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COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

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Standardized procedures for FAO policies, voluntary guidelines, strategies and action plans

I. Introduction

1. At its 166th Session in May 2021, the Council “*requested a Council discussion on a standardized procedure for the elaboration and approval of FAO policies, voluntary guidelines, strategies and action plans, taking into account the Basic Texts of the Organization, and requested open, transparent and inclusive consultations with Members in this regard*”.¹
2. This matter is referred to the Committee on Constitutional and Legal Matters (CCLM) under Rule XXXIV (8) of the General Rules of the Organization (GRO), pursuant to which it may “*consider the legal and constitutional aspects of any other matters submitted to it by the Council or the Director-General*”.

II. Background

3. The work of the Organization includes its mandate to “*collect, analyse, interpret and disseminate information relating to nutrition, food and agriculture*”.² The Organization is also charged with promoting and, where appropriate, recommending national and international action with respect to many aspects of nutrition, food and agriculture.³ This includes, for example, spreading public knowledge of nutritional and agricultural science and practice, the conservation of natural resources and the adoption of improved methods of agricultural production, the improvement of the processing, marketing and distribution of food and agricultural products, and the adoption of international policies with respect to agricultural commodity arrangements.

¹ CL 166/REP, paragraph 24 (d).

² Constitution, Article I (1).

³ Constitution, Article I (2).

4. The Organization's Basic Attributes, as set out in the Strategic Framework 2022-31, support the elaboration of global public goods such as policies, strategies, voluntary guidelines, information materials and action plans. These Basic Attributes include the following:

“a) It is the United Nations specialized agency in food and agriculture, with a comprehensive mandate from its Members to work globally on all aspects of food and agriculture (including fisheries, forestry and natural resources' management), food security and nutrition across the humanitarian-development continuum.

b) Its intergovernmental status and neutrality and the authority to provide a neutral platform where nations can call on each other for dialogue and knowledge exchange.

c) It has the authority to request any Member to submit information relating to the purpose of the Organization (...).⁴

III. Illustrations of processes followed for elaboration and approval

5. In light of its mandate and Basic Attributes, the Organization has elaborated many strategies, voluntary guidelines, other forms of policy and technical guidance. A few illustrations below set out how the Organization has addressed these.

A. The Update of the Vision and Strategy for FAO's Work in Nutrition

6. The Update of the Vision and Strategy for FAO's Work in Nutrition (“the Nutrition Strategy”) *“establishes FAO's vision and mission for nutrition and provides the framework to guide the specific activities at global and decentralized levels throughout 2021 – 2025”*.⁵ It is a global policy framework which sets out Guiding Principles, Action Areas and Outcomes for the work of the Organization on nutrition. It includes an Accountability Framework and an Implementation Plan setting out Key Performance Indicators.
7. The Nutrition Strategy was adopted at the 166th Session of the Council in May 2021.⁶ This adoption followed review by the 127th, 129th and 130th Sessions of the Programme Committee, the 27th Session of the Committee on Agriculture (COAG), the 25th Session of the Committee on Forestry (COFO), the 34th Session of the Committee on Fisheries (COFI), and the 73rd (Extraordinary) Session of the Committee on Commodity Problems (CCP). Each review was undertaken in line with the mandates of those Bodies. The Nutrition Strategy was assessed by all the Technical Committees because their respective competences were relevant to the technical content of this policy document. It was reviewed by the Programme Committee given its implications for the Organization's programme of work. Finally, it was submitted for approval by the Council because it established an overarching framework for the Organization's work on nutrition.⁷

B. The Work on Antimicrobial Resistance

8. By its Resolution 4/2015 on Antimicrobial Resistance (AMR), its decision on the Medium-Term Plan 2014-17 (reviewed) and Programme of Work and Budget 2016-17 (MTP/PWB), the Conference stressed the importance of the work on AMR. It requested the Organization to “keep

⁴ Strategic Framework 2022-2031, under paragraph 42.

⁵ PC 130/5 Rev.1.

⁶ CL 166/REP, paragraph 24 (b).

⁷ The implementation of the updated Vision and Strategy could only begin after it was endorsed by the Council. The finalization of this document took two years; the work having been initiated upon the recommendation of the Programme Committee at its 126th Session in March 2019. It could be argued that, while the Vision and Strategy required Governing Body endorsement, the Accountability Framework and Implementation Plan did not, in light of the roles and functions prescribed in the Basic Texts.

Members regularly apprised of the Secretariat's work in this area, through reports to the Committee on Agriculture”.

9. The Council, at its 153rd Session in December 2015, “*supported the request of the Programme Committee for an update to be presented to the Committee's next session on ongoing and planned activities for the 2016-17 biennium, as well as on estimated resource requirements and availability in line with the approved Programme of Work and Budget, highlighting the importance of adequate resources from different sources to ensure effective implementation*”.⁸
10. The Secretariat presented its AMR Action Plan for 2016-2020 to the 109th Session of the Programme Committee. Subsequently, the Council, taking into account the advice of the Programme Committee, “*welcomed the progress of FAO's work on antimicrobial resistance (AMR), its Action Plan and focus areas of work, as well as the Secretariat's support for AMR activities*”.⁹
11. Thus, the Conference, at its 39th Session, took a governance decision that work on AMR should be a priority for the Organization. The Action Plan to implement this governance decision was developed by the Secretariat. Consistent with the mandates in the Basic Texts, the Governing Bodies concerned, i.e., COAG and the Council, received information on the Action Plan, provided guidance on its implementation, and monitored the delivery of the Organization's work on AMR.

C. Strategy on Mainstreaming Biodiversity across Agricultural Sectors

12. The FAO Conference, at its 40th Session in July 2017, endorsed the call on FAO and countries to mainstream biodiversity in agriculture, to promote FAO's contribution to ecosystem services and climate change adaptation and mitigation.¹⁰ The Conference “*welcomed FAO's initiative to act as Biodiversity Mainstreaming Platform*”¹¹, and called upon COAG, COFI and COFO to address biodiversity as a cross-cutting issue at their respective meetings in 2018.¹²
13. COFI subsequently requested the Secretariat to prepare and operationalize a fisheries and aquaculture biodiversity plan as part of its biodiversity strategy.¹³ Similarly, COFO requested the Secretariat to develop and submit for its consideration a biodiversity strategy including a plan to mainstream biodiversity in the forest sector.¹⁴ COAG, in turn, requested the Secretariat to develop a strategy on mainstreaming biodiversity across agricultural sectors for consideration by the Programme Committee and Council, to be presented at the FAO Conference in 2019.¹⁵
14. The Council, at its 160th Session in December 2018, endorsed the recommendations of these Technical Committees, in particular “*the development by FAO of a strategy on biodiversity mainstreaming across agricultural sectors*”.¹⁶ The Programme Committee received a progress report on the development of the Strategy on Mainstreaming Biodiversity across Agricultural Sectors at its 126th Session in March 2019.¹⁷ Based on the recommendation of the Programme Committee, the Council, at its 161st Session in April 2019, stressed the need for further consultation with Members and recommended that the Conference mandate it to consider and to

⁸ CL 153/REP, paragraph 9.

⁹ CL 154/REP, paragraph 15 (f); CL 154/3, paragraph 7.

¹⁰ C 2017/REP, paragraph 43 (b).

¹¹ C 2017/REP, paragraph 55 (a).

¹² C 2017/REP, paragraph 43 (b).

¹³ C 2019/23, paragraph 102.

¹⁴ C 2019/24, paragraph 14 (d) (iv).

¹⁵ C 2019/21, paragraph 47.

¹⁶ CL 160/REP, paragraph 6 (o).

¹⁷ PC 126/7.

adopt the Strategy.¹⁸ The 41st Session of the Conference in June 2019 endorsed this recommendation.

15. The Council adopted the Strategy at its 163rd Session in December 2019. Thus, the initiation, elaboration and the approval of the new Strategy complied with the mandates attributed and defined in the Basic Texts, enabling the relevant Committees to advise the Conference and Council with the support of the Secretariat.
16. The Strategy required FAO to “develop an action plan, including a timetable, to operationalize the Strategy, for consideration by the FAO Technical Committees and approval by the Council”.¹⁹ The requirement for Council approval was somewhat unusual given that the action plan, including its timetable, was not a product setting overarching policy nor of a global regulatory nature.
17. Following a presentation of a first draft of the Action Plan to the Programme Committee, the Council, at its 165th Session in December 2020, recommended that an open, transparent and Member-led consultation process be convened to finalize the draft Action Plan, including inputs from all Technical Committees, as well as the Group of National Focal Points for Biodiversity for Food and Agriculture of the Commission on Genetic Resources for Food and Agriculture (CGRFA). Following these consultations, the Action Plan was approved by the Council at its 166th Session in May 2021²⁰ and implementation activities could begin.

D. *The Voluntary Guidelines on Food Systems and Nutrition*

18. The Voluntary Guidelines on Food Systems and Nutrition (VGFSyN) were adopted by the Committee on World Food Security (CFS) at its 47th Plenary Session in February 2021. It is recalled that the CFS is an intergovernmental Committee, composed of members, participants and observers. These Voluntary Guidelines were developed and negotiated within the framework of the CFS, in accordance with its mandate under the Basic Texts. They are global in scope and intended to provide guidance mainly to governments, as well as specialised institutions and relevant stakeholders, on appropriate policies, responsible investments and institutional arrangements needed to address the key causes of malnutrition in all its forms from a food system perspective. In considering the report of the CFS 47th Plenary Session, the adoption of the VGFSyN was “commended” by the Council at its 166th Session in May 2021,²¹ and “welcomed” by the Conference at its 42nd Session in June 2021.²²

E. *The Voluntary Guidelines for Sustainable Soil Management*

19. The establishment of the Global Soil Partnership (GSP),²³ a voluntary multi-stakeholder platform, and its terms of reference were approved by the Council in 2012. These terms of reference include the objective to “develop sustainable soil management guidelines”.²⁴ The GSP Rules of Procedure clarify that the “Plenary Assembly shall report, through the Secretariat, to the FAO’s Committee on Agriculture which may bring to the attention of the FAO Council any recommendation adopted by the GSP that may have policy implications, or could affect strategic programmes of FAO”.²⁵
20. The proposal to develop the Voluntary Guidelines for Sustainable Soil Management within the framework of the Global Soil Partnership (GSP) was presented to, and noted by, COAG at its

¹⁸ C 2019/LIM/15.

¹⁹ CL 163 /11 Rev 1, page 10.

²⁰ CL166/REP, paragraph 24, (h).

²¹ CL 166/REP, paragraph 27 (a).

²² C 2021/REP, paragraph 55.

²³ <http://www.fao.org/global-soil-partnership/en/>.

²⁴ CL 145/REP, paragraph 24, and Appendix F, paragraph 8.

²⁵ Rules of Procedure for the GSP, June 2013, Rule IX.

25th Session in September 2016, and the Guidelines were endorsed by the Council at its 155th Session in December 2016.

21. Thus, in the exercise of their respective mandates, the competent Governing Bodies directed the work to be done by this multi-stakeholder platform and subsequently endorsed its output.

F. The Code of Conduct for Responsible Fisheries - Guidelines to Prevent and Reduce Bycatch of Marine Mammals in Capture Fisheries

22. The Conference, at its 28th Session in November 1995, adopted the Code of Conduct for Responsible Fisheries (“the Code”) through Resolution 4/95. This requested FAO to, *inter alia*, elaborate appropriate technical guidelines in support of the implementation of the Code, in collaboration with Members and interested relevant organizations.²⁶ These technical guidelines are voluntary norms developed by the Secretariat in support of a global policy instrument, i.e., the Code. One such example is the Guidelines to Prevent and Reduce Bycatch of Marine Mammals in Capture Fisheries (“the Guidelines”).
23. COFI, at its 31st Session in June 2014, reiterated its support for FAO’s ongoing work on bycatch management and reduction of discards and requested an expansion of efforts to effectively implement the International Guidelines on Bycatch Management and Reduction of Discards, addressing all fishing gears, including, *inter alia*, that of marine mammals and discards.²⁷ It revisited the subject during its 32nd Session in July 2016.²⁸ At its 33rd Session in July 2018, it encouraged FAO to continue its work on the matter and engage with Members, relevant experts, and organizations in the development of best practices in the form of technical guidelines.²⁹
24. Following an Expert Workshop held in March 2018 and an Expert Meeting in September 2019 involving Members and relevant international organizations, the Secretariat developed and published the Guidelines. This publication was commended by COFI at its 34th Session in February 2021 and the Conference, at its 42nd Session in June 2021, endorsed the Report of the 34th Session of COFI.³⁰

IV. Constitutional and legal framework

25. The mandate and Basic Attributes of the Organization derive from the Basic Texts – the Organization’s constitutional and legal framework – and vest various actors with specific functions. In the examples set out above, each of these actors discharged their respective functions in line with the Basic Texts.
26. The Basic Texts do not identify every type of global good or product that may be generated by the Organization. Nevertheless, their elaboration and, as appropriate, approval, have over the years been guided by the functions assigned respectively to the Governing Bodies and the Director-General in the Basic Texts.

A. The Governing Bodies

27. Volume II, Section B, of the Basic Texts provides that “[t]he Governing Bodies of FAO are the bodies which directly, or indirectly through their parent bodies, contribute within their respective mandates, to: (a) the definition of the overall policies and regulatory frameworks of the Organization; (b) the establishment of the Strategic Framework, the Medium-Term Plan and the

²⁶ Resolution 4/95, operative paragraph 5.

²⁷ COFI 31/REP, paragraph 14.

²⁸ COFI 32/REP, paragraph 21.

²⁹ COFI 33/REP, paragraph 106.

³⁰ COFI 34/REP, paragraph 17 (g).

*Programme of Work and Budget, and (c) exercise, or contribute to the oversight of the administration of the Organization”.*³¹

28. The functions of the Governing Bodies and their respective mandates to review FAO policies, voluntary guidelines, strategies and actions plans are set out as follows:

Governing Body	Function	Mandate to review FAO policies, voluntary guidelines, strategies and action plans
Conference	The ultimate decision making body of the Organization, determining its overall policy and strategy and taking the final decision on objectives, strategy and budget. ³²	Without prejudice to the statutory functions defined in the Constitution and the GRO, the Conference will give more attention to global policy issues and international regulatory frameworks, acting normally on the recommendation of the Technical Committees and Regional Conferences and, where appropriate, the Council. ³³
Council	Exercising a major role in, <i>inter alia</i> , defining strategy, priorities and establishing the budget of the Organization. ³⁴	<ol style="list-style-type: none"> 1. Monitoring the implementation of governance decisions and the performance of the Organization against established performance targets. 2. Making decisions on matters that need not be submitted to the Conference and other matters stipulated in the Basic Texts or delegated to it by the Conference.³⁵
Council Committees	Advising the Council within the areas of their respective mandates. ³⁶	Assisting, advising, and providing specific inputs to the Council on matters pertaining to the operational, financial, and legal administration of the Organization within their respective mandates and areas of competence.
Technical Committees	Reporting to the Council on programme and budget matters and to the Conference on policy and regulatory matters. ³⁷	<ol style="list-style-type: none"> 1. Reviewing programmes of work of the Organization within the areas of their technical competence. 2. Addressing matters referred to them by the Conference, Council or Director-General or at the request of a Member Nation. 3. Reporting to the Council or tendering advice to the Director-General.³⁸
The Committee on World Food Security (CFS) ³⁹	Reporting to the Conference and to the United Nations General Assembly (UNGA), through the Economic and Social Council (ECOSOC) and the Conference. ⁴⁰	Promoting greater policy convergence and coordination including through the development and endorsement of international strategies and voluntary guidelines on food security and nutrition and other public goods. ⁴¹

³¹ C 2009/REP, paragraph 142. In 2017, the Independent Review of FAO Governance Reforms noted that “*point a) in the definition of the Basic Texts of Governing Bodies is open to misunderstanding as some may understand ‘overall policies’ as meaning FAO’s internal policies, e.g. policies on about the Secretariat’s human resources and programmes rather than the Organization’s contribution to the larger global dialogue. It encourages Members and the Secretariat to consider a slight change in the definition of Governing Bodies in the Basic Texts so that this is fully consistent with the Constitution regarding ‘international functions’*” (C 2015/25, para. 45). This recommendation was not implemented because the Open-ended Working Group on the Assessment of Governance Reforms convened by the Independent Chairperson of the Council on 6 February 2015 considered that the “*definition of Governing Bodies is adequately worded in the Basic Texts*” (see Assessment of FAO Governance Reforms, C 2015/26 Rev. 1, endorsed by the Conference in Resolution 7/2015).

³² Volume II, Section C, of the Basic Texts, Implementation of the IPA regarding the Conference; Resolution 7/2009 of the Thirty-sixth Session of the Conference.

³³ Ibid.

³⁴ Volume II, Section D, of the Basic Texts, Implementation of the IPA regarding the Council; Resolution 8/2009 of the Thirty-sixth Session of the Conference.

³⁵ Constitution, Article V (3) and GRO, Rule XXIV.

³⁶ Constitution, Article V (6) (a); GRO Rules XXVI, XXVII, XXVIII and XXXIV.

³⁷ Constitution, Article V (6) (b); GRO Rules XXIX, XXX, XXXI and XXXII.

³⁸ Constitution, Article V (6) (b); GRO Rules XXIX, XXX, XXXI and XXXII.

³⁹ Article III (9) of the Constitution provides that the “*Conference shall be assisted by a Committee on World Food Security*”. The CSF is a *sui generis* body and intergovernmental Committee in FAO, whose composition and terms of reference are governed by rules adopted by the Conference (GRO Rule XXXIII (8)). The current structure and mandate of the CFS as set out in the Basic Texts is the outcome of an extensive reform process.

⁴⁰ GRO Rule XXXIII (15). See also Rules II (2) (c) (xii) and XXIV (2) (e).

⁴¹ GRO Rule XXXIII (9) (b). When these have programmatic, financial or legal implications, they must be reported to the Council, through its Committees and, subsequently, to the Conference (see footnote 14).

Regional Conferences	Reporting to the Council through the Programme and Finance Committees, in the areas of their respective mandates, on programme and budget matters and to the Conference on policy and regulatory matters. ⁴²	The Regional Conferences do not generally review FAO policies, voluntary guidelines, strategies and action plans. However, they are mandated to provide a forum for the formulation of regional positions on global policy and regulatory issues within the mandate of the Organization or having implications in respect of the mandate and activities of the Organization, including with a view to promoting regional coherence on global policy and regulatory matters. ⁴³
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B. *The Director-General*

29. Under Article VII (4) of the FAO Constitution, the Director-General has full power and authority to: (i) direct the work of the Organization, subject to the general supervision of the Conference and Council; (ii) carry out the decisions of the Conference and Council; and (iii) carry out duties with regards to conventions and agreements laid down in the GRO.⁴⁴ The work of the Organization includes the delivery of the Organization's mandate as set out in the Constitution and implementing the policy priorities and governance decisions of the Governing Bodies.⁴⁵ Within this framework, the Secretariat may, under the Director-General's authority, deliver global public goods and products. However, apart from the Strategic Framework, the Medium-Term Plan and the Programme of Work and Budget, the Basic Texts do not specify which are the products that the Secretariat must submit to the Governing Bodies for approval. Obviously, products falling within the mandate of the Governing Bodies, as defined in the Basic Texts and further clarified by the Immediate Plan of Action for FAO Renewal (IPA) adopted by the Conference in 2008, will be submitted to them for review and endorsement.
30. It is recalled that the Independent External Evaluation of FAO (IEE) had identified an overlap between the roles of the Governing Bodies and the Secretariat.⁴⁶ In that regard, it recommended that the Basic Texts be amended to clarify their respective functions. This recommendation described the functions of the Secretariat as "*includ[ing] responsibility for all aspects of the internal workings of the Organization and its programme of work, in line with the decisions of the Governing Bodies and in conformity with the Basic Texts: (...) [and] decid[ing] the detail of the programme of work and ensur[ing] its effective and efficient implementation*".⁴⁷ In the event, this wording was not reflected in the IPA, pursuant to which most of the recommendations made by the IEE were implemented.

C. *Statutory Bodies*

31. Statutory Bodies may be established by the Conference or the Council under Articles VI and XIV of the Constitution. When defining the terms of reference of Article VI Bodies, or approving Article XIV treaty texts, the Governing Bodies determine the processes to be followed by them with respect to the elaboration and finalization of policies, voluntary guidelines, strategies and other global goods. Indeed, the Governing Bodies may mandate those Bodies to develop voluntary guidelines, standards, policies and strategies. The Governing Bodies may also opt to forgo any process of review or approval of those products.

⁴² GRO Rule XXXV (3).

⁴³ GRO Rule XXXV (2) (b).

⁴⁴ Constitution, Article VII (4); GRO Rule XXXVIII (1) and 2 (e).

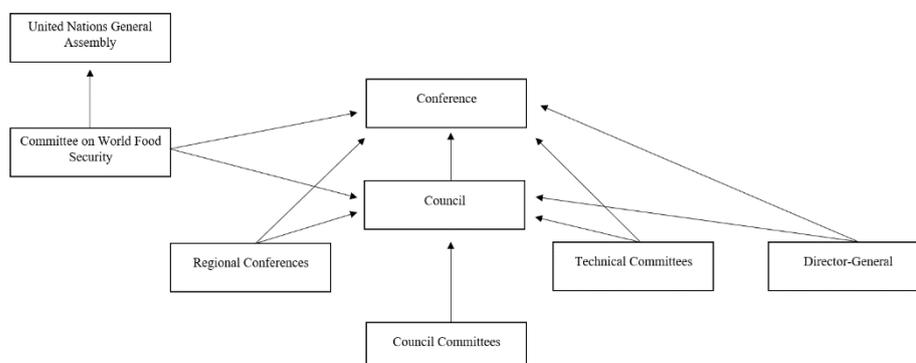
⁴⁵ Constitution, Article I (1).

⁴⁶ IEE, paragraphs 745-748.

⁴⁷ IEE, paragraph 748 (b).

D. Summary

32. The Basic Texts inform the respective roles of the Governing Bodies and the Secretariat in elaborating and finalizing its global products. The processes for elaboration and approval, as laid down in the Basic Texts, may be illustrated as follows:



V. Practice of other United Nations System organizations

A. Standardized Procedures

33. The Legal Office contacted counterparts in other UN System organizations to inquire whether their governing bodies had established standardized procedures for the elaboration and approval of voluntary guidelines and other overarching policy or regulatory instruments. All the agencies that responded⁴⁸ advised that no procedures of this nature had been adopted.

B. Practice

34. Publicly available information on the practice of other UN System organizations indicates that their processes, as regards the development and approval of instruments, are similar to those of FAO. It is, nevertheless, noted that few other organizations generate products of the same nature as FAO, let alone in such volume.
35. One of the few organizations which may be comparable to FAO, in light of the technical nature of its mandate, is the World Health Organization (WHO). An evaluation of WHO's normative function conducted in 2017 identified the normative products developed and approved by their Governing Bodies and those developed by the WHO Secretariat without Governing Body approval. The processes for elaboration and approval of such products are determined by the WHO Constitution as illustrated in the table set out below, which is reproduced from the evaluation report:⁴⁹

	Products	Examples	Characteristics
WHA based	1. Conventions	Framework Convention on	Falls under Article 19 in WHO's Constitution Legally binding instruments

⁴⁸ The Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), the World Trade Organization (WTO), the International Civil Aviation Organization (ICAO), the International Fund for Agricultural Development (IFAD), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Industrial Development Organization (UNIDO) and the World Intellectual Property Organization (WIPO).

⁴⁹ Evaluation of WHO's Normative Function (2017), pages 12-13, Table 2: Types of normative products (https://www.who.int/about/evaluation/who_normative_function_report_july2017.pdf).

	Products	Examples	Characteristics
		Tobacco Control (2005)	Require two thirds majority in WHA
	2. Regulations	The International Health Regulations (1956) International Classification of Diseases	Falls under Article 21&22 in WHO's Constitution Legally binding instruments Require simple majority in WHA Member States may opt out in advance Limited to five areas: (a) Sanitary and quarantine requirements (b) Nomenclatures with respect to diseases, causes of death and public health practices (c) Standards with respect to diagnostic procedures (d) Standards with respect to safety, purity and potency of biological and pharmaceutical products (e) Advertising and labelling of pharmaceutical products
	3. Regulatory recommendations	Codes, strategies or plans of actions such as: - International Code of Marketing of Breast Milk Substitutes (1981) - Global Code of Practice on the International Recruitment of Health Personnel (2010) - Codex Alimentarius (food standards) (1963) - Global Strategy to Reduce the Harmful Use of Alcohol - Global Immunisation Strategy - Malaria Control Strategy	All matters within WHO's competence Codes reserved for matters of greater political significance (used only twice) Adopted more than 20 strategies. Presented as WHA resolutions Require simple majority Not legally binding Falls under Article 23 in WHO Constitution.
Secretariat based	4. Scientific and technical normative products	Technical guidelines and standards on e.g., immunisation, safe motherhood, financing, malaria, etc. List of essential medicines Guidelines to prequalify medicines	Presented by the Secretariat Based on WHO's scientific/technical credibility Non-binding instruments
	5. Health trends assessments	Annual World Health Statistics,	Descriptive – not normative, but public goods of benefit to all countries

	Products	Examples	Characteristics
		Global Burden of Disease, Risk and Injury, World Malaria Report, Maternal Mortality, Countdown 2015, etc.	

36. The evaluation noted that the scientific and technical normative products – “*all guidelines and standards developed by the Secretariat based on a general grant of authority by the Governing body*” – constitute the largest group of normative products. They are not endorsed by the World Health Assembly (WHA).⁵⁰
37. The categorization of normative products in the evaluation has been reflected in the WHO’s Thirteenth General Programme of Work, 2019–2023, as follows:
- a) Constitutional normative products – conventions/regulations/regulatory recommendations approved by the Health Assembly or by an equivalent body (e.g., Codex Alimentarius Commission).
 - b) Scientific and technical normative products – norms and standards set by the Secretariat for a broad range of thematic areas, based on scientific evidence and advice from leading technical experts.
 - c) Health trend assessments – such as the annual World Health Statistics, Global Burden of Disease, World Malaria Report, Maternal Mortality.⁵¹
38. As in the case of FAO, the WHO procedures are guided by its constitutional framework. There are no specific written procedures endorsed by WHO Governing Bodies for the development and approval of different types of instruments.

VI. Considerations

39. The Basic Texts, including the mandates they establish for the Governing Bodies and the Secretariat, dictate the path that policies, voluntary guidelines, strategies, action plans, information materials and other products must follow for elaboration and implementation.
40. For example, voluntary guidelines addressing fisheries matters must be reviewed and assessed by COFI. If those guidelines have programmatic or financial implications for FAO, they must be considered by the Council. Before submission to the Council, they must be reviewed by the Programme and Finance Committees so that they can advise the Council. If they raise constitutional and legal questions, they must be reviewed by the CCLM. The Council will endorse the guidelines if they address a matter within its mandate or is the subject of a specific delegation from the Conference; or the Council will transmit them to the Conference for its consideration and adoption.
41. In some instances, the Basic Texts specify which documents require approval of the Governing Bodies e.g., the Strategic Framework, the Medium-Term Plan and the Programme of Work and Budget. More generally, products that define the overarching policies and strategies of the Organization, voluntary guidelines, and international regulatory measures will be submitted for review and approval by the Governing Bodies.

⁵⁰ The WHO secretariat has adopted an internal handbook setting out processes for quality assessment of guidelines prior to publication. As noted in that internal handbook, “*Guidelines are the fundamental means through which the Organization fulfils its technical leadership in health*”. WHO Handbook for Guideline Development 2014, page 1.

⁵¹ Approved by the Seventy-first World Health Assembly in resolution WHA71.1 on 25 May 2018, page 38.

42. On the other hand, products such as action plans and guidelines supporting the implementation of Members' policy priorities and governance decisions are elaborated and finalized by the Secretariat, under the authority of the Director-General. The Governing Bodies are kept informed of such products and updated on the Secretariat's delivery against them, in line with the oversight functions established in the Basic Texts.
43. Other products derive from the neutrality and technical expertise of FAO. These are information materials, non-negotiated documents, which are informative in nature and are, as such, not approved by the Governing Bodies. They include reports that the Director-General is required to prepare under the Basic Texts, such as the reports to the Conference on the state of food and agriculture,⁵² as well as the annual world surveys of the state of food and agriculture (e.g., flagship publications such as the State of Food and Agriculture). These products are submitted to the consideration of Members but are not subject to their approval prior to issuance.
44. In light of the foregoing, the Committee may wish to consider whether there is a need for a formal standardized procedure for the elaboration and finalization of FAO policies, voluntary guidelines and strategies. It is observed that going beyond the guidance provided in the Basic Texts and defining specific categories of FAO products, and the processes by which they should be elaborated, would be a complex exercise, given the very broad range of global public goods that the Organization develops in furtherance of its mandate.
45. In the same vein, the Committee may also wish to consider whether to request the Secretariat to focus on the intended substantive content of each product at the time work is being initiated. Such a focus may help in clarifying the process for elaboration and finalization of each product, paying due regard to the mandates set out in the Basic Texts.

VII. Suggested action by the Committee

46. The Committee is invited to review this document and make such comments and observations thereon, as it considers appropriate.

⁵² Rule XXXVIII (2) (i), See, e.g., C 2021/2 Rev.1 and C 2021/REP, paragraph 33.