



**MEETING OF THE PARTIES TO THE PROTOCOL
TO ELIMINATE ILLICIT TRADE IN TOBACCO PRODUCTS**

**FCTC/MOP/3/5
19 May 2023**

**Third session
Panama City, Panama, 27–30 November 2023
Provisional agenda item 5.1**

Tracking and Tracing Systems, including the global information-sharing focal point (Article 8)

Report by the Working Group

Purpose of the document

The present document contains the report of the Working Group on Tracking and Tracing Systems (Article 8) established by the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products at its first session, the mandate of which was extended at its second session, in decision FCTC/MOP2(6).

Action by the Meeting of the Parties

The MOP is invited to note the present report, provide further guidance and consider adopting the annexed draft decision.

Contribution to the Sustainable Development Goals (SDGs): All SDGs; in particular SDG 3 and Target 3.a, as well as SDG 16.

Link to Workplan and Budget item: 3.1.2.

Additional financial implications if not included in the Workplan and Budget: None.

Related document(s): Reports of the first, second and third meetings of the Working Group on Tracking and Tracing Systems (Article 8); Report on *Collection of information on tracking and tracing systems for tobacco products* (supplementary information).

BACKGROUND

1. At its First session, the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products decided to establish a Working Group for the development and implementation of tracking and tracing systems in accordance with Article 8 of the Protocol, including the global information-sharing focal point (GSP) and unique identification markings (UIMs) for cigarette packets and packages. In accordance with its mandate as per FCTC/MOP1(6), the Working Group provided a report to the Second session of the MOP (MOP2), contained in document FCTC/MOP/2/6. In decision FCTC/MOP2(6), the MOP adopted the recommendations made by the Working Group on the concept for a GSP and decided to extend the mandate of the Working Group.
2. The Working Group was mandated to further develop the technical specifications of the GSP and guide its implementation, as well as to develop proposals for a suitable governance structure covering various aspects of the GSP system. In addition, the Working Group was requested to prepare a road map setting out the various phases for implementing the GSP, taking into account the number of Parties that have established national or regional tracking and tracing systems at each stage, the information exchange needs of those Parties, and the compatibility and connectivity of their systems with the information technology (IT) infrastructure of the GSP. The road map was also expected to set out the development costs for each stage of the project.
3. In accordance with decision FCTC/MOP2(6), the Convention Secretariat made the necessary arrangements for the Working Group to be established under its extended mandate. The full composition of the Working Group is available on the website of the Convention Secretariat.
4. Following the work undertaken to support the Working Group under its first mandate, the United Nations International Computing Centre (UNICC) has been mandated by the Working Group, through the Convention Secretariat, to contribute as a technical expert to the completion of its extended mandate.

COLLECTION OF INFORMATION ON THE DEVELOPMENT AND IMPLEMENTATION OF TRACKING AND TRACING SYSTEMS

5. In decision FCTC/MOP2(6), the MOP also requested the Convention Secretariat to collect information on national and regional tracking and tracing systems. Under the overall guidance of the Working Group, the Convention Secretariat has undertaken a multimodal approach to collect the necessary information and report its findings to the Third session of the Meeting of the Parties (MOP3). The approach included the submission, for a second round, of a survey questionnaire on tracking and tracing systems (which was developed by the Working Group during its first mandate), among all Parties to the WHO Framework Convention on Tobacco Control (WHO FCTC), with a view to collecting new information on the existing tracking and tracing systems. To complement data collected through the survey, the Convention Secretariat has undertaken a review of information available in the public domain and carried out virtual interviews with selected Parties. During the interviews, attention was given to the structure and operation of existing tracking and tracing systems. A report entitled *Collection of information on tracking and tracing systems for tobacco products* was produced by the Convention Secretariat and is available on its website.

WORKING GROUP MEETINGS

6. The First meeting of the Working Group took place virtually on 27–28 June 2022. The Working Group discussed its mandate, reviewing the Working Group documents presented to MOP2 and decision FCTC/MOP2(6). It also discussed the approach for the development of the interim solution of the GSP, as well as the various steps before drawing the road map as specified in decision FCTC/MOP2(6). There was also an exchange of views on the collection of information on the establishment of tracking and tracing systems. The Working Group agreed on a workplan and timeline for their activities.

7. The Second meeting of the Working Group took place in person in Geneva on 24–26 October 2022. The Working Group discussed legal, security and confidentiality issues related to sharing tracking and tracing information and next steps in relation to the collection of information on the development and implementation of tracking and tracing systems. The Working Group benefited from experience-sharing by Parties in relation to implementing tracking and tracing systems and using data collected by these systems. Further, it discussed the project plan for the interim solution for the GSP and the road map for implementing more advanced features of the GSP, including the technical specifications and the timeline needed to develop each version of the GSP.

8. As per the decision of the Working Group, the Convention Secretariat facilitated the establishment of a drafting group that would prepare an initial text of the Working Group report to MOP3.

9. The Third (and final) meeting of the Working Group was held virtually on 3–4 April 2023. The Working Group considered the draft report proposed by the drafting group – the report had benefited from consultations conducted by electronic means prior to the meeting – and adopted it with minor amendments.

CONCEPTUAL ANALYSIS FOR THE ESTABLISHMENT OF A GSP

10. The recommendations on the concept for a GSP adopted by MOP2 established that the system to be created pursuant to Article 8 of the Protocol be designed to provide a communication platform allowing Parties to exchange information upon request in the context of their enforcement work against illicit tobacco trade. Such information exchange upon request is a well-known working concept when customs authorities cooperate across borders to fight smuggling.

11. Basic requirements for a well-functioning GSP include minimum impact and technological neutrality. As a communication platform designed to facilitate the exchange of information upon request, the GSP does not require the central storage of information from all national and regional tracking and tracing systems. The GSP shall operate as a query-based system, acting as an intermediary platform that would receive requests from one Party, route them to other relevant Parties and eventually provide the initial Party with the information requested.

12. As features of the GSP, any automation or interoperability with national and regional tracking and tracing systems that might be incorporated in the GSP as the development of the platform progresses, would only facilitate the routing of queries to the Parties and the generation of responses to the queries but would not require central storage, as the information would only be shared upon request.

LEGISLATIVE FRAMEWORK, INCLUDING LEGAL, SECURITY AND CONFIDENTIALITY ISSUES RELATED TO SHARING TRACKING AND TRACING INFORMATION

13. The Protocol is a new international treaty in its own right, establishing obligations on Parties, in line with its objective to eliminate all forms of illicit trade in tobacco products, in accordance with the terms of Article 15 of the WHO FCTC. One of those obligations is articulated in Article 8 of the Protocol, pursuant to which Parties shall, as part of the global tracking and tracing regime, require that information as specified in paragraph 4.1, subparagraphs (a) to (i) be available, either directly or accessible by means of a link, to assist Parties in determining the origin of tobacco products, the point of diversion where applicable, and to monitor and control the movement of tobacco products and their legal status. Each Party shall ensure that the information recorded under paragraph 5 of Article 8 is accessible to the GSP on request, subject to paragraph 9 of that Article, through a standard electronic secure interface with its national and/or regional central point. The GSP shall compile a list of the competent authorities of Parties and make the list available to all Parties. As per subparagraphs 9 (a) and (b) of Article 8, Parties shall have access to that information in a timely manner and by making a query to the GSP, requesting the information only as necessary for the purpose of detection or investigation of illicit trade in tobacco products. Article 8, therefore, imposes specific obligations on Parties to the Protocol. The obligation to exchange information, which is key to implementing the provisions of the Protocol, is also articulated in Article 3, on the objective of the treaty; Article 4, articulating its general obligations; Article 20 in relation to general information sharing; and Article 21 in relation to the sharing of enforcement information.

14. Under its first mandate, the Working Group had determined that ensuring the secure exchange of information was key to building Party trust in the GSP, and that such exchange would be a determining factor for the ability of Parties to use the system.¹ Article 8 explicitly requires that, in the context of the GSP, information be shared through a “secure interface”. In addition, the need for the secure exchange of information is embedded in Article 4 as part of the general obligations, and Article 27, within the framework of law enforcement cooperation.

15. The secure exchange of information is to be considered in connection with matters related to confidentiality. In that regard, Article 8 requires that each Party or the competent authority shall “protect and treat as confidential, as mutually agreed, any information that is exchanged”. Further, Article 22, addressing confidentiality and protection of information in the context of information sharing, specifies that “the exchange of information under the Protocol shall be subject to domestic law regarding confidentiality and privacy” and that “Parties shall protect, as mutually agreed, any confidential information that is exchanged”. Confidentiality requirements are also embedded in Article 5, which addresses the protection of personal data, Article 28 which provides for mutual administrative assistance, Article 29 which provides for mutual legal assistance, and Article 32 which focuses on reporting and exchange of information. Arising from these provisions is the expectation that Parties treat confidentiality issues in keeping with their national law and as agreed between the Parties in order to meet their obligations under the Protocol.

16. In summary, the Protocol itself provides both the requirement and the legal basis to exchange information in order to secure the supply chain of tobacco products, and to allow for cooperation in administrative and legal matters, including enforcement. In relation to the exchange of information, confidentiality and security matters, in keeping with other provisions contained in the treaty, the Protocol

¹ FCTC/MOP/2/6, Report of the Working Group on Tracking and Tracing Systems, and *Conceptual analysis for the establishment of a global information-sharing focal point* (supplementary information).

provides that the implementation of obligations by Parties is subject to the basic principles of their domestic law.

17. The Working Group on Assistance and Cooperation, established by decision FCTC/MOP1(10), has also considered the issue of the exchange of information, and provided examples for secure information-sharing platforms in relation to Articles 21, 24, 28 and 29 in its report FCTC/MOP2/7.

INTERIM SOLUTION FOR THE GSP

18. It is proposed that the interim solution for the GSP be an encrypted messaging system that will enable Parties to exchange traceability data against UIMs found on tobacco products in their territory. This solution is expected to be tested on a voluntary basis by some Parties in 2023 and to be ready for Parties to use since September 2023, as per decision FCTC/MOP2(6).

19. Parties will be required to nominate who should have access to the system from their territory, or region, and are expected to also provide the Convention Secretariat with information on their UIM code pattern. This information will be used to create a manual library of UIM patterns. When finding suspected illicit tobacco with unrecognized UIM codes within their territory, Parties can consult the library of UIM patterns to identify the Party most likely to be responsible for issuing the UIM.

20. Parties will use the encrypted messaging system to send a message to the Party identified as responsible for the manufacture of products. That message will consist of the UIM code(s) in question and fields for the requesting Party to ask additional questions. The receiving Party will consult their traceability system to identify if the identified UIM(s) was (were) created within their system. The receiving Party will send a response to the requesting Party confirming whether the UIM is valid in their system. If the code is valid, the receiving Party will also provide traceability data linked to that (those) code(s), such as manufacturing details and the intended shipment route (as per Article 8, paragraph 4.1, of the Protocol). Further messages may be submitted within the same message chain with any follow-up queries.

21. In relation to the request, a feature could be developed to enable users to tick boxes to select/deselect data that are required, in accordance with the list of Article 8, paragraph 4.1. This functionality would enable the requesting Party to target specific data to be provided, with a view to simplifying and/or speeding up the task borne by the replying Party, which would be the receiving Party (for example, in case the latter cannot generate an automated reply and would have to type its reply).

22. In relation to the reply, a standardized template for a reply would be provided for optional use, with a view to improving the intelligibility of replies.

23. Regarding the content of the messages, all information included by both requesting and receiving Parties will be end-to-end encrypted and will only be viewable by those Parties.

24. The system will automatically produce statistics that will enable the Convention Secretariat to produce reports on the number of requests made, along with data on requesting relationships. This will include:

- number of Parties registered, allowing filtering in a given time period

- number of users inside Parties, grouped by Party¹
- number of Parties sending or replying to requests (Parties that are active)
- number of messages sent or received by a given Party or set of Parties in a given time range
- number of messages exchanged between any two Parties
- number of UIMs exchanged in total and between Parties
- average time to obtain a reply to a request
- unread (not actioned) messages by a Party in a given period.

25. Together with a qualitative survey, this data will be used to inform decisions on the progression to future versions of the GSP.

26. The Working Group considers that this interim GSP complies with the obligation established in Article 8 of the Protocol. Funding for this interim solution has already been agreed upon and allocated by MOP2, as specified in decisions FCTC/MOP2(6) and FCTC/MOP2(13).²

ROAD MAP FOR IMPLEMENTING THE GSP (VERSION 2 AND VERSION 3 OF THE GSP)

27. As indicated in the *Conceptual analysis for the establishment of a global information-sharing focal point* presented to MOP2,³ additional features to the interim GSP may be progressively set up with a view to providing a more advanced tool to request and send information retrieved from tracking and tracing systems. Since IT development would entail higher costs, any move to a more advanced solution has to be proportionate to the needs and available resources of Parties. Such a move therefore requires that a substantial number of Parties be in a position to benefit from the system and actually use it.

28. The current section of the present report intends: (a) to provide a description of more advanced features for the GSP, namely version 2 and version 3; and (b) to recommend criteria for consideration by the MOP at future sessions, in order to facilitate its decision to move to the next version of the system.

(a) Description of more advanced versions of the GSP

29. More advanced versions of the GSP will build on the interim system, that is they will continue to operate through a web-based platform through which encrypted emails are exchanged between a requesting Party and a receiving Party. Moreover, the GSP should continue providing key statistics to monitor the use of the system (see paragraph 24 above).

¹ This set of statistics should not be used to inform decisions on progression to future versions of the GSP, as some Parties may have few (but active) designated users.

² FCTC/MOP2(13), budget line 1.2.1.

³ FCTC/MOP/2/6 and *Conceptual analysis for the establishment of a global information-sharing focal point* (supplementary information).

30. Two stages may be considered:

Version 2 – Automated recognition of the UIM to identify the recipient of the request

31. Version 2 intends to facilitate the process for requesting information. To this end, version 2 would contain a tool where the requesting Party could type UIMs of the seized product, so that the pattern of the UIM is automatically recognized and then the system recognizes the receiving Party. The requesting Party no longer has to verify the UIM against the library of UIM patterns (available on the platform) as in version 1. However, both version 1 and version 2 require a manual process by the receiving Party to download the request and process it in its tracking and tracing system, generate a reply from this system, and send this reply through the GSP.

32. According to the UNICC, IT development of version 2 would require six months and would cost US\$ 140 000.

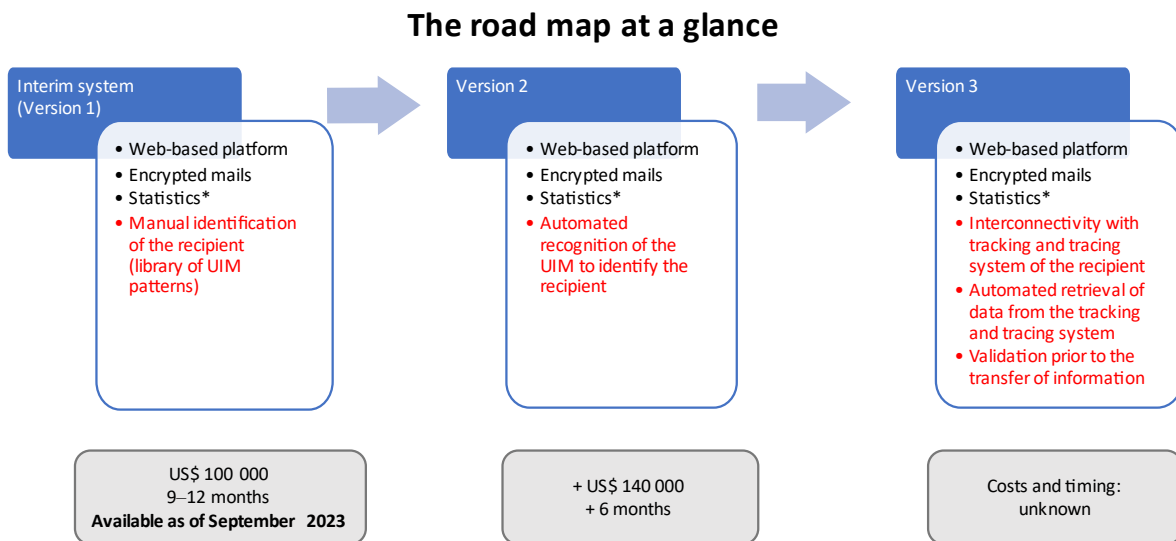
Version 3 – Interconnectivity with tracking and tracing system of the recipient to allow for semi-automated processing and retrieval of data from the tracking and tracing system of the latter (including validation prior to the transfer of information)

33. Version 3 would simplify the process for replying to requests, without introducing additional changes with regard to the tasks of the requesting Party. To this end, version 3 builds on version 2 and includes interconnectivity between the GSP and the tracking and tracing system of the recipient (that is, the Party where the seized product is registered), so that the GSP embeds two successive semi-automated steps:

- first, the GSP turns the request (that is, the list of UIMs to be checked) into a format that can be sent to and processed directly by the tracking and tracing system of the receiving Party; this replaces manual retrieval by the receiving Party of the request (copy-pasting the UIMs, downloading Excel list of UIMs, etc.); and
- second, the reply generated by the tracking and tracing system can be automatically transferred to the GSP and be sent to the requesting Party.

34. Both transfers of data (request transferred into the tracking and tracing system and report to the GSP) are subject to validation by the receiving Party, requesting an authorized user to authorize each of the two transfers of data prior to being processed. This validation process intends to enable Parties to check possible requirements in accordance with national law.

35. No provisional timing or estimate of costs was provided to the Working Group.



* Statistics: see paragraph 24 above

(b) Recommended criteria to be considered to move to the next version

36. Adding features to the GSP would require additional IT development, thus stable funding and IT expertise. Therefore, these developments should be proportionate to the needs of Parties, which should be based on their actual use of the system, as well as on available resources. Since the Working Group considers that the interim GSP complies with the obligations established in Article 8 of the Protocol, additional features are neither mandatory, nor would be required to be considered under a strict timeline. In addition to an assessment of the added value of additional features, the MOP should secure funding for developments considered to be necessary.

37. It is recommended that **both quantitative and qualitative criteria** be considered before the MOP decides to consider upgrading the GSP. Information related to these criteria would be collected by the Convention Secretariat and presented to the MOP.

38. **Quantitative criteria** are to be considered as a combination of:

- (a) Minimum number of Parties to the Protocol: Only Parties to the Protocol can access and use the GSP, or can at least request information. Therefore, a more automated GSP will be necessary only if a sufficient number of countries use it, that is, a minimum number of countries are Parties to the Protocol so that they can request information from another Party. Since these criteria can be seen as an incentive to join the Protocol, the following criteria may be recommended:
 - at least 50–70% of the Parties to the WHO FCTC should become Party to the Protocol prior to consideration by the MOP of a move to version 2 or 3 of the GSP; or
 - a minimum of 80 to 120 Parties to the Protocol prior to consideration by the MOP of a move version 2 or 3 of the GSP.

- (b) Number of Parties that actually have a tracking and tracing system in place, as a percentage of the number of Parties having acceded to the Protocol for five years or more, that is, Parties having a legal obligation to have a tracking and tracing system in accordance with Article 8, paragraph 1 of the Protocol.
- This criterion must be a priority, since it is key to justifying the theoretical need and usefulness of a more advanced GSP: the more tracking and tracing systems that are in place, the more seized tobacco products are likely to bear a UIM and be subject to a request to the Parties issuing UIMs.
 - Since the requirement for a more advanced GSP builds on the legal obligation to have a tracking and tracing system, it is assumed that all Parties have an operating tracking and tracing system or be in an advanced stage of development before more advanced solutions are considered.
- (c) Percentage of Parties to the Protocol sending/receiving requests: since it relates to the actual use of the GSP, this criterion is critical to complement the theoretical criteria related to the tracking and tracing systems in place, and to assess how many Parties would benefit from a more advanced tool:
- move to version 2: 50% of Parties sending and receiving requests
 - move to version 3: 70% of Parties sending and receiving requests.
- (d) Number of requests exchanged in total and per Party (per year): this criterion intends to reflect the added value of more automated features; it is recommended that this number represent a substantial volume of requests/replies that can no longer be handled manually.

39. In addition, a qualitative assessment of the exchanges is necessary. Both requests and replies must be assessed to determine whether the GSP is used in accordance with its objectives and provides for reasonable quality of service:

- requests: to be assessed with regard to correct identification of the recipient and absence of duplication of requests, clarity of the request, identification of the UIMs concerned, justification for the request, etc.; and
- replies: to be assessed with regard to the number of pending replies and timespan to provide a reply, usefulness of the reply, justification when no tracking and tracing data can be provided, etc.

CONCLUSIONS AND RECOMMENDATIONS

40. Having considered the issues that it was requested to address as part of the mandate accorded by decision FCTC/MOP2(6), the Working Group is of the view that:

- (a) The interim solution for the GSP fulfils the requirements set out in Article 8 of the Protocol by providing Parties with an adequate tool to exchange information related to tracked tobacco products, in line with confidentiality and security obligations established by the Protocol.

- (b) The usefulness of the GSP relies first on the timely communication by Parties of the contact point for the use of the system, and secondly on the detail and substantive input from the Parties from whom information is requested.
- (c) Bearing in mind that a limited number of Parties had a fully-fledged tracking and tracing system ready to be connected to the GSP in 2021, development of more advanced features of the GSP would have to be proportionate to actual needs and available resources.

41. As a result, the Working Group recommends that:

- (a) The interim GSP provide automated statistics with regard to the actual and appropriate use of the GSP, as described in paragraph 24.
- (b) The Convention Secretariat report to the MOP on this use, as described in paragraph 37.
- (c) On the basis of the quantitative and qualitative criteria enumerated in paragraphs 36–39 of the present document, the Parties take appropriate decisions with regard to the move to subsequent versions of the GSP, as described under paragraphs 29–35 of the present document, and ensure that secure funding is available for doing so.

42. Based on this report, the Working Group trusts that it has completed its mandate and would like to thank all Parties that participated in the consultation processes for their contributions.

ACTION BY THE MEETING OF THE PARTIES

43. The MOP is invited to note the present report and to consider adopting the annexed draft decision.

ANNEX

**DRAFT DECISION:
GLOBAL INFORMATION SHARING FOCAL POINT**

The Meeting of the Parties (MOP),

Recalling Article 8 of the Protocol to Eliminate Illicit Trade in Tobacco Products;

Noting the report prepared by the Working Group on Tracking and Tracing Systems (Article 8) contained in document FCTC/MOP/3/5;

Noting also the report prepared by the Convention Secretariat on the collection of information on tracking and tracing systems for tobacco products;

Noting further the recent implementation of the interim global information-sharing focal point since September 2023, in accordance with decision FCTC/MOP2(6);

Considering that this interim global information-sharing focal point complies with the legal obligation for Parties to have a focal point located in the Convention Secretariat and accessible to all Parties, in order to request and receive data stored in national and regional tracking and tracing systems with a view to eliminating illicit trade in tobacco products, as per Article 8, paragraphs 1, 3 and 8;

Recognizing that, given the higher costs for more advanced versions of the global information-sharing focal point, progressive implementation of additional features must be proportionate to the needs and available resources;

Considering the road map and recommended criteria developed by the Working Group;

Noting with satisfaction the outcome of the Working Group, which has completed its mandate in relation to the global information-sharing focal point, and thankful for the work of Parties that participated in the consultation processes,

1. ADOPTS the recommendations as provided under paragraph 41 of the report FCTC/MOP/3/5.
2. REMINDS Parties:
 - (a) of their obligation to establish a tracking and tracing system for cigarettes within a period of five years and for other tobacco products within a period of 10 years from the entry into force of the Protocol for each Party, in accordance with Article 8, paragraph 3;
 - (b) to inform the Convention Secretariat with respect to their tracking and tracing systems for tobacco products;
 - (c) to make appropriate use of the global information-sharing focal point, notably in relation to compliance with provisions related to security, confidentiality and protection of data, in accordance with Article 8, paragraphs 8 and 9.
3. INVITES Parties:
 - (a) to share experience including good practices, challenges and lessons learned about their tracking and tracing systems;

- (b) to provide the Convention Secretariat with information on the pattern of their unique identification marking as defined under Article 8, paragraph 3, of the Protocol, and to update this information when needed; this information will populate a library of unique identification marking(s) patterns made available in the global information-sharing focal point to enable requests to be properly directed to the appropriate Party;
- (c) to designate authorities and physical persons operating as administrators at the national and regional levels, in charge of issuing credentials and granting access rights to the final users;
- (d) to inform the Convention Secretariat of the designated contact points operating as administrators and to update these data when needed;
- (e) to issue credentials and grant access rights to the final users for sending requests and replying to requests, in accordance with access rights policy, as well as to keep records of the rights granted;
- (f) to make the best use of the global information-sharing focal point to support the global action to eliminate illicit trade in tobacco products;
- (g) to inform the Convention Secretariat of any difficulties in the use of the global information-sharing focal point;
- (h) to rely on the recommended quantitative and qualitative criteria to take further decisions on possible future development of more advanced versions of the global information-sharing focal point.

4. REQUESTS the Convention Secretariat:

- (a) to continue operating the global information-sharing focal point as established since September 2023 with a view to ensuring efficient exchange of information between the Parties in accordance with Article 8 of the Protocol;
- (b) to establish the library of unique identification marking(s) patterns, to be made available in the global information-sharing focal point, and to maintain it updated;
- (c) to grant and update administrator rights to the designated user based on requests from the Parties, as well as to keep a record of such granted rights;
- (d) to continue collecting information on national and regional tracking and tracing systems and to report on their findings to the MOP;
- (e) to monitor the use of the global information-sharing focal point, including collecting statistics from the system and qualitative data, as described in report FCTC/MOP/3/5, as well as any relevant feedback from Parties using the systems;
- (f) to regularly report on the use of the global information-sharing focal point to the MOP and to the Bureau.

(XXX plenary meeting, XX November 2023)

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