



# 2020 ITLOS MOOT COURT COMPETITION

## CLARIFICATION QUESTIONS

### Question nº 1:

Do the bilateral fishery agreement or the “Big Eyes on You” project include any other relevant measure, for example, a provision on straddling or shared stocks or other forms of technical assistance from the EU? Is Calypso obligated to share the information obtained by the “Big Eyes on You” project with the European Union or Azurius, to send a report, or to notify the parties in the event of IUU fishing or sovereignty infringement or all data sharing is discretionary to Calypso?

### Answer:

The Bilateral Fishing Agreement:

- Implements the FAO Code of Conduct for Responsible Fisheries, the IPOA-IUU instrument, international law, including customary international law.
- It does not contain any specific provisions regarding straddling or shared stocks or other forms of technical assistance from the EU.

The “Big Eyes on You” Agreement

- Only deals with data sharing and the monitoring and surveillance of fishing vessels. It does not provide any biodiversity data allowing the identification of fish stocks.
- Calypso has the duty to share the data with Azurius. The European Union is only acting as a data provider.

### Question nº 2:

The “Big Eyes on You” agreement set out some cooperation mechanisms. Were they defined by the European Union only, or they were elaborated by specific negotiations between Azurius, Calypso and the European Union?

### Answer:

The Big Eyes on You agreement was equally negotiated by Azurius, Calypso and the European Union.

**Question nº 3:**

Regarding the incidents of the 8th, 10th and 18th of August (paragraph 12), footnote nº4 explains that, when Azurius received the VMS notifications, the vessels were located “on the two days” 1,9 nautical miles away from the Gold Seahorse area. Since it was stated before that the incident occurred in the course of three days, what were the specific days and location of each ship, both at the time when Azurius received the VMS notifications and when the vessels were spotted by “Big Eyes on You”?

**Answer:**

The two azurian vessels were located the three days 1,9 nautical miles away from the Gold Seahorse area at the time of the various VMS notifications to Azurius and had fishing authorizations in full compliance with the 1996 Fishing Bilateral Agreement.

**Question nº 4:**

Concerning the imposition of the fines on Azurius, was the penalty product of any specific procedure? Which authority from Calypso issued the penalty? Furthermore, was Azurius given an opportunity to defend itself in the course of the proceedings?

**Answer:**

Regarding the fines sent to Azurius by Calypso:

The government of Calypso sent the fines to Azurius through its Fishery Agency (under the supervision of the Ministry of the Sea of Calypso) according to Article 12 of the Bilateral Fishing Agreement providing a special procedure in case of IUU fishing. These fines are of administrative nature and are set up to allow the speedy treatment of offenses related to illegal fishing, due to the friendship between the two countries. They can be contested before the end of the payment period (subject to a proof of the contrary). In the absence of any contestation, they are fully due by the Calypso State. Azurius paid the first fine (shortly after the 20 November 2017 and exactly on the 23 November 2017) and contested the second fine on 20 November 2017.

Paragraph 15: the prosecution mentioned refers to domestic criminal prosecution.

**Question nº 5:**

What facts allowed Calypso to conclude that two Azurian vessels were actually fishing in its exclusive economic zone on 8th, 10th and 18th of August 2017?



**Answer:**

Calypso made a reference to the lack of authorization of the Azurian vessels to enter a special protected area according to the Marine Conservation Act (2002) Article 86.2. Calypso based its accusations of illegal fishing on the location data given by the service “Big eyes on You”. The data indicates the location of the small azurian vessels in the Gold Seahorse area of the EEZ of Calypso shortly after the vessels sent their VMS notifications to Azurius as required by Article 6 of the Bilateral Fishing Agreement.

The “Big Eyes on You” data more specifically gives the following details:

On the 8th of August: The two small azurian vessels entered the Gold Seahorse area 23 minutes after the VMS notification sent to Azurius (footnotes 4). The two boats remained there 68 minutes before moving back to their original positions according to the VMS notification sent to Azurius (footnotes 4).

On the 10th of August: The two small azurian vessels entered the Gold Seahorse area 17 minutes after the VMS notification sent to Azurius (given in footnotes 4). The two boats remained there 87 minutes before moving back to their original positions according to the VMS notification sent to Azurius (footnotes 4).

On the 18th of August: The two small azurian vessels entered the Gold Seahorse area 32 minutes after the VMS notification sent to Azurius (given in footnotes 4). The two boats remained there 75 minutes before moving back to their original positions according to the VMS notification sent to Azurius (footnotes 4).

Azurius received this data through Calypso on the 22 of August 2017 (implementation of the Big Eyes on You Agreement which is automated through a procedure of sharing of data every 10 days from the day of the signature of the Big Eyes on You Agreement). There are therefore no questions related to the implementation of the Big Eyes on You Agreement.

As a general rule, it is recommended to assume that all Azurian boats, in the Stellar Sea Case, can have a speed of 30 knots. Please also consider during the whole case that there was no meteorological events or weather issues during the alleged events of illegal fishing. At all times, the weather was stable and sunny with no winds and clouds.