(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 the relevant provisions of the Agreement for the obtaining of such benefit.

(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 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 that other Contracting State. Whether such business is substantial for the purpose of this paragraph shall be determined on the basis of all the facts and circumstances.

(c) In determining whether a person is engaged in the active conduct of a business in a Contracting State under subparagraph (a), the business conducted by a partnership in which that person is a partner, and the business conducted by a person connected to such person only to the extent that both persons are engaged in the same or complementary lines of business, 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 shares of the company) or another 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 shares 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 the benefits referred to in those paragraphs shall, nevertheless, be granted all the benefits under this Agreement or a benefit under the Agreement in respect of an item of income derived from the other Contracting State if, upon request from that resident, the competent authority of that other Contracting State determines, in accordance with its domestic law or administrative practice, that the establishment, acquisition or maintenance of such resident and the conduct of its operations are considered as not having the obtaining of such benefits as one of the principal purposes. The competent authority of the Contracting State to which a request has been made under this paragraph by a resident of the other Contracting State will consult with the competent authority of that other Contracting State before rejecting the request.

7. For the purposes of this Article:

(a) the term "qualified governmental entity" means the Government of a Contracting State, of a federal state (*Land*) thereof, or of any political subdivision or local authority thereof, the Bank of Japan, the Federal Bank of Germany (*Deutsche Bundesbank*) or a person that is wholly owned, directly or indirectly, by the Government of a Contracting State, of a federal state (*Land*) thereof, or of a political subdivision or local authority thereof;

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

(c) 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 Markets in Financial Instruments Directive 2004/39/EC (as amended) or any successor Directive;

(iii) Hong Kong Exchanges and Clearing, the NASDAQ System, the New York Stock Exchange, Singapore Exchange, SIX Swiss Exchange and the Taiwan Stock Exchange; and