

ARTICLE III

(1) The industrial and commercial profits of an enterprise in one of the territories shall not be subject to tax in the other territory unless the enterprise is engaged in trade or business in the other territory through a permanent establishment in that other territory. If it is so engaged tax may be imposed on those profits by the other territory but only on so much of them as is attributable to that permanent establishment.

(2) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein:—

(a) there shall be attributed to that permanent establishment the commercial or industrial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities and dealing at arm's length with the enterprise of which it is a permanent establishment, and if, apart from this Agreement, the law of that other territory in respect of the taxes which are the subject of this Agreement so provides, the profits so attributed shall be deemed to be profits derived from sources in that other territory.

(b) Subject to the provisions of sub-paragraph (a) no profits derived from sources outside that other territory shall be attributed to that permanent establishment.

(3) Profits derived by an enterprise of one of the territories from sales, under contracts concluded in that territory, of goods or merchandise stocked in a warehouse or depot in the other territory for convenience of delivery and not for the purposes of display shall not be attributed to a permanent establishment of the enterprise in that other territory notwithstanding that the offers of purchase have been obtained by an agent of the enterprise in that other territory and transmitted by him to the enterprise for acceptance.

(4) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be deemed to arise in the other territory by reason of the mere purchase of the goods or merchandise within that other territory.

(5) If the information available to the Taxation Authorities concerned is inadequate to determine the profits to be attributed to the permanent establishment nothing in the preceding paragraphs shall affect the application of the law of either territory in relation to the liability of the permanent establishment to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the Taxation Authorities of that territory: Provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the Taxation Authorities permits, in accordance with the principles stated in the preceding paragraphs of this Article.

(6) Where a company which is a resident of one of the territories derives profits from sources within or deemed to be within the other territory, the Government of that other territory shall not impose any form of taxation on dividends declared payable by that company in favour of persons not resident in that other territory nor shall the Government of that other territory impose any tax in the nature of a special tax on non-residents on the profits derived by that company directly as the result of the carrying on of business through a permanent establishment in that other territory.