

Transboundary Management Guidance Committee (TMGC)
Minutes from September 9 -10, 2008 Meeting
Eastland Park Hotel, Portland, Maine

These Minutes represent a consensus summary of the principal discussions and conclusions from the meeting, organized according to subject, and are not intended to be a chronological transcript of the meeting. The minutes are reviewed by TMGC members and alternates, and posted on the internet upon agreement by the Co-Chairs.

Attendees:

Co – chairs: Mike O’Connor – Canada, and John Pappalardo (USA Acting Chair)

Canada Industry: Claude D’Entremont, Tim Nickerson, Christine Penney

U.S. Industry: Jim Odlin, David Prebble

Canada Science (DFO): Stratis Gavaris, Lou Van Eeckhaute

U.S. Science (NMFS): Fred Serchuk, Loretta O’Brian

Canada Management (DFO): Jorgen Hansen and Verna Docherty

U.S. Management: Tom Warren (NMFS), David Pierce (NEFMC, Massachusetts)

U.S. – New England Fishery Management Council Staff (NEFMC): Tom Nies and Anne Hawkins

Observer: Jean-Guy d’Entremont, Canada

Review of 2007 Minutes

The minutes from the September 2007 meeting were discussed briefly and a minor modification suggested.

Presentation of Final Canadian TAC Catch Numbers from 2007 Fishing Year, and Update of 2008 Fishing Year Programs and Catches.

The Canadian 2007 quotas, revisions, and final catch numbers were presented and are summarized in the following table. Final catch includes estimated discards from the scallop fishery. There was zero estimated discards from the groundfish fishery in 2007.

	Initial Quota (mt)	After Revision (mt)	Scallop Discards (mt)	Final Catch (mt)
Cod	1,405	1,275	124	1,195
Haddock	12,728	12,728	61	11,951
Yellowtail	350	350	105	132

The Canadian 2008 quotas, revisions, and catch numbers to date are summarized in the following table. Catch includes estimated discards from the scallop fishery; however, discard estimates were not available for the groundfish fishery.

	Initial Quota (mt)	After Revision (mt)	Scallop Discards (mt)	Catch (mt)
Cod	1,615	1,615	26	879
Haddock	14,950	14,950	23	10,312
Yellowtail	550	550	103	228

The discussion noted that the observer coverage on the mobile gear groundfish fleet in 2007 was 85% to 90% but for 2008 observer coverage is set at a minimum of 20% for all fleets, regardless of gear type. It was reported that the haddock to cod ratio remained high in 2008. For 2008 the mobile gear fleets had not been permitted to remove the separator panel but there would be discussions with Canadian industry at the end of September.

The level of groundfish discards by the scallop fleet has been decreasing and 2008 has the lowest estimated levels for all species compared to the preceding five-year period. The discussion noted that a series of measures, including closed areas, have been introduced to reduce the Bycatch and that industry has experimented with gear modifications.

Presentation of Final U.S. TAC Catch Numbers from 2007/2008 Fishing Year, and Update of 2008/2009 Fishing Year Programs and Catches.

The U.S. 2007 quotas and final catch numbers were presented and are summarized in the following table.

	Initial Quota (mt)	Final Catch (mt)
Cod	494	315
Haddock	6,270	307
Yellowtail	900	981

The final catch of yellowtail exceeded the quota due to some late catch reporting, as well as a delay in the incorporation of data from the scallop fishery. The 2007 level of observer coverage was 25% of trips, and the scallop fishery discarded 189 mt of yellowtail flounder. The current level of observer coverage (2008 fishing year) is 30%.

The U.S 2008 quotas, revisions, and catch numbers to date are summarized in the following table.

	Initial Quota (mt)	After Revision (mt)	Catch (mt)
Cod	667	667	53
Haddock	8,050	8,050	182
Yellowtail	1,950	1,868.7	631

The 2008 quota for yellowtail was reduced from 1,950 mt to 1,868.7 mt, due to the overharvest during the 2007 fishing year.

Update on implementation of the Magnuson Stevens Fishery Conservation and Management Reauthorization Act (MSRA); and update on the development of Amendment 16

Tom Nies presented information on the new aspects of the MSRA, focusing on the requirement to implement “annual catch limits” and “accountability measures”. These requirements are intended to ensure that annual catch limits are established that take into account sources of uncertainty (biological and management uncertainty), and increase the accountability of management plans for harvesting such limits. The New England Fishery Management Council is currently developing procedures in order to address the new requirements, including defining terms relating to setting annual catch limits, and defining the role of the “science and statistical committee”. Considering the completion of Amendment 16 is pending and the interpretation and understanding of the new MSRA requirements is still evolving, the potential impact of the new U.S. process of developing annual catch limits on the TMGC is unknown. Although MSRA affords some flexibility (exemptions) for fisheries managed under an international agreement, NMFS has determined that the joint understanding that is the basis for the U.S. and Canada TAC setting process (U.S./Canada Resource Sharing Understanding) is not an international agreement. The New England Fishery Management Council recommended that the final interpretation of the MSRA consider the U.S./Canada Resource Sharing Understanding as if it were an international agreement in order to provide exemptions from some of the MSRA requirements. Amendment 16 will also include management measures to continue stock rebuilding and implement new “sectors” in 2010. NMFS will implement management measures for the 2009 fishing year. Canadian TMGC members noted the complexity of the new requirements and outlined their concerns that the U.S. legislation may complicate the ability of the two countries to negotiate a joint harvesting strategy, but also stated that Canada may be embarking on a similar precautionary approach.

Presentation of Pertinent Information from the 2008 U.S. Groundfish Assessment and Review Meeting (GARM III)

Fred Serchuk briefly summarized the results of the recent U.S. assessment of its groundfish stocks, a mid-rebuilding period benchmark assessment for all 19 stocks in the fishery management plan. Of note was the fact that adjustments were made for retrospective patterns for several stocks. Secondly, the GARM III benchmark assessment for Georges Bank cod utilized a different assessment approach from that used by the Transboundary Resource Assessment Committee (TRAC). Since it is difficult to reconcile the results of the two Georges Bank cod assessments, the TRAC recommended a benchmark assessment for 2009, prior to the next June TRAC update of Georges Bank cod status.

Observer Comments

Jean-Guy d'Entremont requested to address the committee as an observer. He noted that both TRAC and TMGC work to promote sustainability of the stocks and goal is to develop consistent management. He understood that there are new challenges (changes to MSA and GARM) but encouraged this group to continue its work. He stated that while both countries have adopted ecosystem-based approaches to management, there has been few specific measures implemented and he encouraged TMGC to focus on habitat impacts as well as bycatch. He recommended that consideration be given to identifying the human-induced impact on habitat and that TMGC should consider a joint workshop to examine gear modifications that can assist orderly harvesting. He also suggested that TMGC could investigate quota management "flexibilities" that would examine any benefits in carrying uncaught forward to next season.

Review of Transboundary Resource Assessment Committee (TRAC) Status Reports for 2008

The TRAC Status Reports (TSRs) were distributed and a summary of the TSRs was presented (attached to the minutes). A copy of the resultant quota shares was also distributed, using the previously agreed formula, where respective shares for 2009 are based on 85% resource distribution and 15% historical utilization. The resultant shares were as follows:

Stock	USA	CDN
Cod	31%	69%
Haddock	37%	63%
Yellowtail	77%	23%

Discussion of Appropriate TAC for 2009: Haddock

The consensus was to set the TAC at 30,000 mt, a level that represents a low to neutral risk (greater than 25%, but less than 50%) of exceeding the F_{ref} of 0.26. This results in a national quota of 11,100 mt for the USA and 18,900 mt for Canada. Although there was consensus that the stock is viewed in a positive light, with low fishing mortality rates and very large biomass, the U.S. originally considered the quota associated with a low risk of exceeding F_{ref} as the appropriate shared quota (28,000 mt). However; it was noted that the 2008 TAC would not be completely caught.

Discussion of Appropriate TAC for 2009: Cod

The consensus was to set the TAC at 1,700 mt, which results in a national quota of 527 mt for the USA and 1,173 mt for Canada. A TAC of 1,700 mt would result in a low risk of exceeding the F_{ref} of 0.18. However, there is a high risk (greater than 75%) that stock biomass will not increase from 2009 to 2010. The U.S. side initially suggested a lower level (1,300 mt) while Canada had initially supported a level that was slightly higher (2,100 mt). There is a shared goal of rebuilding the resource, and there is concern regarding the status of the stock and the heavy reliance of the fishery on a single year

class. The Canadian fixed gear fishery relies on cod, and the Canadian delegation believed that their industry could not afford to rebuild the stock as fast as the U.S. desires. The U.S. expressed their desire to be precautionary, but acknowledged Canada's need for cod, and noted that regardless of the quota, future recruitment will be key to stock growth. Both countries acknowledge that, even with no catch, it is unlikely that the cod biomass will increase by 10%.

Discussion of Appropriate TAC for 2009: Yellowtail Flounder

There was agreement to set the TAC at 2,100 mt which corresponds to an F of 0.11 which is well below F_{ref} of 0.25. This results in a national quota of 1,617 mt for the USA and 483 mt for Canada. The Canadian delegation expressed concern about the annual quota going up and down every year, and initially suggested leaving the TAC at its 2008 level of 2,500 mt. This level would not be high enough to provide Canada with a directed fishery for yellowtail flounder. The U.S. noted the uncertainty associated with the stock assessment in the past, and highlighted the U.S. legal requirement to rebuild the stock within a defined time period. Although Canada agreed to the quota of 2,100 mt suggested by the U.S., it expressed concern that the quota level did not result from the TRAC document recommendations and frustration with the inflexible U.S. legal requirements. There was agreement to express in the Guidance Document the support for flexibility and the threat to the TMGC quota setting process posed by the constraints of the U.S. law.

Exploration of U.S. Discard Estimates

The U.S. presented a comparison of the total discards estimated by quota monitoring with the total discards estimated by the pertinent stock assessments, and differences noted. The analysis indicated that the quota monitoring estimates of total catch was less than the stock assessment estimates of total catch. The results are different because the objectives of the quota monitoring and the stock assessments are different, and rely on different databases, timing and techniques used for estimating. For example, the stock assessment is compiled on an annual basis utilizing final observer and commercial fishery data, whereas the quota monitoring is more real time, using Days-at-Sea, observer and dealer data. However, previous U.S. analyses indicated the opposite trend, with the quota monitoring estimating a larger catch. It was agreed that the TMGC should pay attention to this issue in the future, and there should be a similar analysis conducted next year to determine whether there is a consistent pattern of differences between the two discard estimates.

Terms of Reference for 2009 TRAC

The terms of reference for both the routine TRAC assessments and the cod benchmark assessment were discussed (attached). With respect to the cod benchmark assessment, the data inputs would be developed in the fall of 2008, with the models meeting occurring in the spring of 2009. A point of discussion was whether or not it made sense to assess just eastern Georges Bank cod, or the whole Georges Bank cod stock. It was decided that

the assessment should include only the eastern portion of the stock, but that a comparison would be completed in order to explore why a difference between the two stock assessments may exist, and what it would take to reconcile the two assessments.

September 2009 TMGC Agenda

A draft agenda was developed for the September 2009 TMGC meeting. No date or location was discussed. The agenda would be similar to the 'standard' TMGC agenda, with the addition of a discussion to follow-up the proposed intersessional meeting, and a discussion of the U.S. discard estimate issue.

Other Business

Flow Chart

A flow chart that characterizes the process of determining annual harvest levels for Georges Bank cod, haddock, and yellowtail flounder was discussed and agreed upon. In September 2007, the U.S./Canada Steering Committee discussed a flow chart that had been developed by the U.S. to clarify the process. The Steering Committee decided to also include the Canadian process/perspective in the flow chart and requested that discussion of the flow chart be on the TRAC and TMGC agendas. In June 2008, the TRAC discussed a version of the flow chart and made revisions (attached).

Flexibility Issue

The need for an intersessional TMGC meeting to discuss the flexibility issue was discussed. The issue, as characterized by the TMGC in the Guidance Document is as follows: "The complexity in Canadian policy and U.S. management system, particularly since the re-authorization of the Magnuson-Stevens Act, may constrain the ability of the TMGC to develop mutually agreeable harvest levels. There is a substantial risk that the process may become ineffective and the benefits of cooperation will be lost. To mitigate the risk, U.S. and Canadian policy should afford the U.S./Canada Resource Sharing Understanding the same consideration as other international fishery agreements." Essentially, the goal would be to develop a joint U.S./Canada TMGC approach to increase flexibility and maintain cooperation in setting mutually agreeable harvest levels. The discussion included a range of suggestions, stating that the process should be proactive, transparent, sustainable, and address both Canadian and U.S. issues.

Current U.S. law limits the flexibility of the U.S. in the range of harvest levels it may agree to. The U.S. guidelines that pertain to the Magnuson-Stevens Act (MSA) (National Standard 1 Guidelines) provide for an exemption from some of the pertinent statutory requirements of the MSA that limit flexibility. However, such exemptions only pertain to fisheries subject to management under international agreements. NMFS has determined that the cooperative process used by the TMGC to develop mutually agreeable harvest levels of the shared Georges Bank stocks is not an international agreement and, as a result, the exemption from MSA cannot currently be utilized. Therefore, the above recommendation seeks to extend the scope of this MSA exemption to apply also to the non-binding, cooperative TMGC process used by Canada and the U.S. No terms of reference were developed or date set for this meeting.