

REQUESTS FOR BINDING DECISIONS ON APPLICATION OF THE CODE

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Guidelines for requests for binding decisions on application of the *Code*

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Introduction

The International Code of Nomenclature for algae, fungi, and plants (the *Shenzhen Code*, Turland & al. in *Regnum Veg.* 159. 2018; <https://doi.org/10.12705/Code.2018>) provides for requests to be made for rulings on the application of two provisions of the *Code*. These are (1) whether or not names or their epithets are sufficiently alike to be confused, and hence the names should be treated as homonyms, and (2) whether or not a descriptive statement satisfies the requirement for a “description or diagnosis” for valid publication of the name of a new taxon.

Prior to the XVIII International Botanical Congress in Melbourne in 2011, the General Committee for botanical nomenclature became concerned that the practice had evolved of submitting such requests directly to the Secretary of the relevant Permanent Nomenclature Committee, bypassing publication in *Taxon*, the purpose of which is to announce submitted requests to the botanical community so that all concerned have the opportunity to comment on them while they are being reviewed. The recommendation by the General Committee that all future requests be published in *Taxon* in a similar manner to proposals to conserve and reject names (Barrie in *Taxon* 60: 1211. 2011) was accepted by the Melbourne Congress in July 2011 as part of the Report of the General Committee.

General guidelines

The guidelines below should be followed in the preparation and presentation of such submissions. Currently these requests, like proposals to conserve and reject names, should be submitted electronically via e-mail to TaxonNom@rbge.org.uk.

In general, the format should be similar to that for proposals to conserve and reject names (see <https://www.iaptglobal.org/taxon-guidelines>) except that the submissions will normally be much shorter, rarely exceeding 500 words. As with proposals, abbreviated citations are given parenthetically in the running text and no “Literature cited” list is provided at the end. The citations comprise the abbreviated journal title (as in *BPH Online* [<http://fmhibd.library.cmu.edu/HIBD-DB/bpho/findrecords.php>]) or book title (as in *TL-2* [<http://www.sil.si.edu/DigitalCollections/tl-2/>]) or by analogy, but with upper case initial letters), followed by the page reference and date.

Requests for rulings on whether names are sufficiently alike to be confused

Article 53.4 provides that “When it is doubtful whether names or their epithets are sufficiently alike to be confused, a request for a decision may be submitted to the General Committee, which will refer it for examination to the specialist committee(s) for the appropriate taxonomic group(s) (see Div. III Prov. 2.2, 7.9, and 7.10). A recommendation whether or not to treat the names concerned as homonyms may then be put forward to an International Botanical Congress and, if ratified, will become a binding decision with retroactive effect. These

binding decisions are listed in App. VII.” Publication in *Taxon* achieves the requirement of being submitted to the General Committee.

The associated rule (Art. 53.2) states that “When two or more names of genera or species based on different types are so similar that they are likely to be confused (**because they are applied to related taxa or for any other reason** [our emphasis]) they are to be treated as homonyms (see also Art. 61.5).” Some of the facts that might be relevant as reasons for confusion are outlined below. Note, however, that the Article continues: “If established practice has been to treat two similar names as homonyms, this practice is to be continued if it is in the interest of nomenclatural stability.” There is no need to prepare a request for a ruling on confusability if established practice is clear.

This applies perhaps even more strongly to situations in which established practice is to consider similar names **not** to be homonyms—the default position under the *Code* that defines a homonym (Art. 53.1) as a name “**spelled exactly like** [our emphasis] a name based on a different type that was previously and validly published for a taxon at the same rank”. Hence, only if there are or have been divergent views on the homonymic status of two or more names is a request for a binding decision justified. Consequently, except in a case in which at least one of the names has been very recently published or for which publication is still being considered, no request will be accepted for publication unless it includes evidence that there has been some confusion between the names involved.

Information that may be relevant in determining whether names are likely to be confused include: taxonomic assignment, nomenclatural status (e.g., legitimacy), orthographical variation, derivation, history and frequency of use, and geographical distribution and significance of the taxa to which applied.

Although similarity in spelling is not the only criterion for determining whether or not names are likely to be confused, those considering submitting a request for a binding decision may find it useful to consider the binding decisions that have already been made. In addition to those appearing in App. VIII of the *Melbourne Code* (Wiersema & al. in *Regnum Veg.* 157: 453–458. 2015) and, with additional ones approved, now over 100 in App. VII of the *Shenzhen Code* in the database (<http://botany.si.edu/references/codes/props/>), the voted examples in Art. 53 *Ex. 8–12 are also binding, and the practice noted in Art. 53 Ex. 13 and 18 is to be continued (Art. 53.2 final sentence).

The names that are being referred for a ruling should be presented with their publication details, followed by information relevant to the case from the topics mentioned above. Depending on the case, there may also be need for some general discussion of the names involved. It is not, however, necessary to provide historical or taxonomic information that is unlikely to be relevant to a decision on whether or not the names are likely to be confused.

Authors should consult requests previously published in *Taxon* for the type of information that may be relevant and for general lay-out.

Requests for rulings on whether descriptive statements satisfy the requirement for a “description or diagnosis”

Article 38.4 of the *Shenzhen Code* states that “When it is doubtful whether a descriptive statement satisfies the requirement of Art. 38.1(a) for a ‘description or diagnosis’, a request for a decision may be submitted to the General Committee, which will refer it for examination to the specialist committee for the appropriate taxonomic group (see Div. III Prov. 2.2, 7.9, and 7.10). A Committee recommendation as to whether or not the name concerned is validly published may then be put forward to an International Botanical Congress and, if ratified, will become a binding decision with retroactive effect. These binding decisions are listed in App. VI.” Article 38.1(a) requires that in order to be validly published a name must “be accompanied by a description or diagnosis of the taxon ... or, if none is provided in the protologue, by a reference to a previously and effectively published description or diagnosis ...”

A diagnosis of a taxon, as defined in Art. 38.2, “is a statement of that which in the opinion of its author distinguishes the taxon from other taxa”, but the *Code* does not specifically state what constitutes a description. [The Glossary includes “description” but notes that it is not defined and merely refers to it as “a published statement of a feature or features of an individual taxon; a description (or a diagnosis) is required for valid publication of a name of a new taxon (Art. 38.1(a) and 38.3); a validating description need not be diagnostic (Art. 38 Note 2)”.]

Before considering submission of a request for a ruling, consideration should be given to Art. 38.2 and 38.3. If the descriptive material, however scanty, represents what the author considered would distinguish the taxon from other taxa, it is a diagnosis and therefore meets the requirement of Art. 38.1(a). This is exemplified in Art. 38 Ex. 5. The distinguishing state must, of course, be specified, not merely the feature of the organism that exhibits that state, cf. Art. 38 Ex. 4. If the descriptive material is not presented as a diagnosis,

it is treated as a description, but if it only mentions “properties such as purely aesthetic features, economic, medicinal or culinary use, cultural significance, cultivation techniques, geographical origin, or geological age” (Art. 38.3), then the requirements of Art. 38.1(a) are not met and the name is not validly published. Note also that the *Code* does not require a description to be diagnostic, even at the time of publication (Art. 38 Note 2).

Although it may be thought relevant to mention the implications for nomenclatural stability of acceptance or otherwise of a descriptive statement as a validating description, the Committees are not authorised to make their recommendation on any basis other than whether or not the descriptive material is a “description or diagnosis” as worded in Art. 38.1(a). The intent of the author in publishing the descriptive material is also not relevant to interpretation of Art. 38.1(a), except in the special case of voted example Art. 38 *Ex. 3.

As with requests on near homonymy, the name being referred for a ruling should be presented with its publication details and then a full quotation of all the descriptive material. Other information that might provide suitable background although not strictly relevant includes whether the taxon being described can be identified and if so to what, the extent to which the name has been used, and, as mentioned above, the nomenclatural implications. Authors should consult requests previously published in *Taxon* for guidance in preparing a request. The binding decisions that have already been made under Art. 38.4 are to be found in the database for the *Code* Appendices (<http://botany.si.edu/references/codes/props/>); those few already approved by the Melbourne IBC in 2011 also appear in App. VII of the *Melbourne Code* (Wiersema & al. in *Regnum Veg.* 157: 451. 2015).

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