

(h) The terms "New Zealand enterprise" and "Canadian enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of New Zealand and an industrial or commercial enterprise or undertaking carried on by a resident of Canada; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a New Zealand enterprise or a Canadian enterprise, as the context requires.

(i) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a bona fide broker or general commission agent acting in the ordinary course of his business as such.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) The term "industrial or commercial profits", as used in the present Agreement, includes manufacturing, mercantile, mining, financial and farming profits but does not include income in the form of dividends, interest, rents or royalties, management charges, or remuneration for labour or personal services.

(3) The terms "New Zealand tax" and "Canadian tax", as used in the present Agreement, do not include any amount payable in New Zealand or Canada which represents a penalty imposed under the law of New Zealand or Canada relating to the taxes which are the subject of the present Agreement.

(4) In the application of the provisions of the present Agreement by one of the Contracting Governments any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Government relating to the taxes which are the subject of the present Agreement.

### ARTICLE III

(1) The industrial or commercial profits of a New Zealand enterprise shall not be subject to Canadian tax unless the enterprise is engaged in trade or business in Canada through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Canada, but only on so much of them as is attributable to that permanent establishment: Provided that nothing in this paragraph shall affect any provisions of the law of Canada regarding the taxation of income from the business of insurance.

(2) The industrial or commercial profits of a Canadian enterprise shall not be subject to New Zealand tax unless the enterprise is engaged in trade or business in New Zealand through a permanent establishment situated therein.