

# **New England Fishery Management Council**

## **Groundfish Advisory Panel**

### **Meeting Summary**

November 1, 2011

The Groundfish Advisory Panel met in Plymouth, MA. The GAP developed recommendations for Framework Adjustment 47, Council priorities for 2012, and several other issues. Members present were Mr. William Gerencer (Chair), Mr. Richard Canastra, Mr. Carl Bouchard, Mr. Hank Soule, Mr. Paul Parker, Mr. Vincent Balzano, Mr. Aaron Dority, Mr. Mike Russo, Mr. Chris Brown, Ms. Maggie Raymond, Ms. Jackie Odell, Ms. Emilie Litsinger, Mr. Geoff Smith, and Mr. Gary Libby. Groundfish Committee Chair Mr. Terry Stockwell also participated in the meeting. They were supported by Council staff Tom Nies.

The Committee discussions referred to a Draft Framework 47 document dated October 27, 2011, a list of proposed Council priorities dated October 4, 2011, and a Groundfish PDT report dated October 27, 2011. GAP members agreed to develop recommendations by voting on motions, rather than attempt to reach consensus.

#### **Framework 47 Measures**

The GAP reviewed each section of FW 47 and developed recommendations for the Groundfish Committee for most, but not all, measures. Council staff provided brief overviews of each measure the GAP considered.

##### *Section 3.1.1 Revised Status Determination Criteria*

**Motion:** the GAP recommends the Council adopts Option 2, Revised Status Determination Criteria Option 2 (section 3.1.1). (Mr. Libby/Mr. Soule)

Motion carried on a show of hands (13-0).

##### *Section 3.1.2 Revised GB Yellowtail Flounder Rebuilding Strategy*

**Motion:** the GAP recommends the Council adopts GB yellowtail flounder rebuilding strategy option 2B, rebuild by 2032 with a median probability (section 3.1.2). (Ms. Odell/Mr. Canastra)

Staff explained how the alternative strategies were designed. GAP members asked for clarification on how strategies would be implemented: would the Council target a 10 percent increase in SSB each year if sub-Option B was adopted? Staff explained that this was not the intent – the average annual ten percent increase was used to determine how long the period would last but was not a criterion used to set catches each year. It is important to note that the stock will not grow at a linear rate, even if the projection is perfectly accurate. As an illustration of sub-option B, if the SSB did not increase at all in year 1 the goal would not be to increase by 20 percent in year 2. Catches for year two would be based on a recalculation of the rebuilding mortality needed to reach the target by the end of the period.

Motion carried on a show of hands (13-0).

### *Section 3.1.3 Identification of Additional Sub-ACLs*

#### SNE/MAB Windowpane Flounder

Staff gave an overview of recently discovered errors in the observer database that were forcing a recalculation of the windowpane flounder catches in 2010. GAP members expressed concern about making an allocation of windowpane flounder to the scallop fishery without knowing what the final 2010 catch estimate would be. Members expressed concern over the assessment for these stocks. One member suggested that the best approach was to establish mechanisms to trade groundfish between the groundfish and scallop fisheries, but another cautioned that might result in the scallop fishery buying the entire quota and the loss of a groundfish industry. Public comment included:

- Ron Smolowitz: Fisheries Survival Fund. There are many gear options for reducing catches that may become available. The scallop fleet does not want to catch these fish. The Council should give the scallop fleet a baseline and hold them accountable to that amount, and if it is not caught a mechanism should be developed to let the groundfish industry catch it.

The GAP did not make a recommendation on this measure.

#### SNE/MA Winter Flounder

**Motion:** the GAP recommends the Council does not create a sub-ACL of SNE/MA winter flounder for the scallop fishery (section 3.1.3). (Mr. Canastra/Mr. Libby)

GAP members noted that the ACL for this stock was not caught in FY 2010, unlike the case for SNE/MAB windowpane flounder. GAP members noted that before a mechanism could be developed to move groundfish between the scallop and groundfish fisheries, a sub-ACL would need to be created for the scallop fishery. They also discussed whether the recent low catches were due to the scallop fishery not fishing in the Great South Channel, and questioned whether catches would again increase when that changed. They noted that while the groundfish fishery had reduced its catches to foster rebuilding there did not seem to be the same changes in the scallop fishery. Two members of the public supported the motion.

Motion fails on a show of hands (3-7-3).

**Motion:** the GAP recommends the Council set a sub-ACL for SNEMA winter flounder for the scallop fishery based on catch history in the scallop fishery (section 3.1.3). (Mr. Libby/)

Motion fails for lack of second.

The GAP did not develop a recommendation for this measure.

*Section 3.1.4 U.S./Canada Resource Sharing Understanding TACs*

The GAP did not develop a recommendation on this measure.

*Section 3.1.5 Mixed Stock Exception for SNE/MAB Windowpane Flounder*

Staff explained the requirements for invoking the mixed stock exception (MSE) for SNE/MAB windowpane flounder which, if approved, would allow for overfishing to occur and would increase catch levels. Staff noted the limited time available to create the MSE arguments.

**Motion:** the GAP supports application of the Mixed Stock Exception for SNE/MA windowpane flounder (section 3.1.5, Option 2). (Ms. Raymond/Ms. Odell)

Several GAP members spoke in favor of the MSE approach but also supported the concept that the arguments needed to be carefully prepared and justified.

Motion carried on a show of hands (9-2-2).

*Section 3.1.6 Administration of Scallop Fishery Sub-ACLs*

Staff noted that there were two options to No Action and, in response to a member's question, noted that the options were not mutually exclusive and both could be adopted. Indeed, they were conceived as two measures to be adopted at the same time to balance groundfish and scallop fishery concerns about the sub-ACLs.

**Motion:** the GAP recommends the Council approve Options 2 and 3, section 3.1.6, for administration of scallop fishery sub-ACLs. (Ms. Odell/Mr. Brown)

Members noted that the concepts embedded in these two motions might be applicable to other sub-ACLs, such as those for the recreational fishery. They also expressed concern that some sort of control was needed to make sure the scallop fishery had a constraint that limited its catch even if the overall ACL was not exceeded.

Motion carried on a show of hands (13-0-0).

Later in the meeting the GAP returned to the idea that there should be a limit on the amount of an overage the scallop fishery would be allowed, even if the overall ACL was not exceeded. The idea settled on was to establish a limit that would trigger AMs even if the overall sub-ACL was not exceeded.

**Motion:** the GAP recommends the Council adds to option 2 on scallop fishery sub-ACL administration (section 3.1.6): scallop fishery AMs would not be triggered "unless the sub-ACL is exceeded by 50 pct. or more." (Ms. Raymond/Mr. Libby)

Motion carried on a show of hands (9-0-4).

### *Section 3.1.7 Annual Catch Limit Specifications*

GAP members noted recent newspaper reports that the pending assessment for GOM cod would conclude the stock was overfished and asked if there was any information that would shed light on the situation. Staff declined to comment but other members present at the assessment working group meeting commented that the preliminary results did not look good. Several members reviewed the FY 2010 catch accounting provided by NERO and noticed the apparent increases in state waters catches. Staff noted that this was the first time since 2005 anyone had tried to estimate state waters catches.

**Motion:** the GAP recommends the Council adopt ACLs based on updated information for FY 2012 (section 3.1.7, Option 2). (Ms. Raymond/Mr. Russo)

Motion carried on a show of hands (13-0).

### *Section 3.2.1 Management Measures for SNE/MA Winter Flounder*

After a staff review, the GAP discussed the proposal to allocate SNE/MA winter flounder and allow it to be landed. One member supported the concept but emphasized that any solution for this stock needed to address the discards of the stock that occurred in small mesh fisheries. He noted there are several gear modifications that could reduce these discards and urged GAP members to encourage their adoption. Staff urged GAP members to provide data that supported the argument, since observer data does not indicate there are large catches of winter flounder in the small mesh fisheries in SNE.

**Motion:** the GAP recommends the Council adopts SNE/MA winter flounder management Option 2 (section 3.2.1). (Mr. Brown/Mr. Dority)

A GAP member opposed the motion, noting the small size of the ACL for this stock and commenting that it would create a choke stock for the vessels that fish in the Great South Channel. Another member said the measure would work for the smaller vessels that fished south of New England. Staff pointed out that due to increased catches from state waters, the amount of the ACL available for sectors would likely be in the range of 200-240 mt.

**Motion:** to table the previous motion on SNE/MA winter flounder management measures. (Ms. Raymond/Mr. Russo)

Motion carried on a show of hands (12-0-2).

After the motion was tabled the GAP continued to discuss winter flounder issues, expressing concern about state waters catches. Mr. Stockwell noted that an upcoming ASMFC meeting would address winter flounder issues. The GAP agreed to flag this issue for the Committee.

One member highlighted that without landings there would be less information available for stock assessments. One suggestion was to create a research set aside that sectors could use to obtain scientific data. A number of issues might need to be addressed, such as whether a Letter of Authorization would be needed, would all trips need an observer, etc.

**Motion:** the GAP recommends the Council establish a research set aside process for an amount of SNE/MA winter flounder from the 2012 fishing year ABC to be available to sectors. Sectors would be able to apply for the set-aside to conduct research. (Mr. Brown/Ms. Litsinger)

Motion carried on a show of hands (11-0-1).

GAP members discussed whether the situation with SNE/MA winter flounder reflected a problem that would be encountered for other stocks: how is the transition made from a stock that is not allocated and cannot be landed to a stock that is landed? A member suggested one approach might be to allow a sector to opt in to the allocation – other sectors would be subject to whatever AM was adopted and could not land their catches. This idea might be explored in a future framework action to address sector issues. Staff commented that unless effective AMs were in place there could not be a rational choice between the two options.

#### *Section 3.2.2 Scallop Catch of Yellowtail Flounder in GB Access Areas*

The GAP briefly discussed this measure but did not make a recommendation.

#### *Section 3.2.3 Atlantic Wolffish Possession Limit*

Some GAP members were concerned that if landing one wolffish was allowed it might lead to revisiting a possible listing of this species under the Endangered Species Act. Others supported a one fish limit as a way to reduce dead discards, admittedly by a small amount.

**Motion:** the GAP recommends the Council adopts Option 2 for the Atlantic wolffish possession limit (section 3.2.3). (Mr. Russo/Mr. Brown)

Motion carried on a show of hands (9-3).

#### *Section 3.2.4 Common Pool restricted Gear Areas (RGAs)*

**Motion:** the GAP recommends the Council adopts Option 2, removing Restricted Gear Areas for the common pool vessels (section 3.2.4). (Ms. Raymond/Mr. Brown)

Motion carried on a show of hands (11-0-1).

#### *Section 3.2.5 Accountability Measures*

After a staff overview, GAP members asked several questions about how the AM areas were developed and whether this approach conflicted with efforts to reduce effort controls.

**Motion:** the GAP recommends the Council adopts Option 1/No Action for accountability measures (section 3.2.5). (Mr. Canastra/Mr. Libby)

Members discussed whether this option would cause problems with the current design of AMs and the ongoing Amendment 16 lawsuit which challenges those AMs. Several members expressed frustration that the GAP had not been involved in the design of AMs from the beginning, and was only being asked to comment on the measures developed by the PDT.

Motion fails on a show of hands (2-10).

**Motion:** the GAP recommends the Council adopts the accountability measure for Atlantic wolffish and halibut would be no landing/possession (section 3.2.5). (Mr. Parker/Mr. Russo)

Motion carried on a show of hands (11-0-1).

### **Other Framework 47 Issues**

After completing its review of the draft FW 47 document, the GAP turned to issues that it suggested be added to the document. The first was to expand the list of universal exemptions for sectors to include those exemptions that had been granted each year by NMFS. Members noted that the analyses supporting these changes had already been completed by NMFS and presumably could be easily added to the document. Adding these universal exemptions would simplify sector administration and reduce the workload for both sector and NMFS staff when reviewing operations plans each year.

**Motion:** the GAP recommends the Council use FW 47 to expand the list of sector universal exemptions to include all the exemptions that have been analyzed and approved by NMFS. (Ms. Raymond/Ms. Odell)

Motion carried on a show of hands (12-0-0).

### **Council Priorities for 2012**

The GAP reviewed the list of potential priorities dated October 4, 2011. A GAP member walked through a number of potential priorities, noting that many were suggested by participants in the sector workshop. Members discussed the specific suggestions that were made and whether some should be combined before the following motion was offered. Many members agreed that sector monitoring issues were important but there were some differences of opinion on the order of other priorities, with suggestions to move Amendment 18 higher in the order. There were also concerns that monitoring of recreational catches needed to be improved. Ultimately, no changes were made to the order of the priorities as presented in the motion.

**Motion:** The GAP recommends as Council priorities, in order of importance:

- 1) Prepare framework to address new assessment information for 9 stocks

- 2) Take action to eliminate all or part of rolling, seasonal and year round mortality closures
  - 3) Develop a cost-effective sector monitoring plan, that includes options for electronic monitoring of discards (including a full retention policy for allocated stocks), phasing in industry cost-share over a 5-10 year timeframe
  - 4) Develop options to move unused ACE between scallops/groundfish fleets and between groundfish commercial and recreation fleets
  - 5) Increase rollover percentage
  - 6) Address LAGC yellowtail AMs
  - 7) Other effort controls including minimum fish sizes
  - 8) Consider Amendment 18 on accumulation limits and fleet diversity including refining definition of fleet diversity
- (Mr. Soule/Mr. Balzano)

Motion carried on a show of hands (12-0).

### **Other Business**

Two other motions were offered to address the need expressed at the sector workshop that industry needed stability in order to develop.

**Motion:** In order to address the stability needs of sectors, the GAP recommends the Council does not create new allocation options. (Ms. Raymond/Mr. Russo)

Motion carried on a show of hands (8-0-4).

**Motion:** In order to address stability needs of sectors the GAP recommends that the Council not impose restrictions on ACE trading between vessel size classes or input controls (such as trip limits or species-specific closures). (Ms. Raymond/Mr. Libby)

Motion carried on a show of hands (11-0-1).

A final motion was offered to address the GOM cod assessment that will be completed in December, with a final report expected in January. GAP members reported that the assessment was expected to say the stock is overfished and cannot rebuild by 2014. They were concerned that GOM cod not be treated the same way as SNE/MA winter flounder.

**Motion as perfected:** the GAP recommends the Council ask NMFS to explore ways to extend the GOM Cod rebuilding period beyond 2014. (Ms. Raymond/Ms. Odell)

Motion carried on a show of hands (12-0).