

(352–357) Proposals to clarify typification when a name is validly published solely by reference to an earlier description or diagnosis (Articles 7.8, 9 Note 3, 40.3 and Recommendation 9A)

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Article 7.8 of the *Shenzhen Code* (Turland & al. in *Regnum Veg.* 159, 2018) addresses the typification of a name that is validly published by reference to an earlier description or diagnosis. It states: “A name of a new taxon validly published solely by reference to a previously and effectively published description or diagnosis (Art. 38.1 (a)) (and not by a reproduction of such a description or diagnosis) is to be typified by an element selected from the entire context of the validating description or diagnosis, unless the validating author has definitely designated a different type, but not by an element explicitly excluded by the validating author (see also Art. 7.9).” In turn, Art. 9 Note 3 provides: “For names falling under Art. 7.8, only elements from the context of the validating description are considered as original material, unless the validating author has definitely designated a different type.” The following independent proposals address different aspects of these two provisions.

In our view, Art. 7.8 should be limited to the original material for names published by reference to an earlier description and be moved to Art. 9. This is explained below. Article 7.8 states that the name “is to be typified by” from the entire context of the earlier description. If the quoted language is applied literally, neither neotypes nor epitypes could be designated for names falling under Art. 7.8. Similarly, because Art. 7.8 allows the validating author to designate a different type, it does not impose a restriction on what may be designated as the holotype.

Authors of names under Art. 7.8 are required to have “definitely designated” a type while authors of other names may have “indicated” a type (Art. 9.1). In our view, Art. 7.8 should not place any restrictions on the way a holotype is established. If so treated, the sole reason for the “unless” language is to establish which set of elements is original material for names falling under Art. 7.8.

(352) Delete Art. 7.8 and convert Art. 9 Note 3 into an Article as follows (new text in bold, deleted text in strikethrough):

~~“Note 3–9.n. For names falling under Art. 7.8 a name of a new taxon validly published solely by reference to a previously and effectively published description or diagnosis (Art. 38.1(a)) (and not by a reproduction of such a description or diagnosis), only elements from the entire context of the validating description or diagnosis are considered as original material (but not including elements explicitly excluded by the validating author), unless the validating author has definitely designated a different type.”~~

The proposals below address further changes desirable for Art. 9 Note 3; if the previous proposal is rejected, they apply to Art. 7.8 as well.

The most important issue is clarifying the meaning of “the entire context of the validating description”. At the Melbourne Congress of 2011, Sennikov (Prop. 155; in *Taxon* 59: 1291, 2010) proposed that “Instead of a rather loose ‘context’ of the validating description, it could be more explicitly said ‘material associated with’ the validating description. The intended meaning is the same.” However, the proposal was rejected (Art. 7 Prop. D; McNeill & al. in *Taxon* 60: 1512, 2011).

The term “context” first appeared as Art. 32.2 of the *Sydney Code* (Voss & al. in *Regnum Veg.* 111, 1983) in a form quite similar to the current language, along with a single Example. Article 32 Ex. 3 of the *Sydney Code* stated “Since the name *Adenantha bicolor* Moon (1824) is validated solely by reference to Rumphius, *Herbarium Amboinense* 3: t. 112, the type of the name, in the absence of the specimen from which it was figured, is the illustration referred to. It is not the specimen, at Kew, collected by Moon and labelled ‘*Adenantha bicolor*’.” This Example remains as Art. 7 Ex. 9 of the *Shenzhen Code* in a revised form; it concludes “In the absence of the material on which the validating description was based, the lectotype can only be the associated illustration (Rumphius, *Herb. Amboin.* 3: t. 112, 1743).” This wording suggests that the “entire context” would include this uncited specimen if it existed.

It is also important to note that the *Sydney Code* did not use, or define, the term “original material”, which is critical for designating a lectotype. The *Sydney Code* did have a “Guide for the determination of types” at the end stating in part that the lectotype is to be chosen from elements studied by the author up to the time the name was published. This statement suggests that elements studied by the author of the description were original material for names falling under the predecessor of Art. 7.8. We also note that Art. 7.8 has not been revised to reflect the rules now providing a comprehensive definition of “original material” in Art. 9.4.

It is hardly desirable that the type be restricted to a cited illustration and exclude the specimen on which it was based simply because it was not cited. Such a reading would be inconsistent with Art. 9.4. In addition, the primary reason to revise the “use test” for holotypes in Art. 9 Note 1 was to avoid that very result for Linnaean names.

(353) Amend Art. 9 Note 3 as follows (new text in bold, deleted text in strikethrough):

~~“Note 3. For names falling under Art. 7.8, only elements from the original material is determined under Art. 9.4 as if the author context of the validating description or diagnosis are considered as~~

original material had validly published the name by publishing the description or diagnosis, unless the validating author has definitely designated a different type.”

Another possibility is that the validating author cites one or more elements but does not definitely designate a different type. In our view, a later author should not ignore these cited elements and designate a neotype if there are no elements in the entire context of the earlier description. We offer the following Recommendation to that effect.

(354) Add a new Recommendation to Rec. 9A as follows:

“9A.n. For names falling under Art. 7.8, if there are no extant elements in the context of the validating description or diagnosis and the validating author did not definitely designate a different type, later authors should consider any specimens and illustrations cited in the protologue when designating a type.”

The phrase “has definitely designated a different type” can be improved. Because it seems impossible for the author of the description to designate a type, a better statement is the designation of a different element as the type.

Another question is what it means to have “definitely designated” a type. Proposal 106 (Wisnev in Taxon 70: 1383–1384, 2021) would revise Art. 7.8 (but not Art. 9 Note 3) to make it “clear that the usage test and indication of a type (in each case by the validating author) are insufficient to establish a type”. We suggest that the same language in Prop. 106 be used for Art. 9 Note 3.

If the validating author “definitely designated” a different element, what happens if that element is lost or missing? (It appears that such a type cannot be superseded under Art. 9.19(c), even if completely contrary to the earlier description, because the type is cited in the protologue; see Art. 9 Note 7). Presumably, the original material is determined under Art. 9.4 without regard to Art. 7.8.

To address these various matters, the following is proposed.

(355) Amend Art. 9 Note 3 as follows (new text in bold, deleted text in strikethrough):

“Note 3. For names falling under Art. 7.8, only elements from the context of the validating description are considered as original material. **However, if unless the validating author has definitely designated a different element as the type in the protologue (indication or usage by the validating author is insufficient to establish a type), the original material is determined in accordance with Art. 9.4 without regard to the previous sentence.**”

The term “validating author” is used only in Art. 7.8 and Art. 9 Note 3, but is not defined. Since those provisions use the term “validating description or diagnosis” and “validating description”, respectively, some may at first incorrectly think the validating author is the author of the validating description or diagnosis. It is worth noting that the “validating author” may not even be the author of the name. See Art. 46 Ex. 22.

While other Articles do not use the term “validating author”, Art. 46 uses the term “publishing author” (in Art. 46.5 and Art.

46 Ex. 39) to refer to the author of the publication in which the name appears. It would seem preferable to use that term in Art. 7.8 as well. The proposal below addresses this change.

(356) Replace “validating” with “publishing” in Art. 9 Note 3 as follows (new text in bold, deleted text in strikethrough):

“Note 3. For names falling under Art. 7.8, only elements from the context of the validating description are considered as original material, unless the ~~validating~~ **publishing** author has definitely designated a different type.”

If all of the foregoing proposals are accepted, Art. 7.8 and Art. 9 Note 3 will be deleted, and a new Article in Art. 9 would read as follows:

“9.n. For a name of a new taxon validly published solely by reference to a previously and effectively published description or diagnosis (Art. 38.1(a)) (and not by a reproduction of such a description or diagnosis), original material is determined under Art. 9.4 as if the author of the validating description or diagnosis had validly published the name by publishing the description or diagnosis (but not including elements explicitly excluded by the publishing author). However, if the publishing author has designated a different element as the type in the protologue (indication or usage by the validating author is insufficient to establish a type), the original material is determined in accordance with Art. 9.4 without regard to the previous sentence.”

Article 40.3 provides that the “mention of a single specimen” is sufficient to indicate a type for purposes of validly publishing the name of a new taxon. It is not clear how to apply this rule for a name falling under Art. 7.8. It would seem appropriate to consider elements from both the validating description or diagnosis and the validating protologue.

(357) Add a new sentence at the end of Art. 40.3 (new text in bold):

“40.3. For the name of a new genus or subdivision of a genus, reference (direct or indirect) to a single species name, or citation of the holotype or lectotype of a single previously or simultaneously published species name, even if that element is not explicitly designated as type, is acceptable as indication of the type (see also Art. 10.8; but see Art. 40.6). For the purpose of Art. 40.1, mention of a single specimen or gathering (Art. 40.2) or illustration, even if that element is not explicitly designated as type, is acceptable as indication of the type of the name of a new species or infraspecific taxon (but see Art. 40.6). **For names falling under Art. 7.8, the determination of whether a single element is mentioned is made by considering both the earlier description or diagnosis and the validating protologue.**”

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