

New England Fishery Management Council Groundfish Oversight Committee

Meeting Summary
December 19, 2012

The Groundfish Oversight Committee (Committee) met in Wakefield, MA. The Committee discussed recent work on the analysis of Groundfish Closed Areas and Committee recommendations for Framework 48 (FW 48). Committee members present were Mr. Terry Stockwell (Chair), Mr. Tom Dempsey (Vice-Chair), Mr. Terry Alexander, Mr. Erling Berg, Mr. Frank Blount, Mr. David Goethel, Mr. Peter Kendall, Mr. Howard King, Ms. Sue Murphy, Dr. David Pierce and Ms. Laura Ramsden. They were supported by Council Chairman Mr. Rip Cunningham, GAP Chair Mr. Bill Gerencer, RAP Member Capt. Patrick Paquette, staff members Mr. Tom Nies, Mr. Andrew Applegate, Ms. Pat Fiorelli, and Fiona Hogan (NEFSC), Mr. Mark Grant, Ms. Sarah Heil, Ms. Melissa Hooper, Mr. Michael Ruccio and Mr. William Whitmore (NMFS NERO).

Discussions were guided by the Draft Framework Adjustment 48 dated December 13, 2012, Draft Appendix I dated November 2012, Framework 48 Decision Document, Science and Statistical Committee Report dated December 13, 2012, Proposed Rule to implement a targeted Redfish fishery for Sector vessels, Groundfish Oversight Committee Meeting Summary dated November 5, 2012, Groundfish Catch Reports, Presentation on a proposed redfish fishery sector exemption, Analysis of Sector Exemptions to Year Round Closed Areas presentation, Framework 48 presentation and a series of correspondence received by the New England Fishery Management Council.

Overview of Framework Adjustment 48

Staff provided a brief summary of the Framework Adjustment 48. FW 48 includes measures for Revised Status Determination Criteria, Rebuilding and Annual Catch Limits and Commercial and Recreational Measures. Staff outlined results of the economic impacts on the commercial industry based on the Quota Change economic model. The Quota Change model was used to predict future revenues. The model was tested for accuracy using data from 2010; the 2010 model results showed a good fit of the known 2010 data with the exception of overestimating Georges Bank (GB) haddock catch. Comparisons of various metrics indicate declines in FY2013 compared to recent years. Groundfish trips, days absent and crew days all show a decline in FY2013. Staff explained that this model was not designed to incorporate the effects of changes to other Fishery Management Plans (FMPs) such as the Monkfish FMP. The model identifies trips where there's a high ratio of revenue when high ACE is used. If revenue is increased on non-groundfish species, it might increase trips and therefore revenue but the model doesn't use simulated data and these effects can't be estimated. A Committee member requested an analysis of low Gulf of Maine (GOM) cod and low GB cod allocations be included in the economic impacts and found it difficult to fully assess the impacts of the FW 48 management measures without any indication on how they will affect individual fishermen; all economic impact analyses were conducted on aggregated data and showed impacts on port, sector level, etc. Staff explained that the model uses the amount of revenue for the amount of ACE caught; the fishery

is going to attempt to maximize the revenue for the amount of ACE they have. A Committee member provided a personal example of revenue from a vessel with low ACE that fishes in a way the model may deem irrational and deemed the estimated revenue numbers to be too high considering the low allocation of certain species that would restrict fishing activity to less than a week.

Analysis of Sector Exemptions to Year Round Closed Areas

Staff provided an overview of the Closed Area Technical Team (CATT) report that described the closed areas and the various analyses conducted. Sectors are not allowed to request exemptions to the Essential Fish Habitat (EFH) designated areas, to areas under consideration for closure under the Omnibus Habitat Amendment or to a closed area during a seasonal or rolling closure. Staff described the potential effects a closed area can have on a fish population; recruitment can occur from the closed area and biological differences may be detectable between fish found inside and outside of a closed area. A literature review indicated the closed areas had a positive effect on haddock and winter flounder but no effect was detected for cod and yellowtail flounder biomass. There was some evidence of cod subpopulations and the closed area benefited resident cod. The CATT detected biological differences for haddock, winter flounder and cod; some differences for yellowtail flounder, barndoor skate, cod sub-populations and American lobster; no observable differences for winter skate, pollock, redfish, monkfish, thorny skate and Atlantic wolffish. Seasonal distributions in the Northeast Fisheries Science Center trawl survey were examined for a number of species to estimate distributions inside and outside of the closed area.

Staff described the economic benefits associated with potential reductions in cost and increases in revenue. Survey CPUE was examined for a number of species to determine if an increase in catch could be expected; CPUE varied by species. Gear conflicts in the Western Gulf of Maine (WGOM) closed area were examined by determining the number of trips reported by VTR in that area by recreational vessels; it was determined to be 2% of trips but this was thought to be an underestimate due to the structuring of the VTR system reporting. The CATT qualitatively concluded that there has been a relatively high degree of natural bottom disturbance in the Georges Bank potential sector exemption areas because of access programs. A low degree of disturbance is considered to have occurred in the WGOM and Cashes Ledge areas. Protected species could cause lobster effort displacement particularly in the WGOM and Nantucket Lightship areas.

A Committee member asked staff to describe the potential gear conflicts with the recreational fishery and to provide a plot of where scientific research has been conducted. Staff described that gillnets have had some conflict with recreational fishing gear in the past and that while the results of research was provided to the CATT, detailed information on the location of various research projects was not provided. Another Committee member requested clarification on the actual benefits that the fishing industry would receive from opening the closed areas; based on the CATT analysis the greatest benefit to the industry would occur in the spring when sectors cannot request an exemption. The CATT didn't think there would be no benefit to entering the closed areas in the fall; based on the limited fishery dependent data from the Haddock Special Access Program (SAP) it did suggest some seasonal benefit that was not fully captured in the analysis. The CATT considered there to be some benefit and some risk to yellowtail flounder and

it may depend on when the fishery operates and the gear used. Staff explained the scale of impacts used in the analysis; limited impacts did not indicate a lack of an impact but a difference between some of the biological characteristics examined. The RAP representative described how only one location can be input into a VTR and how the CATT recreational data shows that there has been a shift in effort going west to east moving further into the proposed sector exemption in 2012 because of the large boats removing fish from Statistical Area (SA) 514.

Some public comment included:

- Jim Odlin, Fishing Vessel Owner, Portland, ME and New Bedford, MA: Doesn't it appear that there are a higher percentage of trips in the open areas that are currently open of recreational trips; there are more recreational trips in the current open areas than there is in the areas that are under consideration to be open? In other words, it seems like there's more trips right now going on in open areas. I haven't heard much about a gear conflict so I don't know the percentage. If there's twenty percent of the trips are in open areas or fifty percent of trips in the open areas and it's functioning okay and you open another area that only has two percent of the recreational trips how is that going to be a significant increase in gear conflicts over what's happening today? I thought I heard Mr. Applegate say that this did not consider the fact that the areas on Georges Bank are going to be required to have separator gear which does not impact flounders. This graph does not consider the gear restrictions that will be imposed on the fisheries in those areas. The answer is that this does not consider any kind of gear restrictions that would be imposed that could be imposed in these areas, which I think the original motion said separator gear only in those areas so I think that's an important point for the Council to have under consideration
- Gib Brogan, Oceana: I appreciate some of the questions and the explanation makes the slides a lot clearer. I have a question on the Catch Per Unit Effort (CPUE) yellowtail flounder slide (page 24 of the presentation handout). I'm looking at Georges Bank yellowtail flounder and since the council has been having an ongoing problem avoiding yellowtail flounder or dealing with low yellowtail flounder Sub-ACLs on Georges Bank are you expecting a four-fold increase in Georges Bank yellowtail flounder catch compared to the open areas?

Committee Recommendations for Framework 48

Section 4.1.1 – Revised Status Determination Criteria for GOM cod, GB cod, SNE/MA yellowtail flounder, and white hake

Staff described the management measures outlined in the Framework 48 Decision Document. The first measure was the Revised Status Determination criteria for GOM cod, GB cod, SNE/MA yellowtail flounder and white hake (Section 4.1.1). Stock assessment results are only available for SNE/MA yellowtail flounder; the remaining assessments will be completed in early 2013. In the case of SNE/MA yellowtail flounder, the SSB_{MSY} is based on a determination by the

Science and Statistical Committee (SSC) since this was not defined in the assessment; the Agency has already notified the Council that this stock is not overfished.

Motion: To recommend the Council adopt Option 2 Section 4.1.1.2, Revised Status Determination Criteria consistent with recent assessments. (Mr. Dempsey/Ms. Ramsden).

A Committee member hoped that the cod assessment would result in a F_{MSY} number instead of a F_{MSY} proxy. NOAA General Counsel questioned whether any additional Council action was required for the stock assessments after the submission of FW 48. Staff explained that the expectation is for the assessment to be inserted into FW 48 but it depends on the results, i.e. multiple models or rejection of the assessment. Another Committee member was concerned that the Committee would be voting on this measure that could give a blank slate to someone; this concern was shared by another Committee member. A Committee member considered it a clear mandate of the Committee to revise the status of these stocks as informed by our assessments.

The motion **carried** on a show of hands (9/1/1).

Section 4.1.2 - SNE/MA Windowpane Flounder Sub-ACLs

Staff described Option three that would establish a sub-ACL for the other sub-components and require an Accountability Measure (AM) for this new category. This could result in some AMs for Mid-Atlantic stocks. Staff explained that it would affect the fluke fishery and possibly the black sea bass fishery; any fishery that uses a bottom trawl of five inches or greater would possibly be affected. The AM doesn't close areas; it requires the use of selective gear in designated areas.

Motion: To recommend the Council adopt Section 4.1.2.3 Option 3, Other Sub-Components sub-ACL for SNE/MA windowpane flounder. (Mr. Dempsey/Mr. Kendall).

Staff clarified that the reasoning for the AM being applied to mesh sizes five inches or greater was that the AM had to be designed to affect those catching windowpane flounder. Windowpane flounder catch decreases with increasing mesh size; however, vessels using small mesh aren't catching windowpane flounder. The PDT considered attributing it to various FMPs but due to the great difficulty in doing that effectively because people fish under multiple FMPs, the AM is more effectively assigned to gear type.

The motion **carried** on a show of hands (7/3/1).

Section 4.1.3 – Scallop Fishery Sub-ACL for GB Yellowtail Flounder

Staff requested clarification of intent for Option 3, the preferred alternative, as the original motion set the scallop sub-ACL of Georges Bank yellowtail flounder at forty percent in FY 2013 and at sixteen percent for FY 2014 – 2015 and it was unclear what percentage would be applied after FY 2015. A number of Committee members indicated that the intent was for the sixteen percent to be applied after FY 2015.

Motion: To recommend the Council allocate sixteen percent of the Georges Bank yellowtail flounder to the scallop fishery beginning in 2014 and continuing thereafter. (Mr. Dempsey/Mr. Kendall).

Another Committee member thought that no percentage was set for FY 2016, i.e. the sixteen percent would not be carried forward after FY 2015. A Committee member did not consider it proper to tie the hands of the future Council and a percentage should be put in place that can be reconsidered when necessary.

Some public comment on the motion included:

- Drew Minkiewicz, Fishery Survival Fund: I sat through the entire debate at the last meeting and I thought it was pretty clear that we were talking about 2013 – 2015. So this is a bit of a change that being said this intent, I mean you can't tie the hands of the future council. I don't think anyone thinks that the next framework isn't going to have a section dealing with the allocation of Georges Bank yellowtail flounder to the scallop fishery so I don't know what this motion accomplishes. It's going to be revisited; it's going to be talked about. If you think that if you pass this motion and think there won't be any more discussion then I think we're all kind of kidding ourselves. Given the clear intent, the clear wording of the original motion that you all passed at the last meeting and the fact that this motion doesn't bind the future Council and we know that it's just going to be revisited come the next framework anyway I don't see what the point in passing this is. I think it sends a confused signal.

The motion **carried** on a show of hands (4/3/3).

Staff also requested clarification on how the AM should be applied for an overage of Georges Bank yellowtail flounder amongst the three components. The current wording applies the AM to the groundfish fishery if there is an overage. The proposed change would apply the AM to the component that caused the overage. There is a small portion of Georges Bank yellowtail flounder that is not allocated to any component and this group may cause an overage; if that happened the overage would be applied to everyone.

Motion: To clarify the intent of 4.1.3.3 is to align any AM in the case of an overage of the US/CA Georges Bank yellowtail flounder sub-ACL overage with the component of the fishery that exceeded the sub-ACL; and that the sub-ACL of other components not be reduced in the following year. (Mr. Dempsey/Mr. Kendall).

The Committee discussed when the AM would be applied. NERO staff explained that the US/CA provision applies at the US TAC level so if our US TAC is exceeded the pound for pound would be triggered and that's separate to our US AM system and would apply if the US CA amount was exceeded; the US/CA TAC can differ from the US ACL.

Some public comment on the motion included:

- Drew Minkiewicz, Fishery Survival Fund: I want clarification so all the preexisting transfer mechanisms that we have in place for Georges Bank yellowtail flounder the provision that if the scallopers go over their ACL but the overall ACL isn't exceeded then basically the extra fish is effectively slid over and no AM is triggered and the power of the RA to take unused scallop ACL and move it over to the groundfish at the end of the year if it doesn't look like they're going to use it that all is still in place, that doesn't change at all. So this only kicks in when every last fish is taken and then some by everybody.

Motion as perfected: To clarify the intent of 4.1.3.3 is to align any AM in the case of an overage of the US/CA Georges Bank yellowtail flounder TAC to adjust the sub-ACL of the component of the fishery that caused the overage and that the sub-ACL of other components not be reduced in the following year.

The motion **carried** on a show of hands (9/0/2).

Section 4.1.4 – Small-mesh fisheries Sub-ACL for GB Yellowtail Flounder

Staff explained that if a sub-ACL for GB yellowtail flounder was established for the small-mesh fisheries then a percentage would need to be selected. If the sub-ACL was based on history it would be low; since 2004, except for one year, the percent caught by this fishery was less than five percent. A Committee member attributed the apparent increased need of allocation to the decrease in overall allocation.

Motion: To recommend the Council adopt Section 4.1.4.2 Option 2, Small-mesh Fisheries Sub-ACL for Georges Bank yellowtail flounder using the median catch of this fleet from calendar years 2004 – 2011. (Mr. Dempsey/Mr. Alexander).

A Committee member thought it impossible to identify yellowtail flounder from the small-mesh fisheries catch; bycatch of yellowtail flounder in the squid fishery was low according to data from the Mid-Atlantic Fishery management Council (MAFMC). The MAFMC has not discussed this issue yet and their representatives could not support this. Following a question from a Committee member regarding where the catch was in relation to the areas proposed in the AM, staff provided distribution maps of small-mesh tows that discarded yellowtail flounder based on observer data from 2010. Discards occurred on the southern flank of Georges Bank and up off CAI, which is generally the cultivators whiting fishery. All of this fishing in the joint squid/whiting fishery is in this SNE exemption fishery.

Motion as perfected: To recommend the Council adopt Section 4.1.4.2 Option 2, Small-mesh Fisheries Sub-ACL for Georges Bank yellowtail flounder, using a fixed percentage of the median catch of this fleet from calendar years 2004 – 2011.

A Committee member was concerned with the phenomenon of phantom discards that were actually never caught but were created because a ratio of what is kept to what is discarded is used; these discards were considered to be a figment of the computer. The Committee member considered it likely that the discards could be inflated because of the large kept portion in this

fishery and a smaller discard portion but supported the requirement of bycatch reduction gear. Another Committee member proposed setting the sub-ACL at the median value of two percent as the requirement of the raised footrope trawl was approved at a previous Committee meeting. Staff clarified that the intent was to have the appropriate FMPs develop the AM but a default AM had not been developed in case that didn't happen. There was some discussion on the feasibility of developing the AM within the defined year's deadline in the necessary FMPs.

Motion to amend: To exclude those vessels on a defined *Loligo* squid trip, defined as 10,000 pounds or more of squid comprising fifty percent or more of the landed weight (Mr. King/Mr. Berg).

Rationale: The Council is sensitivity to this is looking to buy enough time to dig down into our FMP and work with our advisory panels to see how to reduce catch of yellowtail flounder. We think it's small but we understand everyone has to reduce bycatch.

The maker of the motion informed the Committee that this would exclude eighty-nine percent of the *Loligo* trips from the AM. When asked if the squid fishery had a trip declaration that could be used to exclude these trips the MAFMC representatives did not think one was already in place but could be established. A Committee member considered the AM difficult to enforce or understand if half the trips were removed given the overlap between these two fisheries.

Some public comment included:

- Dan Farnham, Montauk NY: That's called throwing the whiting fishermen under the bus. If you have two user groups out there fishing and if either one interacts with yellowtail flounder I would think they should both be held accountable that's on the motion to amend. On the whole dilemma itself I agree with Mr. Goethel. I'm involved with both fisheries, both squid and whiting, in Cultivator and up on the southern flank of Georges Bank. We honestly do not see a lot of yellowtail flounder. Mr. Nies, are these landings associated with a handful of observed trips or across the board? I don't really have a problem with this whole motion here but when we get to the gear requirements it's going to be a different issue. Why would we base catch history on the median and not the mean, when it comes to the sub allocation? If I do the math I come out with a 0.25. Can someone explain the difference to me? The average catch would be 0.3 would be the mean. From my point of view, being involved with the fishery, if we're going to be held accountable I would like to be held accountable for whatever we've been observed landing or discarding. Thank you very much.

Some concern was raised about a vessel or enforcement not knowing if they were subject to an AM before leaving the dock without a pre-trip declaration. A Committee member told the Committee that a declaration is done with VMS and these vessels don't have a VMS unless they have a groundfish permit and to implement this effectively would require time and thought.

The motion to amend **failed** on a show of hands (2/8/1).

A Committee member was opposed to the main motion partly due to concerns of being able to implement an AM in the Whiting FMP within a year.

The main motion as perfected **carried** on a show of hands (5/4/2).

Section 4.1.5 – Annual Catch Limit Specifications

Staff explained that under Option 1 there are a large number of stocks that have no ACLs established for FY 2013, effectively shutting down fishing in the GOM. Pending the benchmark assessment results, a range of ACLs for cod were considered in the impacts analysis and presented to the Committee. A Committee member strongly opposed Option 2 because of the low ACLs that were thought to reduce the number of fishing days to less than a week and remove states from the fishery.

Motion: To recommend the Council adopt section 4.1.5 Option 2, Revised Annual Catch Limit Specifications. (Mr. Dempsey/Mr. Cunningham).

Another Committee member, while in favor of rebuilding stocks, did not want to vote for Option 2 without knowing the impacts on fishing communities and small boats, which were thought to be devastating but were not possible to analyze for FW48. Other Committee members considered there had been ample warning of the low-ACLs.

Motion to amend: To adopt a constant harvest strategy that reduces Gulf of Maine cod, Gulf of Maine haddock, Georges Bank cod, American Plaice, witch flounder, Cape Cod Gulf of Maine yellowtail flounder ACLs by ten percent from 2012 ACLs. (Mr. Goethel/Mr. Kendall).

Rationale: This motion gets to the core of 2 issues: 1. Who manages the fish and how we manage it. 2. We know our current management system isn't working. We have to think of a new way to do this. I think this is the way we have to move and I think it's permissible within the law because we're clearly reducing numbers; we're moving to reduce overfishing. We don't know until the next assessment is done whether we've overfished no matter what we do. Some of these stocks seem to be going in the exact opposite direction to what the stock assessments are saying. There's a huge difference in what we're seeing as fishermen and what we're being told by assessments.

There was some concern that this motion couldn't be approved. A reduction of ten percent was deemed to be insufficient by a Committee member considering the fleet has caught less than fifty percent of the allocation for a number of stocks. A Committee member questioned whether an interim action was feasible when there was some available science that would make more GOM cod available but wasn't adopted by the stock assessment. There is a requirement to reduce overfishing and rebuild a stock that is considered to be in trouble. NOAA General Counsel informed the Committee that the interim rule for GOM cod was an isolated exception that doesn't necessarily apply to other stocks; the Council is still bound to reduce overfishing. A Committee member thought it was necessary to make a statement and asserted that the allocations aren't being met because lease prices are too high. Another Committee member

didn't think the lease price for GB cod was restraining the fishery; the price per pound was high and fishermen tried to land them but couldn't find them. Another Committee member disagreed saying boats had difficulties finding haddock but were able to find cod 52 weeks of the year. The RAP representative informed the Committee that some of the long distance recreational boats have not gone to Georges Bank this year because of difficulties finding cod and were mainly having pollock trips. The GAP representative considered the status quo strategy to be no longer working for the fleet as it's becoming increasingly clear that we don't know how many fish are out there, what is causing changes in availability (e.g., temperature); world class science is no longer capable of doing this job.

The motion to amend **carried** on a show of hands (6/4/0).

NOAA General Counsel considered this to be a new option and necessary analyses would not be available for the public and Council to consider before the December 2012 Council meeting. A Committee member suggested this motion may allow a relaxation in the recreational measures to increase catch because estimates of YF 2012 catch were much lower than those of FY 2011.

Some public comment included:

- Jim Odlin: I don't know how I would vote on this motion if I was sitting up there. I think a better motion would have been to have a ten percent reduction on FY 2011 catch then you would be sure that you were doing something to rebuild or to prevent overfishing. However I want to make a comment, again saying that I don't know how I would vote on this, that a lot of people around the table are saying that there's on fish this year and I've been doing this for forty years well if we go back to when I was a kid and beyond that because I started on my father's boat when I was seven years old and just because there's no fish this year doesn't mean there's no fish. I've seen this time and again where you can have a bad year fishing. It doesn't mean the stock's in trouble it just means they're not available to catch. We actually fish a 5 to 10 ft. window of bottom that's it. Put on 7,000 sq. miles of closures the rest of the vertical depth of water and the fish spread out and we don't know why, we don't know where they go; we don't know anything. It bothers me when people say we're not catching the fish this year so they're not there that's just not true. They can show up the day after tomorrow; in fact, catches have increased dramatically in the last two weeks or month on Middle Bank and everyone said those fish were caught. The big boats caught them all, well how come the little boats are catching them now? Did they catch them twice? That's just not the right way to address it; just because we're not catching fish today doesn't mean they're not there. I just needed to say that. I've seen it many times so I agree you probably need to cut back but I don't know if this motion is the right way to do it. Again, I don't know how I'd vote if I was on there.
- Ritchie Canastra, New Bedford, MA: We are definitely in dire straits. Nothing seems to be working, nothing is making sense. All I can say is I gave Dr. Pierce a brochure before we got back into the afternoon session and I was asked by the community to get people together to help build a new homeless shelter in New Bedford and it amazed me that

when they sat down and spoke to me and I have a meeting on Friday with fish processors that twenty percent of the people in that shelter are from the fishing industry. It's sad.

- Maggie Raymond, Associated Fisheries of Maine: I very much appreciate the sentiment of the people who voted in favor of the motion to amend. Particularly with regards to their understanding of the economic impacts that will result from the options that exist in the document. But I'm not sure that this particular motion is the right way to fix what is in the document now because I'm pretty sure that even if it passes the Council tomorrow, which I think is unlikely, even if it does it's pretty clear the Agency cannot approve it. I just think maybe that we need a little more discussion about what is a better way to get something other than what's in the document that might have a less devastating impact on the industry and be approvable. The motion as amended I don't think is going to achieve that. I'm not sure what the answer is. Mr. Odlin mentioned a reduction on catch instead of on the ACL. Ms. Ramsden mentioned or asked the question for the Agency to do an interim action or something different to what's in the document that would potentially save more analysis that needed to be done overnight. So I just ask you to really think about do you want to pass a motion that has no hope of being approved or do we want to try to craft something that makes more sense.
- Vito Giacalone, Northeast Seafood Coalition: I definitely want to echo the sentiment that we appreciate the whole idea of this, the concept and the issues of the economic impacts and not passing the red face test to have some of these catch levels accepted that we haven't seen in forever in the fishery it just doesn't make sense. But from a legal standpoint and a process standpoint do you see if for some reason one way or the other how this motion goes when this portion of the decision document gets voted whether it's this alternative or something else do you see it being conflicting or shutting the door with in the event the Council or the Committee would want to consider advising the Secretary or requesting the Secretary, the Agency use interim action or set some interim catch levels, do you see those being conflicting? In other words, if this motion or Option 2 for example were accepted just for the formality of this document right now and went up to the Council and then the Committee also made a recommendation to consider some interim catch levels do you see those as being conflicting? We want you to get through your document today, we don't want to come to the mic every five minutes but we also don't want to miss the opportunity to allow those kinds of recommendations to come forward and I think Mr. Chairman it would be great to guide folks, the audience if not the Council and the Committee members themselves to know when is the right time to do that and are we shutting the door in the event Option 2 or this one actually goes forward.

Motion to amend: To adopt a constant harvest strategy that reduces Gulf of Maine cod, Gulf of Maine haddock, Georges Bank cod, American Plaice, witch flounder, Cape Cod Gulf of Maine yellowtail flounder ACLs by ten percent from projected 2012 catches. (Dr. Pierce/Mr. Alexander).

The motion to amend was considered an improvement but premature as the SSC will be discussing the cod stocks at their January 23 2013 meeting. Another Committee meeting

considered it difficult to use projected 2012 catch because fishing behavior changed in FY 2012 and may not be representative of future behavior.

The motion to amend **carried** on a show of hands (6/4/1).

The main motion as amended **carried** on a show of hands (6/4/1).

Motion: Consistent with guidance provided by NMFS in its May 30, 2012 letter to the Council, the Committee recommends that the Council replace current measures for Southern New England Winter Flounder with similar interim measures that include:

1. Setting an ACL below the OFL of 2637 mt but no less than 1400 mt that will prevent overfishing and mitigate the impacts of the catch reductions for other stocks in fishing year 2013.
2. Anticipating an ACL in excess of 1,400mt will eliminate the prohibition on possession and change the status of Southern New England winter flounder to an allocated stock as specified in Amendment 16 and
3. Request that the SSC provide a revised ABC estimate based on these terms of reference. (Mr. Goethel/Mr. Alexander).

A couple of Committee members supported this idea. NOAA General Counsel did not consider the sub-section of the Magnuson-Stevens Act that was used for cod to apply in this situation; the Council can ask the Agency to reduce rather than end overfishing during that time the Council is developing measure to end overfishing. This motion seemed to ask the Council to develop interim measures and that's not in the law.

Some public comment included:

- Drew Minkiewicz, Fishery Survival Fund: If I recall from the previous discussion on this stock the reason why you haven't allocated in the past is because there's an extensive state fishery within state waters on this stock that takes a good portion of that and so that's one of the reasons why and might explain some disconnect of the numbers that you're seeing. Mr. Martin, can you allocate in this manner I understand the intention with the interim measure and doing it through interim action, can you allocate a stock in the last meeting of a framework? There's also the two meeting rule that would apply to this as well. I guess we can go back and forth as to whether or not this is a logical outgrowth of something in there but it's certainly a drastic change; it's a completely different allocation. This is something that would radically change fisheries that operate in the range of the Southern New England winter flounder and so I think would fall into that category if something that is problematic and so for that reason I would strongly encourage you not to support this at this time.
- Vito Giacalone, Northeast Seafood Coalition: The Coalition strongly supports this concept we just want to point out that there's been nothing so far really in FW 48 or anywhere since the disaster that mitigates anything and this is sort of there and can happen. We would want to say that we've looked at this and that letter and the determination under Section 304 and the determination was that adequate progress to

rebuilding was not being made on American plaice and Southern New England winter flounder, which that triggers basically a 2 year opportunity for the council to form a new rebuilding plan for those stocks. So while you're in that holding pattern and perhaps the best way to do this would be a recommendation to the Agency to use Section 304 if that's the mechanism that I believe it's Section 304(e)(3) that it's not the same as Gulf of Maine cod. We understand that because Gulf of Maine cod had overfishing occurring. In this case overfishing is not occurring but it's overfished and adequate progress has not been made so an interim catch level could still be set we believe on this stock as long as it doesn't exceed the OFL or 75% of F_{MSY} . So it's right there for the taking or the opportunity here for some mitigation to occur we're forfeiting a stock right now that at 600 mt the ABC is $F_{rebuild}$ that's on a rebuilding plan that's already that we now have a letter from the Agency that basically tells you that there's been a determination that you're not making adequate progress and you've got two years to make a new rebuilding plan. That ABC I would argue is stale because it's still trying to achieve rebuilding by 2014, which we've already been told is not going to happen. Why are we allowing this much and there's a huge gap between the overfishing level and the current ABC and all we're saying is the reason we mention and we talked to members and talked that 1200 1400 mt is a minimum threshold that would allow a safe allocation of the stock without it turning into a choke stock so whatever mechanism needs to be used I mean guidance from NOAA and whether that's a request for interim measures while you formulate a rebuilding plan or if it's something that the Council can do I don't know but I think the Committee stating these facts and supporting this motion would get the discussion going.

The motion **carried** on a show of hands (6/3/2).

Section 4.2.1 – Management Measures for the Recreational Fishery

Staff explained that the intent was to establish management measures in advance so the recreational fleet would know what would be in place when booking trips.

Motion: To recommend the Council adopt Section 4.2.1.2 Option 2, Revised Accountability Measures for the Recreational Fishery. (Mr. Blount/Mr. Goethel).

A Committee member was concerned about the timing for FY 2013 considering the GOM cod assessment has resulted in multiple models and hampered the ability to establish measures by May 1.

The motion **carried** on a show of hands (10/0/0).

Section 4.2.2 – Groundfish Monitoring Program Revisions and Section 4.2.2.5 – Dockside Monitoring Requirements

Staff outlined the four options and the multiple sub-options.

Motion: To recommend the Council adopt Section 4.2.2.2 Option 2 (Revised Goals and Objectives), 4.2.2.3 Option 3 Sub-Option B (Remove Requirement for Industry Funded

ASM in FY 2013) and 4.2.2.3 Sub-Option C(1) (Lower Coverage Rates for ELM Sink Gillnet Gear as described), and 4.2.2.4 Option 4 (Industry Funded At-Sea Monitoring Cost Responsibility). Additionally, recommend the Council adopt section 4.2.2.5.2 Option 2 (Eliminate DSM Requirement). (Mr. Dempsey/Mr. Alexander).

A Committee member had some concerns regarding this motion and in particular with the bias issue.

Motion as friendly amended: To recommend the Council adopt Section 4.2.2.2 Option 2 (Revised Goals and Objectives, insert “to the extent possible” in first objective after bias), 4.2.2.3 Option 3 Sub-Option B (Remove Requirement for Industry Funded ASM in FY 2013) and 4.2.2.3 Sub-Option C (1) (Lower Coverage Rates for ELM Sink Gillnet Gear as described), and 4.2.2.4 Option 4 (Industry Funded At-Sea Monitoring Cost Responsibility). Additionally, recommend the Council adopt section 4.2.2.5.2 Option 2 (Eliminate DSM Requirement).

This motion raised a number of issues for a Committee member that included recommending NEFOP only coverage for one stock that is a clean fishery, ASM cost responsibility that still has to be considered by Department of Commerce attorneys to determine what would be approvable (the list of costs delineated by the Council at a previous meeting is not approvable as is). The Northeast Regional Office (NERO) does not object to the removal of Dockside Monitoring (DSM) requirements but recommend retaining the trip start hail and trip end hail that had been required in DSM as it has been used in other measures to determine the exemptions in place and for enforcement. Cost sharing was not considered to be approvable by FY 2013 but that doesn't mean NOAA wouldn't contribute as much as possible to monitoring costs in FY 2013. Another Committee member was concerned that monitoring levels were inadequate and were going to be a burden to the industry.

Motion to amend: To recommend the Council adopt Section 4.2.2.2 Option 2 (Revised Goals and Objectives, insert “to the extent possible” in first objective after bias), 4.2.2.3 Option 3 Sub-Option B (Remove Requirement for Industry Funded ASM in FY 2013) unless Congress appropriates funds for fisheries disaster relief to be used in part to pay for multi-year at sea observer coverage and 4.2.2.3 Sub-Option C(1) (Lower Coverage Rates for ELM Sink Gillnet Gear as described), and 4.2.2.4 Option 4 (Industry Funded At-Sea Monitoring Cost Responsibility). Additionally, recommend the Council adopt section 4.2.2.5.2 Option 2 (Eliminate DSM Requirement). (Dr. Pierce/Mr. Goethel).

The mechanism of the appropriation of the funds to pay for monitoring was unclear, i.e. was it to go directly to individuals but be required to pay for monitoring costs. Another Committee member thought disaster money should go directly to fishermen and not be used for monitoring costs.

Some public comment included:

- Gib Brogan, Oceana: As to the motion to amend, this shouldn't be limited just to disaster funding. It should be all congressional appropriations. There are multiple ways for

Congress to bring money to the region and limiting it to disaster relief is unnecessary and may handcuff the process. Specific to the disaster relief, we've been doing some digging into the disaster relief and how that money if it were ever appropriated by Congress how it would be administered and from what we can find there is a tremendous amount of discretion at the secretarial level. The Secretary of Congress will have a tremendous amount of say in where that money goes and I think there's a place for the Council to provide feedback to the Secretary as the affected region that either this Committee or the Council should get a letter to the Secretary expressing the concerns and priorities on where the Council believes the money should be spent so it's not just a black box or guidelines. The Agency has guidelines on how the disaster money should be spent and how it is spent and how those priorities should be coming from the grass roots and feedback should be moving up from there. As far as the motion to amend, we have real concerns about setting the levels of coverage based on available funding as the Regional administrator told the Council in November it needs to be based on the needs of the fishery and not on available funding. The fishery has a system of Accountability Measures that are built on effective monitoring and we have real questions on the validity of the AMs for the fishery if the monitoring is eroded. We don't support sub-option B we have questions on what that would do for the fishery for the administration of the AMs. We hope that the Council will vote this down.

- Wendy Gabriel, Chief of Ecosystems Monitoring and Analysis Division, NEFSC: For those who don't get the official moniker it's the observer program, it's the survey program and the age and growth folks. I appreciate where Mr. Goethel is coming from here in terms of being able to use any funding source possible to mitigate. I am a little concerned because we're in a murky area between the legal aspects and the acquisition aspects, in terms of how to move this money around to make this actually work. We've had one set of initial feedback discussions with some of the DOC folks and we're really not sure how, if we're going to move this money through the industry and then back into the ASM program in 2013 that quickly that we'd be able to have the legal infrastructure in place and the acquisition part of it too. Bearing in mind that we'd have some federal acquisition issues that are going to end up percolating in here I don't want to get down into the weeds on that but I would just be afraid that if you said if you wanted similar to what Mr. Brogan was saying that you said well we're going to require industry funding if we get disaster relief and then come to find out that we end up setting a coverage level that isn't supported by the disaster relief funding then are you going to be on the hook for that balance somehow. I don't want to get down too much in terms of the mechanistics but it's still kind of murky exactly how this would end up working so I'm thinking simpler is better in this case although we hear where you're coming from and we want to make sure we get the most mileage out of any money that we do get.

Appropriation of funds from sources other than disaster funding was suggested as a possibility. Despite the objections, a Committee member considered the crippling observer costs would be the end of many fishermen and some action was necessary.

The motion to amend **failed** on a show of hands (2/7/2).

Motion to amend: To include Option 3 Sub-Option A2 (CV standard must be met for each stock and each sector). (Dr. Pierce/No Secunder)

The motion **failed** for lack of a second.

NERO staff clarified that some of the items listed under NMFS costs were not considered to be overhead costs; an exhaustive list of costs for the ASM program is needed so it can be gone through line by line. Some frustration was expressed that despite that language being in the FW for a number of months, this issue is only arising now.

The main motion as friendly amended **carried** on a show of hands (8/1/2).

Section 4.2.3 – Commercial Fishery Minimum Size Restrictions

Staff advised the Committee that if the full retention option was approved and the states didn't approve it then a vessel would have to figure out how to not catch fish smaller than the state minimum size.

Motion: To recommend the Council adopt section 4.2.2.2 Option 2 (Revised Minimum Size Limits) (Mr. Goethel/Mr. Alexander).

A Committee member was strongly opposed to any option that lowered the minimum fish sizes because fish need to be able to reproduce more than once. The intent is to reduce regulatory discards but it won't eliminate them. Sectors are supposed to be stewards and work with some common good purpose and target older fish giving them more chances to spawn. The objection to reducing minimum fish sizes wasn't out of concern for a particular species but a matter of principle because there would be a high retention of very small fish. Another Committee member that used seven inch square mesh was still catching yellowtail flounder just below the existing minimum size and had to discard marketable fish. A Committee member was in favor of full retention; just changing the minimum fish size was thought to change the catch composition of that stock and would impact the yield. Discarding a large portion of a year class was considered unfavorable.

Some public comment on the motion included:

- Maggie Raymond, Associated Fisheries of Maine: This issue was brought to the Groundfish Advisory Panel and initially the discussion about reducing minimum sizes was to try to reduce discards. Mr. Nies gave us a table that had some very low numbers on some of the species, I think there was a six inch dab, and the Advisory Panel said that's crazy you can't do that and so we actually looked at what the sexual maturity was and we made some changes, which are reflected in this option in terms of the minimum sizes. We were cognizant of the concern about making sure you were harvesting a sexually mature fish. Having said that the Groundfish Advisory Panel also fully endorsed the full retention option as the way to go and not this option. Speaking on behalf of Associated Fisheries of Maine, we would endorse the Council moving towards and taking action today to adopt full retention in the fishery. I've sat through countless stock

assessments, I'd like to see some of you guys there once in a while. One of the biggest sources of uncertainty is the discards. So let's get rid of them completely. Let's make people accountable for them. We heard comments earlier about the high cost of leasing fish. Who's going to lease fish to kill baby fish and bring them across the dock? No one's going to do that. There are a lot of good reasons to go to full retention. I realize it's a big leap for this region. We've had minimum fish sizes for a long time but other parts of the country and world don't. You probably will have less long-term yield but you have to account for that in your assessments as well. I just think it gives you better information about what's going on in the fishery. You'll have an excellent idea of how much fish or what has been being discarded currently and people will change their behavior so that they will not be targeting or catching or landing small fish because it's all going to count towards your allocation and it's just not worth it especially when you're looking at the allocations that we have now so this is not the correct way to go; we really need to get full retention.

- Jim Odlin: I support full retention. This is a catch share system; there's absolutely no incentive to target small fish or smaller fish than necessary in a catch share system thirty or forty percent and we were a year late moving the size down so that cost us a lot of fish. These fish are being caught and discarded, not being targeted; they're just being caught and discarded. It's interesting in my time on the TMGC, we would always look at, when we first got there we were complaining that the Canadians use smaller mesh and they don't have minimum fish sizes so therefore their catch must be smaller than ours. Well we did, I don't know how many studies on that but it was always a problem and guess what our catch is smaller than their catch. In fact they started complaining about it at the last TMGC meeting I was at that our catch of haddock is smaller than theirs. What's going on they said. How can that be? Well it's because we have to discard them and we have the wrong mesh and we can't fish it right. The wrong mesh doesn't mean you have to have bigger mesh it means you have to have the right mesh that we don't have. The other thing I'd point out is we act like that what we're doing is working. Somebody has told me that it didn't work and it's not working. You're going to keep doing the same thing? One of the arguments was, when I was on the TMGC, well if we lower the minimum size on haddock and at that time I was talking about lowering the mesh size too, we had to worry about cod. Well, guess what, our catch of cod on Georges Bank is smaller than the Canadians who have no minimum size. In fact, I think if you look at any place in the world where there's good fisheries management that has worked, they don't have minimum fish sizes. Everybody knows it's crazy; it just doesn't work. For that reason I support getting rid of the minimum fish sizes and we get better data. It's not so much about the money although it is about the money when you start discarding thirty percent of your catch and by the way the discard rates are already going up on this year class of haddock. We had low discard rates last year in the two to three percent range but they're going through the roof right now as we speak. If this gets implemented the timing would be just right for bringing in a product that we're sharing the resource that somebody else is landing providing the jobs for cutting the filets and shipping them down to the US. It just doesn't make any sense to me. We'll get better data, better science; we'll be able to utilize other tools to monitor discards. We'll know what the catch really is and we won't just be dumping dead fish. Dead fish don't spawn. I heard somebody in

this Council last Council meeting say we have to worry about fish spawning. I agree but dead ones don't spawn at least I don't think they do. Again, I want to reiterate what Ms. Raymond said. I just heard arguments all morning long about the high cost of leasing; who is going to lease high cost fish and go out and catch juvenile fish that are worth less than what they're paying to lease fish? The incentives are gone, it's not in this fishery any longer and we're still stuck to what hasn't been working. I don't get it. We have to get away from what hasn't worked and try something new.

- Ritchie Canastra: I do support this revision of the minimum sizes. We have fishermen today that are using the seven inch mesh on yellowtail flounder so they can bring in the thirteen inch and up yellowtail flounder; they don't want to go down to the six and a half inch mesh only because they're discarding smaller fish. The haddock fishery, it's a shame what we lost in the 2003 year class of discards. I always made a statement to the Council and to the Committee that it's the big sin of discarding fish. If you look at the market, the market for whale cod, large cod, big cod, scrod cod and you have your lemon sole flounders and your large or peewees, the price has been like that for years. The top dollar is for the big fish. We changed to a new system and we went to hard TACs, we went to sectors, like Mr. Odlin said you're paying for your quota. Fishermen aren't going to target the small fish. They'll do everything they can to stay away from the small fish but it's just the dead fish that we're concerned about. It's the dead fish that's being tossed overboard. We're competing with Canada on filets; their haddock filets are coming into the United States. No one wants to make a change but to be quite honest with you, I've been coming to these meetings for a long time and I actually thought things would be getting better and the fishermen in New Bedford I said you know these catch shares I know they don't look well but we have to change. We did the change but we're still managing the species the same way. There's not going to be a market for small fish and they won't be coming in. Fishermen do everything they can to stay away from the small fish. So please get that fear out of your mind; it's not going to happen.
- Jackie Odell, Northeast Seafood Coalition: A little over a year ago where this concept of reducing the minimum size actually came forward, well it was actually two years ago, through one of the sector exemption requests through Northeast Fishery Sector II who was requesting an exemption for an inch reduction for Cape Cod yellowtail flounder because over twenty percent of their catch was being derived from discards; they were being charged for fish that they weren't able to land for a fish that was just under thirteen inches. That was last fall when we were actually thinking that FW 48 was supposed to be the sector improvement framework and then we've had a benchmark on Gulf of Maine cod and had a turning of the crank stock assessment review and now here we are a year later looking at the fishery being in complete turmoil. The Northeast Seafood Coalition supports this motion because we see it being an option at this point to mitigate some of the reductions that are going to take place for next year. Many people within the Northeast Seafood Coalition support full retention, many people have some concerns about it. We had a hope that the fishery would get there over time and in the meantime we really see this as being an option to turn discards into landings for fishermen and to mitigate something of the impacts which now may take place next year depending on how the Council moves tomorrow we strongly recommend that you support this.

- Peter Shelley, Conservation Law Foundation: We're opposed to this motion; we're in favor of full retention for all the reasons that have been put forward. We think that's the policy where the Council should move and the sooner you get there the better. Taking a half step doesn't gain you anything.
- Vito Giacalone, Northeast Seafood Coalition: As a fishermen, this industry is getting more and more difficult to get good crew and especially difficult to man vessels with the correct amount of crew on a boat and to get skilled crew. It's incumbent on managers to think about trying to get that fish size down to a level to what is expected to be caught by the gear that you've approved. A six and a half inch mesh you're going to end up with an amount of smaller fish that are caught incidentally by that gear, even if it's one fish it's zero tolerance currently in the rules so every captain is always nervous every time he's on a trip are there two flounders stuck together when they stuck it in the basket? If someone's after me I'm in trouble. I don't know if that's splitting the baby but I think what we're looking at on this one to get away from just the full retention argument, which has a lot of good merit, to the policy issues and couple that with monitoring and electronic there's a lot of great ways to look at it but for this industry right now it's getting very difficult to get crewman that's experienced and that wants to stick with you on the boat and if your gear's catching small fish what you're basically doing is you're ordering people to go through fish and do work that some of them are skilled at doing them and some aren't and suddenly you've got a trip that has three or four small fish or thirty small fish and all we're doing here with that twelve inch flounder size and some of the other sizes was look at how you could move that size down so that the predominant amount of fish caught and observed on a trip by the legal sized gear can be retained. There's an enforcement component to that that's important to fishermen.

Motion to substitute: To recommend the Council adopt 4.2.3.3 (Full Retention). (Mr. Dempsey/Mr. Blount)

Rationale: If the justification is to reduce discards then let's eliminate them completely.

The GAP supported full retention but required one hundred percent DSM if implemented. A Committee member was concerned about enforcement and thought some discarding of unmarketable fish would continue. Another Committee member didn't see the need for DSM and had concerns over how observer coverage would be structured. A Committee member said that the sectors would have to explain how full retention would not result in overfishing on juvenile fish. Staff explained that the full retention option would get rid of minimum fish size requirements but not change mesh sizes.

The motion to substitute **carried** on a show of hands (5/3/2).

The main motion as substituted **carried** on a show of hands (5/3/2).

The Committee voted to remove DSM earlier in the day and the Committee Chair did not reopen discussion on DSM for the full retention option.

Section 4.2.4 – GB Yellowtail Flounder Management Measures

Staff explained that this measure would carve out separate discard strata for GB yellowtail flounder.

Motion: To recommend the Council adopt Section 4.2.4.4 Option 2 (Georges Bank Yellowtail Flounder Revised Discard Strata) and Section 4.2.4.3 Option 3 (Small-Mesh Fishery Bottom Trawl Gear Requirements). (Mr. Alexander/Mr. Dempsey).

A number of questions regarding the small-mesh fishery bottom trawl gear requirements were raised and the Committee chose to split the motion to fully address all these issues.

Motion to split the main motion into two sections (Mr. Alexander/Ms. Ramsden).

The motion to split **carried** on a show of hands (10/0/1).

Motion: To recommend the Council adopt Section 4.2.4.4 Option 2 (Georges Bank Yellowtail Flounder Revised Discard Strata (applicable to sector trips only)).

It was clarified that this motion was intended for only sector vessels.

The motion **carried** on a show of hands (7/0/2).

Motion: To recommend the Council adopt Section 4.2.4.3 Option 3 (Small-Mesh Fishery Bottom Trawl Gear Requirements).

The MAFMC Committee members were opposed to the motion; the MAFMC would work to meet the sub-ACL but did not want to be bound by specific gear types. A Committee member objected because there was no alternative available that demonstrably reduced yellowtail flounder catch in the small-mesh fishery. Another Committee member didn't support the motion because the modified gear hadn't been tested in deeper waters.

Some public comment on the motion included:

- Dan Farnham: I agree. One issue that has not been brought up is has there been an analysis done using the raised trawl at night versus the daytime fishery. I believe most of your fisheries are during the daytime. On Cultivator most of our fishing is done during daylight. Down south in the southern flank of Georges Bank it's usually at night. It would just be a shame to force the squid and the whiting fleets into having to use gear right now that is not effective at all. It would be a problem for us.

The motion **failed** on a show of hands (2/7/2).

Section 3.1.4 – Sector Management Provisions – Allowed Exemption Requests

Motion: To recommend the Council adopt section 4.2.5.2 Option 2, Exemption from Year Round Mortality Closures. (Mr. Alexander/Ms. Ramsden).

A Committee member considered the closed areas to be premier Marine Protected Areas (MPAs) and the CATT report did not indicate an increased benefit to sectors vessels during the time of year they could have access to the areas. The RAP representative informed the Committee that the recreational fleet needed help because they're facing the same devastation as the commercial fleet and suggested the WGOM closed area not be opened to commercial vessels.

Motion to amend: To amend the motion so that sector vessels would not be allowed into the Western Gulf of Maine closed area. (Dr. Pierce/Mr. Blount).

Another Committee member found the impacts of opening the closed areas were high as reported by the CATT and combined with gear conflicts couldn't support opening them. A Committee member thought that if the WGOM area was a sensitive spawning area then no fishing activity, recreational or commercial, should be allowed access to it. The lack of a tremendous increase in fish in these areas meant the MPA program hadn't been very successful. The Council Chair considered it important to proceed in a somewhat cautious fashion as we don't know what the long-term impacts will be to the industry and moving forward in coordination with the Omnibus Habitat Amendment was the most prudent. There was disagreement about prohibiting access to either group based on gear; long distance boats want access to Closed Areas I and II also.

Some public comment on the motion to amend:

- Greg Cunningham, Conservation Law Foundation: We're opposed to the motion to amend. While we feel the WGOM closed area should not be accessed, should not be reopened, we in opposition to the underlying motion itself so we would urge that there's an existing process that the Council and the Agency elected to follow and you've deviated from that only for purposes of trying to provide some economic relief and to impact beneficially the difficult situation that you're in. The study from the CATT reflects minimal, if any, economic benefit. The species that you're seeking to exploit, the redfish, pollock and haddock, are accessible in the open areas. Re-accessing these closed areas is going to provide minimal if any benefit in that regard. The biological impacts are pretty clear and they're most evident on the species you most want to protect. We would add to that that at this point, in order for the agency to approve this exemption it's going to require at a minimum an Environmental Assessment if not an Environmental Impact Statement and at this point the data simply aren't there to support that extensive environmental study so we are opposed to both this motion and the underlying motion.
- Maggie Raymond, Associated Fisheries of Maine: We oppose the motion to amend. This five mile strip is the only area in the Gulf of Maine that's accessible by the small and medium sized boats. Some do go as far as Cashes Ledge but they really shouldn't be going out there; they shouldn't be going that far offshore. So without this there is nothing in this framework for mitigation for those small and medium sized boats that are tied to the Gulf of Maine. We urge you to support the original motion and to vote down this amendment.

- Jackie Odell, Northeast Seafood Coalition: I'm going to echo what Ms. Raymond just said. I think it's a really dangerous precedence, first of all, to start looking at closed areas and deciding and looking at them one by one. These areas especially the area in the Western Gulf of Maine is a very small area and fishing under hard TACS these areas were closed for mortality purposes and we're having a huge potentially, we hope not, serious reductions for next year and there's nothing in this document that's going to mitigate it other than maybe giving guys a little bit of access to target pollock in a very small area. The main motion is a very small step to mitigating some of the reductions when the fishery is fishing under hard TACs so we support the main motion we don't support the motion to amend.

The motion to amend **failed** on a show of hands (2/6/2).

Some public comment on the main motion:

- Jim Odlin, New Bedford, MA: I'm in support of this motion. Back when we originally got this bad news, Mr. Rauch brought it to the Executive Committee and we spent about a half day talking about mitigation and to work outside the box, we have to do everything possible to find ways to help some people survive. Mr. Rauch also addressed the full Council saying the same thing and so far there's been nothing done yet to mitigate the redfish which in my opinion is not going to do much with that mesh. The minimum size I wouldn't consider that a mitigation measure that's just common sense. There is nothing in here for mitigation. Again I want to point out that what we have been doing isn't working because we are nowhere. We are nowhere with this resource. The second issue is through the 2007 year class and on, caught about eighteen percent of our haddock TAC on Georges Bank including discards. The Canadians were able to catch ninety-four percent of their TAC on a shared resource approximately through the same period. Had we fished at that rate we would have landed approximately \$450 million worth of fish that we didn't land. I submit that we wouldn't be looking at a disaster if we had done things a little different. I think if we target our healthier stock in a better way then the less healthy stocks benefit. We were catching haddock at a rate of 30,000 lbs. an hour a couple of springs ago with a separator trawl, towing one hour a day; we did it for two or three months. We followed those fish right to the edge of the closed area and then they were gone. What did we do when that happened? We turned around and the very next trip started towing 24 hours a day on cod for ten days. If we could have stayed on those haddock while we were catching them, we were catching nothing else, no other fish just haddock so again we need to think differently. We were asked to think differently. We target the healthier stocks; the other stocks may, will benefit. The second issue to talk about is the CATT looking at when the fish are in the closed areas or in Closed Area II that's one week. One week that that boat was there in the spring and in the fall. Well I can tell you there are fish there in the winter, that's why it's called the winter fishing ground. I can tell you that I spent many winters there. I can tell you that there's fish there in May and June and we know that to be the case because the Canadians are catching fish right there, hook and line, right beside us where the line is. To say that there may not be any benefit is ridiculous, the fish are in there they're not there all the time, we don't know

exactly when they're there but we know fish are there. We know that and they're the healthiest stock, the stocks that you want us to target. So if you're going to do anything to mitigate this is the only thing there is. The HAPC, the habitat areas, both the ones that are in existence now and the ones that are being considered are not under consideration the spawning times are taken care of, the gear conflicts at least on Georges Bank are taken care of. This has got to happen. I did some back of the envelop figuring for mitigation, you have asked for a monkfish exemption if we caught the full TAC of monkfish that was allowed that would be an additional \$10 million to the industry. If we could catch the haddock that would be another \$15 million to the industry. If you look at your worst case scenario, 57 million from 77 million you can bring this industry back to be even in spite of the cuts you have to take. This is serious because if you go to 57 million it's not going to be a linear thing and everyone is going to take a little less. This industry is going to suffer and die. The industry is suffering now and we need to get pounds over the dock. Pounds over the dock supports the infrastructure, supports fleet diversity, it supports everything. You have to read this as healthy stocks of fish with gear restrictions it's amazing you have to do it.

- Gib Brogan, Oceana: We oppose this motion. We believe that this should be going through the habitat omnibus amendment and is not appropriate for a framework action. It's not consistent with the guidance and the rules that the Council has in the FMP for the use of frameworks, what can be include4d in a framework. Something we ran into with FW 46/39 was scallops and groundfish looked at a similar situation that we ran into with access to Closed Area I and we see a lot of similarities in there. It's also a bad idea because it's not supported by the facts. One of the fundamental things that has to happen on any Council rulemaking is that there has to be a factual basis and what we saw this morning from the majority of the things that were presented to you and what Dr. Pierce has pointed out is that there are minimal benefits and serious risks for some of these stocks. Some of these depleted stocks it looks as though this is going to line up access right for those stocks that are most at risk, Georges Bank yellowtail flounder both stocks of cod; it's going to be put in access right in those areas. There isn't a factual basis, there's definitely a political basis and a clamor to make this happen as a mitigation measure but that's not enough to support this action. For that reasons this shouldn't move forward as well. It's a real concern of ours that there's limited discussion about what's expected to be caught in those areas, what was presented this morning shows that the fish are in those areas but what's going to be caught, we have no idea and no control over what's going to happen. This is a bad idea to move forward. We believe this needs to be done in an EIS and a full amendment and the best place to do that is through the habitat omnibus amendment.
- Jackie Odell, Northeast Fishery Coalition: We support this motion. We believe that this, as I mentioned before, fishing under a hard TAC these are very small areas within existing closed areas access based on areas that were closed for mortality reduction purposes. It does not conflict with the habitat omnibus amendment that's on the way and will hopefully be approved within the next couple of months. It's the safest way to start allowing access to some of these areas. There's also been a lot of time that the industry and particularly the Northeast Seafood Coalition leadership has put forward for working

out a negotiation with the offshore lobster fleet in Closed Area II that has been approved in the harvesting strategies for sectors moving forward this fall that the Northeast Sector Service network worked on with the individual sectors so there's been a lot of effort within the industry from top to bottom to try to look at getting access to some of these areas and again it's minimal and it's only the mortality areas that were closed.

The Committee was informed that most sectors if not all would be using separator trawls when fishing in these areas. Another Committee member deemed the CATT report to be a fully comprehensive analysis; fish move in temperate waters and with the spawning protections in place the measure should not harm stocks.

Motion to amend: To recommend the Council adopt section 4.2.5.2 Option 2. Sector vessels granted access to year round closed areas must have an observer on board. (Dr. Pierce/No Seconder).

The motion to amend **failed** for lack of a second.

The main motion **carried** on a show of hands (5/2/2).

Section 4.2.6 – Commercial Fishery Accountability Measures

Motion: To recommend the Council adopt Section 4.2.6.2 Option 2 (Change to AM Timing for Stocks Not Allocated to Sectors), Section 4.2.6.4 Option 4 (Modifications to the Accountability Measures for SNE/MA Windowpane Flounder), Section 4.2.6.5 Option 5 (Revised HA and HB Permit Accountability Measures) and Section 4.2.7.2 Option 2 (Removal of Trawl Gear Stowage Requirements). (Mr. Dempsey/Mr. Alexander).

Rationale: It changes the timing of the non-allocated groundfish AM to sectors to be implemented in the year following the overage. Option three was omitted because when area-based AMs were developed in the FW 47 they were eliminated as being unworkable. Unfortunately the Committee hasn't had any time to develop those measures and we're stuck with what we had in FW47. I don't think they're viable. There's just as much concern this time as last time.

NOAA General Counsel was opposed to the motion as it didn't comply with the remand from the court, which the Agency and Council had agreed to address; it was considered a high priority to approve the AM. A Committee member was opposed to the specifics in the AM that would end up closing fishing from April to December to fixed gear off Chatham if the wolffish AM was triggered.

Motion to amend: To recommend the Council adopt Section 4.2.6.2 Option 2 (Change to AM Timing for Stocks Not Allocated to Sectors), Section 4.2.6.3 Option 3 (Area-Based Accountability Measures for Atlantic Halibut, Atlantic Wolffish and SNE/MA Winter Flounder) Section 4.2.6.4 Option 4 (Modifications to the Accountability Measures for SNE/MA Windowpane Flounder), Section 4.2.6.5 Option 5 (Revised HA and HB Permit

Accountability Measures) and Section 4.2.7.2 Option 2 (Removal of Trawl Gear Stowage Requirements). (Ms. Murphy/Mr. Goethel).

The Committee had discussed this issue at previous meetings at which a Committee member had requested that the halibut AM be a reduction to zero possession of halibut but that was not approved. The GAP representative also considered a zero possession to be an AM.

Some public comment on the motion included:

- Jackie Odell, Northeast Seafood Coalition: So now that we passed the motion earlier on Southern New England winter flounder where the Accountability Measure would be basically you'd be allocating so part of that motion would be to allocate it so you wouldn't be in a situation where you would need area-based management measures because your Accountability Measure would be to allocate Southern New England winter flounder so how would this now relate to the motion that the council approved earlier for that specific stock.
- Gib Brogan, Oceana: We agree with the Agency's position on this, we believe this is the correct interpretation and follow-up to the court decision that was issued a year ago tomorrow. We agree that option three should move forward the need for reactive AMs for when an ACL is exceeded is a necessity and this should move forward.

The motion to amend **carried** on a show of hands (5/3/1).

Staff directed the Committee to the section of the document where the AM was analyzed. These are not closed areas these have to use selective gear.

Motion to amend: Under Section 4.2.6.3, to include a second option that possession of Atlantic halibut is prohibited as an AM (Goethel/Dempsey).

Staff informed the Committee that this was the No Action alternative.

The motion to amend was **withdrawn** by the maker of the motion.

The main motion as amended **carried** on a show of hands (7/0/2).

A Committee member informed the Committee that there may be an issue with the current ten percent carryover provision. The NERO wrote the Council a letter when they were considering increasing carryover informing them that the ACL can't be exceeded even by the carryover. The Committee voted against giving the Regional Administrator (RA) authority over carryover. Based on the ACLs proposed in FW 48, carryover would result in the ACL being exceeded. The NERO wanted the Committee to give the RA the authority to do the analysis on what percent carryover we could have. This would result in adding a measure at the last minute with no analysis, which was a concern on a previous measure. A Committee member considered carryover to be interest in savings account, i.e. ten percent interest and would prefer to have fish in the bank. A Committee member did raise this at the August 2012 Committee meeting that we

counted that ACE carry over separate to the ACL and we were considering counting it straight towards the ACL but once the ACL was reached we would take action for the AM. The NERO proposed this in an attempt to provide some level of carryover and still be in the law.

The Committee chair decided to delay the discussion until the December Council meeting.

Targeted Acadian Redfish Fishery

NERO staff briefly outlined the proposed rule for the Targeted Acadian Redfish Fishery that would use a four and a half inch mesh net. The proposed rule was based on the REDNET cooperative research project. Sectors requested exemptions from mesh size requirements in order to target redfish in FY 2012; due to timing only six inch meshed was approved for FY 2012. The NMFS proposed rule included: forty-eight hour notice for observers, one hundred percent ASM/NEFOP coverage, trip start hail, no daily catch reporting, catch thresholds and multiple mesh sizes per trip was proposed. When fishing with the smaller mesh the sector's catch must be at least eighty percent redfish and groundfish discards must be five percent or less of total groundfish catch; if these thresholds are exceeded for two months the exemption could be revoked. Industry would be required to pay for one hundred percent observer costs. Targeted redfish trips would not be used in calculation of sector discard rate. The proposed rule allows vessels to have multiple mesh sizes on board and comments on this were requested. The public comment period ended December 31, 2012. There was some support for the proposed rule from the Committee and for the public comments outlined below that addressed allowing vessels to have multiple mesh sizes on board when on a declared redfish trip.

Some public comment included:

- Maggie Raymond, Associated Fisheries of Maine: First, I was kind of surprised to hear today that the Agency considered this to be one of the mitigation measures considering we've been working on this project for over 2 years but also because the way they've proposed the observer requirement will really make it unworkable, completely unworkable. There's no way that we will be able to get every individual in our sector to agree to pay for monitoring to go on these trips. We really need to be able to develop a funding program for a sub-set of our membership and allow the others to continue to use the smaller mesh whenever they get assigned an observer. Those are some of the comments that we'll be submitting. We also think it's very important to be able to have the multiple meshes on board when you're declared you're on one of these trips and there's a requirement to declare when you're on this trip. We would suggest that if you're not declared on one of these trips that you don't have on board anything less than six inch mesh. That to me is the bigger concern that people would be fishing with that small mesh when they're not declared on a redfish trip and then that would definitely cause problems with the reporting. We will submit that as part of our comments. I'm actually hoping that the Committee would weigh in on this with respect to the comments that I just made. The industry needs to maintain the flexibility to continue to use two meshes when they're fishing with one hundred percent observer coverage that they shouldn't have the small mesh on board if they're not declared into this fishery and that would be anything less than six inches and the sectors should be able to develop a sub-set of their membership to

apply to have industry funded coverage. Otherwise this isn't going to work; the sector won't be able to afford to pay for everybody. Then it's going to be completely random and will never be able to set up a schedule with buyers where we can guarantee a certain amount of fish or fish will come across the dock and we don't know if we bring in too much and the price crashes. This is going to have to be a very controlled way to buy our way back into this fishery because if people go out and start catching 50 to 60 thousand pounds of redfish they're going to get ten cents if they're lucky. We have to have a controlled fishery and that's what we're hoping to do in our sector with the small amount of boats so those are our concerns and we hope that the Committee will support us on those issues.

Motion: To recommend the Council send a letter in support of the proposed redfish exemption:

1. Flexibility to use two meshes on these declared trips with one hundred percent observer coverage;
2. Should not have mesh on board less than 6 inches if not on exemption;
3. Sectors can develop a subset of their membership to have industry funded coverage (Ms. Ramsden/Mr. Dempsey).

The motion **carried** on a show of hands (7/0/1).

Other Business

Aaron Dority from the Penobscot East Resource Center submitted a request to the Committee to ask the CATT to analyze a proposed closure to groundfish gear on a portion of the northeastern GOM from Penobscot Bay north and east toward the Hague Line and also encompasses the LISA cluster and the Mt Desert Rock coral proposed closure. The request was being made for a number of reasons that included improving the productivity of the area, the pattern of fish contraction toward the GOM, the lack of commercial fishing activity, this area was a historic cod ground, currently there is no year round or seasonal closures in the eastern Maine and Scotian Shelf ecosystem production unit and the GOM circulation patterns support egg and larval transport from the eastern to the western GOM potentially providing benefits to the western GOM.

The Committee had some concerns regarding precedence of approving this request; the Habitat Omnibus Amendment has been worked on for a number of years and allowing requests for additional closed areas could delay it further. The RAP representative informed the Committee of a previously proposed closure that would establish a federal complement to a cod conservation zone in MA waters that should be considered before new requests. There was some hesitation to close more areas at the same time areas were being reopened. The Committee Chair, considering the late hour, suggested members consider it overnight and if appropriate the issue could be raised at the December 2012 Council meeting.

The Committee adjourned at 7:30pm.