



Geneva 26 April 2007

Ref.: MPPI

Subject: Expanded Bureau meeting and the Mobile Phone Partnership Initiative

Dear Basel Convention Focal Points,

The purpose of this letter is to transmit the Chairman's Paper, developed by Dr. Joachim Wuttke, Germany, as Chair of Working Group 2.1 under the Mobile Phone Partnership Initiative, per the guidance of the first Expanded Bureau of the eighth meeting of the Conference of the Parties to the Basel Convention. Please kindly review the document, taking into account the Nairobi Declaration and decision VIII/2 on ewaste. As you are aware, the first meeting of the Expanded Bureau of the eighth meeting of the Convention of the Parties took place on 17-18 April 2007. (The paper is attached as an Annex to this letter.) It can also be accessed at the website of the Secretariat: http://www.basel.int/meetings/cop/cop8/docs/i06e.pdf. Please kindly submit your comments to the Secretariat through Ms. Lauren DeHaven, at Lauren.dehaven@unep.ch, copied to Ms. Claudia Fénérol at Claudia.fenerol@unep.ch.

This request to all focal points to review the Chairman's Paper provides an opportune moment to renew the invitation to all Parties of the Basel Convention to join the Mobile Phone Partnership Initiative (MPPI), in particular developing countries and countries with economies in transition. If you would like further information on the Initiative, or would like to participate more actively, please contact Ms. Lauren DeHaven, at Lauren.dehaven@unep.ch, copied to Ms. Claudia Fénérol at Claudia.fenerol@unep.ch.

It is important to note that the MPPI is now in the process of testing the five technical guidelines developed and are beginning to implement pilot projects to test the guidelines. The five guidelines on used and end-of-life mobile phones downloaded can be from the following http://www.basel.int/industry/mppi.html . The MPPI is also working with Regional Centres and others to conduct regional training workshops on the guidelines. The first workshop addressing the guidelines will take place in at the Basel Convention Regional Centre for Central Europe in Bratislava, Slovakia on 25-26 June, 2007.

The overall Guidance Document, which contains the executive summaries and recommendations of the five completed guidelines as developed under the Mobile Phone Working Group, was provisionally approved at COP 8. Any further comments or questions on this document should be sent to Ms. DeHaven. This document is attached as Annex 2 and can be accessed at http://www.basel.int/industry/mppi.html.

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To: Basel Convention Focal Points Permanent Missions in Geneva

SECRETARIAT OF THE BASEL CONVENTION





Annex

MOBILE PHONE PARTNERSHIP INITIATIVE PROJECT 2.1

CHAIRMAN'S PAPER

ON

ISSUES RAISED DURING THE DISCUSSION OF THE GUIDELINE ON TRANSBOUNDARY MOVEMENT OF USED AND END-OF-LIFE MOBILE PHONES

October 18, 2006





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EXECUTIVE SUMMARY

It should be noted that this paper is presented by the chairman of the project group 2.1. It is about issues that were raised during discussions of transboundary movement of collected used and end-of-life mobile phones within the project group 2.1. It is further noted that this paper is not a consensus paper. Given the diversity of the participants in the project group 2.1, views differed on how and when the Basel Convention should apply to the transboundary movement of used mobile phones destined for reuse after repair, refurbishment or upgrading in the importing country and end-of-life mobile phones destined for material recovery and recycling. During these deliberations a number of issues came up which could be considered by Parties to the Basel Convention. To address these issues a number of options have been identified ranging from improving the implementation of controls under the Basel Convention; to clarifying classification of some of the current waste listings, and streamlining some of the controls (notification procedures, shipments from non Annex VII countries to Annex VII countries). To assist Parties in considering these options, some implications are provided in chapter 3.

1. Introduction

The Mobile Phone Working Group (MPWG) was requested by the Basel's Open-ended Working Group (OEWG) to develop guidelines on environmentally sound management of used and end-of-life mobile phones. Four project groups were created to address various aspects of environmentally sound management. In particular project group 2.1, consisting of: MPPI Partners (representatives from Parties and Signatories, telecommunication operators and mobile phone manufacturers), recycling and refurbishment industry and NGOs, was tasked to prepare guidelines on the collection and transboundary movement of used and end-of-life mobile phones. These guidelines are part of a group of guidelines developed under the auspices of the Mobile Phone Partnership Initiative (MPPI).

In developing the guidelines on the collection and transboundary movements under project group 2.1 views of participants differed in how and when the Basel Convention should apply to the transboundary movement of used mobile phones for reuse after repair, refurbishment or upgrading in the importing country. There was, however a general agreement that mobile phones that had reached their "end-of-life" would be controlled under the Basel Convention, unless it can be demonstrated that these end-of-life mobile phones are not hazardous using Annex I and Annex III characteristics. This chairman's paper should be read in conjunction with the guidelines and recommendations developed by project group 2.1, dealing with collection and transboundary movement of used and end-of-life mobile phones.

It should be noted that this paper, presented by the chairman of the project group 2.1, is a collection of issues arising from the project group discussions. While it has been reviewed by the group it is not a consensus document and the views and options presented should not be taken as representative of any person or organization that contributed to the group.

The participants of project group 2.1 have the opinion that it would be useful to bring these issues to the attention of all Basel Convention Parties to ensure that the requirements for environmentally sound management of used and end-of-life mobile phones remain the uppermost goal in a sustainable development approach. While it is essential to promote proper reuse, and to ensure environmentally sound recovery and final disposal, the classification of used and end-of-life mobile phones as hazardous waste would trigger requirements of the Basel Convention which may, in certain circumstances, be counter productive.

Participants approaching the issues from a commercial perspective suggested a review of the current Basel Convention's control procedures in particular for mobile phones, which have not reached their end-of-life, and to put in place simplified practical procedures for shipments of end-of-life mobile phones. These project group participants also emphasized that used phones evaluated and/tested as suitable for reuse should not be treated as hazardous wastes and that simplified practical procedures for shipments of used and end-of-life mobile phones should be put in place if needed. It was also mentioned that the recent expansion of national, regional, charitable and industry led collection initiatives for used mobile phones, destined for export, should also be considered as part of an assessment of the need, if any, of appropriate





control measures for transboundary movements. This could also be considered for other types of post consumer electronics.

Indeed a number of project group 2.1 participants are of the opinion that certain ambiguities exist in the Basel Convention and its Annexes (particularly waste entries in Annex VIII and IX) which may potentially lead to a difficulty in arriving at a common understanding of what is or is not covered under the Basel Convention (For example, there is a lack of a definition for "major reassembly", "direct reuse" and the apparent distinction between "reuse following repair" and "direct reuse"). Furthermore, they noted that this ambiguity could apply more broadly to use electronic equipment in general.

Other project group 2.1 participants believed that repair could at times entail the replacement and discarding through Basel Annex IV operations of hazardous parts and in those instances the Basel Convention should apply. These participants stated that they believe that the Basel Convention controls should be enforced. Some were of the opinion that there should be an evaluation and/or testing and labelling prior to movement to avoid accumulation of used mobile phones or hazardous components after repair, refurbishment or upgrading which would require disposal in the importing country. That is why additional guidelines are to be developed for evaluation and/or testing and labelling to ensure a proper assessment of functionality, certification and labelling prior to exports of used mobile phones to ensure against significant dumping of non-reusable parts. They argued that an exporter could easily claim full functionality or reparability of a used piece of equipment, and place customs officials and competent authorities in a dilemma as to know whether the claim is valid.

Moreover these participants noted that the issue at hand tends to extend past the realm of mobile phones. Currently, there is a situation whereby a lack of proper application of controls, as required under the Basel Convention, for exported electronic waste in general, for alleged re-use and repair. It is creating a scenario where developing countries and countries with economics in transition are becoming the recipients of significant quantities of uncontrolled non-working discarded parts or non-functional, non-unreusable material. The issue raised is that more controls, and not less are necessary, and that the Basel Convention does apply to the export of non-functioning parts of electronic equipment. In addition they mentioned that manufacturers are to accelerate green design to achieve certification that mobile phones do not contain Basel listed hazardous substances.

2. Possible options to address used mobile phones and the broader electronic equipment issue

Based on some of the ambiguities with regard to the scope of the Convention and to help Parties to understand and address some of the issues a number of options¹ have been identified for Parties' consideration:

2.1 Option: Improve Controls and Close Current Loopholes in Basel Convention Implementation and Enforcement

Basel Convention implementation must be enforced and strengthened with guidelines to ensure proper protocols for functionality testing, certification and labelling for exports destined for the reuse/repair/refurbishment market. While recognizing that often used mobile phones may not be considered as wastes or hazardous wastes, there are times when they may be.

The examples of when used mobile phones may not be considered as hazardous wastes, subject to controls under the Convention are as follows:

¹These options may not be exhaustive as these have been identified only from the work of project group 2.1 and other options may be identified following other partnerships. If the Parties decide to review the Basel Convention then the process should allow opportunities for input by a wide group of stakeholders who can provide practical perspectives on the implications of options being considered.





- When the phone can be shown not to contain Annex I constituents that possess Annex III characteristics.
- When the phone is fully functional, not needing any further repairs, and can be directly reused for its original purpose.
- When the phone is repairable without replacing a part that contains any Annex I constituents that possess Annex III characteristics.

The examples of when used mobile phones may be considered as hazardous wastes are summarized as follows:

- When the phone is subject to being directly disposed of in an Annex IV destination, unless it can be shown not to contain any Annex I constituents that possess Annex III characteristics.
- When the destination is unknown, unless it can be shown that the phone does not contain any Annex I constituents that possess Annex III characteristics.
- When the phone has not undergone any testing, certification and labeling for functionality unless it can be shown that the phone does not contain any Annex I constituents that possess Annex III characteristics.
- When the phone is not functional for direct re-use, and when subsequent repair/refurbishment
 may require that a part be directed to an Annex IV destination, unless it can be shown that this
 non-functional part does not contain any Annex I constituents that possess Annex III
 characteristics.

In order to improve and strengthen the implementation and proper enforcement of the Basel Convention the following activities are to be undertaken:

- 1. Guidelines are to be developed to ensure there are proper protocols for functionality testing, certification and labelling for exports destined for the reuse/repair/refurbishment market. Such protocols and guidelines are to be provided to Parties for practical functionality testing, certification and labeling.
- 2. Provide Parties with the Decision Tree diagram found in Appendix 4(b) of the Guidance Document on the Environmental Sound Management (ESM) of Used and End-of-life Mobile Phones presented to the COP 8, which is seen by many Group 2.1 participants as an accurate reflection of the Basel Convention controls applicable to mobile phones.
- 3. Training and training manuals must be created for proper use of such testing, certification and labeling guidelines and use of the Decision Tree should be developed.
- 2.2 Option: Development of Mechanisms for Streamlining Exports from non-Annex VII countries to Annex VII countries

The following procedures to streamline processing of exports from non-Annex VII to Annex VII:

- 1. Training of non-Annex VII countries via the regional centres to provide expertise on collection systems, re-use, repair operations, and export of materials for recycling/disposal. Such training will include packaging and labeling requirements and use of specialized notification and movement document forms (see below).
- 2. Training of customs officials in developed countries in the use and necessity of expedited processing of such shipments.
- 3. A Published Listing of all Certified ESM facilities capable of receiving used mobile phone waste from non-Annex VII countries.
- 4. Specialized "Green Passport Used Electronics Movement Forms" which signal that all parties, including handlers, customs agents, shippers and competent authorities should expedite processing and delivery of said material in order to prevent inappropriate waste management in developing





countries. When competent authorities and other agents receive such documentation they move such processing to the "top of the list" so that such exports are prioritized and the way is smoothed for ease of transport.

2.3 Option: Review Annex VIII and IX of the Basel Convention

In this option it is proposed that both Annex VIII and IX be reviewed, using the review mechanism that was established under the Basel Convention. The reclassification would seek to bring a greater clarity to the existing waste listing. For example, possible adjustments could be as follows:

- 1. A footnote would be added in Annex VIII and IX that would say that entries A1180 and B1110 do not include "used and end-of life mobile phones".
- 2. A new entry would be included in the Annex VIII that would say" end-of-life mobile phones destined for material recovery, recycling or final disposal (Annex IVA and IVB).
- 3. A new entry would be included in Annex IX that would say, "used mobile phones evaluated and/or tested as suitable for direct reuse or reuse after repair, refurbishment or upgrading in the importing country, are not wastes covered by the Basel Convention."

These adjustments would make clear that mobile phones (and possibly other types of used electronic equipment) destined for direct re-use or re-use after repair, refurbishment or upgrade in the importing country are not Basel wastes.

2.4 Option: Review Annex II of the Basel Convention

- 1. A footnote could be added in Annex VIII and IX that would say that entries A1180 and B1110 do not include "used and end-of-life mobile phones."
- 2. A new entry would be added to Annex II as "Y48" that would say "used and end-of-life mobile phones collected from consumers."

This option could be broadened to address other types of waste consumer electronic equipment. This approach would subject mobile phones or other types of electronic equipment to prior informed consent and related control procedures under the Convention, but would not require phones shipped for recovery or reuse to be classified as hazardous wastes.

2.5 Option: Review Control Procedures of the Basel Convention

A. Interpretive Guidance

- 1. Entries A1180 and B1110 would remain unchanged.
- 2. A notification procedure would be reviewed and a new interpretation would be provided in the Basel Convention's Manual of Implementation that could provide for simplified procedures for the used and end-of-life mobile phones such as: mandatory requirement to respond within 60 days; use of multiple notifications; use of preauthorized/ pre-consented facilities; and no need to use hazardous waste carriers.

B. Amendment to the Convention

- 1. Entries A1180 and B1110 would remain unchanged.
- 2. An amendment to the Basel Convention Article 6 could be made to specifically mention new simplified procedures applicable to end-of-life products such as end-of-life mobile phones and

Preauthorized/Pre-consented facilities are those that have received a pre-consent status from the competent authority of their country for certain types of wastes. In those cases a shorter notification consent period or even tacit consent of the importing country would be for shipments to such pre-consented facilities,





other types of post consumer electronic equipment. The amendment would include the following new provisions: 60-day tacit consent; shipments to preauthorized facilities; no need to use hazardous waste carriers; multiple shipment notification options; recognized brokers/traders that would be accredited under the Basel Convention; and a requirement to return of any hazardous waste from repair, refurbishment, or upgrading, if environmentally sound management facilities do not exist in the importing country.

C. Additional Obligations Applicable to A and B

- 1. In addition to the above, every person involved in the transboundary movement of used and end-of-life electronic equipment would be required to agree to follow good practices. In the case of used and end-of-life mobile phones this would be set forth in the MPPI Guidelines in the following manner:
 - Collection and transboundary movement would be in accordance with the guidelines of MPPI Project 2.1;
 - Refurbishment would be in accordance with the guideline of MPPI Project 1.1; and
 - Material recovery would be in accordance with the guideline of MPPI Project 3.1.

Responsible companies are to ensure compliance with applicable local and national laws, record-keeping and reporting provisions.

- 2. When exporters and importers make a commitment to implement good practice guidelines, they would be allowed to use the simplified procedures.
- 3. Parties may wish to explore a possibility to set up a simplified procedure for export of used and end-of-life electronic equipment to Annex VII countries, which have environmentally sound facilities, and are operating in line with the Article 11 Agreement (OECD Council Decision C2001/107Final on the Control of Transboundary Movements of Wastes destined for Recovery Operations).
- 4. Parties may wish to establish a Basel Convention registration scheme for companies that agree to implement good practice guidelines, and are allowed to use simplified transboundary movement procedures for used and end-of-life mobile phones.
- 2.6 Option: Creation of an Article 11 Agreement, Authorizing Parallel Waste Management Systems within Certain Guidelines

An Article 11 agreement could be negotiated among interested Parties and signatories that would not simply duplicate the provisions and control procedures of the Basel Convention. Instead, it would address specific types of transboundary movements, and, where appropriate, provide a different waste classification and control procedure for specific types of waste, e.g. the OECD Council Decision. Such an Article 11 agreement or arrangement would provide flexibility and focused efficiency, while retaining transparency and legal authority. An MPPI alternative management system reflected in such agreement or arrangement would be limited to mobile phones and possibly other types of consumer electronic equipment with completely transparent transboundary movements among partners (e.g., this would be MPPI members for used or end-of-life mobile phones). Shipments would need to be in compliance with the overall Basel guidance on environmentally sound management of electronic equipment and good practice guidelines created by partners (e.g., MPPI) and approved by the appropriate working group (e.g., MPWG for mobile phones). The alternative agreement or arrangement have to be in line with provisions of Article 11.2 of the Basel Convention, which states that "such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes or other wastes as required by this Convention. These agreements or arrangements shall stipulate provisions, which are not less





environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries."

2.7 Option: Protocol on Environmentally Sound Management of Electronic Equipment

The Article 15 of the Basel Convention recognizes the fact that continuous review and evaluation of effective implementation of the Convention may be required, and Parties may consider and adopt protocols as required.

In this case a separate protocol on environmentally sound management of used and end-of life electronic equipment would be negotiated by Parties to the Basel Convention. It could contain a different waste classification and control procedure for used and end-of life electronic equipment with new provisions such as: 60 day tacit consent, shipments to preauthorised facilities³, no need to use hazardous waste carriers, multiple shipment notification, recognized brokers/traders that would be accredited under the Basel Convention, requirement to return of any hazardous waste from repair, refurbishment, or upgrading, if ESM facilities do not exist in the importing country and any other simplified procedures that are consistent with the Basel Convention. Parties could consider expanding it to all other e-wastes.

3. Some implications of options 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7

Option 2.1: Enhancing controls and closing current loopholes in Basel Convention implementation and enforcement

- 1. There would be no need to require any amendments to the Basel Convention it would be adopted by Parties as a guideline in support of the MPPI.
- 2. Additional testing and labeling requirements will entail additional costs to industry but industry will avoid liabilities and poor public relations for their subsequent exports.
- 3. With proper testing and labeling it will be unlikely that developing countries will see the need to prohibit such imports, which they might be likely to do without such controls borne by the exporters.
- 4. This guidance will likely be necessary in any event for proper enforcement of the Convention. However such guidance would not be seen as a substitute for controlling transboundary movements of used mobile phones or parts of such phones that possess Annex I constituents that exhibit Annex III characteristics and will be destined for Annex IV operations.
- 5. Countries may still need to obtain the national legal authority to require such testing and labeling.

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Option 2.2: Development of Mechanisms for Streamlining Exports from non-Annex VII countries to Annex VII countries

- 1. Notices for exports to developed countries that have environmentally sound facilities would be processed quickly.
- 2. Used and end-of life mobile phones generated in developing countries would be managed in environmentally sound manner, and hazardous components would be processed in facilities that are located in developed countries in the case no adequate facility would be available locally.
- 3. By allowing simplified procedures for shipments to OECD countries, fewer mobile phones would be shipped amongst developing countries, and there might be less incentive to establish domestic or regional refurbishment or recycling facilities in all countries in the longer term.

Option 2.3: Review of Annex VIII and IX of the Basel Convention

- 1. There is already some experience with the Basel Convention's review mechanism for waste entries as per COP Decision VI/35 (document UNEP/CHW.6/40). Parties have adopted a number of new entries and revisions.
- 2. The process could be time consuming and costly, but goals can be reached.
- 3. This option will not require a formal ratification of this amendment; the procedure outlined in Article 18 of the Basel Convention would be followed.

Option 2.4: Review of Annex II of the Basel Convention

- 1. The label of hazardous waste can be avoided, even when the material is in fact hazardous waste on the basis of Annexes I and III. The Annex II designation would mean that these categories of used mobile phones destined for repair, refurbishment or upgrading and end-of-life mobile phones (and possibly other types of electronic equipment) would be controlled and require a special consideration with respect to transboundary movements. The Ban Amendment would not apply to these new entries as it does not apply to Annex II of the Convention.
- 2. No formal ratification of this amendment would be required; the procedure outlined in Article 18 of the Basle Convention would be followed.

Option 2.5: Review of the Control Procedure of the Basel Convention

- 1. The interpretation approach would not require any amendment of the Convention or its Annexes. The only thing that would be required is to revise sections of the Basel Convention Implementation Manual dealing with notification procedures. However it can be expected that many will not believe this type of interpretation can be legally binding and in fact would not be acceptable without an amendment to the Convention.
- 2. On the other hand, to adopt special provisions by amending Article 6 of the Basel Convention for used and end-of-life products such as mobile phones or post-consumer electronic equipment, the process would be time consuming and a potentially difficult one. One would have to take into consideration implications on other recyclable or reusable waste streams. Any changes should be applicable to other similar used and end-of-life products, and not only to mobile phones.
- 3. An amendment to the Convention could be seen by some Parties as a way to open up the Convention to an increasing number of transboundary movements of hazardous wastes. It may not be consistent with the objectives of the Basel Convention that require promotion of reduction of waste at source, reprocessing and recycling domestically, and reduction of transboundary movements. At the same





- time, as noted above, full application of the Basel Convention to used and end-of-life mobile phones could undermine the goal of ensuring environmentally sound management for mobile phones.
- 4. Unless properly monitored, a simplified procedure for transboundary movements for reuse, material recovery and recycling, could also increase shipments for disposal under the disguise of recycling and reuse.
- 5. By allowing simplified procedures for shipments to OECD countries, the immediate concerns of developing countries might be alleviated. However it might also mean that there might not be incentives to establish domestic or regional environmentally sound refurbishment or recycling facilities in the long term.

Option 2.6: Creation of an Article 11 Agreement or Arrangement

- 1. There would not be any amendment to any articles or Annexes to the Basel Convention. Creation of an MPPI alternative management system (agreement or arrangement) under Article 11 would not require ratification of any amendments to the Convention or adoption of new or revised Annexes. However, negotiation of a new arrangement or agreement would be potentially costly and time consuming.
- 2. It would require only the decision to join by those countries that elect to join such an agreement.
- 3. The alternative management system (agreement or arrangement) could take effect as soon as two countries join, and other parties can join when they are prepared to do so.
- 4. It would create a separate international regime for transboundary movement of endof-life products such as used and end-of-life mobile phones or electronic equipment, which would supersede the Basel Convention.

Option 2.7: Protocol on Environmentally Sound Management of Electronic Equipment

- 1. The current Convention would remain as it is and the protocol would include all the necessary provisions for environmentally sound management of used and end-of-life electronic equipment
- 2. Development of such a protocol could be extremely time consuming and costly for the Secretariat and Parties.
- 3. Such protocol will be open to signature and ratification by all countries. It would come into force once a designated number of countries have ratified it. It would be legally binding only on those countries that have ratified it. It may take long time for it to enter into force.
- 4. There could be different list of countries that ratified such a protocol and those that ratified the Convention.





Appendix 2

Mobile Phone Working Group (WMPG) Participants

Chairman:

Marco Buletti - FOEN, Switzerland

Participants:

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Frank Mcalister - EPA, USA

Gareth Rice - Panasonic, UK

Georg Niedermeier - Siemens, Germany

Gordon Shields - Shields Environmental, UK

Greg Rippon - DEH, Australia

Gregor Margetson - Samsung, UK

Helena Castren - Nokia, Finland

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Jenifer Chambers - ReCellular, USA

Jim Puckett - BAN, USA

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John Bullock - IPMI, USA

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Kathy Woodward - Fonebak, UK

Lars Bruckner - NEC Europe, UK

Luc Perrouin - France Telecom/Orange, France

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Mats Pellback-Scharp - Sony Ericsson, Sweden

Paul Crossman – Fonebak, UK

Paul Didcott - Motorola, UK

Paul Dolan - T-mobile, USA

Paul Hagen - CTIA, USA

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Peter Hine - Sharp, UK Ramana James - Vodafone, UK Richard Gutierrez - BAN, USA Robert Tonetti - EPA, USA Ross Bartley - BIR, Belgium Sarah Paul - DEFRA, UK Seth Heine - Collective Good, USA Stephane Burban - Noranda, Switzerland Theo Schoenmakers - Philips, Netherlands Wen-Ling - IER, Taiwan Zephirin Athanase Ouedrago - Burkina Faso Zubaria Lone - Orange, UK Sachiko Kuwabara-Yamamoto - SBC, Switzerland Pierre Portas - SBC, Switzerland Claudia Fenerol - SBC, Switzerland Ibrahim Shafii-SBC, Switzerland Nicole Dawe - SBC, Switzerland John Myslicki-Consultant to SBC, Canada