

New England Fishery Management Council
Groundfish Oversight Committee
Meeting Summary
October 30, 2008

The Groundfish Oversight Committee (Committee) met in Portsmouth, NH to continue development of Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP). The Committee discussed rebuilding strategies for newly overfished stocks, effort control development, recreational measures, and sector policy issues including joint liability and monitoring. Committee members present were Mr. Rip Cunningham (Chair), Mr. Terry Stockwell (Vice-Chair), Mr. Frank Blount, Ms. Sally McGee, Ms. Sue Murphy, Mr. Jim Odlin, Dr. David Pierce, Mr. Dave Preble, and Mr. Erling Berg. They were supported by staff members Mr. Tom Nies and Ms. Anne Hawkins (NEFMC), Mr. Doug Christel (NMFS NERO), Mr. Gene Martin (NOAA General Counsel), and Mr. Charles Juliand (NOAA OLE).

Discussions were guided by a PDT memo dated October 23, 2008 and the draft Amendment 16 management measures.

Rebuilding Strategies for Newly Overfished Stocks

The PDT Chair gave a summary of PDT analyses regarding newly overfished stocks. He stated that the PDT attempted to determine the median time between minimum and maximum rebuilding periods, and then determined revenues that would result from different building programs to calculate the net present value of rebuilding strategies. The 2017 rebuilding period amounted to better economic returns and a higher net present value, but there were only minor differences between the strategies.

Public comment included:

- Vito Giacalone: Northeast Seafood Coalition. It would be helpful for us to understand what flexibility would be included if a shorter timeframe was chosen. In the event that we underestimate natural mortality or the stocks don't respond the way we want them to, we lose more opportunities to fix the problem with a shorter rebuilding time frame. In a longer rebuilding period, we would have more time to address a problem. What are the benefits to a shorter time frame?
- John Williamson: Ocean Conservancy. You said there is not a lot of difference between the net present values for three years you looked at, but what are the actual numbers?
- Vito Giacalone: Northeast Seafood Coalition. The guidance sounds good, but it is not permanent yet. If we chose an end date of 2017, and we were off-target in 2016, who would make the policy call of whether to restrict fishing to close to zero or to extend the time frame closer to 2020? You would have to either make F extremely low, or look for flexibility that hasn't even been adopted in the guidelines. It seems like the flexibility to rebuild in 2017 is there even if you pick 2020 as your timeframe. It has been shown that the numbers are highly uncertain in the end of the timeframe.

Ms. Murphy acknowledged that there were issues with two of the five stocks that were initially identified as overfished in NMFS' initial letter to the Council (Sept 2); however, the Committee should consider addressing rebuilding programs for all five stocks, and not limit this to the two identified in the PDT report. Ms. Murphy stated that while the assessment for GOM winter

flounder was uncertain, the GARM review panel pointed out that it is likely the stock is overfished. The NMFS' October 3rd letter left it up to the council as a policy decision whether they want a plan to rebuild the stock in Amendment 16. Council staff noted the GARM panel also said the assessment should not be used for management advice or projections, which makes determining a rebuilding strategy problematic as to do so would conflict with the best scientific information. She also said that, looking at the guidelines, if a rebuilding timeline is based on a target time that is less than the maximum, and the stock not rebuilt by the target, rebuilding measures should be revised as necessary to ensure that the stock is rebuilt by the maximum time. Choosing a shorter time frame would give a chance to correct measures if it was so desired.

Motion: To recommend to the Council that PDT Strategy 2 (PDT Memo dated October 23, 2008) be adopted for witch flounder and GB winter flounder rebuilding strategies. (Dr. Pierce/Ms. Murphy)

Motion to Amend: To recommend to the Council that PDT Strategy 2 (PDT Memo dated October 23, 2008) be adopted for witch flounder and GB winter flounder rebuilding strategies, provided the flexibility to extend rebuilding to 2020 if necessary. (Mr. Odlin/Mr. Preble)

The maker of the motion stated that he would be more comfortable if flexibility were included in the motion, rather than relying on the issuance of favorable guidelines. One Committee member opposed the motion to amend because the Council has taken advantage of “fudge-factors” in the past. Council staff stated that except for GB yellowtail flounder, the Committee had chosen the maximum dates with a median probability of success and therefore had little flexibility. Another member wanted to choose dates based on higher economic efficiency. Ms. Murphy and the maker of the motion clarified that if 2017 was the target date, it would not be possible to simply back off of that date, although if the rebuilding was off track despite the biennial adjustment it would be possible to extend to 2020 based on proposed guidelines.

Public comment included:

- John Williamson: Ocean Conservancy. In fact the law says, “as soon as possible,” not “as soon as practicable”. The motion to amend is unnecessary: there will be plenty of opportunities to amend between now and 2017 if that becomes necessary in your minds.
- Vito Giacalone: Northeast Seafood Coalition. From a policy standpoint, can the Council pick a rebuilding program that chooses the maximum time, but sets the timeframe for the numbers at something shorter? The shorter the time horizon, the less likely it is that Mother Nature will kick in good recruitment events.

The motion to amend **carried** on a show of hands (5-3-0).

The motion as amended **carried** on a show of hands (5-3-0).

Ms. Murphy stated that, in addition to addressing GOM winter flounder, the Council should also address the other two stocks identified as overfished in NMFS' initial letter: Northern windowpane flounder and pollock. Although northern windowpane was identified as overfished in GARM III, the Review Panel recommended against development of an F-rebuild given that this stock is essentially a bycatch fishery. Despite GARM's advice, the Magnuson-Stevens Act requires a rebuilding program regardless of whether or not something is a bycatch fishery. For pollock, there was an error in the GARM Report because 3 data points were not included, but NMFS believes that this stock will likely be overfished when another data point is included

shortly. She asked that the Committee consider developing a rebuilding program for that stock. Council staff responded that the most recent numbers were well within the variation seen so far with pollock, so it was difficult to determine whether it would be declared overfished or not. He also stated that northern windowpane catch has quadrupled over the last three years, and that it is almost entirely a discard fishery. He said that it would be possible to calculate a rebuilding trajectory, but difficult to implement given that there are relatively few landings. If thinking about reducing effort in areas where windowpane is caught, the Council is looking at possibly considering a 50% mortality reduction on GB cod and other stocks in those areas which should have positive impacts for windowpane flounder. A Committee member asked why those fish have been discarded when they can be sold, and asked the PDT to look into the reasons.

Motion: That the PDT bring forward a rebuilding strategy for northern windowpane flounder (Ms. Murphy/Ms. McGee).

One member thought that the Council should at least consider measures for building trajectories. Another objected, stating that such measures would not be meaningful and would therefore prefer to leave it alone. A Committee member expressed that it was not acceptable to ignore the problem despite the difficulties with understanding the status of the stock today.

The motion **carried** on a show of hands (5-4-0), with the Chair casting the tiebreaking vote.

Effort Control Development

The PDT Chair gave an overview of recent work on the development of effort control alternatives. Specifically, the PDT proposed several options working with differential DAS counting.

The Committee Chair asked whether it would be possible to get more clarity on the status of the SNE winter flounder requirements. Ms. Murphy replied that the proposed National Standard One guidance is the only available indicator of what would happen if a rebuilding timeline could not be met within ten years. That guidance says that F-rebuild must be followed until the stock is rebuilt. The mortality must be kept at F-rebuild, which is zero, or as close to it as possible. All sources of mortality should be considered, and fisheries with a high rate of winter flounder bycatch should be examined. One Committee member expressed concern with state waters catch interfering with rebuilding. He also wanted to clarify how DAS would be counted under the system: whether an entire trip would be counted at the ratio of the highest area or whether it could be counted in real-time.

Motion: Under differential DAS counting options with no trip limits that the PDT developed, differential DAS be charged based on the area the vessel is in. (Mr. Odlin/Mr. Stockwell)

The motion was **tabled** on a show of hands (8-0).

Motion: To recommend to the Council that the three PDT options with differential DAS and no trip limits should be considered and rejected. (Mr. Stockwell/Mr. Odlin)

A Committee member stated that it would be too difficult to implement four different DAS areas, and stated that trip limits were necessary.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. AFM would support the motion to eliminate these options. The motion maker's intent was to eliminate discards, which are a time- and area-specific problem. Many vessels have been successful in avoiding them.
- Chris Brown: Rhode Island Commercial Fishermen's Association. I could not support a no-trip limits scenario. It invites too much carnage, too fast, for too little money. There have not been adequate studies of causes of mortality in general. The cause could be regulations, fishing in the wrong areas, or gear. The further south you go, the more complicated the field gets because other Councils also have jurisdiction. There is no directed fluke fishery anymore. Throwing fish away is not the solution and has kept us in the holding pattern we are in. The problem is more complicated than just eliminating trip limits, and we need to look at mortality comprehensively in New England.
- Dave Marciano: Angelica Fisheries, Inc. You should work on developing a better DAS option for vessels that would remain in the common pool. It should be based on a 24-hour day, and I believe we could have full retention. I have a feeling you guys will make the right choice and we will develop a better option for the DAS fleet.

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

Motion: To include PDT option 2A as described in enclosure 2 to the PDT report (effort controls: differential DAS and trip limits) as an option to go forward in Amendment 16. (Mr. Odlin/Mr. Stockwell)

Public comment included:

- Dave Marciano: Angelica Fisheries, Inc. I would like to advocate against the advent of a hard TAC. With this plan, we will have to go south to fish because there will not be an area open. It would be unsafe to shift boats with histories of fishing inshore. A much better plan would be to have full retention and trip limits with 24-hour days.
- Maggie Raymond: Associated Fisheries of Maine. We will never know for certain who will be in sectors or in the common pool since it is voluntary. That will not change. What about GOM cod under this option?
- Vito Giacalone: Northeast Seafood Coalition. We definitely have to put effort control measures forward, unfortunately. We do not need the complicated differential counting all over the place, because that will create a derby fishery until something closes it down. But if there is no in-season adjustment, sectors could suck up a majority of the TAC and you could have quite a few DAS left and effort control measures would need to be relaxed. Accountability measures are critical.

One Committee member felt that since GARM III made all the previous effort control options obsolete, and since a 24-hour clock could be included in a forthcoming motion, he was willing to bring this forward.

The motion **carried** on a show of hands (6-1-1).

Motion: Under the differential counting option 2A that the PDT developed, that differential DAS be charged based on the area the vessel is in. (Mr. Odlin/Mr. Stockwell)

A Committee member stated that this issue had arisen before and questioned why it had not been adopted.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. Are there trip limits on cod?
- Vito Giacalone: Northeast Seafood Coalition. We assume this option would cause the last motion to be reconsidered by the PDT because it would change incentives, and we are not sure if the counting rate would end up the same in all areas. This definitely makes a difference in the type of effort that would happen in the inshore GOM.
- Matthew Carter: offshore gillnetter. Offshore lobsters are too big, so vessels that had caught lobster offshore would be in violation to come inshore to fish for cod. The possibility of effort shifting inshore is not as big a deal as you make it out to be, since nobody would throw their bycatch of lobsters overboard.

Council staff clarified that the only trip limits included were listed in the PDT report. The maker of the motion clarified that the most restrictive trip limit would apply to the entire trip, and that trip limits from different areas could not be stacked on a trip.

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

Motion: To have a 0 retention limit for SNE MA winter flounder, SNE MA windowpane flounder, and northern windowpane flounder (Mr. Odlin/Ms. McGee)

Ms. Murphy supported the motion stating that any trip limit would impel people to catch that amount, even if only 200 lbs., which would create more discards. Council staff questioned if NMFS could perform stock assessments if no landings occurred.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. Does this apply to all fisheries in those stock areas?
- Chris Brown: RI Commercial Fishermen's Association. Has anyone contemplated the whipsaw nature of our direction? We are going from unlimited possession to zero in a 3:1 counting area. At some point, management has to be culpable for this. We did not get to where we are on our own.

Several Committee members agreed that they would vote for a multispecies exemption if there was one, but as it stood the stock assessment required zero retention. One felt that the motion was attractive because it covered all fisheries and not only certain gear types. Another Committee member did not wish to support an action that took all options away from the ASMFC. NOAA General Counsel staff explained that the exemption as currently prescribed allows ending overfishing to be delayed, but does not exempt the Council from imposing rebuilding requirements. In the proposed guidelines, a delay is not even available for that purpose if the stock is below 50% of its target. If rebuilding requires zero mortality, there are really no other options short of Congress fixing the very rigid standard.

Motion to amend: To remove winter flounder from the original motion (Mr. Preble)

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

The main motion **carried** on a show of hands (6-2-0).

Motion: For the PDT to revise Option 3 (24 hour clock, restricted gear areas, and GOM offshore closure) and Option 4 (DAS reduction and restricted gear areas) from the Committee's June 2008 (draft A16 pages 80-81) recommendations to meet current GARM III mortality targets. (Mr. Stockwell/Mr. Odlin)

Ms. Murphy mentioned a safety issue with a 24-hour clock and stated that the Amendment would need to address this issue, and a Committee member stated that he saw no difference between a 24-hour clock and differential DAS as far as safety was concerned.

Public comment included:

- Vito Giacalone: Northeast Seafood Coalition. I think it is worth exploring these options and not just looking at comments that came out of Framework 42 hearings as the only safety issues. There was a pile of testimony about safety concerns with a 24-hour clock, and when it came to differential counting the same individuals would have come to the microphone but they were cut off due to time constraints. We have done a lot of things since then that threaten safety at sea, and I do not think the industry currently feels that the 24-hour clock should be singled out.
- Chris Brown: RI Commercial Fishermen's Association. I look at the 24-hour clock as a serious compromise of the small boat fishermen's safety. It encourages discarding, especially in a directed skate fishery. If we are forced to fish around the clock, discard rates will go up at night. It is a bad deal in southern New England.

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

Motion: To analyze an alternative for a mixed possession limit for SNE yellowtail flounder and SNE winter flounder for a total of 500 pounds per trip from November through April. (Ms. McGee/Mr. Preble)

The maker of the motion stated that this motion would enable a relatively low trip limit but would reduce at least some discards by letting people keep more of what they catch the most. She said that mortality may be comparable or even less than that under a zero retention rule. Ms. Murphy stated that she was not sure if a mixed possession limit would be acceptable since fishing mortality needs to equal zero for SNE winter flounder. Another Committee member stated that basket tags are used successfully in other places, and he was convinced that mortality would be lower under that approach. Another Committee member asked what would happen during the time of year that yellowtail flounder are not caught. Another member strongly supported the time frame, stating that a zero possession limit in the winter and spring creates a huge flounder discard problem.

Public comment included:

- Chris Brown: RI Commercial Fishermen's Association. The potential is there for that. I don't know that a 500 lb. winter flounder fishery in the summer would attract much interest. I just called in my first groundfish day the day before yesterday. We avoid this fishery because it does not provide a lot of money. We are focused on making as much money as we can, and the mixed trawl fish offers a greater chance of that when there are more valuable fish in the mix.

- Maggie Raymond: Associated Fisheries of Maine. This would apply to groundfish vessels on DAS only, right? Would the other fisheries still have zero possession? Would this set a target TAC for winter flounder? Is it the intent of the Committee to incorporate these into the other effort control measures? For example, if there was a low limit on SNE winter flounder, would differential DAS counting in that area change? Or would overall reduction in DAS change?
- Vito Giacalone: Northeast Seafood Coalition. If you have zero TAC, you would have zero SNE winter flounder allocated to sectors. Would that basket limit apply to days that sector vessels spend at sea too if it is a bycatch issue? SNE winter flounder has a big directed fishery in New Bedford in the summer. A basket limit may make sense with a broader application. Those are all large vessels and they wouldn't go into the channel for a low trip limit, but they may use a bycatch limit.

The maker of the motion clarified that it would only apply to groundfish DAS, and that it should be inserted into all of the effort control options. Council staff questioned whether sectors would need to have an allocated TAC if the common pool were allowed to catch SNE winter flounder.

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

Motion: To require the use of 12 inch drop chains in all small mesh fisheries in the SNE area bordered to the south and west by the current 2:1 differential das counting area. (Mr. Preble/Mr. Stockwell)

The maker of the motion stated that there is bycatch of flounders in the small mesh fishery. A Committee member supported the idea behind the motion, but questioned whether the chains were known to help without a peer-reviewed investigation. Ms. Murphy agreed that she thought it might help, but wanted to know about experimental data and have the PDT look at actual effects before supporting the motion. She stated that it is the agency's position that gear must be shown to be effective before going forward. She also thought that language should be included that would allow additional gear with beneficial effects to be implemented if approved by the Regional Administrator. Another member stated that Massachusetts is considering similar gear modifications to the squid fishery, which is small mesh.

Public comment included:

- Chris Brown: RI Commercial Fishermen's Association. There is a lot of evidence on this, but none in scientific form. I took Sen. Lincoln Chafee fishing with me a few years ago. We were in the middle of a flounder fleet, and he asked whether they were catching anything, because he had not seen a flounder on my boat all day. It works. Rope nets need to be contemplated as well because they do just as good a job, as well as the eliminator trawl. Conservation only works if we all do it. Conservation-minded long-haul guys do this voluntarily.
- Maggie Raymond: Associated Fisheries of Maine. If this is a good idea, it should be done. We have to go to zero mortality, so what other option is there?

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

Motion: To put the running clock in the measures for consideration. (Mr. Preble/Ms. McGee)

The maker of the motion stated that the apparent recovery of cod and an excess of discards were considerations for a running clock, which he felt would lead to full-retention fisheries. Ms. Murphy stated that the issue kept coming back and being voted down. Modification of the way the clock worked at that time would be a problem from an enforcement perspective. Another member felt that the monitoring system being implemented in Amendment 16 should be ample to account for enforcement concerns. Other Committee members felt that fish with trip limits would be targeted under a running clock, and therefore did not support the motion.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. I said before that discards are a time- and area-specific problem. You can avoid them in a number of different ways. We have had 6 different versions of the running clock since 1996. They did not work or were counter-productive. What is in place now is a compromise to deal with it in some way that did not become counter-productive. I don't think it's the best option unless you can be really specific about what you mean by running clock and how it will be applied.
- Vito Giacalone: Northeast Seafood Coalition. There was a more thought-out version of the running clock.

The motion **failed** on a show of hands (2-5-1).

Recreational Measures Development

The PDT Chair gave a summary of recent work on recreational fishing issues and Committee members asked clarifying questions. One member stated that he would like to hear comments from the audience regarding the options for allocation.

Public comment included:

- Don Swanson: Coastal Conservation Association. Can there be 2 different time periods for commercial and recreational allocations?

The Committee Chair replied that the issue was still under discussion, but that at least one opinion stated that they would have to be the same.

- Barry Gibson: Recreational Fishing Alliance. We are not comfortable with these particular measures. We would like to see the 2001-2006 time frame used, since that is more recent data and better reflects the state of the fishery now and may better reflect what we will see in the next few years. We won't comment a lot on these particular measures because we don't know what time frame will be used for allocation. If both time frames go out for comment we will wait and see what happens there. If the 1996-2006 time frame moves forward, these options reflect the intent of the RAP at the last meeting. We did not have the data to know exact numbers, and hope we have the opportunity to look at this again. My suggestion is to look at differential measures for the party charter and recreational sectors.
- Tom DePersia, Stellwagen Bank Charterboat Association. My concern is with choosing years for the allocation. The arbitrary decision to go with 1996-2006 would be devastating to us. What was supposed to be a 30% reduction in business ended up being 70 percent. We can't take any worse. The later time period takes into effect the 10 fish limit on cod we got in 2001. Why would we want to go back to when it was unlimited?

Also haddock came back in 2001, so effort shifted. There was a decrease in charters, decrease in catch, and decrease in people coming because of the limit. All of this is represented in our VTR. Your decision will probably put us all out of business.

A Committee member asked if new entrants to the fishery were a factor. Council staff responded that there is entry and exit every year, with slow growth over time, but no large increases. Another member said that the number of party/charter vessels have been decreasing, and stated that it will not be possible to catch the entire cod allocation in years to come.

- Maggie Raymond: Associated Fisheries of Maine. I can see why the recreational fishery would want to choose 2001-2006, but am concerned about the potential impact of that decision on the commercial fishery. It may be problematic with the shift on GOM cod.

Motion: To remove the requirement that recreational fishermen are limited to two hooks (Mr. Blount/Mr. Preble)

A Committee member asked whether more hooks would lead to more discards if operating under a bag limit. Council staff asked whether hook limits were only an issue in Southern New England, but the maker of the motion stated that he did not want the rule to be tailored to benefit a certain group.

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

Sector Policy

Joint Liability

Council staff introduced the topic of liability for sectors and stated that the issue had been mentioned several times previously. In the current regulations, sectors would operate under joint and several liability and that was creating problems for sector organizers.

Motion: That sectors may be held jointly liable for violations of sector operations plan requirements: such as/for example

- ACE overages,
- discarding of legal fish,
- misreporting of catch (landings or discards)

The specific elements will be refined with input from NOAA GC, NERO, and industry. (Mr. Stockwell/Mr. Odlin)

NOAA General Counsel staff noted that it was important not to restrict prosecutorial discretion, and the motion was worded accordingly. NOAA OLE staff stated that decisions on who will be prosecuted for violations will be determined by prosecutors and not sectors. While there is no intention of overreaching or prosecuting all sector members for an unrelated violation, there are cases where each member of a sector would benefit from a violation and so each issue would need to be determined on a case-by-case basis.

A Committee member expressed surprise that the issue was becoming adverse, since it had been discussed before and he thought resolution was in progress. Sector proponents had been working with the Regional Office to work out language to address the issue, and he was uncertain how that process was related to the discussion before the Committee. Ms. Murphy replied that the agency

would like to allow some flexibility and would continue to work with the industry on the language. Another member was uncomfortable leaving the issue to be hammered out by the agency because of the confusion around the issue. NOAA General Counsel staff stated that it would be preferable to use examples of what sector members could be jointly liable for rather than creating a list of the only possible matters for joint liability.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. I think it is really important to get the Council's intent on this issue on the record in the document. It is clear the Council never meant broad-brush liability to apply to sectors. I do think it would be helpful if you adopted the recommendation Gene had. There is nothing to stop a sector from adding other stuff to that list if they want to in their operations plan. Unless there is obvious collusion, those are the only things we think they should be liable for.
- Vito Giacalone: Northeast Seafood Coalition. The current law should not be weakened. If I break a fisheries rule, and am colluding to do that, that person can be prosecuted along with me. That is not changing. We have some language to consider along the lines of having the Committee stress the importance of giving industry clarity on what is expected of them.

NOAA General Counsel staff stated that Mr. Giacalone's language should be sent out for consideration at the following Council meeting, rather than having the agency meet with certain sector participants at the possible exclusion of others.

The motion, as perfected, **carried** on a show of hands (7-0-1).

Motion: that the Council recommend to NMFS for Amendment 16 that in the last sentence of the current regulations that address joint and several liability for sectors, eliminate the wording "as well as any other applicable federal regulations." (Mr. Stockwell/Mr. Preble)

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

Sector Monitoring

Council staff presented draft text of sector monitoring regulations for the Committee's approval. Ms. Murphy stated that NMFS needs standards by which to approve vendors, which would need to be determined during the development of Amendment 16. She cited the Canadian observer program and the scallop observer program in New England as possible models for certification standards for the industry-funded monitoring program.

Motion: To recommend to the Council that we ask the NMFS for monitoring standards for vendor approval based on the Canadian program that was provided to us previously, and based on the model used for the scallop industry. (Mr. Odlin/Mr. Stockwell)

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. I am a member of the monitoring working group and I support the motion.

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

Council staff asked whether there were concerns with how the monitoring program was being structured from a legal standpoint. NOAA General Council staff responded that rules against augmentation of appropriations and the Miscellaneous Receipts Act generally prohibit the government from receiving outside funding sources over and above what is federally appropriated for a given program. He stated that the scallop observer program's vendor plan was a good template for an acceptable approach under the rules. The problem would hinge on how much control the government retains over vendors.

AMs for Scallop Fishery ACLs

Council staff discussed the need to set accountability measures for groundfish ACLs in the scallop fishery. The Chair suggested asking the Scallop Committee to address the matter at their next meeting. The Committee agreed by consensus to ask the Scallop Committee to devise AMs.

Review of Draft Amendment Measures

Council staff reported that certain stocks that have been determined to be overfished or nearly overfished in GARM III are currently allowed to be targeted under special programs. For example, pollock is able to be targeted under the B DAS program and an SAP exists for SNEMA winter flounder.

Motion: To include in Amendment 16 an option to remove the SAP for SNEMA winter flounder. (Mr. Odlin/Mr. Preble)

The motion **carried** on a show of hands (7-0)

Motion: To increase the minimum size of Atlantic halibut to 41 inches (141.1 cm) (Mr. Preble/Mr. Odlin)

Several Committee member stated opposition to the motion, citing desire not to increase incentives for landing too-large fish, concerns about discard mortality, and the importance of taking into account the maturity size of females. Ms. Murphy asked whether discard mortality for the species was known, and Council staff responded that studies in the Pacific show a relatively high survival rate but that it was unknown whether studies had taken place in the Atlantic.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. Discard mortality is higher on smaller fish.

Motion to amend: To amend the motion to be 38 inches. (Mr. Stockwell/Mr. Preble)

Ms. Murphy stated that the GARM suggested a minimum size of 41 inches. Another Committee member asked if a fish less than 38 inches could be landed in Canada and then shipped down, and NOAA General Counsel responded that it could not if it was a whole fish.

The motion to amend **carried** on a show of hands (4-3), with the Chair casting the tiebreaking vote.

Motion as amended: To increase the minimum size of Atlantic halibut to 38 inches (96.5 cm). (Mr. Preble/Mr. Odlin)

The motion as amended **carried** on a show of hands (3-2-1).

The Committee discussed the Category B separator trawl program. The PDT was asked to look at the program and to consider how to increase catches of haddock. Committee members also discussed the difficulty of harvesting redfish and measuring a minimum since the biomass has increased, and asked about the possibility of removing minimum size constraints.

Ms. Murphy brought up assumed discard rates, and asked what rate should be applied if the GARM does not list a discard rate for a particular gear for each stock. Council staff responded that you could apply an overall discard rate for that stock, as identified by the GARM. Ms. Murphy also expressed concern that Alternative 2 of the accountability measures in Amendment 16 does not provide enough time to comply with the APA, suggesting that language should be inserted indicating that this would be a formulaic process, as suggested by General Counsel in a previous meeting. This would help NMFS provide justification to implement such AMs directly through a final rule, although there is still no guarantee.

One Committee member suggested that when the PDT examines the B DAS program, they also look at the Advisory Panel recommendations if time allows. The Committee agreed without objection.

The meeting adjourned at 6:00 p.m.