

NORTHEAST SEAFOOD COALITION

January 25, 2005

TO: Frank Blount
Chairman,
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

RE: Framework 42 Issues / February 2, 2005 meeting Agenda

The Northeast Seafood Coalition (NSC) greatly appreciates the opportunity to provide the following input to the Council with respect to its February 2, 2005, meeting Agenda item “*Groundfish Committee Report*”.

The following includes NSC’s initial comments and suggestions concerning five important issues the Council will likely address in its development of Framework 42. These include: Future access and shape of the fishery; 2005 Review/Adjustment of Management Measures & Default Measures; DAS Leasing Program; Category B DAS Pilot Program; and Cooperative Research & Incidental TACs.

NSC is grateful for the Council’s kind consideration.

Future Access & Shape of the Fishery

If NSC had to chose two priorities to convey to the Council they are; 1) responsible resource conservation, and 2) equitable opportunities for all participants in the fishery.

With this in mind, NSC has always felt that Amendment 13 represents the Council’s remarkable effort to achieve the first priority of responsible resource conservation. However, until the conservation and rebuilding plan is hammered out through the various Amendment 13 frameworks, and until the effect of all those measures on the shape of the fisheries is well understood, it is premature to begin a process of carving up the spoils of the Council’s conservation efforts among select groups of participants.

Further, NSC has grave concerns with the possibility that an allocation process will degenerate into an *ad hoc*, first-come-first-serve “feeding frenzy” that allocates access to groundfish resources inequitably among select participants in the New England groundfisheries. NSC feels very strongly that the Council must not allow the future shape of the New England groundfish fisheries and dependent communities to be the *de facto* consequence of such an inequitable and unplanned process.

Instead, any future decisions regarding allocations and the future shape of our region’s groundfish fisheries and communities must be deliberate, transparent, thoughtfully

Tavern on the Harbor, 30 Western Avenue, Gloucester, MA 01930

Voice: 978.283.9992 • Fax: 978.283.9959 • web: www.northeastseafoodcoalition.org

planned and based on a great deal of solid socioeconomic analysis, and perhaps most of all, equitable.

All permits holders must be given a reasonable and equal opportunity to participate in a decision-making process that is completely transparent to those participants, and that has the benefit of a great deal of information and foresight. NSC does not believe the Council has sufficient information to make such far-reaching and potentially irreversible decisions, and has yet to even embark on a deliberate process of collecting much less analyzing the implications of such baseline information.

With this in mind, NSC strongly urges the Council to refrain from the adoption of any additional measures such as Special Access Programs (SAPs) and Sectors, during the 2005 Framework 42 process or subsequently, until the Council has collected sufficient information and completed an appropriately deliberative and transparent process. A great deal is at stake in such a process. It would be unconscionable for the Council to have any fishermen who has both endured and invested in the outcome of Amendment 13 to then be treated inequitably in the allocation of access to the resources.

2005 Biennial Review, Adaptive Strategy & Default Measures

NSC requests the Council's consideration of the following three key issues that relate to the 2005 Biennial Review.

- 1) **ADAPTIVE STRATEGY: The 2005 biennial review of Amendment 13 is for the purpose of evaluating of the success of the Amendment 13 rebuilding programs at a very early stage in the program. Consistent with the Adaptive Rebuilding Strategy, this evaluation is based on a relatively simple and straightforward determination of whether the fishing mortality rate targets for each stock are being achieved. The failure of any stock to attain its specified fishing mortality rate target will require the Council to adjust Amendment 13 management measures so that the fishing mortality rate targets will be attained.**

Although there may be some confusion over this fact, the Amendment 13 rebuilding strategy does not intend for the 2005 biennial review to include adjustments to management measures in 2006 based on an evaluation of stock biomass trajectories relative to the high biomass targets (i.e. the biological reference points developed by the 2002 Northeast Fisheries Science Center (NEFSC) Working Group).

Many uncertainties associated with the high NEFSC Working Group biological reference points were illuminated in a comprehensive independent peer review. Consequently, the National Marine Fisheries Service (NMFS) recommended to the Council that it adopt the Adaptive Rebuilding strategy for rebuilding certain stocks under Amendment 13 because it deliberately defers consideration of those biomass targets and trajectories for five years until the 2008 mid-term evaluation. The simple rationale for this strategy is explained in

the Amendment 13 SEIS, “By definition, fishing a stock at or below F_{msy} will eventually result in attainment of B_{msy} , with the stock thereafter fluctuating at or around that value, depending on rates of recruitment and fishing mortality.” (SEIS section 3.2.3.1.2, page I-39).

Ultimately, the Council adopted a fishing mortality rate based approach that includes a combination of the Adaptive and Phased Reduction Rebuilding strategies. Thus, for the first five years of the program, Amendment 13 management measures are designed solely to achieve a specified fishing mortality rate for each of the stocks subject to the Adaptive and Phased rebuilding strategies. These specific fishing mortality rates are set forth in Table 10 in the Amendment 13 SEIS (page I-49) and are the basis for evaluating the effectiveness of the management measures in achieving the rebuilding objectives.

The 2005 biennial review simply represents a very early checkpoint on whether the management measures are on track to attain the mortality rate targets that is based on a routine but very early stock assessment update. In fact, this stock assessment update will only include 8 months of fishing experience under Amendment 13 management, and so will provide only a very preliminary view.

In 2008, the Council’s “waypoint” evaluation of the success of the rebuilding programs will have the benefit of a full-blown benchmark stock assessment and several years of fishery experience and data under Amendment 13 management. It should be clear that the fundamental fishing mortality rate basis of the Amendment 13 management and rebuilding strategy does not change at this point. However, the evaluation of the success of the rebuilding programs will be far more comprehensive than the 2005 biennial review, and will include a complex decision matrix that evaluates whether stock biomasses are on trajectory to achieve B_{msy} at the end of their respective rebuilding timeframes. Importantly, this review will also evaluate whether the biomass targets themselves should be revised. As in 2005, the purpose of the 2008 mid-term review is to adjust management measures as necessary to attain the targeted fishing mortality rates for each stock.

Section 3.2.3.1.2 of the Amendment 13 SEIS sets forth a very clear and useful description of the Adaptive Rebuilding strategy (SEIS page I-39). In fact, a review of the entire “Proposed Rebuilding” section of the Amendment 13 SEIS, including subsections on the Adaptive and Phased reduction strategies and the “*Proposed Action*”, is very worthwhile.

As discussed below, Amendment 13 applies a separate and additional layer of evaluation for two specific stocks (American plaice and SNE/MA yellowtail flounder) as part of the process of determining if additional fishing mortality reductions for those stocks will be required in 2006 under the “default measures” process.

Although glaringly inconsistent with the overall fishing mortality rate-based Amendment 13 rebuilding strategy, the default measures section of Amendment 13 sets forth a confusing set of criteria that include consideration of the biomass of these two ‘targeted stocks’ in 2005. NSC has recommended that these criteria be revised to eliminate such

biomass considerations in 2005, and that the default measures process be conformed to the overall fishing mortality rate based Amendment 13 rebuilding program discussed above. **In any case, it is critical for the Council to recognize that the default measures criteria involving considerations of biomass are NOT in any way relevant to the Council's 2005 biennial review and evaluation of whether fishing mortality rate targets are being attained.**

- 2) **DEFAULT MEASURES CRITERIA:** As currently written, Amendment 13 provides for a further, automatic reduction in days at sea in 2006, and these default measures are designed to go into effect in those years unless it is determined that stocks are meeting rebuilding trajectories consistent with the controversial biological reference points developed by the 2002 NEFSC Working Group.

Reliance on these biological reference points in the first five years of the plan completely contradicts the adaptive management strategy upon which Amendment 13 is based. Under this strategy, the plan is deliberately and unambiguously intended to be a purely mortality driven plan for the first five years.

Moreover, one of the reasons this adaptive, mortality rate driven plan was adopted was to defer consideration of the controversially high biomass targets developed by the NEFSC Working Group for five years until a reassessment, based on five years of new information, could be undertaken. The default measures, by relying on the 2002 Working Group biomass targets in the first five years of the plan, directly raise the issue of the scientific and legal adequacy of the Working Group's biological reference points.

Finally, the default measures evaluation process was intended to be limited in its application to two 'targeted stocks', as an entirely separate process from the Council's overall fishing mortality rate-based evaluation of the success of the Amendment 13 rebuilding programs.

Amendment 13 expressly contemplates that adjustments to management measures will be needed to ensure that rebuilding program fishing mortality rates are met. Specifically, the Amendment 13 FSEIS includes the following two statements:

“An adjustment may be needed in fishing year 2006 to reduce mortality on plaice and SNE/MA yellowtail flounder, and a second adjustment may be needed in 2009 to reduce mortality on several stocks.” “Default measures are included in section 3.6.1 that are designed to meet the appropriate fishing mortality rates through 2009.” (emphasis added) (SEIS section 3.2.3.1.3, page I-48)

Similarly, the Amendment 13 Final Rule Preamble states:

“Default Measures. Amendment 13 establishes fishing mortality rate targets to end overfishing and rebuild all of the managed groundfish stocks. Some of the fishing mortality rates are immediately reduced to a level that ends overfishing. For several other stocks, reductions in fishing mortality rates will be phased in, in order to mitigate impacts of the reductions. To ensure that the scheduled fishing mortality reductions under Amendment 13 are realized by fishing year 2006, specifically for American plaice and SNE/MA yellowtail flounder, which may require an additional reduction in the fishing mortality rate to completely end overfishing, the following default measures will automatically become effective on May 1, 2006...” (emphasis added) (69 FR 22190)

The crucial point to be taken from these two statements is that the purpose and intent of the 2006 default measures is to address two and only two specific stocks, and to ensure that these two stocks meet their 2006 fishing mortality rate targets established by Amendment 13.

In other words, Amendment 13 recognized *up front* that the management measures for phasing down the fishing mortality rates of American plaice and SNE/MA yellowtail flounder may have been insufficient to achieve these targets. Therefore, in order to meet statutory requirements, the Amendment had to provide *up front* a mechanism for addressing this potential shortfall. That mechanism is the default measures.

However, the specific criteria set forth in Amendment 13 for determining whether the default measures can be lifted or must go into effect in 2006 substantially deviate from this clear purpose and intent in two significant ways.

- 1) The criteria set forth in the Amendment 13 SEIS (and reflected in the Final Rule) all include an additional evaluation in 2005 of the biomass of American plaice and SNE/MA yellowtail flounder as they compare to their respective rebuilding biomass targets. The Final Rule even includes a criterion for these stocks to be rebuilt in 2005 in order for the default measures to be lifted. In this respect the Default Measure criteria are profoundly inconsistent with the fundamental approach of Amendment 13 (as recommended by NMFS) to defer consideration of the biomass targets for 5 years and to manage the fisheries using strictly a fishing mortality rate strategy during this period.
- 2) The criteria also include an evaluation in 2006 of whether all other stocks (in addition to the two targeted stocks) meet their targeted fishing mortality rate specified in Amendment 13 (i.e. Table 10 SEIS). In this respect the Default Measures criteria are inconsistent with the intent of Amendment 13 for the Default Measures to only address American plaice and SNE/MA Yellowtail flounder. The Default Measures process represents an additional layer of evaluation that is separate from the larger process of evaluating whether all other stocks will meet their fishing mortality targets in 2006.

NSC urges the Council to revise the Default Measures criteria for 2005. These criteria should be limited in scope to the two targeted stocks, and should be made consistent with the 2005 biennial review of whether fishing mortality rate targets are being attained.

Specifically, criteria involving considerations of 2005 biomass projections as they relate to the rebuilding reference points should be eliminated. Further, the 2005 default measures criteria should be strictly limited in scope to the two target stocks, American plaice and SNE/MA Yellowtail flounder, and whether the fishing mortality rates for those two stocks have met the targeted rates set forth in Amendment 13.

NSC urges the Council to consider criteria language similar to the following, which would make the 2005 default measures process consistent with the evaluation of all other stocks under Amendment 13:

“The default measures shall not occur if the Regional Administrator determines that the Amendment 13 fishing mortality rate targets for American plaice and SNE/MA yellowtail flounder based on the 2005 stock assessment update have been or are projected to be attained.”

3) DEFAULT MEASURES ALTERNATIVES: The Council should expedite the development and PDT analysis of specific 2006 default measure alternatives to those set forth in Amendment 13, including such alternatives as time-area closures in the SNE/MA Yellowtail flounder RMA and trip limits on American plaice.

Amendment 13 sets forth two specific default measures that are to be automatically implemented in 2006 unless an evaluation based on the default measures criteria provide otherwise. The automatic default measures set forth in Amendment 13 are: 1) to shift the A/B DAS ratio from 60/40 to 55/45, and 2) to apply a differential counting of DAS fished in the SNE/MA yellowtail founder RMA at a rate of 1.5 to 1.

Setting aside the preceding concerns regarding the actual criteria to be used for evaluating whether the default measures are automatically applied in 2006, Amendment 13 expressly provides the Council with the opportunity to modify these two specific default measures if and when they are to be applied.

As stated in the *Rationale* for the specific default measures set forth in the Amendment 13 SEIS:

“The proposed measures implement a combination of adaptive and phased rebuilding strategies. These strategies call for reductions in fishing mortality in future years. Default measures are included in the amendment that target the necessary reductions. These default measures are based on the use of DAS as the primary mortality control. The change in the categorization of DAS will reduce the number of DS that can be fished on stocks that need reduced mortality. It may

be possible to identify other measures that will be as effective, but these will need to be adopted in a future Council action.” (emphasis added) (SEIS section 3.6.1.7, Default measures, page I-88)

Clearly, the Council has the opportunity to develop new default measures to replace those set forth in Amendment 13 as part of the 2005 Framework (FW 42). NSC urges the Council to consider and request PDT analyses of the following alternative default measures as soon as possible.

With respect to SNE/MA yellowtail flounder, consider replacing the current default measures with time/area closures in the SNE/YT yellowtail flounder RMA that, based on PDT analysis, would achieve the necessary fishing mortality rate target for this stock.

Further, with respect to American plaice, consider replacing the current default measures with an appropriate trip limit that, based on PDT analysis, would achieve the necessary fishing mortality rate target for this stock.

4) STOCK ASSESSMENT UPDATE: The 2005 stock assessment update is likely to produce estimates of fishing mortality rates that are higher than those actually achieved by the fishery under the Amendment 13 management measures implemented on May 1, 2004.

Because fishery data is collected and analyzed on a calendar year basis, the 2005 updated assessment will include a combination of fishing mortality data from both before and after the Amendment 13 management measures were implemented on May 1, 2004. In fact, the 2005 analysis will include fishing mortality rates from the first 4 months of calendar year 2004 when such rates were designed to be higher under the Interim Rule to implement Judge Kessler’s Order. (i.e. prior to the May 1, 2004, implementation of the more restrictive Amendment 13 management measures.)

Therefore, it can be anticipated that the 2005 stock assessment update may produce estimates of fishing mortality rates that include a high bias relative to the actual fishing mortality rates achieved in the fishery since the Amendment 13 management measures were implemented.

Because the purpose of the 2005 biennial review is to evaluate the fishing mortality rates achieved by the Amendment 13 management measures, not by management measures that preceded Amendment 13, the Council should keep this likely bias in mind when making decision about modifying the current management measures. It would be helpful if the 2005 analysis could somehow separate the 2004 pre and post Amendment 13 data so that the Council could base its decisions on a pure analysis of the success of the Amendment 13 management measures.

DAS Leasing Program Review

The Council should defer any definitive decisions regarding the DAS leasing program until it has received and reviewed the PDT analysis of the impacts of the program since its inception.

Amendment 13 established the DAS leasing program for two years, effectively as a ‘pilot program’, for the expressed purpose of ensuring that the impact of the program on Amendment 13 management objectives, including such matters as the potential impact of increasing DAS use rates, would be fully analyzed and considered as part of the 2005 Council review.

Indeed, the Amendment 13 assumptions regarding DAS use rates as they compare to the actual use rates experienced in the fishery since the Amendment was implemented have profound implications for the Council’s 2005 review and possible revision of Amendment 13 management measures. This review necessarily includes the Council’s consideration of whether or not to extend the DAS leasing program; the period for such an extension, if made; and whether the program needs to be modified in any way.

The PDT has indicated it plans to provide the Council with an analysis of the DAS leasing program in April 2005. **NSC urges the Council to maintain this program for consideration as a part of the 2005 Framework 42, but defer any definitive decisions on extending or modifying the DAS leasing program until it has received and considered the implications of this PDT analysis.**

Category B DAS Pilot Program

The Regular B DAS Pilot Program provides the only opportunity to use B Regular DAS outside of a SAP to target stocks that can sustain additional fishing effort including: GOM haddock, Pollock, GOM winter flounder, GB haddock, GB yellowtail flounder, and GB winter flounder. As such, this program is absolutely central to achieving the objective of Amendment 13 to mitigate the severe economic impacts of DAS reductions necessary to rebuild stocks of concern by facilitating the utilization of the Optimum Yield for strong stocks.

The program is innovative in that it provides an incentive for fishermen to devise new fishing methods and practices that avoid stocks of concern while increasing the yield of strong stocks. Because this program contemplates such innovation and changes in fishing behavior, the Council should expect there would be an associated “learning curve” and, therefore, a gradual improvement over time in the performance of this program in achieving its objectives.

It is anticipated that the program will generate a great deal of valuable data concerning how fishermen can best modify their fishing activities to realize the benefits of greater yields from strong stocks while achieving the fishing mortality rate objectives for the

stocks of concern. The program is subject to a great many input and monitoring controls to ensure that the program can be managed by the Regional Administrator successfully in avoiding negative impacts on stocks of concern.

This program is in effect for approximately 1 calendar year from November 19, 2004 through October 31, 2005. The purpose of establishing this as a pilot program was to ensure that the impact of the program on Amendment 13 management objectives, including primarily the impact on the fishing mortality rates of stocks of concern, would be fully analyzed and considered as part of the 2005 Council review.

The Category B DAS Pilot Program was only recently implemented on November 19, 2004, as part of Framework 40-A. Therefore, at this time there is insufficient data available to make a serious evaluation of the continuation of this program in fishing year 2006, and what program modifications may be desirable.

NSC urges the Council to ensure that the PDT provides as complete and up to date analysis of the program as possible as part of its 2005 biennial review. **Until then, NSC urges the Council to maintain this program for consideration as a part of the 2005 Framework 42, but to defer any definitive decisions on extending or modifying the Category B DAS Pilot Program until it has received and considered the implications of this PDT analysis.**

In the meantime, NSC urges the Council to consider the following points regarding their evaluation of the Regular B DAS Pilot Program:

1) The creation of Category B DAS in Amendment 13 was primarily for the purpose of providing fishing opportunities to target the strong stocks of groundfish. Such opportunities to achieve the optimum yield from these stocks was fundamental to the Amendment 13 objective of reducing the economic impacts associated with rebuilding stocks of concern. The ability to use B DAS, through both the Category B DAS Pilot Program and SAPs, was intended to provide an incentive for fishermen to modify their fishing practices and technology in ways that would achieve these objectives.

One impediment to achieving this goal is the perception—if not reality—that the historical use of B DAS by individual fishermen will eventually be used for the purpose of allocation of the resource. Consequently, many fishermen may be fishing on B DAS at times and places that are chosen more for the reason of establishing fishing history on those DAS than for the intended reason of testing new methods of fishing that enable them to maximize the yield from strong stocks while minimizing the mortality on stocks of concern.

A specific example was the 2004 CAII yellowtail SAP ‘derby’ fishery that occurred in part because participating fishermen believed that they needed to establish B DAS usage and catch history in this SAP in order to protect their future participation. This contributed to a very counterproductive result.

NSC urges the Council to consider including a measure in the Category B DAS Pilot Program—and in any appropriate SAP—that clarifies there will be no history, either usage or catch, associated with the use of B DAS. This will help to ensure that B DAS are used for the intended purposes of Amendment 13.

2) Assuming Amendment 13 management measures are successful in rebuilding stocks, the 2005 stock assessment update (and future assessments) should indicate progressively higher available stock yields (TACs) on stocks of concern. NSC expects that the top priority of the Council will be to convert B DAS to A DAS (i.e. adjust the A/B DAS ratio) when such TAC increases become available.

However, to the extent that the conditions of other stocks of concern prevent such a shift in the A/B DAS ratio, or that the entire amount of such TAC increases is not, for whatever reason, made available for A DAS use, NSC urges the Council to consider increasing the incidental TACs for stocks of concern in the Regular B DAS Pilot Program as a means to improve the practical efficiency of this program.

The Regular B DAS Pilot Program established an across the board daily incidental TAC of 100lbs for most stocks of concern. This daily catch rate is arbitrary in that it does not necessarily reflect the actual amount of available incidental TAC on a species by species basis. The 100 lb per day limit was intended to serve as a starting point for this pilot program, but it may be stifling the efficient use of the program. Instead, the incidental daily catch rate could be more carefully analyzed and modified in a way so as to increase the efficiency and utility of the program.

The manipulation of the daily rate of incidental TAC for certain stocks of concern using existing or increases in the available incidental TACs represents an important program improvement for the Council to consider in the 2005 Framework.

Cooperative Research & Incidental TACs

There follows an excerpt from the comments submitted by NSC on the Interim Final Rule for Framework 40A. NSC would ask the Council to consider the points made in these comments, which it has made a numerous occasions.

The key point is that NSC does not believe that the allocation of 34% of the Incidental TAC for GB Cod to the Eastern US/Canada Haddock SAP Pilot Program is valid or necessary. Therefore, this incidental TAC should be used for other more constructive purposes. The excerpt below provides a detailed analysis supporting this point.

Until now, NSC has recommended that this allocation of 34% of the incidental GB cod TAC be reallocated to the Regular B DAS Pilot Program. However, in light of the Council's ongoing concern over the limits placed by NMFS on cooperative research, NSC suggests that the Council could use this 34% incidental TAC to enable valuable cooperative research projects to operate under an Experimental Fishing Permit (EFP).

NSC believes the cooperative research program represents a crucial component of the overall effort to improve the conservation and management of Northeast Multispecies. NSC is in strong support of the Council's efforts to facilitate such cooperative research and offers this suggestion as a partial solution.

Excerpt for NSC Comments:

Comment (2): Eastern US/Canada Haddock SAP Pilot Program

Federal Register Pages: 67784 & 67800

Sections: "Comments and Responses—Comment 25" & Sec. 648.85(b)(5)(ii) Special Management Programs / Incidental TACs

Recommendations: Strike the incidental TAC allocation of "...34 percent to the Eastern US/Canada Haddock SAP Pilot Program". Reallocate this incidental TAC to the Regular B DAS Pilot Program.

Explanation: Please note that NSC made the same recommendations regarding this provision in its comments on the Proposed Rule (see NSC Comment (3) regarding the Proposed Rule).

NSC believes the Agency's response to NSC original comment on this issue appears to confirm NSC's point and validate its recommendation to eliminate the allocation of an incidental GB cod TAC to this SAP. As stated in the Agency's response to Comment 25 at FR67784:

"The incidental GB cod TAC for this SAP is not an allocation of GB cod that NE multispecies vessels may catch in addition to the US share of the GB cod TAC established under the US/Canada Resource Sharing Understanding. The GB cod TAC set pursuant to the Understanding represents the total amount of GB cod that may be caught from the Eastern US/Canada Area."

This is precisely the reason why NSC believes there is no reason to allocate an additional incidental GB cod TAC to this fishery since it is definitively governed by the hard TAC established pursuant to the Understanding. In effect, there is no "incidental catch" of GB cod in this SAP because all of the catch is considered to be part of the hard TAC.

FW40-A establishes US incidental TACs for certain stocks of concern under section 648.85(b)(5)(ii) for the purpose of ensuring that all mortality of these stocks is accounted for under the Amendment 13 rebuilding measures; specifically, in B DAS fisheries targeting healthy stocks in which there is expected to be an incidental catch of such stocks of concern but for which there is no hard TAC governing the total harvest for all fisheries.

Such incidental TACs are clearly intended to be in addition to, not part of, the mortality expected to occur in A DAS fisheries and in fisheries governed by a hard TAC such as those that are subject to the US/Canada Understanding.

In this instance, the entire GB cod catch taken in this SAP will be limited to and fully accounted for under the hard TAC established pursuant to the Understanding. There is no additional “incidental catch” of GB cod in this SAP for which an incidental TAC might be needed to account for this mortality. In fact, establishing an incidental TAC for this SAP effectively double-counts the GB cod mortality in this SAP.

NSC calls the Agency’s attention to the fact that the Agency used this same rationale in the IFR for not allocating the 16% GB cod TAC to Sector vessels in the CAI Hook Gear Haddock SAP, and for proposing to reallocate this incidental TAC to the B Regular DAS Pilot Program as a consequence of disapproving non-sector vessel participation in the SAP (see FR 87786-87787 Disapproved Measures/Non-Sector Participants in the CAI Hook Gear Haddock SAP).

Indeed, as the Agency indicates on FR 67786;

“...all cod caught by Sector vessels would count toward the Sector’s allocation of the GB cod; therefore, the fishing mortality on GB cod would be fully accounted for.”

If one simply applies the same logic to the Eastern US/Canada Haddock SAP, it becomes clear that in this case the sentence could be re-written to state; *... all cod caught by Eastern US/Canada Haddock SAP vessels would count toward the US allocation of GB cod under the US/Can Understanding; therefore, the fishing mortality on GB cod would be fully accounted for.*

At FR 67787, the Agency goes on to explain that there is no need to allocate the 16% incidental GB cod TAC to the CAI Hook Gear Haddock SAP because of the disapproval of the non-Sector participation (and, as above, because all cod caught by sector vessels are already accounted for under their sector allocation, i.e. hard TAC). Further, the Agency correctly explains in detail the rationale for reallocating this unusable incidental TAC to the Regular B DAS Pilot Program.

NSC submits that the substantive reasons presented by the Agency in the IFR for not allocating an incidental GB cod TAC to sector vessels participating in the CAI Hook Gear Haddock SAP are conceptually identical to those for not allocating the 34% incidental GB cod TAC to the Eastern US/Canada Haddock SAP Pilot Program. In each case, all of the GB cod mortality is already fully accounted for under a separate hard TAC.

Further, the rationale presented by the Agency in the IFR for reallocating the 16% GB cod incidental TAC from the CAI Hook Gear Haddock SAP to the B Regular DAS Pilot Program is also identical to the rationale for reallocating the 34% GB cod incidental TAC

from the Eastern US/Canada Haddock SAP Pilot Program to the B Regular DAS Pilot Program. In each case, such reallocation correctly reflects the intent of the Council in Amendment 13 and FW40-A.

Finally, as explained in Comment (1) above, NSC has strongly recommended that the Agency modify the terms of the CAI Hook Gear Haddock SAP to provide for non-sector vessel participation. Therefore, the references in this Comment (2) to the Agency's proposal to transfer the 16% GB cod incidental TAC from the CAI Hook Gear Haddock SAP to the B Regular DAS Pilot Program is not intended to suggest NSC supports that transfer. NSC's references to the Agency's proposed transfer were made only to draw attention to the Agency's rationale for the transfer and how that closely relates to the circumstances in the Eastern US/Canada Haddock SAP Pilot Program described above. Again, NSC strongly supports opening the CAI Hook Gear Haddock SAP to non-sector vessels and retaining the 16% GB cod incidental TAC in that SAP so that all of the non-sector GB cod catch will be fully accounted for.