

## Navigating the Transition Across 1 May 2026: Interpretation of the Judicial Interpretation on Temporal Effects of the CMC issued by the Supreme People's Court

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The newly revised *Maritime Code of the People's Republic of China* (hereinafter referred to as the “new law”), which has attracted significant attention from the shipping and legal communities, will officially come into force on May 1, 2026. Compared with the 1993 *Maritime Code of the PRC* (hereinafter referred to as the “old law”), the new law introduces substantial amendments to high-frequency shipping disputes, including the rules on carriage of goods by sea, limitation amounts for maritime claims, and prescriptive periods. During the transitional period, the application and coordination between the old and new regimes are highly prone to disputes and have become a core concern in practice.

To address the issue and unify adjudicatory standards in maritime cases, the Supreme People's Court (“SPC”), on 28 April 2026, promulgated the *Several Provisions on the Temporal Effects of the Application of the Maritime Code of the People's Republic of China* (Fa Shi [2026] No. 8, hereinafter referred to as the “*Judicial Interpretation on Temporal Effects of the Maritime Code*”). Centered on the principle of “non-retroactivity”, the Interpretation clarifies the general rules governing the transition between the old and new law.

Based on the Judicial Interpretation, and in light of Article 103 of the *Legislation Law of the People's Republic of China* (which provides that new provisions shall prevail over the old ones, and the special provisions shall prevail over the general ones), as well as by reference to existing rules and regulations such as the *Several Provisions of the Supreme People's Court on the Temporal Effects of the Application of the Civil Code of the People's Republic of China*, the *Several Provisions of the Supreme People's Court on the Temporal Effects of the Application of the Company Law of the People's Republic of China*, and the *Minutes of National Court Work Conference on Implementation of the Civil Code*, combined with legislative theory and maritime judicial practice, we provide the following specific suggestions and reference guidance for the transition and application of old and new laws in high-frequency disputes and scenarios.

### I. Overview

In the context of the *Judicial Interpretation on the Temporal*

*Application of the Maritime Code*, “Maritime Code” refers to the new law. To avoid confusion, this article therefore uses the term “new law” to denote it. In accordance with the *Judicial Interpretation on Temporal Effects of the Maritime Code*:

#### 1. “Non-retroactivity” as the general rule:

As a general principle, laws apply only to facts occurring after their effective date. Accordingly, maritime disputes arising from legal facts occurring after 1 May 2026 shall be governed by the new law, while rights and obligations that arose and were completed prior to 1 May 2026 shall generally remain subject to the old law. This principle is expressly reflected in Article 1 and also embodied in **Article 3** of the *Judicial Interpretation on Temporal Effects of the Maritime Code*. **Article 3** further provides that for maritime disputes arising out of legal facts that occurred before 1 May 2026, where the old law contains only general provisions while the new law provides more specific rules, the old law shall still apply, though the court may refer to the new law for reasoning in judgements.

#### 2. Exceptions permitting retroactive application:

While non-retroactivity is the general rule for the temporal effect of legal application, effectively ensuring the stability of legal application, it is not absolute.

##### **Exception 1: Continuing legal facts (legal facts that began before the new law's implementation but to be continued afterward)**

**Paragraph 3, Article 1** of the *Judicial Interpretation on Temporal Effects of the Maritime Code* explicitly provides: “Where a legal fact occurs before the newly adopted Maritime Code takes effect but continues thereafter, disputes arising from such fact shall be governed by the new law, unless otherwise provided by law or judicial interpretation”. This is consistent with the application rule established in Article 1 of the *Several Provisions of the Supreme People's Court on the Temporal Effects of the Application of the Civil Code of the People's Republic of China* (hereinafter referred to as “*Judicial Interpretation on Temporal Effects of the Civil Code*”).

Exception 2: Favourable retroactivity

Article 2 of the *Judicial Interpretation on Temporal Effects of the Civil Code* establishes a principle of “three beneficial conditions”, that is, a civil case arising out of legal facts that occurred before the commencement of the *Civil Code* shall be subject to provisions of the law or judicial interpretation then applicable, unless applying the provisions of the *Civil Code* would better protect lawful rights and interests of the parties, better maintain the social and economic order, or better uphold the core socialist values. Although formulated in the context of the *Civil Code*, the spirit of favourable retroactivity derived from the three beneficial conditions is instructive for reference in the transition between the old and new Chinese *Maritime Codes*.

A similar approach is also reflected in the Article 1 of *Several Provisions of the Supreme People’s Court on the Temporal Effects of the Application of the Company Law of the People’s Republic of China* (hereinafter referred to as “*Judicial Interpretation on Temporal Effects of the Company Law*”). For civil disputes resulting from legal facts that occurred before the new *Company Law*’s implementation, if applying the new *Company Law* is more conducive to achieving its legislative purpose, then the new *Company Law* shall apply.

**Article 2** of the present *Judicial Interpretation on Temporal Effects of the Maritime Code* provides that for maritime disputes led by legal facts before the implementation of the new law, where the old law or judicial interpretation contains no applicable rule but the new one does, the new law may apply, unless such application would clearly impair parties’ legitimate rights and interests, increase statutory obligations, or defeat reasonable expectations. This reflects the same “favourable retroactivity” rationale in the *Judicial Interpretation on Temporal Effects of the Civil Code* and the *Judicial Interpretation on Temporal Effects of the Company Law*.

## II. High-Frequency Scenario 1: Dispute over Contract of Carriage of Goods by Sea

Regarding contract disputes, Article 20 of the *Judicial Interpretation on Temporal Effects of the Civil Code* first clarifies a distinction for cross-temporal contracts: For contracts formed before the *Civil Code*’s implementation that continue to be performed afterward according to law or the parties’ agreement, disputes arising from performance before the *Civil Code*’s implementation shall be governed by the then-effective laws and judicial interpretations, otherwise they shall be governed by the relevant provisions of the *Civil Code*.

**Article 4** of the *Judicial Interpretation on Temporal Effects of the Maritime Code* maintains a same logic with the above provision. For contracts established before the new law’s implementation that continue to be performed afterward according to law or the parties’ agreement, disputes arising from performance before the new law’s implementation shall be governed by the then-effective laws and judicial interpretations; disputes arising from performance after the new law’s implementation shall be governed by the relevant provisions of the new law concerning contract performance.

Accordingly, for contracts established before the new law’s implementation but to be performed continuously afterward, the applicable law depends on when the “disputed performance of contract” occurs, i.e., before or after the new law’s implementation. If applied to a common dispute over contract of carriage of goods by sea (i.e., loss of or damage to the cargo caused by the carrier’s improper handling):

Firstly, if the carrier’s improper handling can be definitively identified as occurring before the new law’s implementation, then the old law governs the determination of loss and liability. Otherwise, the new law shall apply.

However, what if the timing of the carrier’s improper handling cannot be determined? Neither the *Judicial Interpretation on Temporal Effects of the Civil Code* nor the *Judicial Interpretation on Temporal Effects of the Maritime Code* provides explicit guidance under such circumstances. Our preferable approach is to apply the old law. First, it aligns with non-retroactivity (general rule). Since the new law only applies to facts occurring after its effective date, conducts whose timing cannot be ascertained cannot be automatically presumed to have occurred after the new law. In addition, applying the old law can better protect parties’ reasonable expectations and legitimate interests at the time of contracting.

## III. High-Frequency Scenario 2: Maritime Tort Liability

The *Judicial Interpretation on Temporal Effects of the Maritime Code* does not contain specific provisions regarding the transition between old and new laws in maritime tort liability disputes. However, based on our practical experience, they are among the most contentious in practice during the transition period. Therefore, we provide a specific analysis for specific scenarios in high-frequency disputes, combining the principled provisions of the *Judicial Interpretation on Temporal Effects of the Maritime Code* and other existing laws and regulations.

### 1. Substantive issues

Article 219 of the new law significantly and substantially increases the limitation of maritime liability. Such changes in substantive rights affect the core rights and obligations of the parties. Therefore, the application and transition between the old and new regimes on limitation of liability will be one of the most disputed points during the transition period. We believe that when determining whether the new or old law shall apply, the following two scenarios should be distinguished:

#### a. Continuing damage

Where a maritime incident occurred before 1 May 2026, but the resulting personal casualty, property damage, environmental damage, etc., continues until after 1 May 2026 and remains unabated, then the tort is continuing. For example, in marine environmental tort cases involving oil pollution damage or damage from leakage of toxic or hazardous substances, the continuing legal fact is often indivisible since both the tortious act itself and the damage result continue until after the new law’s implementation. In

such cases, should the old or new law apply to determine the limitation amount?

Given that the *Judicial Interpretation on Temporal Effects of the Maritime Code* has no explicit provision on this point, we believe it is appropriate to refer to Article 24 of the *Judicial Interpretation on Temporal Effects of the Civil Code*, which states: “Where a tortious act occurred before the Civil Code’s implementation, but the damage result continued after the *Civil Code*’s implementation, the *Civil Code* shall apply”. By reference, this situation should apply the new law. This approach not only aligns with the spirit reflected in the Judicial Interpretation but complies with the basic principle that continuing damage should be governed by the law in force during its continuation. It can also better compensate for losses caused by continuing damage, and balance the legitimate rights and interests of victims with legislative fairness.

## b. No Continuing Damage

If there is no continuing damage, i.e., both the tortious act and the damage result occurred before 1 May 2026, but the procedural acts for invoking limitation of liability (e.g., constituting a fund, registering claims, litigation, etc.) occur after the new law’s implementation, which law should apply then?

It is also preferable to apply the old law when determining the limitation amount for maritime claims (while procedural acts should apply the new law, see the next section). The reason is that if both the tortious act and the damage result occurred when the old law was still in effect, the damage was already set in stone, and thus the liable party’s reasonable reliance interest (i.e., the maximum compensation amount foreseeable by the liable party under the then-effective law) should be legally protected. Therefore, the limitation amount prescribed by the old law should apply, which is also the necessary implication of the general rule of “non-retroactivity”.

## 2. Procedural issues: new law shall prevail

For maritime incidents occurring before the implementation of the new law, even if the damage results also occurred prior to the new law’s implementation, procedural acts related to invoking limitation of liability may be initiated after the new law takes effect. For damage results continuing after the new law’s implementation, procedural acts are even more likely to be initiated after the new law takes effect. In the above scenarios, should relevant procedural issues apply the new law or the old one?

The *Judicial Interpretation on Temporal Effects of the Maritime Code* does not provide specific provision on this. Therefore, provisions from other legal domains can provide doctrinal reference.

According to the *Minutes of the First Circuit Court of the Supreme People’s Court on Several Issues Concerning the Application of Law in Administrative Trials* (effective on 23 July 2018), the *Notice of the Supreme People’s Court on*

*Issuing the Minutes of the Symposium on Issues Concerning Applicable Legal Rules in the Hearing of Administrative Cases* (Effective on 18 May 2004), and the *Provisions of Supreme People’s Court on Several Issues Relating to Laws Applicable to Pending Cases as at Effectiveness of the Revised Civil Procedure Law*, it is evident that the SPC has established the rule of “procedural matters follow the new law, and substance matters follow the old one” in the administrative law field. The same general legal principle can also be applied in civil and commercial trials.

By reference, we believe that maritime procedural matters **initiated for the first time** after the new law takes effect (such as the specific process for constituting a limited liability fund, the specific process for registering claims, methods of public announcement, litigation, etc.) shall apply the procedural provisions of the new law; however, substantive matters (such as the limitation amount) shall still follow the old law, unless the law provides otherwise. This reference balances the protection of the parties’ reliance interests with judicial efficiency, achieving values equilibrium.

## 3. Party’s application agreement

Even if both the occurrence of the incident and the resulting damage occurred under the old law, if the disputing parties voluntarily reach an agreement after the new law takes effect to apply the higher limitation amount under the new law to resolve the dispute, such agreement should prevail, provided it does not harm third-party interests, thereby fully reflecting the principle of party autonomy.

## IV. High-Frequency Scenario 3: Transition of Prescriptive Period

1. **Article 8** of the *Judicial Interpretation on Temporal Effects of the Maritime Code* explicitly stipulates that for prescriptive periods that have not expired as of the new law’s implementation date, suspension of such period shall be governed by the laws and judicial interpretations effective on the date the cause of suspension is eliminated, while interruption of such period shall be governed by the laws and judicial interpretations effective at the time the interrupting event occurs.

2. Regarding interruption of prescriptive period, the most significant change in the new law is the explicit inclusion of “the applicant’s demand for performance” as a ground for interruption, fully aligning with *Civil Code* rules. This means that as long as the obligee sends a claim letter, email, or reminder letter that contains a demand for performance, even without the obligor’s explicit agreement to perform, it can legally interrupt the prescriptive period.

Since **Article 8** of *Judicial Interpretation on Temporal Effects of the Maritime Code* states that the applicable law depends on when the “interrupting event occurs”, therefore, for disputes where the prescriptive period has not expired as of 1 May 2026: If a claim letter was sent before 1 May 2026, it cannot constitute an interrupting event; otherwise, the claim letter will have the legal effect as an interrupting

event.

3. Regarding suspension of prescriptive period, the new law replaces “resumption of remaining period” with a fixed six-month extension after the cause of suspension is eliminated. This revision aligns with the *Civil Code* rules, significantly strengthening the protection of obligee, avoiding the expiry of prescriptive period due to objective obstacles, and providing a more sufficient relief buffer period for maritime claims.

Since Article 8 of *Judicial Interpretation on Temporal Effects of the Maritime Code* stipulates that the applicable law depends on when the “the cause of suspension event is eliminated”, for disputes where the prescriptive period has not expired as of 1 May 2026, only when the date of elimination of the suspending cause (force majeure or other obstacles preventing the obligee from exercising the claim) falls after 1 May 2026, will the new law apply.

4. It must be expressly clarified that a prescriptive period that had already expired before 1 May 2026 cannot be revived by applying the new law’s rules. The obligee cannot claim interruption or suspension of the prescriptive period under the new law to restore the right of action.

5. In light of the above, to be prudent and to mitigate the risk of exercising rights in borderline cases (i.e., cases where the prescriptive period is about to expire around 1 May 2026), it is recommended that the obligee “make a demand for performance” (e.g., sending a formal written claim letter with proof of delivery) to interrupt prescriptive period under the new law right after the implementation of the new law, thereby securing the effectiveness of exercising rights, avoiding the loss of claims due to disputes over the applicable law during the transition period, and effectively protecting legitimate rights and interests.

## V. Other Provisions

In respect of certain pre-existing matters, including agreements separating ship mortgages from secured claims, disputes in relation with electronic transport records, floating policy, and breach of the duty of disclosure and warranty under insurance contracts, the *Judicial Interpretation on Temporal Effects of the Maritime Code* provides that the new law shall uniformly apply.

*Should you have any questions regarding the application of law after the implementation of the new Chinese Maritime Code, please feel free to contact us.*



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