



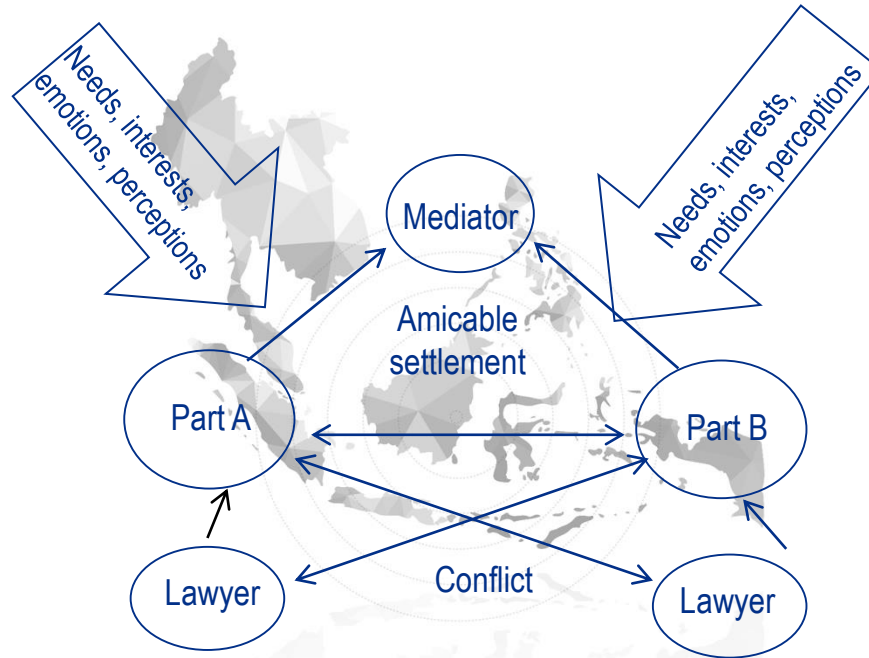
The Important Role of the Mediator

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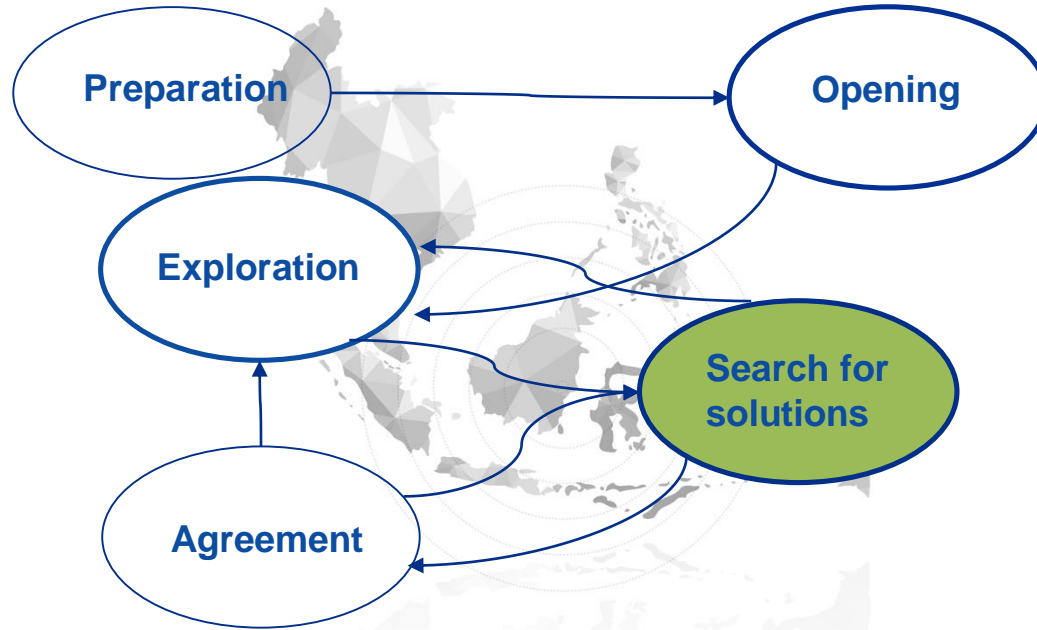
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Level of responsibility assumed by lawyers, mediator and parties involved



Phases of mediation:



The role of the mediator

- **Guide the mediation process**
- **Facilitate communication between the parties**
- **Facilitate formal procedures**
- **Help the parties to have a global vision of the situation**
- **Mediation agreement signed by the parties**
- **Exempt from liability regarding the outcome, its legality and compliance with the amicable settlement reached by the parties**



The role of the mediator

- **Build Rapport – Gain trust and break the ice**
- **Neutrality/impartiality**
- **Communication**
- **Body language**
- **Authority**
- **Knowledge of the process**
- **Confidentiality reconfirmation**



Preparation

Submit/sign mediation agreement

Agree on fees

Request each party to provide a summary of the facts

Confirm who is involved in the mediation

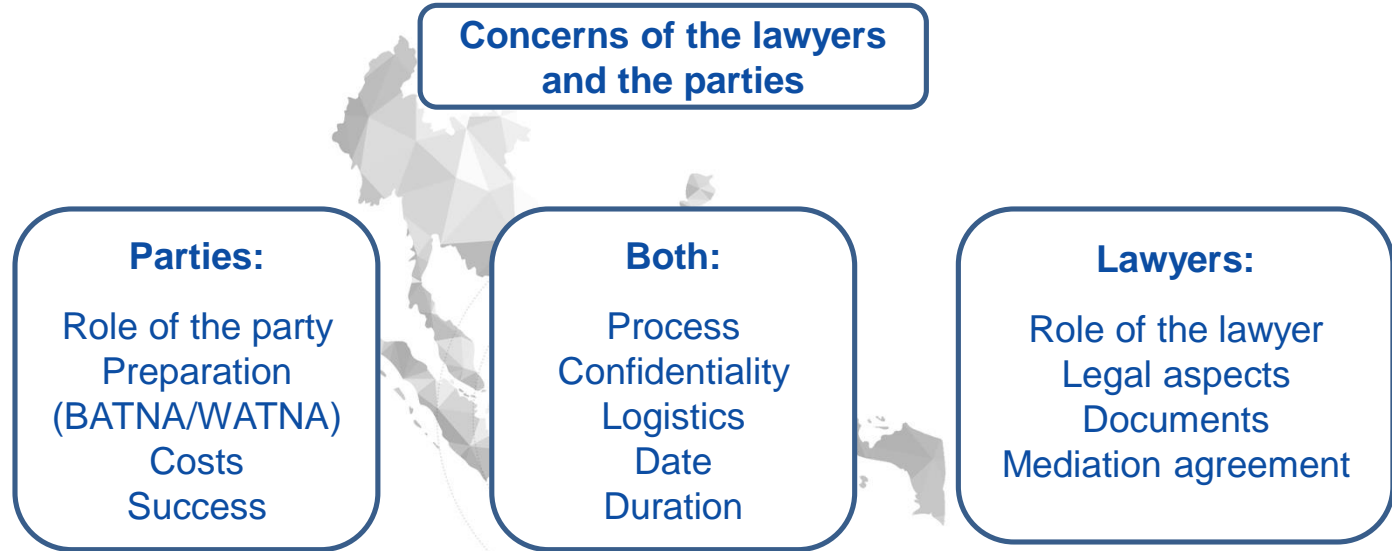
Ensure POA for each party

Agree on mediation dates

Study companies / CVs of participants, etc.

Book/prepare rooms, technology, etc.





The role of the mediator

Use

- Appropriate questions according to the situation
- Open-ended, hypothetical questions

Avoid

- Multiple, closed-ended, suggestive questions



The role of the mediator

NO	IN EXCHANGE
Questioning	Conversation
Interview	Curiosity
Investigation	Common sense



The role of the mediator

From understanding to solution:

Developing options:

Brainstorming
Assist parties in making proposals

Evaluate options:

Prioritise
Evaluate with the interests and needs of the parties in mind
Reality Testing

Negotiate agreement



The role of the mediator

Role of mediator:

Assist the parties in preparing the first offers and evaluate how they will be received by the other party
Identify objective criteria for possible solutions
Manage expectations and reactions

Role of the lawyer:

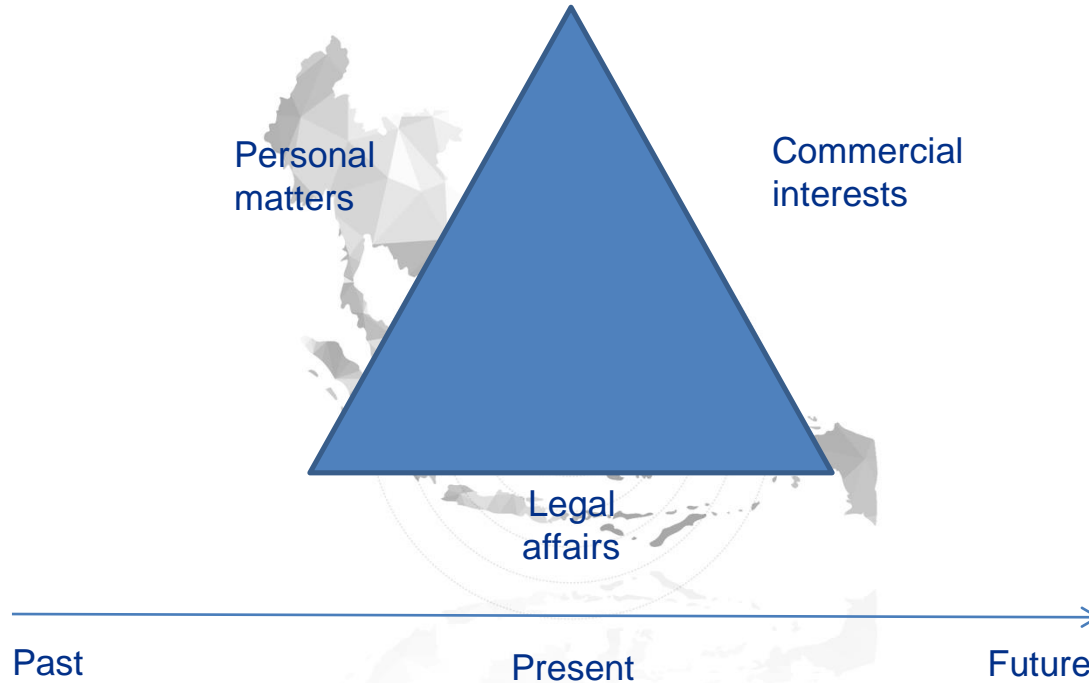
Evaluate the strengths and weaknesses of the case
Assist the client with the BATNA/WATNA
Assist the client in preparing offers

Role of the party:

Prepare the first offers
Adjust expectations - BATNA/WATNA
Reconsider its positions



The role of the mediator



The role of the mediator

Things to consider for the settlement agreement:

- It has to be feasible, achievable and enforceable
- It has to be satisfactory to all parties
- It should include all pending disputes between the parties
- It should minimize the risk of future disputes
- It must be in writing
- The best agreement comes from the parties, not the mediator





THANK YOU FOR YOUR ATTENTION!

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