



**Western
Pacific
Regional
Fishery
Management
Council**

September 24, 2025

Mr. Eugenio Piñeiro Soler
Assistant Administrator for Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Genio:

The Western Pacific Regional Fishery Management Council is requesting your assistance in addressing the long-standing goal of restoring cultural use of green sea turtles in the U.S. Pacific Islands. Specifically, **the Council is requesting that NMFS work with the Administration to: 1) explore changes to the Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC) to allow for the sustainable cultural take of green sea turtles in the U.S. Western Pacific region; and 2) initiate an Endangered Species Act (ESA) status review of the green sea turtles distinct population segments (DPS) in the Territories of Guam and American Samoa and Commonwealth of the Northern Mariana Islands (CNMI) and evaluate whether their listing status may be revised.**

ESA under Section 4(d) provides for a mechanism to tailor take prohibitions for threatened species, which has been used to authorize managed fisheries for ESA-listed salmon populations. Take prohibitions under the ESA would also be removed when a species is delisted and management returned to the states and territories. However, these domestic avenues for resuming cultural take are currently not available due to U.S. obligations under the IAC, which includes prohibitions on take with only a narrow exception for economic subsistence. The U.S. is currently meeting that obligation through the ESA-listing and associated take prohibitions of all sea turtle populations. The Council believes that there are opportunities to provide for cultural take while maintaining the U.S. objectives for the IAC, as green sea turtle populations of Hawaii and the U.S. Pacific Islands are distinct stocks not shared with Central and South American countries (see enclosures).

Domestically, the green sea turtle DPSs applicable to Guam, CNMI and American Samoa were uplisted to ESA endangered in 2016 when NMFS and U.S. Fish and Wildlife Service designated 11 DPSs worldwide. The endangered listing status precludes the consideration of a 4(d) rule to allow flexible management of these DPSs. At the time of the DPS listing, NMFS estimated the entire global green sea turtle population at a minimum of 550,000 adult nesting females, which translates to an estimated 74 million green sea turtles worldwide of all age classes. Majority of the green sea turtle populations globally are continuing to show increasing trends. However, in the decade since the DPS listings, NMFS has not conducted the 5-year status review mandated by the ESA. Thus, initiating a status review would be a necessary first step for a path toward allowing cultural take in the U.S. Pacific Islands.

We appreciate your attention and look forward to working with you on this matter.

Sincerely,

Kitty M. Simonds
Executive Director

Enclosures

Cc: Honorable Howard Lutnick, Secretary of Commerce
Honorable Governors of American Samoa, CNMI and Guam
Council Members



Potential Pathways for Resuming Traditional Cultural Harvest of Hawaii Green Sea Turtle (*Honu*) under the IAC Treaty

Take Prohibitions under the ESA and IAC

The Hawaiian green turtle, or *honu*, is listed under the Endangered Species Act (ESA) as a threatened species. Harvest of *honu*, whether for subsistence, traditional, or cultural purpose, has been prohibited under ESA regulations since the green turtles were listed worldwide as a threatened species in 1978. ESA under Section 4(d) provides for a mechanism to tailor take prohibitions for threatened species, which has been used to authorize managed fisheries for ESA-listed salmon populations. Take prohibitions under the ESA would also be removed when a species is delisted and management returned to the states and territories. However, these domestic avenues for resuming *honu* harvest are currently not available due to the U.S. obligations under the Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC).

The US is also a signatory to IAC, and parties must take appropriate measures to prohibit the “intentional capture, retention or killing of, and domestic trade in, sea turtles, their eggs, parts or products”.¹ The National Marine Fisheries Service (NMFS) and U.S. Department of State representatives have indicated that, as a policy matter, they are unlikely to pursue an avenue under the IAC that would open up the pathway for *honu* harvest in Hawaii. Specifically, they have pointed out that:

- Prohibitions on take in the IAC Treaty are consistent with the ESA and, while independent, the ESA and the IAC Treaty reinforce each other. The consideration of ratification of the IAC Treaty also relied on the ESA rules prohibiting take of the species covered by the Treaty.
- Pursuing renegotiation of the IAC Treaty to provide for a cultural take exception would be inconsistent with U.S. policy and domestic and international measures that the State Department has negotiated in other fora and contexts or have any expectation of success given the purposes for which the IAC Treaty was negotiated and the conservation progress that is being made.
- The exception for traditional economic subsistence under the IAC Treaty is a very high bar that the United States is unlikely to meet.

It has been 44 years since the cultural and traditional practices associated with green sea turtles became illegal when the species was listed as a threatened species under the ESA in 1978 and 21 years since the U.S. ratified the IAC in 2001. We are losing the last generation of people who still know the cultural traditions and can practice it so they can be passed down to the next generation. Harvesting of turtles is only one part of the practice that has been lost over the years. With it, we will also lose the cultural traditions of sharing the turtle and the community connections built around the sharing, the knowledge of various use of the animal so that nothing is wasted, and the traditional knowledge of the turtles and their ecology as well as the knowledge associated with caring for the populations, all of which were established over hundreds of years of sustainably utilizing green sea turtles in Hawaii.

¹ IAC Convention Text: www.iacseaturtle.org/texto-eng.htm

Background on the IAC

- The U.S. was the initiator of the Convention negotiations that occurred in 1994-1996. The treaty opened for signatures in December 1996, the U.S. ratified the treaty in February 2001, and the IAC entered into force in May 2001
- IAC currently has 16 Contracting Parties in North and South America and the Caribbean.
- Hawaii, as part of the U.S., is included in the Convention Area, even though the Hawaiian green turtle population is not a shared stock with Central and South America.
- One of the main objectives of the U.S. in pursuing the IAC was to export US bycatch reduction policies, specifically the use of sea turtle excluders in shrimp trawl fisheries across the Americas (shrimp trawl fisheries do not operate in the range of Hawaiian green turtles).
- In negotiating the IAC, U.S. agreed to an exception for 'economic subsistence' with the intention that such exception would apply narrowly to coastal communities in Central America that have no economic alternatives for subsistence, but not for the U.S. because no communities were permitted to engage in subsistence harvest under the ESA.
- In ratifying the IAC, Congress:
 - Recognized that the ESA would serve as the basic authority for implementing U.S. obligations under the Convention because all sea turtle species occurring in the Western Hemisphere were listed under the ESA.
 - Did not consider the ESA's goal of recovering species and removing them from the list of endangered and threatened species, and that management authority for sea turtles would be returned to the states and territories when a species is recovered.
 - Did not consider the traditional and cultural practices of indigenous communities in Hawaii and the rest of the U.S. Pacific Islands that harvested sea turtles until they were listed under the ESA.

Background on the Hawaii *Honu* Population

- Hawaii's *honu* population has rebounded significantly over the recent decades, and scientific information has shown that the population could sustain some level of harvest.
- Hawaii's population is a distinct population segment that does not overlap with green turtle populations along the coast of North and South America.
- Prior to the ESA listing, the State of Hawaii had implemented regulations in 1974 to prohibit commercial harvest while allowing the harvest for traditional home consumption under a permit. All harvest became illegal with the ESA listing in 1978.
- Hawaii, along with Guam and American Samoa, sought to protect the cultural practice of harvest by recommending that subsistence use be allowed in their respective areas, but NMFS and FWS did not provide an exemption on the basis that specific information on cultural or nutritional dependence on green sea turtles was not presented, and alternative food sources were available.^{2,3}

² Lecky, J. & Nitta, G. 1985. A review of subsistence uses of sea turtles in the Central and Western Pacific with respect to Federal regulations authorizing subsistence take of green sea turtles in the Trust Territory of the Pacific Islands. NMFS Administrative Report SWR-85.

³ CNMI was initially provided a subsistence exemption as part of the Trust Territory of the Pacific Islands (TTPI), but NMFS and FWS allowed the exemption to expire with the dissolution of the Trust under which the TTPI was administered, again on the basis that there was no dependence on green sea turtles as a food source.

Pathways

There are several potential avenues that could open up pathways for the perpetuation of cultural and traditional practices of *honu* harvest in Hawaii. In particular, pathways 1-3 could be accomplished without an amendment to the IAC. There may also be other policy alternatives that could provide an avenue for resuming the cultural traditional practices for Native Hawaiian and U.S. Pacific Islanders.

1. Utilize the existing “economic subsistence” provision under the IAC

IAC provides for each party to allow exceptions for satisfying “economic subsistence needs of traditional communities”. This must be done by taking into account the recommendations of the IAC’s Consultative Committee and must not undermine the objectives of the Convention. To date, the exceptions have been considered by the IAC for harvest of olive ridley eggs in Costa Rica, Guatemala, and Panama. However, NMFS and the U.S. Department of State have indicated that harvest of sea turtles in Hawaii is not necessary for subsistence purposes, and thus unlikely to qualify under the existing exemption.

2. Interpret the “Convention Area” definition to exclude sea turtle populations that are not shared with the coastal areas of the Americas

Pursuant to Article IV of the Convention, the measures to protect sea turtle populations (including the prohibition of intentional capture, retention or killing) shall be taken by each Party “its land territory and in maritime areas with respect to which it exercises sovereignty, sovereign rights or jurisdiction included within the Convention Area”

Article III of the Convention describes the area of application as follows: “The area of application of this Convention (the Convention Area) comprises the land territory in the Americas of each of the Parties, as well as the maritime areas of the Atlantic Ocean, the Caribbean Sea and the Pacific Ocean, with respect to which each of the Parties exercises sovereignty, sovereign rights or jurisdiction over living marine resources in accordance with international law, as reflected in the United Nations Convention on the Law of the Sea.” The Convention does not define “Americas” as a region, and could be interpreted as referring to the continental North America, Central and South America, and the Caribbean Sea, in which case the sea turtle populations that do not migrate to those areas could be excluded from the take prohibitions.

3. Amend the List of Sea Turtle Species in Annex I of the IAC to exclude green turtle populations that are not distributed along the coasts of the North or South American continents

Annexes to the Convention may be amended by consensus of the Parties. Annexes include sections on: list of species, protection and conservation of sea turtle habitats, use of TEDs, and annual reporting requirements. IAC Article I defines “Sea turtle” for the purposes of the Convention to be those listed in Annex I. Therefore, an amendment to the List of Sea Turtle Species in Annex I of the IAC could be made to exclude green turtle populations that are not distributed along the coasts of the North or South American continents.

4. *Renegotiate the IAC to create a cultural or traditional use exception that is not tied to subsistence*

IAC currently does not provide for cultural or traditional use exceptions that are not tied to subsistence needs. Creating a new exception will require a renegotiation of the treaty. This could provide for broader opportunity for sea turtle conservation across and the IAC the region, as several nations and territories in the Convention Area that allow sea turtle harvest (e.g., Nicaragua, Columbia, Turks and Caicos Islands) are currently not signatories to the IAC.

Additional Background: Excerpts of Congressional Record on Treaty Ratification

1. Resolution of Ratification: Senate Consideration of Treaty Document 105-48

Advice and consent to ratification by the Senate September 20, 2000

<https://www.congress.gov/treaty-document/105th-congress/48/resolution-text?r=1&s=1>

(3) NEW LEGISLATION.- Existing federal legislation provides sufficient legislative authority to implement United States obligations under the Convention. Accordingly, no new legislation is necessary in order for the United States to implement the Convention. Because all species of sea turtles occurring in the Western Hemisphere are listed as endangered or threatened under the Endangered Species Act of 1973, as amended (Title 16, United States Code, Section 1536 et seq.), said Act will serve as the basic authority for implementation of United States obligations under the Convention.

2. Congressional Informal Public Meeting Report on Ratification of IAC

Senate Committee on Foreign Relations, July 20, 2000 (Appendix of Exec. Rept. 106-16)

<https://www.congress.gov/congressional-report/106th-congress/executive-report/16/1>

Responses to additional questions submitted for the record by Assistant Secretary of State David B. Sandalow (questions submitted by Senator Jesse Helms)

Question 3. Will proper implementation of this Convention require new legislation to supplement existing law—such as the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act?

Answer. No. Existing legislation, including the Endangered Species Act, 16 U.S.C. Section 1531 et seq., and the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. Section 1081 et seq., provide sufficient legislative authority to implement U.S. obligations under the Convention. Accordingly, no new legislation is necessary in order for the United States to ratify or implement the Convention.

Question 5. Are there “traditional communities” in the United States that would qualify for an exemption from the Convention’s restrictions?

Answer. Article IV, paragraph 2(a) of the Convention requires Parties to prohibit the “intentional capture, retention or killing of, and domestic trade in, sea turtles, their eggs, parts or products.” Article IV, paragraph 3 allows each Party to make exceptions to this rule “to satisfy economic subsistence needs of traditional communities . . .”

Under the Endangered Species Act, there is no community (or individual) in the United States that is currently permitted to engage in any activity covered by Article IV, paragraph 2(a) in order to satisfy “economic subsistence needs.” Accordingly, under existing domestic law, the United States would not be able to apply the exception for traditional communities.

Question 6. In terms of enforcement, would the United States be obligated to respect under all circumstances and in all places a determination by another Convention party that all or part of its fishing fleet is entitled to a “traditional communities” exemption?

Answer. As explained in the answer to the previous question, Article IV, paragraph 2(a) of the Convention requires Parties to prohibit the “intentional capture, retention or killing of, and domestic trade in, sea turtles, their eggs, parts or products.” Article IV, paragraph 3 of the Convention allows each Party to make exceptions to this rule “to satisfy economic subsistence needs of traditional communities . . .”

Fishing fleets are not, generally speaking, engaged in the “intentional capture, retention or killing of, and domestic trade in, sea turtles, their eggs, parts or products.” Rather, the activities of fishing fleets that are covered by the Convention are the unintentional (or incidental) capture of sea turtles in the course of fishing for other species. See Article IV, paragraph 2(h).

Hence, the “traditional communities” exception does not apply to the activities of fishing fleets. The activities that would come within the ambit of the exception would involve limited harvesting of sea turtles when they are nesting and of sea turtle eggs.

The Convention does not give each Party an unfettered right to apply the “traditional communities” exception. Under Article IV, paragraph 3, such exceptions must not undermine efforts to achieve the objective of the Convention to protect, conserve and recover sea turtle populations and the habitats on which they depend. *See* Article II. Moreover, a Party considering the application of a “traditional communities” exception must take into account the recommendations of the Consultative Committee established pursuant to Article VII, must establish a management plan that includes limits on levels of intentional taking and must include in its Annual Report, referred to in Article XI, information concerning any such management plan. Under this scheme, the United States would have the right to question the application of the “traditional communities” exception by another Party.

Treaty Deadlock: Why an International Treaty with Central and South America Creates a Barrier for Cultural Harvest of Honu in Hawai'i

"As a matter of policy..." That was the phrase repeated by the U.S. Department of State representative at the December 2021 Western Pacific Fishery Management Council meeting, as the Council grappled over the question of whether cultural take of honu (Hawaiian green sea turtle) could be allowed. Last year, the Council revisited this long-standing issue, recognizing that multiple generations have passed since the last legal take and there is an urgency to pass on the cultural and traditional ecological knowledge before it disappears. At the September 2021 Council meeting, NOAA Pacific Islands Regional Office Regional Administrator Michael Tosatto indicated that NOAA was committed to exploring whether cultural take may be possible, and what avenue and process may be followed.

The short answer to the Council question, as conveyed by David Hogan of the U.S. Department of State, was that there does not appear to be an avenue under existing domestic law or international treaty. The domestic law is the Endangered Species Act (ESA), under which honu are listed as a threatened species and take is prohibited. The international treaty is the Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC), under which intentional capture, retention or killing of sea turtles is also prohibited, with a very narrow "economic subsistence" exception.

The United States initiated the Convention negotiations that occurred in 1994-1996. The treaty opened for signatures in December 1996 and the United States ratified the treaty in February 2001. The IAC entered into force in May 2001 and has 16 contracting Parties in North and South America and the Caribbean (see map). Hawai'i, as part of the U.S., is included in the Convention Area, although its honu population is not a shared stock with Central and South America. In addition to promoting the protection of sea turtles throughout the Americas, the United States pursued the IAC as a means to export U.S. bycatch reduction policies. In particular, the United States at the time was focused on advancing the requirements to use sea turtle excluders in shrimp trawl fisheries across the Americas, as the nation had domestically prohibited shrimp trawling unless fishers could demonstrate that they could exclude sea turtles from trawl nets. The United States agreed to an exception for "economic subsistence" with the intention that such exception would apply narrowly to coastal communities in Central America that have no economic alternatives for subsistence.

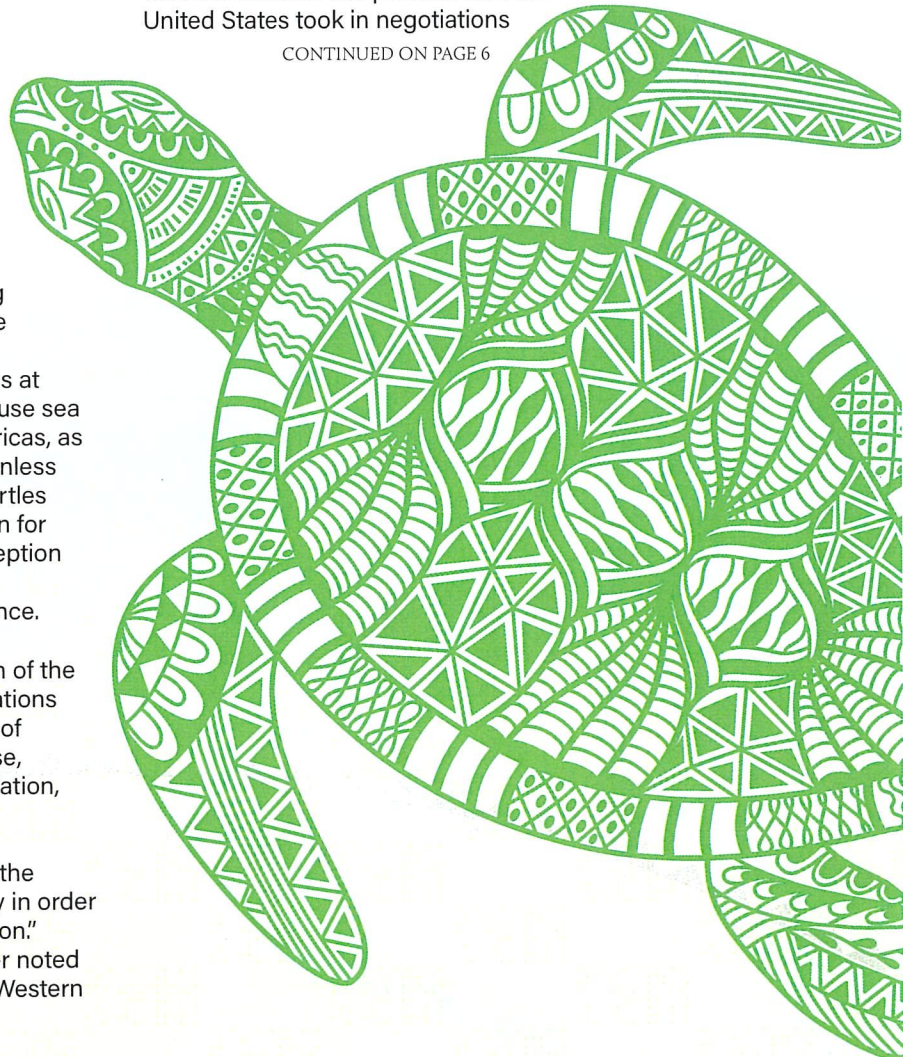
In the Congressional Record leading up to the ratification of the IAC, a member of the Senate Committee on Foreign Relations asked the Department of State if proper implementation of the Convention would require new legislation. In response, the assistant secretary of state wrote, "No. Existing legislation, including the [ESA], and the Magnuson-Stevens Fishery Conservation and Management Act...provide sufficient legislative authority to implement U.S. obligations under the Convention. Accordingly, no new legislation is necessary in order for the United States to ratify or implement the Convention." The Senate's Resolution of Ratification for the IAC further noted that "Because all species of sea turtles occurring in the Western

Hemisphere are listed as endangered or threatened under the Endangered Species Act of 1973..., said Act will serve as the basic authority for implementation of United States obligations under the Convention."

Similarly in the Congressional Record, the Department of State was asked whether any "traditional communities" in the United States would qualify for an exemption from the IAC's restrictions. The assistant secretary of state responded that under the ESA, no community or individual in the United States is permitted to engage in activities that would qualify as economic subsistence, and that under existing domestic law, the United States would not be able to apply the exception for traditional communities.

It is with that backdrop that Hogan explained to the Council members that, as a matter of policy, the United States would not be able to advance a request for an economic subsistence exception under the IAC if take is prohibited under ESA. But even if take could be allowed under the ESA, Hogan told the Council, that, as a matter of policy, it would be a challenging situation for the United States to advance a petition for an economic subsistence exception in the IAC. This is because it would contradict the position that the United States took in negotiations

CONTINUED ON PAGE 6



Treaty Deadlock

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and would also contradict what the Department of State told the Senate at the time of the ratification.

It appears then, that in pursuing sea turtle conservation objectives directed at Central and South America, the United States deadlocked itself into an IAC-ESA no-go zone for allowing any amount of directed take for its own people.

But consider that the United States appears to have ratified the IAC without acknowledging the fact that ESA's ultimate goal is to recover species and remove them from the list of endangered and threatened species, and that management authority for sea turtles would be returned to the states and territories when a species is recovered. Also consider that the United States appears to have ratified the IAC without acknowledging the provisions under ESA Section 4(d), which allows for take prohibitions for threatened species to be tailored to specific activities (commonly referred to as the "4(d) rule"), and has been used to exempt managed fisheries for ESA-listed salmon populations from take prohibitions. And importantly, consider the fact that the United States, in ratifying the treaty, did not address the traditional and indigenous communities of Hawai'i and the rest of the U.S. Pacific Islands who hold long-standing traditions of managing, harvesting and sustainably utilizing green sea turtles as an integral part of their cultural and social fabric.

Would the United States' approach to the IAC be different today if these additional considerations were factored in at the time of the negotiations? We will never know. But in this day and age, when calls for indigenous rights in conservation are growing internationally, and in light of the Biden Administration's emphasis on indigenous peoples and advancing racial equity, there may be no better time for the United States to become a leader in modernizing the conversation around indigenous peoples and their practices as an integral strategy for advancing sea turtle conservation—as a matter of policy, of course. 🐢



Map showing the IAC member countries. Although Hawai'i and U.S. Pacific Island Territories are not shown on the map, they are included in the Convention Area.

Source: IAC <http://www.iacseaturtle.org/defaulteng.htm>.

Additional Resources:

IAC Convention Text: www.iacseaturtle.org/texto-eng.htm

U.S. Senate Resolution of Ratification (September 2001): www.congress.gov/treaty-document/105th-congress/48/resolution-text?r=1&s=1

Congressional Record on Informal Public Meeting on Treaties, including the IAC (July 2000): www.congress.gov/congressional-report/106th-congress/executive-report/16/1

