program of equalization that would permit Newfoundland to be the principal beneficiary of the offshore resources until it became, at the least, a “have” province. After this, having graduated from the equalization program, the sharing of benefits with other Canadians from these offshore resources would start. This was the clear intention of both Liberal and Progressive Conservative federal administrations of Canada.

In March 2002, the “Standing Senate Committee on National Finance”, Chaired by the Honourable Lowell Murray in a Report to Parliament, addressed some of the problems and frustrations with the implementation of the Canada-Newfoundland Atlantic Accord and the Canada-Nova Scotia Offshore Accord that are becoming more obvious as the projects offshore finally begin to produce oil and natural gas. After much discussion and analysis and broad public input, the Report entitled, “The Effectiveness of and Possible Improvements to the Present Equalization Policy”, took the strong action of making two very insightful and nationally relevant recommendations to Canada’s treatment of natural resource revenues. The recommendations are #7 and #8 in the Report and are as follows:

1. “The government change the Generic Solution so as to increase the share of a province’s entitlements that are protected when it non-renewable natural resource revenues increase.”
2. “The government should undertake an evaluation of the Equalization provisions of the Atlantic Accords to determine if they have met the intent for which they were designed.”

The Senate Report, and the discussions and hearings held, demonstrate the broad support for the view something needs to be adjusted within the two offshore accords if they are to meet the policy objectives for which they were designed in the 1980s. This is a national issue very important to the long-term future of Canada.

The expectation that in just a short time period after 1985 Newfoundland would receive tremendous revenue increases from its offshore resources has not been borne out. In fact there was a long gap from the discovery of Hibernia to production of oil in 1997 and even longer before significant royalties and corporate taxes were received. Changes in capital costs and depletion rates and changes to the fiscal regimes of both the provinces and Canada combined to create different results are taking much longer than forecasted at the time of the Atlantic Accord and are contributing to the failure of the Accords to fulfill original projections as quickly as was thought possible.

A fair and proper resolution of this problem would see Canada seizing this opportunity to restate some fundamental principles of what it means to be a Canadian and to build a nation where each citizen can be equal. If two of the “have-not” provinces are given the opportunity

to become “have” provinces as was envisaged, and as they were led to expect, Newfoundland (and Nova Scotia) would contribute to a positive renewal of federalism by becoming “have” provinces themselves as a result of the utilization of the non-renewable oil and gas resources off their shores.

This would mean increased self-sufficiency initially in Newfoundland (and Nova Scotia), and hopefully for the remainder of the Atlantic region and other provinces as their natural resources are discovered and developed. It will also result in reduced federal equalization payments as Newfoundland and Nova Scotia become “have” provinces and thereby no longer entitled to such payments.



# Conclusion

This is a national issue that all provinces should be concerned about since every province should be concerned when bilateral agreements, such as the Canada-Newfoundland Atlantic Accord and the Canada-Nova Scotia Offshore Accord, entered into between a province and Canada on an issue of such importance, remains unfulfilled. That the commitment was an important one is shown by Canada committing to entrench the two Accords in the Constitution Act, if called upon to do so. It is clear that the intent of the Atlantic Accord with respect to revenue sharing will not be achieved, and Canada should not hide behind its program of equalization to justify doing nothing in attempting to carry out the commitments and promises made during the negotiations leading up to the Atlantic Accord, and contained in it.

Newfoundland still clearly remains a “have-not” province. Our complaint is not about equalization, but how Canada uses this program it controls to justify their failure to carry out their commitments made in the Atlantic Accord. Canada should, with Newfoundland, agree on the steps needed to achieve the original intent of the Atlantic Accord.

If the purposes of the Atlantic Accord are not achieved then Newfoundland and Labrador (and Nova Scotia) will likely never become self-sufficient provinces within the Canadian federation. These depleting natural resources of oil and gas off Newfoundland will be gone in 30-40 years and the economic impact from the offshore revenues produced from them will not have come to the citizens of Newfoundland, as Canada agreed should happen, and as happened with the resources of other provinces who benefit from the revenues from their oil and gas.

It has always been acknowledged that exploring and eventually producing oil and gas on frontier lands is a risky and uncertain business. The federal and provincial governments should agree that what was projected to happen in the early and mid-1980s did not happen, and therefore the Atlantic Accord needs to be revised to take this into account. Energy is even more important to the Canadian economy now than it was in the 1970s and 1980s. Canada, certainly partially due to the resources off Newfoundland and Labrador (and Nova Scotia) is one of the few fortunate countries to have oil and gas surpluses and in fact to be significant net exporters. This was a key purpose of the Atlantic Accord, and it has been achieved, so surely the great proportion of the offshore revenue benefits should not be going to Canada today and for the next 30-40 years, but should be distributed as planned. This inequity can be resolved and any offset adjustment payments needed to fulfill the original “principal beneficiary” commitments under the Accord paid under the existing mechanisms within the Atlantic Accord. This is a bilateral Agreement between two governments, not a matter affecting any other government or needing their approvals. It is also an Agreement with fiscal mechanisms that have been acknowledged by the federal government to be outside the equalization program as it is currently structured.

Circumstances combined to thwart the original objectives established by both governments for the Atlantic Accord so an adjusted or a new mechanism must be developed by Canada and Newfoundland to implement their agreed intentions. If Newfoundland receives the benefits from its offshore non-renewable resources, it will have a real opportunity to catch up to national economic standards over the next 20-30 years. The same is true of Nova Scotia. To deny these benefits and opportunities is to abandon Newfoundland and Nova Scotia to dependency on federal-provincial transfers, likely forever. Only vision and leadership and the carrying out of commitments will ensure that the citizens of Newfoundland and Labrador receive the benefits

and shared revenues from their offshore resources as expected when their government entered into the Atlantic Accord with Canada.

The economic and fiscal disparities among the 10 Canadian provinces and three territories are an evolving threat to the nation's political, social and economic survival. Yet we are all citizens of the same nation! Situations whereby provinces such as Newfoundland and Labrador, and Nova Scotia may be denied the opportunity to utilize the revenues from their natural resources off their shores to improve their social and economic circumstances, must not be allowed to happen. The "right public policy actions" must be seized and implemented as part of the vision of our political leaders.

**Table I**  
**Selected Offshore Fiscal, Operating and Employment Statistics**  
**Newfoundland and Labrador, December 31, 2002**

	<b>Hibernia</b>	<b>Terra Nova</b>	<b>White Rose</b>	<b>TOTAL</b>
<b>Total Expenditures (Billions)</b>	\$7.5	\$3.3	\$ .5	\$11.3
<b>Peak Construction Employment</b>	5,800	2,500	n/a	
<b>Total Current Direct Employment</b>	800	1,000	800	2,600
<b>Average On-Going Operational Employment</b>	650-750	400-450	375-400	1,425-1,600
<b>Field Life in Years</b>	20+	15+	10-15	
<b>Reserve Size (Millions of Barrels)</b>	884	388	230	
<b>Number of Wells</b>	83	24-34	19-21	
<b>Design Production Field Capacity (bbls/day)</b>	217,000	190,000	100,000	507,000
<b>Royalties (Millions to Date)</b>	\$140.0	\$14.0	n/a	\$154.0
<b>Barrels Produced (Million Barrels to Date)</b>	234.0	38.0	n/a	272.0

**Exploration Data (As of March 2003):**

Number of Wells Drilled	234
Offshore Seismic Data (2D and 3D)	1.3 million kilometers
Exploration Permits (Issued by Federal Government)	3.3 million hectares
Number of Permits	3
Exploration Licenses (Issued by CNOBP)	4.2 million hectares
Number of Licenses	36
Total Work Expenditure Bids (since 1988)	\$907 million
Outstanding Work Expenditure Bids	\$471 million

**Table II**  
**Selected Provincial Fiscal and Economic Statistics**  
**Newfoundland and Labrador, March 2003**

**Population Estimates for 2002-03**

Atlantic Provinces	2,372,555	7.6% of the national total
Newfoundland and Labrador	531,837	1.7% of the national total

**Employment**

Atlantic Provinces	1,055,000 employed	6.8% of the national total
Newfoundland and Labrador	213,900 employed	1.4% of the national total

**Per Capita Fiscal Capacity**

Atlantic Provinces	76.1% of the national average
Newfoundland and Labrador	68.5% of the national average

**Equalization Entitlements (2002-03)**

Atlantic Provinces	\$3.5 billion
Newfoundland and Labrador	\$904 million

**Current Account Revenue (Newfoundland and Labrador Budget 2002-03)**

Own Source Revenues	\$2,021 million
Federal Transfers	<u>\$1,501</u> million
Total Revenues	<u>\$3,522</u> million

**Provincial Debt (Newfoundland and Labrador Public Accounts to March 31, 2002)**

Total Public Sector Debt	\$7,502 million	\$14,054 per capita
Total Public Sector Debt - Including Pension Liability	\$10,894 million	\$20,408 per capita

**Debt Charges (Newfoundland and Labrador Budget 2002-03)**

Total	\$569 million
Per cent of Own Source Revenues	28.2%
Per cent of Total Revenues	16.2%

**Selected Alberta Statistics (2002-03)**

Total Revenues	\$25.3 billion
Total Debt (net of recently added reserves)	\$6.9 billion
Alberta per Capita Debt	\$2,286
Debt Charges	\$940 million
Debt Charges as a % of Total Revenues	3.7%
Total Resource Revenues this year	\$10.3 billion
Per Capita Fiscal Capacity	168.9% of the national average