

Report of the Special Committee on By-laws for the Nomenclature Section

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Abstract The Special Committee on By-laws for the Nomenclature Section was established at the XVIII International Botanical Congress (IBC) in Melbourne in 2011, with the mandate to formalize the procedures by which changes to the *Code* are considered and voted upon by the Nomenclature Section, and to report to the XIX IBC in Shenzhen in 2017. With the wider participation of the community in nomenclature in general, and to address some past contentious issues in particular, the need for a clearer set of rules for management of the Nomenclature Section had surfaced. In light of this, the Committee conducted extensive negotiations and discussions on a wide range of governance topics, which are here summarized in the Committee's report. We propose the adoption of a new and greatly expanded version of Division III of the *Code*. This report provides the supporting documentation for the proposal that is also published in this issue (Knapp & al. in *Taxon* 65: 661–664. 2016). It is necessary that the two documents be read alongside each other.

Keywords *Code*; Division III; International Botanical Congress; Nomenclature; Nomenclature Section

Introduction

The 18-member Special Committee on By-laws for the Nomenclature Section was established by the XVIII International Botanical Congress (IBC) in Melbourne in 2011 (McNeill & al., 2011; Wilson, 2012; Flann & al., 2014). The Committee was formed against the backdrop of controversy surrounding voting at the XVII IBC in Vienna (Smith & al., 2010; McNeill & Turland, 2011; Moore & al., 2011; Smith & Figueiredo, 2011; Thiele & al., 2011). It was also apparent

that the changing composition of successive Nomenclature Sections and increased participation from across the community meant that a set of rules that was open, transparent, and accessible to all was ever more necessary.

The mandate of the Special Committee was “To formalise the procedures by which changes to the *Code* are considered and voted upon by the Nomenclature Section”. Three proposals to amend the *Code* were specifically referred to the Committee by the Melbourne

Congress (McNeill & al., 2011): Div. III Prop. B [199], C [200], and E [202] (Landrum, 2010). An online discussion platform was established in early 2012, and intensive work was carried out from December 2014 to March 2016. All 18 members of the Committee are authors of this report.

Governance of nomenclature

The International Botanical Congress has associated with it a Nomenclature Section, where proposals to change the *International Code of Nomenclature for algae, fungi, and plants* (McNeill & al., 2012; Wiersma & al., 2015) are debated and discussed by members of the community of scientists working on these organisms (Brummitt, 2006; Turland, 2013). Each IBC, and therefore Nomenclature Section, is independent of the last; the business of nomenclature of algae, fungi, and plants is managed between Congresses by a General Committee and five Permanent Nomenclature Committees established under the auspices of the International Association for Plant Taxonomy (IAPT).

The governance of the *Code* is detailed in its Division III (McNeill & al., 2012: 141–143), where nomenclature committees functioning between Congresses, appointment of the Bureau of Nomenclature, and qualifications for voting at the Nomenclature Section are treated. A number of matters, including voting rules and required majorities for votes, are not explicitly laid out in Division III.

The business of the Nomenclature Section traditionally has proceeded using parliamentary principles, with members voting by a show of hands, or in some cases by secret ballots (Brummitt, 2006). Methods of voting are generally inherited from the previous Section, with the rules being agreed at the beginning of each Section. This process relied on historical memory from one IBC to the next, and while this worked well for many IBCs, new participants were often not as aware of the traditional methods as were more seasoned Section attendees.

We researched parliamentary procedure under several jurisdictions (e.g., Kerr & King, 1984; Sturgis, 2001; Robert & al., 2011; Jack & al., 2011; American Institute of Parliamentarians, 2012) and held wide-ranging discussions on various options for a set of open, transparent rules for running the business of the Nomenclature Section that would provide stability and continuity from each IBC to the next. It became apparent that establishment of a set of by-laws necessitated an institution that persisted between Congresses (see Chapter 1 of Robert & al., 2011). Since each Nomenclature Section is independent of the next, we considered other methods of achieving the desired stability and transparency. Three options were voted upon by members of the Committee:

Option 1. Continue to vote at the start of each Nomenclature Section to adopt the procedures used at the last Section (relying on historical memory).

Option 2. Write by-laws for the Nomenclature Section that would be accepted at the start of each Section (essentially a more formal version of 1).

Option 3. Write by-laws for the Nomenclature Section and add them to Division III of the *Code*.

We unanimously voted to propose changes to the content and wording of Division III (option 3) rather than to devise an independent set of by-laws; this, we felt, would provide a reference point between Nomenclature Sections and would increase transparency for new entrants into nomenclature of algae, fungi, and plants.

Changes to Division III

We began by expanding the text of the current Division III to include those elements of traditional practice that were not explicit in

the *Melbourne Code*. The restructuring of Division III largely follows current practice, with some exceptions (see below). The current Division III (McNeill & al., 2012) is divided into four articles; the proposed new Division III has seven sections, each of which treats a different aspect of governance. After agreement on this basic structure we voted on each section by article after a period of discussion on each. In drafting section 3 (Institutional votes) of the proposed new Division III, we consulted with the Special Committee on Institutional Votes that was also established by the Melbourne Congress.

Members of the Committee broadly agreed on the principles represented in each section, and while some wording was not acceptable to all, the article was accepted if at least 60% of Committee members voted in the affirmative (a qualified majority vote). Any proposed article that received less than 60% approval was deleted, or amended and voted on again until it achieved the required majority (see below, and Tables 1 and 2). Finally, the Committee voted unanimously to replace the current Division III with the text in the accompanying proposal.

The seven sections of the new proposed Division III are: (1) General provisions for governance of the *Code*, (2) Proposals to amend the *Code*, (3) Institutional votes, (4) Nomenclature Section, (5) Procedure and voting at the Nomenclature Section, (6) After an International Botanical Congress, and (7) Permanent Nomenclature Committees.

Section 1 (General provisions for governance of the *Code*) comprises four articles and establishes the roles of the various bodies operating to govern the nomenclature of algae, fungi, and plants, the role of the International Association for Plant Taxonomy (IAPT), and where responsibility for the *Code* devolves should there not be another IBC. This is an expansion of the current Div.III.1.

Section 2 (Proposals to amend the *Code*) comprises six articles. These detail the manner in which proposals to amend the *Code* are presented, a timetable for this process, and the general mechanism for a guiding vote to be held in conjunction with the IAPT. This section includes the current Div.III.4 plus details of what is currently established practice.

Section 3 (Institutional votes) comprises four articles and is a modification of part of the current Div.III.4 plus its footnote. This section was discussed with the Convener and Secretary of the Special Committee on Institutional Votes and the text was agreed with them both before and after our discussions. New to the *Code* here is the establishment of a new Committee on Institutional Votes, chaired by the Rapporteur-général and elected by the previous IBC. This Committee is charged with maintaining a list of voting institutions and the numbers of votes (1–7) they are allocated, and dealing with requests for, and queries about, institutional votes. The current Division III requires institutions to request votes from the Bureau of Nomenclature, a body that may comprise only the Rapporteur-général for at least half of the time between Congresses. The proposed articles provide a clear procedure for both new herbaria and those wanting to increase or decrease their allocation of votes.

Section 4 (Nomenclature Section) comprises 12 articles and 1 recommendation. Its text is entirely new, but largely follows current procedures, and spells out the function of the Section itself, registration for the Section, how decisions taken by the Section become binding, the composition, function, and appointment of the Bureau of Nomenclature, and the functions of the Nominating Committee. A recommendation is included that the Nominating Committee, which nominates members for the Permanent Nomenclature Committees (see below), should have broad representation both taxonomically and geographically.

Table 1. Special Committee voting on individual articles in the proposed new Division III. This represents the votes taken on original wording; the final wording as presented in the proposal was approved unanimously by the 18 members of the Special Committee. (Some members were not able to vote on particular articles due to field work or other travel.)

Article	Yes	No	Abstain	Not voting
1.1	16	1	0	1
1.2	17	0	0	1
1.3	16	1	0	1
1.4	17	0	0	1
Footnote to 1.4	16	0	0	2
2.1	18	0	0	0
2.2	18	0	0	0
2.3	18	0	0	0
2.4	18	0	0	0
2.5 (1,2,3)	18 (18,13,12)	0 (0,5,5)	0 (0,0,1)	0 (0,0,0)
2.6	18	0	0	0
3.1	17	1	0	0
3.2	18	0	0	0
3.3	18	0	0	0
3.4	18	0	0	0
4.1	18	0	0	0
4.2	18	0	0	0
4.3 (1,2,3,4,5,6,7,8)	(17,18,18,18,18,18,18,18)	(1,0,0,0,0,0,0,0)	(0,0,0,0,0,0,0,0)	(0,0,0,0,0,0,0,0)
4.4	17	0	1	0
4.5	18	0	0	0
4.6	17	0	1	0
4.7	18	0	0	0
4.8	18	0	0	0
4.9	18	0	0	0
4.10	17	1	0	0
4.11	16	0	1	1
4.12	18	0	0	0
Rec. 4A	14	3	1	0
5.1 (1,2,3)	(18,16,14)	(0,2,3)	(0,0,1)	(0,0,0)
5.2 (1,2,3,4,5,6,7,8,9)	(18,18,18,18,18,18,18,*16)	(0,0,0,0,0,0,0,*,1)	(0,0,0,0,0,0,0,*,0)	(0,0,0,0,0,0,0,1,1)
5.3	17	1	0	0
5.4	16	1	0	1
5.5 (principle; see text for %)	18	0	0	0
5.6	17	1	0	0
5.7	15	3	0	0
5.8	18	0	0	0
5.9 (all parts)	18	0	0	0
5.10	13	5	0	0
6.1 (1,2,3,4,5)	18 (15,18,18,18,18)	0 (3,0,0,0,0)	0 (0,0,0,0,0)	0 (0,0,0,0,0)
7.1 (all parts)	18	0	0	0
7.2	18	0	0	0
7.3	17	0	0	1
7.4	17	1	0	0
7.5	15	3	0	0
7.6	18	0	0	0
Rec. 7A	18	0	0	0
7.7	18	0	0	0
7.8	17	0	0	1
7.9	14	0	0	4
7.10	18	0	0	0
7.11	18	0	0	0
7.12	16	2	0	0
Rec. 7B	18	0	0	0

* 5.2(8) was voted on according to ranked preferences, with results presented in Table 2.

Section 5 (Procedure and voting at the Nomenclature Section) is again entirely new, and comprises 10 articles that detail voting percentages, a singling-out mechanism for contentious decisions in the General Committee's report (detailing names recommended for conservation or rejection, works recommended for suppression, and recommendations for binding decisions on valid publication and homonymy), procedures for use of the preliminary guiding vote, and other voting-related matters. We here propose changes that will make voting methods and percentages completely transparent to participants in the Nomenclature Section, and to those wishing to participate in any future Nomenclature Section, before they arrive. We propose that a qualified majority (at least 60% of votes cast) be required for accepting (1) proposals to amend the *Code*, (2) a motion to end discussion and proceed to a vote ("calling the question"), and (3) a motion to set a time limit for debate. The requirement for a qualified majority in these situations is common to most parliamentary procedures. We propose that all other votes require a simple majority (more than 50% of votes cast).

Previous Nomenclature Sections have approved the report of the General Committee as a single block by simple majority. The procedure we propose for singling out a recommendation from the General Committee's report allows uncontroversial recommendations to be approved as before in a single block by a simple majority vote, but a controversial recommendation (such as that to conserve *Acacia* with a conserved type at Vienna in 2005) to be voted on separately. If such a singled-out recommendation is not approved by the Section, that recommendation is cancelled, the matter is referred back to the General Committee, and retention or rejection of a name or suppression of a work is no longer authorized under Art. 14.16, 56.4, and 34.2.

The most controversial topic we discussed was the majority required when the Nomenclature Section votes on the recommendations in the General Committee's report, including when it votes on an item singled out from those recommendations. Options were a qualified majority (at least 60%) or a simple majority (more than 50%) to approve the recommendation(s), or a qualified majority (at least 60%) to reject the recommendation(s). This proved to be the most difficult issue for the Committee, perhaps unsurprisingly given the controversy surrounding the voting procedures used in the *Acacia* issue. After long discussion, it became clear that consensus was unlikely, with deeply held convictions for different options. An initial vote, with

members asked to vote for one option among the three above, resulted in a tie of 8 votes each for the first and last options (qualified majority to accept versus qualified majority to reject the recommendation) and 1 vote for the simple majority (this last vote was later changed to a qualified majority to accept, giving a final vote of 9 to 8). We were therefore unable to make a proposal at this stage because the required majority (at least 60%) of members was not achieved.

A second round of voting was then conducted where members were asked instead to rank all three options (preferential voting; Table 2). In this round, a number of Committee members moved their first-preference vote to the middle option (a simple majority), with a view that this was a compromise position between the two extremes. The simple majority was the first choice of at least 70% of the 17 members voting; that is simple majority to accept a singled-out recommendation from the General Committee's report was the first choice of 13 members, and simple majority to accept the report as a block of recommendations was the first choice of 12 members (see Table 2). Accordingly the simple majority is put forward as article 5.2(8) of our proposed new Division III.

We discussed the purpose and use of the preliminary guiding vote currently done (by mail) by members of the IAPT and the Permanent Nomenclature Committees as well as authors of proposals to amend the *Code* (see Prop. E [202] in Landrum, 2010). Current practice is that any proposal receiving more than 75% "no" votes in the guiding vote is ruled as defeated at the Nomenclature Section and is not discussed there unless it is raised from the floor with seconders. We agreed that a guiding vote is important in principle (see Section 2) and that if a proposal receives a large number of "no" votes in the guiding vote it should be eliminated from discussion at the Section. We considered three options for the percentage of "no" votes required for such elimination: 50% (1 member voting for this option), 60% (6 members), and the status quo, 75% (9 members). As with deliberations on the General Committee's recommendations, we held a second vote to choose, in this case between the two most supported options. This resulted in 4 members preferring 60% and 12 members preferring 75% (with 2 members not voting and no abstentions).

Section 6 (After an International Botanical Congress) comprises a single article detailing the publications that result from the actions of the Nomenclature Section.

Table 2. Special Committee voting on Article 5.2(8) (simple majority to accept, qualified majority to accept, qualified majority to reject a singled-out recommendation from the General Committee's report and the report as a block of recommendations) according to ranked preferences, with 17 members voting.

Nomenclature Section voting on a singled-out recommendation from the General Committee's report	No. of 1st choice	% 1st choice	No. of 2nd choice	% 2nd choice	No. of 3rd choice	% 3rd choice
Simple majority (>50%) to approve	13	76%	3	18%	1	6%
Qualified majority (≥60%) to approve	2	12%	2	12%	13	76%
Qualified majority (≥60%) to reject	2	12%	12	70%	3	18%
Nomenclature Section voting on the General Committee's report as a block of recommendations	No. of 1st choice	% 1st choice	No. of 2nd choice	% 2nd choice	No. of 3rd choice	% 3rd choice
Simple majority (>50%) to approve	12	70%	4	24%	1	6%
Qualified majority (≥60%) to approve	4	24%	1	6%	12	70%
Qualified majority (≥60%) to reject	1	6%	12	70%	4	24%

Section 7 (Permanent Nomenclature Committees) comprises 12 articles and 2 recommendations detailing the membership, functions, and procedural rules of the General Committee, Editorial Committee, Committee on Institutional Votes and the five specialist committees, all of which are elected by the IBC. The General Committee and the specialist committees manage the business of nomenclature between Congresses. The Editorial Committee is responsible for writing the next *Code* based upon the decisions taken at the Nomenclature Section. We anticipate that the Committee on Institutional Votes will maintain a list of institutions and their allocated votes for the upcoming International Botanical Congress.

A trial of the proposed Division III

The proposed new Division III is presented to the Nomenclature Section of the XIX International Botanical Congress in Shenzhen as a single proposal to amend the *Code*. This Special Committee will propose a motion at the beginning of the Section to adopt the proposed new Division III for the duration of the Section, so that participants can judge the functionality of the relevant articles (primarily section 5). Then, in the normal sequence of proposals, on the last day of the Section, the proposal to replace Division III will be discussed and a formal vote will be taken.

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