

# New England Fishery Management Council Groundfish Oversight Committee

Meeting Summary  
September 17, 2013

The Groundfish Oversight Committee (Committee) met in Portsmouth, NH. The Committee discussed recent work on Framework 51 and Amendment 18 to the Multispecies Fishery Management Plan. Committee members present were Mr. Terry Stockwell (Chair), Mr. Terry Alexander, Mr. Frank Blount, Mr. Peter Kendall, Ms. Sue Murphy, and Dr. David Pierce. They were supported by Groundfish Advisory Panel (GAP) Vice Chair Ms. Jackie Odell, staff members Mr. Andrew Applegate, Dr. Jamie Cournane, Ms. Rachel Feeney, and Dr. Fiona Hogan (NEFMC), Mr. Mark Grant, Ms. Sarah Heil, Ms. Moira Kelly and Mr. Michael Ruccio (NMFS NERO) and Mr. Gene Martin (NMFS General Counsel).

Discussions were guided by a presentation of Development of Framework 51 to the Multispecies FMP, a presentation on the Development of Amendment 18 to the Multispecies FMP, PDT memo to OSC re A18 dated September 10, 2013, PDT memo to OSC re FW51 dated September 12, 2013, GF OSC meeting summary dated August 14, 2013, Joint NEFMC Whiting/MAFMC Squid AP report dated September 9, 2013, Joint HAB/GF OSC meeting summary dated September 5, 2013, PDT memo to GF OSC re summary of recent PDT meetings dated September 13, 2013, and a series of correspondence received by the New England Fishery Management Council.

The Scallop Advisory Panel was joined the Committee for discussion of the TMGC meeting held on September 10 – 11, 2013.

## **PDT Framework 51-related updates**

Staff provided an overview of the FW 51 timeline, additional groundfish issue prioritization by the Committee and a summary of draft alternatives under consideration for FW 51.

The Committee asked general questions about the alternatives under consideration. A Committee member questioned the full retention alternative in light of PDT recommendations. The PDT had some concerns regarding the feasibility of using electronic monitoring (EM) on all vessels at present and suggested implementation on vessels using a gear type that was ready for EM to be used effectively on, but did not discuss vessel size. If EM was moved forward on a single gear type 100% coverage may be desirable but a fleet wide percentage was not assumed. PDT discussion was linked to whether or not the current monitoring system might look different; if full retention was packaged with EM then that would be a different system than what is currently in place.

Some public comment included:

- Marc Stettner, Northeast Hook Fisherman's Association (NEHFA) – I'd like to ask that before this goes forward for all groundfish that the basis of our fishery is size and trip limits. Similar measures as the recreational fleet. It's inappropriate for us to want this in the handgear fishery, commercial fishery. We feel like the majority of fish that we do throw back survive and there are studies out there that are ongoing at this time to prove that to precise numbers. Quite frankly 100% at-sea monitoring in our fishery would basically destroy the fishery. Keep that in mind if this goes forward, that there are small boats, not even just handgear vessels, that this may not be

appropriate for and you mentioned gear type and our gear type, this would not support our gear type. We want to throw back the fish that we can that we feel will live.

- Maggie Raymond, Associated Fisheries of Maine – I'm trying to understand the logic of needing 100% monitoring for a full retention fishery compared to right now. The SBRM says we don't need 100% monitoring and we throw fish away and there's no real way to understand whether or not the fish that's being thrown away is all sub-legal. If you require full retention, I just don't understand. It seems to me that you would need less monitoring if you had full retention assuming that everyone abided by that. There's an assumption that full retention policy has the potential to be less abided by the industry than what we currently have?
- Vito Giacalone, Northeast Seafood Coalition – Just perhaps the Committee could guide the PDT a little more and look at this from an economic standpoint because it is a cost/benefit situation. You have 4 years of data that show that discards right now under the current fish sizes are at a very small fraction of overall catch. To jump from where we're at now from SBRM level all the way up to 100% to even consider that, that's a huge jump and the policy in place right now is industry funded. We're still on an annual grace period here to try and get monitoring paid for. I think that's an economic cost/benefit that needs to be looked at and the tradeoff is the increased scientific benefit of having all the fish brought to the dock so that dockside monitoring or shore sampling can improve stock assessments. Those are the benefits to it and to have that all on industry that other 75% or 80% cost of monitoring to capture I think it's on average 1.5% or 2% that's in the discard category. Maybe it would help the PDT if they approached it from a cost/benefit to show economically to recapture 1% or 2% of the total catch for the cost of an additional 75% monitoring I think would be telling for the Committee or Council to look at.

#### Small-mesh Accountability Measure (AM) for Georges Bank Yellowtail Flounder Sub-ACL

Staff provided an overview of the whiting/squid advisory panel meeting held on September 9, 2013. There was a fairly notable decline in catch of yellowtail flounder between gear types but due to sample sizes it was not statistically significant. A number of gear experiments were discussed that were partially applicable to the Cultivator Shoals fishery on the south portion of Georges Bank (GB) but they were either conducted in shallow water or were directed at other species like winter flounder and yellowtail flounder bycatch was not recorded. The Whiting AP provided a series of recommendations: 1. A gear-based AM that would require the year round use of certified bycatch avoidance nets, 2. As a backstop AM, a time-area closure that prohibits small-mesh fishing in seasons and areas with the highest yellowtail flounder bycatch rates, 3. An alternative that would trigger AMs only if the total ACL AND the sub-ACL is exceeded, and 4. An alternative that would give higher priority to AMs using a pound for pound payback when new assessments indicate that higher ACLs can accommodate prior overages. The industry is willing to begin a voluntary industry bycatch avoidance network to avoid areas where there is high yellowtail flounder bycatch.

A Committee member questioned whether the intent was to incorporate the AM solely into FW 51 or would there be further action taken in the respective FMPs. Staff explained that industry would need more time to develop appropriate gear modifications but would not be surprised if in time modifications were made in the various plans. There was some concern at using modified gear that has not been tested in deeper water as part of the AM. There were no definitive recommendations on time/area closures because the observer frequency is pretty low and variance is quite high, requiring further investigation. It was suggested that even with limited data a backstop AM should be put in place until such time that an alternative AM could be implemented. A Committee member was concerned about the lack of a requirement for these vessels to call in and request an observer.

Some public comment included:

- Maggie Raymond –These bulleted 4 options that were recommended by the Whiting AP, are these in priority order? The last one I don't really understand; the conditional clause if new assessments indicate an increase. Generally in the groundfish plan we have a pound for pound payback on overage for sectors whether or not there's fish there the next year or not to cover it. I don't understand that condition on that but my recommendation would be that there has to be something in this FW for accountability for these fisheries and if you require a pound for pound payback I'm pretty sure they'd figure out pretty quickly how to modify their gear to avoid that.

#### GAP Report RE: Framework 51 (FW 51)

The GAP Vice Chair provided an overview of the GAP meeting from September 16, 2013. It was highlighted that many GAP members were frustrated; the GAP discussed the state of the fishery and was concerned about actions being developed because the measures did not cover what some thought to be a huge issue in the fishery. With their first motion the GAP recommended setting a rebuilding plan for stocks that would set a fishing rate that would allow the stock to rebuild without having the instability of Frebuild and not knowing if it was higher or lower.

The GAP motion regarding quota trading with Canada made it clear that those industry members who trade quota should receive quota in return and added a provision that would allow trading between the groundfish and scallop fisheries.

#### FW 51 Draft Alternatives under Consideration

The Committee went through the draft alternatives. There were legal concerns over the GAP motion pertaining to rebuilding plans; the motion never allows Fishing Mortality (F) to be set below 75%FMSY even if projections show that F needs to be lower to meet rebuilding targets. The Committee decided to include this option until these issues could be resolved.

**Motion:** To accept Motion 1 from the GAP to add onto as a sub-option (Mr. Alexander/)

Staff requested clarification as this motion would adopt a new policy that would apply to the multispecies complex. It was suggested that a more appropriate motion could be crafted before the September 2013 Council meeting.

The motion was **withdrawn**.

**Motion:** to amend sub-option B to add the following text “if during the first 8 years Frebuild is less than 75%FMSY, 75%FMSY will still apply if the stock ACL based upon 75%FMSY has never been exceeded during the rebuilding plan” (Dr. Pierce/Mr. Alexander)

*Rationale:* This motion is a way to deal with the tremendous uncertainty that we have with the Gulf of Maine (GOM) cod assessment because if Natural Mortality (M) doesn't end up where it's assumed to be then we're never going to be able to rebuild despite what we do. M will be the determining factor. It brings in the important element of the GAP motion and combines some part of option A.

Some public comment included:

- Vito Giacalone – We would strongly support this. Dr. Pierce explained it exactly. The both PDT options talk about 75%FMSY as being less than Frebuild or around Frebuild for the rebuilding plan. So that is a legal rebuilding plan at 75%FMSY but the PDT report also has a couple of things in it where the reference points for neither the Mramp or M staying at 4 were calculated and that it also says that unless M returns to 2 we won't rebuild. This is accounting for that uncertainty. Industry is going to honor its end of the bargain, the fishery managers will honor its end of the bargain we're going to hold ourselves to even lower than Frebuild, which is what we've been doing with GOM cod from the beginning; 75%FMSY that's lower than Frebuild. If for some reason the stock doesn't perform that means that M isn't kicking back, let's do that sooner and respond to it by modifying the rebuilding plan to account for what we can't control. We completely support this concept and we think it's absolutely a legal rebuilding plan because it is adopting the rebuilding plan coming out of the box. It's just also saying that we're going to account for the uncertainty so that when we reevaluate if we're not performing well is it fishing mortality? No. Then it's the stock not performing.

The motion was not intended to be the preferred alternative; it was proposed only as an option. The motion assumes that if the stock has exceeded 75%FMSY then Frebuild can be implemented; the timeframe had not been considered but it could be set at one year to make it approvable. A Committee member thought one year was too short a time frame but the maker of the motion thought it was safe to assume that the groundfish industry would continue to fall short of the GOM cod ACL for whatever reason so one year was acceptable. A Committee member didn't think it would be approvable and wanted to consult the NEFSC. The motion was amended such that it would maintain sub-option B as is and add a sub-option C to the GOM cod rebuilding alternatives.

**Motion to amend:** to add a sub-option C to add the following text “if during the first 8 years Frebuild is less than 75%FMSY, 75%FMSY will still apply if the stock ACL based upon 75%FMSY has never been exceeded during the rebuilding plan”

The motion **carried** on a show of hands (4/0/1).

The Committee considered that the same sub-option could be added for the rebuilding plan for American plaice.

**Motion:** to add sub-option D to Section 4.1.2 with the following text “if during the first 8 years Frebuild is less than 75%FMSY, 75%FMSY will still apply if the stock ACL based upon 75%FMSY has never been exceeded during the rebuilding plan” (Mr. Alexander/Mr. Kendall)

*Rationale:* The fleet does not achieve the full ACL for American plaice either so it was considered similar to the discussion for GOM cod, except for the natural mortality portion.

Some public comment on the motion included:

- Maggie Raymond – I think this is a good option to add and would suggest that the rationale is partially to provide more stability to the industry throughout the rebuilding program in terms of what the F will be and what the Preference point will be and what the ACL over a longer time frame.

The motion **carried** on a show of hands (4/0/1).

The Committee moved on to discuss small-mesh fishery measures. Small-mesh vessels are not required to carry VMS but many do because of requirements for the other permits they hold.

**Motion:** to include an alternative to require the whiting and squid fishery to request an observer prior to leaving the dock for a trip. (Mr. Alexander/Mr. Kendall)

A Committee member noted that the groundfish Committee can't require a squid boat to have VMS or an observer but instead could request the MAFMC examine the issue.

**Motion as amended:** to request the Mid Atlantic Fishery Management Council include an alternative to require small-mesh fisheries to request an observer prior to leaving the dock for a trip. (Mr. Alexander/Mr. Kendall)

A Committee member interpreted the motion to mean that there was not enough data to proceed with a time/area closure for an AM. The maker of the motion did not want to penalize people who aren't catching yellowtail flounder based on limited information. NOAA General Counsel clarified that the motion would not require additional coverage but instead the small-mesh boats would be subject to the same regulations as the groundfish fishery. A Committee member suggested sending the MAFMC a letter notifying them that the NEFMC intended to explore and implement this requirement.

It was thought that the effort of developing an AM was more focused towards GB; the Cape Cod fishery had the raised footrope trawl. Staff explained that if it was focused on the Georges Bank yellowtail flounder AM then it could apply to that stock area in a groundfish measure and applies to the whiting fishery even if vessels are catching squid they would then have to adhere to this provision; it wouldn't involve the Mid Atlantic Fishery Management Council (MAFMC) at all.

Some public comment included:

- Maggie Raymond – These fisheries, squid, whiting small mesh fisheries in the GB and GOM regulated mesh area are authorized by the groundfish plan so you have the authority to make any kind of modifications to those that you think are necessary to minimize their impact on groundfish. So you shouldn't ask the MAFMC anything because I can tell you what their answer is going to be. You have the authority to do this and you should do it. This is only a requirement for them to do what we do every single day, before we start a trip. They go on the Pre-Trip Notification System (PTNS) and request an observer. Whether or not they get assigned one is a matter of how many observers are available on that day. If you make this a gear based or mesh size based requirement then you can just do it through this plan. I urge you to do that and not to make a request of the MAFMC and make it a requirement for them to continue to fish in the GOM and GB regulated mesh areas.

A Committee member was unclear if the intent was to have this apply to all exempted fisheries in the Multispecies FMP; as the motion was written it seemed like it would apply to all exempted fisheries.

**Motion as amended:** to include an alternative to require small-mesh fisheries in the Georges Bank yellowtail flounder stock area to request an observer prior to leaving the dock for a trip. (Mr. Alexander/Mr. Kendall)

Some public comment on the motion included:

- Maggie Raymond – I understand somewhat the rationale to limit it to the GB yellowtail flounder stock area since this is an AM for GB yellowtail flounder bycatch but why not just the whole GB

regulated mesh area. Then you don't have to go back and do this when you find out they were catching other stuff besides GB yellowtail flounder. Now they're going to have hopefully more observers on board and then you'll see other bycatch of haddock, which we know is a big problem. Just put the whole regulated mesh area and then you have it covered. It doesn't change anything for them. They're still going to have to do it regardless so I don't understand why you would limit it.

Staff explained that the GB/GOM regulated mesh area (shown in Document 6c on page 21) does not include part of southern Georges Bank where the whiting and squid fishery occurs.

**Motion as friendly amended:** to task the PDT with analyzing and refining an alternative to require small-mesh fisheries in the Georges Bank yellowtail flounder stock area to request an observer prior to leaving the dock for a trip.

The motion as friendly accepted as long as the PDT understood that it will be the whole area.

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

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

A Committee member considered that an AM was still needed for the small-mesh fishery.

**Motion:** the option 2 AM for the small mesh fishery of GB YTF sub-ACL be an area closure prohibiting small mesh fishing in the two areas described in figure 1 in the memo to Whiting/Squid AP (document 6c) the two areas being polynorth and polysouth (shaded areas) (Dr. Pierce/Ms. Murphy)

A Committee member clarified that small mesh was defined as mesh of five inches or less. This motion incorporated data from 2011 but it was considered to be the best information available but the timing of AM implementation remained unclear, e.g. if an overage occurred would the AM be triggered in-season or at the start of the next fishing year. The maker of the motion suggested making this AM consistent with the AM timing used for the non-allocated stocks. Staff informed the Committee that the area they were proposing does not represent areas of high yellowtail flounder catch and referred the Committee to Map 2 (Document 6c pg. 22) that showed the ratios between yellowtail flounder catch and kept all. Staff also highlighted the uncertainty in developing a time/area AM based on these data.

**Motion as amended:** to task the PDT with analyzing and refining an option for an AM for the small mesh fishery of GB YTF sub-ACL be an area closure prohibiting small mesh fishing in the two areas described in figure 1 in the memo to Whiting/Squid AP (document 6c) the two areas being polynorth and polysouth (shaded areas)

The Groundfish PDT is scheduled to meet on October 7, 2013 and can add the small mesh AM to the agenda. There was some support to add in a seasonal component to the AM so it would not be in place year round.

**Motion as friendly amended:** to task the PDT with analyzing and refining an option for an AM for the small mesh fishery of GB YTF sub-ACL be an area/seasonal closure prohibiting small mesh fishing in the two areas described in figure 1 in the memo to Whiting/Squid AP (document 6c) the two areas being polynorth and polysouth (shaded areas).

Some public comment on the motion included:

- Maggie Raymond – I appreciate the Committee looking at AMs for these fisheries. We do know that area closures are very controversial. I asked Mr. Applegate earlier if the advisors were putting an area closure as a preferred alternative to pound for pound payback and he said that there was some priority on these options. There were only 3 advisors that were there so that doesn't represent the fishery. I think you should go forward with this motion but two things. One, when people request an observer if this motion is adopted maybe they should notify through that system that they would be potentially fishing in those areas. That way you could target some of the observer coverage to those areas that you've identified as potential closures. Secondly I would suggest that because the area closures are so highly controversial that you might want to have another option that calls for a pound for pound payback just in case this option doesn't fly. You're probably going to get a room full of screaming fishermen about the area closures. If the Agency can monitor it; we've given them a sub-ACL so it has to be monitored so a pound for pound payback would be another way to hold them accountable.

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

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

According to one Committee member there is a pound for pound payback if the small-mesh fishery exceeds its sub-ACL so it is not necessary to add that component into an AM.

Some public comment included:

- Maggie Raymond– I just question whether or not the AM, if they exceed their sub-ACL, does the AM kick in if the entire ACL has not been exceeded? We don't do that for the scallop fishery; we allow if the entire ACL has not been exceeded then their AMs don't kick in so I don't know if people want to consider the same kind of system for this fishery.

NMFS NERO staff informed the Committee that the pound for pound payback is under the US/Canada Understanding; the payback is taken from the allocation (in the following year) of the fishery that caused the overage. However, if the US TAC is not exceeded then there is no pound for pound payback and therefore is insufficient as an AM. It is at the Council's discretion on how to structure the mechanism that would trigger an AM in the small mesh fishery.

**Motion:** to include an alternative for a pound for pound payback into the small mesh fishery plan if they exceed their sub-ACL of GB YTF. (Mr. Alexander/Dr. Pierce)

The intent was to have the AM triggered if the sub-ACL was exceeded. The maker of the motion was not in favor of time/area closures and considered a pound for pound payback as another option that may be less controversial and allow the industry to reduce catch and innovate to avoid yellowtail flounder.

The motion **carried** on a show of hands (5/0/0).

**Motion:** the area would close when the sub-ACL is exceeded. (Dr. Pierce/Mr. Alexander)

The motion **carried** on a show of hands (5/0/0).

Gear modifications were considered to be missing from the options.

**Motion:** to add an option X as a possible AM any gear modifications in the small mesh fishery Georges Bank area. (Mr. Kendall/Mr. Alexander)

The memo from the Whiting Advisory Panel suggested that there is insufficient information at this time to set an adequate AM that NERO would accept to reduce bycatch of yellowtail flounder; research is necessary. It was suggested that this should be listed as a frameworkable item to replace the AM in future when more information becomes available.

The motion **carried** on a show of hands (5/0/0).

### TMGC Report

The Committee Chair provided a summary of the TMGC meeting that was held on September 10 – 11, 2013 in Halifax, Nova Scotia. The TMGC agreed to a quota of 700 mt of cod for Eastern Georges Bank (EGB) using the new benchmark model with a Natural Mortality (M) of 0.8. This was expected to give a 10% SSB increase. The corresponding National US quota was 154 mt and 546 mt for Canada. The TMGC agreed to a quota of 400 mt for EGB yellowtail flounder and sought to reduce catches from 2013 to promote stock building. The corresponding National US quota was 328 mt and 72 mt for Canada. The TMGC agreed to a quota of 27,000 mt for EGB haddock. The corresponding National US quota was 10,530 mt and 16,470 mt for Canada.

The TMGC did not discuss quota trading between the US and Canada in depth and didn't review the Terms of Reference (TORs) but will hold a conference call the first week of October 2013 to address these issues. An Intercessional has been proposed in early 2014 for further action.

The Scallop Committee Chair and the Scallop Advisory Panel joined the Groundfish Committee for the TMGC report. The Scallop Committee Chair raised the issue of reconciling the east/west GB haddock quota out of concern that more quota would be available in the east than in the west.

A Committee member questioned the difference in the yellowtail flounder TACs that came out of the TMGC versus those from the SSC and wondered why the guidance from NERO was not 123 mt. A Committee member noted that NERO provided guidance to the TMGC to ensure requirements of the Magnuson-Stevens Act to end overfishing were met. NERO evaluated all available information including catch, TRAC and SSC advice and concluded that a suitable quota that would end overfishing could not exceed 400 mt; the SSC was unable to define an overfishing limit (OFL). The Scallop Committee Chair considered that recommended quota to be inconsistent with the SSC advice and the derivation of the calculation should have been conducted in a public meeting and not behind closed doors. There was general agreement amongst the TMGC members that the disagreement between the US delegates over a Georges Bank yellowtail flounder quota of 400 mt versus 450 mt was embarrassing and should not happen again. The GAP vice chair highlighted the need to investigate alternative approaches to setting quotas because the Georges Bank yellowtail flounder model has a lot of problems; the TMGC co-chair reminded the Committee that alternative approaches would be discussed at the upcoming TMGC conference call and Intercessional meeting with alternative models anticipated to be developed before TRAC meets in Spring 2014.

Some public comment included:

- Drew Minkiewicz, Fishery Survival Fund – I had the pleasure of attending the TMGC as a member of the audience and got to see this whole thing play out so just go through timeline for everyone. So it's clear what happened. Back earlier this year you had the TRAC meet in a public process and go through all the available data and they came up with a recommendation of

something below 500 mt. They said substantially, whatever substantial means. Going forward the groundfish PDT analyzed the yellowtail stock assessment and they came up with no recommendation for an OFL but concurred with the 500 mt that went forward to the SSC. The SSC in a public meeting with public comment came to the conclusion that the ABC should be something below 500 mt to the extent practicable, not possible but practicable was the words they used. They took into account the economic factors and the importance of the stock and said you should reduce it as much as you can but looked at economic impacts. We've had 3 public meetings all come out with 500 mt or less. Where everyone could see the work that was used, the process that went forward. Then on its own the Agency met privately; it is argued they met privately because they met with their attorneys and while I understand that while meeting with attorneys you want to keep that private because of privilege and it is proper to meet privately but it doesn't change the fact that it was a private meeting and that no one has seen any record of the deliberation or the information they used to come up with something that is not consistent with 500 mt. Saying you can't go above 400 mt is not consistent with saying that you can go up to 500 mt. There is 100 mt difference there that is not consistent in any way shape or form. At that private meeting where we still don't know what methods they used were they just said we looked at everything. Well, great. But everyone else looked at everything at a public meeting and came to a different conclusion, a 500 mt conclusion. You came to a 400 mt conclusion in private. We don't know what this is based on and you somehow came up with an OFL where the SSC was not able to discern an OFL and the TRAC was not able to discern an OFL and the groundfish PDT was not able to discern an OFL for the stock but suddenly the Agency on its own, in private, came up with an OFL that is below the recommended ABC which is inconsistent because an ABC has to be less than an OFL by definition. Once again, it's inconsistent. Because the Agency's whole foundation here for trying to override the SSC is they're defending the Magnuson-Stevens Act by putting forward that they have to prevent overfishing from occurring so what they're saying is this 400 mt is based on their belief that anything above 400 mt constitutes overfishing. That is their belief. They believe 400 mt is an OFL and that is inconsistent with an ABC that allows you to go up to 500 mt by definition and they provided no justification for why they've completely overwritten the SSC which is authorized by the Act to specifically give you an ABC. There is nothing in the Act that says the Agency may override that. The Act does say that they have to prevent overfishing from occurring but where they can say that 400 mt is overfishing when the scientific body said they can go up to 500 mt is completely inconsistent. Moving forward, TMGC is made up of members of the public and the fishing and the Agency where they all have equal voting rights. For instance, this year's TMGC was made up of 6 members Mr. Stockwell, Mr. Alexander, Ms. Tooley, Mr. Dempsey, Dr. Serchuk representing the NEFSC and Ms. Heil representing NERO. All have equal votes on the TMGC and while they try to work towards consensus at the end of the day you can vote and come up with the US position. As a result of all these discussions they came up with the position that 450 mt was the US opening offer on yellowtail flounder. That was presented in public. It was said the US position is 450 mt of GB yellowtail flounder. After that was presented the NERO made it clear that they would not approve anything above 400 mt so you had the NERO unilaterally undercutting the negotiated US position that was presented at this international meeting. So you had them unilaterally saying that is not the US position, we only can do 400 mt, which produced the confused response from Canada who said they would have accepted the 450 mt. They said that in public, no debate about it or they would accept the 400 mt but the US had to figure out which number it was actually putting forward. After debate the US went with 400 mt because it wasn't a recommendation by the Agency; the Agency said we will not approve anything above 400 mt. So the Agency unilaterally overrode the SSC recommendation and the recommendation of the TMGC where everyone was supposed to have an equal vote and that's how we are where we are. I strongly encourage the Council to not let itself get overwritten as well, exert its authority, back up the SSC and back up the TMGC and reinsert the 450 mt and make the Agency

actually explain publically and transparently a rationale for why 400 mt is the absolute cap despite all other scientific bodies looking at this and coming to a different conclusion.

- Richard Canastra, GAP member – I agree with Mr. Minkiewicz one hundred ten percent. Remember last year, we were asking the Regional Administrator (RA) to go back to Canada and beg, borrow, steal yellowtail flounder? The same thing happened and I can't believe it. We're talking 50mt. 50mt to the fishery as far as groundfish and scalloping is a make or break and it kind of irks me to see that we went down to 400 and if you do the math the scallopers won't be able to fish with the projected bycatch. It's incredible. To be part of the Agency I would be ashamed of myself and I say again shame on you. This is economics. We're talking about yellowtail flounder. 400 mt. We fished on 8000 mt, 5000 mt. Now we're getting back to nit and picking of 50 mt. 50 mt doesn't really mean much but it does mean something for our local economy. For our fishermen for the scallopers. My suggestion is to just get the hell away from this agreement because it's not working. I just want to be clear because I'm really confused. TMGC meets in Canada, we have our American members of TMGC and NMFS who are part of US and up in Canada, in front of the Canadians, it seems like there's an argument going on between both parties in front of Canada, holy shit.

NOAA General Counsel clarified that the SSC did not set an ABC of 500 mt and did not establish an OFL but NERO is required to determine whether measures cause overfishing and can provide how the recommended quota was derived. Economics will be considered but however, in the end, biology trumps economics; if overfishing is likely to occur over 400 mt then despite the economic impacts the quota cannot be set higher. If the SSC and TRAC don't provide a number then the Agency will. The Scallop Committee Chair did not think the Council could get into the legal issues but strongly supported a GB yellowtail flounder quota of 450 mt.

Due to time constraints, discussion of Amendment 18 (A18) had to be truncated. The Committee continued their discussion on the alternatives under consideration for FW 51.

**Motion:** to support the ABCs for white hake as set by the SSC for 2014-2016. (Mr. Kendall/Mr. Alexander)

There was no discussion on the motion.

The motion **carried** on a show of hands (5/0/0).

**Motion:** to adopt ABC/OFL of 425 mt of Georges Bank yellowtail flounder.

The proposed quota was selected because it was a higher number and was a compromise between the 450 and 400 mt quotas the US TMGC members couldn't agree on at the TMGC meeting. The higher quota might cause a reduction in stock growth from ten percent down to maybe nine percent but the extra tonnage may turn into millions of dollars for the scallop industry. A Committee member was disappointed that the SSC did not reject the yellowtail flounder assessment but instead the SSC recommended that the catch be less than 500 mt with the strong recommendation to reduce catch as much as practicable. If a higher quota is recommended by the Council then it may be necessary to renegotiate with Canada to approve the higher quota. A Committee member provided the NERO estimated catch in FY 2014 of 300 – 400 mt; the recommendation of 425 mt is higher than the estimated catch and is inconsistent with SSC advice. The Scallop Committee Chair supported the motion and highlighted the fact that the scallop industry is under a new sub-ACL calculation and is expected to receive a lower allocation of yellowtail flounder which is a problem for the scallop industry, especially in the absence of a mechanism to transfer

unused yellowtail flounder quota from the groundfish fleet to the scallop fleet. The low catch last year was interpreted as the industry doing a good job at avoiding yellowtail flounder.

Some public comment included:

- Vito Giacalone, Northeast Seafood Coalition – We support the 425 mt if only just to send the message that we really do need to get our act in order on this. I just don't know how. Leave this up to the Service to determine whether it's embarrassing to go back to Canada again for 25mt but we definitely support that. It's the process that's a concern for us. We don't want to see the TMGC going up there with a number in their head and have it be a number that they find out publically isn't a number that the Service will approve. Somehow we have to get over that; maybe the Committee or the Council can recommend a better process. I know Dr. Karp did reach out to the industry at some of our request but I think this year we had so many things going on that it happened kind of late and we couldn't get all the industry to participate, including us, we were already pretty committed. We should have the TRAC meet because what I think is really inconsistent is the TRAC is made up of US scientists from the NEFSC. Why have the TRAC, which is a bilateral scientific body come up with a recommendation or a range, have that be a range that goes to the SSC, which is the statutory body that sets the ABCs. Have them tell you 500 mt or as less as practicable. I would think practicable right now would be the scallop fishery's bycatch. If you can't get any lower than the scallop fisheries bycatch which is nearly a billion dollar economic value. I think that's the bar for practicable when we're talking about 25 mt or 50 mt. I think you have a lot here. We definitely support the motion but we're also very concerned with the message that we send to the Canadians for nickel and diming after the fact. I think shame on all of us collectively on the US. Let's get our act together for next year and get industry involved and the Council, TMGC talking to the TRAC so we don't get submarined like that up in Canada.

NMFS NERO staff appreciated the attempt at a compromise but the situation remained the same – the US would have to renegotiate with Canada and part of the US TMGC delegation would still oppose the higher quota.

The motion **carried** on a show of hands (3/2/0).

**Motion:** To approve the 700 mt EGB cod TAC negotiated by the TMGC (Mr. Alexander/Mr. Kendall)

The GAP vice chair questioned why the US continues to use a M assumption of 0.2 for domestic cod stocks (the Mramp model for GOM cod does have an increase to 0.4) but the EGB cod assumes an M of 0.8. A Committee member considered the increase in M in the EGB cod model was done to get rid of the retrospective pattern; the importance of M in rebuilding plan considerations needs to be further discussed in the appropriate forum. The Chair provided a summary of the negotiations – Canada was in favor of a quota of 750 mt but the US held firm at 675 mt; the 700 mt was a compromise between the two. The US agreed to a higher quota because if no agreement was reached and if both countries took their percentage it would have exceeded 700 mt.

Some public comment included:

- Maggie Raymond –The question Ms. Odell asked was how can you have 2 different mortality assumptions on the same stock of cod. There are not two stocks there. That question has not been answered. They have a higher natural mortality on that part of the resource where they have a seal

hunt. This doesn't make sense that you're going to have two different mortality assumptions on the same stock.

The motion **carried** on a show of hands (5/0/0).

**Motion:** to accept the EGB haddock quota of 27,000 mt (Mr. Alexander/Mr. Kendall)

A Committee member raised the issue of the disparity between the eastern Georges Bank haddock quota and the western Eastern Georges Bank quota but there was some indication from NMFS NERO staff that it may be possible transfer quota from the eastern area to the western. NMFS NERO staff informed the Committee that this will become an increasing problem in the next few years; the eastern quota is 10,500 mt and the western quota is 8,700 mt which more than covers recent catch in that area. The difference occurs because there is a difference between the TRAC and domestic assessment that down weighted the estimate of the 2010 year class, which was not done in the TRAC assessment. As a result, the 2010 year class in the eastern area is larger than the entire stock size estimate in the domestic assessment.

Some public comment included:

- Maggie Raymond – That's pretty critical, the ability to make sure that we're able to take whatever isn't taken there on the western side because we haven't caught anything close to either one of those allocations in a very long time. There's going to be less fishing in the eastern area because of the cost of fuel and there's less boats, less people fishing because of the low quotas. That 700 mt is going to shut down that area pretty fast as well. I don't know if the Agency is prepared to be really explicit but let's just make sure we get that straightened out before the day is over please.
- Vito Giacalone – This problem is potentially huge. I know FW 51 is already full but if there's a way at some point following this to make a motion to get some policy in place that would actually protect us from these absurd results that have the potential, if you read it the way it is; we always feared this about cod. You could, theoretically, when you have a low EGB cod TAC and have one optimistic assessment that's off timing with our assessment you could have a bigger eastern TAC than in the west and have a zero western TAC if you follow the rules as they are now. If FW 51 is going to be implemented in time then maybe it's worth supplementing this with some kind of policy that prepares for that so the Service doesn't end up in a difficult position I don't think this is an allocation issue, it should be straight forward but they still need to make sure that they're covered NEPA wise. I'm concerned because we have a 27,000 mt TAC up there that you're going to be looking to make a recommendation on and absent having definitive understanding of what's going to be left in the west and what in the east can this be modified or at least be conditioned that as long as we have some distribution between east and west that results from this and if not I don't know how you could embrace this if we don't know that. If there's a way to condition the support of the Committee based upon the service being able to show the council next week how this can be done. If not I hate to support this not knowing what the consequences would be. In this case the way we do it is we let the eastern TACs be established and then we subtract them from our overall TACs and the result of that is not knowing what the eastern TAC is going to be on an annual basis. We have 3 year TACs issued domestically that we could have a huge eastern TAC take away the western TAC. So you end up with a large eastern TAC and no western TAC or something too low. In this case we don't need to have 27,000 mt of haddock in the east and 3,000 mt in the west. That would be backwards. If the eastern area is closed it can shift to the west. We're talking about the allocations. Right now we all have GB PSC; there's not an eastern PSC and a western PSC. What happens is you take whatever the proportion is of the western and eastern TAC and apply that to the individual allocations so you're only going to be able to do that

once, not before the area is closed. That's going to happen as soon as we get our PSC letters. People won't want to see an upside down PSC letter with a pile of haddock in the east and nothing in the west.

Preliminary guidance from NOAA General Counsel indicated that in the event of a closure of the eastern area for cod, any unused quota from the eastern area could be transferred to the western area; the Council could give the Regional Administrator authority to do that in FW 51. Allocations are made at the start of the fishing year to sectors that gives them ACE entitlement; if a transfer was necessary they could calculate an overall ACE for EGB and divide it between the two.

**Motion as amended:** to authorize the Regional Administrator to move EGB haddock quota from east to west and west to east as the fleet needs it and accept the EGB haddock quota of 27,000 mt (Mr. Alexander/Mr. Kendall)

A Committee member clarified that the US/CA amount could not be increased but the haddock quota could be moved from east to west but not west to east. The maker of the motion intended to not limit fishing in the eastern area if it remained open by transferring haddock quota to the west.

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

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

The Committee reviewed the GAP recommendations regarding quota trading between the US and Canada. The GAP didn't make a specific motion to approve the in-season adjustment but did support it. Instead the GAP focused more on the process for trading to make sure that the parties offering up quota for the trade would directly receive quota gained from the trade and to allow for as much communication as possible with the Regional Administrator. The GAP motion also included a mechanism for trading between the scallop and groundfish fleets but the Committee did not want to include that in a motion at this time.

**Motion:** to amend Option 2 from Section 1.2.2.2 to include:

1. Giving the RA authority to make trans-boundary quota trades either with or only with the entities that will be trading their quota.
  2. Whichever entities (e.g., MRI, groundfish sector) provide the quota for trans-boundary trading should benefit from the quota given in trade from Canada.
- (Mr. Kendall/Mr. Alexander)

This motion would increase communication between the RA and sectors but would not go outside the existing process. Staff noted that this would create a whole new option and questioned whether it would be outside the scope of FW 51. A Committee member agreed that if a sector wanted the RA to trade sector haddock for yellowtail flounder from Canada would be beyond a framework. Another Committee member interpreted the motion to mean that trading would happen fleet wide and each sector's allocation for haddock would decrease while yellowtail flounder allocation would increase.

Some public comment included:

- Vito Giacalone – I've been trying to figure out exactly what the options are. The portion of the GAP motion that I support that we've been saying all along is you need a way to fund the trades. There's a process for how you figure out whether you want to do a trade, whether it's initiated by

TMGC that says we want 100lbs of such and such but we think we want to go look for a trade so that's a separate process. But then it's how you fund it and I'm looking at the options that are in the FW 51 document now and they don't contemplate how you're going to fund it. It just says which conundrum are you putting the RA in; is it the one that's before the allocations happen or after the allocations happen. We've known this all along and what we've been saying and I think the advisors are clearly saying is that the people that are going to put the fish up, this cleanses the RA from the concern about changing everyone's allocation. You first need a process to see how much fish you want to do in the trade and then you have a way to fund it. The way to fund it would be to solicit the sectors equally and say we need this much fish and see who wants to put it up. Then the sectors can figure out themselves who's going to give up fish and have their internal authorization to deposit it to the RA who will give it to the TMGC who will do the trade. Just authorizing this is sort of a no brainer. I think it needs to be, the option that has the RA do it after the allocations is most important that would be the best place for the RA to consummate the trade but how you fund the trade and in advance we're saying that it should happen is to allow the sectors to voluntarily fund the trade. So you don't have that mechanism yet. What's on the board right now is just saying how the RA will consummate it. We support the RA consummating the trade post-allocation for this FW 51. You haven't solved funding it or the conundrum that the RA is going to have when they go to do the trade, whose fish is it and who am I impacting. That's what we're offering so you may need to bolster that in this framework. There's no sense in having this authority in my opinion if we don't have a way to fund the fish equitably.

The GAP vice chair thought the mechanism to fund a trade should be considered carefully in case the situation arose that cod was being traded for yellowtail and that quota had to come from somewhere. NOAA General Counsel had a number of questions regarding this motion and needed time to think through answers to them, e.g. can a sector trade leased in quota or just initial allocations. The Agency needs to determine if this can be done in a framework and what needs to be answered to avoid APA problems. This could require additional analysis as it is unclear what the number of traded quota would be; it was unclear what process was needed to do that. The Agency might not know the tradable amount in January; the intent of the current options was to have a number to trade prior to the fishing year. NMFS NERO staff characterized the difference in terms of analysis – extra quota would be acquired during the year but next year's quota that has not been allocated yet would be given away. The GAP vice chair was concerned that there would be a lack of support for quota trading unless the mechanism was clearly outlined.

**Motion to amend:** to include as Option 4 in Section 1.2.2.2 to include:

1. Giving the RA authority to make trans-boundary quota trades either with or only with the entities that will be trading their quota.
2. Whichever entities (e.g., MRI, groundfish sector) provide the quota for trans-boundary trading should benefit from the quota given in trade from Canada.

The motion to amend **carried** on a show of hands (4/0/1).

The main motion as amended **carried** on a show of hands (4/0/1).

A Committee member wanted to discuss trading between the scallop and groundfish fleets but this would be discussed at another time as the Scallop Advisory Panel had returned to their own meeting.

Regarding full retention, the Agency doesn't see how it can be implemented without electronic monitoring (EM) and high observer coverage would be hard to fund. Support for full retention was to

decrease the need for at-sea monitoring on boats but if that was not possible then implementation should be delayed.

**Motion:** Move that we remove option 2 full retention from consideration at this time. (Dr. Pierce/Mr. Alexander)

The Committee was in favor of full retention at some point in the future. Staff informed the Committee that the EM working group would be providing a report at the September 2013 Council meeting.

Some public comment included:

- Maggie Raymond – Speaking for Associated Fisheries of Maine, we're very disappointed to see that the Council is once again pulling back on this option. I don't understand why full retention requires more monitoring than legally discarding fish. It just doesn't make any sense to me at all that that requires a higher level of monitoring. If anything it should require a lower level of monitoring because as I've said before fishermen comply with the rules and if you tell them to bring everything in they will bring everything in; 95% of them will bring everything in. If this motion passes, the reason why we've supported this is because of the issue with the assumed discard rate, which is just hurtful to people. It's nonsensical; it's hurtful. Inshore boats get whacked for redfish and they never encounter it; offshore boats get whacked for GOM yellowtail flounder that they never encounter. It's a bad system and this full retention could fix that. I don't see anything else on the horizon to fix that. There's no solution proposed in anyway so I urge you to figure out what is the solution to that assumed discard problem which is really hurting a lot of people. People have to lease fish that they never caught, that they never encountered. It's a very bad system and we need to figure out how to fix that. Again, we still support full retention; we think it provides better information to the stock assessments. It's just better for understanding what the catch really is. Right now you have no idea what the catch really is. I've said it many times, this is the way the fishery should move to and it's unfortunate that we won't be doing that any time soon.
- Gib Brogan, Oceana – It's not often that I come up behind Ms. Raymond and have to agree with almost everything she said. We're disappointed this isn't moving forward. We hope that as Mr. Kendall said that this doesn't close the book on this process and that we keep moving forward on this in the meantime. It may not be ready for FW 51 but work should continue on full retention. This is a way to get monitoring that this fishery needs. We continue to have troubles with the monitoring program that's in place right now for this fishery that it's providing imprecise and inaccurate estimates. Just as Ms. Raymond was saying that the assumed discard rate may be unfairly penalizing the fishery the other side of that spectrum is that we may not be controlling mortality effectively and may not be feeding bycatch information into the stock assessments so things like retro patterns. We think a full retention system that is accountable and well enforced can improve the monitoring of this fishery and give us the accurate, precise information that it needs and improve this over time. We hope there will be, if this does in fact move forward, through the council next week, that there will be an add-on with this to keep working on this. There are other pilot programs similar to what was proposed by the PDT looking at specific gears. There are pilot programs around the country. We think there is real merit in those. They should be explored for at least part of this groundfish fishery. Apart from full retention, the FW 51 document, on the subject of the monitoring I think this may be the only time you folks are discussing this, there doesn't seem to be any discussion of monitoring for next year. What's going to move forward with the monitoring program for the groundfish fishery. I think that everyone involved in the management of the groundfish fishery needs to be aware of what the Agency's plan is for monitoring for the 2014 fishing year. I know there's hope that there will be Agency

funding that will meet us next May but we need to start talking about it right now instead of having the scramble in March, April, May next year trying to find funding for sufficient monitoring for this fishery. I hope that will be in the priorities discussion. Again, we're disappointed in this one but hope we can move forward maybe for the next go around.

There was general support for the concept of full retention; a Committee member despite being in favor of minimum fish sizes saw the merits of full retention as it was unfair that individuals were penalized for fish they don't encounter.

**Motion as friendly amended:** Move that we remove option 2 full retention from consideration at this time but to be included in the next available GF action.

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

**Motion:** to ask the Council to ask the SSC to reconsider the ABC of GOM haddock (Mr. Alexander/Mr. Kendall)

*Rationale:* The rationale was taken from the September 3, 2013 memo from the SSC to Tom Nies regarding Spillover of Haddock between the Georges Bank and Gulf of Maine stocks. "The SSC noted that if fishermen are observing abundance of haddock in the Gulf of Maine that does not seem to comport with the outcomes of the assessment, this might be due to a recent increase since the terminal year of the last assessment update (2010). If so, the appropriate response is to update the Gulf of Maine assessment to see if that change is detected."

The maker of the motion obtained discard data from a number of sectors that indicated an increase in the discards has occurred since sectors were implemented (a sector had 15.57 times the discard rate that they had in 2011 to 2012). The terminal year in the assessment is 2010 and it was thought that maybe the fish weren't showing up in the survey at that time but the SSC suggested that if environmental conditions were right for a large haddock year class on GB then conditions could also be good in the GOM.

The motion **carried** on a show of hands (4/0/1).

There was some support for revisiting the revised discard strata Georges Bank yellowtail flounder measures that were disapproved in FW 48. The measures were disapproved because of the administrative burden it would cause in addition to comments received from industry members that didn't support it.

**Motion:** to include as option 2 in Section 1.2.5 to revisit the stratification of assumed discards for Georges Bank yellowtail flounder (Mr. Kendall/Mr. Alexander)

A Committee member considered this to be needed in the GOM also.

**Motion as friendly amended:** to include as option 2 in Section 1.2.5 to revisit the stratification of assumed discards for Georges Bank and Gulf of Maine yellowtail flounder

Staff cautioned against including the GOM at this time based on the additional analysis burden this would place on the PDT.

**Motion as friendly amended:** to include as option 2 in Section 4.2.5 to revisit the stratification of assumed discards for Georges Bank yellowtail flounder.

The motion **carried** on a show of hands (5/0/0).

Staff asked for guidance from the Committee regarding AMs for wolffish and halibut. NMFS NERO staff informed the Committee that based on preliminary estimates for non-allocated stocks year-end reports the total ACLs for halibut and wolffish were not exceeded but an overage occurred for northern and southern windowpane flounder. It was not clear at the time of the meeting but it was thought that the scallop industry caused the overage in southern windowpane flounder. Final estimates would be available for the September 2013 Council meeting.

**The Committee agreed by consensus to postpone discussion on the AMs for halibut and wolffish until the final estimates were available at the Council meeting.**

NMFS NERO staff provided a brief overview of the letter from NERO regarding carryover. Depending on the level of the total ACL the *de minimus* amount could provide enough quota to complete a couple of trips (or not) at the end of the year, e.g. redfish. The Committee agreed to continue reviewing the letter and discuss any questions at the September 2013 Council meeting.

**The Committee agreed by consensus to remove the haddock spillover section from the draft FW 51 document.**

The Committee discussed motion 14 from the GAP that expressed concerns over the high level of haddock in the herring fishery. A Committee member requested substantiated claims of this occurring.

Some public comment included:

- Richard Canastra– I think one question that can be asked is these test tows, are they being observed? Because what I'm hearing is a lot of the test tows, if they spot a lot of haddock in the test tow they're not bringing them aboard but obviously the fish are dead. The only evidence that I could bring forward is just the fishermen seeing floating juvenile haddock. And obviously if the observers are not seeing them on board this is what they're telling me is happening.

**The Committee agreed by consensus to discuss this topic at the September 2013 Council meeting.**

#### **Amendment 18 (A18)**

The Chairman noted that Amendment 18 discussion would be limited, due to the time spent discussing FW 51. Staff provided an overview of the development of A18 including the revised goals, action timeline, OSC discussion to data of potential measures, PDT feedback on OSC requests and PDT questions regarding permit splitting, vessel upgrade restrictions, defining non-state permit banks, accumulation limits, and the proposal submitted by the Northeast Hook Fishermen's Association (NEHFA). To implement A18 in May 2015, the Council would need to approve the range of alternatives to be considered in the DEIS in January 2014. The NEFSC will provide additional data analysis on ownership concentration in the fishery; this analysis may be presented at the October Committee meeting, if ready. The contractor, Compass Lexecon, is conducting an analysis of market power in the fishery and will likely produce a final report in December 2013. The PDT feedback and questions were summarized in their September 10, 2013 memo to the Committee. The Committee was asked to give input on the questions contained in that memo. These included examining the draft measures developed by the PDT to identify ideas to add, to develop further or remove from further consideration. Staff reviewed the draft measures to address: splitting of permits/PSC, revising vessel upgrade restrictions, defining permit banks (non-state), permit accumulation cap for permit banks, 5% permit accumulation cap for other entities, and other accumulation cap ideas (without specific cap percentages).

A Committee member questioned if the data obtained from the NEFSC Social Science Branch (SSB) surveys would be used by Compass Lexecon. The survey used vessel size categories that were considered inappropriate and caused concern that any economic analysis would be based on it. Staff explained that Compass Lexecon would not be using the survey data as a primary source but would use ownership, landings and prices data.

A Committee member questioned why the draft alternatives contained percentage based alternatives for limiting holdings of fishing access privileges were included in the draft alternatives under consideration for Amendment 18 when there was very little support at the August 14, 2013 Committee meeting. The Chairman indicated that the document is a draft that the Committee will be revising.

Some public comment included:

- Marc Stettner – I have a question on the handout from the PDT memo September 10, page 8 the different approaches and this was also started in the previous PDT memo. Approaching encouraging sector membership. Was that a Committee motion previously or is that something that the PDT came up with. Except for a few weeks ago I've never seen that in any of the previous documents where it was only the NEHFA proposal and that was it. If you could clarify where that came from that would be appreciated. Our proposal was generated by fishermen; we've been working for over 2 years at the very beginning of A18 so it threw us for a loop that this is now a decision that needs to be made but really the fishermen and the people with the handgear permits who are actively fishing are looking for our proposal to move forward in some fashion. We're not quite in agreement with the approach here or the decision between encouraging sector membership which quite frankly we have our reasons that are detailed and the approach B where we believe it should be approach B or nothing.
- Maggie Raymond – Question for Ms. Feeney, I don't have the TORs for the Compass Lexecon here with me but there is a phase where they will be getting input from stakeholders for permit holders. Can you tell me what process will be used to do that and when you expect that to occur? Transparency in this is extremely important. Recently the industry raised some concerns about the interview meetings that were had over the Habitat Amendment. People felt that was a non-transparent process. Our organization felt very strongly that that was a non-transparent process. So I just want to emphasize that this has to be really transparent, understanding that there's also a need for confidentiality. It's going to be tricky. You're going to have to have a broad group of people providing input. I know you mentioned confidentiality yourself and that's going to be important but at the same time the right people have to be asked the questions especially in terms of the economics of the fishery. In terms of policy and who thinks what kind of thing should be done that's, just in terms of the economics, really important to get the right people providing that information about what their costs are. I look forward to talking to them.
- Vito Giacalone – I echo what Ms. Raymond said, as far as our organization goes, we want to make sure it's a transparent process and we're part of it as it goes forward. I think it's an important contract to have the third party and to have Lexecon doing what they're doing. We've had issues with how the amendment first rolled out and the way the presentations that have come out of staff did not seem to really reflect what we saw and it put us in a difficult position. We didn't want to defend sectors but we felt we had to do it because it was based on the facts. One question for the presentation that Ms. Feeney just had, what would be helpful on that handgear A proposal that seems to be a topic here in A18 is you mentioned over 100 handgear A qualified permits and 20 are enrolled currently in sectors, with one actively fishing and the other 19 leasing. Just curious if the PSC that you had mentioned if there's a way to know what proportion of the PSC held by the total handgear A class is already enrolled in sectors in those 20. My guess

is the best 20 that hold most of that ACE are already enrolled in sectors so it may not be whether they enroll in sectors that their ACE may already be in sectors. So now it comes down to the exemptions of some of the costly things that Mr. Stettner talks about like VMS that may not be necessary on a handgear boat. There may be other ways. As an organization we're always looking at other ways for fishermen to use one of these sector boats that we got and not have it cost them so that's why I'm asking the questions. It's not to look at whether the proposal makes sense or not it's to try to find an option for them if this one isn't. It would be good to know if those 20 permits have most of the ACE that we're even talking about here.

Staff explained that the PDT reviewed the NEHFA proposal and thought through how the different components of the proposal could be achieved using the current sector system with possibly more exemptions and included that if the Committee wasn't in favor of a sub-ACL for handgear then revisions to sectors with possible exemptions could be considered.

The report from Compass Lexecon will be completed in phases that are outlined in Appendix 4. Council staff is acting as a liaison between NMFS and Compass Lexecon to ensure appropriate confidentiality forms are completed. Staff has asked Compass Lexecon to clearly describe their methods in their report, which will be made public. A Committee member considered it an error in a recent letter from NEHFA that stated 100 handgear permits exist but only 1 permit holder has joined a sector; information provided at this meeting indicated that there were 20 permits enrolled in sectors but only 1 actively fished – 19 leased their quota out. NMFS NERO noted that on page 5 (PDT memo regarding A18 dated September 10, 2013) that 103 HA permits were renewed up to a few weeks ago (more could be renewed this fishing year) with 22 actively fished - 1 enrolled in a sector and 21 in the common pool - 20 permits are enrolled in 7 unique sectors.

#### GAP Report Re: A18

The GAP Vice Chair provided an overview of the GAP motions regarding A18 with the caveat that there were a lot of abstentions in the motions. The GAP didn't discuss leased fish from HA permits to sectors but focused on rebuilding plans and AMs in light of the way the fishery is operating right now. There was concern in terms of monitoring and allocations. With regards to the splitting motion, the GAP supported splitting groundfish multispecies permits from other permits; they did not discuss which permits specifically and assumed there would be no restrictions on which permits could be split if this was approved. A Committee member asked if the GAP considered the impact of the NEHFA proposal on the 19 permits enrolled in sectors. The GAP Vice Chair said that leasing wasn't a major discussion point. A Committee member noted that the Boston-based sector only had a few members that leased out their entire quota and a restriction on use of permit bank ACE by permit bank officers might affect them. The GAP did not discuss who the motion on permit bank officers would impact. Some of the GAP votes on the motions regarding splitting were close votes; staff noted that it was clear from the number of abstentions that GAP members needed more time to ponder some of the issues.

#### Permit Splitting

A Committee member thought an omnibus amendment might be required to address permit splitting across FMPs, given restrictions in other FMPs. This was supported by another Committee member who had consolidated a permit and lost everything else on it. It was suggested that this topic be added to the list of 2014 priorities. Another Committee member noted that effort shifts can cause, essentially, a reallocation to a larger number of fishermen, potentially causing conflicts among participants.

**Motion:** that the alternative for permit splitting be removed from the alternatives under consideration for A18 and that permit splitting be taken up through an omnibus amendment. (Dr. Pierce/Mr. Alexander)

The motion **carried** on a show of hands (5/0/0).

The Committee thought the same should apply to PSC splitting. A Committee member was concerned that PSC splitting would lead the fishery towards ITQs. Another Committee member thought that it may be too complicated.

**Motion:** to remove alternative 3 (PSC splitting) from A18 alternatives (Dr. Pierce/Mr. Kendall)

Some public comment included:

- Vito Giacalone – We're in favor of the motion.

The motion **carried** on a show of hands (5/0/0).

The previous two motions removed Section 4.1 from the Draft A18 alternatives under consideration.

#### NEHFA Proposal

A Committee member thought that the handgear A permit holders should look into joining sectors considering their low allocation but the arguments against being in sectors were compelling. The handgear A permit holders wanted to be treated like recreational. The creation of a sub-ACL for this permit group would add to the administrative burden because it would have to be monitored separately. Another Committee member noted that there are other fishery management plans with small fleets, e.g. red crab and tilefish, but was concerned about the allocation years of 1996 – 2006 because they were different to other allocations. The Committee member also wanted some discussion on the ability of these permit holders to catch GB cod, haddock and other stocks because the discussion had primarily focused on the GOM; there were many questions remaining to be answered before it could move forward.

**Motion:** that as part of FW 51, replace the trimester catch limits with annual allocations and remove the March 1 – 20 handgear fishing closure. (Dr. Pierce/Mr. Kendall)

It was suggested that the requirement to have a standard fish tote onboard be removed also, since the HA fishermen typically use coolers. The motion was not intended to create an allocation, and should apply to the entire common pool.

**Motion as friendly amended:** that as part of FW 51 replace the trimester catch limits with annual allocations for the common pool and remove the March 1 – 20 handgear fishing closure and remove the requirement that handgear vessels have one standard fish tote onboard.

Staff pointed out that in the first trimester of FY 2013, the annual sub-ACL for GOM haddock was exceeded. An annual allocation might not work for some components of the common pool. A Committee member thought it was either the proposal or nothing for the NEHFA.

Some public comment included:

- Marc Stettner – The revised goals for promoting a diverse groundfish fishery include different gear types and vessel size. There's one individual in sectors now, I know him well and know his

status. There's 20 or so active fishermen in the common pool and some fishermen in sectors leasing only. It's not a matter of forcing sectors down our throats; it's a matter of the fishermen developed sectors. The fishermen in the handgear fishery developed our proposal. That's a very big distinction. Another goal, Goal #3, promote fishing businesses by encouraging diversification. I see different gear; there's only 20 handgear fishermen fishing now. If the fishermen are saying sectors aren't going to work this Council should listen. There's 103 permits and only one individual? No matter what you do you're gonna discourage the handgear fishery forever and we will fail with A18. Looking at my letter, look at the list of reasons why sectors won't work and specifically I want you to think about C. Cod is the primary catch of the handgear fishermen. It would not be profitable to lease cod at the going rate to make a profit. A new fisherman comes along, an 18 year old kid, oh sectors have been forced down our throats, oh by the way you want to catch cod that's the money fish you got to lease it at \$2.50 a pound unless you can get on some financial help or something. You're only going to get \$3 a pound for it. Is that person really going to join a sector? No. A 17 year old kid oh here's 34 reasons of sectors that you've got to comply with, how is they're just going to turn away and say no. Our proposal is not an all or nothing; I'd like to correct you on that. Our proposal has been whittled away line item by line item. As the PDT came back we worked with them; as the NMFS came back, we worked, we streamlined and we cut we cut we cut. There could be more cuts. If the Council says we don't want to deal with access to the closed areas now, take it out. If the 10% rollover provision doesn't work, take it out. Everything can be done in frameworks down the road, however to preserve the handgear fishery, just preserve it. Just like the other people or entities you've given accumulations of groundfish to. You've given groundfish to scallop boats, herring boats; you've given allocation of groundfish to small mesh entities, recreational fleet and let's not forget the biggest allocation of all to sector boats. How is this any different from what you've already done? All we're asking for is our handgear derived history. That's it. To be preserving this fishery. When is it not enough? We've got 20 now when it goes down to 10? When it goes down to 2? At what point do we change things and start looking towards the future? These are the questions. So I'm asking you, I'm begging you, please move our proposal on, not as an all or nothing for discussion before the Council and if there are certain aspects of it that they don't like let them discuss it and take them out. The number 1 thing we're looking for is to preserve the fishery and make it viable for future generations. If the NMFS doesn't have enough funding we'd be happy to write a letter to our congressionals and say they don't have enough funding to manage 20 fishermen. I'll personally volunteer my days to help them if that's what it takes. You have to make a decision. A18 says different gear types - that doesn't just mean draggers and gillnetters. It means jig fishermen too and handgear fishermen are jig fishermen. Just make it simple. Move the proposal forward for the Council to further look at what we have and if they don't like certain aspects they can take it out. The one thing we're seeking here which can only be done in an amendment is a very small allocation. Everything else that we're asking can be done in frameworks that come up every year. Please for the future of this fishery let us fish if you make the wrong decision today then it's going to look horrible for the future fishermen who want to get into this. There isn't any of this stuff in state waters. To say we're trying to look like the recreational fishery, no we're not we're trying to keep it simple. Simple is what we're asking for, simple management measures, simple restrictions. We've got a hell of a lot more restrictions than the recreational fishermen, that's a fact. Every time I fill out a VTR, or a call in or a trip report or all the other stuff that is still in place for the common pool. Every pound of fish that I catch is accounted for and has to be sold to a dealer and that's all reported within days. The management is here it's already in play. I'm asking you to please just pass this on to the Council next week.

A Committee member asked if this motion on FW 51 passed would it remove consideration of the proposal from A18. Staff indicated that a Committee motion on the NEHFA proposal relative to A18 would help clarify intent. A Committee member noted it would be easier to monitor for the whole

common pool, but pointed out that if the GOM haddock limit was reached then the entire common pool would be shut down. Committee members were hesitant to shut down the entire common pool for 10 vessels, however, considering the common pool caught an entire year's quota of haddock in the first trimester they were shut down anyway. NMFS NERO staff considered the main problem to be the current level of quotas.

The motion **failed** for lack of a majority (2/2/1).

**Motion:** to eliminate Section 4.3.2.1.2 from draft A18 alternatives (Mr. Alexander/).

A Committee member raised a point of order that the Committee wasn't going to go into A18 at this point and was going to move on to other business. The Committee Chair noted that measures would not go before the Council until discussed by the Committee.

The motion was **withdrawn**.

Staff would not conduct any further work on A18 until further guidance is provided to the PDT. At the September 2013 Council meeting, staff will provide a progress update, noting that the Committee has not had a chance to discuss all the issues.

Some public comment included:

- Maggie Raymond – This option was added by the PDT in a non-transparent process where the public did not have an option to discuss it. It is now in the document and the public thinks that's something the Committee wants to go forward. That's a problem. This creates a lot of anxiety unnecessarily within in the industry. How do I explain this to people? I report back to the people I work for at the end of every Committee meeting. Then they see this and they say where the heck did that come from? The Committee didn't vote on it. It's one thing for the PDT to present an idea for the Committee to consider, it's another thing for them to put it in a document as an alternative after a vote. It's wrong and it should be taken out until the Committee decides to put it in.

A Committee member considered the document of draft measures to be a draft document, which will be discussed at the next meeting; it was appropriate for the PDT to offer ideas for the Committee to consider.

### **2014 Priorities**

Staff provided a brief presentation on potential priorities for the multispecies FMP. The GAP Vice Chair informed the Committee of the priorities the GAP discussed. The Committee Chair considered the regulatory requirements for 2014 to be somewhat light and it may be possible to address a large priority if other things weren't addressed. There was support for the GAP suggestion for priorities of taking a systematic approach to setting quotas to be discussed at the Council meeting.

**The Committee agreed by consensus to move GAP motion 29 forward to Council.**

The GAP also recommended developing a cost effective sector monitoring plan and a mechanism to transfer ACE between the scallop and groundfish fleets. There was some support for this but one Committee member was hesitant about the transfer mechanism because scallopers would have to join a sector and they do not want to. Other Committee members thought sectors might be more amenable to scallopers as their fixed percentage of yellowtail flounder allocation continues to decrease. A Committee

member did not see how EM could be implemented in 2014 and the constant catch strategy would require revisions for National Standard 1.

Some public comment included:

- Maggie Raymond – Did the Committee agree to advance Gap motion # 28? Yes. On GAP motion # 29, I wasn't at the GAP meeting but I don't know that I would have supported this motion. I would support the Council and Committee recommending that full retention policy be a priority for next year. As far as I think we have taken actions on number 2 since the GAP first addressed that and frankly there are ways for the scallopers to get more allocation and that is to convince the groundfish fleet not to catch it. They only need that allocation in order to not trigger the AMs because the AMs don't get triggered unless the entire allocation is exceeded. They do have a mechanism to get more fish it's just one they don't like. I think we've addressed that in many ways already in having unused ACE come back to the industry. Between the commercial and recreational fleets the GAP has proposed in the past that there should be a similar mechanism so that if the total ACL is not exceeded then AMs don't kick in so if the recreational fleet doesn't catch all of their fish why should they have an AM. Priority should be given to number 1 and not 2. Dr. Courneane said these priorities were recommended by the GAP; the GAP had specific recommendations for A18 and they're not the kind of recommendations people were talking about and they also recommended that A18 be at the very bottom of every priority list for the council

The Committee was comfortable with the existing list of priorities to date; they would not become final until November. The Committee ranked the priorities in order of importance.

**Motion:** that this be the order of priority of work to be done on groundfish for 2014 (Dr. Pierce/Ms. Murphy)  
DRAFT OSC GF Priorities for 2014

1. Regulatory requirements  
ABCs for 3 winter flounder stocks, Pollock, US/CA stocks
2. Coordinate on Habitat Omnibus Amendment 2
3. Continue working on A18
4. Alternative strategies for setting catch advice for stability in ACLs
5. EM and Full retention
6. ACE trading between scallops/groundfish
7. GF spawning closures proposed by CATT

Some public comment included:

- Maggie Raymond – The immediate need to potentially solve this assumed discard problem is full retention. It's more important than whatever the goals of A18 are. It's a more immediate need; it's a problem that they're experiencing today rather than who owns what and how much they catch or whatever else.
- Vito Giacalone – I would concur completely with Ms. Raymond on that. We know we're going to continue A18. I've yet to see an issue identified right now on A18 that is a real issue for this fishery right now. We have a lot of real issues that are not addressed so we're going to keep working on A18 but to have that on the top of groundfish priorities where we see it, it is probably upside down.

The motion **carried** on a show of hands (4/0/1).