(a) in respect of taxation by withholding at source, a resident of a Contracting State shall be considered to satisfy the conditions described in that sub-paragraph or paragraph for the taxable year in which payment of an item of income is made if such resident satisfies thóse conditions during the twelve month period preceding the date of the payment (or, in the case of dividends, the date on which entitlement to the dividends is determined);

(b) in all other cases, a resident of a Contracting State shall be considered to satisfy the conditions described in that sub-paragraph or paragraph for a taxable year if such resident satisfies those conditions on at least half the days of the taxable year.

5. (a) Notwithstanding that a resident of a Contracting State may not be a qualified person, that resident shall be entitled to the benefits granted by the provisions of paragraph 3 of Article 10 or of Article 11 or 12 with respect to an item of income described in that paragraph or those Articles derived from the other Contracting State if:

(i) that resident is carrying on business in the first-mentioned Contracting State (other than the business of making or managing investments for that resident's own account, unless the business is banking, insurance or securities business carried on by a bank, insurance company or securities dealer);

(ii) the income derived from that other Contracting State is derived in connection with, or is incidental to, that business; and

(iii) that resident satisfies any other specified conditions in that paragraph or those Articles for the obtaining of such benefits.

(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 that resident a relationship described in sub-paragraph (a) or (b) of paragraph 1 of Article 9, the conditions described in sub-paragraph (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 that other Contracting State. Whether such business is substantial for the purposes of this paragraph 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 sub-paragraph (a) of this paragraph, the business conducted by a partnership in which that person is a partner and 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 holds, 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 holds, 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.