



GENEVA GROUP INTERNATIONAL

# GGI INSIDER

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## Welcome to Colombia

21-24 July 2011:  
GGI Latin American  
Conference in Bogotá

# Real Estate practice group at the MIPIM 2011 in Cannes

By Dr. Reinhard Nacke

GGI member conferences are useful for meeting each other and exchanging ideas and experiences. Yet it is also true that this does not automatically result in new business. Only if members are able to acquire sufficient international business will they be able to generate referrals. GGI is one way to acquire international business. However, this means that GGI has to be effectively marketed.

This awareness formed the basis of the International Handbook Real Estate, which was published by the Real Estate practice group three years ago. Although this was also aimed at GGI members, it was primarily for existing and future clients.

Now the practice group has taken it one step further. The firms Anthony & Co., FPS Rechtsanwälte & Notare, Hansen Sonderby & Co., Konecná & Safár and Volaw leased a stand for GGI at MIPIM, the world's largest real estate exhibition, in Cannes. Despite the stand not being one of the most impressive at the exhibition in visual terms, the presence

of GGI was effective. The shared stand included two lounge areas for meeting and talking with stand visitors, as well as shelves for displaying brochures from participating firms. The stand was also equipped with snacks, a fridge with cold beverages, and a hostess.

Given the rather low visual appeal of the stand, representatives had to actively pursue networking opportunities. Sulina Piat from Anthony & Co was particularly successful in this regard, while Radka Konecná and Dagmar Yoder from Konecná & Safár were able to secure numerous appointments before the exhibition started and also embraced a demanding schedule of evening parties during MIPIM. The other participants also made the most of their evenings, engaging with interesting businesspeople and colleagues at business dinners, which they either organised themselves or that were arranged by Robert Anthony. Overall, every participant was able to not only cultivate their many existing contacts, but also forge new ones. Participation at the MIPIM 2012 should therefore be given serious consider-



**GGI at MIPIM, the world's largest real estate exhibition, in Cannes**

ation, as well as the potential option of increasing the number of firms. In order to procure a good stand location, a decision will have to be made in the first half of 2011. It will also be necessary to discuss the possibilities for receiving sponsorship or other funding. At this event, the participating firms shouldered the cost themselves, with the exception of a contribution made by GGI for which the participants express their thanks. Thank you also to the Anthony & Co. exhibition team for their outstanding work preparing the stand, the Volaw team for designing the GGI exhibition brochure and the Hansen Sonderby & Co. team for making it possible to book the stand

at the last minute and handling the financial aspects.

GGI members interested in joining the practice group Real Estate or participating in the joint stand at MIPIM in 2012 are welcome to contact Dr. Reinhard Nacke, [nacke@fps-law.de](mailto:nacke@fps-law.de), chairman of the group.

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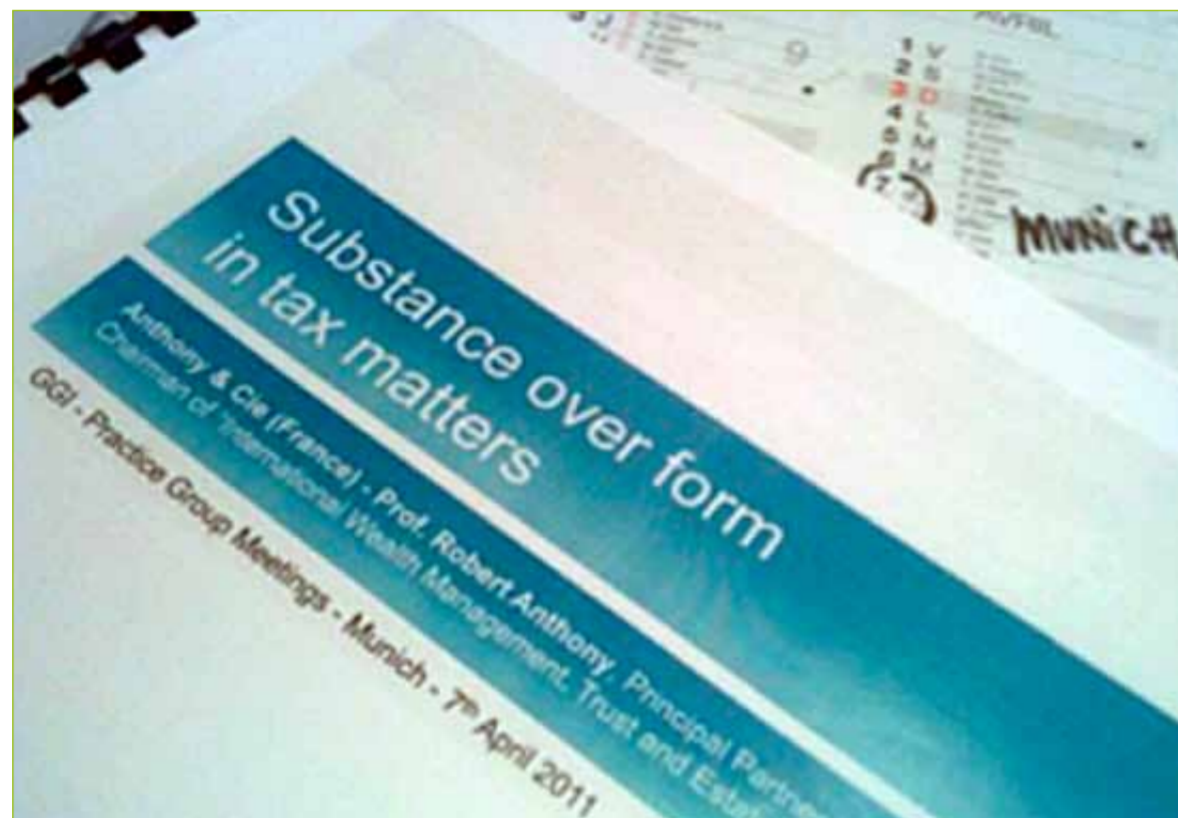
# Substance over form

By Prof.  
Robert Anthony

It was a pleasure to see all the members again from the ITPG in Munich. I was happy to chair a lively debate on “Substance over form”. Today, ascertaining what defines a permanent establish-

ment is not as easy as it once was. Yes we have the OECD model, which is a standard for many countries with minor modifications, but is this really workable as a document today? Certain countries are concerned about the applicability of their tax treaties. Consequently, countries have been tightening these to counter the abuse by tax planners, which results in amendments by way of agreed modifications to existing treaties. An example is the latest amendment between Singapore and France, which has just been completed.

In our discussions, it became apparent that proper corporate governance is necessary to justify certain holding entities. These need to have real substance. In Luxembourg, this was indicated as a



real presence of the company by its office with staff. Certain countries considered that their current treaties enable meetings in the country concerned but enforce the necessity of permanence there. Italy is litigating where it can, but the results are far from clear. A real activity today needs a clearer definition applied through a tax treaty. The issue of a permanent establishment can also be interpreted differently in countries like Germany, even without a contract being signed in the country.

It was interesting to see that while the G20 are putting pressure to eliminate the abuse of low tax jurisdictions new opportunities are being created. This was illustrated in the meeting by the taxation changes in Hungary, where

the corporation tax rate was lowered to 10% in competition with Ireland and Cyprus. The UK is still seen as an interesting place to establish a holding entity.

In summary, the issue seems to be whether domestic countries will accept holding companies' tax treaties when there is only a letter box presence. As mentioned previously, some countries are now negotiating to amend their treaties to ensure they do not apply, and others have simply decided that they do not need to do this or do not care. Case law is obviously important when looking

at this. When is a company a resident or non-resident company? Treaties do not normally apply to non-resident companies.

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## New Indian tax provisions to curb Money Laundering

By Ashish Bairagra

Developed economies have for some time had in place anti-money laundering provisions. Various mechanisms for anti-money laundering exist in the banking and financial sectors across the world, including in India. However very few countries have tax provisions which also deal with this matter. The provisions which have been introduced in the

recent Indian budget are a first of their kind in the Indian tax system to directly put a check on the foreign inflow of funds from certain jurisdictions. These funds could be in the nature of unaccounted income being back into India or money laundering. The provisions only affect those transactions where an entity from a notified jurisdiction is involved. However, to date the Indian tax

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