

transcript.
Council minutes from September 1990 concerning sablefish fixed gear IFQ management alternative tabled at the August portion of the June 1990 meeting. The item was not on the agenda and was considered at the end of the meeting under other business.

DON COLLINS WORTH, CHAIR

Col: We have completed all of the items on our agenda. Is there any other business?

JOE BLUM

B: Mr. Chairman, I have a motion. I would move to remove from the table the sablefish fixed gear IFQ management system.

WALLY PEREYRA

Per: 2nd.

RICK LAUBER

L: Point of order Mr. Chairman. My point of order is that the motion is out of order. And my reasons for that, so that you can make a parliamentary ruling on it, is that the reasoning behind a tabling motion normally is a short delay - a matter of a week or usually even at the next meeting might be allowed if it wasn't too long - but where this motion is fatally flawed is the fact that the tabling motion was made in a body that no longer exists. The Council has been reconstituted since the time the motion was tabled. There has been, albeit the officers are the same but they have been reelected and the membership of the body has changed and therefore the motion is out of order.

Col: Where did you find that?

General: Laughter

BOB ALVEYSON

A: I've got to remember that one Mr. Chairman.

Mit: If Mr. Lauber's approach is true, then any matter that had come before us that has now been revoked would then have to be revoked by this new body.

L: That's not the case at all and you know that Henry. We're talking about a specific motion which is a tabling motion which is a motion that's normally used for something for a relatively short period of time. If the motion had been made to a date certain or a time certain then of course the motion would have been in order. And if this is what they intend to do, and continue it to the next meeting, this is what should have been done. The motion was made improperly then although I think it was quite proper for what they intended to do at the time which I think that quite frankly the intent was that the matter not come up again. But that's not the situation at all. There was a proper motion that could have been made. It wasn't made and the motion is out of order at this time.

Col: Well, according to my Roberts rules it says that to take from the table the object is to consider business that was laid aside, temporarily, at this meeting or last meeting providing meeting is held within three months. Requires a second, is undebatable, is unamendable, and ah...

HENRY MITCHELL

Mit: Good try Rick.

Col: I mean, unless...

B: Mr. Chairman, is your ruling then that the motion is in order?

Col: I don't know how to rule on the constitution of the assembly whether or not the appointment of one new member... It certainly seems that the majority of the individuals on the Council are similar to the assembly at the time that the motion was tabled. At least a quorum.

B: Call for the question.

Col: Unless the person who called for the point of order has something else for me to refer to other than the instrument that I have in hand here then I will rule the motion is in order. Undebatable. Roll call please.

Motion passed 6 to 5 with Cotter, Dyson, Lauber, Mace, and Pennoyer voting against.

B: Mr. Chairman I move to refer the sablefish fixed gear IFQ management system to the Fishery Planning Committee to report back to the Council at the June 1991 meeting on appropriate actions to be taken by the Council with respect to this system and among other things parallel actions with respect to halibut.

Per: 2nd.

Col: **The motion that we have before us we are reconsidering is the motion that was before us when it was tabled in June.**

Cot: Mr. Chairman, I move to table to the December Council meeting.

A: 2nd.

B: December 1991?

LARRY
COTTER

Cot: Yes, to table this motion

B: Or 1992?

Cot: December 1991.

Col: December 1991 or December 1990? This December or next December?

Cot: 1990.

STEVE
PENNOYER

Pen: We had a motion that was moved and seconded this is an amendment to it I take it. This is a

B: No, I asked him what year December he was speaking of, gave him three options.

?: That's nondebateable also.

Mit: Call for the question.

Col: Roll call.

CLARENCE

Pau: That's to the December 1990 meeting?

PAUL
EXEC DIR

Col: Yes.

Motion passed 6 to 5 with Alverson, Blum, Dyson, Hegge, and Pereyra voting against.

B: Mr Chairman, clarification then. We will be doing what in December with respect to this motion? Taking it off the table again?

Col&Pau: Taking it off the table.

Elements of a Sablefish Fixed Gear IFQ Management System

This outline presents a proposed individual fishing quota system (IFQ) for sablefish hook-and-line and pot fishing. When present, the left column presents the outline as stated after the June/August meeting; the right column lists changes proposed at this time. Areas which are **grayed** also represent changes.

I. SCOPE OF PROGRAM

- A. Species: **Sablefish**
- B. Gear: **Longline and pot vessels**

II. THE WHAT, WHEN, WHERE, WHO, AND HOW OF IFQS

- A. **What** - Each IFQ would be a set poundage of sablefish for a particular year. They would be based on the number of quota shares for each management area and vessel category. The amount of weight assigned to each unit would vary yearly as the total allowable catch (TAC) varied from year to year. Quota shares (QS) represent a portion of the TAC. They would be issued during the initial assignment process and would be based upon historical, qualifying landings.
- B. **Where** - All six management areas in the Gulf of Alaska, Bering Sea, and Aleutian Islands: Southeast Outside/East Yakutat, West Yakutat, Central Gulf, Western Gulf, Bering Sea, Aleutian Islands.
- C. **When** - IFQs would be issued yearly to those who hold quota shares. Initial assignments would be made for the **1993** fishing year.
- D. **Who** - The person who owned or was a lease holder of a vessel that made sablefish longline or pot landings.
 - 1. **"Person"** - As defined by the Magnuson Act with the exclusion of non U.S. citizens. Any individual who is a U.S. citizen, any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State but being owned and controlled by a majority of U.S. citizens), and any Federal, State, or local government or any entity of any such government.
 - 2. Initial assignments would go to vessel owner(s) except when a qualified lease exists. In case of a lease, it would be termed as a bareboat charter. The lease holder would receive full credit for trips made under a qualified lease.
- E. **How** initial assignment of Qs will be made.
 - 1. A vessel owner or lease holder must have made longline or pot landings of sablefish in at least one of the years **1987, 1988, or 1989**.
 - 2. Initial assignment of quota shares would be based on the recorded landings (fish tickets) during 1984 through 1989, of all vessels each person owned or held by lease. The total of each person's six year landings, by area, would be added together.
 - 3. IFQs and Qs would be vessel category specific. Each person would receive assignments for the vessel category of their most recent sablefish landings. If, in their last year in the fishery, they owned or leased two or more vessels that landed sablefish then the assignments would be for the larger vessel category.

(CURRENT)

(PROPOSED)

4. Vessel size categories are:
- a. Less than 50' length over all.
 - b. 50' to 75' length over all.
 - c. Over 75' length over all.
 - d. All freezer/longliners regardless of size.

4. Vessel categories are:
- a. 50' and less length over all.
 - b. 51' to 74' length over all.
 - c. 75' and over length over all and all freezer/longliners regardless of size.
5. Vessel categories would vary by management area as follows:
- a. Southeast Outside/East Yakutat, West Yakutat, and Central Gulf - categories a, b, and c.
 - b. Western Gulf, Aleutian Islands, and Bering Sea - categories a/b combined and c.

- F. Hook-and-line or pot caught sablefish could not be landed without IFQs. There would be no open access portion to the sablefish fixed gear fishery.

III. TRANSFERABILITY

(CURRENT)

(PROPOSED)

- A. Permanent sales of Quota Shares (QS) are permitted. All sale and leasing of IFQs shall be prohibited. All leasing of QS shall be prohibited.

- A. Permanent sales of Quota shares (QS) are permitted.
- B. Leasing of up to 50% of a person's IFQs is permitted for no more than three (3) years.
- C. All QSs/IFQs not used to land fish for three (3) years would be surrendered to the government. This provision will not apply to the last five (5) percent of a person's QSs/IFQs.
- D. The Council intends to institute a cost recovery program by the use of annual permit fees, auction, transfer tax, landings tax, or other cost recovery method.

- E. All QS and IFQ transfers would have to be approved by NMFS based on findings of eligibility criteria prior to fishing.

- F. Persons must control IFQs for amount to be caught before a trip begins.
- G. QSs and IFQs are vessel category/management area specific and may not be transferred between these categories.
- H. A limit of 2% of the combined area fixed gear TACs would exist on the amount of IFQs one person could hold or control. Any person receiving an initial assignment of QSs in excess of 2% of the combined area fixed-gear TAC shall not be able to hold or control more QS or IFQ above the amount initially received.
- I.
 - 1. Any person may purchase QSs.
 - 2. To use QSs or IFQs, a person must either own a vessel upon which the QS/IFQ is used, or be on board the vessel as crew or operator.
- J. IFQs would not be valid for trawl caught sablefish from any area nor for pot caught sablefish from the Gulf of Alaska.

IV. DURATION OF IFQ HARVEST PRIVILEGES

- A. No specified ending date. Harvesting privileges may be subject to periodic change, including revocation, in accordance with appropriate management procedures as defined in the Magnuson Act. (The privileges are good for an indefinite period of time.)

V. COASTAL COMMUNITIES - The issue of special harvest privileges to economically disadvantaged coastal communities is being considered by the Council in inshore/offshore discussions.

VI. ADMINISTRATION

- A. NMFS Alaska regional office would administer the IFQs.
- B. Settlement of appeals disputes during the assignment process.
 - 1. The basis of judgement for use in appeals will be fact. That is, unsubstantiated testimony will not be considered. Lease holders would have to come to the Appeals Board with verifiable records and agreement of the owner of record of the vessel. If such agreement cannot be reached, judicial proceedings outside of the Appeals Board would be required. Appeals could be brought forth based on two criteria:
 - a. Errors in records.
 - b. Documented lease holder qualification.
 - 2. Initial appeals would be heard by an Appeals Board composed of government employees rather than industry members. Subsequent appeals would go to NMFS Alaska Regional Director followed by appeals to the Secretary of Commerce and then the court system.

NOTE: The Council wishes to express its intent concerning the following specific point.

Should the program end, no compensation would be due to QS or IFQ holders or users. That is, the termination of this program would not constitute "taking".