Turkey-Indonesia Tax Treaty Post-MLI

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7 May 2020

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1. Introduction

As part of the G20 countries, Indonesia and Turkey have shown their commitments to the OECD/G20 BEPS Project since the very beginning, including The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) Project. Along with the other 66 jurisdictions, Indonesia and Turkey signed the MLI on 7 June 2017 in Paris[3]. At that time, both countries also submitted their list of Reservations and Notifications on Tax Treaties relevant to their implementation of the MLI.

As readers may already know, the MLI enables countries to swiftly modify their bilateral tax treaties to implement tax treaty-related BEPS measures[4]. As a result, countries who sign the MLI can adopt the recommendations set out in BEPS Action Plan 2 (Hybrid Mismatch Arrangements), Action 6 (Treaty Abuse), Action 7 (Avoidance of Permanent Establishment Status) and Action 14 (Dispute Resolution) without having to renegotiate their existing tax treaties.[5] The existence of the MLI is not intended to replace the existing tax treaties; rather, to be read alongside tax treaties.[6] The MLI provisions will become effective for a tax treaty only if both countries notify it as a Covered Tax Agreement (CTA) in their own MLI's position and deposit their ratification instruments with the OECD Secretariat.

Indonesia and Turkey already have a tax treaty in force which was signed on 25 February 1997 and effective since 1 January 2001.[7] In its MLI's position as of 7 June 2017, Indonesia included its tax treaty with Turkey as one of CTAs and vice versa. Therefore, once both countries have

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[3] OECD, 'MLI Information Brochure', http://www.oecd.org/tax/beps/multilateral-instrument-BEPS-tax-treaty-information-brochure.pdf (accessed 26 April 2020).

[4] OECD, *Developing a Multilateral Instrument to Modify Bilateral Tax Treaties – Action 15: Final Report* (OECD 2015), p. 9.

[5] OECD, *Explanatory Statement to the MLI* (OECD 2016), para. 8.

[6] *Supra* n.5, para. 13.

[7] Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Turkey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (25 February 1997).

completed all the procedural requirements of the MLI, the MLI provisions will have effect on the existing tax treaty.

This article is intended to give a picture for the readers on how the MLI impacts the existing tax treaty between Indonesia and Turkey. This article may also serve as a projection on what a synthesised text[8] might look like even though it has not been published yet by the competent authority of either country. This article will first, address the economic background between two countries and considerations taken into account when signing the MLI (**Section 2**). The article will then inform the potential date of MLI Application in both countries (**Section 3**). Both countries' positions on the MLI and how it modifies the existing tax treaty will be discussed in **Section 4**. The authors will then give concluding remarks and future outlook of the implementation of the Indonesia-Turkey tax treaty post-MLI (**Section 5**).

2. Economical Background and Considerations for Signing the MLI

In history, Turkey and Indonesia always have close relations[9], even so, the economic potential between two countries arising from similar cultural and structural situations can be realized much more effectively.

Firstly, both countries are members of the D-8 Organization for Economic Cooperation which was established in 1997 with the idea to improve member states' position in the global economy, diversify and create new opportunities in trade relations, enhance participation in decision-making at international level, and improve standards of living.[10] The Agreement on Double Taxation Avoidance and Agreement on Investment Promotion[11] between Turkey and Indonesia were concluded during the same period when D-8 was established.

However, neither Turkey nor Indonesia does not have each other within their twenty largest trade partners.[12] While Turkey's most exported products to Indonesia were iron, steel, leaf tobacco, carpets, Indonesia's were fiber, rubber, and yarn in the years 2015, 2016, and 2017 as in previous years.[13] Turkey is in the position of the net importer in the foreign trade between two countries

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[8] Synthesised text is a document prepared by Competent Authority that is intended to facilitate the interpretation and application of a tax treaty modified by the MLI.

[9] The Ministry of Foreign Affairs of the Republic of Turkey, 'Relations between Turkey and Indonesia', http://www.mfa.gov.tr/relations-between-turkey-and-indonesia.en.mfa (accessed 26 April 2020). See also: Indonesian Ministry of Foreign Affairs, 'Bilateral relations between Indonesia and Turkey', https://kemlu.go.id/istanbul/en/read/bilateral-relations-between-indonesia-and-turkey/3231/etc-menu (accessed 26 April 2020).

[10] D-8 Organization for Economic Cooperation, 'Brief History of D-8', http://developing8.org/about-d-8/brief-history-of-d-8/ (accessed 26 April 2020).

[11] Both treaties were signed on 25 February 1997.

[12] The Ministry of Trade of Turkey, https://ticaret.gov.tr/yurtdisi-teskilati/guney-dogu-asya/endonezya/ulke-profili/turkiye-ile-ticaret (accessed 24 April 2020)

[13] *Supra* n.12.

which means the amount of export of Indonesia to Turkey exceeds Turkey's export. The trade balance between the two countries is as follows:[14]

Turkey-Indonesia Trade[15]			
Year	Export (in thousand US$)	Import (in thousand US$)	Total (in thousand US$)
2015	207,001	1,638,245	1,845,246
2016	253,636	1,424,722	1,678,358
2017	236,667	1,507,120	1,743,787
2018	270,000	1,330,000	1,600,000

Turkey and Indonesia have agreed in the meeting in 2017 that trading volume between countries will increase 10 billion US$ in a short period.[16] Many institutions of countries such as TURKCHAM[17] and KADIN[18] struggle to contribute to economic relations between these two countries.[19]

The tax treaty plays a role here. Although there is no empirical evidence on the effects of a tax treaty on trade and bilateral foreign direct investment (FDI)[20], the fundamental objective of the tax treaty is to facilitate cross-border trade and investment by eliminating double taxation[21]. Aside from that, a tax treaty is also intended to prevent tax evasion and avoidance.[22] Although there is no real evidence or any dispute involving treaty abuse cases using Indonesia-Turkey tax treaty, nevertheless there may be still an urgency to amend tax treaty by adopting some recommendations set out in the BEPS Action Plans in order to prevent treaty abuse. This would be done by signing the MLI.

Both Indonesia and Turkey have their own consideration to sign the MLI. From Indonesian perspective, the decision to sign the MLI has never really been in question. Although the MLI is not a minimum standard under the BEPS Project, Indonesia recognized the benefit of implementing the MLI, which enables it to modify bilateral tax treaties to implement tax treaty-related BEPS measures without having a renegotiation process that would take a lot of time.[23]

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[14] Turkish Statistical Institute, http://www.turkstat.gov.tr/ (accessed 24 April 2020).
[15] From Turkish perspective. For the information published by Indonesian Ministry of Trade, can be accessed from http://statistik.kemendag.go.id/balance-of-trade-with-trade-partner-country.
[16] Foreign Economic Relations Board of Turkey (DEİK), 'Business Council Report of Meeting in Jakarta', https://www.deik.org.tr/uploads/endonezya-ziyareti-raporu.pdf (accessed 24 April 2020).
[17] Turkish Chamber of Commerce in Indonesia.
[18] Indonesian Chamber of Commerce and Industry.
[19] *Supra* n.16.
[20] Kunka Petkova, et al, "On the relevance of double tax treaties", *Int Tax Public Finance* (2019) https://doi.org/10.1007/s10797-019-09570-9, (accessed 26 April 2020).
[21] Brian J. Arnold, *International Tax Primer* (Alphen aan den Rijn: Kluwer Law International, 2016) p. 144.
[22] *Supra* n.21, p. 145.
[23] Based on an interview conducted by the author with a representative of the Indonesian Fiscal Policy Agency (being the Competent Authority of MLI) on why Indonesia signed the MLI. See also DDTC News, 'Ini Penjelasan BKF Kemenkeu Soal Manfaat Implementasi MLI', https://news.ddtc.co.id/ini-penjelasan-bkf-kemenkeu-soal-manfaat-implementasi-mli-18531 (accessed 7 May 2020).

According to its ratification instrument under Presidential Regulation No. 77 of 2019 (Presidential Reg. No.77/2019), Indonesia has selected 47 tax treaties (out of 69 tax treaties) to be included as CTAs in the MLI. Those treaties were included based on various reasons, among others, the treaty partner is a member of the same regional cooperation or international forums with Indonesia (e.g. ASEAN and G20).[24] This would be the reason behind the inclusion of the tax treaty with Turkey as one of its CTAs in the MLI.

Meanwhile, from the Turkish side, considerations to sign the MLI was to have anti-avoidance rules by contributing mutual measures globally without having a renegotiation process. Turkey has included all 90 tax treaties as CTAs in the MLI without excluding any tax treaty.

3. Potential Date of the MLI Application in Both Countries

Country who signed the MLI needs to complete all the procedural requirements for the MLI to be implemented. The timeline for both countries is as follows:

Step	Description	Indonesia	Turkey
1	Sign the MLI and submission of country's initial position on the MLI	7 June 2017	7 June 2017
2	Ratification of the MLI	12 November 2019[25]	N/A[26]
3	Deposit of ratification instrument with the OECD Secretariat[27]	28 April 2020	N/A
4	MLI entry into force[28]	1 August 2020	N/A
5a	MLI entry into effect for Withholding Taxes	N/A[29]	N/A
5b	MLI entry into effect for other taxes		

As we can see from the above table, both Indonesia and Turkey have not completed all of the procedural requirements in order to implement MLI. Even Turkey has not ratified yet. But once it is done, the MLI provisions will surely affect the tax treaty between Indonesia and Turkey.

The term "entry into force" differs from the term "entry into effect". Under Article 34 of the MLI, the MLI will enter into force on the first day of the month following a 3-month period from the deposit

[24] Based on an interview conducted by the author with a representative of the Indonesian Fiscal Policy Agency on why only selected 47 treaties as CTAs.
[25] Presidential Regulation No. 77 of 2019.
[26] As of the date of publication, Turkey's Revenue Service and OECD Matrix database haven't expressed its ratification date.
[27] OECD, 'Signatories and Parties (MLI Positions) as of 30 April 2020', http://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf (accessed 4 May 2020).
[28] First day of the month following a 3-month period from the deposit.
[29] Due to Indonesia's position on Article 35(7) of the MLI, Indonesia has to notify the confirmation of the completion of its internal procedures to the OECD before the MLI can enter into effect.

of the ratification instrument to the OECD Secretariat. “Entry into force” does not necessarily mean that the MLI provisions come into effect. “Entry into effect” means the effective date of application of the MLI provisions. Under Article 35(1) of the MLI:

(a) *with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes* <u>*occurs on or after the first day of the next calendar year*</u> *that begins on or after the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement*; and

(b) *with respect to all other taxes levied by that Contracting Jurisdiction, for taxes levied with respect to* <u>*taxable periods beginning on or after the expiration of a period of six calendar months*</u> *(or a shorter period, if all Contracting Jurisdictions notify the Depositary that they intend to apply such shorter period) from the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement*.

Article 35(1) of the MLI serves as the general rule for MLI provisions to enter into effect in a contracting state. The wording would be changed if a contracting state made reservations to change such wording, for instance, reservations made pursuant to Article 35(2), 35(3), and/or 35(7) of the MLI. This would be the case of Indonesia, due to its reservations on Article 35(3) and 35(7)(a) of the MLI. Meanwhile, Turkey adopts the general rule under Article 35(1) without any reservations affecting the wording. Consequently, due to their own position on Article 35 of the MLI, the MLI provisions (which amending Indonesia-Turkey tax treaty) would enter into effect at different times in both countries.

To give an illustration:

- MLI will enter into force on 1 August 2020 in Indonesia;
- assuming, Indonesia notifies the completion of internal procedures to the OECD as a result of reservation made pursuant to Article 35(7)(a) on 1 April 2021;
- assuming, MLI would enter into force on 1 May 2021 in Turkey; and
- therefore, 1 May 2021[30] would be the date of entry into force of the MLI for tax treaty between Indonesia and Turkey.

As a result, in accordance with Article 35(1), Article 35(3) and Article 35(7) of the MLI, the MLI provisions have effect with respect to the application of the Indonesia-Turkey tax treaty **by Indonesia**:[31]

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after **1 January 2022**; and
- with respect to all other taxes levied by Indonesia, for taxes levied with respect to taxable periods beginning on or after **1 January 2022**.

[30] It should be considered the latter date.

[31] This conclusion derived from the assumption that Indonesia notifies the completion of internal procedures to the OECD as a result of reservation made pursuant to Article 35(7)(a) on 1 April 2021 and MLI would enter into force on 1 May 2021 in Turkey.

In accordance with Article 35(1) of the MLI, the MLI provisions have effect with respect to the application of the Indonesia-Turkey tax treaty **by Turkey**:[32]

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after **1 January 2022**; and
- with respect to all other taxes levied by Turkey, for taxes levied with respect to taxable periods beginning on or after **1 November 2021**.

4. Both Countries' Positions on the MLI and How It Modifies Indonesia-Turkey Tax Treaty

For the MLI changes to apply effectively to the Indonesia-Turkey tax treaty, both countries must adopt the same provisions (unless an asymmetrical adoption is allowed in particular cases). Taking into account the current position of Indonesia[33] and Turkey[34] on the MLI, the following table describes both countries' position on each of MLI provision and its impact to the Indonesia-Turkey tax treaty:

Article of the MLI	Description	Indonesia	Turkey	Result
3	Transparent Entity	Reserves the right for the entirety of Article 3 not to apply.	Opted in. Does not give any reservation.	Article 3 would not apply.
4	Dual Resident Entities	Reserves the right for the entirety of Article 4 not to apply to Indonesia-Turkey tax treaty.	Reserves the right for the entirety of Article 4 not to apply.	Article 4 would not apply.
5	Application of Methods for Elimination of Double Taxation	Reserves the right for the entirety of Article 5 not to apply.	Reserves the right for the entirety of Article 5 not to apply.	Article 5 would not apply.
6	Purpose of a Covered Tax Agreement	Adopted Article 6 without optional text under Article 6(3).	Adopted Article 6 including optional text under Article 6(3).	The preamble text of the tax treaty would be replaced by the text described in Article 6(1) of the MLI. Article 6(3) would not apply.
7	Prevention of Treaty Abuse	Adopted PPT rule only.	Adopted PPT rule only.	PPT rule would apply.

[32] *Ibid.*
[33] As set out in the ratification instrument under Presidential Reg. No.77/2019.
[34] At the signing of the MLI on 7 June 2017.

Article of the MLI	Description	Indonesia	Turkey	Result
8	Dividend Transfer Transactions	Adopted.	Reserves the right for the entirety of Article 8 not to apply.	Article 8 would not apply.
9	Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property	Adopted with Article 9(4) as optional provision.	Reservation for Article 9(1) not to apply. Adopted Article 9(4).	Article 9(1) would not apply. Article 9(4) would apply.
10	Anti-abuse Rule for PE Situated in Third Jurisdictions	Reserves the right for the entirety of Article 10 not to apply.	Reserves the right for the entirety of Article 10 not to apply.	Article 10 would not apply.
11	Application of Tax Agreements to Restrict a Party's Right to Tax its Own Residents	Adopted.	Reserves the right for the entirety of Article 11 not to apply.	Article 11 would not apply.
12	Artificial Avoidance of PE Status through Commissionaire Arrangements and Similar Strategies	Adopted with notification pursuant to Article 12(5) and 12(6) of the MLI.	Adopted with notification pursuant to Article 12(5) and 12(6) of the MLI.	Article 12(1) and 12(2) of the MLI would apply as long as both countries notify the same provision.
13	Artificial Avoidance of PE Status through the Specific Activity Exemptions	Adopted option A.	Adopted option A.	Option A would apply with respect to Article 5(4) of the tax treaty. Article 13(4) of the MLI would apply to Article 5(4) of the tax treaty.[35]
14	Splitting-up of Contracts	Adopted.	Reserves the right for the entirety of Article 14 not to apply.	Article 14 would not apply.
15	Definition of a Person Closely Related to an Enterprise	Opted in. Does not give any reservation.	Opted in. Does not give any reservation.	Article 15 would apply.
16	Mutual Agreement Procedure	Adopted with some notifications.	Adopted with some notifications.	Article 16(1): The first sentence would not apply. The second sentence would apply. Article 16(2):

[35] The article 13(4) of the MLI will be inserted as well when adopting Article 13(2): Option A.

Article of the MLI	Description	Indonesia	Turkey	Result
				The first sentence would not apply. The second sentence would apply. Article 16(3): The first and second sentence would not apply.
17	Corresponding Adjustments	Adopted with notification pursuant to Art. 17(4).	Reserves the right for the entirety of Article 17 not to apply to Indonesia-Turkey tax treaty.	Article 17 would not apply.
18-26	Arbitration	Does not state position.	Does not state position.	Arbitration provisions would not apply.

From the table above, it can be concluded that some of the MLI provisions will affect the existing Indonesia-Turkey tax treaty, i.e. Article 6, 7, 9, 12, 13, 15 and 16 of the MLI. The effect of notifications depends on the type of compatibility clause which could provide that the MLI provision applies "in place of", "applies to" or "modifies", "in the absence of", or "in place of or in the absence of"[36]. The effect aforesaid will be as follows:

(i) Changes to the preamble text of the tax treaty
The current preamble text of the Indonesia-Turkey tax treaty would be deleted and replaced by the text described in Article 6(1) of the MLI. The preamble text will now reads:

"*Intending to eliminate double taxation with respect to the taxes covered by this agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of third jurisdictions),*"

(ii) The Inclusion of PPT rule
PPT rule set out in Article 7(1) of the MLI would apply and supersede the provisions of the tax treaty to the extent of the incompatibility. This rule will be the new addition rule to the application of Indonesia-Turkey tax treaty.

[36] *Supra* n.5, paras. 15-18. See also: 'Step-by-Step overview on the application of the MLI', https://www.oecd.org/tax/treaties/step-by-step-tool-on-the-application-of-the-MLI.pdf (accessed 26 April 2020).

PPT rule is considered as a general anti-avoidance rule (GAAR) with a wide scope that denies treaty benefits if one of the principal purposes of a transaction or arrangement is to obtain treaty benefits.[37]

(iii) Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property - The Inclusion of Article 9(4) of the MLI

Article 9(4) of the MLI would apply and supersede the provisions of the tax treaty to the extent of the incompatibility. This rule will be the new addition rule to the application of Indonesia-Turkey tax treaty. Article 9(4) of the MLI reads:

"*For purposes of [this Agreement], gains derived by a resident of a Contracting Jurisdiction from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting Jurisdiction if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property (real property) situated in that other Contracting Jurisdiction.*"

(iv) Changes to PE definition

Article 12 of the MLI addresses the artificial avoidance of PE status through commissionaire arrangements and similar strategies. Article 12(1) and 12(2) of the MLI would apply as long as both countries notify the same provision. In regards to Article 12(1) of the MLI, there is a notification mismatch. Turkey notified Article 5(5) of the tax treaty, while Indonesia notified Article 5(5)a of the tax treaty. If Turkey changes its notification to Article 5(5)a, then it will be replaced by Article 12(1) of the MLI. Meanwhile for Article 12(2) of the MLI, this Article would replace Article 5(6) of tax treaty.

Article 13 of the MLI addresses situations in which the specific activity exemptions give rise to BEPS concerns. Option A as set out under Article 13(2) of the MLI will replace Article 5(4) of Indonesia-Turkey tax treaty. In addition to that, the text of Article 13(4) of the MLI will also be included.

(v) The Inclusion of Definition of "a Person Closely Related to an Enterprise"

As a result of the adoption of Article 12 and 13 of the MLI in Indonesia-Turkey tax treaty, the definition of "a person closely related to an enterprise" will also be included as set out in Article 15 of the MLI. This will be inserted to Article 5 of the Turkey-Indonesia tax treaty.

(vi) Effect to MAP Provision

Indonesia and Turkey already have a mutual agreement procedure (MAP) provision in place under Article 24 of the tax treaty. As the result of both countries' position on Article 16 of the MLI, the following sentences will be included in the MAP provision in the treaty without replacing it:

[37] Valentyn Kolosov, "Guidance on the Application of the Principal Purpose Test in Tax Treaties", *Bulletin for International Taxation*, IBFD, February 2017, p. 1.

- The second sentence of Article 16(1) of the MLI applies and supersedes the provisions of the tax treaty; *"The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement.*" and
- The second sentence of Article 16(2) of the MLI applies to the tax treaty: *"Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Jurisdictions."*

5. Concluding Remarks and Future Outlook

Introduction of the MLI marked a new era in international tax law.[38] It enables countries to modify their bilateral tax treaties to implement tax treaty-related BEPS measures[39]. Although this article only discusses Indonesia-Turkey tax treaty, this article is intended to give a picture for the readers on how the MLI impacts the current existing bilateral tax treaty in general. The application of the MLI provisions will depend on each country's position on the MLI.

Countries should also complete all of the procedural requirements in order for the MLI to take effect. Both Indonesia and Turkey have not completed all of the procedural requirements. Even Turkey's position on the MLI is not certain yet. Even so, it is likely that Turkey's position on the minimum standards of BEPS Action Plan which will be adopted using the MLI (e.g. preamble text and PPT rule) will not be changed. Furthermore, Turkey is going to wait for its ratification to prepare synthesised text of the treaty.

From Indonesian perspective, the position on the MLI as set out under Presidential Reg. No.77/2019, which deposit of ratification instrument was recently confirmed by the OECD on 28 April 2020. Indonesian Fiscal Policy Agency as the Competent Authority for the MLI has prepared synthesised texts for 'matching' CTAs, provided that treaty partners' position is also definitive (has been ratified and submitted to the OECD Secretariat).[40] Synthesised texts are expected to be published after MLI enters into force through the Indonesian Director General of Taxation (DGT) circular letters.[41]

As seen, Turkey and Indonesia could modify their tax treaty without prolonged renegotiation process thanks to the MLI. Therefore, new provisions to be adapted will contribute to preventing BEPS concerns, e.g. through treaty shopping. Both countries should also need to revise their domestic laws in order to accommodate new features in treaty post-MLI. For instance, until now,

[38] Bartosz Bacia and Patryk Toporowski, "OECD Multilateral Instrument: The New Era in International Tax Law", *Journal of Advanced Research in Law and Economics* (2018) https://ideas.repec.org/a/srs/jarle0/v9y2018i2p386-395.html, (accessed 27 April 2020).
[39] *Supra* n.4.
[40] Based on an interview conducted by the author with a representative of the Indonesian Fiscal Policy Agency on whether synthesised texts have been prepared or not.
[41] Based on an interview conducted by the author with a representative of the Indonesian Fiscal Policy Agency on when the synthesised texts will be published.

Turkey and Indonesia do not have GAAR in their domestic tax laws.[42] The authors recommend that domestic tax law should also include GAAR, besides PPT rule in tax treaty, thereby, it can safeguard country from abusive arrangements even if they do not have tax treaties.

While the general objective of tax treaty is to encourage cross-border investment[43], one could argue that the introduction of PPT rule that contains subjective element could lead to uncertainty[44] and practical difficulties, and as a result, lead to a negative environment for domestic and foreign inward investment. Therefore, the general objective of tax treaty will not be achieved and the possibility of tax disputes will be increased.

However, as Prof. Judith Freedman indicates that: "*a GAAR will not necessarily increase uncertainty*".[45] It depends on how much certainty exists in a jurisdiction without a GAAR.[46] In the absence of GAAR, the judges might prolong the interpretation of the wording, whereas if there is a carefully formulated GAAR in place they will interpret more narrowly using GAAR as guidance.[47] In this way, a GAAR could actually increase certainty for taxpayers. The authors then propose that the introduction of PPT rule as GAAR in tax treaties should also be accompanied by a comprehensive set of guidelines for tax authorities and must be administered transparently.

Current and prospective taxpayers or investors for interrelated transactions of both countries should consider existing and the new modified version of the treaty when they take action. Also, they need to keep up to date with the entry into effect date of the treaty modified with the MLI. Both countries' tax authorities are expected to announce these issues.

On a side note, cross border transactions always bring along tax issues. The authors predict that the aim to increase trading volume between two countries which was agreed in 2017 will affect trade positively. Thus, tax issues will come to the agenda frequently. In this regard, considering the fact that the economy became more globally integrated[48], Indonesia-Turkey tax treaty post-MLI plays an important role.

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[42] Indonesia has not officially introduced a GAAR in its domestic tax law until now. This statement supported by Chintya Pramasanti and Christine Tjen, "Is Indonesia Benefitting from the Multilateral Instrument?", *Asia Pacific Tax Bulletin*, IBFD, November 2019, p. 4. However, there is an argument implies differing position that GAAR has been existed in Indonesian domestic tax law by Freddy Karyadi and Chaterine Tanuwijaya, "BEPS Effects in Indonesia", *Derivatives & Financial Instruments*, IBFD, July 2015, p. 4. See also Arifin Rosid and T. Qivi Hady Daholi, "The Adoption of BEPS in Indonesia" in Kerrie Sadiq, Adrian Sawyer, and Bronwyn McCredie, *Tax Design and Administration in a Post-BEPS Era: A study of key reform measures in 18 jurisdictions*, Fiscal Publications, 2019, p. 126-127.
[43] *See*, for example, para. 182, Example C *OECD Model: Commentary on Article 29* (2017).
[44] Ameya Mithe, "Critical Analysis of the Principal Purpose Test and the Limitation on Benefits Rule: A World Divided but It Takes Two to Tango", *World Tax Journal*, IBFD, February 2020, p. 149.
[45] Judith Freedman, "Designing a General Anti-Abuse Rule: Striking a Balance", *Asia-Pacific Tax Bulletion*, IBFD, May/June 2014, p. 168.
[46] *Ibid*.
[47] *Supra* n. 45. See also Graham Aaronson, GAAR Study: A study to consider whether a general anti avoidance rule should be introduced into the UK tax system (London: November 2011), p. 5.
[48] OECD, *Action Plan on Base Erosion and Profit Shifting* (OECD 2013), p. 7.