



**INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971**

**FONDS INTERNATIONAL
D'INDEMNISATION DE 1971
POUR LES DOMMAGES
DUS A LA POLLUTION PAR
LES HYDROCARBURES**

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71FUND/Circ.65
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Replacement of instruments enumerated in Article 5.3 of the 1971 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 (1971 Fund Convention), the Executive Committee of the International Oil Pollution Compensation Fund 1971, at its 59th session, held from 27 to 30 October 1998, acting on behalf of the Assembly in respect of the Assembly's 21st session, decided to include certain amendments to SOLAS 74 and to MARPOL 73/78 in the list of instruments contained in Article 5.3(a) of the 1971 Fund Convention, with effect from 1 May 1999.

As of 1 May 1999, Article 5.3 of the 1971 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), MEPC.52(32) and MEPC.75(40) adopted by the Marine Environment Protection Committee of the International Maritime Organization on 7 September 1984, 4 July 1991, 6 March 1992, 6 March 1992 and 25 September 1997, respectively;
 - (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), MSC.27(61), MSC.31(63), MSC.46(65), MSC.47(66) and MSC.57(67) adopted by the Maritime Safety Committee of the International Maritime Organization on 20 November 1981, 17 June 1983, 11 April 1989, 11 December 1992, 23 May 1994, 16 May 1995, 4 June 1996 and 5 December 1996, 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 and as amended by Resolution 1 adopted on 24 May 1994 by the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974;

- (iii) the International Convention on Load Lines, 1966; and
- (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.
