

**Approved February 10, 1998**

JOINT ATLANTIC STATES MARINE FISHERIES COMMISSION/  
NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Sheraton Tara Ferncroft Conference Resort

50 Ferncroft Road  
Danvers, Massachusetts 01923

ATLANTIC HERRING SECTION/HERRING COMMITTEE

November 20, 1997

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JOINT ATLANTIC STATES MARINE FISHERIES COMMISSION  
/NEW ENGLAND FISHERY MANAGEMENT COUNCIL

ATLANTIC HERRING SECTION/HERRING COMMITTEE

Tara Ferncroft, Danvers, Massachusetts  
November 20, 1997

- - -

**Attendance**

Section/Committee Members:

David Borden, RI DEM  
Bill Adler, MA  
Bruce Freeman, NJ Fish, Game & Wildl.  
Tom Hill, MA  
Dr. David Pierce, MA DMF  
Alan Weiss, PA, MAFMC Rep.

Dennis Abbott, NH  
Penn Estabrook, ME DMR  
Steve Driscoll, NH  
John Nelson, NH Fish & Game  
Eric Smith, CT DEP  
Pat White, ME

Advisory Panel Members:

David Ellenton, World Wide Trading  
Vito Calomo, Glouc. Fish. Comm.  
Peter Mullen  
Jeff Kaelin, ME Sardine Council  
Peter Flaherty  
Wayne Bassett

Ex-Officio Members:

Artie Odlin, AP Chair  
Dr. David Stevenson, TAC Chair

Guests/Staff:

Jack Dunnigan, ASMFC  
Tom Nies, NEFMC  
Gene Martin, NMFS  
Madeline Hall-Arber, MIT Sea Grant  
Dr. Michael Armstrong, MA DMF  
Fran Kulle, Lubec Packing Co.  
Kathy Rodriguez, NMFS  
Maggie Moony-Seus, New England Aquarium

Dr. Joseph Desfosse, ASMFC  
Bob Beale, ASMFC  
Marty Jaffe, NMFS  
Drew Kitts, NMFS  
Niaz Dorry, Greenpeace  
Peter Moore, RTC  
Chris Finlayson, ME DMR

**There may have been others in attendance who did not sign the attendance sheet.**

Joint Atlantic Herring Section/Herring Committee

November 20, 1997

**MOTIONS**

1. ***Motion to elect David Borden as Chair of the ASMFC Atlantic Herring Section.***

Motion by Mr. Nelson, seconded by Mr. Abbott. Motion carries unanimously.

2. ***Motion to extend the ASMFC Emergency Regulations for one year, from January 8, 1998 to January 8, 1999 (with the minor additions and corrections as noted in the minutes).***

Motion by Dr. Pierce, seconded by Mr. White. Motion carries unanimously.

3. ***Motion to adopt the goals and objectives for the draft FMP, with the following correction to goal C: "To provide controlled opportunities for fishermen and vessels in other New England and Mid-Atlantic fisheries."***

Motion by Mr. White, seconded by Mr. Driscoll. Motion carries unanimously.

4. ***Motion to approve the minutes of the October 7, 1997 joint Section/Committee meeting.***

Motion by Mr. Nelson, seconded by Mr. ????. Motion carries unanimously.

JOINT ATLANTIC STATES MARINE FISHERIES COMMISSION  
/NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Tara Ferncroft, Danvers, Massachusetts

ATLANTIC HERRING SECTION/HERRING COMMITTEE

November 20, 1997

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**INTRODUCTION**

CHAIRMAN (Mr. Borden): This is the New England Council Herring Committee. Sitting on my immediate left is John Nelson. He's the Acting Chairman of the ASMFC Herring Section. This is a joint meeting of the two committees. I think what I'd like to do is to start off and ask, number one, that we go around the table and ask the New England Council Committee representatives to identify themselves individually. Then, following that, we will call a roll for the ASMFC members. Following that, I am going to go to the audience and ask the advisors that are here to stand up and introduce themselves. Do you want to start down by Artie?

MR. ODLIN: Artie Odlin, Chairman of the Advisory Panel.

MR. WHITE: Pat White, Herring Council.

MR. ESTABROOK: Penn Estabrook, Acting Commissioner for Maine, ASMFC Council.

MR. SMITH: I'm Eric Smith. I'm guilty of being a New England Council member.

CHAIRMAN: David Borden, New England Council member.

MR. NELSON: I'm John Nelson, a council member and ASMFC member.

MR. WEISS: Alan Weiss. I'm not guilty of being a New England Council member, Mid-Atlantic Council.

MR. HILL: Tom Hill, New England Council member.

DR. PIERCE: David Pierce, proxy for Phil Coates, Council member.

CHAIRMAN: Anyone else here on this side? Okay. Can we call a roll for the ASMFC commissioners, please?

DR. DESFOSSE: Penn Estabrook?

MR. ESTABROOK: Here.

DR. DESFOSSE: Pat White?

MR. WHITE: Here.

DR. DESFOSSE: Jill Goldthwait? (No response)

DR. DESFOSSE: Dennis Abbott?

MR. ABBOTT: Here.

DR. DESFOSSE: Steve Driscoll?

MR. DRISCOLL: Here.

DR. DESFOSSE: John Nelson?

MR. NELSON: Here.

DR. DESFOSSE: Bill Adler?

MR. ADLER: Here.

DR. DESFOSSE: David Pierce?

DR. PIERCE: Here.

DR. DESFOSSE: Tony Verga? (No response)

DR. DESFOSSE: David Borden?

CHAIRMAN: Here.

DR. DESFOSSE: Ernie Beckwith? (No response)

MR. SMITH: Eric Smith, proxy for --

DR. DESFOSSE: Senator Gunther? (No response)

DR. DESFOSSE: Lance Stewart? (No response)

DR. DESFOSSE: Larry Cantwell? (No response)

DR. DESFOSSE: Brian Culhane? (No response)

DR. DESFOSSE: Gordon Colvin? (No response)

DR. DESFOSSE: Senator Bassano? (No response)

DR. DESFOSSE: John Connell? (No response)

DR. DESFOSSE: Bruce Freeman?

MR. FREEMAN: Here.

CHAIRMAN: All right. We have an ASMFC quorum. As I said before, I would like the advisors here to identify themselves now so that everyone understands what we have is, in essence, a joint advisory panel. With the exception of one or two members, we put together an Atlantic States Marine Fisheries Commission Advisory Panel, and then we referred that to the New England Council and asked them to look at it and see whether or not there were deficiencies in it or areas where we thought there should be broader coverage. They did that and made a few appointments.

So, if we could just start in the front of the room and go right down the row. Are any of the advisors here that serve at the pleasure of either the Atlantic States Marine Fisheries Commission or the New England Council, could you just stand up and identify yourself, please?

MR. ELLENTON: David Ellenton.

MR. BASSETT: Wayne Bassett.

MR. MULLEN: Peter Mullen.

MR. CALOMO: Vito Calomo.

MR. KAELIN: Jeff Kaelin.

CHAIRMAN: Anyone in the back? Okay. No other advisors? Okay. Thank you very much. As far as the process for today, the last time we had a joint meeting of the two boards, we used I think a somewhat novel approach to how we proceeded in an effort to try to expedite the deliberations. I would suggest that we follow the same approach. I will just outline the approach. The last time we met, what we did is we allowed any of the commissioners from ASMFC or any of the New England Council representatives to make a motion on any issue. That motion can be seconded by anyone. That puts a motion on the table. Then what you have is you have a debate on the motion. You have motions to amend and so forth. Then, at the point where we call for a vote or I will call for a vote, the two organizations will vote separately. So the council members will vote and then the ASMFC members will vote. You will vote on exactly the same motion. Any motions to amend take place prior to the point where I call for a vote. Is that same rule agreeable to everyone here? If it is, then we will proceed on that basis.

## APPROVAL OF AGENDA

Let me start off with the agenda. Approval of the agenda is the next issue, if there are any calls for additions or deletions or modifications to the agenda. We did have a letter that was submitted by Maggie Raymond. I think we should consider her point. I have had a request that we consider the transshipment issue as a second item. Are there other items that people want to add to the agenda? Anyone? John?

MR. NELSON: Thank you, Dave. I think it's appropriate -- I am in an acting capacity right now as Chairman for ASMFC. But, looking at the other things that I chair for both ASMFC and the Council -- now I'm supposed to be doing some work for the State of New Hampshire. It seems to me that if we could put on the agenda officially having a chair selected for the ASMFC herring Section. If we could do that early on in this process, it might be beneficial to the rest of the hearings.

CHAIRMAN: Do we have any objections to placing that on the agenda first? So it would be a vote by the ASMFC commissioners. No objection. We will add that to the items. Are there any other items that people want to add to the list? Bruce?

MR. FREEMAN: David, under Item No. 3, it has, "Approval of plan objectives." I am assuming goals will be included in that?

CHAIRMAN: Yes.

MR. FREEMAN: Okay. That's fine.

## APPROVAL OF MINUTES

CHAIRMAN: Any other item? Do any members of the audience have anything to add? Okay. Approval of minutes. Minutes were distributed; is that correct, Joe?

MR. DESFOSSE: Yes.

CHAIRMAN: And it was a joint set of minutes by both groups.

MR. DESFOSSE: That's correct.

CHAIRMAN: Comments on the minutes? Any additions or deletions on the minutes? David Pierce?

DR. PIERCE: You're referring to the minutes that are on the table behind us of our last meeting?

CHAIRMAN: Joe?

DR. DESFOSSE: Yes. That's correct.

DR. PIERCE: They were not mailed to us; correct? They were? I never received them. So I haven't had a chance to review them.

CHAIRMAN: Do you want to take the vote later on, David?

DR. PIERCE: For that, I would like to take a close look at them.

CHAIRMAN: All right. We will take the minutes up under other business so that anyone that hasn't had an opportunity to review them can.

## PUBLIC COMMENT

The next item on the agenda is -- and this is always a requirement of ASMFC meetings. We always allow the public an opportunity to make comments. I would just note that I will be taking public comments throughout the meeting. Does anyone care to make a statement at this time? If not, we will move on to the next item, which is election of officers. John Nelson, ASMFC.

## ELECTION OF ASMFC CHAIR

MR. NELSON: Thank you, Dave. Again, as I pointed out, with Robin retiring and living the good life up in some part of

Maine, the burden falls upon the remainder of the ASMFC members to be involved in the development of the herring FMP amendment and, also, therefore, we need to elect officers for that.

I would suggest from the standpoint of efficiency that we are trying to have a parallel document being developed here. You can add or assign whatever definition you'd like to the word "parallel." In my mind, it's a joint plan but "joint" means something else, also. But I think what we're striving for is as much uniformity and as much elimination of duplication of effort as possible in the development of this type of plan.

So, having said that, I think it would be appropriate to, since we are heavily involved in the development of this amendment, to ask that we have a single chair for both the Council and ASMFC. To that end, I would nominate Dave Borden as the Chairman of the ASMFC Herring Section, and I would be willing to stay on as vice-chair if people are so inclined. MR. ABBOTT: Second.

MR. NELSON: Any other nomination? All those in favor of the motion, please say "aye" for ASMFC. And I think it's one vote per state. Do you want to call a roll on that?

DR. DESFOSSE: Maine?

MR. ESTABROOK: Aye.

DR. DESFOSSE: New Hampshire?

MR. NELSON: Aye.

DR. DESFOSSE: Massachusetts?

DR. PIERCE: Aye.

DR. DESFOSSE: Rhode Island?

MR. BORDEN: Aye.

DR. DESFOSSE: Connecticut?

MR. SMITH: Aye.

DR. DESFOSSE: New York? - absent; New Jersey?

MR. FREEMAN: Aye.

MR. NELSON: Congratulations, Mr. Dual Chairman.

CHAIRMAN: Or condolences, whichever the case may be.

Thank you very much.

One item of procedure. When it comes time to vote on issues, the ASMFC process, there is one vote per state. So, frequently, what will happen before an ASMFC vote is an ASMFC Commissioner will call for a caucus. They may go off in a corner and consult with their other commissioners and industry advisors. When they come back to the table, they will vote one vote for that state. So that is another procedure that will take place. I would urge throughout the day -- we will undoubtedly be dealing with issues that people have not finalized positions on and they may need to consult with their industry. I think we all should recognize that. In order to move through these issues in an expeditious manner, it's going to be necessary to really break some new ground. The best way to do that is to actually caucus with your industry, go off in a corner. So I would urge both the Commission and the Council to liberally use that. If you feel you need the opportunity, call for a caucus; and we will simply say, you've got two minutes or three minutes. And you can go off and consult with anybody that you care to consult with.

## ASMFC EMERGENCY ACTION

Let's take up the items. There were no changes as to the action items. The next item on the agenda is ASMFC emergency action. It may be beneficial if Jack could just describe the congressional action that took place.

MR. DUNNIGAN: Thank you, Mr. Chairman. The Congress has finished its business for the First Session of the 105th Congress. And, a week ago last Thursday, one of the many bills that was passed in the last hours, the appropriation bill for the Commerce Department, which includes the funding that comes for Marine Fisheries programs through National Marine Fisheries

Service. The bill includes a substantive provision, although, technically, it's not. Technically, it's a limitation of the expenditure funds relating to Atlantic herring and mackerel. I don't have the language in front of me right now. Gene may, but essentially, what it says is that the Secretary of Commerce cannot use any of the funds appropriated to license or permit any fishing by vessels over 165 feet in length and the other notations that all of us have been talking about for the last couple of months, to give those vessels permits that would allow them to fish.

So, essentially, although there is not a federal prohibition, per se, on fishing with large vessels in federal waters, Congress hasn't allowed the National Marine Fisheries Service to spend any of this money to allow that to happen. So sort of through a back-door way, they have addressed the question for large vessels in the Atlantic herring and mackerel fisheries.

I guess the question that this raises now for the Herring Section is whether or not you believe that there is continuing vitality and need for the emergency action that you adopted a couple of months ago. You'll recall at the last meeting, the staff came forward with a number of concerns about that action and suggested some revisions that ought to be included in it. It may be we don't really feel the need to adopt those recommendations.

You have a couple of options. You could decide that you really need this emergency action and revise it, extend it, as was recommended two months ago. You could withdraw the action if you don't think it's necessary any longer, or you could just allow it to lapse of its own terms come January and let the provisions of the federal law control.

I don't have any recommendation for you as to which of those is the best. I think it's essentially a concern for the Section as to whether or not you think there is a continuing need to have this, given the action that has been taken with respect to the commerce appropriation bills.

CHAIRMAN: Okay. Comments on that? Any Section, comments?

MR. WEISS: Just a question, Jack. Since the Congressional action is tied to the budget, does that mean that this limitation basically only applies to the '98 fiscal year?

MR. DUNNIGAN: Yes.

MR. WEISS: Thank you.

CHAIRMAN: Okay. Other comments? Anyone? John?

MR. NELSON: I would suggest that we merely let it lapse. I think the -- Jack has another comment on that.

MR. DUNNIGAN: Mr. Chairman, I wonder if you might want to give Gene Martin an opportunity to comment since he really is the federal lawyer here.

CHAIRMAN: Gene?

MR. MARTIN: I actually don't have the latest version of that. It was E-mailed this morning, but they forgot to attach the bill, itself. The last version I saw -- and I think Jack described it this way -- was that this prohibits the renewal or issuing of permits, authorizations to vessels to engage in herring fishing or processing.

Now, that raises a technical question. There are areas of the ocean where you can fish for herring, exclusively for herring that you don't need a permit for or even an exemption for. I think in the Georges Bank area you need an exemption from us to use small mesh. But there are areas perhaps south of that where you don't need any kind of federal permit. So it's questionable whether this bill would prohibit an exclusive herring fishing or processing activity by a U.S. vessel. I am putting that out without having the language in front of me to know if that's really a problem or not. But the last version that I saw, it's at least a theoretical possibility that a vessel, I guess, could fish for herring. Now, if it was fishing for mackerel at the same time, that does require a federal permit.

So I think the bill would apply in that particular case. I don't even know if it's possible for a vessel just to somehow target on herring and not seek either a multi-species or mackerel permit.

So that's a little bit of a question. I'm not sure how that might affect your discussion about what you do and your ASMFC authority concerns.

CHAIRMAN: Gene, before you sit down, is my understanding correct that if you catch any managed species you need a permit, any other managed species you need a --

MR. MARTIN: If you mean by "managed" that it's in an FMP, yes.

CHAIRMAN: Okay.

MR. MARTIN: I don't think there is any area -- you know, shrimp, New Orleans shrimp, is technically not a part of an FMP. You don't technically need a shrimp federal permit, but it's indirectly managed through the multi-species plan.

CHAIRMAN: Thank you. Penn?

MR. ESTABROOK: Have any permits been issued for either of these fisheries to date?

CHAIRMAN: Does someone care to comment? Kathy?

MS. RODRIQUEZ: Yes. A vessel of the size we've been discussing here has been issued a permit for mackerel and an exemption permit to fish midwater trawl in the Georges Bank, Gulf of Maine regulated mesh area. That's the exemption it would be required to have in a multi-species plan, small mesh. Those permits have been issued. I believe the mackerel permit will expire in December, in any case. I'm not sure about the exemption permit. Marty tells me it's good for a year. It probably would expire I guess when the multi-species permit year ends on April 30th.

CHAIRMAN: Pat White?

MR. WHITE: Another question on mechanics. If we allow this to expire, it then wouldn't address the problems that I understand that we might have with this. But, if we revote it in again, doesn't every state then have to put it through their state legislature to be in compliance, which most states, at this late date, couldn't do for this coming year?

CHAIRMAN: Jack?

MR. DUNNIGAN: Pat, my understanding is that virtually all of the states have regulatory authority to do this. So it's not a matter -- it becomes a compliance issue that needs to be brought back to state legislature. I think essentially the states are all in a position to --

CHAIRMAN: Bill?

MR. ADLER: Jack, what's the problem of us just sticking to our emergency action, as is, and just leave it that way even though the feds have done what they've done? What's wrong with just keeping it in place as we have proposed?

MR. DUNNIGAN: Nothing.

MR. ADLER: Thank you.

MR. DUNNIGAN: Well, not as you proposed. In other words, there were some technical deficiencies in the motion that was originally passed in July. So, if you're going to keep it in place, I would recommend that you adopt the revised motion that was contained in the materials that was passed out to the Section members prior to this meeting.

CHAIRMAN: David, did you have your hand up?

DR. PIERCE: Well, I would prefer if we took action on this, ourselves, as a Section. We have done a lot on this already. I think it's important to send the message to the industry and to ourselves that we are the management body that makes the management decisions. Congress, of course, went forward on its own perhaps with some prodding by states and industry people to do this, to pass -- they didn't pass a bill. They put it into their budget. But, anyway, it seems to me that we should send the

message that this is our action, this is what we want to have happen.

In addition, there is a mealing provision in here, as well. The mealing provision is not in what Congress did. So we should act on this if for no other reason than to make sure that the emergency action on the ban of directed mealing of herring is implemented.

CHAIRMAN: Okay. Any other comments? Bruce?

MR. FREEMAN: It would seem to me that it's the actions the states either have taken or are in the process of taking to essentially prohibit the vessels from landing in their states or operating out of their states. I think we should follow through. I think that is what David has said. In our instance, we are in the process of putting this in place and will become effective by the first of the year. I don't know what other states have done, but it seems that we asked to do this ourselves. The board voted on it. I think we should, regardless of the consequences, should have this in place.

The other point being, again, as was indicated, that this is simply just for appropriation. At the end of that year, it's going to return to essentially no restrictions.

CHAIRMAN: Anyone else? David, would you care to make a motion? Joe?

DR. DESFOSSE: There were two suggested changes if you are going to go forward with this that New York would like to add to the document as it reads now. Everyone has a copy of the actions?

CHAIRMAN: You've got that on the machine?

DR. DESFOSSE: I have the corrections on the machine. There are two additions.

MR. SMITH: The FAX copy that came out, was it mailed out?

DR. DESFOSSE: It was mailed out.

MR. SMITH: I did not receive that.

CHAIRMAN: What I would suggest you do is put the suggested motion up.

DR. DESFOSSE: Right. Sections 6 and 7, 6 being the de minimis requirements. The suggested change from New York at the end of the de minimis paragraph is that the state be required to enact these emergency actions within 180 days. This is due to their regulatory requirements within their state. The second --

DR. PIERCE: That's very difficult to read. Maybe it's my eyes and no one else's, but that seems awfully blurry.

DR. DESFOSSE: Okay.

MR. DUNNIGAN: It's exactly what you have except adding in "within 180 days."

CHAIRMAN: Where?

DR. DESFOSSE: At the end of Paragraph 6.

CHAIRMAN: All right. Any comments on this?

DR. DESFOSSE: And that is relatively minor. Under compliance, it states that states that need to implement Paragraphs 2 and 3 prior to January 1 of 1998, except to those states granted de minimis status, which would be landings of 500 metric tons or less from the previous calendar year.

CHAIRMAN: Just so that everyone understands, the only new language is "except for those states granted de minimis status." Comments on that? David?

DR. PIERCE: There is a need for a change in No. 5. I think that's a mistake. It says, "The emergency action will extend until January 8, 1998." If we move forward with the motion, that would have to be changed to reflect the new date. I am willing to make a motion now.

CHAIRMAN: Okay.

DR. PIERCE: I would move that we adopt -- actually, I am going to move that we extend our emergency action for one more year until January 8th of 1999 with the de minimis specifications

and compliance criteria and deadline as indicated in the document that we have before us.

MR. WHITE: Second.

CHAIRMAN: Seconded by Pat White. Discussion on it? Remember, this is an ASMFC motion. Jack?

MR. DUNNIGAN: First of all, the authority that we have for emergency action is to adopt for 180 days and then to extend for a year. So that the justification for January 8 of '99 is that the original emergency that was adopted last July would run out on that date. So you're going to allow the action to continue until then and then have the extended one. I just want to make sure that the record has that very clear.

The second point that I would make is that I assume that what your motion is, David, is to move the language that is contained in the staff draft with the revisions that we are talking about?

DR. PIERCE: Yes.

MR. DUNNIGAN: The Commission's record is going to be clear when we say what was the motion that the Section passed, this language is in.

DR. PIERCE: That's it.

CHAIRMAN: Okay. Any other comments or questions? Yes?

MR. DRISCOLL: This motion, is it going to be in that the extension is in the motion or are we going to have to vote on this again on January 8th or are we going to take care of it right now?

CHAIRMAN: Okay. Any other comments? Bruce?

MR. FREEMAN: David, I have a concern on No. 3 on mealing, the reason being that the definition -- we have essentially taken this as being the law or statute. We have used the term "directed mealing," but it was not defined in the document, at least as far as I have read it; and there is some confusion as to exactly what that means. My concern is that there needs to be a definition or it needs to be stated somewhat differently so that it's very clear as to what direct mealing is meant to mean.

CHAIRMAN: Okay. Comments on that? Staff? Any comments? The definition, as I understand it, was actually based on Maine law.

MR. FREEMAN: Yes. But, when you go back to Maine's definition, it tends not to be clear, at least in our eyes.

CHAIRMAN: Have you got a suggestion on how you would like to see it?

MR. FREEMAN: Something to the effect, rather than just use "direct mealing" and making the prohibition for taking of Atlantic herring to be reduced to fish meal or something to that effect. The term "direct mealing" is not common certainly to the Mid-Atlantic area, although reduction fishery and taking of fish or fish for meal reduction is very common. Maybe it's only a problem to the Mid-Atlantic area.

CHAIRMAN: We have two alternatives here. One is you could vote on the motion the way it stands and then define what you mean by direct mealing in a separate motion, or you can fix it now. If someone has a suggestion on how to fix it now so that it's clear, I would suggest we do that. Other than that, I would suggest we take a vote on the motion and take a minute and then define directed mealing. Jeff?

MR. KAELIN: Jeff Kaelin, Maine Sardine Council. What happens if the plan is finished before January of '99 and it has a different standard than the emergency action that you're about to extend for another year?

CHAIRMAN: At the point where the plan is finalized, the Commission or the Council would basically be making a recommendation of the states that they modify their regulations.

MR. KAELIN: So you don't want to clarify -- would it make sense to clarify the motion that the standard would be in place



until a plan was finished?

CHAIRMAN: Well, then you get into the issue of which plan, you know, the ASMFC plan or the Council plan. I think it's actually preferable to just allow us to address that later on at the point where the plan is on the table and ready to be finalized.

MR. KAELIN: I wanted to bring up another point. We took a look at this emergency action, the last emergency action, in Maine. We realized that it may have inadvertently stopped the bringing in of herring species from Europe by freighter that we sometimes do for the factories and we clarified that in the regulations in Maine. So I just wanted to raise that issue. I don't know if any other states have a similar concern. But I don't think it's the intention of the emergency action to keep herring legitimately caught from other parts of the world that come in to the United States by boats, freighters or from boats that size and be taken to shoreside processing. So I'm not suggesting you change the major motion, but I do want to point out that we did modify a regulation in Maine to implement this emergency action, to clarify it, that wasn't the intent.

CHAIRMAN: Okay. On the issue of directed mealing, is there a suggestion as to how to clarify the language? Bruce?

MR. FREEMAN: While we were talking, I came up with a definition, a very rudimentary definition. Let me just read it and see if there is agreement. I think the easiest way to maybe deal with this is just put a definition in the background information. The definition would be of directed mealing, the taking or catching of any fish species for the principal purpose of processing that species for fish meal.

CHAIRMAN: Okay. Comments on that? Steve?

MR. DRISCOLL: In the State of Maine, some of the fish that are caught -- they are not directed, but you're saying that fish can't be caught for --

CHAIRMAN: Fifty-one percent.

MR. FREEMAN: That's my understanding of Maine's intent. What I'm trying to do is -- and this is where the confusion is, Steve, when you go back and look at Maine's statute and read that through. It's not -- it seems to be clear when it comes to the use of herring for food as opposed to industrial use. But there are a number of aspects that are not clear. And, of course, Maine statute is not embodied in any of this. So, I'm trying to simply clarify it. If there is objection to it, I would be happy to make those changes.

MR. DRISCOLL: I'm not objecting. I just wanted to know -

MR. FREEMAN: My understanding is, again, that, in fact, species could be taken, could be used as a by-product for meal. There wouldn't be any difficulty with that. If you took it as a by-catch species, it could be used for meal. But you wouldn't go out and seek them. I think the issue is essentially going and taking large quantities of herring principally for fish meal or oil.

CHAIRMAN: Okay. Jeff, you had your hand up?

MR. KAELIN: I appreciate the issue you raise, but I think this works because the intent is that you'd have to catch the fish specifically for mealing or -- the language you're suggesting, it doesn't restrict the use of fish rejected from processing, which is the intent of the Maine law. But I think the intent of -- I don't know how you determine the intent of the person catching the fish. But I don't see this as a problem. I think it goes along with what we try to do in Maine.

MR. FREEMAN: If I may, Mr. Chairman?

CHAIRMAN: Go ahead. Bruce?

MR. FREEMAN: This was the intent. I just want to clarify. Again, I think what we're interested in is large-scale taking. That seems to be -- at least that's my understanding.

CHAIRMAN: Jeff?

MR. KAELIN: The only thing that is important is we preserve Maine's opportunity for the process of rejecting loads that

aren't fit for canning, specifically, because they are feedy or have a lot of spawning going on, whatever. So that would work, I think.

CHAIRMAN: Dave Pierce?

DR. PIERCE: I think the motion is fine. The suggested change by Bruce, that is, the adding of the definition, is entirely appropriate. It clearly indicates the intent of the Section. If it passes, the motion passes, then the individual states will just go about implementing the restrictions with knowledge of the intent of the Section. Massachusetts has a public hearing next Monday and Tuesday, one in Buzzard's Bay and one in Gloucester on this issue, directed mealing, as well as the vessel-size restrictions. And, when we go to public hearing, we will use this intent as a way to guide us as to the nature of the final regulations that we adopt.

CHAIRMAN: Okay. Any further discussion? What I would suggest, so the record is clear, is that the motion be a perfected motion. Eric? No?

MR. DUNNIGAN: My understanding was that Bruce was suggesting not to make a change in the motion, itself, but to accept the language he gave us as an indication of the Section's intent.

CHAIRMAN: Okay. That's the same thing. Eric?

MR. SMITH: A question on the definition. Is it safer instead of saying "any species" to refer to herring? I only ask that because even though the emergency action is clear -- for example, I mean, if this ever becomes embodied as a standard definition, you could run afoul of a different plan and then a lawsuit.

CHAIRMAN: I think it would be clearer if it said "herring."

MR. SMITH: In other words, take or catching of herring for the principal purpose of processing --

MR. FREEMAN: I have no problem. My only concern here is simply trying to get a definition of what directed mealing means, whether it be herring or menhaden, sand lance, whatever. But, if it suits the needs to interject herring, I have no objection to that.

CHAIRMAN: Okay. So that the record is clear, the word "herring" will be inserted there. For purposes of implementation, the definition as Bruce suggested will be characterized as the intent of the Commission. Any further discussions on that? David?

MR. ELLENTON: I don't have a copy of the wording of the emergency action. Does this effect either IWP?

CHAIRMAN: No. It's not my intent or it's not my understanding that it does affect IWP. That came up originally. In fact, Dr. Rosenberg raised that at a council meeting; and I think it was clearly stated at least at that point that it would not. If someone intends something different, they should raise that now. Eric?

MR. SMITH: I don't intend that. It reminds me of Jeff Kaelin's question about confusion on this. And, if you are willing, I would suggest that No. 2 of the emergency action, Line 2, where it says, "Section shall prohibit the landing of Atlantic herring by vessels," you may wish to add "fishing vessels," just in the wild chance that a cargo carrier from Europe is --

CHAIRMAN: Any objection? Maker of the motion and the seconder agree?

DR. PIERCE: That's fine.

CHAIRMAN: Any other changes? We are ready for the question. Does anyone need a caucus? No. Bill?

MR. ADLER: Before you take the vote, could you just read over what the motion we are voting on is now? We've added this-

CHAIRMAN: Jack or Joe?

MR. DUNNIGAN: We have gone to the public. We have more copies of the emergency action that Joe Desfosse will put over on the side table now. But Bill, the motion, the bolded language in that draft. The emergency action is this whole

document. Your motion is the bolded language beginning on page 3 with the following changes. In Paragraph 2 in the middle line before the word "vessels" insert the word "fishing." In Paragraph 5 on the second line, change "1998" to "1999." In Paragraph 6 at the end of the paragraph add the words, "Within 180 days" and, in Paragraph 7, on the third line at the end of the first sentence, add the words "except those states granted de minimis status."

CHAIRMAN: Okay? Is everyone clear? Does anyone need a copy? If not, are you ready for --

MR. SMITH: I do have a comment. My suggestion on fishing, so the record is clear, in No. 2, this is not to be construed to be the Magnuson Act definition, which includes processing vessels and made from the (inaudible) vessels in jeopardy. Fishing, in this context, for the record, should be catcher vessels, harvesting vessels.

CHAIRMAN: Correct. Any other comment? Are we ready for the question? Okay. Joe, could you call the vote?

DR. DESFOSSE: Maine?

MAINE: Aye.

DR. DESFOSSE: New Hampshire?

NEW HAMPSHIRE: Yes.

DR. DESFOSSE: Massachusetts?

MASSACHUSETTS: Aye.

DR. DESFOSSE: Rhode Island?

RHODE ISLAND: Yes.

DR. DESFOSSE: Connecticut?

CONNECTICUT: Yes.

DR. DESFOSSE: New York? Absent. New Jersey?

NEW JERSEY: Yes.

DR. DESFOSSE: Motion carries.

CHAIRMAN: Okay. Motion carries unanimously.

Anything further under the emergency action? If not, we will move on to the next issue, which is the report of the Technical Committee, David Stevenson. When we finish this, we will take about a five-minute break.

#### TECHNICAL COMMITTEE REPORT

DR. STEVENSON: The Technical Committee and the Plan Development Team met yesterday in the council office in Saugus. I will try to confine my comments to the Technical Committee matters.

The Assessment Subcommittee of the Technical Committee, which was myself, Mike Armstrong from the State of Massachusetts, and Kevin Friedland from the National Marine Fisheries Service, met in Woods Hole two weeks ago and spent a very intensive two days working on the guts, if you will, of a Gulf of Maine herring assessment. We reported on our progress on a Gulf of Maine herring assessment to the rest of the Committee members on the PDT yesterday and also to Industry members who were present.

I have done some more work with that just last night and this morning and it's very much a work in progress. I did report some preliminary numbers to the people yesterday, some preliminary biomass estimates and mortality rates from a base run of the VPA to the Gulf of Maine which I don't think it would be a good idea to even talk about here today. The reason is that assessment was done without any survey data. What we did in this case, as Doug Vaughn did with the menhaden assessment is estimate terminal fishing mortality rates for that analysis from catch at age data. So you look at the proportion of older fish in a catch for individual year classes. We've got 20-year classes we can track through the time series, and you calculate a mortality rate from those that decline in proportional numbers of fish caught at age. So the catch-at-age data is crucial to this analysis because we don't have

survey data for any independent estimates of stock size for the Gulf of Maine stock.

The base run that the Committee has done was done with essentially unedited catch-at-age data. So there are three things that remain to be done before we have a final run that I would feel comfortable bringing to you to look at. Actually, I did one of those last night; and I'm working on another one right now. But it's just not done yet.

We need to deal with the Southern New England, Mid-Atlantic catches in the wintertime because we know that particularly when the Georges Bank stock was large in the sixties and is large now that that stock will contribute a majority, if not all, but the majority of the fish caught in Southern New England in the wintertime. It would not be Gulf of Maine fish. It would be Georges Bank. So we've got to remove something in the catch-at-age data for those years in which there is significant Southern New England catches. I won't bore you with the details, but I think that's all under control. There is a way you can do this. There are going to be some assumptions involved. It's just not going to be, perhaps in the final analysis, the ideal way to do it because we don't have all the information we need. But there is a way to approximate the effect of the Georges Bank fish contributing a lion's share of the catches in Southern New England in the wintertime. So that's the first issue that has to be dealt with.

The next issue would be Georges Bank fish that move into the Gulf of Maine, that are caught in the Gulf of Maine in the spring. Again, even if only ten percent -- and this is some of the estimates that are out there. Even if only ten percent of the Georges Bank stock occupies Management Area 1, if that stock is ten times the size of the Gulf of Maine stock, you could be talking about 50 percent of the catches in the April-through-July period being fish that belong to that other stock. So those have also got to be removed from the catch-at-age data. And, again, the way to do that -- it can be done, but it hasn't been done yet.

The third issue, which is more -- has some more political, I imagine, overtones to it, which we need to think about at some point in the near future is New Brunswick catches and whether we want to continue doing an assessment for the Gulf of Maine stock that includes New Brunswick catches, which is mostly aimed at two and three year olds. And, since it's aimed more at two and three year olds, it's going to have a different kind of impact on the assessment than removing catches of adults that might belong to the Georges Bank stock.

So that's what the action that we're still committed to doing is. The other thing is that even if I had a biomass estimate for you now that the Committee felt comfortable with for the Gulf of Maine, we do not have an over-fishing definition yet for that stock that has been blessed by the over-fishing committee that has been set up to review over-fishing definitions for all species that have been managed by the Council. My understanding or our understanding had been that they were going to derive something, themselves, and that's what you all were told at the last meeting. Tom has clarified that now. The new information from the Committee is that they want us to give them something for them to review. Before we can do that, we have to update the data based on proven data. The over-fishing definition that we've used before which is the maximum spawning potential definition -- so that's the other missing piece before we get from a biomass estimate to a TAC for Area 1 or for either of the other two areas. We've got to have an over-fishing definition that has been blessed by this Committee that we can apply to both coastal stock complex and the Gulf of Maine stock. So that's kind of a good news/bad news report, but that's where things stand with those two assessments at this point.

Let me add one more thing. Mike has put more time into

this than either Kevin or I have recently, but the three of us have been working on updating the coastal stock complex assessment. And we've got some new numbers. There are some technical issues here that we feel need external review. It's a very touchy issue. And, if any of you have been involved with the bluefish assessment lately, you realize what a touchy issue it is. The shape of that selection pattern totally drives the biomass estimate between them in the recent years. So, again, I'm reluctant to throw any new numbers around.

I can say that with the update of the coastal stock complex assessment with two more years of data, '95 and '96, the numbers are going up still fairly substantially, although there was a significant reduction in the number of two and three year olds -- or was it one and two year olds -- one and two year olds -- thank you -- in the VPA, so that some of those year classes that were looking so big in the assessment two years ago are coming out now much more average. Well, they're still above average but much smaller than we thought they were. Nevertheless, overall, there is still an indication of an increase in stock biomass for the coastal stock complex. But I would be reluctant at this point to say how much of an increase that is until we get some -- this assessment is really -- there are a number of loose ends in it that, in my judgment, it really needs to go through the SARC process again and review before it has the final stamp of approval on it.

Do you want me to stop? I can --

CHAIRMAN: No. Finish your report, and then I'll take all the questions.

DR. STEVENSON: Neither Joe or I could find -- someone in the room has got to have it. But, at several meetings ago, I handed out a one- or two-page explanation of the Canadian -- this is the third item on the agenda -- the Canadian assessment, quote, unquote, for Georges Bank. It was a graph. Just looking through all my stuff, I can't find it. But I've provided you all with that explanation of that assessment sometime ago.

First of all, it's not an assessment. The Canadians would be the first to admit they don't do an assessment for Georges Bank. You can't do an assessment for Georges Bank because there's no fishery out there. There is no fishery-dependent data. There are no -- aside from larval surveys, there is no survey. So there is no means of estimating stock biomass for the Georges Bank stock, by itself. The Canadians are no further along than we are in that respect. In fact, we may be further along than they are because we are doing an assessment for the stock complex.

Their advice for management purposes was based on historical larval survey data, U.S. larval survey data; and they draw, from my estimation, some flawed conclusions from that data. I won't go into anymore detail, but you could just as easily assume from the Canadian interpretation of those data that the stock size in Georges Bank is half -- I'm sorry, twice what they're reporting to be. But the important thing, the take-home message here, is there's not a Canadian assessment of Georges Bank. Nobody can do an assessment for that stock.

UNIDENTIFIED: Is there a graph?

DR. STEVENSON: The graph is May 27th, 1997. You might want to redistribute this, if you can. Anyway, there's written material on it. That is the graph that indicates what they base their advice on. Parenthetically, by the way, there have been discussions at the Council level about doing inter-Canadian or future herring assessments jointly with Canada. I think that's a very good idea not only for the offshore stock but for the Gulf of Maine stock because of the New Brunswick question. We've got to move into an arena where we include the Canadians at the ground level in providing technical advice.

There is nothing new to report on MSY. The stock production model that produces the MSY estimates when we did it

in the spring or in the summer used data through 1996. So there is no new data to go into that analysis. So that estimate of 285,000 tons MSY still stands until we have a 1997 data.

The other items on the agenda here, we don't have -- as I say, we don't have control larval catch estimates yet for either of the stocks. If you wanted me to, I could talk about some of the assumptions that I am going to make in doing a preliminary run in cleaning up the catch-at-age data for the Gulf of Maine stock. But it's still going to be submitted by the Committee because they haven't seen it yet. I was doing it last night. But the essential ingredients are the relative size of the two stocks. And I am assuming just out of a very quick analysis here at first cut that the Georges Bank stock is ten times the size of the Gulf of Maine stock. That kind of fits the historical assessment. And then we need to know how that has changed over time. So you have to factor in the collapse of the Georges Bank stock.

And the other thing, information that we have, for better or for worse, is the table that was in the old federal management plan which indicates some tagging data, what the distribution of the different stocks was at the various times of year. That is what you get, for example, the estimate of ten percent of the Georges Bank stock occupying Area 1 in April and May and 20 percent in July -- so those are the ingredients. Those are the pieces of information that we are relying on. In some cases we had to make assumptions or have to assume, for example, that until we look at sample data for Southern New England, just for a first cut, we don't know -- we are assuming that the age distribution of catches in Southern New England would be the same if you were targeting Georges Bank fish, as if you were targeting Gulf of Maine fish. The same could apply to the spring catches in the Gulf of Maine. In the absence of any information to the contrary, we are going to have to make some assumptions, and that's one of them, that the age distribution of the catches of any two stocks would be the same to the bulk fishery. We are not applying any of these adjustments to the juvenile catches. We are only applying them to adult catches.

CHAIRMAN: Questions? David?

DR. PIERCE: A clarification, David. When you refer to the Georges Bank stock being ten times larger than Gulf of Maine stock, do you mean Georges Bank, Nantucket Shoals?

DR. STEVENSON: Yes.

DR. PIERCE: Okay. That's an important clarification. We're not talking just about fish spawned on Georges Bank, per se.

DR. STEVENSON: Right.

DR. PIERCE: We are talking about the fish that also spawned on Nantucket Shoals to the south and southwest of Georges Bank. Okay.

CHAIRMAN: Other comments or questions for David?

DR. PIERCE: I do have another question.

CHAIRMAN: David.

DR. PIERCE: It is my understanding, David, that when estimates of fishing mortality in the current year, for example, are generated or not even the current year, in current years, there is a heavy reliance on ages five and older. I believe yesterday morning when you discussed some of the assessment information, you said that the values of total mortality that were then broken down into fishing and natural, they were based on ages five and older.

DR. STEVENSON: Right, or six.

DR. PIERCE: Or six and older. Therefore, that tells me that the Technical Committee is not in a position now and may not be in a position in the future to give us estimates that we can use, fishing mortality on Age 2, Age 3, or Age 4 fish, which is an important hole in the database since the fishery does focus on Age 3 and 4 fish certainly in some parts of the Gulf of Maine. Go ahead.

DR. STEVENSON: Just to clarify here, the catch curve

analysis is for the purpose of getting terminal fishing mortality rates which are only applied to the oldest ages in the VPA. So the fishing mortality rates that would be generated for the younger ages are reduced by the model, by the VPA. They are not input data.

DR. PIERCE: Those are the most current years. I can understand using the VPA to generate values of fishing mortality for the younger ages of fish going back in time. But, for what's happening right now in the current situation, we don't have that information. That's just one of the --

DR. STEVENSON: The only year in which it would be problematical would be the most recent year. And what you do is for all the fully recruited ages, which would be five through ten, you assume the full fishing mortality, whatever it would be. And then we apply the partial recruitment vector for the ages younger than Age 5 if we were multiplying the "F" is for the older ages by some fraction, .7, for example, to get the fishing mortality rate.

DR. PIERCE: This is esoteric discussion, certainly.

DR. STEVENSON: I don't think it's a problem.

DR. PIERCE: All right. Well, you say it's not a problem; but I still have the position that we, as a Section, and, of course, the Council, as well, are going to be in the position of having very uncertain information regarding the fishing mortality on the younger ages in the most recent years. That argues for a conservative management approach. That's the only point I'm trying to make here.

CHAIRMAN: Other questions? Anyone in the audience? Yes.

MS. DORRY: Niaz Dorry, with Greenpeace. On the subject of the younger ages, I think I brought this up yesterday. I'm going to try to say this right. Since I'm not a fishery scientist, I might get the wording wrong. One of the issues has been the natural mortality rates that are applied to the formula. I think what I brought up yesterday and I think Dr. Stevenson said that if you actually took another look at those numbers, it might affect the ultimate numbers much more than some of the catch-at-age numbers that we're looking at. So my question is would the Council consider recommending to the PDT or the Technical Committee to reconsider the natural mortality formula. Specifically, I'm talking about the fact that the current natural mortality is applied throughout all the ages -- similar to herring fisheries, the younger the age of the fish, the higher the natural mortality rate seems to be applying. So I was wondering if you would consider doing that and having the PDT or the TAC consider that formula. Thank you.

CHAIRMAN: David?

DR. STEVENSON: Yes. One of the things that -- I didn't mention that; but, in terms of doing a sensitivity analysis on the results once we get a run that we're happy with and catch-at-age data that we're happy with, would be to look at the effect of changes in natural mortality rate as an exercise. I am planning to do that so we can at least make the statement that an increase in natural mortality rate of 20 percent has the following effect on biomass.

Where I have trouble, though, then, is knowing -- without knowing what the natural mortality rates -- if they need to be changed and, if so, to what values. That's a whole other issue because without any information that any other mortality rate should apply, we would really be kind of casting about in the dark. So that's kind of the flip-side of the natural mortality rate issue. Unless there are some ways to come up independently with some estimates of what the natural mortality rate might be at different ages, which they do in Europe -- they have the database and the support analysis that we don't -- I would hesitate to just launch to any large scale changes in natural mortality rates in this

assessment.

CHAIRMAN: Okay. Other comments? Anything in the audience, questions? Jeff?

MR. KAELIN: I'm confused a little bit. I thought we talked before about the Gulf of Maine stock being somewhere around 15 to 20 percent of the total stock biomass and that the Jeffrey's Ledge vicinity stock was ten percent. I mean, I think I've heard that before. It just seems we are really shooting in the dark on this whole thing. I would like to see some kind of research agenda emerge from the darkness that we find ourselves in here because it just seems to me that, you know, we are not making a lot of progress on getting some numbers that might make sense.

The other thing I wanted to mention is that it make sense in terms of conservatively managing this resource that the issue about the New Brunswick fixed-gear fisheries is an interesting one I think for this Committee to consider. We count the juveniles in the weirs and the stop seine but we don't count the purse seine catches from that same area because the Canadians believe that the purse seine catches, the are 4WX fish and perhaps the wier fish aren't. So I think it makes a lot of sense for us Americans on this side to just take the Canadian catches right out of the equation when we look at Gulf of Maine abundance from our perspective and ensure our ability longer term to get more fish out of the Gulf of Maine than perhaps the Canadians do. And, if we have to sit down with the Canadians with better science and better understanding about the differences in how we assess the stocks, what are the 4WX fish, 5Y fish, we can do that later in some other context, just like we're probably going to do on Georges Bank about who gets what percentage of fish.

But I think even though we've done it for years, we may have created some problems for ourselves where we are taking this Canadian wier catch off the top of what we can take out of the Gulf of Maine and ignoring the purse seine catches up there because the purse seine catches probably are from the Nova Scotia stocks. Why don't we just take the whole thing right out of the equation? I think that makes a lot of sense. Thank you.

DR. STEVENSON: Yes. It makes a lot of sense if -- again, there is something I'd like to get some agreement with the Canadians on rather than just going ahead and doing this ourselves. I think this meeting in Boston next month might be a good place to have that discussion with them. We have talked about this with them before and came to the agreement that those fish more probably belong to the Georges Bank/Gulf of Maine stock than they did Nova Scotian stock. But I think, first of all, that we need to look at it from a -- in scientific terms in terms of what the evidence is for those fish being derived from spawning off Nova Scotia versus being derived from spawning in the Gulf of Maine. But you are right. It certainly opens up a Pandora's box under the management scenario.

Jeff, you're right about the ten percent. The first runs that I'm getting ready to do where I'm dealing with the issues of Georges Bank and Gulf of Maine stock and the relative sizes, I assumed that ten percent. But you are right. The historical assessments for Jeffrey's are in the order of 12 and 13 percent of the total stock complex. And, since we know that there are other spawning fish in the Gulf of Maine besides Jeffrey's, we were going with an estimate of around 20 and then bumped it up to 25 to account for migrations of fish from outside the area.

So I will do -- I didn't mean to imply that would be the only way I would do the analysis. I'll probably do another one at an assumption of 20 percent for the Gulf of Maine stock. Again, we don't know for sure what it should be; and we will never know exactly what it should be. But at least we can bracket the range from the low point to the high point and we can look at the effect on the assessment, and I can still make some intelligent decisions

about what kind of a TAC to apply to the area, Area 1.

CHAIRMAN: Any other questions? David, in terms of external review, as you just characterized, now I think that both committees find themselves in the unenviable position of not really having definitive information on where we stand in terms of stock status. And I'm not trying to -- that isn't a criticism of you or the science. It's just a statement of fact. I mean, when will we know as a joint committee where we stand in terms of stock status? I'd just offer the opinion that it's difficult for anyone sitting around this table to make a motion that might disadvantage some segment of the industry, put some segment of the industry out of business, cut back on somebody's landings, curtail some type of fishing activity if, in fact, we don't have any realistic estimate of where we stand in terms of stock status. And, understand, that's not a criticism of you. It's just -- I mean, in order to advance the agenda of putting together a management plan, one of the key components of it is to have a scientific basis for proceeding.

DR. STEVENSON: Yes.

CHAIRMAN: And I think what all of us find ourselves confronting is somewhat ambiguous scientific data that can be interpreted a number of different ways depending upon your individual perspective.

DR. STEVENSON: Yes. That's why I didn't want to come up with any new numbers today, just for that reason, until the cake is fully baked. But we can probably look at a partially baked cake after the first of the year and just with the caveat that whatever numbers that the Technical Committee provides you with are going to be subject to review. And there could be a large-scale change in the numbers come this spring when the assessment is reviewed by the SARC. But I guess that's the way we'll have to go. If that requires an amendment of the plan, if everything is too far down the road by then, that may have to happen. But I understand that you can't wait until the spring to move forward with TAC management decisions.

CHAIRMAN: David?

DR. STEVENSON: Just let me tie that up. We will have something for you after the first of the year when we've got this over-fishing definition nailed down. I mean, we are close. The Gulf of Maine assessment is looking pretty good. We are encouraged by what we've got so far.

CHAIRMAN: Okay. But just to pursue this -- and I'm not trying to pursue any personal agenda here. I think there is some expectation on the part of the Council -- and Tom or Paul is in the audience -- that, in fact, we will have management recommendations that will go out to public hearing prior to that date. I am not sure how we do that given the fact that what you're saying is that we don't necessarily know what the stock status is.

DR. STEVENSON: Well, if I may make a suggestion? We talked about this at the meeting yesterday some. Until such time as at, say, the next meeting when we've got some more firmer numbers, I think it would be safe to proceed with the 100,000-ton target TAC for Area 1 as a management objective, bearing in mind that that may change. But that's going to force a discussion of how to maintain fishing effort or catch within the limits of where it is right now. And it should set the stage for -- if it is clear later on that the TAC is going to have to be reduced even below that, if we had some discussion of what effort restrictions or management measures to put in place to keep things where they are, maybe that discussion will not be in vain.

CHAIRMAN: Let me pursue this, and it will get to, I think -- maybe it will draw out some other people on it. Let's assume for the sake of argument that we are going to proceed based on 100,000 metric tons for the Gulf of Maine. Given the fact that we know that a portion of the Gulf of Maine stock is out on Georges Bank seasonally and a portion of the stock may be in Southern

New England seasonally, can we then proceed to make any estimates as to what portion of the catch, if we had full exploitation or unrestricted exploitation in Southern New England and Georges, given the fact that you do have a component of the Gulf of Maine stock there, how do we then relate that to the 100,000 tons? Would the 100,000-ton figure then have to be reduced by some number?

DR. STEVENSON: You would have to factor that into the removals from the Gulf of Maine stock. Well, let me back up a minute. It wouldn't -- if the TACs are area specific rather than stock specific and if in developing the area TACs we account for the mixing of stocks in those areas in different times of the year, I think that's the direction we're headed for with these TACs, is that they would be area-specific TACs and account for the distribution of stocks rather than stock-specific TACs.

CHAIRMAN: Okay.

DR. STEVENSON: And I don't think you have to worry about Gulf of Maine stock fish, for example, in Area 3. You do to some extent in Area 2. But, even when the Georges Bank stock, after it had collapsed, if you look at the assessment numbers, the historical ones, the size of that stock was still twice as high or the same size as perhaps the Gulf of Maine stocks. So you're still looking at, even when the Georges Bank stock was totally collapsed, that only about the half the catches in Southern New England wintertime would be Gulf of Maine fish. So it may not be a very significant portion of the catches, is what I'm saying.

CHAIRMAN: Other comments or questions? David?

DR. PIERCE: To the point you just made, the discussion you just had with David. I suggest we contact Doctor Marsh and have him resurrect the bioeconomic model that served as the basis for the development of the Council plan back in 1977-78 only because of what you just said. That was the model that attempted to be sensitive -- have the Council respond to concerns about the low spawning stock biomass in the Gulf of Maine, and they're not having too much catch come out of the Gulf of Maine, per se. And it was a model that was responsive to the migration patterns of herring where they distributed seasonally in what areas. I say that somewhat tongue and cheek in terms of -- but it reminds me of that sort of discussion we had way back in the late 1970's.

CHAIRMAN: Circa 1978.

DR. PIERCE: I go along with you, David, that we are disadvantaged as a council and as a Section, not having an assessment of where we stand right now with abundance of herring. However, up to this point in time, I've been pretty much guided by the fact that we will not have that assessment in hand for a year or so. Maybe that's too pessimistic. But the challenge is great for those individuals who are doing this assessment, very great. There will always be great uncertainty. So I've always been operating with the guideline of 100,000 metric tons for Area 1 as a start. That's the information that was provided by David and the Technical Committee. That's been presented to us so far. That may be amended somewhat as they do further analyses. I don't know. But what else do we have except that sort of a benchmark to use in making that decision about how to deal with the Gulf of Maine resource?

Georges Bank, Area 3, the Area 3 resource, again, I'm guided by the positions that we have taken with the Canadians, 20,000 metric tons. That might not be the right number, but it is a number right now that we are obliged to live with, I suspect. If we don't live with it then we will get into some sort of maybe an adversarial relationship with Canada, and we don't want that. These are numbers that I'm using as a baseline. They may change. But, so far, I have not yet been given any information that would compel me to think about how to better manage sea herring in any other way besides what we've already discussed so far.

I've got one final point here, David. One of our objectives is to maintain the resource at or above the 20 percent of its maximum spawning potential. We may change that. It's still subject to change, of course, as everything is. But, yesterday, you indicated that an analysis would be done to determine the "F" at 20 percent of the maximum spawning potential or 30 percent of that maximum spawning potential; and you gave us this handout that we have all seen, I'm sure, council members as well as ASMFC members, a strategy that was developed by center staff awhile ago, Dr. Pamela Mace at the time.

When do you think that the Technical Committee will be in a position to do this analysis again so that we will have estimates of "F" at 20 percent MSP and 30 percent MSP to guide us in management decisions and also are you going to be in a position, the Technical Committee, that is, are you going to be in a position to give us different "F" 20 percent and "F" 30 percent with exploitation pattern changes?

DR. STEVENSON: Oh, yes.

DR. PIERCE: In other words, a fishery that is taking advantage of the abundance of juveniles and the same one that may not be taking advantage of juveniles since it has a major impact on how much fishing mortality the resource can sustain.

DR. STEVENSON: That's a very easy analysis to do because the methodology is all there. We've got the programs. In fact, that's really a point I want to bring up here at the very end, is that the progress we've made with all of these assessments, the two assessments and this analysis, is that we have got methodology that we are happy with and we've got the programs and it's just a question of spending the time to do the analyses. That's an easy part. It's coming up with the methodologies that was the hard part. It's going to take -- by the end of the year, by the time you meet again, that will be done. That is an easier thing to do than particularly with this catch-at-age data. This is a much bigger job.

CHAIRMAN: Other comments or questions? Anyone in the audience? No.

I had said that we were going to take a break; but, since it's quarter of twelve, what I would suggest is we just go for a little while longer and then break for lunch. No further questions on the technical --

DR. STEVENSON: David, did you want a status update on 1997 landings?

CHAIRMAN: Yes. Please.

DR. STEVENSON: The last time we checked the vessel trip report data in Gloucester and practically all the boats in the herring fishery report, particularly the boats that are fishing offshore on Georges that are reporting on a regular basis to Gloucester in their trip reports, the last time we checked that, it was about 1,000 tons of herring reported caught out there in the spring. There have been a couple of boats fishing out there this fall again. The total catch is certainly under 5,000 tons. I would guess it's on the order of 2,000 to 3,000 tons for the year in Area 3.

CHAIRMAN: Okay. How about the issue of Canadian catch?

DR. STEVENSON: As to what they've removed?

CHAIRMAN: Yes.

DR. STEVENSON: I don't know what they've taken out the back. Gary Melvin gave me a number a couple of months ago, but I don't remember what it was. I think it was 1,000 tons. It wasn't much.

CHAIRMAN: They had agreed during our earlier discussions to not exceed 10,000 metric tons without consulting with us. So my assumption is that they --

DR. STEVENSON: That has happened on --  
Drew Kitts is here if you want to hear the bottom line on harvesting capacity, because he gave a report on that yesterday.

CHAIRMAN: Okay. Drew, do you want to give that report?

## HARVESTING CAPACITY REPORT

MR. KITTS: Just a quick update. I'm not going to spend too much time with this because I presented this report two meetings ago. But it was a preliminary report at that time and there were some questions about the catch rates that were used. Since then, I've gone back, and there were some coding errors in the data that I used for this report from the dealer recording it from the log book data. But, just basically, this is a summary of what happened in 1996, which was the baseline of harvest capacity for different types of herring vessels and then to try to identify what additional vessels existed in 1996 that could possibly move into harvesting herring.

So the major change was just on Table II -- I'm sorry -- Table III, a recording of average herring count per trip and the average number of trips for these types of vessels. The bottom line effective change of those numbers can be seen on Table VI, page 11, where it just summarizes some different possible scenarios. If the catch from -- what I reported last time was about 70,000 metric tons. If these additional vessels come in at the same rate, it has changed to about 131,000 metric tons. If those same vessels came in at twice the 1996 effort levels, I recorded before 139,000 metric tons. That is changed to 264,000 metric tons. Then there were some additional vessels there that were considered less likely to enter. Before, that number had been 38,000 metric tons. Now it's 70,000 metric tons. Now there's the possibility of additional vessels coming in and catching herring.

CHAIRMAN: Okay. Questions for Drew while he's at the mike? Any questions? Is there anyone in the audience? If not, thank you very much.

Obviously, you've got a range, depending upon what you want to believe will take place. The range goes from finding yourselves in a situation where we could potentially have a lack of harvesting capacity to having harvesting capacity that would be equal to long-term potential catch. Okay. Anything else? David?

DR. STEVENSON: Just a closing comment. This 100,000 tons, I just want everyone to bear in mind here that we don't have any numbers to refute it yet, but remember that the maximum sustainable yield estimate of 285,000 tons from the coastal stock complex, if we -- and this was done a couple of meetings ago. If you apply 25 percent of that to Area 1, as you all have done, an IWP (inaudible) you get 70,000 tons for Area 1. The decision to set a target TAC of 100,000 tons for Area 1 I think was based on the reality that long-term sustainable yield for Area 1 may be under 100,000 tons. But, currently, the stock size is larger. It's big for the stock complex. Therefore, 100,000 tons might be an acceptable figure.

But I think we all need, as we proceed with these discussions, we need to bear in mind that 100,000 tons is a target TAC; but, when we get some numbers for Area 1, the Gulf of Maine stock, or even looking at the MSY long-term sustainable yield situation, we may well be faced with a situation where we are going to have to cut back on the current domestic fishery. So we've got to keep that in the back of our minds as a possible reality here.

CHAIRMAN: Okay. Committee comments to that point? Artie?

MR. ODLIN: I just want everybody to realize that the 100,000 is including New Brunswick landings. So that is --

DR. STEVENSON: Well, it was only 15 last year; but it's been that high, you know, in the recent past.

CHAIRMAN: Okay. Any other Committee comments?

DR. STEVENSON: The New Brunswick catches would

come off the top for the TAC, Artie; but removing them from the catch-at-age data, it will change the assessment and the biomass estimate. You have to look at the two together. You can't look at just the one in isolation.

CHAIRMAN: David?

MR. ELLENTON: Dave mentions the MSY of 285,000 metric tons; and everybody has some degree of comfort with that as a maximum sustainable yield long term. What he hasn't said today and what he has said on a number of occasions is that in the short term, there is a substantially higher quantity of fish that can be caught and should be caught. So I don't want us to get into a trap of accepting some --

DR. STEVENSON: Maybe not in Area 1.

MR. ELLENTON: Everything is "maybe." But, in the past, we have had comments from the PDT that there are substantial stocks of fish out there, that the MSY is an MSY. It's a long-term sustainable yield. In the short term, it may even be beneficial to that sustainable yield to actually catch the fish.

CHAIRMAN: Peter?

MR. MOORE: Peter Moore, Resource Trading. On the short- versus long-term MSY, why do we apply a 20- to 25-percent figure to the long-term MSY but not to the short-term MSY? In other words, you're saying that we're looking at 280,000 tons in the MSY long term and, therefore, approximately 20 percent of that could come out of Area 1. Why wouldn't that ratio hold if we are looking at a very large stock right now of 540 in the short term? Do you understand my question?

DR. STEVENSON: Well, the Section did apply that same fraction for Area 1 in making out the allocations.

MR. MOORE: Right. It yielded 108,000 in April of '97.

DR. STEVENSON: Right.

MR. MOORE: So all I'm getting at is that if we are still using the 540,000 and we're on a short-term basis, are we considering that?

DR. STEVENSON: Well, I think that's where the 100,000 tons came from, the realization that currently the stock size overall for the stock complex is larger than it might be on a long-term sustainable basis.

MR. FREEMAN: The goals talk about, in addition to the removal by humans -- a number of issues it deals with, which is maintaining the biomass that supports ocean ecosystems, better consumption and then biological sustainable harvest. My question to you so far is this whole issue of prey species, has the Technical Committee looked at specifically addressing those issues other than the human element? This is one where there could be a substantial amount of the resource essentially utilized as a prey species for many other organisms in the sea.

And then the other question is, technically, under our natural mortality, that would be made up of predation as well as disease. Are you essentially -- from the technical side, are you accounting for predation and natural mortality and do you anticipate petitioning the natural mortality between disease and predation? I guess what I'm asking, does this pertain to the goals of the plan, which I'm really confused as to how we are going to address those. It sounds great. But my question is how technically do you propose or does the Committee propose addressing those issues?

DR. STEVENSON: Well, that's sort of what I was speaking to before when we were talking about natural mortality rates. Unless we can find some data or some information that would allow us to evaluate what predation mortality is or whether there are more predators eating herring in the ocean now than there were five or ten years ago, it would be very difficult to do anything other than continue to apply that natural mortality rate point to in the assessments, which does account for all sources -- I shouldn't say "all sources" -- of natural mortality, including predation.

Predation would probably be the major source of natural mortality.

If anyone has any suggestions, it's kind of a data-collection issue. We had not planned to do anything other than I think review the literature. There is some literature out there on consumption rates of different species, marine mammals and sea birds. We should probably look at that in order to see if there is anything that we can glean from that that would shed any light on these natural mortality rates. But, beyond that, I'm not sure where to go with it.

MR. FREEMAN: Well, Mr. Chairman, the reason I ask it is because it goes at length in the goals as being one of the provisions. And I'm just curious as to how we will address that. I'm not critical, because I know it is going to be a difficult issue. My question is has the Technical Committee come up with some miraculous solution? Apparently not. But I think there needs to be discussion. Of course, that's on the agenda for later in the meeting.

CHAIRMAN: Anything further? Yes? Can you stand up and go to the mike, please?

DR. ARMSTRONG: Mike Armstrong, Mass. DMF, member of the Technical Committee. To just clarify a little bit, although we haven't looked at the issues directly in terms of predation, the surplus production model looks at the whole population for the last forty years. It calculates the intrinsic rate of growth which is the result of mortality, of fishing, of disease, of good year classes, bad year classes. So it is -- the MSY that's generated from that incorporates everything that is going into making the population what it is, including disease, at periods when the fishery was very heavy and periods when the stock was collapsed. So, in an indirect way, we are addressing the whole ecosystem approach. I mean, that arc includes whale species. It includes everything. So we are addressing the question, actually.

CHAIRMAN: Go ahead, Bruce.

MR. FREEMAN: What it appears to me is essentially looked at what the results have been in hindsight. The question is we did nothing, we essentially did very little. And that's just the way it appeared to -- the fishery appeared to be prosecuted and whatever was produced, whatever died, so happened. The question is are we now going to take some action to try to maintain specific levels -- includes plans that are coming down the line, particularly for foreign species. There is going to be some action to make certain that there is some quantity that is available. I think that's the real key issue. We have not done it before.

DR. ARMSTRONG: Right.

MR. FREEMAN: And it is a complicated issue. I'm not trying to indicate there is a simple solution; because, quite frankly, we have been having difficulty dealing with what we thought were fairly straight matters. Now, when you go beyond simply the direct targets, it becomes very complicated.

DR. ARMSTRONG: Although the 285,000 metric tons, which the model is currently saying, is a sustainable level. That's the harvest. The stock size is much larger. And that's in the face of being eaten by other species, by fish or by whales, and being fished by man. You can arbitrarily say, well, we want more than that sustainable level. You know, that's a question we have to address.

MR. FREEMAN: Well, if I may, I think also the issue is if, in fact, stocks that were traditionally extremely dependent or certainty dependent, we're uncertain whether extreme or not, on this as a forage or as a food source are essentially considerably lower than what they once were and you could simply argue, well, since they're low, you could actually increase the harvest because there's not enough there to feed on as a prey species. I mean, the prey species is far in excess of what is needed for that particular species. So it works both ways.

DR. ARMSTRONG: Yes. I think it gets very complicated. You know, many stocks carried on just fine with the Georges Bank herring stock collapse. You know, sand lance came on strong. And so you can't just pull up herring like they're in a vacuum.

MR. FREEMAN: I understand what the issue is. I think it is a new frontier so far as what we've been dealing with in the past. I understand there is no simple answer to it. But I think the Board needs to look at this issue and see how we proceed. It may simply be maintain what we have with the expectation of trying to work out some of these issues later on. This is one of the major components of the goal and has to be addressed.

DR. ARMSTRONG: The stock size that would be maintained in MSY would be larger than what's been out there for twenty years. That is something to consider. That is probably enough to sustain the stocks of fish that are at an all-time low right now. I mean, you've got to think herring is probably artificially high because of what we've done to the other predators.

CHAIRMAN: Okay. I think we will break. Why don't we get back at one o'clock. Thank you.

(Luncheon recess.)

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#### AFTERNOON SESSION

CHAIRMAN: Are there any other comments relative to the Technical Committee report before we move on to the Advisory Committee report? If not, we will take the Advisory Committee report. Artie.

#### **ADVISORY COMMITTEE REPORT**

MR. ODLIN: Thank you, Mr. Chairman. I take it everybody has a copy of what went on at the meeting of November 3rd. There were some changes done yesterday. The first item was the Gulf of Maine should be changed. It should be divided into two sub-areas for fisheries management. We did that at the first meeting. Yesterday, it was modified. The northeast, southwest small mesh exemption line, extending it down to where it comes down about the highlands -- which has added probably 20 miles. That was just for management purposes. The inside area would be Area 1A. The outside would be Area 2B, as it stands now -- Area 1B. That was a change that was made yesterday.

The next item we were recommending was 80 percent -- when 80 percent (of the target TAC; ed.) the fisheries should be closed for all harvesting vessels for one day each week or possibly two consecutive days. That was again discussed yesterday. There were some problems with the percentage. So nothing was resolved there.

The third one was the PDT should identify as many discrete spawning areas as possible in the Gulf of Maine and close it for a length of time to adequately protect it. That was discussed at length. And, if you look at that chart, what the Committee or the PDT did yesterday was to start from the very northeast and follow down, which is a groundfish protection area. And, when it gets down to where it says, "Small mesh," then it gets stepped down to where it comes to shore just below Cape Ann. That would be what we propose as a spawning area. That was suggested as spawning area, state spawning areas in Maine. In the State of Maine, five weeks. Then we would have a complete closure in that area.

The reason for this, is it allows the boats to fish down off the Cape somewhat during that period; and it also allows Maine boats to fish off just outside the 50 fathom line. The small mesh exemption line goes 40 miles out. So you can see where the other line would be. It was pretty nearly impossible for anybody to come up with discrete spawning areas. This would encompass all

of the areas that we know of with the exception of Cashes Ledge. This would take in New Ledge and two or three others, Jeffrey's, included.

The third one was to recommend that the PDT should analyze on both a biological and economic basis for the impact of a of herring spawning closure to mobile bottom tending gear. That was, I believe, a motion that was made at the Advisory Panel meeting.

The next one was -- it was essential to the advisors that before a "hard" TAC was established for the inshore area in the Gulf of Maine, effort would be limited to those that had a Gulf of Maine small mesh authorization letter in 1996 or 1997 and/or landed herring from the Gulf of Maine based on logbook data.

The next item was harvesting vessels should be limited to 165 feet. I think the motion this morning that was voted on takes care of that.

Another suggestion or recommendation was the PDT/TC should analyze the impact of the 165 foot length overall limitation on development of an offshore fishery that would promote maximum shoreside utilization and number of participants in the fisheries. I note there that participants would be number of vessels.

Catch sensors should be mandatory for any pair trawlers operating in the herring fisheries.

The next one -- I think we took care of this morning, directed mealing.

There should be no spawning closures on Georges Bank until further analyses are provided.

Mandatory reporting of all herring catches to be a requirement of the FMP. The fishing year should be defined as January through December. That was all the action -- we had some other discussions but nothing resolved under deliberations.

CHAIRMAN: Pat?

MR. WHITE: Just a question. I think at our last meeting there was a discussion about having the maximum foot and horsepower restrictions be the maximum for pair trawling. You said it was not discussed. Was there any indication on how the Board AP; ed.) felt on that?

MR. ODLIN: We did have a discussion on pair trawling but the only thing we came up with was sensors at this point. I think pair trawling is probably lumped into 165-foot criteria of what should be appropriate for the offshore fisheries, if possible.

CHAIRMAN: Tom.

MR. NIES: When the advisors talked about the 165-foot -- the question was asked whether that applied to individual boats or whether that applied to fishing unit? The explanation was a fishing unit would be two boats, pair trawling. They did not make any recommendation for anyone that's on pair trawling.

CHAIRMAN: Other questions for Artie? David?

DR. PIERCE: Artie, the chart that you've passed out that shows the suggested closure and suggested -- well, actually, the one I've got is the chart given to me by David Stevenson and apparently is pretty much the same as the one -- so I'm not sure what chart I should look on. I assume it's this one here (indicating)?

MR. ODLIN: Yes.

DR. PIERCE: Okay. Now, where it says, "Suggested Inshore Area 1," where it says, "Suggested closure" -- let me take it this way. The advisors recommend 80 percent of the target TAC -- the fishery should be closed for at least one day each week or possibly two consecutive days each week. This closure, would that pertain to the area that's shown on -- in other words, the boats would not be allowed to catch herring from the area that's outlined and call it suggested closure?

MR. ODLIN: Yes. Just for management purposes, only,



nothing to do with spawning.

DR. PIERCE: I'm having trouble following you -- following the Advisory --

MR. ODLIN: It is rather convoluted. Basically, the spawning line would be halfway from the small mesh exemption line into the Maine coast. It's a line that's already drawn there for proper management --

DR. PIERCE: That's not on this chart.

MR. ODLIN: I doubt it. Do you want to take a look on this one here?

## PLAN GOALS AND OBJECTIVES

CHAIRMAN: Other questions for Artie? Anyone in the audience? Okay. I guess we will move on. The next item on the agenda is the management strategy. I think the first thing we should do is take up the plan objectives. As I understand it from the last meeting, all of the goals and objectives were approved with the exception that the last two were not finalized. So I think what we should do is to have a general discussion of any of these points, attempt not to refile the same ground you went over at the previous meeting. And, if there isn't a lot of objections, then what I would suggest is we have a motion to approve these, recognizing the fact that they will be modified, can be modified at a subsequent date, depending upon the developments of the Committee to look at. So discussion on any of the goals or objectives? Steve?

MR. DRISCOLL: I'm concerned about the acronym TAC. I would like to see us come up with two different acronyms for either total allowable catch or target allowable catch because it's confusing, as I will explain further tomorrow. So I don't know. I would suggest TRAC for target and TOAC for total allowable catch.

CHAIRMAN: Comments to that suggestion, anyone? No comments. David?

DR. PIERCE: I can understand the need to make sure there is no misunderstanding, but there is no reference to TAC in the goals and objectives, I don't think. So that's another issue.

MR. DRISCOLL: I'm sorry. Are you reading from the agenda or -- I will bring it up tomorrow.

CHAIRMAN: Well, what I would suggest is, Steve, is rather than wait until tomorrow, all you're going to have to do is wait about five minutes; and on the agenda you've got TAC. We will get into that. Other comments on the goals and objectives? Bruce and then Eric?

MR. FREEMAN: I have two comments on the goals. One I essentially threw out prior to our lunch break; and, that is, in the middle portion of the text of the goals, again, it talks about the food production provided by the herring, providing opportunities certainly for harvest consumption. And, of course, it also has two lines talking about protection of the ocean ecosystem and then maintenance of biomass that supports the ocean ecosystems and predator consumption of herring.

My concern is, I think, is the vote of the goals, and I think that the way they are presented are fine; but the plan essentially doesn't address those issues, and they are complicated issues when you get into the ecosystem. There needs to be some strategy on how we will deal with that. As what I heard from David Stevenson earlier on, the plan development team apparently has talked about this to some extent, but it appears to me that there needs to be more attention given to them in a plan and how they will be addressed. Sooner or later, we're going to have to deal with it. I don't have a solution on how they're going to be addressed because, again, I think they're complicated. But I do believe that the management team, plan development team, rather, or someone

needs to give some thought as to a strategy of how to address these issues because sooner or later we will have to.

CHAIRMAN: If I understand your point, Bruce, is you're not objecting to the way the objectives are characterized now. It's just you're raising the issue of how are they going to be -- how is this issue going to be --

MR. FREEMAN: Although we talk about them in the goals, the rest of the plan essentially is silent on how we are going to do -- what we're going to do with them.

CHAIRMAN: Would it satisfy you if, in fact, we had a section in the plan where there was some discussion of this issue as was done here earlier?

MR. FREEMAN: Yes. I think there needs to be David, or at least lay out some strategy of what types of information we need to have in order to better address them. But, since it's a goal of the plan, it essentially kind of -- these are laudable goals. The rest of the plan is silent. There would need to be some discussion.

CHAIRMAN: Dave Pierce?

DR. PIERCE: It might be helpful if the Council staff could investigate this a bit to determine if there are any other plans that specifically deal with this question of keeping available enough, whatever that may be, of prey species. I don't think the menhaden plan deals with this issue, and certainly there is a similarity there. Menhaden is an important prey species. So that would be, I think, something that would help us out with regard to putting the text together that would be part of a section addressing this issue specifically.

In terms of how we would deal with this important issue, I tend to take a very simplistic approach because I know of no other way to deal with it, deal with this issue of predator prey relationships and keeping enough prey available for forage. I tend to adopt the attitude that if we can somehow be successful in preventing over-fishing, then the situation will almost take care of itself. The resource is not being depleted. It is being kept at some desirable level. Hence, it's being shared, so to speak, by those fishermen who pursue the fish and by those animals that are out there acting as predators. Again, it is a very simplistic approach. But, if we can accomplish those over-fishing -- if we can prevent over-fishing, then that's a significant step that we've taken and it will benefit all users of the resource.

MR. FREEMAN: David, if I can?

CHAIRMAN: Go ahead, Bruce.

MR. FREEMAN: I think at this point, Dave, the resource is quite large. Whatever we do in developing the fishery or managing the fishery, we have an opportunity now to do -- we have quite a bit of flexibility. The concern is not to overdevelop the fishery to a point where then we have to put restrictive measures in place. I think in this fishery, at least, we are in a very envious position. My concern is that we start to address some of these issues. I don't necessarily disagree with the simplistic approach. My concern is that we need to lay out some strategy of how we're going to deal with it. It could be argued, for example, that the mortality of herring could be accounted for in a random -- in actual mortality as, in fact, various preys -- predatory species feed upon herring, we may find the "M" or natural mortality to essentially increase. We may not have to do anything because it's essentially accounted for before we have an opportunity to catch the fish of the size we want. I don't know. I mean, that's a possibility.

My only concern is that there be some mechanism to start addressing that issue because it's going to have to be addressed. And that's put right up front as one of the goals. Again, simply, the plan remains silent; and it needs more than that. So I'm open to that, and I think the Board should make any suggestions and perhaps the staff could try to deal with that issue and come back

with possible scenarios of how we address it.

CHAIRMAN: Tom?

MR. HILL: Thank you. Just as a follow up to that, and this really is a technical question. Is it not presumed that in establishing long-term sustainable yield or maximum sustainable yield that you take into account the predation and other related mortality in the fishery? And, if that's the case, are we then not -- if that is the case, why, then, are we not just looking for a description of how we're establishing our maximum sustainable yield figures as the supporting documentation that takes into account Bruce's concerns?

CHAIRMAN: Comments? I would agree with you if nobody else is going to agree with you. I think that was the point being made earlier. Eric, did you have your hand up earlier?

MR. SMITH: Yes, but I resolved my question.

CHAIRMAN: Okay. Other -- let me just try to focus this -- comments specifically on the two new objectives? John?

MR. NELSON: I'd like some clarification on No. 10, anyway. It seems a little nebulous to me. We are looking at utilizing the resource in a manner that maximizes social and economic benefits to the nation. I guess I need to know what are we talking about as far as maximizing and is it to the nation or is it just we're looking to provide social and economic benefits, period? What is the rationalization for maximization and also is it accruing to the nation or is it accruing to the commercial sector?

CHAIRMAN: Who is the individual that put this new one forward? Nobody? Nobody. So nobody wants to own up to it. If there isn't an answer for your question, I suggest we just take it off the list.

MR. NELSON: I don't have a problem with it in here, Mr. Chairman, if it says something to promote the utilization of a resource in a manner which provides social and economic benefits, something like that. I'm not sure what maximization means. Is that taking into consideration the ecological considerations that we already had a little discussion on? Where is the social and economic benefit status on this?

CHAIRMAN: All right. Not to ask a rhetorical question, but is it possible to get a fishery management plan through the process that does not promote social and economic benefits?

MR. NELSON: That's why I would agree to leave it in. But I'm just wondering about the maximization; is it to the nation or is it to user groups. To the nation sounds like the flag --

CHAIRMAN: Okay. Comments as to whether or not you want to leave this in or change it? David? Or delete it.

DR. PIERCE: I'm trying to recall how this objective came about. I think it's an objective that is a carryover from previous objectives that we set for ourselves. I believe that the intent of this objective is to focus attention on how herring is used. In other words, to maximize the social and economic benefits to the nation, do we do so by developing management strategies that favor that segment of the industry that involves more shoreside production than another aspect of the industry in the juvenile fishery versus the adult fishery?

I think that this objective has a long history behind it. And, when it was developed many eons ago, I think it was developed in large part to provide a good reason for the scientists, the social and economic scientists, the Northeast Fishery Science Center, specifically, to spend some time digging into the database and helping us get some answers to these questions; where is the greatest benefit and should we favor, as I said, that part of the industry that has more shoreside involvement than some other aspect of the industry. That question has not yet been addressed as far as I know. I'm unaware of any analysis that may have been done by the Northeast Fishery Science Center Economic Unit that would have provided us with these insights.

Certainly there have been participants in this process who have brought forward valuable economic information. The Maine Sardine Council, Jeff Kaelin, in particular, has brought forward information to help us deal with the specific issue. And I imagine a lot of that information will go into the Council plan to just document the value of that segment of the fishing industry. But I don't think that there are many other analyses available for us to use. I would like to believe that the Center has been able to make some progress on this issue and we can tap into that analysis however far it is along in its development.

So that, I think, is the history behind this particular objective; and, as a consequence, I think it could be left in there if for no other reason than to continue to draw attention to the fact that we need to address this particular question.

CHAIRMAN: Bill?

MR. ADLER: I am in no way opposed to this in there. But I was just wondering if utilization of the resource, to promote utilization of the resource to maximize social and economic benefits conflicts at all with any of the other objectives because to promote utilization of the resource to the point where it maximizes social benefits, wouldn't that mean that you catch as much as you can in order to make things better for the social and economic benefits and would that conflict with any other objectives that might say that you have to restrict the catch for a good reason? And I didn't know if that flies in the face of another objective at all. It's not that I'm against this, but I question that part of it.

CHAIRMAN: Does anyone want to respond to that? Bruce, did you have your hand up? Go ahead.

MR. FREEMAN: I didn't know if you were through with Bill's part of it. He asked a question. Are you satisfied with the answer?

MR. ADLER: What answer?

CHAIRMAN: There wasn't an answer.

MR. ADLER: I'm just noting that I wonder if.

MR. FREEMAN: I'm assuming nine and ten were simply submitted as possible alternatives or possible conditions. Is that a correct understanding?

CHAIRMAN: Having not been there, somebody else is going to have to comment on that. Joe?

DR. DESFOSSE: No. 10 is definitely a carryover from the current ASMFC plan that was tabled along with No. 9 at the last meeting because we couldn't resolve whether or not to include them in this version of the plan.

MR. FREEMAN: Okay. That answers my question. I was not able to attend the last meeting. So I wasn't sure how this got in here. I'll just give you my position on this. I think, again, from what I've been hearing, more or less as an outsider, because, obviously, herring is an important fishery that has been -- particularly in the North Shore of New England and the Gulf of Maine for a long period of time, particularly the sardine fishery. It seems to me that there could be a combination of nine and ten into one statement. I believe that could be done since I think maximizing the use of the product, I think, is a very laudable goal. The issue seems to be between shoreside versus at-sea processing.

If, in fact, we essentially combine these to read something where we would utilize the resource with one of the goals or one of the objectives in mind to have a value-added product it's something I think everyone could agree to. And, to get away from this, let me just make a suggestion that some of the wording that I've looked and seemed to overcome this problem is to promote the use of the resource in a manner which maximizes value-added production -- I'm sorry -- that maximizes value-added product utilization and thus optimize the maximum social and economic benefit.

I think from a state perspective, indeed, if you can add any

product utilization, any type of continued processing, the value to the state goes up tremendously. And, whether you did this at sea or at shore, I think the advantages would be something that would be very desirable.

CHAIRMAN: Eric?

MR. SMITH: I had gone through the notes a moment ago trying to figure out, you know, where these came in. We had some discussion about not seeing maximized value added. That's why I ended up encouraged. It strikes me that these are going to have to go public hearings. We have a lot to talk about on the effort. I would suggest we just leave them there as they are for now.

MR. WHITE: So moved.

CHAIRMAN: Bill?

MR. ADLER: I just want to throw this on the record, if I may, on No. 10, that if the words after utilization of the resource available for harvest -- somehow that might take care of the concern I had. But I'll just leave it hanging in the air "available for harvest" added to No. 10 in some form or fashion might solve the problem. Thank you.

CHAIRMAN: Okay. Gene?

MR. MARTIN: No. 10 is perhaps a little problematic as far as the Magnuson Stevens Act, national standard, because it states something that could be construed as being inconsistent with the National Standard I, which is to promote optimum yield from a fishery which is defined as the greatest overall benefit to the nation on the basis of MSY that it be reduced by social and economic factors and to promote the fishery in a way that it maximizes social and economic benefits to the nation doesn't quite fit with that language. It's possible that it wouldn't quite fit with that language, depending on -- because of the definition of optimum in National Standard I.

So, you know, there may be ways to say -- that gives a little more flexibility such as to promote the utilization of the fishery in a manner consistent with achieving the greatest overall benefit to the nation in light of social and economic benefits, or something like that, as opposed to just maximizing, which seems a fairly definitive or -- I can't think of the particular word here -- but a word that requires -- does not allow as much flexibility in what constitutes maximization.

CHAIRMAN: Okay. Going back to Eric's suggestion which was to leave them this way and essentially endorse them, let the public comment on them, do you want to do that or do you want to change them? I have no particular preference for either course of action. But I think his point is well taken and we ought to move on. Yes, Alan?

MR. WEISS: I'm not trying to -- I think the intent of Items 9 and 10 are well covered under the first paragraph and probably that should suffice for this purpose. In my opinion, No. 9 and 10 can be deleted, particularly in light of what Gene Martin just said, I would be concerned with putting out for public hearing anything that may be contrary to national standards. I think that's problematic and probably should be resolved before it's taken to the public.

CHAIRMAN: Okay. There was another hand over here. Tom?

MR. HILL: Thank you, Mr. Chairman. Although I wouldn't disagree with Alan, I would agree with Eric that I would hate to spend a significant amount of time this afternoon talking about goals and objectives when we really need to establish the skeleton or the outline of the management measures that we are hoping to move forward with so the staff can get at doing their job and helping getting a draft together. To that point, I-- and I have some difficulties, as I voiced at the last meeting, regarding one of the goals. But I wouldn't want to spend a significant amount of time today. I would rather either address it in the Council forum or

during the public hearing process and have people articulate their view of the overall document at that time and address those issues when we get from public hearing.

CHAIRMAN: Let me ask this. Do we have any objections to leaving No. 9 in? No one objects to it? Alan. So we have one objection. Do we have any objections to leaving No. 10 in? Two objections. I think, so the record here is -- it's quite clear how the vote will go, if representative of that poll. What I would suggest we do is proceed with a motion to adopt these as tentative goals and objectives.

MR. WHITE: So moved.

MR. DRISCOLL: Seconded.

CHAIRMAN: We have a motion made and seconded.

Discussion on the motion? Bill? It's made by Pat and I have Steve Driscoll as the second; is that correct? Discussion? Bruce?

MR. FREEMAN: The way the motion was made it includes the goals, and I also have a comment on the last sentence of the goal. I have no problem leaving these in and going out for public comment. But, essentially, the last sentence, "To provide controlled opportunities for fishermen and vessels and other fisheries in the Northeast," I think certainly there is high probability that fishermen in the Northeast would become involved in this fishery. But to essentially include only that geographical area is, I think, somewhat shortsighted. It probably would need to be expanded. And I would move to amend that to provide controlled opportunities for fishermen and vessels in other fisheries, period, and stop it after "fisheries."

CHAIRMAN: Okay. Is there a second to that motion on that? Is there a second?

MR. WEISS: Seconded.

CHAIRMAN: Seconded by Alan. Discussion on the motion to amend? Eric?

MR. SMITH: This is frustrating. I've been on both sides of this kind of thing before. We had a lot of discussion at our last meeting. Unfortunately you weren't here when we talked about that. I wish I could find it right away in the minutes. But we concluded with the discussion that this language was appropriate. Now we are going to go over that same old ground and that same old discussion again, which I find very frustrating. We are not voting on a final plan to go out. We are voting on something to form the basis for development for the rest of the plan. I would hope we could just leave this document the way it is and move on.

CHAIRMAN: Okay. We have a valid motion to amend on the table. Comments on the motion to amend?

MR. FREEMAN: This would be the last sentence under "Goals." It would read, "To provide controlled opportunities for fishermen and vessels and other fisheries," period.

CHAIRMAN: Okay. Further discussion on the motion to amend? Alan?

MR. WEISS: This is a question for Gene. Does limiting to the Northeast present a national standards problem or would it likely be okay?

MR. MARTIN: Is this meant to -- where it says, "To provide controlled opportunities for other fisheries," I guess I'm not sure what that means. Does that mean that this plan will somehow -- does that mean fisheries not related to herring? I'm not sure what this is meant to do.

CHAIRMAN: Dave Pierce?

DR. PIERCE: I think the message that has been sent to the industry by states as well as by the federal government is that for those boats that are seeking a way to ease some of their problems, their economic problems, those boats that are faced with increasing restrictions within the groundfish fishery, that there should be other opportunities made available to them. Herring has always come up as the species of opportunity. It's been

recognized, of course, that it's not easy to get into a sea herring fishery. There is a lot of expense to get the necessary gear to make it a go. It's been recognized that the sea herring resource in the Gulf of Maine, certainly, is not an under-utilized resource. Clearly, that's not the case. However, the herring resource has always been touted as being as a good opportunity. The word "control" is in there, I believe, to make the statement that this is not just -- herring is not to provide an opportunity for all fishermen vessels and other fisheries. It's to provide a controlled opportunity, a controlled opportunity that would have to be developed by us. To what extent would we allow participation in the herring fishery by those groundfish boats, for example, that don't have any history of being in the sea herring fishery but not just groundfish boats struggling to deal with the serious restrictions that are on their livelihood now. Groundfish was the focus, as far as I can recall.

CHAIRMAN: Dennis?

MR. ABBOTT: Thank you. I didn't see any problems with the sentence because, as I read the sentence, it says the opportunities are in the Northeast for fishermen and vessels in other fisheries. So, if you read this sentence, I think the opportunities are in the Northeast and, therefore, fishermen and vessels in other fisheries.

MR. SMITH: If I may, I have a question.

CHAIRMAN: Go ahead.

MR. SMITH: The genesis of this was a proposed objective that said to provide opportunities for people displaced in the groundfish fishery. And that's what people, lots of people, have a lot of difficulty with. So we broadened it. And, without trying to make it everywhere in the world opportunity, the thought was you don't want to have all of these little boxes where you're in, you're out, you're in, you're out. But, if you look at the whole complex of Northeast fishing opportunities, as Dennis correctly points out, that was what people tried to capture by revising this from displaced groundfish boats to Northeast fishery opportunities.

So I would suggest if Northeast fishery opportunities mean somewhere mid- to South Atlantic to the Canadian border, it's a goal statement, first of all. It's not even an objective. It simply sets a frame of mind that we want to make the whole fishery of the people that likely have come in contact with Atlantic sea herring in one type of fishery or another or would have in their fishing opportunity, make it available if we can do so. So I favor the way it's worded now and not to the amendment.

CHAIRMAN: Bruce?

MR. FREEMAN: I can appreciate certainly the concern that you have to deal with in the Northeast particularly with groundfish. But bear in mind that this fishery exists from the Canadian/Maine border down to North Carolina. There are fishermen in the middle Atlantic area that have been fishing for herring and are starting to concentrate more on that species. And I think it ends up being very parochial just to essentially confine it to Northeast fishermen because fishermen throughout the range are looking for additional opportunities. What I am simply trying to do is essentially broaden that statement.

CHAIRMAN: Jack?

MR. DUNNIGAN: Bruce, you're making the assumption that Northeast means New England. The middle Atlantic -- I think you may be reading a lot more into this than was ever intended.

MR. FREEMAN: Well, if I may, Mr. Chairman, that may be. Perhaps it's the understanding of what the Northeast means. And, if the Northeast goes from the Canadian border to North Carolina, that may be appropriate. But there is no indication of that.

CHAIRMAN: Eric?

MR. SMITH: Well, I agree with what Jack said. I repeat my side comment to Bruce. That was exactly the discussion we had

on October 7th, that the Northeast included the places where Atlantic herring go and the people who might have come in contact with it. If somebody quickly can find a way to ease his pain, I would love it. But we were not excluding the Mid-Atlantic or the South Atlantic. We were saying that herring is in the Northeast of the United States and those are the opportunities we intend to capture for everyone.

CHAIRMAN: Okay. Any other comments? Steve?

MR. DRISCOLL: Maybe you can just call it Atlantic rather than Northeast, Atlantic coastal, in some way.

CHAIRMAN: Alan?

MR. WEISS: Well, Gene, can you answer my question now that you've heard the discussion that has evolved?

MR. MARTIN: Your question is does this conflict with what overall benefit to the nation? I mean, this seems -- one can interpret this to mean that you're aiming at providing these opportunities in the herring fishery to fishermen in the Northeast, which by implication means the general goal is not to provide these opportunities to fishermen from other parts of the nation. I don't think that, per se, conflicts with the greatest overall benefit to the nation because I think that's referring to, as much as anything -- and so forth, not necessarily who you provide opportunities to because you have limited access fisheries all over the place that are basically limited to people that have fished in that fishery. I don't think this is a statement that goes that far, but one could read it to be exclusive of a lot of opportunities to anyone but people that have a history in the Northeast. So the answer, I think, is no, it doesn't necessarily run afoul of the national standards.

CHAIRMAN: My suggestion is for the vote that we interpret Northeast as including both New England and the Mid-Atlantic area, all the waters north of North Carolina, and that if, in fact, the main motion passes, then we take this and refer it to NOAA general counsel's office and ask them to review it and see if it's consistent with the SFA requirement before we take further action on it. Bruce?

MR. FREEMAN: My concern is essentially it's going to carry over to the next meeting. Tomorrow we talk about lobsters where we have a northern New England and a southern New England. We have it broken down into geographical areas. And, in relation to Jack Dunnigan's statement, it's not understood certainly by me and I suspect others what the Northeast covers, because we use it very differently in all our plans. There is no universal understanding of what the Northeast is. I still feel that it should be changed and will vote for the motion.

CHAIRMAN: Okay. Anything new?

MR. SMITH: Yes.

CHAIRMAN: Eric?

MR. SMITH: I have the same concerns as you do. Perhaps instead of Northeast say throughout the range of the Atlantic herring resource, U.S. range of the Atlantic herring resource.

CHAIRMAN: That includes Canadian waters.

MR. SMITH: Fine. I appreciate that point. The U.S. range of Atlantic herring.

CHAIRMAN: We have a motion to amend on the floor. I would suggest we vote on the motion to amend unless someone wants to change it or delete. Dave?

DR. PIERCE: Bruce, would you be satisfied if we just changed the words so it would read, "To provide controlled opportunities for fishermen and vessels in other New England and Mid-Atlantic fisheries"? So you can withdraw your -- so if you would go along with that word changing, that word change, because Northeast is New England and Mid-Atlantic, as Jack -- to clarify it, let's say, New England and Mid-Atlantic fisheries. You withdraw your motion to amend, and then we can just vote on the main motion.

CHAIRMAN: Okay. So, if I understood, does the seconder agree to that?

MR. DRISCOLL: Yes.

CHAIRMAN: Okay. So now we are back on a main motion that's been perfected and the perfection is that it reads, "To provide controlled opportunities for fishermen and vessels in other Mid-Atlantic and New England fisheries." Okay? Are you ready for the question? No further motions to amend? Does anyone in the audience care to comment on this? All right. Let's take the Council vote, all Council members, including our member from the Mid-Atlantic. In favor of the motion, signify by saying "aye." (Ayes.)

CHAIRMAN: Opposed, abstentions? The motion carries unanimously. Atlantic State Marines Fisheries Commission vote. I think we need a roll call. No? All those in favor, raise your right hand. We will do it differently. (Hands.)

CHAIRMAN: Opposed? No one opposed. Any abstentions? Motion carries unanimously. All right. Now we've gotten through the easy items. According to the agenda, we are going to deal with the issue of proposed allocation process flow chart. Who is going to discuss this?

### ALLOCATION PROCESS

MR. NIES: One of the questions that was asked of the PDT at the last Committee meeting was the suggestion to take a look at the allocation process, the need for a new flow chart. The PDT took a preliminary look at it yesterday, and they did not come up with a revised wording of the allocation process. There has been some discussion to separate the adult and juvenile catch. There was some discussion about whether they should be combined. The PDT did not come up with a new flow chart.

CHAIRMAN: Okay. Since we don't have a PDT recommendation here, Committee comments on it? Does anyone care to comment on this? Dave?

DR. PIERCE: I can understand the logic of subtracting Canadian catch from the TAC, to then create a TAC that U.S. fishermen would have to live with. I can understand the logic, but I don't agree with it. I would much prefer to have us not subtract the Canadian catch from whatever ABC has been established. I think that puts us really in a bad position come time for negotiations with our Canadian partners in terms of getting them to go along with some strategy we may want them to support for further restrictions for the Gulf of Maine resource. It is a procedure that we always seem to use in managing fisheries in New England, just determine what the Canadians are going to catch and then subtract it off the top and that's it, so be it. That's the easy way out, certainly.

But, in terms of its impacts on U.S. fishermen, its fairness for U.S. fishermen, I don't think it's appropriate. So I would support at this point in time not subtracting the Canadian catch, recognize what the Canadian catch might be, the implications of that Canadian catch, and then work with our Canadian counterparts to have them live within some TAC, recognizing that that may be difficult for them to do since the TAC is not hard and fast. That, I'm sure, will be the first point that the Canadians say if we ask them to somehow restrain their fishery in the New Brunswick wier fishery, for example, or downeast Maine. So I'll stop there. I'd just prefer to see the Canadian catch not subtracted off the TAC in the Gulf of Maine since the TAC potentially will already be relatively low in the Gulf of Maine, and I'd hate to see it drop any further to accommodate a Canadian catch that we can't control.

CHAIRMAN: One of the -- and this, actually, is a counterpoint to what David said. But one of the issues that I think

we should probably have a discussion of is whether or not we are going to design a TAC for the fishery as a whole or whether or not we are going to have area-specific TACs. I realize that there's been a great deal of effort to date that's been placed on this concept of having a TAC for the Gulf of Maine. But, given the discussion that we had earlier -- and I'm not trying to put words in David's mouth -- but it seems to me that there is a great deal that we don't know and don't understand about the Gulf of Maine fishery in terms of designing a TAC.

We could still have a Gulf of Maine fishery conceptually and a different set of regulations in the Gulf of Maine. But that all would operate within an overall TAC. And, if this -- excuse me. I'm suffering the consequences of a cold last week. This gets back to the issue of I think there is a relatively high comfort level with numbers that the scientists have calculated as far as long-term potential catch from the overall stock. But, as you try to subdivide that by areas, season, time, and so forth, you compound the vagaries of the assumptions that go into that. As was discussed before, I think the assumption is that if you can harvest on a long-term sustainable basis 285,000 metric tons, the assumption is that in the current scientific model that 25 percent, 20 or 25 percent of that should be allocated to the Gulf of Maine.

To some extent, that is an assumption; and then it's compounded by the fact that we don't know what the intermixing rates are of those stocks by season so that a harvest outside the area at a certain time has a different impact on the Gulf of Maine stock than of another season. So I think one of the really fundamental questions that both committees have to ask is whether or not we want to have an overall TAC for the entire herring stock and then separate regulations in each one of these areas. But those regulations would operate under one TAC as opposed to area-specific TACs. David?

DR. PIERCE: At the last meeting, David, I think we addressed that issue and we made a decision. And that's outlined or shown on page 15 of the summary minutes. We decided at the last meeting, both the Council Committee, and the Section, to go with TACs by area. And they are not hard and fast TACs. They are target TACs, because the point was raised earlier on that it becomes confusing. When you talk about TACs, TACs can be hard and fast and they can be targets. And this is a target. That's how far we got at the last meeting. That's not to say that we might not have, as some people have already suggested, an additional hard and fast TAC that would kick in once we went beyond the target. We may eventually decide to do that. But, at this point in time, the decision is just target TACs by area.

CHAIRMAN: Okay. Then this, I think, is helpful. Let me ask this question, either Gene or any representative from the National Marine Fisheries Service, can a target TAC exceed the maximum sustainable yield for a given area?

MR. MARTIN: You mean if you have an overall TAC that still would be met but the -- I think that's more of a scientific type of question as to what implications that has on maintaining the maximum sustainable yield.

CHAIRMAN: Well, let me just give a hypothetical example. If we were to assume that the maximum sustainable yield for the Gulf of Maine was 70,000 long term and that would operate within a 285,000 metric ton overall maximum sustainable yield, if we wanted to set a target catch of 100,000, would that get through the process?

MR. MARTIN: Is it scientifically justifiable? I mean, it doesn't jeopardize the long-term capability of that area to achieve MSY. I mean, I think it goes beyond just a yes-or-no answer from a lawyer. I think we need to hear from the scientists on that and what impacts that would have.

CHAIRMAN: Okay. Kathy? Kathy, do you understand the

point I'm trying to make? If you don't, don't be timid to say no.

MS. RODRIQUEZ: I think you're asking if -- can the stock be fished at a rate that exceeds Fmsy if you have a stock size that exceeds the biomass MSY. In other words, if Atlantic herring (inaudible) stock size -- could probably fish it at a higher rate than Fmsy and not reduce it very much or not reduce it below the stock size associated with -- that is actually somewhat of an unanswered question now with respect to the new SFA regulations, and there is a working group that is working on just that issue. I think it's a Council working group, and they are going to be answering that question with respect to mackerel. I think they're meeting Monday at the Council office. So it is a technical question; and it would be, you know, premature for me to try to answer it now. But it is an interesting question and one that we have been talking about in-house. So I would wait for the results of that technical group, which is going to be happening quickly, anyway.

CHAIRMAN: Okay. I assume that you want to stick, then, with the previous agreement, which was area-specific TACs. All right. Then let's proceed on that basis. Steve?

MR. DRISCOLL: Would this be the appropriate time to make my comments again on the acronyms for TAC? I would like to move that in the management plans total allowable catch be TOAC and target allowable catch be TRAC.

CHAIRMAN: Is that a motion? Let me ask, before we get involved with motions, does anyone disagree at this stage? If we can possibly dispense with five minutes of administrative issues, why don't we proceed based on that suggestion. Then, if we want to go back and reflect on it at a later date -- Dennis?

MR. ABBOTT: Yes. When Steve brought that up, I was just reading the document before me. He wants to address two of those. How about accurate TAC, specific TAC, overall TACs, backstop TAC, hard TACs, area-specific TACs and, as Dave Stevenson just said, hard-and-fast TACs.

CHAIRMAN: It doesn't ever get any easier. David?

DR. STEVENSON: I'm concerned that hearing some comments from you, Mr. Chairman, I wonder if they're symptomatic of what the people around the table are thinking. I would not want people to leave the meeting today after my presentation this morning concluding that we don't have a Gulf of Maine stock assessment methodology in hand or that there are so many problems in developing assessment information for the Gulf of Maine stock that we need to fall back on stock complex assessment. Obviously, if not, we can do it at some point in the future, but I don't think we're anywhere near the point of making that decision.

CHAIRMAN: All right.

DR. STEVENSON: What I've tried to get at this morning is we have a methodology we are happy with and the assessment isn't finished yet, which is not the same thing as saying, you know, we've got something here that we don't have the information.

CHAIRMAN: I think what the agreement was from the previous meeting is that we're going to proceed based on having an overall TAC and area-specific TACs.

DR. STEVENSON: Yes. And those area-specific TACs could be generated from a coastal stock --

CHAIRMAN: Yes.

DR. STEVENSON: That is an option that is open to you.

CHAIRMAN: John?

MR. NELSON: Going back for a minute to Steve's comment rather than get tied up on it too much, I think the point is well taken that there needs to be some clarification in the language on what we are using for terminology. So I would just suggest that we turn it over to the staff to recognize that and to make every effort to make sure it's clarified.

CHAIRMAN: Okay. Any further comments or questions or

changes to the proposed allocation process flow chart? All of this is very dynamic. We're going to want to go back as we go through the process and possibly come back to this issue. David?

DR. PIERCE: Okay. How did you want to proceed with regard to the point that I made earlier on about not subtracting the Canadian catch from the ABC to get the TAC? I have expressed my point of view. I don't know what others feel about this issue. I would appreciate other discussion.

CHAIRMAN: All your suggesting is that the Canadian catch not be included --

DR. PIERCE: Well, we identify it. I think this flow chart is indicating that we're supposed to rapidly identify it, subtract it, causing a lower TAC than we otherwise would have.

MR. NIES: The flow chart you're referring to is just a draft put together for the PDT to look at. We did not recommend that flow chart. We did not really address it.

DR. PIERCE: Okay. Then I'll just let my comment stand. However, I do need a clarification. The bottom part of the flow chart shows DAP's broken up into different areas and then split by IWP and JVP. Is it the intention of us to have joint ventures in Area 1, because the JVP is in that box. I don't think it is. The JVP's are set aside for Areas 2 and Areas 3. So that needs to be clarified unless there is some other way of addressing this. If it's no JVP's in Area 1, it would only be the IWP's administered by the states.

CHAIRMAN: Comments? Tom? You know, it's a little bit troublesome that the PDT didn't have an opportunity to review the chart. And that isn't a criticism because I know they had a lot on their plate. The wisest course of action might be just to leave this the way it is, allow them to do that at their next meeting and bring back a revised flow chart. If we want to do what Dave Pierce is suggesting, then I think we should address that right up front. Tom?

MR. HILL: I would concur with David Pierce's recommendation.

CHAIRMAN: Okay. Is there any objection to proceeding on that basis, then?

DR. STEVENSON: There is a technical issue. My assumption is that that means we would then do an assessment for the Gulf of Maine stock that we would exclude in terms of catches. Aren't there two decisions?

CHAIRMAN: David, to that point?

DR. PIERCE: I guess I don't understand what you mean by that, David. How does New Brunswick --

DR. STEVENSON: Well, if we are generating biomass assessments for the Gulf of Maine stock that includes New Brunswick catches, how can we turn around and generate a TAC for the Gulf of Maine stock that doesn't include New Brunswick catches?

CHAIRMAN: Well, the other way to look at it is if you eliminate -- as I understand it, if you eliminate the New Brunswick catches, the overall TAC would go down, then; right? The biomass estimate would go down. Do you still want to proceed on that basis, David?

DR. PIERCE: Subtract the Canadian catch? I'd like to give it more thought. Since this is going to be given back to the PDT and Technical Advisory Committee for further study, I suppose, I'd like to think about that, myself.

CHAIRMAN: Well, what we can do is ask them to finalize that but specifically discuss the merits of leaving it in or taking it out and what the consequences are.

DR. PIERCE: That would help the discussions.

CHAIRMAN: Okay. So, right now, what we will do is proceed based on the flow chart. The PDT will be charged with reviewing that flow chart and we're looking at this issue of the

Canadian catches and the implications of leaving it in or taking it out; and they will report on that at the next meeting. Okay. Calculation/definition of optimum yield. Who is going to -- Tom or Joe? I'm not sure which one of you is supposed to be speaking on these issues.

MR. NIES: This is one that was tied in with the specifications discussion. We really have no number on MSY other than the one we had, the one we gave before. So we are at the same spot we were before with estimating how much can be caught and how much we can use. It's all tied in with the TAC discussion which, as you heard, we don't have any new numbers for. The issue is how could we define it in the Gulf of Maine, and we don't have those numbers.

CHAIRMAN: It may make some sense to actually defer action on this whole section until the next meeting where we would get a Technical Committee report on it. But just let me offer a couple of comments. Unless someone is proposing a different process or different numbers for JVP, IWP, and TALFF right now, the Commission and the PMP basically says no TALFF.

Let me ask this so it's clear on the record. Is anyone proposing under any circumstance that there be a TALFF? Now, Gene, one of the points that the State Department made in the letter they submitted was that in dealing with that issue that we have to calculate how that determination would be made in the plan; is that correct?

MR. MARTIN: I guess I don't understand the question.

CHAIRMAN: It is my understanding from a letter that was submitted by the State Department that one of the issues that we should address in the plan is -- we can specify at this point TALFF is zero. No? Jack, do you want to speak to that?

MR. DUNNIGAN: Well, I'd ask Gene to comment to, but I think -- according to the law, TALFF is what's at the bottom of the calculation.

CHAIRMAN: Right.

MR. DUNNIGAN: And, if you specify your answer before you start the calculations --

CHAIRMAN: All right. Let me just suggest this. This whole section, I think, is going to need some work, some technical work and some staff work. What I would suggest is that the PDT and both staff work together and come back at the next meeting with some formal recommendations on this. Jack?

MR. DUNNIGAN: Thank you, Mr. Chairman. I guess I'd like to ask the PDT to be a little more specific. Noting in the objective statement that was just talked about, there is a reference to a particular spawning potential ratio that has come under a lot of criticism in other fisheries and been subject to FMP rejection by the National Marine Fisheries Services and other fisheries in other regions. I think that 20 percent is a red flag and the National Marine Fisheries Service hopefully -- I know they want to -- get their new national standards guidelines published in the near future; and this will provide some further guidance to the Council and somewhat to the Commission on how to proceed on this basis.

I suggest that the Technical Committee and the Plan Development Team has got to give this number some very serious consideration and either be ready to justify 20 percent on the scientific record as being within the appropriate guideline or come back to us with some other number.

CHAIRMAN: A good point. David?

DR. STEVENSON: Help me understand why it's a red flag.

MR. DUNNIGAN: Well, Dave -- let's talk about this later. It's a lot of detail.

CHAIRMAN: Joe?

DR. DESFOSSE: That issue came up yesterday. We are going to get it between now and the --

CHAIRMAN: Okay. So at the next Herring Committee

meeting, then, can we anticipate recommendations from the PDT on all of these items and the 20-percent issue? Okay? So we understand where we are. Okay. The difficulty here is that we are operating in this framework of having a maximum sustainable yield and then area-specific TACs, and we don't know what those numbers are. It's difficult to move through a lot of the rest of these sections without that guidance. I think what we should do is for purposes of the discussion at this point is operate on a basis of the guidance that we have to date, which is this 100,000 figure that David Stevenson talked about for the Gulf of Maine.

Administrative provisions. Vessel/operator/dealer permits. Tom?

#### ADMINISTRATIVE PROVISIONS AND REPORTING REQUIREMENTS

MR. NIES: There has been a lot of discussion both with the PDT and with the AP about vessel/operator/dealer permits with almost no dissent that they should be required for everybody who participates in area fisheries. Similarly, with vessel and dealer reporting, I think it's pretty accurate to say that the PDT and the Technical Committee are in favor of a rigorous reporting scheme. There were suggestions from some of the people at the PDT meeting yesterday that in addition to the current VTR system and dealer reporting system there should be some consideration given to some sort of call-in system from a boat where they would call in or be called to report a catch.

The thought here was that this might speed up the reporting system if we choose -- to have a percentage TAC effort controls implemented in some percent of the TAC. There was concern that we need to know when we reach that level and that the current logbook system may not be quick enough. The thought was that we should probably ask NMFS whether that was even feasible, whether the idea of a separate reporting system could be supported in order to accomplish that or whether it was even necessary, whether the logbook system or the dealer reports could provide the information quickly.

CHAIRMAN: Okay. For my own edification, has there been discussion either at the PDT level or at the last Committee meeting which I missed about what different information you would require from the vessel versus the operator, the specific differences? No? Once again, is there anyone here that objects in concept to vessel/operator/dealer reports? Where these things usually get confusing is when we get into the details, which we don't know now. Tom?

MR. NIES: What we are talking about is an operator permit, not necessarily a separate vessel and operator report.

CHAIRMAN: Okay.

MR. NIES: So there would only be one report coming from the vessel, whether it was submitted by the owner or the operator. It is up to the owner. But we would have an operator permit which is done in some of the other fisheries.

CHAIRMAN: Okay. That's my error. Thank you. As far as the specific information that would be requested, I think it would be helpful for developing a public hearing document to have the PDT and the staff work together on a strawman proposal, that they would come forward at the next meeting or as soon as possible and say this is the type of information we would require from each and the frequency of reporting and how it would be done.

MR. NIES: Most of the discussion so far has been that we would merely adopt the VTR system that is already in place for the other plans. We would ask for the same information. There was some talk, I think, at one of the PDT advisory meetings about adding one piece of information, and that was the product to the dealer report. But that wasn't discussed very thoroughly.

CHAIRMAN: Okay. Steve?

MR. DRISCOLL: I just get worried when you start talking about another report. We need one report that covers all fisheries that can go into a computer someplace and track everything. We don't need to have four or five different logbooks. I've already got too many of them, myself, and I certainly don't want another one for herring.

CHAIRMAN: Okay. I think Tom has clarified that, that essentially what you're saying is just compliance with the existing reporting format.

MR. NIES: Right. And I think Drew can probably answer this better than anybody. A large number of herring boats are already reporting because they've got some compliance that requires reporting.

CHAIRMAN: Right. Okay. On dealer reports -- reports, I assume, is the same discussion.

MR. NIES: The same weekly report.

### EFFORT CONTROLS

CHAIRMAN: Yes. Okay. Is there any further action required on any of these? No. All right. Effort controls. The issue is that the groups have agreed to have an overall TAC with area-specific TACs. Regardless of what that number is, and use the example of the Gulf of Maine, whether the number is 70,000 or it's 100,000, the question is how is that going to be administered? Do you want to allocate it all at once, have the fishery be unencumbered until that number is reached and then trigger some additional management measures? I know there have been previous discussions about breaking it up into segments and that when you get to a certain percentage of the area-specific TAC, you would start to generate restrictions in the fishery.

I think one of the concepts that we've got to keep in mind is that all of the concerns which have been voiced at least at previous meetings that I've heard focus on the Gulf of Maine and that stock. I haven't heard a great deal of conservation concerns voiced about stock status at Georges or Southern New England and so forth. So what we may want to do is deliberately set up a series of regulations that when they are triggered encourage fishermen to fish in these other areas as opposed to just stopping fishing. So I think what we need is we need just general discussion on the concept you want to develop here and not necessarily all the specifics of it. So I'll open it up. Does anyone want to speak to this? David?

DR. PIERCE: I'd like to return for a moment to the industry advisory recommendation that they provided about the 80 percent of the target TAC when that's reached in the Gulf of Maine. The fishery should be closed for all harvesting vessels for at least one day each week or possibly two, and it goes on from there. The advisors feel this is a primary effort control measure that they would like to have imposed upon the industry. I would like a little bit of explanation as to why 80 percent was selected as opposed to 50 percent.

CHAIRMAN: Artie?

MR. ODLIN: The advisors said 80 percent. I think they would like 50 percent -- that was the discussion we had at the advisory panel, even at a limited amount.

CHAIRMAN: Artie, just to pursue that question, as far as the 80 percent, was it intended that the entire area TAC would be available, or would you break up that TAC so that you would -- like into quarters and when you reached 80 percent of that quarter, then you would trigger the date?

MR. ODLIN: Yes.

CHAIRMAN: Which way was it discussed?

MR. ODLIN: It was discussed on a monthly basis, on a

quarterly basis. It would depend on how good and how quickly we can get the data. And I used the analogy of the tuna fish fisheries. They come up with a quota. If they miss the quota -- but we're only talking about, what, 50 boats. So I would say mandatory -- then whatever the plan development team felt comfortable with as far as --

CHAIRMAN: Okay. Any other committee? Bill?

MR. ADLER: I'd just like to ask Art, by stopping a day or two or putting the brakes on, I guess, is another way of describing it, what are you really saying? Is there really a big impact if you shut down for a day or two?

MR. ODLIN: I think it would be.

MR. ADLER: Do you have any figures as to how much of a break that is?

MR. ODLIN: It would probably be easier for the big fishermen, I think, than it would be for the processors. You know, two-day-old bait is better than no bait. And that's what I'm hearing from my colleague on my left.

CHAIRMAN: I'm not trying to put words in your mouth, Art, but isn't part of the motivation here is that this would drive some effort out of the Gulf of Maine into other areas? Isn't that what the advisors were trying to get at by doing this? So you're not saying that the dealers aren't going to get product. They would get product from a different area?

MR. ODLIN: That's true. But the operative word here is "drive." If they want to go on their own volition, they will. But they can also not go.

CHAIRMAN: It would be encouraged.

MR. ODLIN: Encouraged.

CHAIRMAN: Okay. Other Committee hands before I go to the audience? David?

DR. PIERCE: Artie, another clarification. The 80 percent, that applies to the Gulf of Maine. But how does that particular industry recommendation relate to your other recommendation that we divide Area 1 into two different areas? I've lost track of how the offshore Area 1 would differ from the inshore Area 1 relative to the TAC in this 80 percent trigger.

MR. ODLIN: I don't think we've got to that point because we don't know what the figure is. If it's 100,000, then maybe you have to split TAC inside and out. I don't know just how it's going to work, whether the TAC is going to be Area 1 specific, a certain part of it in the inside is taken and then if it moves outside, we haven't got to that point yet. We don't know whether we're working with 100,000, 70,000, or 50,000.

DR. PIERCE: Then what's the purpose of offshore Area 1?

MR. ODLIN: It's hopefully to get some of those (inaudible)

DR. PIERCE: So the industry is contemplating some specific regulations for the inshore Area 1 that would trigger a move out of the so-called inshore area to deeper waters in the Gulf of Maine?

MR. ODLIN: I think the PDT said biologically, they could accept that exempted fishery line -- Gulf of Maine and outside could be a mixture. But how do you divide a --

DR. PIERCE: So the advisors did not say that once 80 percent of the TAC -- No. I'm sorry.

MR. ODLIN: Well, I think the problem is, David, we were asked to come up with a percentage of the TAC, which we came up with, 20 percent, 80 percent. Then we divided the zone afterwards, the area afterwards. That was the problem.

DR. PIERCE: Okay. So the logic was not -- the TAC is established. Once 80 percent is established, then the fishery in inshore Area 1 would be restricted to at least one day a week, possibly two consecutive days per week with offshore Area 1 being open without those sorts of area restrictions, time restrictions?



MR. ODLIN: I'm not sure, but I think that's the way it is. So that would bring in continuity of product. The boats could go out a little bit further.

DR. PIERCE: Okay. So the boats would be restricted to the inshore Area 1 but the offshore Area 1 would not have those same restrictions?

MR. ODLIN: I don't want to speak for the whole panel, but that was my take of it. Maybe Tom has --

CHAIRMAN: Tom?

MR. NIES: A couple of points on the percentage discussion, percentage level. There was almost a perfect split in the PDT whether it was even a good idea to wait until you've reached some percentage before you implement an effort control. There was -- about half the PDT felt if you're going to apply effort controls, you really apply those effort controls throughout the year. The other half of the PDT that felt you could use a percentage level before you impose the effort controls felt that percentage level should be somewhere around the 60 percent range.

The reason for that is we took a look at the landings and the landing patterns and we felt if we waited to 80 percent it would probably be very late in the year before you reached that point and you may, in fact, not find out that you were at that point in October until sometime in November, in which case you don't have enough time to do anything but shut the fishery down. So we felt it should be earlier.

As for Bill Adler's question about whether a day out of the fishery would have an impact or not, at the PDT meeting yesterday, we heard a lot of input from the industry that it would have a significant impact. We've only been able to do a very preliminary look at some of the landing patterns. We don't really have a conclusion yet on what that impact would be. Some of the boats that land a large percentage of the catch fish a lot of days. There are a lot of boats that don't fish very many days in the month but we need to take a closer look at what percentage of the catch they are. So we don't have a clear answer to that yet, but it's something we can look at by looking at the landing.

CHAIRMAN: Okay. We've got a number of hands up in the audience. Vito?

MR. CALOMO: Vito Calomo, Executive Director of the Fisheries Commission and an advisor. I'm a little bit confused here. I think David Pierce -- we have too many Davids here -- dividing it was to say that the outside 1B, the deep water, offshore, to the east, whatever you want to call it, was figured to be a Georges Banks fishery, not a Gulf of Maine fishery. The inside, where 90 percent of our vessels fish at this time, is a Gulf of Maine fishery concerned with Jeffrey's Ledge, concerned with the closed area, concerned about the spawning areas that we close from time to time. A trigger effect -- we used 80 percent yesterday and we had some other ideas trying to bring this along, not specific to the advisors group that met but we were talking about maybe dividing season, as one of our illustrious fishermen said, who is an advisor, too, about dividing the thing in half and see where we are 50 percent through the year, such as the six months through the year, and see where we are. If we are starting to catch too much fish because we want to continue fishing as a targeted TAC, that we would maybe take one two, maybe two days, maybe three days out of that area. Hopefully, we don't have to. But, if that is triggered, we would take it out of the area.

This way, real fishermen, at that same time, having three days off, would continue outside to see if they could find fish. This would force the issue that we talked about developing another fishery offshore. I think I've explained it to the best of my ability on that. Any other questions? Because you had several. There was some confusion here. That's all the 80 percent was to do, is to trigger. But we came up with a few ideas on our own prior -- after

this meeting.

CHAIRMAN: Vito, could you speak to the issue that I raised before. Was it the advisors' suggestion that we break the area TAC into, like, quarters?

MR. CALOMO: No. It wasn't at that time. No, it was not.

CHAIRMAN: Okay. David?

MR. ELLENTON: When I put my hand up, it was actually to clarify the point that you just asked Vito. At the advisors' level, we said the 80 percent would be whenever we hit 80 percent -- there was a different discussion about that completely yesterday, the PDT. When we sat around as advisors, we didn't talk about triggering anything until the 80 percent was caught during the course of the year, which we thought might be sometime in September or October. What we were talking -- clearly, all we were talking about was fishing inside the line.

CHAIRMAN: One of the -- and I'm not trying to drive this discussion one way or another. Understand that before I say what I'm going to say. But one of the reasons that we typically break up an allocation into quarterly allocations is to spread the benefits out over a geographic area. Depending upon when you start the season, one particular geographic area could get a significant amount of benefits and another one find itself in the mode of having significant restrictions for the bulk of the year. If you start it when the fish are all down in Cape Cod Bay, for instance, if you catch the allocation at that point, you could find the inshore Maine fisheries affected with day closures and vice-versa. So you've got to be cognizant of that. That's the advantage of having some system that spreads it out.

MR. ODLIN: There was discussion yesterday to that point.

CHAIRMAN: Okay. Other discussions on concept? How comfortable do people -- do both of the Committees feel fairly comfortable with this concept at this time, recognizing that it's very preliminary? Tom?

MR. HILL: Thank you, Mr. Chairman. It would seem to me that if we are using a percentage, whether it is 60 percent or 50 percent or 80 percent or whatever it is, the percentage has a more significant meaning depending on what time of the year it is that you arrive at. So I would suggest that as the staff and the PDT work out the triggering mechanism that may be used that we take into account the subsequent actions that come after it would be related to the time of year that you arrive at that mechanism, because, if you get to 60 percent and you're only three or four months into your fishery, why, you have a much more significant implication -- if you're doing it on an annual basis, if you get there early, why, it has a much more profound impact on the kind of measures that you would probably take to try to control mortality so that you're getting people offshore and/or you're trying to spread the fishery out over a given period.

So I would suggest in that regard -- the other area I think that would be important to identify would be to get a clear understanding from the Service as to how closely can we track the landings because if it's not possible to stay within 30 or 60 days of the landings to track where you're at with your TAC, why, it will have a different implication. I think it has an implication relative to the way that you would try to set up your triggering mechanisms. And that really is a staff assessment.

The third point would be that I wonder whether -- and I think it's specific to this item, whether we want to consider the VMS or VTS system and whether that would be helpful in the reporting system. Specifically, if we are going to be trying to break up the TACs into not small areas but relatively small areas, why, from an enforcement standpoint it would be helpful that the VMS system was up and running for those vessels. And I also would wonder whether if the normal reporting procedures for landings had a long time line, a long horizon where the data would catch up with

present time, whether the VTS system would be helpful in that area.

CHAIRMAN: Okay. To those points, I assume what you are suggesting, Tom, is some kind of VMS system when boats are fishing in the outside area, because, when they are fishing in the inside area, if you have a day off, it's relatively easy to determine whether or not they're in violation.

MR. HILL: That's correct.

CHAIRMAN: Okay. Alan?

MR. WEISS: Another approach that might be useful instead of setting a percentage that when the landing is reached, that percentage action is triggered; and, of course, if landings are coming in quickly -- if landings are being made quickly but being tallied more slowly, then you have to set that percentage at a lower level so that you account for the lag. You can get around that by saying that the action would be triggered by the regional administrator projecting that that level will be attained. Then, for instance, if your trigger point is 80 percent and it's November, it won't automatically trigger the action necessarily. The fishery is dropping off at that time of year, anyway. It won't be projected to be reached or exceeded. So that may be useful in allowing for the attainment of a higher percentage before action is triggered.

CHAIRMAN: I think Alan makes an excellent point. Most of the states and federal agencies that do, in fact, use this type of system do it based on a projection basis as opposed to a tally basis. Then you get just a calculated daily fishing rate. You look at the number of days left, and you do a multiplication and then action ensues based on that. I think that's a good suggestion. Any objection to crafting a proposal like that at this point? All right.

Let me ask another question. The issue particularly in the Gulf of Maine, we've got a suggested closure system or day-off system. Was it the assumption of the advisors that that would also apply to the abutting state waters?

MR. ODLIN: Yes.

CHAIRMAN: Okay. Comment on that point? Tom?

MR. HILL: Not on that specific point.

CHAIRMAN: Okay. Is there any objection to that, including the proposal that what? Okay. I see no objection. Let's go back so that we get a consensus on this issue of -- is it desirable to get technical input as to whether or not the TAC should be split into components? Do you want to -- or do you want to just deal with it as a whole? What is the preference of the group? In other words, have quarterly allocations and then the system set up to run on that or quarterly or bi-monthly or whatever? Tom?

MR. HILL: My only concern on the quarterly allocations is, if I understand my comments from my industry friends, that the fishery can be rather variable and that there are some periods of the year when landing rates are much higher than others. So, if you're going to use a quarterly, I'd rather have the industry speak to it than myself. But, if you're breaking it down to shorter periods than, say, a six-month period, do I really need to take a look at the landing rates historically? It would be unfortunate to restrain landings in a given quarter where abundance or availability may necessarily be high and landings would be appropriate when the next period may be in a period when abundance is not available and landings would be low, anyway, and, yet, the availability would be there. So it would be -- I would only ask the industry to speak to it if that is a concern. I've heard that.

CHAIRMAN: Generally, people feel more at ease with that concept. Generally, when you set up this type of system, what you do is you look at the flow of landings over the period of the year. Then you take whatever your target TAC is and distribute it over the year in a manner that reflects that thought so that in periods of times and areas where you generally catch the most fish, that's where you have the largest allocation. In areas where you have the

smallest percentage of landings, you have a relatively small percentage.

I think this is an issue that the Technical Committee can pretty quickly look at the existing database and give us a recommendation on. I think your previous point is well taken that the technical -- the PDT should look at the system of tracking landings and consult with the National Marine Fishery Service and say what's realistic in terms of how quickly can we get this data in and then come back to us with a recommendation on that. Jeff?

MR. KAELIN: To that point, make sure that they go back long enough to look at how things have changed over time, because it wasn't too many years ago when there wasn't a winter fishery south of Cape Cod. The winter fishery was in the western Gulf of Maine. So things have changed today. So you'll find today that this issue of equity, who's going to get the fish, you can have the winter fishery people in Southern New England getting fish in January, February, something like that; but, in the past, the fishery has been out of Gloucester.

So, when you go back and you look at your monthly catch rates, you've got to look over a long enough period of time to make sure you're looking at the older situation of just a few years ago. Then, today, of course, that winter fishery, theoretically, isn't Gulf of Maine fish, too. So you wouldn't want to take those fish that are caught during that period of time off of your Gulf of Maine TAC, perhaps. So those are just a couple of variables because of the way the fish have moved in recent years that you might want to make sure you look at, I think.

But the point about -- we did recommend 80 percent at the advisor's meeting. Yesterday there was a discussion about whether or not because of the lag time in getting data -- and I know the suggestion was made that maybe you could make predicted -- make predictions rather than look at actual harvest data. But we looked at maybe a two-month lag time in getting the landings data. So I think there was pretty broad agreement in the discussions yesterday after Tom Nies suggested you might want to reduce that trigger to 60 percent or 50 percent. That would give you the time that you would need to make adjustments to keep the fish flowing as much as possible throughout the year.

So, even though we made the 80 percent recommendation as an advisory group, I think it was a pretty broad consensus from the advisors now that a smaller percentage might make more sense. So those are a couple of comments I had.

CHAIRMAN: David?

DR. PIERCE: I think it would be helpful if the Technical Advisory Committee also looked at a -- split the year into thirds instead of quarters. I don't like quarters because the quarters split September and October, the spawning season when the catches will begin to get high. I would much prefer to see, off the top of my head, a split of January, February, March, and April and then May, June, July, and August and then September, October, November and December, something like that, especially since September and October, that's when they start to spawn.

What other strategies we adopt to restrict the fishery within and during the spawning period, the area closures, for example, it would fit in rather nicely with whatever part of the TAC we set up for September, October, November, and December. I look at this document, this figure that was made available by either the PDT or the TAC that says, New England herring landings by month, 10/21/97, 4/90 through '96, notwithstanding Jeff's concern about going back a number of years to see how things have changed. It's a valid concern. I look at 1996, and January, February, March, and April, one-third of the year, landings are relatively small in comparison to the rest of the year by month. Then, in May, June, July, and August, you get a much larger, almost equal, amount of landings in each of those months than September, October,

November, and December in 1996, again, large amounts of landings in each of those months, almost equal, by eyeballing it. So that's the sort of a breakdown I'd like to have them look at.

CHAIRMAN: Any other points here? David?

DR. STEVENSON: I can save you all some time. About five minutes ago, you were talking about going to the National Marine Fishery Service and asking them to tell you what could be done to collect data more promptly. You don't need to do that, because I think we are very familiar with the vessel trip reporting system and the data already. And, unless something changes in Gloucester such that data would be compiled more rapidly and verified before the end of the year, it would be difficult to use that database for tracking a TAC. That was the discussion we had with the PDT yesterday. Those are the two problems with that data. Summer vessels are not reporting as regularly as they are supposed to. And the other problem is that some of the data that is being reported, the errors (corrections; ed.) are not being made and data entries are not being caught until the end of the year. So, at this point, the way that data -- the way it is, it would make it problematic using it to track the TAC. And that was why the suggestion of a call-in system came up. In fact, that was a suggestion that I made.

Now, it could be that the database could be improved so that it was more timely and the errors were weeded out in a more timely fashion.

CHAIRMAN: To that point, David, then what your suggestion was is we have some type of computerized call-in hail system where they would hail a weight which would go directly to a --

DR. STEVENSON: My original thought was that someone like our agency or somebody could call the boats every day and get the information. But the fisherman -- Peter Mullen actually suggested that it would make more sense for the boats to call the information in.

CHAIRMAN: Okay. Peter, do you want to speak to this?

MR. MULLEN: I think it's a good idea.

DR. STEVENSON: I don't know if that's going to be sufficient. I mean, there may be some questions that are going to come up about verification of that information when using it for regulatory purposes.

CHAIRMAN: On this particular issue, I think this would benefit from discussion between the Technical Committee representatives and the National Marine Fishery Service as to what they can get. I mean, if the objective is to operate within a TAC and they can go off with that objective and try to come back to us at the next meeting with a recommendation, if you want to operate this type of system, this is what you're going to need to do. David? Excuse me. Jack?

MR. DUNNIGAN: I'd also suggest that the PDT contact the ACCSP Operations Committee. The whole framework for data collection is going to change in the next eighteen months.

CHAIRMAN: Gene?

MR. MARTIN: Maybe Kathy can speak to this. I think NMFS did an in-house evaluation within the last couple of years. There was a whole task force on that, not specifically for herring but for getting real-time data. I can't remember what the results of that are, but I think there is some information that we have.

CHAIRMAN: Well, Kathy, do you want to come up and speak? But, before you do, I'd just say that in groundfish there have been dramatic improvements in that whole system. Kathy?

MS. RODRIQUEZ: I'm sorry, Gene. I don't know the results of that report. Certainly we can talk to our data management people. With respect to improved reporting or increasing frequency in reporting, these are things, although I did consider it, as soon as we have a better understanding of what kind of system

it is you're trying to run and why -- for instance, it's not clear to me yet whether we are running a reporting system for a limited number of vessels or completely open and an infinite number of vessels. Obviously, we can probably put something together a lot easier for a small number of vessels versus an unlimited number. So, you know, these are the kinds of things we want to discuss with our technical group as Dave suggested.

CHAIRMAN: Any objections to having the ASMFC staff work with the Council staff, PDT and the regional staff within the context of this overall concept and come back with some recommendations? No objection? Artie?

MR. ODLIN: Dave Pierce's suggestion that the PDT look at three-month increments. The advisory panel has said the fishing year would be a calendar year. But would it be -- they have a different fishing year based on what the plan development team comes up with or what the Technical Committee comes up with. It's just a thought, because the fisheries now (inaudible) in Maine.

CHAIRMAN: To that point? Yes?

MR. KULLE: Frank Kulle, Lubec Packing Company. I like Dave's point, because, if you look at the history -- I'm only looking at the last two years, we really did have a winter fishery, January, February, March; and, by the third week of April, that fish was in Gloucester for a eight-, ten-year period of time. It pretty much dried up. Then you had the second fishery in Maine, you really started out with the fish coming out of Canada, St. Mary's Bay, basically, May, June. In certain years during that time, we didn't get fish until the end of July. I think that was 1980-81. If you go back in the record, you'll see that Maine landings did not -- until, like, August of that year.

What it does, it does two things. It does split the seasons. It does give us a measuring tool, and it gives us a place to make sure we know the totals in stock. The only thing I would suggest on this is that we're not logging in, hypothetically, 35 percent each third. You may hypothetically say, you can fish 35 percent that first third. If you, hypothetically, catch 25 percent, you can go for 45 percent the next quarter and also reverse the others. If you catch 60 percent, obviously, that comes down the other way. I think that's a better stopgap to give us an opportunity to utilize that fish.

CHAIRMAN: I would just offer that most of the state and federal systems that have quarterly allocations have some built-in mechanism whereby if you underachieve your quota, it's reallocated to the subsequent quarters; and I think that's a good feature that should be included in it. Other points here? Bruce?

MR. FREEMAN: David, just for my understanding, there needs to be some clarification. Much of the discussion has to do with the Gulf of Maine and other aspects transcend the Gulf of Maine. And, when it comes to the season, January through December may be very appropriate; but it may not in other areas. I'm not certain when we go in the Gulf of Maine to the target coast, if we've done that and, if we do, when we do that.

CHAIRMAN: Comments?

MR. FREEMAN: Again, the suggestion was made for the Gulf of Maine. The discussion carried on. Certainly whatever works for the Gulf of Maine is fine. But I need to know when it goes beyond the Gulf of Maine, because that may have some implications. For example, to split the season in the middle Atlantic area in January, it's right in the middle of the fishery. That may not -- it may or may not be a good idea.

CHAIRMAN: I think right now, Bruce, we were talking about just the Gulf of Maine, none of which are being proposed for -- I mean, none of this, in the concept of the last forty-five minutes or an hour's worth of discussion relates to Southern New England or the Mid-Atlantic area or Georges Bank.

MR. FREEMAN: If it goes beyond that, just keep me

awake.

CHAIRMAN: So the one issue I think we still have to go back and discuss is the advisors have recommended actually reformatting the Gulf of Maine and having an inshore area and then an offshore area. Really, what their suggestion is, if I understand it correctly, is that the offshore Area 1 essentially be part of the Georges Bank complex? No?

FROM THE FLOOR: No.

CHAIRMAN: I've got about half the heads going vertically and the other half going horizontally. So I obviously have done an excellent job of characterizing the opinion. Can somebody set me straight on this point? Vito?

MR. CALOMO: Attest.

DR. STEVENSON: Actually, the other thing that I don't think has been made real clear here is that this was a suggestion -- somebody came up with -- not at yesterday's PDT meeting but the meeting before that. And we talked about it again yesterday and pretty much agreed with the advisors on this issue because, from a technical point of view, we felt that the fish caught in deep water and the offshore portion of Area 1 are going to be made up of much more of a mixture of fish from different stocks than the fish close along the coast. And, if we want to define an area that more closely represents the Gulf of Maine stock, we are better off with an inshore Area 1 and with whatever TACs would be generated from any stock assessment for that stock would apply to that inshore Area 1 and not to offshore Area 1. So that was kind of the genesis of that whole discussion. We also have not had -- I don't know if it's still on the agenda. This whole business of these lines on this map has gotten very little discussion here. I don't think people have quite caught on to the significance of it. Moving some of the lines defines -- where we are actually placing the lines and define those areas.

CHAIRMAN: If I understood the point that both Artie and Vito made, though, if we do just what you characterized, what we are going to do is provide an inducement for boats to fish outside the area. Does the Technical Committee have the ability or will they have the ability to design a TAC for that offshore area?

DR. STEVENSON: I'm sorry. That's the question I started out addressing and forgot. The offshore Area 1 would not -- and I think this is, again, a discussion that goes back for a couple of meetings. Everyone -- no one wants to put that into Area 3 or Area 2. It more logically belongs as an offshore portion of Area 1. But I -- help me out.

CHAIRMAN: Are you going to be able to assign a TAC for that area, David?

DR. STEVENSON: Oh, yes. If we do assign a TAC for that area, it would be made up by evaluating assessment information or biological information for all three areas. So there might be some combination TAC which would be generated for the information for the whole stock complex, for example, rather than just the Gulf of Maine stock. There could be a TAC out there, but it would be derived independently from one that was generated from a Gulf of Maine stock assessment.

CHAIRMAN: David Pierce?

DR. PIERCE: Along those lines, David, the estimate of MSY, all of the work that's been done with the TAC to investigate the Gulf of Maine, what we can take in now so-called safety, the MSY of 100,000 metric tons, recognizing that's very preliminary, was that number generated with an understanding that Gulf of Maine catch has also occurred in offshore Area 1? In other words, you looked at landings from offshore Area 1. Those were factored into whatever analyses you did to determine the MSY for the Gulf of Maine. To what extent is that 100,000 metric tons or so dependent on a linkage with offshore Area 1?

DR. STEVENSON: The MSY for Area 1 was based on a

percentage of 285,000 tons. The 285,000 tons was generated for the whole stock complex.

DR. PIERCE: And does that percentage include offshore Area 1?

DR. STEVENSON: At that point in time, it did. I think we were talking about Management Area 1 and what percentage of the entire stock complex would occupy that area.

DR. PIERCE: So it would seem, therefore, that whatever TAC was established for the Gulf of Maine, it would have to be for both offshore and inshore Area 1. You couldn't have --

DR. STEVENSON: It depends on how you do it.

DR. PIERCE: Well, I suppose -- well, my first reaction is that the TAC for the Gulf of Maine would have to apply to both areas.

DR. STEVENSON: Why?

DR. PIERCE: Well, again, it depends upon how this 100,000 metric tons was developed. Ten percent of the overall TAC or the overall whatever it is -- anyway, ten percent of the pot, that was set aside for the Gulf of the Maine. Now, if we divide the Gulf of Maine up into two pieces, offshore and inshore, how can we justify taking the offshore and establishing some other amount above the 100,000 metric tons?

DR. STEVENSON: There are so many different ways to do this -- how it might be done. Whatever strikes the pleasure of the Section. Maybe that's the way we should do it.

DR. PIERCE: I clearly like the idea of an inshore and an offshore area. I think that makes a lot of sense. The industry has a good idea here. Anything to get the fleet off of the inshore areas to explore the offshore areas, to take the pressure off the inshore fish that are, you know, close or on the spawning areas, I think that has a lot of merit. I like what's been offered up so far, that we have a trigger mechanism whereby we create this movement to the offshore area. The only question that's answered in my mind at this point in time is how we deal with the overall TAC for the Gulf of Maine. Should it be, let's say, 100,000 metric tons for the entire Gulf of Maine and that's it, or do we say 100,000 metric tons just for the inshore area and then some other number for the offshore Area 1? Maybe there is some justification for doing that. But, at this point in time, I don't see it. And I'm leaning towards the 100,000 or whatever number for both the inshore and the offshore Area 1.

DR. STEVENSON: It very much depends on whether your TACs are generated from the coastal stock complex assessment or not because, if they are, then you're probably better off being a management areas and dividing up -- MSY, dividing it up into three numbers. But, if you're generating -- if we're going to go to a new means of generating a TAC derived from new assessment information for different stock units, then you probably want to do this differently. And, if that were the case, I would argue that you'd want to derive the TAC for the inshore portion of Area 1 that was generated from an assessment for that stock.

MR. NELSON: Let me ask you a question. Is that something that needs to be decided at this particular point? I think the question was are the area boundaries appropriate that divide up Area 1. I think we are getting the sense that there is agreement with that and that there is probably also a sense that after the overall review of the stock assessment is completed, that there may be some type of agreement on how to derive whatever TAC's for the various areas. Now, whether it's the old way that has historically been done and dividing it up by some percentage between Areas 1A and 1B or if there is another way, you guys can debate that and come up with a recommendation to the Section and to the Council. Does that make sense?

DR. STEVENSON: It's going to require some more time.

CHAIRMAN: Peter?

MR. MULLEN: Peter Mullen. As the area was drawn up this year, when we start steaming back home from Cultivator Shoals, which was roughly where we left the Bank and start coming back to Gloucester, we would steam two or three hours and we'd come into herrings (inaudible) inside Area 1. At the same time, when we would come up on the shoal side, coming up out of the deep water, we'd find fish on the inside as we shored up, there was quite a bit of fish there, too. But that was also -- now, what stock that belongs to, we don't know. What we are trying to achieve is get the Gloucester boats instead of going up to Maine to fish on small juvenile fish to get us offshore, but don't put us twelve hours away. That's where the Gulf of Maine. If we can achieve that, then we're starting to go somewhere and break the fleet up and it would take all the pressure off one specific area.

CHAIRMAN: Jeff and then Vito.

MR. KAELIN: I think what Peter is suggesting makes an awful lot of sense. I think we are hopeful that there actually can be other fish that can be caught and that pressure can come off the inshore grounds. With that thinking, it seems to me that with this 100,000 ton TAC which we are just using for discussion purposes today that that should be the 1A TAC because we haven't been -- that's where all the catch has been. That's where the fishing effort has been. That's where the catch analyses are going to come from. And if there's other stock or fish that's out there -- that may be spawning someplace else -- then there could be the basis for a separate assessment for that stock -- but I think, you know, the logic would follow that the initial Gulf of Maine TAC that we've been talking about would be a 1A -- I just wanted to support that.

CHAIRMAN: Vito?

MR. CALOMO: Ditto. For David Pierce, we never went offshore until Western Venture and the Kathleen Julia III got in with their RSW tanks, we had never gone off their platts in those areas to fish outside. And our intention exactly was the TAC would be inside.

CHAIRMAN: Okay. Are we pretty much finished with this issue? Are there any other components of this segment that we should deal with? Tom?

MR. HILL: I wanted to revisit an issue that we visited last month -- it is obliquely related to the TAC -- well, it's directly related to the TAC in that I still believe as much confidence as I have in the tracking and in the effort controls that may be implemented, I still believe that we need to have a mortality control that is an outside limit that we are not going to go beyond. Some might call it a backstop that we get to a certain stage, a certain percentage beyond the TAC that we would close a fishery. I really believe that the industry wants to avoid that. And I think the impetus to avoid that is to be sure that there is enthusiastic participation in the measures that are implemented to avoid it. I believe if there is not an outside limit that we would go beyond a projected TAC, that there is little reason why one would want to enthusiastically support the mortality controls such as effort controls that might be implemented part way through the season.

So I would, just for the purposes of public hearing, I would hope that we would include in the document a mechanism that if the fishery -- if it was determined that the fishery was some certain percentage beyond the TAC that the fishery would close and I would leave that up to the staff to determine if the 10 or 15 percent might be appropriate as a level that one would conclude that the measures that are in place are not working and you need to close the fishery.

CHAIRMAN: Comments to that point? Dave Pierce?

DR. PIERCE: I'm somewhat supportive of what he says. However, I would prefer an approach along the lines of, let's say, two years into the plan we have a period of evaluation and we determine the success of the strategies that we adopt in keeping us

to the TAC for some minimal coverage, hopefully none, but we'll see. We don't start off right away by creating a possible gold rush attitude, spooking some fishermen into maximizing their catch as soon as they can because they fear they will come up against a hard TAC, but put them on notice that they must make every effort to make this system work, report accurately, you know, do what is necessary to keep to the TAC, accept the effort controls, begrudgingly, I suppose, but accept the effort controls that will keep them, as well as possible, to within the TAC. Then, after that two-year period, we evaluate; and, if it's unsuccessful, then we have to consider, maybe as a framework measure to the plan, going to a hard TAC. Those are my first thoughts on the issue. That might change as time goes on. But I don't want to see any hard and fast TAC kick in even if we go 15 percent over the target TAC or 20 percent over the target TAC, not until we give ourselves an opportunity to see how this thing works.

CHAIRMAN: Comments? Eric?

MR. SMITH: Frankly, I like Tom Hill's suggestion. I liked it when I heard it on October 7. I see what David is getting at, but -- even 20 percent, that's when haddock started to come up a little bit. The point of what Tom is saying is that we ought to have some layers of incentives not to have that happen. And the first one, whether it's 50 or 60 percent and some more effort controls come in, I think everybody can agree, we're kind of sliding into third instead of running right up to the track and stop on a dime. When we get to 20 percent and over in the first year, well, something really went wrong with how we planned for our effort controls to work. So there may be some compromise, 10 or 15 percent. You know, I liked 10 percent when I heard it in October. But he does have a point invoking this gold rush mentality. I think that's plausible. Maybe you want to say in Year 2 that this would go into effect and Year 1 is -- everybody is going to ease into this and figure out how it works. But I don't want to go two years before you start to reassess. I mean, there's good points to be made. I think the principal one Tom makes is valid and we really ought to consider it.

CHAIRMAN: There is an infinite number of ways you can accomplish this. You can construct the system so if you get 50 percent, you take a day off, 75 percent, you take two days off, 100 percent, you take three days off and then some percentage over that. Do you just close down? You know, it's more a personal preference than anything. Tom?

MR. HILL: Thank you, Mr. Chairman. If I could, clearly, I don't think there is anybody in this room that wants to be looking at a rebuilding schedule for herring in the Gulf of Maine or anywhere else, for that matter. We have had enough fisheries like that to learn that isn't the happy times. So I believe there isn't anybody in the room that isn't interested in making sure that within the constraints that allow us to have an abundant fishery that they don't want to have measures in place that will make it work, that will allow the fishery to stay open, that regulates the flow of product to keep the plants and vessels active within the constraints of the mortality controls that the Council and ASMFC establish. I think that whatever percentage it is that we establish that above which we say we are in trouble, we are going beyond where we should. The flip-side of it is you get to the other side and it's 25 or 30 percent over. The next year, you're looking at significantly curtailing fishing in the following year, I presume. And I don't think anybody wants that, either. I don't think anybody wants to get to Year 2 or Year 3 and have a 30 or a 40 percent reduction in the target TAC because we went way over in the first year or the second year. I just don't think that's the kind of fisheries management that most people would look forward to.

So those two points, I think, are valid enough. Whatever the percentage is, I think the mechanism ought to be there. If the

Council and ASMFC is concerned about the gold rush mentality, it's my opinion that people who are afraid or are concerned or are competitive, they are going to be competitive when the fishery is totally open versus when you start having mortality controls by having to take days out of the fishery. I mean, fishermen are competitive, by their very nature. So I am not quite as convinced that that competitive nature won't exist as soon as somebody recognizes things are going to be triggered at a certain percentage.

Finally, I would point out that I think it's important from the new Act, from the new Sustainable Fisheries Act, that there is some clear, definable mortality limit that we won't go beyond in this fishery. If it's liberal, that's one thing. If it's egregious, I think it's another; and I would hope that what we could do is approve the concept to be fleshed out in the document and agree on the numbers in the future. Thank you.

CHAIRMAN: Artie?

MR. ODLIN: Just thinking back to some of the recent lobster dialogue. Wouldn't we have to have a default measure in there anyway to pass the litmus test, if you will?

CHAIRMAN: Jeff?

MR. KAELIN: I think what Tom is suggesting is a good idea fundamentally, but we are talking, I think, more about mobile gear effort right here. I just wanted to remind the Committee to keep in mind that with the fixed-gear fishery on coastal Maine, the handful of what I call "mosquito boats," the small converted lobster boats that may be seining for herring, for bait in the summertime, that's another amount of effort, I guess. I don't know how we really deal with that because the stationary gear fish, the fixed-gear fishery on the coast of Maine, there hasn't really been much activity there. Some year there could be. Maybe that might -- their effort might actually be that 20 percent perhaps in one year. So we just have to keep in mind that I think we need to have some flexibility for the fixed gear and the real small boat fishermen who can't leave the Gulf of Maine and go further offshore. When we get into how to really deal with this, we have to keep focused on the fact that we have probably two different types of effort.

CHAIRMAN: Anyone else on the concept?

MS. DORRY: Niaz Dorry with Greenpeace. I had a question, actually, on a TAC issue, especially what Fran brought up and first talked about with pro-rating of the TAC issue that came up about quarters or thirds, whatever it ends up being. I just want to make sure for my clarification that the pro-rating process would be within the fishing year, that it wouldn't go over? That's the only question I have.

CHAIRMAN: Anyone else on this? Anything else under the TAC concept?

MR. SMITH: I do have a question. Is this concept going to be included or not? Do we need a motion to include it?

CHAIRMAN: No. There isn't a motion. But essentially what we've done here is outline a concept that is going to go back to the Technical Committee. There are a number of technical issues that have to be looked at, and then they are going to construct a proposal which will come back at the next meeting.

So, I mean, just so everyone understands, this is what I wrote down; that we would have a Gulf of Maine area that would have inside the Gulf of Maine and outside; that there would be a target TAC, that we would construct some; that the technical people would look at the administrative capabilities and design some type of days off, a system of days off based on a percentage catch; and, to some extent, that would be designed based on the administrative capabilities; that it would include state waters; that it would be based on projected landings; that vessels during a closure that wanted to fish on Georges -- or in that outside area would have to use some type of vessel monitoring system, that this provision

would include some reallocation procedure in case there was an underage. I think that was it. It's a tall task to go construct a system that works like that, but I'm sure -- Eric?

MR. SMITH: I'm sorry.

CHAIRMAN: Go ahead.

MR. SMITH: The only thing it does not include in your list was that issue that the PDT develop a strawman of -- a days-off reduction schedule that includes a hard cut-off point someplace beyond 100 percent of the target.

CHAIRMAN: Okay. Is there general agreement with that? David?

DR. PIERCE: I don't mind that being developed as an option. That's fine. It's a reasonable alternative to evaluate.

CHAIRMAN: Okay. Anything else we need to discuss under this? So, conceptually, that's what the management concept is. I think on that note we are going to take about a five-minute break. *(Brief recess taken.)*

## SPAWNING CLOSURES

CHAIRMAN: All right. Are there items under effort control we can actually move fairly expeditiously on? Let's just take them in the order that they appear. The spawning closure areas. My assumption here is that most of the people in the room are comfortable with what we have. Dave Stevenson, I think, wanted to propose something slightly different; is that correct?

DR. STEVENSON: Spawning closure areas?

CHAIRMAN: Yes.

DR. STEVENSON: Well, we proposed something at the meeting yesterday. We went over something at the meeting yesterday that there was general agreement about. Help me out here, Tom, but I think that the proposal that we have for you is -- there are a couple of maps laying around.

CHAIRMAN: If you are going to propose something, David, propose it.

DR. STEVENSON: Hum?

CHAIRMAN: If you are going to propose something, propose it, please.

DR. STEVENSON: This is a discussion on spawning closure areas only. We've already talked about inshore and offshore Area 1. Everyone understands that the line that separates inshore and offshore Area 1 is proposed to come off near the top of Cape Cod along the 70 degree longitude line. I'm not sure that point has sunk in to a lot of people because that north/south line coming up 70 degrees west longitude from almost the tip of Cape Cod would be the eastern-most boundary of the new proposed spawning ground. Then it picks up with these "dog legs" that go up the coast, which are -- what are those?

MR. NIES: I'm pretty sure -- I think their official title is the Mid-Coast Ground Fish (inaudible) --

DR. STEVENSON: Until it reaches the 4332 line, which is currently separating spawning closure areas, what we call Maine 1C from 1D. So that would be the new proposed Area 1D spawning closure area.

DR. PIERCE: I don't follow you, David. I'm sorry. I can't follow it up.

DR. STEVENSON: I'm not sure I have that map. I don't know where that map came from. The proposal is also not only for a newly defined area which is smaller, considerably smaller than it has been, but it was also that the duration of the spawning closure in that area would be longer. And I -- help me out here again, Tom. I don't know if we reached a full consensus on the version of that closure. But we talked about whether it should be two months, September and October. I think there was some sentiment that that was too long, that it should be more like a six-week

closure. I think it would be a fixed closure and not dependent on GSI monitoring.

CHAIRMAN: The thing I would suggest here is we do have spawning closures. We know we want to continue spawning closures in the next document. If the Technical Committee wants to make a specific suggestion for changing that as to an area, what I would suggest is that they come back with a refined map and a written proposal on that at the next meeting. But at this stage, I think all we have to say is we're going to have spawning closures that will at least be as restrictive as the current ones and they may be changed slightly based on the Technical Committee report. Any objections to that? Anything else under spawning closures? David?

DR. PIERCE: This suggests inshore area spawning closure of a six-month duration -- there's certainly. I'm sorry --

UNIDENTIFIED: You said, "six"?

DR. PIERCE: Six weeks. It's only for one area of the Gulf of Maine. We know that there are other important spawning areas.

DR. STEVENSON: I'm sorry. Let me correct you right there. That was the only proposed change. The other areas remain status quo.

DR. PIERCE: Status quo, but are those areas along the Coast of Maine shut down to fishing for herring at any particular point in time?

DR. STEVENSON: Not totally.

DR. PIERCE: That's right. So that's the major difference with what's being proposed by the PDT, a closed spawning area. You cannot fish for herring in that area during that six-week period, case closed. Yet, you would be able to fish elsewhere outside that area, let's say, along the Coast of Maine, even on the spawning beds, the spawning areas that are near and dear to the State of Maine, and, of course, to other states that rely on this resource. Why hasn't the PDT also considered other inshore area closures? Maybe not necessarily six weeks in duration. Perhaps, because the way spawning occurs farther to the north and downeast it can be a shorter period of time. I would suggest that there just be some evaluation of the merits of similar sorts of closure on those other well established, well identified spawning areas along the coast of Maine.

DR. STEVENSON: Well, we had that discussion yesterday and the -- my advice, technical advice because I was asked to draw some -- to define some smaller spawning areas along the coast for the meeting yesterday, and I started to do it and realized it would have been an impossible task because you can pretty much assume, particularly, in the southwest portion of the Gulf of Maine -- and you can shoulder about 50 fathoms in September and October's potentially -- well, probably a spawning ground for herring. So that the group decision yesterday was that this definition of the -- of that spawning area bearing down the southwestern portion of the Gulf of Maine made more sense than defining things on a more defined basis.

There was discussion of tolerance in -- I certainly would support applying a uniform tolerance regulation to all the spawning closure areas in the Gulf of Maine. That would be part of our proposal. I don't think we've reached a total agreement on that.

CHAIRMAN: I think the difficulty here, David, is that you're trying to confront it. So you don't have a written proposal before you with a map and -- you know, rather than laboring the discussion at this point, I think, conceptually, I think everyone in the room agrees with continuing the spawning closures to some suggestion that we want to modify the area over time. At the next meeting, the Technical Committee will have a written recommendation before us.

MR. ODLIN: Including an evaluation of whether or not the

spawning areas -- very discreet -- well identified spawning areas along the Coast of Maine should not be treated the same way?

CHAIRMAN: Yes.

DR. PIERCE: Why aren't those well established and identified spawning areas also shut down for some period of time? The 20 percent tolerance you can land herring as long as 20 percent are without spawn? Come on, we all know that doesn't work very well.

UNIDENTIFIED: What of it if it doesn't work?

DR. PIERCE: Well, if I'm going to support the survey setup for protection of herring in the Gulf of Maine during spawning, then I would like to see an additional strategy for a similar sort of protection mechanism for herring that spawn elsewhere along the coast of the Gulf of Maine. Why not?

CHAIRMAN: John Nelson? A word of calm and peace.

MR. NELSON: Thank you, Mr. Chairman. I get the sense that there's an agreement that we should have -- in the document we should have spawning closures. I think what we're conveying back to the Technical Committee is that there is a need for them to provide various options to the Council and ASMFC to review. So you may want to look at a series of options.

One option, obviously, is listing as many known spawning areas as possible and have uniform measures applied to those. Then you may have major spawning areas that you would elect to have closed and whatever measures are applied to those. I think you just need to provide a sweep of options for the Board and the Council to consider. I think if you could do that, then we could have a very productive discussion.

So, therefore, I see your head nodding in agreement, David, that you can do that?

DR. STEVENSON: Yeah. I'm hearing you all say that you don't want to get into the discussion and I'm trying to get some discussion.

MR. NELSON: I know. We recognize the value of those types of input, and I think people are just trying to make sure that all bases are covered. I think that's what I'm trying to capture here with my comments.

#### OTHER EFFORT CONTROLS AND MANAGEMENT MEASURES

CHAIRMAN: Anything else on spawning closures? If not, no fishing day options? It seems to me that concept actually is part of the TAC concept. So there's no need to discuss it further, if I understand it. Minimum size limits? Is the Advisory Committee, Artie, is not recommending a minimum size; is that it?

MR. ODLIN: No.

CHAIRMAN: Is there anyone else that wants to propose or consider adoption of a minimum size? John?

MR. NELSON: I'm not advocating having a minimum size, but I would suggest that we have some category in there that the public can provide their input as far as minimum size, whether they think it's appropriate, and if they do, what sizes might be appropriate?

CHAIRMAN: Any objection to that? Okay. Then that will be done. I mean, the other -- the issue on minimum size is going to be considered one way or another. The size you harvest the herring at will generate various yields, and, obviously, a larger size will generate higher yields, would be my assumption. So it's going to get some consideration anyway. Alan?

MR. WEISS: Might it be more appropriate to get at that issue through a discussion of possible minimum mesh sizes rather than the minimum fish sizes which obviously are fairly impractical in a large volume of fish?

CHAIRMAN: I'm not sure. Maybe somebody in the

industry can comment on the application of mesh size. Artie?

MR. ODLIN: Impossible, in my mind. Everybody here -- it's not my concern of this activity occurring on herring and (inaudible) to a size. (Indicating) You can catch sizes from here to there. It's just impractical.

CHAIRMAN: I mean, a lot of the existing fisheries, particularly pair trawl fisheries, use very large mesh in the wings of the net or if there's a herding aspect. Peter?

MR. MULLEN: If you start to use a bigger mesh, you get all the medium sized fish or the smaller fish caught in the mesh.

CHAIRMAN: They're a lot like butterfish when you catch them. You catch them so fast when you catch them that mesh selectivity just doesn't work.

MR. CALOMO: Can I ask a stupid question?

CHAIRMAN: Vito, to that point?

MR. CALOMO: Just to that point. Alan, I had a 300 fathom purse seine. I got a real buy on it. It was a little bigger mesh. It took me twelve hours to put it aboard the boat and 14 days later, I cleaned it.

DR. STEVENSON: Can I just ask a stupid question?

CHAIRMAN: Okay. David?

DR. STEVENSON: What are we talking about? Help me out. I thought we were talking about the minimum size?

CHAIRMAN: Minimum size because it ended up on the list of potential management measures. Do we want to consider --

DR. STEVENSON: Towards what end?

CHAIRMAN: -- to -- well, you have minimum sizes in most fisheries for a variety of reasons; increased yields, increased reproductive potential from the resource. It just does not appear appropriate at this point unless somebody can come up with a good reason that it is appropriate, in which case we should consider that.

DR. STEVENSON: I heard him say that it was still on the list. Did we take it off the list?

CHAIRMAN: Jeff?

MR. KAELIN: The Chair makes a good point about groundfish providing more yield but that doesn't necessarily mean value. Traditionally, there's been a high value market for some of our small fish, small herring. I think everybody knows that. It's been the backbone of the sardine industry for over 120 years. Today, because of the lack of availability of small fish onshore, it's really a very small percentage of fish that we take, but that amount of small fish provides a very, very high value.

So, I think the herring fishery is a different situation than the groundfish fishery. I don't think you want to have a goal being having all the fish spawn at once in this fishery because then you'll lose access to a very high value of immature fish on account of some volume which is, I think, is less than five percent. I think that what we packed the last year were 8's and smaller which is typically your true sardines, your immature fish. I don't know what percentage, but probably 75 percent of them came from Canada which were no longer Gulf of Maine TAC fish, perhaps. I don't know, but I think we just have to be clear up front that we're going to want access to some volume of small immature fish because they provide a very high value and there's no evidence to show that the very significant level of juvenile fish (used; ed.) by the sardine industry in the 60's up until the mid-70's provided or created any significant biological problems for the herring resource.

CHAIRMAN: Dave Pierce?

DR. PIERCE: Perhaps, it would make sense to -- I might get myself in trouble on this one. Perhaps, it would make sense to require a minimum size relative to the use of herring. For example, prohibit the use of herring under a certain size for use as bait. We've heard discussions at previous meetings about how the

bait fishery has begun to focus on juvenile fish. Maybe it always has. I'm not sure, but I'm concerned that in the future there might be an expanded bait fishery on herring that would focus on juvenile fish. And that's not, as far as I'm concerned, the appropriate use for juvenile herring if the juvenile herring should be used for sardines and the sardine fishery. I don't know how to approach this, but if we are going to deal with a minimum size, I think it should pertain to the use of fish.

CHAIRMAN: All right. Comments on that concept? Anyone? Pat?

MR. WHITE: I guess I'd just like clarification of what, Dave, you're talking about for bait. Is this for lobster bait, you mean?

DR. PIERCE: Well, tuna bait, lobster bait. I understand that a large proportion of the herring that is landed in Maine is used for the lobster industry. That's certainly an appropriate use. However, if the bait is more and more juvenile fish, that, to me, raises some concern. First of all, I'm not sure if juvenile herring are better than adult herring as bait for the lobster fishery. So if it's not good bait for the lobster fishery, then why not provide some disincentive for it to be used as bait.

I'm shooting in the dark somewhat here because I don't have any facts and figures. All I know is what I've been told by people who I've spoken to about the use of juvenile herring as bait. It's becoming more of a trend and if it is, indeed, a trend then it needs to be addressed since it potentially could put the real -- the sardine fishery at a disadvantage down the road.

MR. WHITE: Mr. Chairman, if I might follow up on that?

CHAIRMAN: Yeah, go ahead.

MR. WHITE: Just -- I'm concerned for dumping, Dave, I guess, mostly, because I don't think that most of the fishery goes after the small fish anyway. We don't like the small fish and I think it's a last resort that if it isn't used for some shore-side processing, then it goes into lobster bait. But I don't think many of you guys target the small fish for lobster bait.

CHAIRMAN: David?

DR. PIERCE: Perhaps, the problem of using juvenile fish as lobster bait has come about because of the way we're managing herring now. That is, the spawning closures. The spawning closure shuts down the fishery entirely for -- well, a four-week period.

South of Cape Elizabeth, it's my understanding that there has been some fishing activity in recent years north of (inaudible) in an area that's been opened by boats focusing on juveniles because they haven't been able to either land the adults or find the adults. The juveniles were the only fish that were available to the gear. So it took advantage of them and the fish went into bait. That's my understanding. I could be corrected on that if I'm wrong.

Again, it's an issue, I think, that needs to be raised and brought to public hearing so that we can get some additional views from those in the industry who depend upon the small fish and it relates also to one of our objectives about maximizing economic benefit, maximizing shoreside use, encouraging value-added. It's minimizing waste, all of that. I think it's, obviously, of concern to me and I think it needs to be of concern to the full Council, as well as ASMFC states.

CHAIRMAN: Alan?

MR. WEISS: Well, I think the concept that's being discussed actually is directly opposite to the objectives that Dave just mentioned. We've been told to increase waste because some fish that can't be processed would have to be dumped. I, personally, don't understand why we would say it's okay to harvest juvenile herring for human consumption. It's not okay to harvest juvenile herring for bait. I think we have to make fisheries management decisions as to whether the harvesting of all herring needs to be



limited in some way, and if so, limit it and let the market decide where it goes after its been harvested.

CHAIRMAN: David?

DR. PIERCE: If one does not want to get into the very difficult-to-deal-with issue of restricting the sardine fishery, the juvenile fishery, then one needs to do everything possible to minimize the catch of juvenile fish in other fisheries such as pair trawling, mid-water trawling, purse seining, to protect juvenile fish that would go into a bait market. Any increase in the amount of juveniles, any resurgence in the juvenile fishery that is inappropriate will only act in a way that will lead us to a speedy attainment of any TAC we set and potentially will impact the percent, the MSY.

This is one analysis that needs to be done by the TAC and, that is, to what extent can the 100,000 metric tons be increased to a higher number if, in the future, the fishery is promulgated on adult fish. I suspect that the 100,000 metric tons was derived from analysis of past landings involving a very high percentage of juvenile fish. I could be wrong, but anyway, if I'm correct then when all is said and done with the juvenile fishery still being important and still having landings, of course, we may end up -- we will maintain a fishery that is as it is now. It could lead after re-evaluation to a higher MSY for the Gulf of Maine resource and that's something, of course, we want to achieve.

I have a copy. I may as well make it available now. I have a copy of a document, a couple of pages taken from a 1989 report of the following; 1989 Stock Assessment Workshop. This is the report of an analysis done by some of the scientists that show the sort of yield one gets with different patterns of exploitation on the herring fishery. A pattern that is focused on juvenile fish as opposed to one that is not. There's a marked difference in the fishing mortality that one can maintain depending upon what exploitation pattern you have. So, I'll make it available to everyone just as food for thought.

CHAIRMAN: John Nelson?

MR. NELSON: Thank you, Mr. Chairman. As you can see, there's a variety of ideas out there as to minimum size and I think that's the intent of having that type of parameter in the public hearing document. I think that's what the Council and the ASMFC commissioners need to hear is -- what the public perceives as this resource should be utilized for and, therefore, we should make sure that we have it in the document as something that people can comment on and provide their insight on it. I think this discussion has been very helpful to the point that there are various points out there and there are probably more points of views from the public itself.

CHAIRMAN: Okay. Any need to go beyond that at this point? So, what we'll have is a section on minimum size limits and then the staff from the PDT will attempt to characterize the discussion here today so that there's a discussion that points out the different implications of different sizes and some of the benefits, as Jeff has pointed out, of value-added benefits of selecting of sardines and so forth. Okay. Directed mealing prohibition? To some extent, I think we have already covered this. Is there any need for further discussion? There would be a prohibition against it. Alan?

MR. WEISS: Well, I can understand the need or the usefulness of the prohibition in the Commission's emergency action. That is, to be the interim management regime until this plan's amendment is put into effect. Once we have limitations on the amount of fish that can be caught, again, I don't understand why we need to put restrictions on how what can be caught can be used. Actually, by setting a TAC that is higher than the level that can be obtained without directed mealing, then by prohibiting it, we may be inhibiting the attainment of the maximum social and

economic benefit to the nation.

CHAIRMAN: Comments? Dave Pierce?

DR. PIERCE: Why would one not want to allow directed mealing operation or operations? I think the answer to that question is the speed in which the TAC is attained by tuning to advisors in the audience for their views as to how much, in metric tons per day, can be mealied in contrast to how much can otherwise be processed. It's always been my understanding that tremendous tonnage can be mealied in any given period of time compared to the amount of herring that can be processed in other ways including just freezing the herring. If indeed that is a problem, if indeed mealing will enhance the speeding or obtaining of the TAC, then that would disadvantage other fishermen who are involved in the fishery to take fish as food. That's a disadvantaging that I would not like to see occur. That's my first point.

My second point is maybe because the TAC would be so large for the southern New England Mid-Atlantic areas, if there is a desire to meal fish in those areas, perhaps, there will be some who set an allocation set aside for directed mealing. Maybe, I don't know. I just raise it as a possible issue. I don't know who's interested in mealing herring. Those are my two points. Maybe, some of them could be allowed for areas outside of the Gulf of Maine, although I will raise the red flag, that being, I think it's a red flag. The fish do move out of the Gulf of Maine as older ages and over winter along the range of the shelf, southern New England, Mid-Atlantic.

So if there is a large mealing operation in those areas, it could impact the Gulf of Maine resource (inaudible) entering. But then again, if we allow only a certain percentage of the TAC to be used as directed meal that impact would be minimal, I suppose. Those are my two points.

CHAIRMAN: John Nelson?

MR. NELSON: Thank you, Mr. Chairman. Again, I would look at this as saying that the Council and the Commission is planning on having a directed mealing prohibition, and, therefore, we were inviting comments by the public as to the -- should that occur or not occur. I think it would have enlisted the various comments that we've heard from Alan and David, from whatever particular geographic sector might have a preference one way or the other. And that way the Council and Commission can then evaluate that type of input and determine what would be appropriate for input here. I would suggest that we have it in there with the wording that we intend to have a prohibition, but we are asking for public input on that.

CHAIRMAN: Comments or suggestions?

MR. HILL: I think that's an excellent suggestion. These types of measures that are going to be contained in the document are also going to be -- I don't know about the ASMFC process, but under the Council process, I presume there's going to be a framework mechanism that will be included in the document so that these measures could be changed in the future to appropriately comply with the given circumstances in a fishery at the time.

CHAIRMAN: Anyone else on the Committee? Niaz?

MS. DORRY: Niaz Dorry with Greenpeace. I have a question and maybe the Mid-Atlantic representatives around here can answer it. I understand the boats that are interested in mealing are boats from the Gulf and -- that have been traditionally -- well, not traditionally, they have been marketing menhaden and I'm wondering -- it's my understanding that these large volumes to make a mealing operation a viable operation, and I'm wondering if we could look into whether or not they're impacting the menhaden fishery is what's causing them to come to the herring fishery and if that's something that you would want to consider?

UNIDENTIFIED: No.

MS. DORRY: Is that a "no"?

MR. CALOMO: That's a "no", because what they're doing is in their off-season when they close. They want to do something else, just like --

MS. DORRY: Don't you want to make sure that that's the case without assuming that it is, so that you know you're not potentially endangering other fish stocks? If that is not an issue then we don't have to worry about it.

CHAIRMAN: Just to emphasize, you may have not been here at the last two meetings ago. John Barnes was here from AMPRO Fisheries and they've been bought out by Zapata. He made a comment similar to the one that Vito just made. That was why they were interested. They're looking at it as an off-season alternative and I guess they're also looking at it in terms of salmon feed production.

MS. DORRY: That answers the question.

CHAIRMAN: Gene?

MR. MARTIN: Just wondering as to how far we can go prohibiting onshore processing activities. It's something that I would like to look at further to see to what extent we have authority to have a direct prohibition in terms of what a processor does onshore as opposed to controlling the harvesting sector. I know there's some precedent for regulating processors in other parts of the country under fishery management plans, but I think -- just playing the master of caution in terms of the authority -- how far our authority extends to this particular situation.

CHAIRMAN: All right. Let me try to expedite this. John Nelson made a suggestion for a position on this for the public hearing document. Obviously, we would certainly benefit from Gene's review of the situation in a legal context. What's the majority of the view? Do you feel comfortable with that at this time? Obviously, Gene, do you think you can give us your input on that by the next meeting -- December, end of December?

What I would suggest is we allow the staff to work out some language similar to what John Nelson suggested -- get legal guidance at the next meeting and then decide whether or not that's going to be the position or whether we'll change the position. Bruce?

MR. FREEMAN: I would like to add one other consideration I haven't heard. This would be relative to this mealing issue. It really is one of the development of the fishery under a reduction fishery, usually large quantities of fish required to make it profitable.

A concern relative to the herring fishery is to maximize the use of a resource over as many boats or as many processors as possible. But as we develop the fishery, do it in an orderly manner so that we utilize it to the maximum possible. I think there's some fear by some of these people who I've spoken to on the very rapid development of mealing or fish reduction is allowed, attracting large quantities very quickly and from the fact that we find ourselves in an overfishing situation and the opportunity within the herring fishery to utilize our fishing capacity spread over many of those boats that are looking for things. It's essentially eliminated, so it really ends up being a social issue.

If you are finding fewer and fewer so-called "underutilized species," if we use it any longer -- but certainly this is one for opportunity and it's one of the few we have. I think then the argument is made that in order to maximize the use of this fishery, do it slow and do it controlled so that you can involve as many people as possible and generate as much income as possible.

CHAIRMAN: I would personally agree with Bruce's statement and just add to it that in the discussions on prohibiting, at least temporarily prohibiting the use of very large vessels, this issue came up. There are a lot of known spawning aggregations and there was a lot of concern bolstering that deliberation on

potential impacts that not only very large vessels could have, but also of directed mealing operations. The fact that those -- a number of vessels entering the fishery in that particular manner could have the same impact as very large processing, at-sea processing vessels. That was the rationale that was presented at a prior meeting. Bruce?

MR. FREEMAN: If I may, Mr. Chairman. So far as reduction is concerned there may, in fact, even at the present time, are situations where fish meal reduction does make sense under, perhaps, a waste product or as indicated apparently in the sardine fishery if your catch goes bad at the cannery, simply to dump it at sea where it couldn't be made into fish meal. It's not to say that fish mealing is something that's undesirable because of the fact it's being used.

CHAIRMAN: Okay. So we're going to move with the next item here which is vessel size limits. Is there an Advisory Committee recommendation on this? Tom?

MR. NEIS: Yes, Mr. Chairman. The Advisory Panel has recommended the same number (inaudible) feet -- 165 feet or 3,000 HP.

CHAIRMAN: You mean for the public hearing document?

MR. NEIS: Yes.

CHAIRMAN: Okay. Comments on that? Suggestions? Any objections to doing that for the public hearing document? (Pause) Okay. I see no hands going up objecting to it. John Nelson? Whoops, Jeff?

MR. KAELIN: The other thing that the advisors agreed to do is ask the PDT and the Technical Committee to analyze the impact of this 165 foot limit on the development of the offshore fishery that would promote maximum shoreside utilization and number of participants in the fishery. I asked for that because with my discussions with Dick Klingaman, Stinson Seafood Company, we weren't really sure if the 165 was the right size boat, perhaps, too small by 10 feet, 2 feet, 15 feet, to be able to go to George's and freeze herring for shoreside processing. Maybe we can -- you know, run the last load in on RSW or something like that.

I think we're more comfortable now with 165 feet. I think we're comfortable that we can configure something that would be within that size range, but now we've got this new congressional language that's operative for the next year. I know I'm not clear on how the 165/750 gross tons and 3,000 horsepower match up. You know, if you can deal with the 165 and under 750, but you got to be under 3,000 horsepower.

I think we need to think about in the plan what the right mix of those things are. I think now we're comfortable with 165/3,000, and maybe 750 although I did raise the issue at the Council meeting earlier in the month that the (inaudible) was 135/800 tons. But the idea and analysis may be impossible to do it. I don't know. We were having the same problem trying to analyze the (inaudible) for Mr. Klingaman's company. I guess for now we can live at that number but we have to remember that number just came out of the air one day based on kind of a loose assessment of what the existing fleet is and --

CHAIRMAN: Divine creation.

MR. KAELIN: Divine creation. I guess we can live with it for now. I know I'm going up against -- you know, Steve suggesting that 165 isn't the right number. I don't know, maybe there should be some flexibility. I mean, we could pretty much agree that 367 is not the right number.

CHAIRMAN: I fully expect someone from the audience to jump up and suggest 167 and three-quarters inches. Tom?

MR. HILL: Mr. Chairman, just to point out that at the Council meeting back in Providence, the Council motion was to consider 160/2500 HP, which is only slightly different.

CHAIRMAN: Right. That the Council, in its astute wisdom

deferred to the Commission. Tom?

MR. HILL: I wonder whether it wouldn't be appropriate to have a section in the public hearing document that seeks public comment relative to whether size limits for the respective areas may be appropriate. Clearly, the offshore fishery may have different implications than the inshore fishery relative to vessel sizes.

I don't know what the future is going to bring with the fishery. I'm very troubled that we've grabbed a number out of the air. I just don't think that it has any relationship to the kind of vessels that may be capable of fishing on the shelf in the middle of winter.

I think in order to make a real clear determination as to whether those numbers even make any sense at all, you need a good naval architect who deals with commercial vessels of this size, because I think the tonnage numbers can be manipulated so easily that it's not clear to me that a platform of 165 feet is appropriate for an offshore fishery from a safety standpoint. There are a number of people who will tell you it's not. And in further, I'm not sure that technically the number that Congress has recently approved is supportive of the vessels so that they match up. That the tonnage and the length issue matches up.

So, there's two separate comments. One is that I think it would be interesting to get public comment relative to what the vessel limitations -- vessel size limitations would be appropriate and have different size limitations for the inshore/offshore fishery and then, secondarily, I think we ought to seek -- I think we need more technical advice. I'm not sure where we would seek it in the Council system relative to the overall size of vessels and how those horsepower and tonnage relationships tie into the overall length of the vessels. Thank you.

CHAIRMAN: My suggestion here is that we simply authorize the staff and PDT to develop a section in the document that would relate to size limit restrictions and in that have a discussion of the recent Congressional action which points out the 165/3,000/750 ton and, also, that we ask the staff and PDT to review the basis for that and look at the technical issue of fishing on George's and whether or not it's practical under that guidance so they can move forward with the development of this. There is a basis for it. We are operating under this Congressional action for the time being, especially during the time period the public hearings will be going on. So, I think that there's a certain logic in doing that.

MR. HILL: If I could, I also think it would be important if in the public hearing draft to try to get the comments relative to the industry's view or the public's view relative to the -- whether if size limitations are a reality, should there be a difference between the inshore fishery and the offshore fishery for vessel sizes.

CHAIRMAN: Okay. Is there any objection to that? So, there's kind of a generic discussion of it in those documents. I see everyone pretty much nodding their head in agreement? Gear control measures? Artie, did the Committee, without me looking at the list, did they have any other suggestions for other gear control?

MR. ODLIN: No.

CHAIRMAN: No; not that I recall. Limited entry --

MR. NELSON: Excuse me. Again, for public input, Dave, I would suggest that we do have a section in which people can provide their ideas as far as other gear control measures that we may not have thought of. I don't mean to take anything away from the advisors or anyone who has provided input. I just -- I always find that the public has a -- can sometimes come up with very unique ideas that are worthy of consideration. I think if we have some mechanism in here such as other gear control measures that does leave it open for them to provide their ideas on that and we

can weigh that afterwards.

CHAIRMAN: Any objections to that? So, it's just one more section on gear control measures soliciting the view of the public. I think John made a valuable point there. Moving on. Limited entry? Artie, was there a recommendation on this one from the advisors?

MR. ODLIN: No.

CHAIRMAN: One issue that I would raise is to some that if there is some linkage between the issue of what we are doing in herring and what's going on in mackerel in terms of the Mid-Atlantic Council. I -- just to be explicit here is that the -- and Alan, please correct us if this is wrong. The Mid-Atlantic Council has passed a motion and adopted a control date for entry into the mackerel fishery. At least my understanding of the situation is that a lot of the potential players, in terms of the mackerel fishery and the herring fishery, are the same individuals and that some of the individuals that would be thinking about building boats may be larger than 100 feet, but smaller than 165 3/4 -- would like to participate in both fisheries. I'm a little bit unsure of how that language might potentially effect the herring fleet.

If somebody wants to build a boat for the purpose of participating in the herring fishery, and then for some small segment of the year wants to put that same boat in the mackerel fishery, you wouldn't be able to do that with any assurance that you could go into the mackerel fishery unless you could meet the requirements under the control date.

I guess -- I think that my own recommendation here is we may want to capture that somehow so to draw attention to it in the public hearing document that this situation exists and ask the public to comment on it. I think that would not only be a benefit to us in terms of bringing together the herring plan, but it may be a benefit to the Mid-Atlantic Council in terms of their deliberations on mackerel. There is a relationship between these fisheries and similarly situated boats will want to participate in both fisheries. I don't think we necessarily -- either Council wants to take an action to discourage that.

So, let me just open it up and see what comments other people have? Alan?

MR. WEISS: The fishery service did publish the mackerel control date in the federal register. I believe it was some time in September. The essence of what the Mid-Atlantic wants to do is to put in some kind of control on the increase of effort into the mackerel fishery. It does appear that would have an effect on or a potential effect on participation in the herring fishery because if a vessel can only be viable fishing part of the time in each fishery, then if one of them is not an option, then it may be that the operation is not viable.

I'd like people to understand that the Mid-Atlantic Council hasn't yet taken any position on where we're going to go with this. It's one of our items that we'll be working on during the upcoming year. The idea isn't necessarily to cap things where they are or to keep people out or anything of that particular nature because as it stands, we're certainly well below the allowable limits on harvesting mackerel.

So the idea is that if we're going to build up capacity, it should be in an organized and monitored or controlled sort of way so that we don't go into a sudden over-capitalization situation, over-capacity, and over-fishing, much the same concerns that we've seen in the herring fishery that produced the vessel-size limits and prohibition on directed mealings and stuff like that.

So, I think it will be important for the Mid-Atlantic Council to coordinate with this group -- these groups and try to do something that will fit together well between the two plans. I would hope, then, if you're planning to have the section that you've

just described in the public hearing document, that that portion of it, at least, be sent to Mid-Atlantic staff for review so that we're sure that it accurately portrays what we're doing with regard to mackerel.

CHAIRMAN: Let me just ask this: Is there sensitivity around the table on this issue, someone in line with my thinking that we need to have a discussion on this issue in the document? We can certainly circulate that language to the Mid-Atlantic so it reflects their views also. I think we have to be sensitive that we do want to allow some further development in this fishery -- in both fisheries, and we don't want to do things that arbitrarily restrict that. So, if everyone feels comfortable with that, maybe we can ask the staff to try and develop language to that effect. Bruce?

MR. FREEMAN: I would certainly endorse your concept as Alan indicated. He has a council very much interested in getting those comments. As he indicated, also, very cognizance of the fact that there is connection between the fisheries. In fact, even in the mackerel fishery -- many times herring are taken. Secondly, if they can be utilized more effectively than they have been, that certainly would be a benefit to the fishery as well. So that connection is realized and the comments, I think, are very appropriate.

CHAIRMAN: Jack?

MR. DUNNIGAN: Is it correct that the New England Council hasn't yet considered whether it wants to request or at least get nervous with a control date? Has that not happened?

CHAIRMAN: It hasn't happened.

MR. DUNNIGAN: Shouldn't it?

CHAIRMAN: No. I'm not sure it should.

MR. DUNNIGAN: To put people on notice so that you've got your council that has its options.

CHAIRMAN: I think the point that I was trying to make under mackerel -- I think both the Mid-Atlantic Council and the New England Council are faced with similar situations whereby they want to have some organized controlled expansion in these fisheries, and yet, a control date would have a negative impact on that. In other words, you want to have the offshore fisheries developed. That may take larger boats and it may take different types of boats to do that. What we don't want to do is necessarily pass a motion that discourages that from taking place. So, I think every time this has come up in terms of the New England Council, they've shied away from that issue for that reason.

MR. DUNNIGAN: It just seems to me that (inaudible) of dealing with it down the road. If you want it to go another way, you can still allow controlled development of the fishery. What you're going to have right now until you take that action, you're going to have by definition uncontrolled development.

CHAIRMAN: I'd guess under a situation where you'd pass the typical control date language that says if you enter this fishery after this date, you may or may not be guaranteed access to the fishery. I'm not sure a number of banks would loan any money on that with that language hanging over their head. That's the impact that it has and it will have whether it's in the mackerel fishery or the herring fishery. Alan?

MR. WEISS: Well, it may have that impact for a period of time between the control date and when some action predicated on the control date is taken. We're contemplating taking action, that's why we asked for the control date. But the action we take may not be similar to actions that we've taken in connection with control dates in over-fished fisheries. It may be a totally different sort of regime that allows for additional effort coming in after the control date, but within certain --

CHAIRMAN: Controls then?

MR. WEISS: Yes.

CHAIRMAN: Eric?

MR. SMITH: (Indicating) He needs to leave for a prior commitment. I can stay to make my comments. So, if you'd like and if you're willing?

CHAIRMAN: Tom?

MR. HILL: Thank you. That's very kind of you Eric. I do have to leave. I would hope that in some manner we can make the strongest possible connection. The fisheries are inter-related. I think it's critically important if a control date is being published in the Mid-Atlantic, that we make as strong a statement as we can. We hope the measures that they're contemplating are mutually addressed and the control date is not viewed as some exclusionary mechanism, but as a mechanism for appropriate development of the fishery.

I'm very concerned that you have, in both fisheries, we have a relatively large abundance and relatively small exploitation in some portions of the fishery. I would hate to send the signal to those people who are seeking alternatives that those alternatives are being curtailed before they have an opportunity to explore them.

CHAIRMAN: Okay. Eric?

MR. SMITH: On the control date, the way they were originally intended to be, I think there wouldn't be much concern with having one because to set a line in the sand and those who came after the line was drawn maybe would be treated differently than those who came prior. Jack's quite right in that the way it was originally intended. There was a lot of (inaudible), but at least we took that preliminary step. The way that it has been used, though, is why I think the New England Council has been leery about it because the way they've been used is if you come along after the date, you don't get in. And if you're there before, you are in. It's that disparity that creates the reluctance to go into it. I would then, simply, draw your attention to why I was so in support of the goal, No. 3, that we adopted earlier; controlled opportunities for fishermen and vessels and other New England Mid-Atlantic and New England fisheries. To me, that's very important. It's important in the context of herring that we are going to move responsibly and when we do, we're going to want to control the fishing opportunities of people.

But at the same time if we look at people who fish for anything in the region in which Atlantic herring occur, we ought to make sure that there's fair consideration for them to participate in some way in the future. It will be controlled, certainly, if not tomorrow then two or three years from now. But we should not forget the fact that even if we didn't report on the log books, it doesn't mean that you weren't fishing in such a way that you might have taken them if you just happened to have had a market or use a different type of net. So it's that kind of opportunity that I want to see the possibility remain open within the constraints of fishery management.

CHAIRMAN: Okay. Where I think we are -- what we need is, once again, this kind of a generic discussion. A lot of issues have been raised in the past fifteen minutes and specifically spell out this linkage between mackerel and herring, and ask for comments on that and any of the other issues that we've brought forth here. Alan?

MR. WEISS: I just want to briefly assure everyone that the concerns raised by Tom Hill and by Eric are not in any way incompatible with the discussions we've had so far at the Mid-Atlantic Council. And I'm on a little bit shaky ground here because I'm going from my recollection of a motion that I believe was passed at our May meeting. I don't have it before me, but I think there was language in that motion very similar to the goal that Eric just mentioned. So as far as I can tell, I think we're very much on the same wavelength on this. I reiterate in regard to what Eric said about the way control dates have operated traditionally.

Perhaps, traditionally, unfortunately, we've been in the business of managing overfished and over-capitalized fisheries. It's my expectation that we'll see some rather different thing associated with the mackerel control date because it is, as of today, an underutilized and undercapitalized fishery.

CHAIRMAN: Okay. Anything further on this? Steve?

MR. DRISCOLL: I'm just wondering if -- I'm trying to get this out of my mind, but if the Mid-Atlantic Council passes a control date, doesn't that effect the entire fishery or does it only effect the area the Mid-Atlantic Council goes?

CHAIRMAN: That potentially could effect the entire mackerel fishery.

MR. DRISCOLL: Well, it doesn't matter whether they -- the New England Council passes the control date or not. There's already something out there that bankers can look at and say, "Here's another one we can't deal with."

CHAIRMAN: That's right, but I guess the point that I was making is that if we do the job that I think we should do here and have a well-rounded discussion of all the different implications of this, it will allow the public to come in and provide comments to us. They're not only providing comments to us, they'll be providing comments to the Mid-Atlantic Council and that will be a benefit to both agencies. Then we can sort out after that what the actual policy is that comes out. Alan?

MR. WEISS: If I may also point out that I'm the chairman of our squid, mackerel, butterfish committee and this issue is pretty central to the reason that our council asked that I be put on this committee.

CHAIRMAN: Okay. If there isn't anything else here, I'm going to move on. Trip limits? Was there a proposal for a trip limit from the advisors? Artie?

MR. ODLIN: No.

CHAIRMAN: No? Anyone here want to propose trip limits in this fishery? No? No one in the audience wants to recommend 500 pounds per trip or something reasonable? All right. Next issue is -- so trip limits will not be reflected in the document. Roe fishery -- recommendation from the advisors?

MR. ODLIN: No.

CHAIRMAN: No restrictions on the roe fishery?

MR. ODLIN: No roe fishery.

CHAIRMAN: No roe fishery. Comments to that -- on that recommendation? Any objections to that? No objections? Okay.

MR. DUNNIGAN: What does that mean, that you can't catch fish that have roe or once you catch those fish you can't do anything with the roe? Can we establish a season to protect -- what do you mean when you say, "No roe fishing?"

CHAIRMAN: Artie?

MR. ODLIN: I think it means a directed roe fishery where you actually go and catch fish full of spawn that are processed in some manner ashore or at sea.

CHAIRMAN: That's for the exclusive purpose of taking roe.

MR. DUNNIGAN: Is that determined by (inaudible) -- the person catching the fish?

CHAIRMAN: By the ultimate use, I would assume.

MR. DUNNIGAN: I don't. I would suggest that the PDT look into what the North Pacific Council did with their herring (pollack, ed.) fishery in the Gulf of Alaska. This was a major issue there about four or five years ago. The label that they had on it was full utilization and it got to be a huge practice of discarding essentially all of the herring except for the roe. They did develop language that I believe is now incorporated in their fishery management plan that addresses the issues. We might be able to get some specifics about how to render this thing properly.

CHAIRMAN: Dave Pierce?

DR. PIERCE: Well, along those lines, we have not discussed

any -- I don't think any specific spawning season restrictions in the seven New England areas of Nantucket Shoals, George's Bank. So, therefore, there could be some fisheries prosecuted in those areas when the fish are spawning. Hence, they have roe. Thus, that may prompt an interest in a welfare trade.

CHAIRMAN: Let me try and answer that before you go any further. In terms of George's Bank, the discussion that took place there is that if we -- if the ultimate allocations on George's Bank are consistent with the agreement with the Canadians, the scientific advice at that time was we didn't care whether or not they did take roe fish, even if that was the only purpose of them fishing for --

DR. PIERCE: Okay. So the same might apply on our side of the line?

CHAIRMAN: Yes.

DR. PIERCE: Okay. So that could stimulate an interest in the roe fishery which could -- I suppose if anyone's out there fishing for herring on George's Bank it would be for --

CHAIRMAN: I think this may be an issue. I think Jack's point is well taken that this may be an issue that we would benefit from having the PDT look at not only what's taking place in the North Pacific, but you do have roe herring fisheries down in San Francisco Bay and other areas and come back to us with a recommendation on whether or not it should be restricted before we take a position. I'm not going to delay things to put it off for a month.

MR. DUNNIGAN: I'm not so much concerned about whether to restrict. I want to make sure that you write it properly.

CHAIRMAN: Yeah. I understand, but there's also -- I mean, we got a policy question here of whether or not you want to do it and what are the implications for doing it? The Canadians have roe fisheries. That's what the targeted fishery is and they generate vast amounts of money from those fisheries. Of course, most of the people in the industry up there that I've spoken to recommend against it but they still do it. Jeff, did you have your hand up?

MR. KAELIN: I don't want to take up a lot of time now, but Dave raised an issue that I've been thinking -- make the spawning area a closed discussion, perhaps. Is it the intention that there will never be spawning area closures in Area 2 or 3, or just that there not be spawning area closures out there for the time being?

I think that's an issue that we need to raise and address, perhaps, going back to the directive that you gave to the PDT on the spawning area issues, address the issue of Area 2 and 3. Hopefully, when they identify where the spawning areas are, it may be viewed as appropriate to close them in time. We didn't think about that before.

CHAIRMAN: John Nelson to that point.

MR. NELSON: Thank you for making that clarification. It really was my intent when we talked about spawning closures that the options that would be brought back to this group would look at not only Area 1, but Areas 2 and 3. I think it's appropriate that we take a look at it and then make a decision on what we might want to do in the near term. I hope that doesn't complicate your efforts too much, but I think we ought to look at all the areas.

CHAIRMAN: Just to carry that a step further, I think that's a good suggestion and even if we don't have the data now, it doesn't mean we don't want to framework -- have a framework mechanism that we could utilize to adopt spawning areas at the point when the scientists identify them.

DR. STEVENSON: There's pretty good information where herring used to spawn, George's and Mason.

MR. ADLER: That was a very interesting point because up to a second ago I was thinking the roe fishery, it might not be good to encourage it whether or not we should ban it. Don't know. But then I said, well, they got spawning closures which would

probably stop if there was a fishery for roe that started to accelerate. Then you say, "Well, I'm sorry guys, we got these closures for spawning," and that would sort of keep a lid on it. But if there's no lid out there, then it could be problematic.

So it has bearing on the roe fishery question -- the spawning closures out there because I can see the Japanese, or whomever, all of sudden decide that roe from herring is their favorite and they will pay 90 million dollars a pound and here we go. So it can be an issue. Something needs to be done.

CHAIRMAN: So, I think we have enough guidance here that the staff can go back and develop, look at what's available from these other areas and then develop some characterization for the documents so that at least we get a discussion and the public comments issue. Closed areas other than spawning? No advisor recommendations for additional closed areas?

MR. ODLIN: I think we already --

CHAIRMAN: We already covered it?

MR. ODLIN: We talked a little bit about George's; and we said not at this time because we didn't know that much about it, and I think it was agreed that probably for that gathering it might be good to allow some people to go out there and catch some spawn fish or if they get some spawn fish, they could bring it back and record it.

CHAIRMAN: One of the things that I think we have to be cognizant of is that in most of our other plans, we do both closed areas and closed seasons. Even if we don't have a specific proposal that we want to include at this point, we may want to at least have an item in the document that discusses it and a framework that could be utilized to adopt that type of proposal in the event that at some subsequent point we decided that was the appropriate thing to do. Do you people feel comfortable with that? Yes? Artie?

MR. ODLIN: I think we should take a little bit of time, not necessarily right now, and have a series of measures we get in place that can be frameworked.

CHAIRMAN: Okay, so these would be frameworkable measures then? Everyone comfortable with that? So they'll be in the document. We'll generate discussion at the public hearing. There won't be a preferred alternative on any of these but they will be items that we can take framework action or adaptive management action on at some subsequent point. Any objection? No objection? Kathy? You haven't objected all day.

MS. RODRIQUEZ: No. I was just wondering if it could be included in the discussion of closed areas, the possibility of doing that for juvenile protection measures.

CHAIRMAN: I agree. I think what we ought to do at the next meeting is to have and identify what those are. If you want to have non-preferred alternatives, identify what those are. Any objection to that? Okay. Framework options? Tom?

MR. NEIS: I guess I'm a little confused. Right now, by my count, one or two options that we're not going to put in the back with trip limits. We've got pretty much all the other alternatives that we're going to put out for public comment.

CHAIRMAN: Right.

MR. NEIS: We have not identified preferred alternatives; is that accurate?

CHAIRMAN: Well, it depends on how you want to characterize it. Most of what I think we've done today constitutes, in my own mind, the preferred alternative. And then what I would view is issues like closed areas and so forth, trip limits. They're going to be in the document. The public is going to be allowed to comment on those. They become non-preferred alternatives or alternatives that are available for frameworking.

MR. NIES: Make sure its clear when we work on this. Preferred alternatives are really TAC discussion, spawning area

closures, fishing days off, vessel size limits, and the roe fishery.

CHAIRMAN: Directed mealing?

MR. NEIS: And the directed mealing. The non-preferred would be the minimum size limits, the other gear control measures, closed areas, and --

CHAIRMAN: Let me try and simplify this for the staff. I think we all know what the preferred alternatives are. Is there any objection to taking any of these items that we've discussed and putting them into the non-preferred? We know what the preferred are. If they're not selected for the preferred category, then they automatically would go under the non-preferred category. So they're in the document anyway. You could have, for instance, a section that says trip limits under non-preferred and if somebody wanted to comment on it, it's there. Any objection to that? It simplifies it, I think, for the staff, for both staff. John?

MR. NELSON: The only comment I was going to make, Dave, is whether it's premature right now to be saying what's preferred and what's not preferred. Clearly, there are certain things that I think we could all say are preferred and some are not. But I know we've asked for various options to be provided to us by the Technical Committee for spawning closures, for example. It may be that certain options are considered as preferred and then others would be considered as non-preferred. So we want to have that flexibility, I think, still allowed to us to look at what's presented to us as far as these measures as they come back -- you know, I'll pick on one.

For example, minimum size. I know there's going to be a problem associated with that. Before we assign it to a non-preferred status, I think we ought to just look at the options that are associated with it, have the discussion, and then decide whether it's preferred or non-preferred.

CHAIRMAN: I would agree with you. I don't think we're going to have a precise knowledge of the -- which one of the closed area options is preferred until our next meeting. At that point, you can identify it. David?

DR. PIERCE: I know we're obligated to use certain language, boiler plate language, but in terms of presenting information to the public, I've always leaned heavily in favor of saying, "Public, this is the preferred course of action that we have chosen. What do you think?" And then here are options that we have not chosen and why. This preferred option versus non-preferred option has plagued me the way it's worded. I just hate to give the public the idea that here is an option that we may choose. It's not preferred but it is an option when we know darn well we're not going to pick that option. It was just something we looked at, we didn't choose it, and these are the reasons why. Do you in the audience disagree?

CHAIRMAN: I would completely agree. The most productive public hearings you attend are those where you tell the public exactly what you propose, give them a list of other alternatives and then let them comment. Then they know what you're thinking, where you're going, and they can react to that accordingly.

Framework options? Other than the issues that have already been discussed for framework options, are there other issues we want to discuss? Penn?

MR. ESTABROOK: The fact that there was an historical fixed-gear fishery in Maine was brought up earlier. There is not now and hasn't been for some years. Perhaps, that needs to be included in the context for framework?

CHAIRMAN: How would we characterize that? I have no objections to doing that. I'm just trying to understand for the Technical Committee. Artie, do you want to answer that?

MR. ODLIN: (Inaudible) Fisheries had been going. I think what they were going to do or what the recommendation was that

the state go back and find out the people who (inaudible) fisheries. It's registered and who is in the stop-seine fisheries. Have a list of those people so that when the fisheries came back, they would be preferred, I guess, is the word. I mean, we're talking about something that's hasn't happened and may not. But they wanted the option. When we get to the public hearings and have some weight in there (inaudible).

CHAIRMAN: Jack?

MR. DUNNIGAN: There's nothing in the management plan that we've got here so far that if all of a sudden the fish started going ashore again, we stop the fixed-gear fishery. It would be preferably allowed. I'm not sure what we would provide in here that would deal (inaudible) -- that's limited --

CHAIRMAN: Jeff, to this point?

MR. KAELIN: I think what we're trying to get at was just recognizing there could be some activity in the future. It may not be the people who were past participants because some of those guys might be retired. I think the idea was that we're not in the quota system yet. I think my idea, our idea in the sardine industry is, maybe, you could set aside -- maybe, put 20,000 tons of juveniles aside for the fixed-gear sector. You'll have that sector be able to operate to take those fish. That might be how you deal with the juvenile fish issue, perhaps, down the road.

But for now, if you recognize it, there's some potential harvest from that sector if the fish show up inside again. I don't want to suggest a number, but 20,000 may be a good number and we don't know how many participants it would be. And I don't think we can necessarily identify them all. We might identify some to give the PDT an idea how many were in it. But the last time, around '81, was the last good year. There was a little bit of fish earlier in this decade, but --

CHAIRMAN: But I think Jack's point is that there isn't anything in the document now that would limit those individuals from coming back in the fishery and prosecuting their historic harvesting technology or utilizing their historic harvesting technology.

MR. KAELIN: Except for that could count against the TAC, perhaps.

CHAIRMAN: Right. That's different. If you're saying that if these people come back in and therefore are going to be exempt from a TAC, that's a different concept, in which case, I think we should have much more discussion on that.

MR. KAELIN: That's exactly what the Canadians do with the wier fish that we're counting as coming under TAC in size. That's the kind of treatment that that fixed-gear cycle has gotten historically.

CHAIRMAN: Bill?

MR. ADLER: I wonder if this is just opening a can of worms and I picture the public hearing document or after the public hearing is taken up on questions of, "Well, what if we do this and what if we do that" for a fishery that isn't there right now. As Jack said, it's possible that it's included in what we've got here now. I don't know if we want to get into this in detail and resurrect this fishery with rules and quotas and stuff like that.

CHAIRMAN: My actual simple suggestion here is that there are some things that I think we want to framework. We've identified some of those. What I would do is task both committees, the individual members, to think about this issue of what you want to framework and at the next meeting or prior to the next meeting, submit a proposal.

If the State of Maine wants to develop a proposal that would framework certain historic-type fisheries, then, in fact, develop that and submit it and we'll consider it. But everyone else should feel free to do the same thing. Think about the management measures here that we would want to adopt. For instance,

spawning areas -- and I would say that we would want to framework that; how long, how big, you know, those types of things. I don't think we need to identify it, spending a lot of time to identify them today. David?

DR. PIERCE: Well, I'll definitely give some thought as to how to deal with the juvenile fishery in terms of perhaps setting aside a certain portion of the TAC for that fishery. The reason why I say that is because I'm especially sensitive to (inaudible) created by mobile gear versus fixed-gear fisheries. When we fish in Nantucket Sound, for example, that is put at a tremendous disadvantage by offshore effort by mobile-gear fishermen during the wintertime especially to the point where the fishery is almost non-existent now.

It's an issue of equity or fairness. Unlike mobile-gear, stop seines and weirs can't pursue the fish, the fish come to them. It's an issue that does require some real serious thought and consideration, and, well, fair play.

CHAIRMAN: Okay. So that everyone understands what the task is, what I would hope is that the PDT at the next meeting would give us some recommendations on the measures they would recommend we framework and that committee members also do that. So, we'll get both technical guidance as to what should be frameworked and committee guidance.

MS. DORRY: Niaz Dorry, Greenpeace. I'm wondering if this body of area closures that is being brought up is a good -- potentially not a good example because doesn't that get potentially dictated through EFH requirements that come down, something that you might have to implement before we get to the framework; am I not right?

CHAIRMAN: Substantially.

DR. PIERCE: I'm sorry. I missed that point. What was your point?

MS. DORRY: I was just saying that some issues you may be considering as frameworkable in the future may get addressed as EFH requirements get implemented, such as the (inaudible).

CHAIRMAN: Okay. Anything else under framework? Marine mammal interactions, where do we stand with this section? Tom? Marine mammals. John?

MR. NELSON: The Council has asked for input as far as historic take in the mid-water trawling or trawling activities associated with herring. They have not got a response back at this particular time, and I believe the situation is that the information is going to be searched. There's a feeling that there's not that much information. But, nevertheless, it will be looked into. If there is not adequate information, I think the position would be that there would be a need to have some type of requirement or some level of observer coverage in the herring fishery.

So, I think we can work out the details associated with that, Mr. Chairman. But, I think the basics would be some type of observer coverage.

CHAIRMAN: Okay. Will we have a formal recommendation from your Committee by the next meeting?

MR. NELSON: It really depends on what type of input comes back. I would try to have that for you. Yes.

CHAIRMAN: Okay. And, John, if you're going to recommend observer coverage, it would be helpful to know what level of observer coverage.

MR. NELSON: Yes. Yes. We'll work on all those details.

CHAIRMAN: David?

DR. PIERCE: One that I would want to investigate, the bycatch and striped bass. It's becoming a hot topic, striped bass abundance. Mid-water trawling for 4C-9 (???), I've known there have been some instances of striped bass being caught. I don't know to what extent they've been caught, what the numbers have been. But between gillnetting for groundfish and the taking of

striped bass and the mid-water trawling for sea herring and the taking of striped bass, questions are raised. What's going on? It gets to the issue of observers and not just to document the marine mammal take but also the take of striped bass.

CHAIRMAN: On the bycatch issue, David, are you proposing that we put a stipulation in here for some level of mandatory observer coverage if requested by the service or a stipulation?

DR. PIERCE: The marine mammal issue, obviously, will capture the attention of the service anyway. They may require by themselves some observer coverage on board mid-water trawlers or pair trawlers. I don't know how to go with that. Maybe it's something that we'll just address on its own. We can certainly encourage observer coverage to document whether there is a bycatch.

CHAIRMAN: Questions of staff or to the region? Do we have to put that in the document as a specific proposal or requirement to take observers if requested to do so; or is that understood? Kathy, what's your guidance?

MS. RODRIQUEZ: I think I would put it in the document. It makes it much easier for us to have that, actually in the FMP and then regulate (inaudible).

CHAIRMAN: Okay. Any objections to that? Artie?

MR. ODLIN: Just one comment. I think it should be all herring gear, not specific gear -- anybody that's processing herring.

CHAIRMAN: That's correct. So that everyone's clear, we'll include a generic characterization that if requested to do so by a state or federal agency, a vessel is required to take an observer and the staff can work out the appropriate language to that effect.

MR. ODLIN: I was also going back looking at the bycatch stuff because David just listed two types of gear this morning.

CHAIRMAN: Okay. The only issue -- I had a couple of other ones. Maggie Raymond had submitted a letter. I just wanted to take a look at it. (Pause) I think we've covered Maggie's point. We're going to provide access for groundfish boats.

The other issue is the issue of transshipment and Peter was the one that raised this. I think the context of the discussion, Peter, was the issue of how that would count for the TAC; is that the point you wanted to -- why don't you go to the mike and address it yourself, if you'd like?

MR. MOORE: Peter Moore, Resource Trading. The issue simply is transshipments of herring from the Gulf of Maine Area 1, 2, and Canada. I think it should be a discussion pointing to the FMP draft. According to the (inaudible) last fall, the copy between Senator Chaffee and Senator Snow said that the issue would be addressed in the developmental management plan. I think from our perspective, it certainly was prioritization of use for fish that would be -- before we'd be facing limits in the Gulf of Maine, how does that whole issue boil down to domestic use versus use by a foreign country? I think that there just ought to be a place in the discussion draft for comments on that.

CHAIRMAN: Okay. Jeff?

MR. KAELIN: I guess as far as we understand the difference between American fishermen selling fish to Canada and American processors bringing foreign (inaudible) and having American fishermen catch fish that might go to China. I don't see the distinction at all in my own mind. I think one of the problems you're having with this transshipment issue is that it's one sector that benefits from it. One gear type benefits from it only. It's a very small amount of herring. I think the greatest year ever at least -- since -- in the last ten years it's been documented was 3,700 tons in '96. I'll bet you it was in the thousands this year.

And the problem that we have with this issue, from my

perspective is, we do not know. None of us here know because it's not broken out. How much Canadian herring is trucked down into the United States, particularly in Massachusetts and Maine, to benefit the bait industry? There's thousands of tons of herring that come the other way and it's not broken out in the data. And, I think, in fairness on this issue, we need to identify how much Canadian herring is coming down here so that everybody around the table can have the understanding that we've developed over the last hundred years about the importance of this two-way trade.

We've got one factory on the Maine border, Maine/Canadian border in Lubec that has a hundred people working down there that depends on the ability of boat herring from the Canadian weirs. I can promise you can throw a rock to some of those weirs standing on American soil. They need reciprocal access guaranteed. Canadians permit our carriers to go over there and take fish. The State Department, however, indicated the importance of our combined interest with Canada.

That's what this transshipment thing preserves. It preserves the access to our factories by Canadian fish and it preserves the access for the lobster industry in New England to Canadian herring. So, I'd like to see the PDT break out, provide us with information, the public, and the Committee members themselves with how much herring comes down from Canada. I think that information is available through customs just as it is when it's boated over. When it's boated over, it's available through customs. So is the trucked fish. So, let's take a look at the combination. I frankly don't see any difference between herring going to Canada and herring going to China. It's all been caught by U.S. fishermen. So, I don't know why this issue keeps coming up.

CHAIRMAN: Vito, and then I want to call on David.

MR. CALOMO: I don't want to put anybody out of business, but I do say when I hear limited entry, closed areas, days off, what do you want? An American vessel can go because we take fourteen Canadians out of the fishery and one more American vessel? As far as bringing herring down to the Massachusetts bait industry -- if they're bringing it down, I don't know too much about that. I think we're shipping it up more than we're bringing it down. But if that's the case, I want another Gloucester boat because I represent Gloucester, Massachusetts, vessel to go catch that bait and sell it to our friendly lobstermen. We need to Americanize this as much as we can. When we didn't have a plan, they came to me. I bowed out. It was okay, but right now we're trying to put a fisheries management plan for American vessels and American fishermen and that's where I stand on this. And I'll fight it to the end. Thank you.

CHAIRMAN: Let me try to simplify this. The suggestion was --

MR. KAELIN: Can I clarify one thing? These are not fishing boats. The fish are caught by American fishermen. That's what you guys have to focus on.

CHAIRMAN: Peter?

MR. MOORE: I'm not asking the Committee for a decision about whether this is right or wrong. I'm simply asking that it be put into the public hearing document for comment. To address Jeff's question of what's the difference between a Canadian and a Chinese, there's a big difference between me as Resource Trading leasing a vessel, whether it's Norwegian, Russian, or whatever, and pay my mortgage in Freeport, Maine, compared to Connors or whomever the bait market is or the canning market in Canada. That's all my point is. All I want to know is from a council perspective, where should the priority be if things get tight? Thank you.

CHAIRMAN: Fran?

MR. KULLE: Fran Kulle, Lubec Packing Company. I am the company that's really out of order. I can tell you that our



company's bought more fish out of town than this whole country has taken in the last year out of Canada. We've taken more out of Lubec stocks out of Canadian waters than U.S. I know this year indicates in the ballpark, 580 to 600 tons. I have taken close to 3500 ton already out of Canada. I think the other side is that Vito has to understand I know the bait business well enough to spring mark. That is the Canadian business the last two years.

CHAIRMAN: Okay. As far as the Committee is concerned, do you want to have a section in here on transshipment where we discuss what the existing practice is and solicit input, as Peter has suggested, about setting priorities and so forth? What's the preference of the Committee? Any objections to it? Bill?

MR. ADLER: No objection, but it will have to be explained what it means because it could get confusing very quickly to some people. So, it would have to be explained to the people.

CHAIRMAN: I'm also sensitive to that. What I would suggest that is between now and the next Committee meeting the staff try to work with the State of Maine and interested parties on the development of the section that we did -- actually, reviewed so that, in fact, its clear. Everyone will have the same information before we finalize a position on it. Any objections? No. Okay. Anything else? Bill?

MR. ADLER: You have a letter here from the U.S. Department of State. I was just wondering; are they hinting that what we are supposed to do is to make some arrangements for direct foreign fishing? Does this mean that they would like to see us make some allowance for Estonia, Lithuania, or Russia, or whomever else to bring -- actually come in and fish on our stock? Is that what they're hinting at here? They'd like to see it in our plan?

CHAIRMAN: They were suggesting that Saddam might want to send a vessel over --

MR. ADLER: Are they serious?

CHAIRMAN: Here we go.

MR. ADLER: Are we going to entertain this idea or are we going to politely tell them, "No way."

CHAIRMAN: Well, I think this goes back to the comment I made before that it's my understanding that it's a requirement of the Act for us to have a discussion of TALFF in there; how it will be calculated, how it will be allocated and so forth. I think that was also the point that the State Department was making. Not only do we have to have some methodology spelled out in there of how we intend to proceed, but if we intend to allocate TALFF, how it would be allocated.

MR. ADLER: So, we're going to have something in the document about allowing -- if we allow, when we allow foreign fishermen to come in and fish, we're going to have that in the document for everybody to comment on?

CHAIRMAN: Their comment is that that's a requirement to have in the document, and it's only to the extent -- it's not suggesting that we will allow TALFF, it's just saying if we do, this is the way it will be.

MR. ADLER: Would that be listed as saying section, perhaps, as the transshipment discussion? That's what we're talking about, other countries in both cases.

CHAIRMAN: That will actually, probably, come up in the specifications section where you got JVP and IWP spelled out. There will be a section on that.

MR. ADLER: All right.

CHAIRMAN: Anything else? Hands up. Kathy, what did we miss?

MS. RODRIQUEZ: With regard to the discussion on the preferred and non-preferred alternatives, I'm a little concerned, although I understand that it's easy to, maybe for presentation purposes for the staff to just check off the things that are preferred

and leave everything else that's not preferred. But, my question is that limited entry provision. Is it a non-preferred alternative? Does that send a message that the Council and the ASMFC think that open access or how quickly they can access is preferred?

CHAIRMAN: Does someone care to -- John?

MR. NELSON: Thank you, Kathy. I think the sense of our discussion was sooner or later we were to assign items as preferred, and either use non-preferred or some other terminology. That probably is more agreeable to some of the Committee members. But I don't think we're at that stage right now. I think the direction to the PDT was to develop options for the various measures listed here. We would go through those options and determine what we would have as if they were preferred or non-preferred. We haven't assigned anything to any of those categories yet. I mean, we did have a discussion on what people thought might be in there, but we haven't voted on them. I think that's what we would have to do, and I think your point, at that time, is very valid and we should discuss it in light of that.

MS. RODRIQUEZ: I just want to remind you all that we do advocate some type of a controlled-access system in the future when it's needed. Particularly, with respect to offshore development. I think that's in line with some of things you're talking about with respect to matching the mackerel provision. With what you would do in the future for herring, I would really like to see some discussion of consideration of matching capitalization and capacity of resource in the future when we're at that point. But we're real concerned about going forward with a public hearing document. It seems to indicate that this fishery will be open access for the near future.

CHAIRMAN: Okay. Other items that we need to address? Anyone in the audience? No hands. The only other item I have on my list is the approval of the minutes.

MR. NELSON: So moved, Mr. Chairman.

CHAIRMAN: Is there a second?

MR. NELSON: Move to approve.

CHAIRMAN: Any objection to both Committees approving the minutes as submitted? No objection? Minutes approved. Meeting's adjourned.

(WHEREUPON, the proceedings adjourned at 5:50 P.M.)

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS,  
ESSEX, ss:

I, KATHRYN A. THOMPSON, Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing proceedings of **Joint Atlantic States Marine Fisheries Commission/New England Fisheries Management Council** was taken before me on **Thursday, November 20, 1997**.

Said proceedings were taken audio-graphically by myself and then transcribed under my direction. To the best of my knowledge, the within transcript is a complete, true and accurate record of said deposition.

I am not connected by blood or marriage with any of the said parties nor interested, directly or indirectly, in the matter in controversy.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this **11th** day of **December**, 1997.

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Kathryn A. Thompson, Notary Public  
Commission Expires: April 16, 2004

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