

Canada/United States (U.S.) Transboundary Resources Steering Committee
Teleconference
May 7, 2020
Meeting Minutes

Canadian Participants:

Melanie Barrett, Fisheries and Oceans Canada (DFO) Science
Ray Belliveau, Gulf of Maine Advisory Committee (GOMAC) Industry Co-chair
Jacinta Berthier, Regional Director, DFO Fisheries Management
Kathryn Cooper-MacDonald, DFO Fisheries Management
Jill Currie, DFO, Integration Committee
Alain d'Entremont, Transboundary Management Guidance Committee (TMGC) Industry Co-chair
Michelle Greenlaw, DFO, Transboundary Resource Assessment Committee (TRAC) Acting Co-chair
Terry Higgins, DFO, Integration Committee Co-chair
Donald Humphrey, DFO, Species at Risk Working Group (SAR WG) Co-chair
Kent Smedbol, DFO Science
Roger Stirling, GOMAC Industry Co-chair
Mary-Ellen Valkenier, DFO, Steering Committee Co-chair
Doug Wentzell, DFO, Associate Regional Director General

U.S. Participants:

Terry Alexander, New England Fishery Management Council (NEFMC), TMGC
Peter Christopher, National Marine Fisheries Service (NMFS) Greater Atlantic Regional Fisheries Office (GARFO), TMGC
Elizabeth Etrie, NEFMC, TMGC
Marianne Ferguson, NMFS GARFO, Integration Committee Co-chair
Jean Higgins, NMFS GARFO, SAR WG Co-chair
Tom Nies, NEFMC, Executive Director
Michael Pentony, NMFS GARFO, Steering Committee Co-chair
John Quinn, NEFMC, TMGC Co-chair
Michael Simpkins, NMFS Northeast Fisheries Science Center (NEFSC), TMGC
Spencer Talmage, NMFS GARFO, Integration Committee
Tara Trinko Lake, NMFS NEFSC, TRAC Co-chair

Opening Remarks

Mr. Michael Pentony welcomed Ms. Mary-Ellen Valkenier and thanked the Canadian delegation for joining the call. He noted the COVID-19 situation and shared that NMFS GARFO employees have been working at home since March 16th (8 weeks), with the exception of some essential staff still working at the offices. He shared that there have been some delays in rulemaking for

annual measures, and that there have also been requests for emergency actions to address pandemic related issues such as market disruption. In general, Mr. Pentony was impressed with the ability of his team to continue getting their work done. He also noted that both the New England Fishery Management Council (NEFMC) and the Mid-Atlantic Fishery Management Council have stepped up to work remotely and successfully transitioned their Council meetings to webinar format.

Mr. Pentony also shared three TMGC membership changes: Mr. Terry Stockwell has stepped down as TMGC co-chair, replaced by Mr. John Quinn. Additionally, Mr. John Pappalardo was appointed by the NEFMC as an industry representative.

Next, Mr. Pentony provided updates on two ongoing groundfish actions. Amendment 23, a comprehensive action to improve monitoring and accountability in the fishery, is still under development. A draft Environmental Impact Statement (EIS) is available and open to the public comment through June 30. The COVID-19 pandemic led to the postponement of in-person public hearings for the action. As a result, the NEFMC added two virtual public hearings in May, but postponed its final decision on the action until after its June meeting, to ensure that in-person hearings occur prior to the decision. Final Council action is still anticipated to occur in 2020. The second action was Framework 59. In the U.S, May 1, 2020 marked the beginning of the new groundfish fishing year. Ordinarily, by this time of year a Framework Adjustment implementing the quotas for the transboundary stocks approved by the Steering Committee during the previous September would be in place. However, Framework 59 is delayed and NMFS is still working to publish a proposed rule soliciting comment for the action. As a result, NMFS has taken steps to ensure that catch stays below the agreed upon quotas for each stock. NMFS implemented default sub-Annual Catch Limits for Eastern Georges Bank cod and haddock. For Georges Bank Yellowtail Flounder, NMFS is working with industry and groundfish sectors to ensure that they understand the current situation and manage their quota accordingly.

Lastly, Mr. Pentony briefed the group on SAR. He mentioned that NMFS was happy to report that researchers saw 10 North Atlantic right whale (NARW) calves off our Southeast coasts this winter, and that although flights have been limited this year, the Center for Coastal Studies recently reported sighting two of the mother-calf pairs in New England waters. He also noted that this year, NMFS added the NARW to the “Species in the Spotlight” campaign, further emphasizing NMFS’ commitment to focus attention and resources on changing the population’s trajectory. In the Northeast, NMFS continues to work on several efforts to reduce risk to NARW, including working through the take production process to reduce entanglement risks in trap and pot fisheries. Mr. Pentony finished by saying that Ms. Jean Higgins would provide a brief summary of those efforts during the SAR update section of the agenda.

Ms. Valkenier noted that DFO continues to be in business, though it’s not business as usual. Like the U.S, DFO employees are largely working quite successfully from home and only essential employees are working in the office and field. Canadian fisheries continue to be managed and enforced – licences are being issued, Coast Guard and scientific services continue, and conservation and protective measures are working. In short, DFO continues to deliver on the mandate of the department and to support their industry. Ms. Valkenier recognized that it has

been a hard time for the industry and their partners, so DFO has been working diligently to support them. On April 25, DFO secured a \$62.5 million seafood stabilization fund to increase cold storage, inventory capacity, promote value added seafood, meet shifting demand, and to put in place health and safety measures. Ms. Valkenier noted that DFO continues to examine the ongoing impact of COVID-19 through meetings with industry and partners, and they are considering what they can do to best support Canadians. The Canadian government is supportive of commerce and trade, and Ms. Valkenier shared that the U.S. is a vital trade partner and that borders remain open for that trade. Ms. Valkenier then provided updates on staffing changes – Ms. Annette Daley retired in April, and Ms. Jacinta Berthier has stepped into her position as Regional director of Fisheries Management. Michelle Greenlaw is the Acting TRAC Co-chair, replacing Ms. Kirsten Clark. Ms. Valkenier finished by saying she continues to be impressed by the work we have been able to do jointly.

TRAC

TRAC Documentation Changes

Ms. Tara Trinko Lake reviewed the TRAC document changes and highlighted the expected publications for TRAC in 2020. She noted TRAC has proposed to remove the reference documents and they have collected feedback on what to include in the Transboundary Status Reports (TSRs). The TRAC proceedings of the meeting discussion are also expected to be published in 2020. Ms. Trinko Lake followed by going through the Appendices for each stock and noting figures and tables that will be included.

TRAC Updates

In her presentation on TRAC updates, Ms. Michelle Greenlaw introduced herself as the Acting Canadian TRAC co-chair and Ms. Trinko Lake as the U.S. TRAC co-chair. She then announced that the July 7-9, 2020 TRAC meeting will be held virtually due to COVID-19 and followed with an update to the Terms of Reference for the July meeting. Specifically, indicator updates will be provided for haddock and cod, the empirical approach is expected to be applied for yellowtail flounder, there will be an investigation into new assessment approaches for cod, and a bullet to address the COVID-19 pandemic will be added to the TRAC Terms of Reference¹, which will be discussed as appropriate. Ms. Greenlaw followed up with survey updates. There were no issues with the 2019 U.S. fall survey or the 2020 DFO winter research vessel survey. The 2020 U.S. spring survey was canceled due to COVID-19. Aging related to the 2020 DFO winter research vessel survey is currently on hold due to COVID-19. Beyond aging data, COVID-19 is not expected to impact the availability of Canadian catch and survey data by the May 1st deadline for TRAC.

On the U.S. side, Ms. Greenlaw said her U.S. colleagues expect a delay in the availability of U.S. catch data, due to delays in the submission and post-processing of state fishery information, but there are no impacts expected on the availability of completed U.S. survey data, by the May 1

¹ "Discuss, as appropriate, the impacts of COVID-19 restrictions in each country on achieving or completing work on any ToRs, including any alternatives to address data shortfalls."

deadline for TRAC. Lastly, Ms. Greenlaw noted that the calculation of allocation shares will not be impacted as they are calculated using 2019 data, and that a draft Terms of Reference (TOR) has been developed for the Georges Bank and Eastern Georges Bank Haddock Research Track Assessment (benchmark). Modeling work for that is expected to be completed in 2021.

Data Limited Management (DLM) Tool

Ms. Trinko Lake provided an update on DLM tool development in terms of identifying management objectives and developing the operating models. . For identifying management objectives, TMGC convened a DLM tool workgroup to develop draft management objectives, and those draft management objectives were refined and presented to the TMGC during its intersession on April 24, 2020. Currently, the TMGC is working to provide feedback and approve the management objectives. For the operating model development, TRAC is currently exploring the base model inputs and impacts of these inputs on the simulations.

The next steps for development of the DLM tool include finalizing the operating models and identifying candidate management procedures. This will be accomplished by working with the TMGC working group to select management procedures that meet the management objectives approved by the TMGC. Lastly, TRAC will provide a progress update on the DLM tool at the July 2020 meeting.

Following the presentation, Mr. Terry Alexander asked about the effects of the uncertainty of the DLM tool will have on the TRAC process, and if the TMGC will know that percentage when they set the quotas for cod. Ms. Melanie Barrett answered that there is uncertainty in every operating model and that while you cannot calculate the precise uncertainty bounds with the DLM tool, it allows TRAC to test which management procedure does best across operating models. Mr. Alexander responded by asking if we could see the difference between what comes out of the DLM tool and what we have been doing historically. Ms. Barrett answered that once TRAC presents the different management procedures and sees the outcomes, they usually pick the one that does best across the operating models and then use that until the next benchmark. There is a possibility that there will be multiple management procedures that do well which would allow for some flexibility. Ms. Kathryn Cooper-MacDonald followed up by saying management objectives have been discussed and there are proposed management objectives regarding yield and stability between management periods. Setting a limit around decreases and increases in Total Allowable Catch between management periods is, therefore, an option. Ms. Barrett stated that she and Mr. Alexander could follow up on the discussion offline afterwards.

Species at Risk

Ms. Higgins shared a presentation on U.S. updates for Species at Risk. NARW were added to NOAA's "Species in the Spotlight" campaign, which focuses attention and resources on the most at risk species to change the trajectory. As a new species in the spotlight, NOAA will be working on a five year action plan for NARWs. Ms. Higgins also shared that 10 NARW calves were sighted this winter. The bilateral NARW working group met on March 18, 2020, via webinar due to travel concerns. The webinar was condensed into three hours and included presentations from managers and researchers. Ms. Higgins noted that she will be providing updates of several of

those items, including recovery planning, MMPA Take Reduction planning, ESA Section 7 consultations, and a vessel speed rule report. Ms. Higgins followed with a Recovery Planning update from the Northeast U.S. Implementation Team (NEIT), which is a multi-disciplinary team that advises on right whale issues surrounding status and conservation. The Southeast Implementation Team (SEIT) and NEIT had a combined fall meeting where they conducted group discussions which will inform a five-year action plan. Transport Canada joined the NEIT recently (DFO is already a member). The Population Evaluation Team (PET) Subgroup met March 3rd for a three day virtual meeting to progress PVA efforts. For next steps, the NEIT will meet via a June webinar, and the PET is planning a Winter 2020 PVA release.

Ms. Higgins then provided an overview of the *Marine Mammal Protection Act* Take Reduction Program. She reminded the group that the MMPA prohibits take of marine mammals, but provides conditional exception for incidental take in commercial fisheries. Take reduction planning (TRP) is required if incidental mortality and serious injury exceeds potential biological removal (PBR). Take reduction teams (TRTs) are diverse teams that develop and recommend take reduction measures and consensus based plans, with the goal of reducing incidental mortality and serious injury below PBR (NMFS has the ultimate responsibility to meet that goal). The Atlantic Large Whale Take Reduction Team (ALWTRT) is made up of 61 members from groups such as the trap/pot fishery, gillnet fishery, conservation/environmental groups, academic and scientific researchers, state managers, federal managers, and fishery management organizations. The ALWTRT is working to reduce mortality and serious injury to below PBR for NARW (PBR = 0.9]. In April 2019, the team provided near consensus recommendations to reduce northeast trap/pot risk by 60 per cent. Individual states each have recommendations that include gear marking, weaker ropes, and reduced endlines. Additionally, data collection on aggregations will be evaluated for closure considerations.

Ms. Higgins followed up the MMPA discussion with an overview of the *Endangered Species Act* Section 7 consultation process. Section 7 requires federal agencies to ensure that actions that they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify critical habitat. The Batch Fisheries Biological Opinion under development covers American lobster and Jonah crab, Atlantic bluefish, Atlantic deep-sea red crab, mackerel/squid/butterfish, monkfish, Northeast multispecies, Northeast skates, spiny dogfish, and summer flounder/scup/black sea bass. This biological opinion will assess how proposed MMPA take reduction measures change the fisheries and any potential impacts to protected species (including right whales). Ms. Higgins then shared next steps for both the upcoming MMPA rulemaking and the ESA biological opinion. NMFS remains committed to a 60 per cent risk reduction in Northeast trap/pot gear to reduce serious injury and mortality to less than one per year for NARW. The draft ESA biological opinion and MMPA proposed take reduction rule are expected in summer 2020. NOAA has \$1.6 million in funds for industry compliance assistance. Ms. Higgins then showed a map of right whale vessel speed rule seasonal management areas and provided a description of the right whale vessel speed rule review. The rule provides evaluations of biological effectiveness, mariner compliance, navigational safety impacts, economic impacts, effectiveness of voluntary DMAs, and small vessel traffic SMAs. The draft report is in clearance and a release is planned for later this year.

Lastly, Ms. Higgins shared a table of anticipated ESA updates. There will be a five year status review for listed species for Atlantic salmon (Gulf of Maine Distinct Population Segment (DPS)), Atlantic sturgeon (New York Bight, Chesapeake Bay, Carolina, South Atlantic DPS), and Sei whale. There will be a critical habitat designation for green turtles (including the North Atlantic DPS) and a response to the North Atlantic DPS petition for leatherback turtles (i.e., petition to change the global listing.)

Ms. Jacinta Berthier followed up with a summary of Canadian fishery management updates on NARW measures. Right whales have arrived in Canadian waters, specifically two in the Gulf of St. Lawrence which triggered a 15 day dynamic closure. These types of closures were discussed at the bilateral meeting. Ms. Berthier noted that their Minister recently announced a suite of measures to mitigate risk, namely rope marking implemented across Atlantic Canada for non-tended fixed gear. The dynamic management zone was extended to include the Bay of Fundy and Roseway Basin. Mr. Alexander asked if DFO was continuing aerial surveillance of the Gulf of St. Lawrence, to which Ms. Berthier responded that aerial surveillance is ongoing and that the science team is updating plans for ongoing surveillance. Mr. Alexander followed up with the observation that historically whales have been seen in the Bay of Fundy in August-September, so he was wondering if DFO has seen any whales there during the lobster fishery that opens up in late November. Ms. Berthier responded that they have, near Grand Manan, and they had some clearance flights before the opening of the fishery. She also mentioned that DFO continues to work closely with the fishery and whale watch groups to determine that the whales have moved on before the opening of the season. DFO is engaging with the industry through teleconferences and other planned engagement to address gear modification projects phasing in in 2021. Examples of gear modifications include weak links, sinking groundlines, maximum rope diameter, measures to reduce vertical lines, such as the current voluntary/logistical measures to fish several traps per trawl. With the dynamic zone expansion, DFO will institute a 15 day closure for fixed gear when a whale is sighted (using the 3x3 grid approach). Ms. Berthier reiterated that rope marking is a big measure and that the department has industry support on gear modifications and new technology, but there are some challenges, including limitations of gear supply and impacts of the pandemic.

Mr. Donald Humphrey provided a short update on the progress of the NARW action plan and SAR Working Group. The NARW action plan was recently approved and will be posted to the SAR registry for a 90 day comment period. The public comment period builds upon an eight week targeted consultation process that took place during summer of 2019. NOAA provided comments during this process and will be invited to comment again on the proposed version. Following the 90-day public comment period, DFO will have 30 days to publish the final version of the document on the Species at Risk Public Registry.

At the fall 2019 Steering Committee Meeting, the co-chairs of the Species at Risk Working group proposed to review and identify potential changes to the Terms of Reference for the working group to reflect organizational changes and the creation of additional related working groups between our departments, particularly related to North Atlantic right whale. Mr. Humphrey advised that the co-chairs of the working group have had a number of calls to discuss

potential changes and have engaged internally within their respective departments for feedback and suggestions. This includes potentially expanding the ToR to include discussions on Atlantic salmon and other species of concern as well as focusing on more operational issues related to species at risk. The co-chairs will continue to work together to update the ToR in the coming months and develop a workplan for the coming years, and will provide a more comprehensive update at the fall 2020 Steering Committee meeting.

Other Topics

Data Delays

Mr. Simpkins reiterated that although there will not be any spring survey data, the fall 2019 survey data is available and the aging data are on track. He noted that the commercial data are typically provided by late May, and that the current target date is May 15th. Mr. Alexander asked if the NEFSC has a plan for allocation shares since the survey data is missing and what will be done in the future about the missed survey. The consensus was that the TRAC will consider this issue going into the July meeting and it will be reflected in the TRAC Terms of Reference to provide suggestions to TMGC. Mr. Alain d'Entremont asked Mr. Simpkins whether any industry or partner-led surveys were being conducted, since there were no spring surveys conducted by the NEFSC. Mr. Simpkins responded that discussions are still underway for future surveys. Decisions regarding surveys are made at the national level, and it is not a blanket suspension. In terms of industry surveys, those are a little different, but the same issues of health and safety will have to be addressed. Ultimately, NEFSC wants to put vessels back on the water without putting people at risk.

Atlantic Herring

Mr. Pentony brought up the fact that two years ago the NEFSC completed the stock assessment for Atlantic herring that indicated the stock was in poor shape with low recruitment. The NEFMC took swift action to reduce quotas and fishing pressure. He noted NMFS is concerned about the stock, and that NMFS is interested in rebuilding and maintaining a healthy population. NEFSC will be completing a new assessment this summer, which will be peer reviewed in the coming months, and they will update Canadian scientists with the results. Mr. Pentony stressed that since it is a shared resource, there are implications on both sides. He also indicated that the U.S. would like to better understand the Southwest New Brunswick fixed gear management controls, since understanding those controls may impact how the NEFMC manages the fishery. Mr. Pentony suggested adding Atlantic herring as topic for the September meeting to discuss issues affecting the species, the results of the assessment, management controls, and to generally identify opportunities to coordinate, strategize, and improve management of the resource. Ms. Berthier responded that DFO is doing a management strategy evaluation (MSE) for a new assessment approach and that there had been a slight increase in stock abundance from 2018 to 2019. Mr. Nies asked whether the MSE included the Southwest New Brunswick (weir) catches and, if not, whether DFO proposed to include that catch. Ms. Greenlaw responded that Canada was still considering which catch components to include in the MSE, and that the MSE is expected to be finalized in October 2020. DFO continues to work towards recovery efforts for

the stock. Ms. Berthier noted that since the objective of the Steering Committee is to discuss management issues associated with the Gulf of Maine and Georges Bank marine environment for the cod, haddock and yellowtail flounder transboundary resources, another venue should be sought for discussion of herring.

Closing Remarks

Mr. Pentony thanked Ms. Valkenier for the participation of the Canadian delegation and appreciated the opportunity for discussion.

Ms. Marianne Ferguson clarified the dates for the September TMGC and Steering Council meetings (September 1st and 2nd) in Boston. She noted that there is a question of whether or not the meeting will be in person due to COVID-19 precautions, and that she and Ms. Terry Higgins would be in touch regarding over the summer regarding planning for the September meetings and potential contingency plans.

Ms. Valkenier also thanked the group for taking the time to meet.