



Call for Fast, Better and More Efficient Deal Making

OZMINE 2011 – The Australian Mining Exhibition And Conference In Indonesia
2011

Next Generation Mining: Transforming Indonesia

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Day 2,

Jakarta, Wednesday 30 March 2011



Could we live without?



Disagreement

Dispute An overt and contested claim between two or more parties over competing interests, principles or processes
(Laurence Boulle & Teh Hwee Hwee: 2000)

Conflict An ongoing series of disputes of severe intensity which have occurred over an extended period of time (Laurence Boulle & Teh Hwee Hwee: 2000)

Dispute / Conflict



- What is the impact?
 - Not always bad if managed wisely
- Who should handle it?
 - Is it only legal department?
- The rationale for choosing
 - Is it only claims, defense, obligations and damages?

What are available choices?



Non-adjudication

- Negotiation
- Mediation
- Conciliation
- Fact finding

Adjudication

- Arbitration
- Litigation

Finality



If mediation results in an agreed resolution of the parties' dispute, that will usually be the end of the matter. Unlike most decisions in the courts, there is no right to appeal and the parties will be able to get on with their business knowing that the dispute is well and truly behind them.

Michael Redfern, 'Mediation Is Good Business Practice' (2010) 21 ADRJ 53



What about court-annexed mediation?

“We Did Mediation...”



"A failed mediation is often a result of the participants' lack of understanding of the process than any failure of the process itself."

Bennett G. Picker, *If You Think You Know All About Mediation, Think Again*, Mediation Practice Guide: A Handbook for Resolving Business Disputes (2003).

Restructuring during Economic Crises



The Jakarta Initiative mediated restructuring deals between Indonesian corporates and their onshore as well as offshore creditors:

- Some cases with > 130 lenders
- 70% success rate with US\$20.5bio loan restructured of 96 group of companies

Data end of Dec 2003



The dispute-wise business management practices appear to be associated with positive business outcomes

(American Arbitration Association 2003. Sample: 101 Fortune 1000 with mean revenues of US\$9.09 bio; 103 mid-size public companies with mean rev. of US\$384 mio, and 50 privately-held companies with mean rev. of US\$690 mio)



PMN Program



I. Mediation

- At court and out of court
- Multi-discipline & multi-background mediators



II. Training

- Certified mediation courses for public, judges & judge candidates, 40-hour program
- *In-house* training on mediation & negotiation

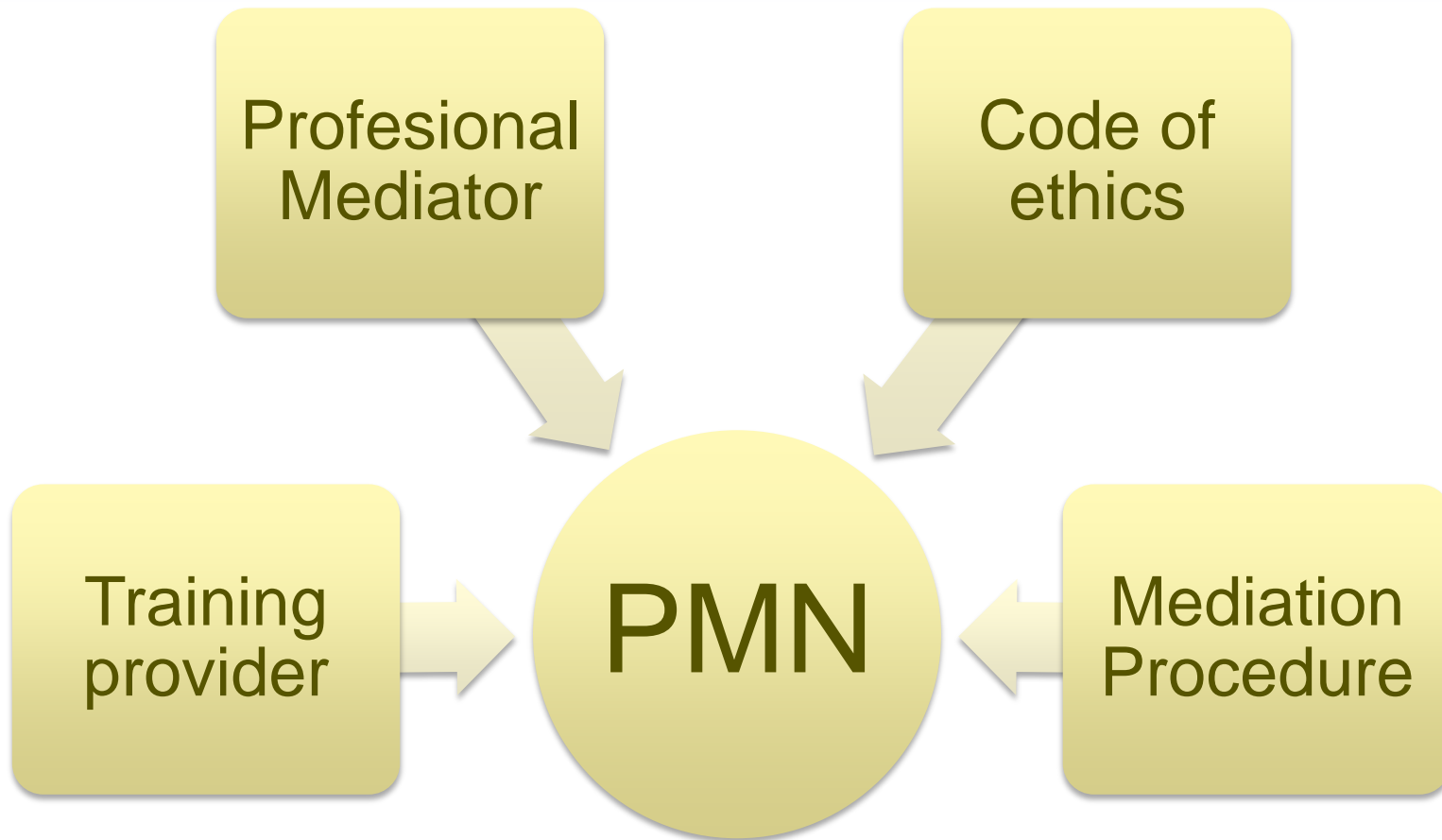


III. Socialization

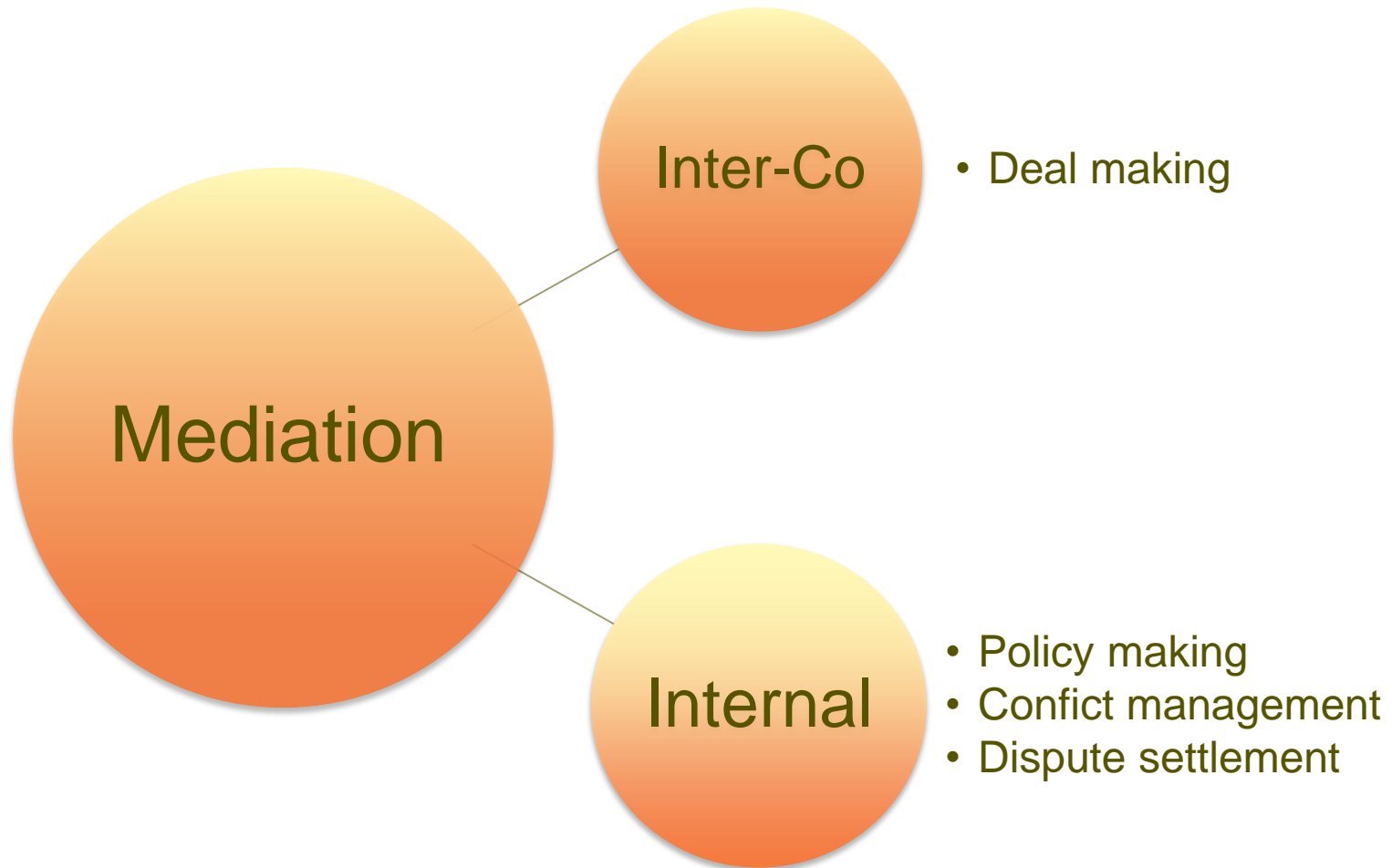
Seminar & discussion



PMN Capacity



Development





Pusat Mediasi Nasional

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