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Standing Committee on Fisheries and Oceans
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6
Canada

Dear Mr. McDonald,

Please accept this submission from the Atlantic Groundfish Council to inform the Standing Committee on Fisheries on the recently announced study focused on Offshore Corporate Licence Ownership and Transfer with Respect to Owner Operator and Fleet Separation Policies.

The Council represents the > 100' Groundfish Enterprise Allocation holders in Atlantic Canada. Our members, largely vertically integrated, family owned and operated corporate enterprises, access over 45,000 mt of groundfish quotas annually from waters extending from the very southern regions of Canada's Atlantic Coast, north through to the Arctic Ocean. These landings translate into thousands of jobs at sea and in shore-based support facilities handling and processing the catch before it is provided to discerning customers worldwide. It is with this understanding of the importance of our member operations to the rural and coastal economy in Atlantic Canada that we offer our perspective on the study before you.

To begin, we would like to acknowledge that the Federal Government has recently incorporated the Owner Operator and Fleet Separation Policies into the modernized Fisheries Act. The Department has developed, published and implemented the supporting regulations. This was all undertaken after extensive industry consultation and feedback. We have watched the development of this issue over the years, and it appears that never have the Owner Operator and Fleet Separation principles been so enshrined and strengthened.

It is against this backdrop that we were surprised at the decision by the committee to take on this study, apparently based on concerns presented by stakeholder groups recently protected by these same legislative amendments.

The supporting regulations for the Owner Operator and Fleet Separation legislation clearly identify fleets that are exempt from the provisions – these are the same fleet sectors that are the

focus of the current study. Exemptions were established with the introduction of the policy in 2007. These exemptions were only granted at the request of participant harvesters in the exempt sectors, after a fulsome assessment by the Department of Fisheries and Oceans of the implications of the decision to all sectors participating in the fishery. The basis for the exemptions was re-assessed by the Department during the development of the current legislation and regulations, and the Department determined that these exemptions should continue and were of no impact to the protection of the inshore owner/operator fleet sector. In short, the current regulation structure allowed for the owner/operator fleet sector to be protected and insulated from decisions in other exempt fleet sectors.

We would like to take this opportunity to share our perspective on this important issue and to provide the Committee with some understanding of the risks of destabilizing the current process.

Licence Transfer and Ownership:

Ownership:

Eligibility and requirements for licence ownership in Eastern Canada is based on the Commercial Fisheries Licensing policy for Eastern Canada (1996). This robust policy was developed by DFO in consultation with stakeholders and has been publicly available for review since its inception. Since its introduction, regional updates have been provided that incorporate region-specific measures that were required as the harvesting landscape evolved with the introduction of additional licences for expanding fisheries (e.g. snow crab) and to accommodate larger policy initiatives within the Department (e.g. Policy for Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries (2007)). All regional updates to these policies were undertaken after discussion with industry via public advisory committees and are publicly available for review. In this respect, the rules are broadly available for review and transparency on criteria and process are provided.

The policy direction has provided the necessary environment to allow licences and associated access to the fishery to be leveraged to gain additional investment in harvesting and processing capacity. The understanding that a licence will be re-issued on a year-over-year basis (provided eligibility is maintained) is needed to equip the fish and seafood sector with the necessary infrastructure required to land quality seafood and prepare it for premium markets worldwide. A harvester would be very challenged to mobilize the millions of dollars in capital necessary to finance the building of vessels or modernizing processing plants without recognition of the value of the licence package and the resources to which it provides access.

In summary, the eligibility criteria for licence ownership across fleet sectors is highly transparent and broadly available for public review.

Transfers:

The process for licence transfer is clearly described by the policies noted above. These policies and procedures provide clear guidance as to what criteria must first be satisfied in order for the Minister of Fisheries and Oceans to consider issuing a new licence to a specified

individual/enterprise as a replacement for an existing licence being voluntarily relinquished under the sale/transfer agreement. Without additional instruction, those within industry consider these policies to be the basic rules. Industry can then operate with the general understanding that licence transfers will be permitted unless other clear revised guidance is provided by the Minister and/or Department of Fisheries and Oceans.

Once a licence transfer is requested, DFO staff must evaluate the request to determine if the transfer is eligible (done in accordance with the policies). This evaluation includes a detailed and rigorous review that concludes with a recommendation to the Minister on the licence transfer. The Minister then considers the evidence before them and makes a decision. Again, absolute Ministerial discretion is maintained.

Provided that the publicly available guidelines are followed, the successful re-issuance of a licence within a sector should have no impact on any other participant within that sector, nor will it impact other sectors within the fishery. Each decision is made by the Minister and remains unfettered.

The process described above is clear. It includes review by DFO staff experienced in licence transfers and maintains the opportunity for Ministerial discretion to be applied. Eligibility requirements differ for each sector/fishery and are publicly available and were developed with sectoral insulation in mind.

Summary:

The eligibility of ownership and licence re-issuance is governed by sector- and fishery-specific requirements that must be satisfied before the Minister will consider the request. Eligibility criteria were developed based on consultations/discussions with participants and have been concisely described in publicly available documents. Decisions in one sector are outside the purview of decisions in another and should not be considered to impact those other sectors on an operational basis.

We consider the details of individual licence re-issuance requests (e.g. licence transfers), especially in fleets exempt from owner/operator provisions, to be confidential information as they are often included with other aspects of operational businesses (vessel, plants, market access, brands, etc.). These are private business to business transactions that can have potential financial consequences if minor components of the overall transaction are made broadly public through a review process. Furthermore, the process and requirements that such transactions must abide by are clearly defined by policy which defines the rules – if the Department has concerns regarding possible implications to other sectors, this should be embodied in the guiding policy documents to provide certainty to present and future participants.

Permanent Quota Transfers:

Within exempt sectors, permanent quota transfers are undertaken on a relatively routine basis. These transfers are governed by guidelines (e.g. Atlantic Canada Groundfish Transfer Guidelines) established specific to each sector, which includes sector-specific considerations (e.g. eligibility

for licence transfers). Guidance is further provided by fleet- and fishery-specific conservation harvesting plans and integrated fishery management plans that are negotiated between the fishing sector and DFO. Again, this guidance is all publicly available.

In the unlikely event that permanent quota transfers being requested impacts fleet sector shares, DFO has established a generally clear path where the transfer of quota among sectors exempt from the inshore regulations must be done with the approval of both the sector which is 'losing' the quota and the sector which is 'gaining' the quota. This approach allows sector participants to highlight detrimental impacts to their sector that may arise from permanent quota transfers and challenge proposals as appropriate. Again, this supports transparency, as input is requested from all sides to help inform the Minister prior to their decision.

Within sectors, quota transfers play an important role in business planning in a dynamic resource-based environment. Movement of quota allows for rationalization to match the capacity to the available resource. For example, when a stock is at a low point, enterprises may be incentivized to gain access to additional quotas to keep operations viable. When stocks are at a high point, it may be necessary to provide quota to other operators to ensure full utilization.

The expedited process provided for by existing guidance is necessary to maintain competitiveness and flexibility needed for commercial viability. For example, should it be necessary to publicly publish pending transfers, this may lead to bidding wars, delays or politicization to the endpoint of undermining business viability.

Again, we must re-iterate that these transfers are outside of the owner/operator sector; have no bearing to allocations or operations of the owner/operator sector; and, are insulated from the owner/operator sector. In short, this means they are of no risk to the inshore owner/operator sector.

In conclusion, we suggest that inshore owner/operator sector is already fully considered and well protected by the newly minted legislation and supporting regulations. The process and eligibility of licence and quota transfers are publicly available via policies and procedures that are strictly adhered to, which require rigorous reviews on the part of the DFO prior to providing any recommendation to the Minister for decision (who retains ultimate authority). In addition, we suggest that imposing further expectations of public disclosure of business-to-business transactions in fleets exempt from owner/operator carry the following risks:

- **Reduced Competitiveness:** In many situations, licence and quota transactions are a component of a larger business to business relationship that can include vessels, shoreside infrastructure and market access. If engagement in a public process is required for license/quota transactions, the value of the assets in question could become skewed, thus creating a distortion of value for current and future transactions.
- **Increased Cost and Uncertainty:** Public processes incur delays to the timely nature with which decisions are currently being undertaken. This leads to a lengthened 'limbo' period

of uncertainty while the transaction is publicly scrutinized (and politicized). The cost and risk of these delays are entirely borne by industry, creating an environment that will stifle investment, innovation and modernization.

- **Bureaucratic Burden:** Introducing additional requirements for licencing issuance or quota transfers will undoubtedly increase the staffing requirements of a department already over-burdened with implementation of new regulations and bringing an updated Fisheries Act into reality. We suggest that the Department is not equipped to address additional administrative burdens in a timely fashion.

In closing, we consider the current licencing structure to be adequate in protecting the inshore owner/operator fleet sector because the decisions in one sector are, by design, insulated from another. The process is well described; publicly available for review; and, retains the ultimate discretion of the Minister.

We thank you for considering this submission and would welcome an opportunity to discuss further.

Sincerely,



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Executive Director
Atlantic Groundfish Council

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