

ADVISORY PANEL MINUTES
June 3-8,2002
Unisea Central, Dutch Harbor, Alaska

Advisory Panel members in attendance:

Alstrom, Ragnar
Benson, Dave
Boisseau, Dave
Bruce, John (Chair)
Burch, Alvin
Cross, Craig
Ellis, Ben
Enlow, Tom
Falvey, Dan

Fraser, Dave
Kandianis, Teresa
Mayhew, Tracey
Nelson, Hazel
Norosz, Kris
Preston, Jim
Ridgway, Michelle
Steele, Jeff
Stephan, Jeff

The AP unanimously approved the minutes of the April 2002 meeting.

C-4 CDQ

The AP recommends that the Council adopt the following alternatives and options for the eight issues contained in the analysis:

Issue 1: Determine the process through which CDQ allocations are made.

Alternative 2: Define the process in regulation, an expanded state hearing and comment process, but with no formal NMFS appeals process.

Issue 2: Periodic or long term CDQ allocations:

Alternative 2, Option 2, suboption 1: Set fixed 3 year allocations with possible mid-cycle adjustment for extraordinary circumstances.

Additionally, the AP recommends the regulations must be revised to reflect that suspension or termination of CDQ allocations would be an administrative determination by NMFS and that the CDQ groups involved would be allowed an opportunity to appeal NMFS's initial administrative determination on any changes in CDQ allocations. The AP also recommends removing the requirement to publish a notice in the Federal Register about suspension or termination of a CDQ allocation.

Issue 3: Role of Government Oversight:

Alternative 2: Amend the BSAI FMP to specify government oversight purposes as described in the analysis.

Issue 4: CDQ allocation process - Types of quotas:

Alternative 1: No action

Issue 5: CDQ allocation process - the evaluation criteria:

Alternative 2: Publish allocation criteria in the NMFS regulations with the following changes to the criteria:

7. In areas of fisheries harvesting and processing, past performance of the CDQ group, to the extent practicable, in promoting conservation-based fisheries by taking actions that will minimize bycatch, provide for full retention and increased utilization of the fishery resource, and minimize impact to essential fish habitats.
8. Apply proximity to the resource only to these species: halibut, Norton Sound red king crab, Pribilof red king crab, St. Matthew blue king crab.

Issue 6: Extent of Government oversight:

Alternative 4: (From HR 553) Revise NMFS regulations to clarify that government oversight extends only to the activities of the CDQ group that are funded by royalties from the CDQ allocations. *Motion passed 9/8.*

The minority is supportive of making adjustments to the maturing CDQ program where it is now appropriate. We believe that due in large part to conservative management and accountability to the communities, the success of the program can continue. However, Alternative 4 erodes that accountability and offers large opportunity for CDQ management changes that could bring the future of the program into question.

Signed: Jeff Steele, Ragnar Alstrom, Dave Boisseau, Hazel Nelson, Lance Farr, Al Burch, John Bruce, Michelle Ridgway.

Issue 7: Allowable investments by CDQ groups - fisheries related projects:

Alternative 3, with the following amended option 2, suboption 1 for limits on non-fisheries related projects, and suboption A to make goals and purposes primarily fisheries related: Allow investments in non-fisheries related economic development in-region projects up to 20% of the previous years' pollock royalties.

Issue 8: Other CDQ Administrative Issues:

Alternative 2: Simplify quota transfer and Alternative fish plan process.

Motion passed unanimously.

C-6 SSL Trailing Amendment

The AP recommends Alternative 1 - no action. The analysis states "Alternative 1 would not jeopardize the continued existence of the SSL or adversely modify critical habitat." The AP believes that if there are concerns with the status of the pollock stocks, those should be dealt with under the annual TAC setting process, as has been done in the past.

Motion passed 13/1

Additionally, the AP recommends the Council adopt Alternative 5, Exempt pot fishing vessels from sea lion closures from 0-3 nm around Canton Island and Cape Barnabas. *Motion passed 14/0*

C-7 (a) Single Geographic Location Change

The AP recommends the Council adopt Alternative 2, allowing AFA inshore floating processors to move to a different location between reporting weeks. It is the understanding of the AP that Steller sea lion requirements apply, and that pollock processed is harvested under AFA regulations. Further, the intent is not to create an additional burden on the 2 floating inshore processors that is different than for other AFA participants. Additionally, the AP recommends the Council adopt Alternatives 2-5 regarding the inshore/offshore language proposals. *Motion passed 17/0*

C-7 (b) IR/IU

The AP recommends the problem statement for IR/IU be revised to reflect the conclusions of the analysis that 100% retention of rocksole and yellowfin sole is not practicable as it would result in severe economic losses while less than 100% retention is not enforceable; and that the document be released for initial review with the following changes to the alternatives:

1. Incorporate a qualitative description of the following trailing amendments into alternative 3 as trailing amendments,

A. A bycatch reduction coop structured as follows:

1. PSC caps for halibut and crab in the BSAI are subdivided into two pools. One pool is for vessels that wish to participate in a bycatch reduction program. The other pool is for vessels remaining in open access. The subdivision of PSC is calculated by summing the groundfish catch by target for each group, applying an appropriate bycatch rate to each target and assigning that amount of PSC bycatch to the BRC and the open access fishery.

2. Companies in the BRC will be required to agree to limit each vessel to the above calculated share of halibut and crab relative to total groundfish catch. Evidence of binding private contracts and remedies for violations of contractual agreements must be provided to NMFS for the BRC to be

approved. Participants in the BRC must demonstrate an adequate system for the estimation, monitoring, reporting and overall accounting of the PSC available to the BRC.

3. Bycatch reduction will be accomplished by:
 - a. Bycatch rate reduction that results in a more efficient use of the PSC available to the BRC
 - b. PSC available to the BRC will be reduced by 5% beginning in year two of the program
 - c. A periodic review of PSC use and PSC available to the cooperative to allow consideration of further reductions of PSC allocated to the BRC. Further PSC reductions should be based on achieving a balance between the optimum yield objectives and the bycatch reduction objectives contained in the MSA.
4. THE BRC is for the non-pollock catcher processor sector.
5. The BRC will be as inclusive as possible for all non-pollock CP's in the BSAI (i.e. both AFA and non-AFA , TAC controlled fisheries and PSC controlled fisheries.)
6. Subdivision of current PSC caps between sectors (CV's CP's and/or AFA CP's and non AFA CP's may be necessary)
7. Allocation within the BRC such as qualifying years or amounts of PSC available to individual vessels will be decided by members of the BRC.
8. Monitoring requirements and costs will be distributed equitably among BRC members.
9. Monitoring requirements will be developed with one objective being minimizing these costs to BRC members
10. Protections for non-cooperative fisheries, if necessary, will be specified.

Motion passed 14/1

- B. An alternative to create discard caps for the flatfish fisheries upon triggering a cap, 100% retention would be required.

2. Add a suboption to Alternative 4 which would allow separate exemptions by region, gear, CV-CP, AFA/non-AFA, and by an average of bycatch rates over a period of years.

Motion passed 14/1

D-1 (a) TAC Setting Process

The AP recommends the council release the draft TAC setting EA/RIR/IRFA with the following changes:

1. Expand discussion of current public process such as plan team meetings, Council meetings, etc., in the context of meeting public process and APA requirements.
2. Expand the analysis of Alternative 3 to include an option to establish a separate time line for sablefish fisheries to maintain consistency with the halibut fishery.

The AP concurs with the SSC problem statement as stated in their February 2001 minutes and requests the analysis be clarified to reflect this problem statement. *Motion passed 10/3*

D-1 (c) BSAI Amendment 68: Pacific Cod Pot Gear Split

The AP recommends the Council adopt Alternative 1: No action. *Motion passed 10/5.*

A motion was made to adopt Alternative 2, Option 5: Apportion the BSAI Pacific cod pot gear TAC between pot CVs and pot CPs based on catch histories from 1995-1999. Suboption a: unused quota from either pot sector would be reallocated to the other pot sector before it is rolled over to other fixed gear sectors. If the quota remained unharvested, it would be reallocated to the longline CV sector (0.3 %). Additionally, the (5%) cod quota that is reallocated to the pot sector annually from the trawl and jig sectors would be reallocated to the pot sector as a whole. Motion failed 6/9.

C-3 BSAI Crab Rationalization

The AP recommends the Council adopt the following alternatives and options to the BSAI Crab Rationalization program:

Fisheries to Include in the Rationalization Program - applies to all programs

Issue 1 **Species to include in the program**

- Bristol Bay red king
- Aleutian Islands (Dutch Harbor/Adak) brown king
- Bering Sea opilio (snow)
- Bering Sea bairdi (Tanner)
- Pribilof red king
- Pribilof blue king
- St. Matthew blue king

Suboptions

1. Area/Species exceptions:
 - A. Exclude EAI tanner, WAI tanner, EAI red king, and WAI red king (from Section 1.1, Suboption A and Section 2.3 Option 1, h)

Motion passed without opposition.

Rationalization Program Choice

Amended Option 3 - Voluntary Cooperative with binding arbitration - *Motion passed 17/0* This Motion was reconsider after the development of elements and options (*Motion passed 8/6*), and subsequently tabled (*Motion passed 14/0*).

A motion to adopt a one pie voluntary cooperative with a 20% penalty on harvesters not affiliated with a cooperative failed 7/9

The AP recommends the Council adopt a 2-pie rationalization program model. *Motion passes 9/6/1*
A motion to retain status quo failed 12/1/3

Allocation of Harvest Quota Shares

Eligibility for an allocation

- 1.2 Persons eligible to receive an initial allocation of QS must be:
 - Option 1. Any person that holds a valid, permanent, fully transferrable LLP license *Motion passed 17/0*

Basis for allocation

1.4.1. Calculation of initial QS distribution will be based on legal landings excluding deadloss.

- (a) Calculation of QS distribution. The calculation is to be done, on a vessel-by-vessel basis, as a percent of the total catch, year-by-year during the qualifying period. Then the sum of the yearly percentages, on a fishery-by-fishery basis, is to be divided by the number of qualifying years included in the qualifying period on a fishery-by-fishery basis to derive a vessel's QS.

Suboption: For each of the fisheries for which such a vessel holds valid endorsement for any years between the sinking of the vessel and the entry of the replacement vessel to the fishery, allocate QS according to a range of 75% of the vessel's average history for the qualifying years unaffected by the sinking. *Motion passes 17/0.*

(b) Basis for QS distribution.

Option 1. For eligibility criteria in paragraph 1.2, Option 1, the distribution of QS to the LLP license holder shall be based on the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per vessel.

(Option 1) Persons who have purchased an LLP, with GQP, EQP, and RPP qualifications to remain in a fishery may obtain a distribution of QS on the history of either the vessel on which the LLP is based or on which the LLP is used, NOT both. License transfers for purposes of combining LLPs must have occurred by January 1, 2002.

A motion limiting the above suboption to the brown crab fishery failed 13/4

(Old option 3) In cases where the fishing privileges (i.e. moratorium qualification or LLP license) of an LLP qualifying (i.e GQP EQP, RPP and amendment 10 combination) vessel have been transferred, the distribution of QS to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. Only one catch history per LLP License.

Motion passes 14/4

Qualifying years (from Section 1.4.2)

Select one option for each fishery included in the rationalization program

BS C. opilio (from Section 1.4.2.1)

- Option 4 1996-2000
A. Best 4 of 5 seasons

Bristol Bay red king crab (fishery closed in 1994 and 1995)

- Option 3 1996-2000
A. Best 4 of 5 seasons

BS C. bairdi (fishery closure since the 1996 season)

- Option 2 1991/1992-1996
A. Best 5 of 6 seasons

Pribilof red king crab (fishery closed since 1998)

- Option 1 1993-1998
A. Best 4 of 6 seasons

Pribilof blue king crab (fishery closed in 1993 and 1994 and since 1998)

- Note that all options are equivalent because of the fishery closures
Option 2 1994-1998
B. Best 4 seasons

St. Matthew blue king crab (fishery closed since 1998)

- Option 1 1993-1998
A. Best 5 of 6 seasons

Aleutian Islands brown king crab

- Option 4 1996/7-2000/1
A. Best 4 of 5 seasons
Motion passed 9/7

Suboptions for any of the years selected

B. allocation is based on harvests from each subregion - each participant receives an allocation in each subdistrict based on harvests from that subdistrict.

Motion passed 17/0

Annual Allocations of IFQs are made based on (from Section 1.5)

Option 2 TAC (1.5 Option 2) *Motion passed 17/0*

Transferability of Quota Shares

Eligibility to Receive Shares by Transfer (from Section 1.6)

Option 1 Any persons or entities

A. eligible to document a US fishing vessel (from Section 1.6, Option 1(a))

Suboption B (under Options 1, 2, and 3)

Grandfather recipients of initial allocations (from Section 1.6.1) *Motion passed without objection*

Leasing of Quota Shares (or Sale of IFQ) (from Section 1.6.2)

Option 1 Leasing permitted without restriction (from Section 1.6, Option 1)
Motion passed without objection.

Ownership Caps, Use Caps, and Limits on Vertical Integration

Ownership Caps on QS - (from Section 1.6.3)

Revisit ownership caps, use caps, and limits on vertical integration following the results of a buyback program and a Council mandated ownership survey, to adjust the caps to an appropriate level.

Purchases made consistent with the interim ownership caps may be grandfathered.

Motion passed 19/0

Provisions without Options

1. Initial issues that would receive allocations in excess of the cap as of June 6, 2002 at 9:30 a.m. are grandfathered (subsequent changes in ownership are not grandfathered) (from Section 1.6.3(a)) *Motion passed 18/0*

2. Caps are applied on an individual and collective basis (as in the halibut and sablefish IFQ program) (from Section 1.6.3(b))

Motion passed 19/0

Provisions with options

Selected one option for each fishery included in the rationalization program:

Bristol Bay red king crab (from Section 1.6.3(c))

Option 1 1 percent

Bering Sea *C. opilio* (from Section 1.6.3(c))

Option 1 1 percent

Bering Sea *C. bairdi* (from Section 1.6.3(c))

Option 1 1 percent

Pribilof blue king crab (from Section 1.6.3(c))

Option 1 1 percent

Pribilof red king crab (from Section 1.6.3(c))

Option 1 1 percent

St. Matthew blue king crab (from Section 1.6.3(c))

Option 1 1 percent

Aleutian Islands brown king crab (from Section 1.6.3(d))

Separate Subdistricts

Eastern (Dutch Harbor)

Option 1 10 percent

A motion to set the cap at 30 percent failed 3/15

Western (Adak) brown king crab

Option 1 10 percent

A motion to set the cap at 30 percent failed 3/15

Issue 2 Use caps - (from Section 1.7.4)

Option 2 No use caps (from Section 1.7.4, Option 2)

If the buyback and ownership review amendments are not completed in three years, then the use caps are 3 times the ownership caps. *Motion passed 18/0*

A vessel may use an amount of quota in excess of the ownership cap for that fishery for a period of no more than 3 years. Motion failed 5/12

Issue 3 Limits on Vertical Integration (from Section 1.6.4)

Option 3 Initial recipients of PQS cannot own harvester QS in addition to the harvester QS received in the initial allocation (from Section 1.6.4, Option 3) as of June 7, 2002. *Motion passed 11/5.*

Use of IFQ's

Issue 1 Catch accounting and overages

Option 4 Allow discards of incidentally caught crab (from Section 1.7.3, Option 4) and defer to the BOF to develop future modifications to reduce discards of incidentally caught crab. *Motion passes 15/1*

Issue 2 Overages

Subissue 1

Allowances over quota held:

Option 2: 3 percent (from Section 1.8.2(a), Option 2) or,

Subissue 2

Option 1 the same amount as the overage (from Section 1.8.2(b), Option 2)

Motion passes 13/3

Issue 3 Provisions Applicable to Two Pie IFQ and Voluntary Cooperative Program

Processor Delivery Categories for catcher vessel shares- Two types of processing shares will be allocated

1. Class A IFQs, must be delivered to processors (including catcher/processors) with sufficient unused IPQs (from Sections 1.3.3(a) and 1.7.1(a))
2. Class B shares, deliverable to any processor (including catcher/processors) (from Sections 1.3.3(b) and 1.7.1(b))

Motion passed 11/3/2

A motion to adopt a one pie voluntary cooperative with a 20% penalty on harvesters not affiliated with a cooperative failed 7/9

Processing Sector Elements - Applicable to Two Pie IFQ and Voluntary Cooperative Program

Issue 1 Fisheries to Include in Processing Program

Fisheries for which PQS will be distributed (from Section 2.2.1)

Recommend same fisheries as in 1.1:

- Bristol Bay red king
- Eastern Aleutian Islands (Dutch Harbor) brown king
- Western Aleutian Islands (Adak) brown king
- Bering Sea opilio (snow)
- Bering Sea bairdi (Tanner)
- Pribilof red king
- Pribilof blue king
- St. Matthew blue king

Motion passes 13/2/1

Issue 2 Percentage of the TAC/GHL for which PQS (and Class A harvest shares) are distributed

(from Section 2.4). Note that any unallocated portion of the TAC/GHL will be open delivery

The AP took a series of votes in a range of 90%-0% discussing the percentage of TAC/GHL for which PQS is distributed

The undersigned support a two-pie rationalization (including a system using the voluntary cooperative system set forth in 6.1 of the Council motion) in which processors receive at least 90% of their processing history as Individual Processing Shares.

Vessels and processing facilities have equally participated in the overcapitalization of the open access crab fisheries. The impacts of rationalizing the crab fisheries will be identical for those who have investments in vessels and those who have investments in processing facilities. Vessels will be greatly devalued because there are far more vessels than necessary to harvest the rationalized fishery and processing plants will become greatly devalued because there is far more processing capacity than necessary.

The reason for allocating quota shares under a rationalized fishery to vessel owners is to compensate those vessel owners for the devaluation of their existing investments caused by adoption of the rationalized system. The exact same rational applies to primary processors who built their facilities based on the race for crab.

There are protections for fair price formation under a system that includes processing interests.

Binding arbitration will assure that there will be a minimum price established by an independent party for every quota shareholder. There will be required cost and revenue data collected from processors. Crab fishermen

have a history of effective collectively bargaining. Class B shares will provide price leverage. The pollock fishery shows that 10% Class B shares are more than enough to protect vessel owners. One reason the AP voted for 23% Class B shares was concern over vessels that are affiliated with processors. Yet the pollock fishery, which has a 10% set aside, has a much higher degree of affiliation than exists in the crab fishery.

We learned from the American Fisheries Act that if both harvesters and processors were included in rationalization, all parties would benefit. A discount of processor history below 90% will also negatively impact the remote communities that are entirely dependent on the crab fisheries.

Signed Dave Benson, Kris Norosz, Dave Boisseau, and Tom Enlow

Amended Option 3: 77 percent of the TAC/GHL (from Section 2.4.1, Option 3) *Motion carries 10/6*

Fraser - Allocation of processor shares are distributed in such a way that non-affiliated (MARAD definition) vessels receive 20% of the TAC/GHL as B shares (approximated total allocation of B shares of 23%)

Motion carries 10/6

Motion to phase out IPQ's at 10% a year – *Motion failed 6/10*

The AP notes that processor shares should be a privilege, not a property right. *Motion carries 15/1*

Issue 3: Initial Allocation of Processor Shares

Processor Eligibility for an Allocation (from Section 2.1)

Processors (including catcher/processors) that are US corporations or partnerships that processed crab from a fishery included in the rationalization program in either one of 3 years 1997, 1998 or 1999 *Motion passed 10/6*

Calculation of Processor Allocations (from Section 2.3)

Allocations are on a fishery basis and are based on a processor's aggregate pounds purchased in the qualifying years divided by the aggregate of all pounds purchased by eligible processors in the qualifying years. *Motion carries 9/7.*

Implementation of the Processor Share Program (from Section 2.5)

Processors must hold unused IPQ for purchases of crab harvested with Class A harvest shares. Any processor may purchase crab harvested with Class B harvest shares. *Motion passed 10/6.*

Transferability of Processing Shares (from Section 2.6)

1. Processing quota shares and IPQs are fully transferable (including leasing)
2. IPQs may be used by any facility of the processor holding those shares (without transfer or lease)

Motion passed 10/6

Issue 4 Processor Qualifying Years (from Section 2.3) - can select from different options for different fisheries

Fisheries with multiple qualifying year options

Bristol Bay red king

Option 2 1996 - 2000 (best 4 seasons) (from Section 2.3, Option 2)

Motion passed 11/4/1

Bering Sea opilio (snow)

Option 2 1996 - 2000 (best 4 seasons) (from Section 2.3, Option 2)
Motion passed 10/5/1

Eastern Aleutian Islands (Dutch Harbor) brown king

Option 2 1996/7 - 2000/1 (best 4 seasons) (from Section 2.3, Option 2) *Motion carries 9/5/2*

Western Aleutian Islands (Adak) brown king

Option 2 1996/7 - 2000/1 (best 4 seasons) (from Section 2.3, Option 2) *Motion passed 9/5/2*

Fisheries with single qualifying year option

Bering Sea bairdi (Tanner)

Bairdi would be a class B only fishery.
Motion carries 8/7

Pribilof red king

Option 1 1996 - 1998 (from Section 2.3, Option 1)
Motion carries 11/2/2

Pribilof blue king

Option 1 1996 - 1998 (from Section 2.3, Option 1)
Motion passed 10/2/3

St. Matthew blue king

Option 1 1996 - 1998 (from Section 2.3, Option 1)
Motion passed 10/2/3

Issue 5 Recipient of Allocation

Option 1 Buyer of record on the ADF&G fish ticket (from Section 2.3, Options 1 and 2)

Option 2 The buyer of the crab, if that buyer is determined to be an entity other than the entity identified on the ADF&G fish ticket (from Section 2.3, Option 4)
Motion passed 14/0/2

Issue 6 Ownership and Use Caps on Processing Shares (from Section 2.7)

Sub-issue 1 Ownership Caps (from Section 2.7.1)

Ownership cap will be:

Option 3 maximum share allocation in the fishery plus 10 percent (of the A share pool) plus 10 percent of that entity's history (from Section 2.7.1, Option 1)
Motion carries 10/5/1

Initial issues that would receive allocations in excess of the cap as of June 7, 2002 at 9:30 a.m. are grandfathered (subsequent changes in ownership are not grandfathered) (from Section 1.6.3(a)) *Motion passed 16/0*

Caps are applied on:

Option 2 a threshold ownership basis (similar to the AFA ownership criteria) with ownership thresholds at 50% to determine entities. Caps are on a company basis with ownership linkages determined by the common ownership threshold (from Section 2.7.1) *Motion passed 8/7/1*

Subissue 2 Use Caps (from Section 2.7.2)

Annual use caps on a company basis of 50 percent of A shares by region for a period of no more than 3 years. Thereafter, 30 percent.

Motion passed 10/5/1

Subissue 3 Additional Options

Penalties (from Section 2.8.2) These penalty provisions may be modified pending decision of a binding arbitration program.

Processors that do not use IPQs will lose the amount that is unused in the next season

Unused and lost quota will be redistributed (Item C.) as Class B open delivery shares (from Section 2.8.2(a), Option 3). If allocated to open delivery shares, Class A IFQs will be reclassified as Class B IFQs

Additionally,

- (3) harvesters holding Class A shares that were not processed would have them be classified as Class B shares the next year (from Section 2.8.2(a), Suboption 1(c))
- (4) Reclassified harvest shares will retain their regional designation (from Section 2.8.2(a))

Suboption - Include a hardship provision for processors that do not use IPQs (from Section 2.8.2(b))

Motion passed 10/6

Community Protection

4. If an owner of PQS decides to sell the PQS, the right of first refusal to purchase the PQS shall be granted to CDQ groups (for PQS in the Bering Sea) or a community organization approved by the local government (for PQS in the GOA), providing that any PQS so purchased is processed at a facility owned at least 50% by the CDQ organization or community group. The nature of the first right of refusal and the community organizations will be outlined in a trailing amendment. *Motion carries 8/7/1.*

5. The amount of PQS in any year shall not exceed the percentage of the TAC for any crab species as follows:

Option 1: PQS percentage times a TAC of 150 million pounds.

Motion passed 9/6

Regionalization - applies to any program

Two regions are proposed, which would be used to classify harvesting and (if adopted) processing shares

- A. Northern Region - All areas on the Bering Sea north of 56°20' N latitude
- B. Southern Region - All areas on the Bering Sea south of 56°20' N latitude and all areas on the Gulf of Alaska (from Sections 1.3.4, 2.2.2, and 3.1)

All PQS allocated to shore base processors (including floating processors) are categorized by region (from Section 3.2.3)

Motion passed 12/2

Harvest and processing shares that are regionally designated cannot be reassigned to another region (from Section 3.2.4)

Crab harvested with IFQs designated for a region must be delivered to a processing facility in that region for processing (from Section 3.3(a))

Crab purchased with IPQs designated for a region must be processed within that region (from Section 3.3(b))

PQS and IPQs categorized for a region cannot be transferred to a processor for use outside that region (from Section 2.6(c))

Motion passed 12/3

Issue 1 **Qualifying Years**

Option 2 The base years for determining

- A. the allocation of processing shares that will be used for determining the regional designation of processing shares
- B. the allocation of harvest shares that will be used for determining the regional designation of harvest shares

An adjustment will be made to harvest shares to make the regional allocation of harvest shares the same as the regional allocation of processing shares.

The adjustment will be applied only to shares allocated to harvesters that made deliveries to both regions in the qualifying period on a pro rated basis

Class B allocations will not be included in the adjustment (from Section 3.2.5)

Motion passed 15/1

Modification of Regional Allocations

- A. No designation will be made to a region when the allocation would be less than 5 percent (from Section 3.2.1, Option 3)
- B. No regional designation in the Bering Sea bairdi fishery (from Section 3.2.1, Option 3)
- C. No regional designation in the Bristol Bay red king crab fishery (Section 3.2.1, Option 3)

Motion passed 13/1/2

Issue 2 **Provisions Applicable to the Harvest Sector**

Regional designation of shares

Option 2 Only Class A catcher vessel shares will be regionally designated (from Section 3.2.2, Option 2)

Motion passed 16/0

Issue 3 **Alternative Regionalization/Community Protection Option**(from Sections 3.4 and 6.1, 6))

No Recommendation at this time.

Catcher/Processor Elements –

Option A **Catcher/Processors Are Allocated Catcher/Processor Shares**

Harvest sector allocations of QS and IFQ will be categorized as catcher/processor shares (from Sections 1.3.2(b) and 1.7.2.1.1)

Issue 1 **Eligibility for an Allocation of Catcher/Processor Shares**

Option Only catcher processors that both caught and processed crab in 1998 or 1999 are eligible for catcher/processor shares (from Section 1.7.2.3, Option 5) *Motion passed 8/7/1*

Issue 2 Processor Share Transfer Options

Option 1 Catcher/processors shall be allowed to sell catcher/processor shares to shore based processors (including floating processors) (from Section 1.7.2.4(c)). *Motion passed 13/0/3*

Option 3 Catcher/processors are allowed to purchase PQS from shore based processors but must process crab purchased with those shares within 3 miles of shore in the designated region (if applicable) (from Section 1.7.2.3, Option 2) *Motion passed 16/0*

Issue 3 Use of Catcher/Processor Shares

A. Crab harvested with catcher/processor shares may be delivered processed or unprocessed. Unprocessed crab harvested with catcher/processor shares may be processed on board or delivered to any processor. (from Section 1.7.2.3, Option 4) *Motion passed 16/0*

C. Unprocessed crab may be sold to any processor if harvested with Class B shares, which do not require processor IPQs (from Section 1.7.2.3, Option 4(b)) *Motion passed 16/0*

Issue 4 Regionalization Options

Option 1 Catcher/processors shares will not be regionally or community designated (from Section 1.7.2.3, Option 6) *Motion passed 16/0*

CP shares sold shoreside would not have a regional designation. *Motion passed 16/0*

Option 3 Harvest shares purchased by catcher/processors will retain their regional or community designation (from Section 1.7.1(d)) *Motion passed 16/0*

Issue 5 Purchases of Harvest Shares by Catcher/Processors

Amend (e) to: Allow for the use of purchased class B share IFQ crab on catcher processor Vessels. *Motion passed 16/0*

Option 2 Catcher/processors may purchase additional catcher vessel harvest shares but must hold unused IPQs to process crab harvested with those shares (from Section 1.7.2.3, Option 3) *Motion passed 16/0*

Additional Provision (could be applied in any program)

Require owners of catcher/processor vessels to pay a fee to the State of Alaska equivalent to the tax that would have been imposed had the catcher/processors operated in State waters. *Motion passed 13/1*

Same use and ownership caps that are applied to harvesters apply also to CV's and CP

Same use and ownership caps that are applied to processors are also applied to CV's. *Motion passed 15/0*

Motion to reconsider the rationalization program choice: Motion passed 8/6

The AP recommends the Council adopt a 2-pie rationalization program model. *Motion passes 9/6/1*

Voluntary cooperative provisions: Motion to table passed 9/5

CDQ allocations - based on existing CDQ program (from Section 3.4.4)

Expand existing program into all rationalized crab fisheries at 7.5% *Motion passed 10/6*

Program duration and review (from Section 3.4, 5) and Section 6.2, 11))

Option 2 Program review every 3 years to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities by addressing concerns, goals and objectives identified in the Crab Rationalization problem statement and the Magnuson Stevens Act standards. This review should include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. (Section 3.4, 5) Option 2) *Motion passed 16/0*

The IPQ portion of the program will sunset at the end of 7 years. Motion failed 8/8

Skipper and crew allocations and use provisions (from Section 1.8)

Option A Allocation of Harvest Shares to Skippers/Crew

Motion to allocate harvest shares to Skippers only at 10% failed 6/9/1

Motion to allocate harvest shares to Skippers only at 5% failed 6/10

Minority report Initial Allocation for Skipper Shares

We the undersigned feel that captains are legitimate stakeholders in the BSAI crab fisheries being considered for rationalization. As such, captains should be awarded QS at initial allocation.

The NRC report, "Sharing the Fish", strongly recommends that captains be considered for initial allocation of QS to attain the goals of stewardship, safety and resource conservation. We feel that an initial allocation of QS to Captains would compensate those exiting the fishery due to consolidation of the fleet caused by rationalization.

Based upon the halibut/sablefish IFQ experience, it has been confirmed that significant impacts occur: loss of bargaining power, loss of jobs.

Other options such as first right of refusal and low interest loan programs do not adequately address these concerns during the crucial transition to a rationalized fishery. The minority supported a 10% Captain share at initial allocation.

Dan Falvey, Dave Fraser, Michelle Ridgway

Option B First Right of Refusal on Quota Share Transfers

A percent of initially issued QS would be designated as crew shares, these shares would remain as a separate class of QS. Transfer of initially issued QS must include transfer of the designated percentage of shares to crew for which there will be a first right of refusal for eligible crew to buy. The owner of the QS being offered for sale would have to give notice to NMFS RAM division of the impending sale. RAM in turn could then notify the fleet of the available QS. After this initial transfer crew QS will be available for transfer to any active participant in the fishery.

Percent of shares designated as crew shares:

Options 10%

Timing of first right of refusal

Options 2 months

Eligibility of a U.S. citizen to purchase crew shares would be defined by participation in at least one delivery in the subject crab fishery in the last year as evidenced by ADF&G fish ticket or affidavit from the vessel owner.

If a qualified buyer cannot be found then 50% of the 0-20% crew QS offered for sale would have to be gifted to a pool available to qualified buyers and the remaining 50% of the 0-20% could then be offered for sale on the open

market to any buyer. The crew pool of QS would be overseen by RAM. The proceeds from the sale of this QS by auction to the highest qualified bidder would go into a dedicated low interest loan program for crew.

Motion passed 16/0

Option D Low Interest Loan Program

A low-interest rate loan program, consistent with MSA provisions, for skipper and crew purchases of QS would be established or made part of the existing loan program for IFQ purchases using 25% of the Crab IFQ fee program funds collected. *Motion passed 16/0*

The AP recommends that the Council include the binding arbitration process as part of the crab IFQ program.

Motion passed 15/1.

AFA sideboards

Issue 1 AFA Processing Sideboards

Option The crab processing caps enacted by Section 211(c)(2)(A) of the AFA would be terminated (from Section 2.8.1) *Motion passed 16/0*

Issue 2 AFA Harvester Sideboards

Option Eliminate AFA crab harvester sideboard caps upon implementation of the crab rationalization program (from Section 1.8.5) *Motion passed 16/0*

Observer Program

Status Quo – ADF&G and the BOF will establish vessel and processor observer coverage levels as needed under the rationalized fishery program. *Motion passed 16/0*

A motion to adopt the BSAI rationalization program alternatives failed 5/11

Minority Report on the main motion:

The undersigned feel the framework motion failed precisely because it represented a good solution that required compromise from all parties.

Signed, Lance Farr, Jeff Steele, Al Burch, Teresa Kandianis, Bill Jacobsen.

AP Minority Report on Crab Rationalization

*The undersigned believe it is possible to craft a rationalization program that addresses resource conservation priorities and the concerns of harvesters, communities, and processors **without the inclusion of IPQs.***

Attempts were made in various motions throughout this issue to address the concerns of the processing sector regarding stranded capital and stability in a balanced manner. A motion failed 10-7 to provide for a closed class of processors, with a percentage of the shares restricted for delivery only to processors in the closed class. This was an attempt to address the concerns of the processors, in a manner that would have retained a competitive environment for conducting price negotiations.

The Advisory Panel then voted unanimously in favor of using the State's voluntary cooperative model as the basis for designing a rationalization program.

A motion using the State's voluntary cooperative program was crafted, modeled after the AFA-style cooperatives, which have worked out to be acceptable to both harvesters and processors involved.

This coop motion provided a voluntary choice regarding which cooperative a harvester could join, based on relationships developed in the year prior to implementation of the program. Clear incentives for fishing within

cooperatives and strong disincentives for leaving coops were features unique to this proposal. This fully fleshed out proposal is based upon the elements and options contained within the analysis. It provides for a closed class of processors that guaranteed the eligible processors, in the aggregate, 80% of the overall CV harvest. A substantial disincentive for fishermen to leave a coop (potential loss of 20% of their annual history) was built into the motion in order to provide assurances to the processors that this cooperative model would benefit their interests and guarantee that fishermen would participate.

We, the dissenting members of the Advisory Panel worked very hard to attempt to reach some middle ground, utilizing the elements and options contained in the analysis. It was our hope that this would provide an acceptable solution to all sides, recognizing that neither processors nor harvesters were gaining a disproportionate advantage in this proposal.

This multi-sector effort was undertaken to provide a viable alternative to the two-pie proposal. The motion offered was flatly rejected by the processing sector.

The minority feels that IPQs will:

- *Un-necessarily complicate management of the crab fishery*
- *Create a highly segmented market, negatively impacting competition and prices*
- *Contribute nothing to achieving resource conservation goals*
- *Artificially allocate market shares*
- *Turn fishermen into a commodity, extinguishing their market freedom*
- *Constitute economic protections rather than rationalization*
- *Accelerate irreversible consolidation*
- *Undermine the ability of Kodiak and other communities to benefit from rationalization*
- *Allocate public fishery resource control to foreign corporations*

The processor section of the analysis contained a very narrow suite of elements and options for IPQs, the scope of which will result in significant impacts on the distribution of IPQs. The distribution of IPQs will have secondary impacts on communities, which were not captured due to the lack of contrasting alternative distributional criteria. Analysis of a full suite of community protections is imperative to assessing the implications of IPQs on communities. We are concerned that the range of options was too narrow to satisfy NEPA and other legal requirements for an action of this magnitude.

Through drafting of the AP's advice on crab rationalization, two important issues have been relegated to future development, with little or no information known on the possibility or legality of these issues. The first is binding arbitration, which has clearly been identified as a vital element for ensuring that the two-pie program provides for a more balanced negotiating structure for harvesters. The second is the issue of first right of refusal options for CDQ groups of local governments.

Further, specific means by which to achieve the full benefits of rationalization to address bycatch reduction and other conservation goals have not been clarified. Without these issues being clearly defined and analyzed, it is premature to approve a two-pie program.

Finally, the undersigned request that the Council give thoughtful consideration to the program outlined in the modified voluntary cooperative model.

Signed, Craig Cross, Dan Falvey, Dave Fraser, Hazel Nelson, Michelle Ridgway, Jeff Stephan

Crab EIS

The AP recommends the Council request staff to analyze the following alternatives in the BSAI Crab FMP EIS.

Alternative 1: Status quo

Alternative 2: A 2-pie model such as the suite of elements and options identified in the AP motion

Alternative 3: A 1-pie model, such as the suite of elements and options in the modified voluntary coop proposal

Alternative 4: No fishing

The AP strongly supports the inclusion of mitigation measures within analysis of each alternative. If required by NOAA GC, the no fishing alternative should be labeled as a mitigation alternative, recognizing it is analyzed primarily for contrast purposes.

Motion passed 16/0