

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

concerning the provisional application of the protocol setting out, for the period from 1 July 2004 to 30 June 2007, the fishing opportunities and financial contribution provided for in the agreement between the European Economic Community and the Republic of Côte d'Ivoire on fishing off the coast of Côte d'Ivoire

A. Letter from the Government of Côte d'Ivoire

Sir,

With reference to the Protocol initialled on 3 March 2004 in Brussels setting out the fishing opportunities and financial contribution for the period from 1 July 2004 to 30 June 2007, I have the honour to inform you that the Government of Côte d'Ivoire is prepared to apply the Protocol provisionally, with effect from 1 July 2004, pending its entry into force in accordance with Article 10 of the said Protocol, provided that the European Community is disposed to do likewise.

Accordingly, the first instalment of the financial contribution specified in Article 3 of the Protocol is to be paid by 31 December 2004.

I should be obliged if you would confirm the European Community's agreement to such provisional application.

I should be obliged if you would acknowledge receipt of this letter.

Please accept, Sir, the assurance of my highest consideration.

For the Government of Côte d'Ivoire

B. Letter from the European Community

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

'With reference to the Protocol initialled on 3 March 2004 in Brussels setting out the fishing opportunities and financial contribution for the period from 1 July 2004 to 30 June 2007, I have the honour to inform you that the Government of Côte d'Ivoire is prepared to apply the Protocol provisionally, with effect from 1 July 2004, pending its entry into force in accordance with Article 10 of the said Protocol, provided that the European Community is disposed to do likewise.

Accordingly, the first instalment of the financial contribution specified in Article 3 of the Protocol is to be paid by 31 December 2004.

I should be obliged if you would confirm the European Community's agreement to such provisional application.'

I have the honour to confirm the European Community's agreement to such provisional application.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Council of the European Union

PROTOCOL

setting out, for the period from 1 July 2004 to 30 June 2007, the fishing opportunities and financial contribution provided for in the agreement between the European Economic Community and the Republic of Côte d'Ivoire on fishing off the coast of Côte d'Ivoire

Article 1

1. From 1 July 2004, and for a period of three years, fishing opportunities pursuant to Article 2 of the Agreement shall be as follows:

- (a) freezer trawlers designed to fish demersal species, taking deepwater crustaceans, cephalopods and demersal fish: an annual average of 1 300 GT ⁽¹⁾ (gross tonnage) per month;
- (b) pole-and-line tuna vessels: 3 vessels;
- (c) surface longliners: 11 vessels;
- (d) tuna seiners: 34 vessels.

2. Under Article 4(1) of the Agreement, vessels flying the flag of a Member State of the European Community may fish in the Côte d'Ivoire fishing zone only if they are in possession of a fishing licence issued under this Protocol in accordance with the arrangements described in the Annex.

Article 2

The fishing opportunities referred to in Article 1 may be increased by mutual agreement at the request of the Community if they do not thereby compromise the rational exploitation of the resources of Côte d'Ivoire.

In this case the financial contribution referred to in Article 3(1) shall be increased proportionately and *pro rata temporis*.

Article 3

1. The financial contribution for the fishing opportunities laid down in Article 1 and the support for the sectoral fisheries policy laid down in Article 4 shall be EUR 1 065 000 per year.

2. The financial contribution for tuna fishing shall cover a catch of 9 000 tonnes a year in Côte d'Ivoire waters. If the tuna caught by Community vessels in the Côte d'Ivoire fishing zone

exceeds this weight, the amount referred to above shall be proportionately increased. However, the total amount of the financial contribution paid by the Community shall not be more than twice the amount indicated in paragraph 1.

3. The annual financial contribution shall be payable by 31 December each year of the Protocol at the latest. The Côte d'Ivoire Government shall have full discretion regarding the use to which this financial contribution is put, in line with the specifications in Article 4.

Article 4

1. The two parties shall agree on the objectives to be achieved regarding the sustainable management of Côte d'Ivoire fish stocks. The financial contribution provided for in Article 3(1) shall be earmarked for financing measures aimed at achieving these objectives, as laid down in the Côte d'Ivoire Government's multiannual sectoral programme, by way of indication, and in accordance with the following breakdown:

- (a) scientific programmes, including a scientific trawl survey carried out by an oceanographic vessel and designed to promote better understanding of fishery and biological resources in the Côte d'Ivoire fishing zone: EUR 200 000;
- (b) support for fisheries monitoring, inspection and surveillance, including the introduction of a satellite-based vessel monitoring system (VMS) before the end of the second year of validity of this Protocol: EUR 280 000;
- (c) improved fisheries statistics: EUR 100 000;
- (d) aid for the Ministère de la Production Animale et des Ressources Halieutiques of Côte d'Ivoire ('Ministry') responsible for fisheries for drawing up fisheries development policies and strategies: EUR 485 000.

2. During the first year of validity of this Protocol, the measures defined under Article 4(1), and the annual amounts allocated to them, shall be decided by the Ministry in accordance with the multiannual sectoral programme. This programme, which is to be submitted to the Delegation of the European Commission in Côte d'Ivoire not later than 1 October 2004, must be approved by the joint committee provided for in Article 10 of the Agreement.

⁽¹⁾ As defined by Council Regulation (EC) No 2371/2002 of 20 December 2002 (OJ L 358, 31.12.2002, p. 59).

From the second year of validity of the Protocol onwards the Ministry is to submit to the Delegation of the European Commission in Côte d'Ivoire, not later than 1 October 2005 and 1 October 2006, a detailed report on the implementation of the programme and of the results achieved.

The measures provided for in Article 4(1) or the related amounts may be amended by mutual agreement between both parties.

Following approval, by the joint committee, of the multiannual sectoral programme for the first year of validity of the Protocol, and of the implementation report for the following two years, the annual amounts shall be paid not later than 31 December each year into the bank account communicated by the Ministry and approved by the European Commission.

The joint committee shall meet not later than four months after the anniversary date of the Protocol, i.e. not later than 1 November of each year of validity of the Protocol.

The European Commission may ask the Ministry for any additional information which may be considered necessary.

Article 5

If the Community fails to make the payments provided for under Articles 3 and 4, the obligations of Côte d'Ivoire resulting from the Fisheries Agreement may be suspended.

Article 6

Where severe circumstances not attributable to natural phenomena prevent the exercise of fishing activities in the Côte d'Ivoire fishing zone, the European Community may suspend payment of the financial contribution following prior consultations between the two parties.

Payment of the financial contribution shall be resumed as soon as normality is restored and after consultations between the two parties confirm that the situation is likely to permit a return to fishing activities.

The validity of the licences granted to Community vessels under Article 4 of the Agreement shall be extended by a period equal to the period during which fishing activities were suspended.

Article 7

The Annex to the Agreement between the European Economic Community and the Republic of Côte d'Ivoire on fishing off the

coast of Côte d'Ivoire shall be replaced by the Annex to this Protocol.

Article 8

The European Commission and the Côte d'Ivoire authorities shall take all the necessary measures to assess the state of fisheries resources.

A joint scientific committee shall be set up for that purpose. This committee shall meet regularly, at least once each year, and shall be made up of scientists selected by mutual agreement by both parties.

On the basis of the conclusions of the scientific committee and in the light of the best available scientific advice, the two parties shall hold consultations in the joint committee provided for in Article 10 of the Agreement with a view to adapting, by mutual agreement, the fishing opportunities and conditions where necessary.

Article 9

The ILO Declaration on Fundamental Principles and Rights at Work shall apply as of right to seamen signed on by European Community vessels. This concerns in particular the freedom of association and the effective recognition of the right to collective bargaining, and the elimination of discrimination in respect of employment and occupation.

Local seamen's employment contracts, a copy of which shall be given to the signatories, shall be drawn up between the vessel-owners' representative(s) and the seamen and/or their trade unions or their representatives in consultation with the responsible local authorities. These contracts shall guarantee the seamen the social security cover applicable to them, including life assurance and sickness and accident insurance. The wage conditions granted to local seamen/fishermen shall not be lower than those applied to crews from the State signing the fisheries agreement and shall under no circumstances be below ILO standards.

Where the employer is a local company, the employment contract shall specify the names of the vessel-owner and the flag State.

Furthermore, vessel-owners shall guarantee living and working conditions similar to those enjoyed by the European Community seamen to the local seamen who are recruited.

Article 10

This Protocol shall enter into force on the date of its signing.

It shall apply from 1 July 2004.

ANNEX

CONDITIONS FOR THE EXERCISE OF FISHING ACTIVITIES BY COMMUNITY VESSELS IN THE CÔTE D'IVOIRE FISHING ZONE**A. Licence applications and issuing formalities**

The relevant Community authorities shall present to the Ministère de la Production Animale et des Ressources Halieutiques of Côte d'Ivoire (the Ministry), via the Delegation of the European Commission in Côte d'Ivoire, an application for each vessel wishing to fish under the Agreement.

Applications shall be made on the form provided for that purpose by Côte d'Ivoire, a specimen of which is attached (Appendix 1).

Each licence application shall be accompanied by proof of payment of the fee for the period of the licence's validity.

The fees shall include all national and local charges except for port taxes and service charges.

The Ministry shall communicate, before the entry into force of the Agreement, all information concerning the bank accounts to be used for the payment of the fee.

Licences shall be issued for a specific vessel and shall not be transferable.

However, in the case of *force majeure* and at the request of the European Commission, a vessel's licence shall be replaced by a new licence for another vessel with characteristics similar to those of the first vessel. The owner of the first vessel shall return the cancelled licence to the Ministry via the Delegation of the European Commission in Côte d'Ivoire.

The new licence shall indicate:

- the date of issue,
- the fact that it invalidates and replaces the licence of the previous vessel.

No fee as laid down in Article 4(2) of the Agreement shall be due for any unexpired period of validity.

1. Licences shall be transmitted by the Ministry to the Delegation of the European Commission in Côte d'Ivoire within 30 days of receipt of the application.
2. The original of the licence must be held on board at all times and be presented at any time on request of the competent Côte d'Ivoire authorities.

However, for pole-and-line tuna vessels, tuna seiners and surface longliners, the Ministry shall, upon receipt of notification from the European Commission that advance payment has been made, enter the vessel concerned in the list of vessels with authorisation to fish sent to the Côte d'Ivoire control authorities. Pending receipt of the original of the licence, a copy of the licence that has been drawn up may be issued by fax to be held on board the vessel.

3. Trawlers authorised under Article 2 of the Agreement must notify the Ministry of any changes to the characteristics of a vessel as entered on the licence when issued and as listed in Appendix 1.
4. Any increase in gross tonnage (GT) of a trawler shall require a new licence application.

B. Provisions applicable to pole-and-line tuna vessels, tuna seiners and surface longliners

1. Licences shall be valid for one year. They shall be renewable.
2. The fee shall be EUR 25 per tonne of fish caught within the Côte d'Ivoire exclusive economic zone (EEZ).

3. Licences shall be issued following payment of a lump sum of EUR 375 per year for each pole-and-line tuna vessel, EUR 2 750 per year for each tuna seiner and EUR 1 000 per year for each surface longliner.
4. The final statement of the fees due for the fishing year shall be drawn up by the European Commission at the end of each calendar year on the basis of the catch declarations made by each shipowner and confirmed by the scientific institutes responsible for verifying catch data, such as the Institut de Recherche pour le Développement (IRD), the Instituto Español de Oceanografía (IEO) and the Instituto Português de Investigaç o Mar tima (IPIMAR) on the one hand and the Centre de Recherches Oc anologiques de C te d'Ivoire on the other. The statement shall be forwarded simultaneously to the C te d'Ivoire fishing authorities and the shipowners. Any additional payments due shall be made by the shipowners to the C te d'Ivoire fishing authorities no later than 30 days after notification of the final statement.

However, if the amount of the final statement is lower than the above advance, the resulting balance shall not be reimbursable to the shipowner.

5. Part of the fees paid within the context of this Article shall be assigned to supporting fisheries development.

The C te d'Ivoire authorities shall communicate, before the entry into force of the Agreement, all details of the bank account to be used for the payment of the fees.

C. Provisions applicable to freezer trawlers

1. In the case of freezer trawlers, licences shall be valid for three, six or 12 months. They shall be renewable.
2. The annual fee shall be EUR 100 per GT per vessel.

Fees for licences for periods of less than one year shall be paid on a pro rata basis. Six-month and three-month licences shall be subject to a surcharge of 3 % and 5 % respectively.

D. Catch declarations

1. Vessels authorised to fish in the C te d'Ivoire fishing zone under this Agreement shall send their catch declarations to the fishing authorities with a copy to the Delegation of the European Commission in C te d'Ivoire, as follows:
 - (a) trawlers shall notify their catches using the form given in Appendix 2. These declarations shall be monthly and must be communicated at least once every three months;
 - (b) for pole-and-line tuna vessels, tuna seiners and surface longliners a fishing log shall be kept, in accordance with the model in Appendix 3 in the case of surface longliners and Appendix 4 in the case of seiners and pole-and-line vessels for each fishing period spent in the C te d'Ivoire fishing zone. It shall be filled in even when no catches are made.

The form shall either be collected in port by the relevant departments of the Centre de Recherches Oc anologiques de C te d'Ivoire or sent to the same department within 45 days of the end of the fishing trip spent in the C te d'Ivoire fishing zone.

Copies shall be sent to the Ministry and to the scientific institutes referred to in paragraph 4 of section B.

Forms must be completed legibly and be signed by the master of the vessel. Moreover, the master must enter the words 'Outside C te d'Ivoire EEZ' in the abovementioned fishing log in respect of periods during which the vessels are not in C te d'Ivoire waters.

2. If these provisions are not complied with, the C te d'Ivoire authorities reserve the right to suspend the licence of the offending vessel until the required formality has been fulfilled. In this case, the Delegation of the European Commission in C te d'Ivoire shall be informed without delay.

E. Landing of catches

Tuna vessels and surface longliners landing their catches in a Côte d'Ivoire port shall, wherever possible, make their by-catches available to Côte d'Ivoire dealers at local market prices in accordance with the principles of free competition.

In addition, Community tuna vessels shall contribute towards supplying Côte d'Ivoire's tuna-canning factories at a price fixed by mutual agreement between Community shipowners and Côte d'Ivoire dealers on the basis of current prices on the international market. Payment shall be made in convertible currency. The landing schedule must be drawn up by mutual agreement between the Community shipowners and Côte d'Ivoire dealers.

F. Fishing zones

1. To protect spawning grounds and local small-scale fishing activities, Community vessels with licences may not carry out fishing activities as laid down in Article 2 of the Agreement in the following zones:
 - up to 12 nautical miles from the coast in the case of pole-and-line tuna vessels and surface longliners,
 - up to 6 nautical miles from the coast in the case of freezer trawlers.
2. However, pole-and-line tuna vessels using live bait shall be authorised to fish for bait in the prohibited zone defined above to obtain bait strictly within the limits of their own requirements.

G. Entering and leaving the zone

All vessels shall notify their position and the catch held on board direct to the Ministry, preferably by fax ((225) 21 35 04 09) or, for vessels not equipped with a fax, by radio or e-mail (dphcotedivoire@avisoci), within three hours of entering or leaving the Côte d'Ivoire fishing zone and every three days while fishing in Côte d'Ivoire waters.

Vessels shall be informed of the relevant fax number and radio frequency when the fishing licence is issued.

The Ministry and shipowners shall keep a copy of fax communications or a recording of radio communications until both parties have agreed to the final statement of fees due referred to in section B.

A vessel found to be fishing without having informed the Ministry shall be regarded as a vessel without a licence and liable to the penalties provided for in national legislation.

H. Mesh sizes

The minimum mesh size authorised (mesh fully extended) shall be:

- (a) 40 mm for freezer trawlers taking deepwater crustaceans;
- (b) 70 mm for freezer trawlers taking cephalopods;
- (c) 60 mm for freezer trawlers taking fish;
- (d) in the case of tuna, the international standards recommended by ICCAT shall apply.

I. Signing-on of seamen

Owners of vessels which have been granted licences as provided by the Agreement shall contribute to the practical vocational training of Côte d'Ivoire nationals, on the following terms and subject to the following limits:

1. Each trawler owner shall undertake to employ:
 - one seaman for vessels under 460 GT;
 - two seamen for vessels between 460 and 550 GT;
 - three seamen for vessels over 550 GT.

The owners of tuna vessels and surface longliners shall employ Côte d'Ivoire seamen, subject to the following conditions and limits:

- for the fleet of tuna seiners, four Côte d'Ivoire seamen shall be signed on during the fishing season in the Côte d'Ivoire fishing zone. Each pole-and-line vessel may not be required to take on more than one seaman;
- for the fleet of tuna seiners, 30 Côte d'Ivoire seamen shall be signed on;
- for the fleet of surface longliners, four Côte d'Ivoire seamen shall be signed on during the tuna fishing period in the Côte d'Ivoire fishing zone. Each surface longliner may not be required to take on more than one seaman.

The above limits shall not preclude the signing-on of additional Côte d'Ivoire seamen at the request of the shipowners.

The Côte d'Ivoire seamen shall be chosen by the shipowners from among professional seamen recognised by the Ministry.

2. The wages of these seamen shall be fixed, before licences are issued, by mutual agreement between the shipowners or their representatives and the Côte d'Ivoire Ministry responsible for fisheries. The wages shall be borne by the shipowners and must include the social contributions to which each seaman is subject (including life assurance and accident and sickness insurance).
3. If the seamen are not signed on, the owners of trawlers, pole-and-line tuna vessels, tuna seiners and surface longliners shall be obliged to pay a lump sum equivalent to the wages of seamen not signed on, based on the number of days spent in the Côte d'Ivoire fishing zone.

This sum will be used for the training of seamen in Côte d'Ivoire and is to be paid into the account specified by the Ministry.

4. Any vessel may be required to take on board a trainee student on a proposal from the Ministry responsible for fisheries, subject to the agreement of the vessel's master. Trainees shall be accorded the same conditions on board as those enjoyed by crewmen at the same level, as far as possible. Côte d'Ivoire shall cover the subsistence expenses for each trainee.

J. **Scientific observers**

At the request of the Ministry, vessels fishing in the Côte d'Ivoire EEZ shall take a scientific observer on board. These observers shall be treated as officers. This applies equally, as far as possible, to the quarters assigned to the observer. The time spent on board by observers shall be fixed by the Ministry, but, as a general rule, it should not exceed the time required to carry out their duties. Once on board, observers shall:

- observe the fishing activities of vessels;
- verify the position of vessels when engaged in fishing operations;
- perform biological sampling in the context of scientific programmes;
- note the fishing gear used;
- verify the catch data for the Côte d'Ivoire zone recorded in the logbook.

While on board, observers shall:

- take all appropriate steps to ensure that the conditions under which they are taken on board and their presence on board do not interrupt or hamper fishing activities;
- respect the material and equipment on board and the confidentiality of all documents belonging to the vessel;
- draw up an activity report to be transmitted to the Ministry and send a copy to the Delegation of the European Commission.

The conditions governing the taking on board of observers shall be agreed between the shipowner or its agent and the Ministry. Owners of trawlers shall pay the Ministry, together with the licence fee, the sum of EUR 3 per GT per year *pro rata temporis* for each vessel fishing in Côte d'Ivoire waters. This sum shall be paid into the account specified by the Ministry. Owners of tuna seiners, pole-and-line tuna vessels and surface longliners shall pay the Côte d'Ivoire Government EUR 10 per day spent on board for each observer taken on board. Shipowners who are unable to take observers aboard and put them off at a Côte d'Ivoire port agreed by mutual agreement with Ministry shall bear the cost of taking the observers aboard and putting them ashore.

If the observer is not present at the time and place agreed and during the twelve hours following the time agreed, shipowners shall be automatically absolved of their obligation to take the observer on board.

The salary and social contributions of each observer shall be borne by the Côte d'Ivoire.

K. **Inspection and monitoring**

At the request of the Côte d'Ivoire authorities, Community vessels operating within the Agreement shall permit and facilitate the boarding and fulfilment of the tasks of Côte d'Ivoire officials responsible for the inspection and monitoring of fishing activities.

These officials shall not remain on board any longer than the time required to carry out their duties.

L. **Boarding of vessels**

1. The Delegation of the European Commission in Côte d'Ivoire shall be notified within three working days of any boarding within the Côte d'Ivoire EEZ of a fishing vessel flying the flag of a Member State of the Community and operating under this Protocol. The Delegation shall at the same time receive a brief report of the circumstances and reasons leading to the boarding.
 2. Before any measures regarding the master or the crew of the vessel or any action regarding the cargo and equipment of the vessel are considered, other than those to safeguard evidence relating to the presumed infringement, a consultation meeting shall be held, within one working day from the receipt of the abovementioned information, between the Delegation of the European Commission in Côte d'Ivoire, the Ministry and the other control authorities, possibly attended by a representative of the Member State concerned. At the meeting, the parties shall exchange any relevant documentation or information helping to clarify the circumstances of the established facts. The shipowner or his representative shall be informed of the outcome of the meeting and of any measures resulting from the boarding.
 3. Before any judicial procedure, an attempt shall be made to resolve the presumed infringement through a compromise procedure. This procedure shall end no later than three working days after informing the Delegation of the European Commission.
 4. If the case is not settled by means of compromise, and the master is consequently brought before a competent Côte d'Ivoire judicial body, a reasonable bank security shall be fixed by the competent authority within two working days following the conclusion of the compromise procedure, pending the judicial decision. The bank security shall be released by the competent authority once the master of the vessel concerned has been discharged by the judicial decision.
 5. The vessel and its crew shall be released either:
 - at the end of the consultation meeting, if the established facts permit, or
 - on receipt of payment of a fine (compromise procedure), or
 - once a bank security is deposited (judicial proceedings).
 6. If one of the parties considers that there is a problem or dispute in the application of the above procedure, it may request urgent consultations between the parties to this Protocol.
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Appendix 1

MINISTÈRE DE LA
PRODUCTION ANIMALE ET DES
RESSOURCES HALIEUTIQUES
BP V 84 Abidjan
(République de Côte d'Ivoire)

RÉPUBLIQUE DE CÔTE D'IVOIRE
UNION-DISCIPLINE-TRAVAIL

APPLICATION FOR A FISHING LICENCE

SECTION A

- 1. Name of shipowner:
- 2. Nationality of shipowner:
- 3. Business address of shipowner:
-
-

SECTION B

(to be completed for each vessel)

- 1. Period of validity:
- 2. Name of vessel:
- 3. Year of construction:
- 4. Flag of origin:
- 5. Current flag:
- 6. Date on which current flag was acquired:
- 7. Year of purchase:
- 8. Home port and registration number:
- 9. Areas of operation:
- 10. Type of fishing:
- 11. Gross tonnage (GT):
- 12. Net tonnage (NT):
- 13. Radio call sign:
- 14. Length overall (metres):
- 15. Stem (metres):
- 16. Depth (metres):
- 17. Hull construction material:
- 18. Engine power:
- 19. Speed (knots):
- 20. Cabins:
- 21. Capacity of fuel tanks (m³):
- 22. Capacity of fish holds (m³):
- 23. Freezing capacity in tonnes/24 hours and system used:
- 24. Colour of hull:
- 25. Colour of superstructures:
- 26. Crew numbers:

27. On-board communication equipment:

Type	Make	Model	Power (Watt)	Year of construction	Frequencies	
					Reception	Transmission

28. Navigating and sounding equipment

Type	Make	Model

- 29. Auxiliary boats used (for each vessel):
- 29.1. Gross tonnage (GT):
- 29.2. Length overall (metres):
- 29.3. Stem (metres):
- 29.4. Depth (metres):
- 29.5. Hull construction material:
- 29.6. Engine power:
- 29.7. Speed (knots):
- 30. Auxiliary aerial equipment used to detect fish (even if not installed on board):
- 31. Home port:
- 32. Name of captain:
- 33. Address:
- 34. Nationality of captain:

Attach:

- three colour photocopies showing the vessel (side view), auxiliary fishing boats and auxiliary aerial equipment used to detect fish;
- an illustration and detailed description of the fishing gear used;
- a document proving that the representative of the shipowner is empowered to sign this application.

.....
(Date of application)

.....
(Signature of representative of shipowner)

Appendix 2

FREEZER TRAWLERS
(DEMERSAL SPECIES)

Month	Year:
Fishing method	
Port of landing	

Vessel name	
Nationality (flag)	

Engine power	
Gross tonnage (t)	

Dates	Fishing area		Number of catches	Number of fishing hours	Species of fish							Totals	
	Longitude	Latitude											
1)													
2)													
3)													
4)													
5)													
6)													
7)													
8)													
9)													
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31)													
			TOTAL										

