

A harbor scene with several ships docked, a large flag flying from the left, and mountains in the background. The flag is blue with a white sunburst and orange and white stripes. The ships are white with red accents. The background shows a city and mountains under a clear blue sky.

RMI Ship and Corporate Registries Assessment and Options Technical Assistance Project

28 May 2021

RMI Registries

- A. If RMI could re-contract now, what should be changed or included in the contract? – a “wish list”
- B. Then consider how the “wish list” could be achieved – time line strategy





Marshall Islands | Guide to Ship Registries

<https://www.guidetoshipregistries.com/shipregistries-country/marshall-islands>

Task

- List those things that you would want to see in a “new contract” – the wish list.
- E.g. 1 Financial transparency



Wish List

1. Financial transparency
2. Financial equity
3. Access to RMI Shipping and Corporate Registry
4. Transparency of RMI Shipping and Corporate Registry
5. IMO and ILO participation
6. Capacity Building
7. Oversight on international obligations



1. Financial transparency

Requirement in the 1990 Amendment	Current Status
<p>The Administrators (MIMA and TCMI) must provide the RMI Government with an annual budget for the maritime & corporate programs. The budget must show “anticipated revenues and expenses,” including “operating expenses, reimbursement of loans, payments and advances and other expenditures made by Administrators and its subsidiaries and affiliates,” for the next calendar.</p>	Deleted
<p>The Administrators must provide the RMI Government with quarterly variance reports. The reports must show “actual income and expenses versus budgeted income and expenses” for the maritime and corporate programs.</p>	Deleted

Requirement in the 1990 Amendment	Current Status
<p>TCMI must provide the RMI Government with copies of any “audit reports” prepared in relation to its balance sheet.</p> <p>The RMI Auditor General, or a certified public accountant contracted by the Auditor General, may “audit the financial and operational affairs of [TCMI] or any of its subsidiaries and affiliates associated with the maritime and corporate programs to the extent they are involved in the program.”</p>	Retained with amendments.
<p>The Trust Company and its affiliates and subsidiaries shall perform all of their duties under this agreement at cost. For purposes of this agreement the term costs shall mean actual costs incurred without provision for additional on costs, or markup of any kind or type whatsoever. On costs shall means markups between subsidiaries and affiliates.</p>	Deleted
<p>TCMI must inform the RMI Government of international maritime conferences and meetings.</p>	Retained.

1. Financial transparency

- Contract- Re-instate deleted provisions or new improved provisions (eg on cost of affiliates and not only TCMI)
- Legislative amendments (to both Maritime Administration Act and Corporations Law) to follow contract



2. Financial equality

- Fair return – does that mean an increased flat fee or a % of net or gross earnings (and associated risk of loss)?
- Really only determine what is fair once the actual financial position of IRI/MIMA/TCMI is.



3. Access to RMI Shipping and Corporate Registry

- Currently TCMI owns “all records, programs, files, systems, procedures and documents of the Registry”
- Options include:
 - JV – shared ownership
 - Allows TCMI to retain Registry but provide RMI access
 - Require Registries to be based in RMI and access when needed (ie Attorney-General and Auditor- General Processes?)
- Legislative Amendments to follow contract (eg s.107 Maritime Administration Act)



4. Transparency of RMI Shipping and Corporate Registry

- Following 3 – legislative amendments including subordinate legislation held by TCMI to increase Registry transparency
- Cost: Likely decrease in registered numbers

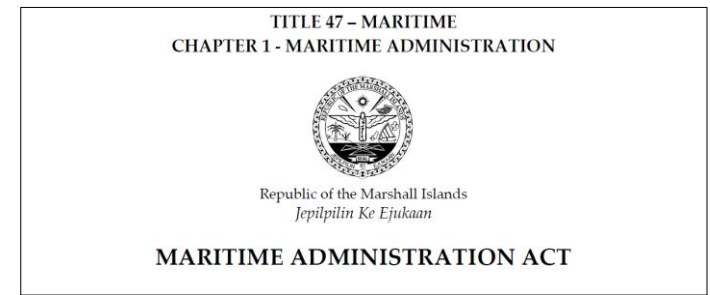


5. IMO and ILO participation



- Existing contract may not need amendment, but could be improved by providing for:
 - RMI head of delegation
 - RMI overview and agreement of TCMI representatives
 - Obligation to cooperate and share information
 - Clear statement that IMO/ILO representation is for benefit of RMI (shipowners etc benefit mutually with, and not in opposition to that of RMI – eg green shipping)
 - Costs for RMI and TCMI delegations to be covered through MIIP fee

6. Capacity Building



- Maritime Administration Act §201(1) ‘Statement of policy’
- **This Title is intended, and shall be construed, to encourage and foster the growth and development of the foreign and domestic commerce;** to promote and protect the national defense and security of the Republic of the Marshall Islands...; to preserve and protect the marine environment; and to regulate a uniform national program of marine safety, inspection and documentation.

6. Capacity Building

- 1990 JV - The Trust Company shall assume the obligations of the existing joint venture for the Marshall Islands Maritime Training Program
- Extension or specific obligations
- Extension of Min T&C and TCMI cooperation?



7. Oversight on international obligations

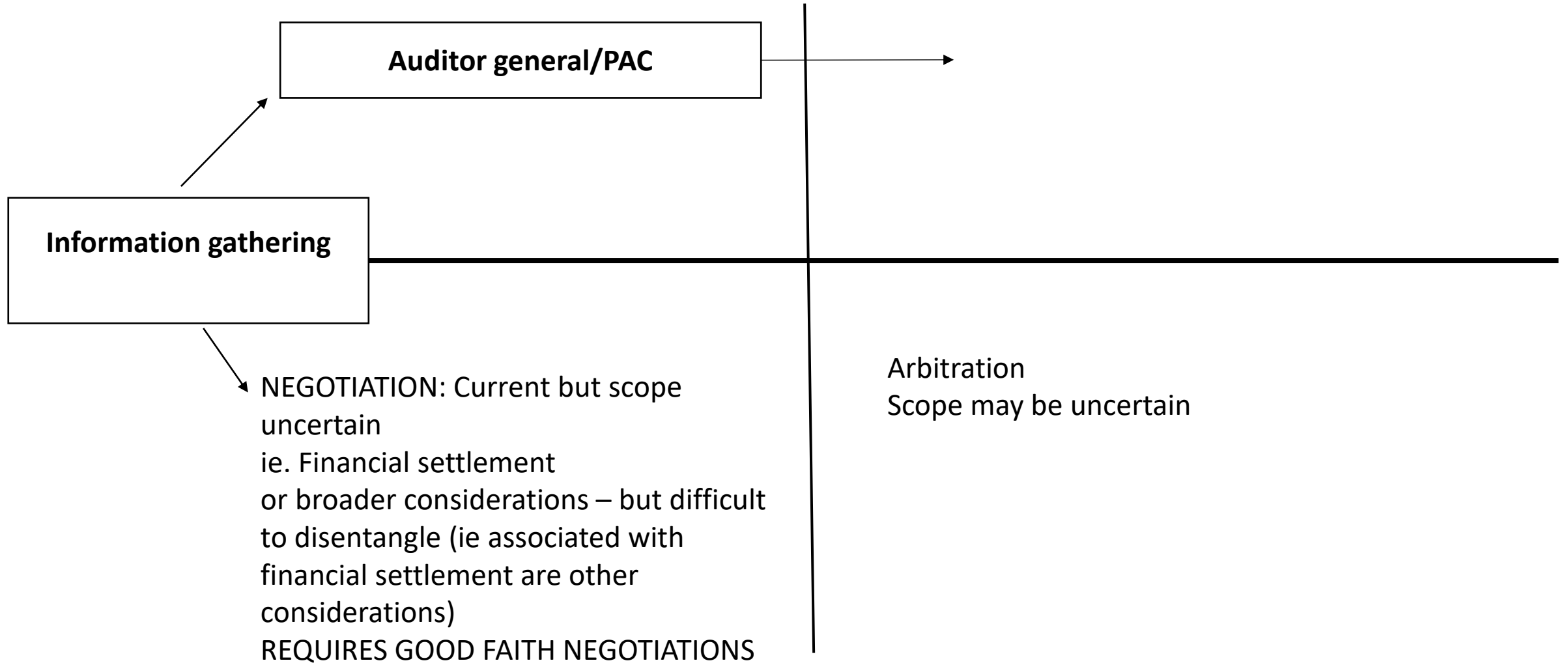
- 1990 JV Trust company to liaise with RMI appointment
- To meet annually and provide reports on the maritime and corporate programs and financial information provided to RMI under contract
- Expanded oversight but reduced Registry rights and obligations, especially:
 - eg remove “sole right” of administrator to promulgate regulations and other acts, and where promulgated, requiring RMI approval (eg Minister of T&C or appointee)
 - eg increased judicial function for all fines, penalties etc
- Require legislative amendment following contract

Scope of negotiations

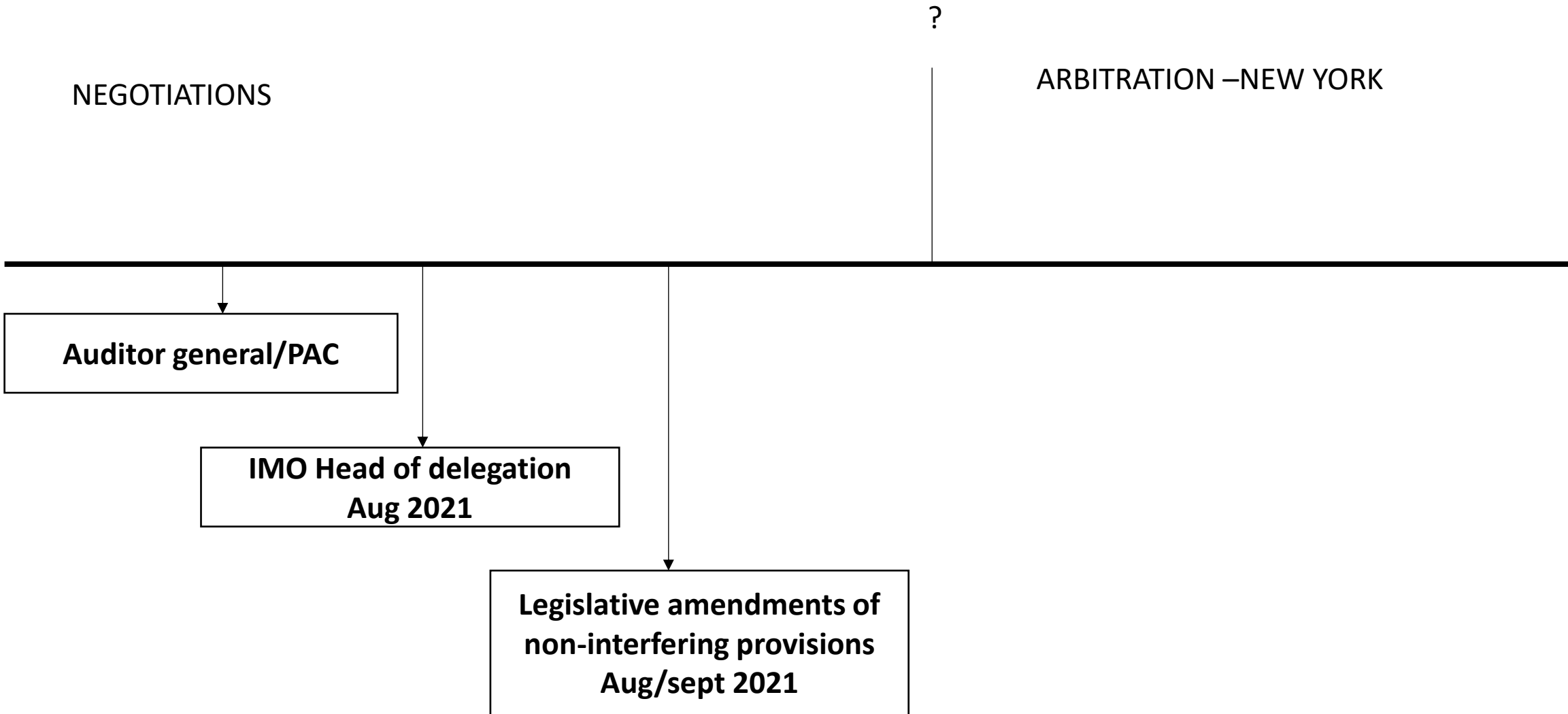


- 1995 “ ... the parties to the JV agreement now wish to further amend that agreement in certain respects” ...
- 2015 “ ... new schedule will be negotiated in the same spirit of good faith and cooperation that has led to the successful and continued growth of the programs”.
- RMI exhibited good faith in considering amendments to the 1990 JV on 7 occasions, and on matters other than financial split (eg reporting requirements)
- Artificial to separate financial aspects of the JV agreement with all other rights and obligations, and as such, ought to be subject to negotiations in good faith

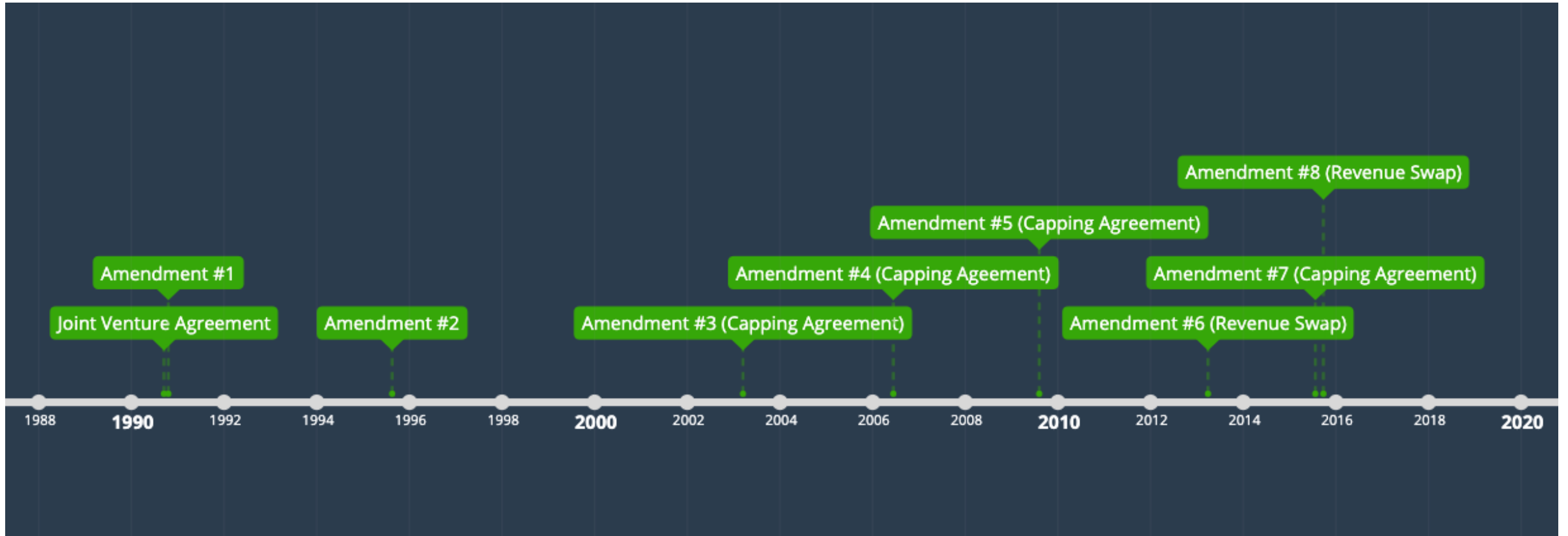
Time-line strategy



Time-line strategy – “pressure points”



Contractual History





*Please feel free to contact me regarding
information presented in the workshops
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