

## PROPOSALS TO AMEND THE CODE

Edited by Nicholas J. Turland & John H. Wiersema

### (001–010) Proposals on “based on”

Paul van Rijkceversel

Paul van Rijkceversel, *Dipteryx*, Postbus 4047, 3502 HA Utrecht, The Netherlands; [dipteryx@freeler.nl](mailto:dipteryx@freeler.nl)

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The Melbourne Congress accepted a “motion from the floor” to amend Art. 6.4, 18.3 and 19.6, intended to ensure that the name of a family, or a subdivision of a family, based on a conserved generic name can be used, even though that generic name was initially illegitimate. There is nothing wrong with this intent, but the phrasing that ended up in the *Code* is unfortunate.

A name of a family or a subdivision of a family (the ten exceptions in Art. 18.5 and 19.8 excepted) is based on only one generic name. It is possible for this generic name to be illegitimate, and it is possible for it to be conserved. What is not possible is for this one generic name to be both illegitimate and conserved (Art. 14.1), and it is not possible for a rule that applies only to illegitimate generic names to apply to a conserved generic name. If a name of a family or a subdivision of a family is based on a conserved (and therefore legitimate) generic name, Art. 18.3 and 19.6 do not apply, and thus it is irrelevant what these prescribe. What does matter here is Art. 6.4.

It is unclear what the problem was in phrasing this, but this is a matter of (retroactive) nomenclatural reality, not of historical reality. The phrase “based on” is used extensively throughout the *Code* (multiple dozens of occurrences). Surely, the phrase “is based on” describes a relationship in the here and now. It does not say “was based on when validly published” (compare Art. 52.1). This last would be terribly unhandy. The family name *Proteaceae* is based on the generic name *Protea* L. (1771), not on *Protea* L. (1753). This is straightforward if “based on” is a relationship in the here and now. However, it would be quite awkward if “based on” is supposed to be the relationship when validly published. In 1789, the generic name *Protea* L. (1771) was not conserved, and it is highly uncomfortable even to think how the name *Proteaceae* could have been based on it at that time. For a more extreme example (not quite the same relationship, but the same phrase), the name *Bromus sterilis* L. (1753) is based on *Hubbard 9045* (E), collected in 1932 (Art. 14 Ex. 9), while *Trientalis europaea* L. (1753) is based on a type collected in 2009.

#### (001) Rephrase the second sentence of Art. 6.4

##### so that it reads:

“[6.4. ...] A name that according to this *Code* was illegitimate when published cannot become legitimate later except by the conservation or sanctioning of (a) the name itself (Art. 14.1 and 15.1), (b) the generic name on which it is based (in the case of the name of a family or a subdivision of a family, see also Art. 18.3 and 19.6), or (c) the corresponding family name (in the case of a name of a subdivision of a family, Art. 19.6).”

This is modelled on what was accepted by the Melbourne Congress.

#### (002) Restore Art. 18.3 to its pre-Melbourne phrasing, so that it reads:

“18.3. A name of a family based on an illegitimate generic name is illegitimate unless conserved.”

#### (003) Add an explanatory Note to Art. 18.3:

“*Note n.* When an illegitimate generic name is conserved, it thereby becomes legitimate (Art. 14.1). From that moment onwards, Art. 18.3 no longer applies to it: the name of a family based on a conserved (or sanctioned) generic name is legitimate (see also Art. 52.3).”

To be placed before Art. 18 Ex. 7 which illustrates the point nicely.

#### (004) Rephrase Art. 19.6 so that it reads:

“19.6. A name of a subdivision of a family based on an illegitimate generic name is illegitimate unless the corresponding family name is conserved.”

This is not the pre-Melbourne phrasing, but is closer to the present phrasing and to that of Art. 18.3. It looks to be more readable.

#### (005) Add an explanatory Note to Art. 19.6:

“*Note n.* When an illegitimate generic name is conserved, it thereby becomes legitimate (Art. 14.1). From that moment onwards, Art. 19.6 no longer applies to it: a name of a subdivision of a family based on a conserved (or sanctioned) generic name is legitimate (see also Art. 52.3).”

To be placed before Art. 19 Ex. 8 which illustrates the point nicely.

#### (006) In Art. 52.3 delete “legitimate” in “legitimate generic name”.

A name of a family (or subdivision of a family) that was nomenclaturally superfluous when published and that is based on an illegitimate generic name is thereby illegitimate twice (once under Art. 52.1 and 52.3 and once under Art. 18.3 or 19.6), which surely is overkill. If that generic name is subsequently conserved, the name of the family (or subdivision of a family) would become legitimate under the intent of the provisions adopted at Melbourne, but would appear to remain illegitimate under Art. 52.1 and 52.3. At the time the phrase was adopted (by the 1981, Sydney Congress) it matched the phrasing of Art. 18.1, but the word “legitimate” in Art. 18.1 was eliminated by the 2005, Vienna Congress and there is no longer a match. At best, this word only complicates Art. 52.3.

#### (007) In Art. 52.3 delete “the stem of”.

The 1981, Sydney Congress accepted the inclusion of “, or if it is based on the stem of a legitimate generic name” in (what is now)

Art. 52.3. This matched “the stem of a legitimate name of an included genus” in the then wording of Art. 18.1. The phrase “the stem of a generic name” is a quite troublesome one, and it was otherwise eliminated from the *Code* (by the 1987, Berlin Congress) for that very reason, but somehow not here. Also to be deleted in Art. 52 Ex. 18. Alternatively, replace the entire phrase by “, or if it is the name of a family or subdivision of a family based on a generic name (see Art. 18.1, 19.1)”. This would be more explicit and presumably more readable; it also incorporates proposal (006).

**(008) In Art. 7.1 delete “ultimately”.**

With the change of Art. 16.1 in the *Melbourne Code*, suprageneric names are now directly based on generic names, not indirectly. The word “ultimately” is no longer appropriate.

**(009) In Art. 10 Ex. 1 delete “ultimate” in “ultimate type”.**

The type of a genus is a specimen or illustration (Art. 10.1, 10.4). A specimen is not “the ultimate type” of a genus (this would be the case in the zoological *Code*; it was the case before the 1981, Sydney Congress, but no longer).

**(010) Replace “based on a generic name” by “formed from a generic name (see Art. 16.1, 18.1, and 19.1)” (mutatis mutandis) in Art. 7.1, 10.6, 10.7, 18.3, 19.6, and 52.3.**

As the “based on” in “based on a generic name” is a relationship somewhat different from the “based on” in “based on a basionym”, it may help to replace the “based on a generic name” everywhere by a wording close to that in Art. 18.1 to help the reader tell these two apart. This change has already been effected in Art. 18 Ex. 1 and 2, so there is precedent. If proposal (001) is accepted, also in the rephrased Art. 6.4.