2. For the purposes of this Article and Article 23, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other Contracting State, that other Contracting State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, the competent authorities of the Contracting States shall if necessary consult each other.

4. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article."

(c) The provisions of paragraph 3 of Article 1 and paragraphs 1 to 4 of Article 7 of the Convention as amended by the provisions of subparagraphs (a) and (b), respectively, shall have effect with respect to profits of an enterprise for any taxable years beginning on or after the date referred to in subparagraph (a). Until the provisions of paragraph 3 of Article 1 and paragraphs 1 to 4 of Article 7 of the Convention as amended by the provisions of subparagraphs (a) and (b) have effect, the provisions of the original paragraph 3 of Article 1 and paragraphs 1 to 6 of Article 7 of the Convention shall continue to apply.

3. With reference to Article 15 of the Convention:

It is understood that the provisions of Article 15 of the Convention apply to payments referred to in that Article irrespective of whether a member of a board of directors, or a similar organ, of a company acts in a supervisory or managerial function.

4. With reference to Article 18 of the Convention:

The term "a statutory body" of a Contracting State used in Article 18 of the Convention means:

(a) in the case of Austria:

(i) the Austrian Federal Economic Chamber; and

(ii) any institution as may be agreed upon between the Governments of the Contracting States through an exchange of diplomatic notes; and

(b) in the case of Japan, any institution as may be agreed upon between the Governments of the Contracting States through an exchange of diplomatic notes.

5. With reference to paragraph 5 of Article 25 of the Convention:

(a) The competent authorities of the Contracting States shall by mutual agreement establish a procedure in order to ensure that an arbitration decision will be implemented within two years from a request for arbitration as referred to in paragraph 5 of Article 25 of the Convention unless actions or inaction of a person directly affected by the case in respect of which the request for arbitration has been made hinder the resolution of the case or unless the competent authorities of the Contracting States and that person otherwise agree.

(b) An arbitration panel shall be established in accordance with the following rules:

(i) An arbitration panel shall consist of three arbitrators who are individuals with expertise or experience in international tax matters.