AGENDA ITEM K.1.a
Attachment 1
March 2011

STAFF SUMMARY OF FEDERAL LEGISLATION IN THE 112TH U.S. CONGRESS

This summary is intended as a general overview for discussion purposes. Full text of these bills, additional summary and background information, and current status can be found by entering the bill number in the search engine at the THOMAS web site of the Library of Congress (http://thomas.gov). Portions of this report are derived from summaries provided by the Congressional Research Service of the Library of Congress.

Notable Legislation Recently Signed Into Law

H.R. 81 Shark Conservation Act of 2009
The bill became Public Law No. 111-348 when signed by President Barak Obama on January 4, 2011. Among other things, the law addresses two items previously discussed by the Legislative Committee; prohibitions on removal of shark fins at sea and important legislative fixes to laws implementing U.S. representation to the Western and Central Pacific Fisheries Commission and the Pacific Whiting Act of 2006 (Titles I and III below). Title II allows the U.S. and the New England Fishery Management Council to consider international agreements with Canada when specifying rebuilding timeframes and management measures for overfished fisheries. This law recently enabled the National Marine Fisheries Service (NMFS) to increase the Georges Bank yellowtail flounder quota for U.S. commercial fishermen in 2011 and extend rebuilding under this international agreement on a shared transboundary groundfish stock. This new law and recent developments in New England may have implications for groundfish rebuilding efforts and transboundary fishery management on the west coast. Also see the press releases from NOAA and U.S. Congressman Barney Frank on this topic at the end of this report in Appendix A.

Title I International and Domestic Shark Conservation - Amends the High Seas Driftnet Fishing Moratorium Protection Act to direct the Secretary of Commerce to urge international fishery management organizations to which the United States is a member to adopt shark conservation measures, including measures to prohibit removal any of the fins of a shark (including the tail) and discarding the shark carcass at sea. Amends the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to revise provisions prohibiting the removal of shark fins to make it a prohibited act to: (1) remove any shark fin (including the tail) at sea; (2) have a fin aboard a fishing vessel unless the fin is naturally attached to the carcass; (3) transfer a fin from one vessel to another or receive a fin unless it is naturally attached; or (4) land a fin that is not naturally attached to a carcass or land a carcass without fins naturally attached.

Title II: International Fisheries Agreement Clarification Act Allows the Secretary and the New England Fishery Management Council, for purposes of rebuilding portions of fish stocks covered by the United States-Canada Transboundary Resource Sharing Understanding, to: (1) take into account such Understanding and decisions made under such Understanding when specifying a time period for rebuilding a fishery that is overfished; and (2) consider decisions under such Understanding as management measures under an international agreement in which the United States participates when determining whether a rebuilding may exceed 10 years. Permits the
Secretary and the Council to establish catch levels for portions of fish stocks within their respective geographic areas that exceed catch levels otherwise required under the Northeast Multispecies Fishery Management Plan if: (1) overfishing is ended immediately; (2) the fishing mortality level ensures rebuilding within such a rebuilding time period; and (3) such catch levels are consistent with the Understanding.

**Title III: Miscellaneous** - Prohibits from being considered federal employees except for certain specified injury compensation or tort claims liability: (1) Commissioners of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, other than officers or employees of the U.S. government; (2) certain advisory committee members; and (3) other specified appointees under the Pacific Whiting Act of 2006. (Current law considers such individuals to be federal employees for: (1) certain injury compensation purposes; (2) ethics, conflicts-of-interest, and corruption requirements; and (3) criminal or civil statutes or regulations governing conduct of federal employees in that capacity.) Decreases the number of scientific experts on the joint technical committee under the Pacific Whiting Act of 2006 to 2 (currently at least 6 but not more than 12).

**Update on Congressional Committee Membership**

**U.S. House of Representatives, Committee on Natural Resources** – Chaired by Congressman Doc Hastings-WA.

Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs:
*Congressman John Fleming-LA (Chairman), Congressman Don Young-AK at large, Congressman Robert Wittman-VA, Congressman Jeff Duncan-SC, Congressman Steve Southerland-FL, Bill Flores-TX, Congressman Andy Harris-MD, Congressman Jeff Landry-LA, Congressman Jon Runyan-NJ and Congressman Doc Hastings-WA.*

**U.S. Senate, Committee on Commerce Science and Transportation** – Chaired by Senator John D. Rockefeller IV. Senator Kay Bailey Hutchison, Ranking Member

Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard:

**Summary of Legislation introduced in the 112th Congress**

**S. 52 International Fisheries Stewardship and Enforcement Act** - A bill to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes including implement the Antigua Convention.

The Committee and the Council reviewed a similar bill in the 11th Congress (see Agenda Item K.1.b, Supplemental Legislative Committee Report, April 2010).

**S. 238 FISH Act of 2011** - A bill to amend the MSA to require that Fishery Impact Statements (FIS) be updated each year. Requires such FISs to: (1) be prepared by an objective person (prohibits U.S. government officers, employees, or entities) selected by the Comptroller General; and (2) determine if the fishery management plan or amendment is consistent with specified national standards for fishery conservation and management, including whether the relevant measures provide for the sustained participation of fishing communities and minimize and mitigate for adverse economic impacts on such communities.


**S.171 West Coast Ocean Protection Act of 2011** - A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf off the coast of California, Oregon, and Washington.

Introduced January 25, 2011 by Senator Boxer, California and cosponsored by the other five U.S. Senators from the West Coast States. The bill has been referred to the U.S. Senate Committee on Energy and Natural Resources.


**S.229 and S.230 Pertaining to genetically-engineered fish** - Bills to amend the Federal Food, Drug, and Cosmetic Act to require labeling (S.229) or prevent the approval of (S.230) genetically-engineered fish.


**S.50 Commercial Seafood Consumer Protection Act** – A bill To strengthen Federal consumer product safety programs and activities with respect to commercially marketed seafood by directing the Secretary of Commerce to coordinate with the Federal Trade Commission and other appropriate Federal agencies to strengthen and coordinate those programs and activities.


**H.R.574 Pertaining to Finfish Aquaculture** – A bill to prohibit the Secretary of the Interior and the Secretary of Commerce from authorizing commercial finfish aquaculture operations in the Exclusive Economic Zone except in accordance with a law authorizing such action.

Introduced February 9, 2011 by Congressman Young, Alaska and referred to the U.S. House Committee on Natural Resources.
NOAA News Release - February 9, 2011

Negotiations with Canada Set Stage for Significant Increase in U.S. Yellowtail Flounder Quota on Georges Bank

More time to rebuild fish stock while still preventing overfishing

Legislation recently signed by President Obama has paved the way for NOAA to move ahead to increase the Georges Bank yellowtail flounder quota for U.S. commercial fishermen in 2011. The quota will be increased to 2.5 million pounds, an 18 percent increase over 2010 levels and a 44 percent increase over the quota that fishermen originally expected to receive for the 2011 fishing year.

“Rebuilding economically valuable fisheries goes hand-in-hand with protecting fishing jobs and supporting coastal communities,” Secretary of Commerce Gary Locke said. “So we made reaching this agreement a priority, because it will allow us to increase the catch limits for valuable groundfish stocks and help fishermen.”

The legislation that enabled today’s agreement was signed by President Obama on January 4 and initiated by U.S. Sen. Olympia Snowe of Maine, U.S. Rep. Barney Frank of Massachusetts, and members of the New England congressional delegation. It allows NOAA to extend the rebuilding timeframe for the Georges Bank yellowtail flounder stock. This is one of several shared groundfish stocks that are jointly managed by the United States and Canada through an international understanding. With more time to rebuild, NOAA will be able to increase the amount of fish available to the fishing industry each year, and still prevent overfishing so that the stocks rebuild.

“This is another instance of our continuing effort to use whatever flexibility is available to us to protect fishing jobs and the long-term vitality of local fishing communities as we continue rebuilding the valuable groundfish stocks in the Northeast,” said Eric Schwaab, assistant NOAA administrator for NOAA’s Fisheries Service. “We are making meaningful progress in this effort, due in large part to the continued hard work and sacrifice of groundfish fishermen.”

As a first step, NOAA and members of the New England Fishery Management Council, which includes representation from states, fishing organizations and non-governmental organizations, met with Canadian fishery managers today to revisit the 2011 Georges Bank yellowtail catch limit for U.S. and Canadian fishermen. With bilateral support for the increase in the U.S. catch level, NOAA can now work quickly to modify current U.S. regulations to adjust the catch limits, which were previously set for 2011.

“A lot of people worked hard to provide flexibility in the U.S. legislation, which made this meeting possible,” said Rip Cunningham, chair of the U.S. negotiating team, who was one of four fishermen involved in the discussions with Canada today. “This is good news for U.S.
fishermen and will allow for increased catches of Georges Bank yellowtail and other species, like winter flounder and haddock which are caught in the same area.”

Separately, as part of the planned stock rebuilding effort, NOAA has also approved measures to increase catch limits for 11 other groundfish stocks when the new fishing year begins on May 1. The largest increases will be for Southern New England/Mid-Atlantic yellowtail flounder, which will be over one million pounds, up from around 683 thousand pounds (69 percent increase); witch flounder, which will increase to more than 2.7 million pounds from about 1.9 million pounds (45 percent increase); and Southern New England winter flounder, which will increase to 1.6 million pounds from about 1.1 million pounds (40 percent increase). These three stocks, and some of the others, required lower catch limits in 2010 to ensure enough fish reproduced to continue rebuilding and meet requirements under the law.

**Congressman Barney Frank (MA) Press Release - February 9, 2011**

**Frank Praises Outcome of US-CANADA Negotiations for Higher Fishing Allocation**

WASHINGTON – Congressman Barney Frank today praised the announcement by the Commerce Department that it has negotiated with Canada substantial increases in yellowtail flounder catch allocations for the 2011 fishing year. The new limits, which are pending a final approval by the NOAA – likely this week – will amount to an 18% increase over last year’s allocation, and a 44% increase in what had been proposed by NOAA for 2011.

This agreement was wholly made possible by legislation introduced by Congressman Barney Frank and Senator Olympia Snowe (R-ME), the International Fisheries Clarification Act, which makes it possible for the U.S. Transboundary Management Guidance Committee (TMGC) to negotiate higher catch limits with its Canadian counterparts.

Prior to the new law, the Canadian government had granted Canadian fishermen catch limits higher than those permitted by the US government to American fishermen. The law makes it possible for appointed representatives of the U.S. fishing industry to negotiate limits that do not put American fishermen at a disadvantage to their Canadian counterparts.

The negotiated limits would represent a significant improvement for both the groundfish the scallop industries.

The announcement by the Commerce Department today is a result of those negotiations, and is subject to final approval by the Commerce Department. Congressman Frank, who has gone toe-to-toe with Commerce over fish allocations in the past, will be arguing very strenuously for approval of the new limits.

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