

down in the Internal Regulations, assume the obligations of a guarantor in respect of ships referred to in Article 3, paragraph 2, with regard to the portion of liability referred to in paragraph 1 of this article. However, the Fund shall assume such obligations only if the owner so requests and if he maintains adequate insurance or other financial security covering the owner's liability under the Liability Convention up to an amount equivalent to 1,500 francs for each ton of the ship's tonnage or an amount of 125 million francs, whichever is the less. If the Fund assumes such obligations, the owner shall in each Contracting State be considered to have complied with Article VII of the Liability Convention in respect of the portion of his liability mentioned above.

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 of the Sea by Oil, 1954, as amended in 1962; or
  - (ii) the International Convention for the Safety of Life at Sea, 1960; or
  - (iii) the International Convention on Load Lines, 1966; or
  - (iv) the International Regulations for Preventing Collisions at Sea, 1960; 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.

4. Upon the entry into force of a new Convention designed to replace, in whole or in part, any of the Instruments specified in paragraph 3, the Assembly may decide at least six months in advance a date on which the new Convention will replace such Instrument or part thereof for the purpose of paragraph 3. However, any State Party to this Convention may declare to the Director of the Fund before that date that it does not accept such replacement; in which case the decision of the Assembly shall have no effect in respect of a ship registered in, or flying the flag of, that state at the time