



Amendment of Article 5.3 of the Fund Convention

In accordance with Article 5.4 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (Fund Convention), the Assembly of the International Oil Pollution Compensation Fund (IOPC Fund) decided at its 17th session, held from 18 to 21 October 1994, to include the Amendments to the International Convention for the Safety of Life at Sea, 1974, adopted on 11 December 1992 by the Maritime Safety Committee of the International Maritime Organization (Resolution MSC.27(61)) in the list of instruments contained in Article 5.3(a) of the Fund Convention, with effect from 1 May 1995.

As of 1 May 1995, Article 5.3 of the Fund Convention will therefore read as follows:

5.3 The Fund may be exonerated wholly or partially from its obligations under paragraph 1 towards the owner and his guarantor if the Fund proves that as a result of the actual fault or privity of the owner:

- (a) the ship from which the oil causing the pollution damage escaped did not comply with the requirements laid down in:
 - (i) the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as amended by Resolutions MEPC.14(20), MEPC.47(31), MEPC.51(32) and MEPC.52(32) adopted by the Marine Environment Protection Committee of the International Maritime Organization on 7 September 1984, 4 July 1991, 6 March 1992 and 6 March 1992 respectively; or
 - (ii) the International Convention for the Safety of Life at Sea, 1974, as modified by the Protocol of 1978 relating thereto, and as amended by Resolutions MSC.1(XLV), MSC.6(48), MSC.13(57) and MSC.27(61) adopted by the Maritime Safety Committee of the International Maritime Organization on 20 November 1981, 17 June 1983, 11 April 1989 and 11 December 1992, respectively, and as amended by Resolution 1 adopted on 9 November 1988 by the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 on the Global Maritime Distress and Safety System; or
 - (iii) the International Convention on Load Lines, 1966; or
 - (iv) the Convention on the International Regulations for Preventing Collisions at Sea, 1972; or
 - (v) any amendments to the above-mentioned Conventions which have been determined as being of an important nature in accordance with Article XVI(5) of the Convention mentioned under (i), Article IX(e) of the Convention mentioned under (ii) or Article 29(3)(d) or (4)(d) of the Convention mentioned under (iii), provided, however, that such amendments had been in force for at least twelve months at the time of the incident;

and

- (b) the incident or damage was caused wholly or partially by such non-compliance.

The provisions of this paragraph shall apply irrespective of whether the Contracting State in which the ship was registered or whose flag it was flying is a Party to the relevant Instrument.
