For the purposes of application of this subparagraph, income of a resident of the Federal Republic of Germany that, under the Agreement, may be taxed in Japan shall be deemed to be income from sources within Japan.

(d) The provisions of subparagraph (a) are to be applied to items of profits or income within the meaning of Article 7 and Article 10 and to gains from the alienation of property within the meaning of paragraph 3 of Article 13 only to the extent that the items of profits, income or gains were derived from the production, processing, working or assembling of goods and merchandise, the exploration and extraction of natural resources, banking and insurance, trade or the rendering of services or if the items of profits, income or gains are economically attributable to these activities. This applies only if a business undertaking that is adequately equipped for its business purpose exists. If the provisions of subparagraph (a) are not to be applied, double taxation shall be eliminated by means of a tax credit as provided for in subparagraph (c).

(e) Notwithstanding subparagraph (a), double taxation shall be eliminated by a tax credit as provided for in subparagraph (c), if:

(i) in the Contracting States items of income or elements thereof are placed under different provisions of the Agreement and if, as a consequence of this different placement, such income would be subject to double taxation, non-taxation or lower taxation and in the case of double taxation this conflict cannot be resolved by a procedure pursuant to paragraph 2 or 3 of Article 24;

(ii) Japan may, under the provisions of the Agreement, tax items of income or elements thereof but does not actually do so; or

(iii) after consultation, the Federal Republic of Germany notifies Japan through diplomatic channels of items of income or elements thereof to which it intends to apply the provisions on tax credit under subparagraph (c). Double taxation is then eliminated for the notified items of income or elements thereof by allowing a tax credit from the first day of January in the calendar year next following that in which the notification was made.

Article 23
Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, paragraph 4 of Article 12 or paragraph 3 of Article 20 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purposes of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Contracting State.