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Report to the Council Crab Advisory Committee February 2008

Committee Members – Sam Cotton (chair), Lenny Herzog, Kevin Kaldestad, Jerry Bongen, Florence Colburn, Dave Hambleton, Phil Hanson, Rob Rogers, John Moller, Linda Freed, Frank Kelty, Simeon Swetzof, Ernie Weiss, Tim Henkel, Steve Branson

Overview

In general, committee members have very differing opinions concerning the scope of the proposed action and the purpose and need statement. There are committee members that believe only minor technical changes are needed for most fisheries, and there are other committee members that believe that changes to the overall structure of the program (i.e., the 90/10 share split) should be considered for all fisheries.

The committee struggled to understand its specific role. Most (if not all) committee members, at some point in the process, questioned whether areas of committee discussion were within the scope of the Council's direction for the committee. The committee would benefit greatly from further direction from the Council with any of its future work.

Discussion of purpose and need

Some committee members suggested that the Council's initiation of an action may be premature and that no clear problem that would be addressed by the change in the 90/10 A share/B share split has been identified. In addition, several committee members believe that additional information is needed to identify problems to be addressed by the potential change in the A share/B share split.

Some members suggested that an analysis of the A share/B share split should be undertaken in the very near future, as any delay cause the current 90/10 A share/B share split to be more established complicating future changes with potential negative effects on current participants. In addition, several data issues need to be explored to identify specific problems to be addressed by program changes. These include further analysis of crew and community effects. The analysis of these effects is complicated by lack of available data.

All committee members suggested that any purpose and need statement distinguish problems by fishery, region, and locale, as problems under the program may differ across fisheries and space. Specifically, Kodiak and St. Paul have very different issues that would likely need to be addressed by different measures.

Consensus – Western Aleutian Islands golden king crab fishery has problems that are different from all others and could be addressed separately.

Review of possible rationales for Council action

As a part of the review of the purpose and need, the committee reviewed several possible rationales for Council action restructuring the program. The following summarizes opinions expressed by committee members in that discussion.

B share issues

- *The B share allocation is inadequate to support entry to the processing sector*
Pro - not much opportunity for entry – entry is only possible on a small scale

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- Con - not completely accurate statement since some processors have entered the fisheries – some processors entered based solely on the opportunity to buy B share crab – processor entry is greater than prior to the program, suggesting the program has created processor entry opportunity
- *The B share allocation is inadequate to support competition for landings*
 - Pro – may not be adequate competition among existing processors
 - Con – some existing processors are competing with each other and entrants for B share landings
- *The B share allocation is inadequate to support development of new markets and products*
 - Pro – product development has not occurred
 - Con – processors are increasingly serving niche markets and those markets take time to develop – product development is a very challenging market, in part, because of international supplies of specialty products – this is not a program issue, but a market issue
 - Consensus – TAC has not affected opportunities for market development**
- *The B share allocation is inadequate to support development of crab processing in certain communities*
 - Consensus - this concern applies only in the Western Aleutians**
- *The B share allocation is inadequate to support historic levels of processing in certain communities*
 - Pro – this is perceived a problem by Kodiak – but their historic processing interest goes back several years (70s/80s)
 - Con – this interest is too dated – would deprive current community participants of their recent activity

Arbitration and share matching issues

Consensus – Under any processor delivery or regional landing restriction, the program requires arbitration – arbitration issues are not a reasonable justification for program revision- likewise, share matching is needed to address coordination of shares under the program and is not a reasonable justification for program modification.

Processor consolidation issues

Some committee members support removal of processor consolidation related issues from justifications for program modification

- *Processor consolidation has prevented the development of new products and markets*
 - Pro – some committee members believe this needs additional exploration
 - Con – consolidation is not affecting production decisions
- *Processor consolidation has threatened community sustainability*
 - Pro – consolidation contributed to divestiture and potential movement of shares from communities – this may justify examining sideboard issues in the processing sector
 - Con – this may occur, but it is not a program structure issue

Fleet consolidation issues

- *Fleet consolidation has resulted loss of captain and crew positions*
 - Pro – possible examination of vessel caps is appropriate, possible compensation of crew who lost jobs is important
 - Con – the consolidation was an expected effect of the program, vessel caps exacerbate crew problems, crew compensation for job loss is unnecessary since most jobs were part time and not large commitment
- *Fleet consolidation has resulted in lower quality and lower paying jobs for captain and crew*
 - Pro – exorbitant lease fees have cut into crew shares
 - Con – existing jobs are better than prior to program implementation
- *Fleet consolidation has resulted in extended processing seasons preventing processors from realizing production efficiencies*

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- Pro – processors have been affected by elongated seasons resulting from fleet consolidation
Con – this was an intended affect of the program, which might be better addressed another way (rather than through program modification)
- *Fleet consolidation has harmed community-based support industries*
Pro – in some instances this occurred, because the number of vessels declined – this is an intended effect
Con – some communities have benefited by having boats in the community for extended periods
 - *Fleet consolidation has harmed community-based harvesting crews*
Committee members agreed that this effect is reflected in the comments that appear above concerning crew effects
 - *Current allocations of harvester and processor shares do not adequately reflect historic participation and investment in the fisheries by harvesters and processors*
Pro –there may be an inequity in the distribution of benefits between the sectors
Con – any issue in this respect is fully captured by other issues (primarily B share issues)
 - *Current allocations of harvester and processor shares do not adequately reflect historic participation and investment in the fisheries among processors*
Pro – **in the Western fisheries only**, the processor allocations may not adequately reflect recent history, there may be an inequity in the distribution
 - *Current program structure does not adequately consider community investment in the fisheries*
Pro – may be addressed through measures other than share allocations
Con – community use of tax revenues is already a reflection of community investment, the program currently recognizes these investments
 - *The absence of a harvest share allocation to crew and the 3 percent harvest share allocation to captains do not reflect historic participation and investment and is unfair and inequitable*
Pro – lack of crew and 3 percent captain allocation is inadequate, it does not reflect time/human capital investment
Con – financial investments are the proper focus and those are adequately accounted for, reallocation would be inequitable
 - *Initial allocation of long term (or permanent) harvesting and processing shares unjustly enriches recipients of those shares and deprives the public of the benefits of the resource*
Pro – permanency of allocations that are not linked to continuing participation removes the share holdings from those running fishing operations, the high value of shares initially allocated reflects a great windfall to their recipients
Con – this does not reflect a problem in the existing program and overshadows great benefits of the program, the initial allocations reflect effort exerted to earn those allocations
 - *Any program revision should contain provisions to maintain or even extend community protections*
The program needs to recognize the variety and diversity of communities that have interests in these fisheries

Suggested Purpose and Need Statements

Several committee members and members of the public presented proposals for purpose and need statements and alternatives for analysis. The following proposals are attached:

Phil Hanson/Dave Hambleton Proposal (attached as Proposal A) – suggests currently identifiable problems are with 1) community access to capital to exercise rights of first refusal and 2) the Western

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Aleutian Islands brown king crab fishery management, which may need revision in the future, if the custom processing/use cap measure does not address production efficiency issues in that fishery.

John Moller Proposal (attached as Proposal B) – suggests the removal of PQS from the Western Aleutian Islands brown king crab and Western Aleutian Islands red king crab because of the initial allocation of PQS in that fishery did not adequately consider the history or investments in the fishery by Adak.

Mike Stanley Proposal (attached as Proposal C) – proposal differentiates Aleutian Island golden king crab fisheries from all other fisheries. The East is distinguishable for its IPQ consolidation. The West is distinguishable for the share of its IFQ/TAC that has remained unharvested.

Simeon Swetsoff/Pat Hardina Proposal (attached as Proposal D) – suggests revision of Council's purpose and need statement – suggests the 90/10 split may be sufficient to achieve Council's purposes for B shares. Also, suggests that the recent custom processing exemption from processor share use caps and development of electronic transfers may address some issues with B shares use. Identifies community concerns with changes in the A share/B share split. The proposal identifies the absence of community interests as a problem in the proposed purpose and need statement. The revision also suggests that the committee work to vet possible problems in the fisheries.

Florence Colburn Proposal (attached as Proposal E) – suggests revision of the current problem statement – identifies that the choice of 90/10 is a Council policy decision – suggests that the purpose and need should not identify an outcome, but should be a basis for considering changes. We need to examine the effects of the existing system and how potential changes in 90/10 would affect participants. Also, identifies unresolved arbitration issues as potential need for being addressed and acknowledges work being done on it. Questions whether arbitration is working as intended, because it is being resorted to frequently for price setting.

Data Issues

The committee identified several data needs. Staff suggests that additional data collection would be necessary and beneficial only for items 1) and 5) shown below. Specifically, ex vessel prices by share type and location could be improved by an industry led effort. Dave Hambleton and Lenny Herzog agreed to work with industry to prepare a suggested protocol for collection of the data for review by the committee. Staff has agreed to assist with these efforts. The proposal is intended to provide aggregated price data that industry could present to the Council to verify assertions concerning price effects of the share system of the program. The protocol would be discussed with NOAA GC to limit potential for anticompetitive uses of the data.

Data needs identified by the committee

- 1) Landings and ex vessel prices by share type (A share/B share/C share/CDQ) and location are critical to understanding the effects of the share structure and landings requirements of the program.
- 2) Comparison of historical landing patterns and landing patterns under the rationalization program by share type are important to understanding the effects of the program on communities.
- 3) Basic data showing the allocations of IFQ in the different fisheries by share type at different TAC levels under the existing structure may be useful for exploring the effects of the program's system of share allocations.
- 4) Additional crew data are critical to understanding crew impacts. Specifically, individual crew data are important for documenting individual participation. (State initiative and comprehensive committee)

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- 5) Landings and ex vessel prices by location (including region), share type (A share/B share/C share/CDQ), and processors/harvester affiliation – including role of different share types in negotiations
- 6) Analysis of binding arbitration effect on ex vessel price by region and share type
- 7) Role of different share types in cooperative fishing plans (A share/B share/C share/CDQ)
- 8) Lease rates for IFQ (by share type) and IPQ and analysis of prices
- 9) Analysis of binding arbitration outcomes relative to historic division of first wholesale revenues
- 11) Comparison of landings by share type (A share/B share/C share/CDQ) with cooling off rights distribution
- 12) Changes in the distribution/consolidation of QS and PQS holdings among processors and CDQ groups (including pre-rationalization vessel/license transfers and since initial allocation) – (also considering mergers)
- 13) Distribution of share holdings/vessel ownership by location
- 14) Changes in landings taxes and business taxes - pre/post-rationalization
- 15) Changes in processor capacity - pre/post-rationalization
- 16) Changes in processor employment - pre/post-rationalization
- 17) Changes in processing days - pre/post-rationalization

Modification from 90/10 A share/B share split

Some committee members suggested that because they believe the program requires no changes, it is difficult to suggest appropriate revisions/additions to elements and options. Some committee members suggested that there was no analytical basis for the original 90/10 share split. Some committee members believe that any analysis should encompass a broad range of share splits to fully assess differential impacts of the share split.

Some committee members suggested that any change from 90/10 1) should provide for compensation for persons deprived of processor shares 2) should provide for compensation to communities. The committee briefly discussed the basis for community landings (i.e., distribution of landings among communities). Some committee members suggested that compensation might differ for those who have purchased shares. It was suggested that any reallocation of harvest shares from their current holders may need to include harvester compensation, particularly for those who have purchase harvest shares. Some committee members suggested that splits of 0/100 and 50/50 should be excluded from consideration because regional/community issues could not be addressed with these large shifts in the portion of the fishery subject to processor shares.

Some committee members believe that the one-pie alternative should be removed from consideration. Others believe that the one-pie alternative may be useful for contrasting alternatives by illuminating differences in the program alternatives. In addition, some processors supported retaining a one pie alternative with harvest shares divided between the sectors, as that may be more equitable than large change in the A share/B share split. Some committee members believe that any one-pie alternative should include a direct allocation to communities. Other committee members believe that other measures are more appropriate to support community interests. Some committee members suggested that we should examine measures other than share allocations to address losses under a program change for all interests. Committee members also expressed concern that interests have vested too quickly for a revocable privilege that was created recently. Some committee members believe that community protections for the program will need significant revision to protect community interests under any shift from 90/10.

Some committee members suggested that any change from 90/10 would require that newly created B shares be subject to regionalization structure. Some committee members also suggested that arbitration

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will be necessary for any regionalized shares. It was acknowledged that the arbitration system would need modification to be applied to regionalized B shares.

Several committee members suggested that any proposed changes in the A share/B share split considered should be specific to each fishery to distinguish by circumstances in the different fisheries. Specifically, committee members noted that the Aleutian Island brown king crab fisheries differ not only from the other fisheries, but also from each other. For example, in the Eastern fishery almost all of the processing occurs in Dutch Harbor. In the most recent season, one PQS holder did not apply for its IPQ, leading to substantial concentration of IPQ in the fishery. In the West, a large portion of the TAC was left in the water in the most recent season. In that fishery, the one shore-based facility located in the west (where 50 percent of the A share landings must occur) holds little PQS. That processor's inability to reach agreements with PQS holders likely contributed to that failure to harvest the allocation. This unharvested TAC may have limited the community benefits realized under the program. Some committee members suggested that no IPQ are needed in this fishery. These committee members suggested that the fishery participation was stable prior to rationalization and that the fishery did not have overcapacity. These committee members suggested that adjusting the A share/B share split may alleviate some of the problems in these two fisheries. In addition, it was pointed out that the preseason sale of crab by one processor at a price substantially below the in-season market price may harm some harvesters in the fishery. Another committee member suggested that the arbitration system is equipped to address this issue, if the harvester would be unjustly harmed by the low priced sale. Some committee members also suggested waiting until the use cap exemption for custom processing took effect to see, whether problems persist or whether action to modify manage are needed. Also, it was suggested that the effects of the large catcher processor participation in the western fishery should affect any changes considered in that fishery.

One committee member suggested that the Pribilof and St. Matthew Island fisheries are likely to have small TACs and may be worth distinguishing when considering different A share/B share splits. Processing sector committee members, however, suggested that the recent Council action on custom processing will enable processors to address any capacity issues that could complicate processing of deliveries under the existing 90/10 share split.

Some committee members suggested that no large changes should be considered in the Bristol Bay and *opilio* fisheries. Some committee members believe that the only possible rationale for changes in the share split in these fisheries is that the 90/10 split can impose logistical challenges to participants attempting to comply with the A share landing requirements. Some committee members suggested that nothing beyond a 70/30 be considered for these fisheries.

Some committee members suggested that changes in the share split be undertaken in a single step. These committee members suggested that incremental changes would require annual adjustments to the changes in IPQ issuance. These changes were thought to be potentially disruptive for participants. Other committee members suggested that incremental changes could mitigate negative effects to those harmed by the change in the share split. Some committee members also suggested that the effects of the change may be better understood, if the changes are incremental. These committee members suggested that any added uncertainty would be worth the benefit of easing the effects of the transition on communities. It was also suggested that from processor perspective, to the extent that a change is uncompensated, a slower, later change will have less negative effects. Some committee members suggest that the appropriateness of incremental changes depends on the scope the change in the share split.

Community Issues

Some committee members also suggested that some community concerns could be alleviated by shifting the IPQ threshold (or by having the share split shift) with TACs. Changing the IPQ distribution with TAC could allow more shares to be marketed competitively when TACs are higher. Some committee members pointed out that B shares are more important to logistical coordination at low TACs, suggesting that the B share allocation should be higher at low TACs. Other committee members suggested that the IPQ share should decrease at higher TACs (as under the current threshold). Some committee members suggested it is important to maintain community linkages for any harvest shares not subject to IPQ landing requirements to protect community interests. Some committee members suggested that changing from the current share split will have negative effects on communities, particularly during periods of low TACs. These effects could be compounded by high fuel costs that effect the spatial distribution of landings. Differences in ex vessel prices by location may also compound these effects.

Some committee members suggested that any newly created B shares should be regionalized to protect communities. Since B shares are not currently subject to regionalization, the application of regionalization to newly created B shares would create a new share type under the program. Some committee members expressed concern that retaining regionalization on newly created B shares (i.e., North B share) would greatly diminish the value of those shares to harvesters, but would be important to communities (particularly in the North region). Some committee members suggested that regionalization could be applied only to newly created B share QS in the North. This revision, however, would not address concerns of harvesters, who believe the North region may have little competition for B share landings. Some committee members suggested that any regionalized shares would require arbitration. To apply arbitration to B shares would require substantial revision of the arbitration program (because share matching cannot be applied to B share allocations).

Some committee members suggested that regionalization of B shares may do little to protect some communities. Instead, a redistribution of landings would occur within the region, leaving the some committees unprotected. Other communities are likely to benefit from this redistribution. Some committee members suggested that community specific harvest share allocations could be used to mitigate this redistributive effect. Some committee members also suggested that regionalization of B shares (or a system of community linked shares) could harm harvesters, since the arbitration system does not apply to B share landings. In remote areas, it is possible that little competition for landings could lead to B share landing prices being lower than A share landing prices, which are subject to arbitration.

The committee also discussed the potential to use compensation, instead of regionalization to address community interests arising from the change in the split. Some committee members asserted that any compensation would be inadequate, since processing activity is the important community component in the North. Absent landing requirements of regionalization, the processing interest would not be protected.

Some committee members suggested that the existing distribution of B share landings has arisen from individual QS holder decisions, rather than from the lack of available B shares for a competitive market. These committee members suggested that share leasing (undertaken by QS holders) has had a large impact on the distribution of landings, limiting the amount of B share landings in certain communities. In addition, some committee members suggested that current prices for A share/IPQ landings have been high enough to discourage some competition in the market (i.e., A share/IPQ landing have been at a competitive price), particularly in communities that wish to attract additional landings. Other committee members suggested that the lack of available B shares has limited the distribution of B share landings. Some committee members suggested that this *opilio* season could be important for considering the potential for B shares to induce competition because of the relatively high TAC in the fishery.

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Specifically, it was pointed out that as many as 10-12 million pounds of unrestricted shares (B shares/C shares/CDQ pounds) would be available for landing from the *opilio* fishery. Some committee members believe that CDQ pounds should not be considered unrestricted shares, since they are not part of the rationalization program.

Some committee members suggested that the weak community protections (specifically the right of first refusal) offer some communities little protection, while others benefit greatly from the stronger protections (specifically the current 90/10 share split and regionalization). These committee members suggested that more should be done to protect communities that are vulnerable to the weak protections.

Some committee members suggested that crew impacts also have consequences for their home communities. These community impacts, however, are not addressed by the program. These committee members suggested that a crew allocation could be used to mitigate these effects. These committee members suggest that effective crew protections should be considered community protections. Some committee members pointed out that these effects are largely a symptom of the pervasive leasing under the program. Some committee members suggested that the effects of leasing have been both the loss of jobs and diminished quality in remaining jobs, since crew shares are paid on post-royalty vessel revenues. Most vessel owners that have continued to fish are said to pay full crew shares on all revenues from owned shares, but must deduct royalties paid to share lessors in calculating crew shares on leased quota. It was suggested that at prevailing lease rates, vessel operators are subsidizing crew shares of QS holders that lease their shares. Some committee members suggested that caps on lease rates could be used to mitigate crew effects arising from high lease rates. Despite these circumstances, several committee members maintain that many of the remaining crew jobs pay well and are high quality jobs.

Some communities also questioned the utility of rights of first refusal because of the high cost of buying into the fisheries. These committee members suggested that assisted financing of share purchases should be considered for community share purchases. In addition, it was suggested that the use of intra-company transfers could subvert the protection of the right of first refusal.

Revision of rights of first refusal

The committee discussed the erosion of rights of first refusal that would occur with any change in 90/10 split. Since PQS and IPQ interests would be removed, rights of first refusal would also no longer exist with respect to those shares.

The committee also discussed the need to address the ‘intra-company transfer’ exemption from rights of first refusal. Some committee members suggested that these transfers can fully undermine the right, since three consecutive years of IPQ intra-company transfers will remove the right with respect to the underlying PQS. Some committee members suggested that community entities should be permitted to intervene in these intra-company transactions, but did acknowledge that a system would need to be developed to determine a price for retaining the shares in the community. Some committee members expressed concern that the right applies to the transaction as structured by the parties to it. These transactions may include items other than the shares (e.g., capital, equipment, etc). The breadth of the items that may be included in a transaction limits the effectiveness of the provision, since communities may not have the assets to make large scale acquisitions and may have no interest in acquiring items other than the shares. It was noted that the community benefits have arisen from crab vessels remaining in Alaska ports (including King Cove) for extended periods, rather than returning to Seattle between crab seasons.

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One committee member expressed a concern that effects of the program on processors in other fisheries should continue to be discussed.

Processor Issues

Some committee members suggested that any shift from the current 90/10 should be compensated with a portion of the new B shares created by that change. These committee members believe any change in the share distribution is effectively a shift in the distribution of rents from the fisheries. Other committee members suggested that minor changes in the A share/B share split (such as 85/15 or 80/20) would not merit processor compensation. Some committee members suggested that determining the appropriate compensation requires a consideration of whether the existing program benefits one sector over the other (i.e., is one sector better compensated for stranded capital than the other). Once this is known, the need for compensation of changes in the program can be considered.

Some committee members suggested that any loss of QS by harvesters will not be made up for by a change in the A share/B share split (i.e., if any compensation is paid for a change in the split, QS holders will be worse off). In addition, it was suggested that harvester problems that drive the need for shift in A share/B share split will not be addressed to the extent that the processors are given harvest shares (i.e., giving up quota to processors will weaken harvester position in negotiations). It was suggested that an alternative to compensating processors with harvest shares could be a processor buyback. A charge on landings could be used to fund the buyback. It was noted that a processor buyback would likely require Congressional approval.

Crew Issues

Some committee members suggested that the benefits received by share holders who have leased quota at high lease rates have been at the expense of crew more than others. In addition, it was suggested that the current program lacks mechanism for natural progression of crew in fishery from the deck to wheelhouse to vessel ownership. Some committee members suggested that this situation could be mitigated by the loan program; however, even that program would have limited effect, given the high price of shares in the fisheries.

Two written proposals have been presented to the committee to address crew issues (see Crew Proposals A and B). The first would establish a skipper/crew pool of shares to be managed for crew benefit. The shares in the pool would be distributed among members of the pool based on a point system similar to the system used for eligibility for the Gulf Tanner crab fisheries. The pool would require funding, which would be an allocation of quota from the fishery, effectively reducing the existing owner QS allocations under the program. The initial proposal is to have the allocation match the current crew share (approximately 40 percent of the QS pool).

Depending on the structure, this crew allocation would be intended to address the interests of both active crew and crew displaced under the program. Some committee members suggested that a crew pool allocation could be used to bargain for better crew shares. This pool could also be used to bargain down lease fees (particularly, if the boat owner is charging a royalty on initially allocated shares). It was suggested that any individual's (or pool member's) share of the allocation could be restricted by a cap, so that owner operators with substantial share holdings (and less in need of protection) do not receive the allocation. The management of crew pool might be fashioned after hook-and-line agreement used in the Cape Cod groundfish fishery. Some committee members request that additional definition for management of the pool and the distribution of benefits from the pool be developed. It was also suggested that a crew pool could be regionalized to mitigate community effects.

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Some committee members suggested that crew could be worse off under this proposal, if royalties are charged on crew holdings and crew shares paid for their work are decreased. In addition, it was suggested that crew entry could be curtailed in the long run under this proposal, since entering crew would have no stake in the pool. It was suggested that entering crew would work their way into the pool over time, just as current crew shares increase with experience. Some committee members suggested that the negative effects on many crew displaced by the program should be addressed. Some committee members stressed that the objective of crew initiatives are not to return to the pre-rationalized fishery, but to address problems under the existing system.

Committee members also suggested that other measures be considered, such as establishing a crew training program to increase the number of persons trained as fishing crew. This may address some concerns of crew who believe jobs under the program are too demanding. Additional crew would allow some cycling of crews on and off boats in-season. These measures could put more people to work in the fisheries. It is acknowledged that average earnings from a crew position could decline under this proposal.

The committee received a second proposal that could either supplement or substitute for a crew allocation. Under the proposal, 10 percent of any share transfer would become C shares at the time of transfer. This conversion would occur until 30 percent of the QS pool were C shares. These shares would be subject to the active participation requirements that the Council defines for C shares. Under the proposal, these shares would also be exempt from PQS landing requirements, potentially depriving processors and communities from protections of those aspects of the program. It was noted that this proposal might have reduced effects on current share holders, since they would not have shares voided, involuntarily transferred, or taken back. Supporters of the crew proposals suggested that work on the proposal continue at the next meeting to address these concerns.

Arbitration Issues

All committee members agreed that A share landings must be subject to arbitration under any A share/B share split. The Congressional limit on processors using IPQ landings to negotiate B share deliveries effectively limits the ability of harvesters to use B share landings to negotiate A share landings. As a result, any IPQ landings need to be subject to arbitration. So, *short of a straight IFQ program without IPQ, the arbitration system is necessary.* In addition, some committee members suggested that arbitration would be necessary even in a regionalized harvest IFQ only system.

Committee consensus – modifications to the arbitration system should be undertaken separately from broader program changes suggested by the Council motion. Jake Jacobsen presented a proposal for technical revisions of the arbitration program. The committee agreed that staff can work with the arbitration organizations to review the proposed changes and return with proposed revisions for presentation to the committee at the next meeting.

The committee discussed the uses of data in arbitration. Specifically, the committee expressed concern that the best available data be used in developing the non-binding price formula. Committee members suggested that industry is discussing arbitration data issues and is amenable to continuing those discussions. The committee agreed that data issues are important to success of the arbitration system, so they are appropriate for committee and Council oversight, but do not require any immediate committee or Council attention.

Emergency relief from regionalization

The committee also discussed the potential need for emergency relief from regionalization for ice or other unexpected circumstances. The committee requested community representatives to consider whether

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relief from regionalization might be acceptable in certain situations and the appropriate terms for that relief. Some committee members advised that past circumstances suggest the need for relief might have been alleviated if the B share pool were larger. The committee also discussed efforts made by processors and communities to keep harbors accessible during periods of icing. Some committee members suggested that icing problems are usually temporary and can be worked through in a brief period. It was suggested that communities could come up with recommendations on how to address harbor closures of 5-10 days because of ice. It is hoped that the terms of any relief would be limited in a manner that prevents improper use of the provision by persons wishing to avoid regional landing requirements. It was suggested that the best solution would be a negotiated agreement among the affected parties. It was pointed out that it could be problematic to identify affected parties (including communities), since shares are not currently linked to a specific community. Some committee members also expressed concern that any relief provision be limited to specifically identifiable events to ensure that undue leverage is not asserted by an affected party. The committee also discussed the potential for cooperatives to address these issues through fleet coordination of fishing and landings that would limit the need for any relief provision.

A proposal for this exemption was received by the committee, which would grant an exemption only if persons requesting the relief take any reasonable and available steps to address the emergency prior to the granting of emergency relief. Generally, the committee believed the proposal is a good starting point, but will need revision to improve its workability. The committee agreed that members should continue to work with the communities and NMFS to improve the workability of the proposal. The proposal included provision for tax redistribution to the community that lost processing. Committee members suggested that this provision would likely require a State law change and could be very complicated to administer since tracking of the tax amounts might not be possible in some circumstances. In addition, tax rate difference across jurisdictions might result in the collection less tax revenue than is required to compensate the community that lost processing (under its tax rates).