

Transboundary Management Guidance Committee (TMGC)
Minutes from January 14, 2010 Intersessional Meeting
Portland, ME

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 the TMGC members and alternates, and posted on the internet upon agreement by the Co-Chairs.

Attendees:

Co-Chairs: Mike O' Conner – Canada, and George Lapointe – U.S.

Canada Industry: Claude d'Entremont and Tim Nickerson

Canada Observers: Alain d'Entremont

U.S. Industry: Jim Odlin, David Preble

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

U.S. Science (NMFS): Fred Serchuk and Loretta O'Brien

Canada Management (DFO): Verna Docherty

U.S. Management (NMFS): Tom Warren and Travis Ford

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

Review of Agenda and 2009 Minutes

The item 'TRAC Peer Review' was added to the meeting agenda. It was agreed that the minutes from the October 2009 meeting would be finalized within a week.

I Outline the Process of Amending United States Fishery Law

NMFS gave a brief presentation on how U.S. law is amended. It was supplemented by a copy of a December 2009 bill to change the Magnuson-Stevens Fishery Conservation and Management Act (MSA) that Senator Snowe introduced to Senate floor. The purpose of this bill is to allow the U.S. flexibility when setting catch levels for transboundary stocks under the U.S./Canada Resource Sharing Understanding.

The process for amending U.S. law is involved, requiring similar bills to be passed by the Senate and Congress, after which it is sent to the President for approval or veto. The text of the bill may be revised at several stages of the process. It was unclear if the draft text exempts transboundary resources from the requirement to have ABCs recommended by the New England Fishery Management Council's (Council) Scientific and Statistical Committee (SSC). Another aspect that was unclear was the language regarding "stocks" and "portions of stocks." There was a consensus that an amendment to the MSA remains the preferred method to maintain the role of the TMGC in giving guidance on annual harvest for transboundary stocks.

II Review pertinent U.S. law and guidelines regarding the role of the Scientific and Statistical Committee (SSC) and/or “peer review process” in the development of Acceptable Biological Catches (ABCs) and Annual Catch Limits (ACLs).

NMFS presented excerpts from MSA showing the requirements that each fishery management council must have an SSC, and the SSC is required to recommend ABCs for all stocks. NMFS acknowledged in the preamble to the draft NSG1 guidelines that the statutory language could be subject to different interpretations, but in the final rule specified that the recommendation should come from the SSC. In the context of the discussion of the law there was a brief discussion on the peer review process, and the role of the TMGC. It was clarified that the TMGC uses the products of the TRAC scientific peer review to judge the consequences of management options when formulating its guidance.

III Review of the Northeast Multispecies Fishery Management Plan (FMP) process for the development of ABCs and ACLs

NMFS gave a presentation on how amendment 16 to the FMP will implement the process for the development of ABCs and ACLs, specifically in reference to the SSC and the Council’s Groundfish Plan Development Team (PDT). The PDT will develop a recommended ABC for each stock based on the SSC’s established ABC control rule. The SSC would then consider and approve the PDT’s ABC recommendations or provide alternatives. The Council then considers these recommendations, as well as the recommendations of the TMGC, and adopts ABCs and ACLs for each stock. Council approved ABCs for each stock would be set for the next three years following the implementation of the biennial adjustment, or annually for GB yellowtail flounder as provided under the U.S./Canada Resource Sharing Understanding.

IV Discussion of the intersection of the current TRAC/TMGC process with the current U.S. ABC/ACL process and identify ways to ensure a substantive and meaningful role of the TMGC.

For transboundary resources, stock status determinations and projection results are provided by the TRAC assessment process. The TRAC also characterizes various uncertainties in the assessment. For U.S. domestic stocks, a similar function is provided by the SAW/SARC peer review process. For transboundary resources, the TMGC considers the TRAC advisory report and, taking uncertainty into consideration, provides guidance on harvest levels that respects the mutually agreed Canada/USA harvest strategy. The TMGC guidance is directed to the Council (USA) and to GOMAC (Canada). The MSA tasks the SSC with accounting for scientific uncertainty in developing ABC recommendations, which must prevent overfishing levels from being exceeded or conform to specific rebuilding levels. The SSC recommendations are directed to the Council.

The discussion included a comparison of the U.S. and transboundary processes of setting catch levels; the role of the SSC and TRAC; as well as suggestions on how the process of

setting a TAC for GB yellowtail flounder could work in the future. The TMGC is tasked with giving harvest guidance, essentially recommending ABCs directly to the council, but the NMFS representative indicated that under the re-authorized MSA, the Northeast Region's position was that the SSC must recommend ABCs to the Council. Unless the respective roles of the TMGC and the SSC can be integrated through a revised process, the Council may be put in a position of reconciling any discrepancy between TMGC guidance and SSC recommendation when it sets the ACL.

V Discuss ways to ensure the TMGC is informed of the U.S. and Canadian processes so that the TMGC can provide timely input into all matters that may affect the TMGC process.

The TMGC should become more engaged with actions in either the USA or Canada that might affect the TMGC process or TMGC responsibilities. It was agreed that the Canadian and USA TMGC members would use email to exchange documents to keep informed of pertinent actions and activities.

With respect to the Council's intent to modify the rebuilding plan for GB yellowtail flounder, there was consensus that the TMGC send a comment to the NEFMC in support of a modification, due to the relation to the U.S./Canada Understanding . The comment would highlight the benefits to both nations of the TMGC process and reassure the Council that the TMGC harvest strategies for the transboundary stocks prescribe a fishing mortality rate that is not in excess of F_{ref} .

VI Review status of U.S. and Canadian specifications of 2010 catch levels for Georges Bank yellowtail flounder and discuss any implications of potential 2010 over-harvests on the future TMGC process of developing a shared GB yellowtail TAC for 2011 (or any other implications).

It was noted that Canada is proposing a fishing year 2010 Canadian allocation of 756 mt for GB yellowtail flounder, and the U.S. is proposing a USA allocation of 1,200 mt. There was a consensus that any overages relative to the above allocations by Canada or the United States during 2010 would result in the appropriate deductions during fishing year 2011.

VII Other Business

TRAC Peer Review

Two items pertaining to TRAC peer review were raised, (a) provision of independent external reviewers for benchmark assessments and (b) characterization of uncertainty. With respect to (a), it was noted that there have been problems with the number and selection of independent peer reviewers at recent benchmark assessment meetings. Securing participation of peer reviewers has also become more challenging. Nevertheless, independent peer review is essential for the integrity of the process. The TMGC will ask the U.S./Canada Transboundary Resources Steering Committee (SC) to

reaffirm the commitment of both countries to fund and secure independent reviewers for benchmark assessment meetings.

With respect to (b), there is now a heightened need to consider uncertainty when developing guidance/recommendations on harvest levels. It is incumbent on the TMGC to have an adequate appreciation of uncertainty when it formulates its catch guidance. Also, it was clarified that one of the newer roles of the SSC is to explicitly consider scientific uncertainty in its work. The TMGC recommended the following additional term of reference for the transboundary groundfish TRAC assessments:

“Evaluate and quantify, if possible, scientific uncertainty of the assessment output (stock status determination and catch projection), discussing current practices of characterization and alternative methods of evaluation. (intent: amend 2010 TRAC TOR)” . The TMGC will request the Council, GOMAC and U.S./Canada Transboundary Resources Steering Committee to approve this amendment to the 2010 TRAC Terms of Reference.

The SSC will be faced with considering TRAC status reports for transboundary resources. The Council may wish to invite a member(s) of the Council’s SSC to participate in the TRAC assessment process in order to facilitate understanding by the SSC of the TRAC and to enhance the likelihood that the TRAC would consider scientific uncertainty in a manner analogous to that used by the SSC.