(b) If a resident of a Contracting State derives an item of income from a business carried on by that resident in the other Contracting State or derives an item of income arising in the other Contracting State from a person that has with the resident a relationship described in subparagraph (a) or (b) of paragraph 1 of Article 9, the conditions described in subparagraph (a) of this paragraph shall be considered to be satisfied with respect to such item of income only if the business carried on in the first-mentioned Contracting State is substantial in relation to the business carried on in the other Contracting State. Whether such business is substantial for the purpose of this subparagraph shall be determined on the basis of all the facts and circumstances.

(c) In determining whether a person is carrying on business in a Contracting State under subparagraph (a), the business conducted by a partnership in which that person is a partner or the business conducted by persons connected to such person shall be deemed to be conducted by such person. A person shall be connected to another if one owns, directly or indirectly, at least 50 per cent of the beneficial interests in the other (or, in the case of a company, at least 50 per cent of the voting power of the company) or a third person owns, directly or indirectly, at least 50 per cent of the beneficial interests (or, in the case of a company, at least 50 per cent of the voting power of the company) in each person. In any case, a person shall be considered to be connected to another if, on the basis of all the facts and circumstances, one has control of the other or both are under the control of the same person or persons.

6. A resident of a Contracting State that is neither a qualified person nor entitled under paragraph 3 or 5 to a benefit granted by the provisions of paragraph 3 of Article 10, paragraph 1 of Article 11 or paragraph 1 of Article 12 shall nevertheless be entitled to such benefit if the competent authority of the Contracting State to which the benefit is claimed determines that the establishment, acquisition or maintenance of such resident and the conduct of its operations did not have as one of the principal purposes the obtaining of such benefit.

7. For the purposes of this Article:

(a) the term "principal class of shares" means the class or classes of shares of a company which represent a majority of the voting power of the company;

(b) the term "recognised stock exchange" means:

(i) any stock exchange established under the terms of the Financial Instruments and Exchange Law (Law No. 25 of 1948) of Japan;

(ii) any regulated market pursuant to the Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (as amended) or any successor Directive; and

(iii) any other stock exchange which the competent authorities of the Contracting States agree to recognise for the purposes of this Article;

(c) the term "equivalent beneficiary" means any person who would be entitled to a benefit, with respect to the item of income in respect of which the benefit of this Convention is claimed to a Contracting State, granted by that Contracting State under the law of that Contracting State, this Convention or any other international instrument, provided that such benefit is equivalent to the benefit to be granted to that item of income under the Convention.

8. (a) Where:

(i) an enterprise of a Contracting State derives income from the other Contracting State and the first-mentioned Contracting State treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction; and

(ii) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned Contracting State,