



CYCAD SOCIETY OF SOUTH AFRICA

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The Honourable Minister BEE Molewa
Department of Environmental Affairs
PO Box X447
Pretoria 0001

Dear Madam,

RE: PROPOSED PROHIBITED ACTIVITIES INVOLVING SPECIMENS OF CERTAIN *ENCEPHALARTOS* SPECIES

Government Gazette notice 92 of 2011 dated 15 March 2011 refers

The Cycad Society of South Africa is very pleased indeed to be afforded the opportunity of providing input on this matter. Our information fully corroborates that of SANBI and the ICUN with regard to the threatened extinction in habitat of many of our cycad species. The decimation of the wild Cycad populations is no less than a national tragedy. You and your department are to be congratulated on the novel approach you have adopted in bringing the public into the legislating process in the concept stage and, in keeping with our recent history of constructive dialogue with your department, we hope that the information that we provide will be useful to you in making the necessary decisions as to what legislation needs to be enacted to effectively protect the remaining wild cycad populations.

We are pleased to see that your spokesperson, Albi Modise, has already identified the existing property and proprietary rights of the thousands of legal cycad owners in this country as a significant factor in this matter (Saturday Star - 5 March 2011). Since these rights, as weighed against the necessity and assessed effectiveness of the proposed legislation, will be the prime considerations of you and your staff when you decide whether to ultimately uphold or reject the proposed measure (as it is described in the Government gazette of 15 February 2011) we do hereunder provide the history of private cycad ownership in this country.

Cycad collecting has been a South African national pastime for at least two centuries. The beauty of these natural marvels immediately triggers mankind's natural curiosity and his instinct to nurture and cherish what is his own (it has become fashionable in some circles to define this as greed). In any event it is no mystery as to why people would want to own cycads. The same fervour with which the early botanists collected specimens was naturally shown by private individuals and by 1912 when the famous botanist Charles Joseph Chamberlain toured the country he was able to report; ***".....at that time the Durban (botanical) garden had the largest collection of Encephalartos in the world. Two of the species have found great favour as decorative plants, and beautiful specimens adorned the lawns throughout the city. In any town of Southeastern Africa the lawns are likely to indicate what cycads are found in the vicinity, for all species find favour, on account of either their beauty or their peculiarity."*** Chamberlain – *The Living Cycads-* (1919) p42.

By 1970 it had become obvious that unregulated cycad collecting was not in the national interest and; ***"....the Transvaal declared all cycads Specially Protected Plants in 1971 and required that all those who had cycads in their possession apply for a permit. Within 18 months more than 8000 permits for more than 64000 cycads had been issued."*** Giddy - *Cycads of South Africa* - (1974) p17. The other provinces soon followed suit.

What is of the utmost relevance here is firstly; the number of plants already then in private possession in a single province and secondly; the introduction of the permit system that provided the administrative channel for citizens to legally own cycads.

"Fortunately, cycads are relatively easy to grow from seed..." Donaldson and Winter – *Grow Cycads* - (1998) p6. Cycads are in fact very easy to grow from seed, as any of the amateur enthusiasts in this Society will attest, and within a very short time permits were being issued for the seedlings produced from the originally permitted specimens. Both Kirstenbosch National Botanical Garden and the Lowveld Botanical Gardens, as well as the now defunct Transvaal Provincial Cycad Nursery at Hartebeeshoek, have over the years sold innumerable seedlings of currently listed Critically Endangered and Endangered cycad species to the public. (The Society can produce any number of these early Possession Permit certificates for scrutiny if required as many are still in the possession of the persons they were issued to and a great number have been handed to and preserved by new owners as plants have changed hands).

And as further corroboration; ***"A small commercial nursery, where surplus plants are available for sale to the public, forms part of the Lowveld Garden cycad management plan. The ready availability of the nursery-grown plants will, it is hoped, reduce the demand for plants illegally taken from the wild. With the seed orchards coming into production, a range of the more common cycad species and two of the rare species, namely E. dyerianus and E. aemulans (Both species now listed as Critically Endangered), are now available as seedlings."*** Kluge – *The Virtual Cycad Encyclopedia-* (1998)

"Many thousands of mature cycads produce cones every year in cultivation" Giddy - *Cycads of South Africa* - (1974) p17 and it will easily be appreciated that, for the amateur as well as the commercial nurseryman, cultivation of the rarer species from seed would naturally take priority over that of more common species and as a result the propagation of now listed Critically Endangered and Endangered specimens has taken place at almost the same rate as that of the more common and less endangered species in the 40 years since the advent of regulation.

“Large numbers of cycads in gardens originated from wild populations and, based on the number of permits, former nature conservation officials in South Africa estimate that there may be over one million plants in private collections.” Donaldson - ICUN Status Survey and Conservation Action Plan – (2003)3.2.1 p15. In reality Dr Donaldson’s estimates are conservative because it would appear that, in the context of the document from which the quote was extracted, he refers only to plants that had been permitted after having been removed from nature. The Cycad Society estimates the number to be closer to 5 million today (8 years later), since artificially propagated plants are included, and this number to be growing annually at an exponential rate! (Once again please note that the estimates are based on permits issued i.e. these are legally owned specimens and the numbers can be easily verified by referring to the records of the provincial authorities)

“It is important to realise that some plants were wild collected many decades ago and now have valid permits.” Donaldson and Winter – Grow Cycads - (1998) p35 and it is more important, in this case, to realise that two generations of offspring from these originally permitted plants are now reproductively mature and producing seedlings.

Madam, what your so-called scientific advisors are not telling you is that:

- 1. there are at present over 2 million specimens of listed Critically Endangered and Endangered Encephalartos specimens legally in private possession in this country and that the vast majority of these specimens have been painstakingly cultivated and/or acquired by law abiding South Africans in good faith and in compliance with the laws of the land.**
- 2. Also, they are not telling you that over a million of these specimens are now larger than the limits proposed in your notice in the Gazette. Two generations of plants descended from those permitted in 1971 have since reached reproductive maturity.**
- 3. They have also failed to inform you that the sheer numbers of these plants is so much greater than the number of specimens ever estimated to originally have been in the wild populations that this, in itself, is an overwhelming proof of the success of private cycad cultivation since the implementation of regulation.**
- 4. Most importantly they have failed to inform you that these are the plants, with their cultivated seedlings, that comprise the stock in trade of the legal commercial cycad industry.**
- 5. They have also failed to inform you that all these plants (artificially propagated), whatever their species ICUN listing may be and whatever the CITES Appendix category of wild plants in the species, are exempt from CITES trade restrictions**

“Under CITES regulations, an Appendix I listing prohibits trade in wild-collected plants except for scientific or conservation purposes, whereas a listing on Appendix II allows trade in wild-collected plants or seeds as long as there is no detrimental impact on the survival of wild populations. Artificially propagated plants of species on either Appendix I or II can be traded. Parties to the CITES convention can implement stricter control measures and South Africa has applied stricter control measures on trade in seeds of Appendix I cycads.” Donaldson - ICUN Status Survey and Conservation Action Plan – (2003)7.3 p43.

The fledgling commercial cycad industry in this country is without doubt one of the most closely monitored commercial activities in this country. Any cycad nurseryman will attest to the constant attentions of the provincial nature conservation officials and these officials, if asked, would verify that they spend a great deal of time monitoring the high profile cycad dealers. Under the close scrutiny of the law a small number of nurseries produce huge amounts of seedlings from permitted parental stock, most of this parental stock being second or third generation permitted artificially

propagated stock. The steadfast refusal of the legislators to acknowledge that these specimens are in a category entirely separate from wild plants, and to account specifically for them in the regulations, results in a situation where effective administration and control is so cumbersome that it is entirely ineffective. **We categorically state that this has been the single most important factor in the failure of the permit system meant to protect our wild cycads!**

That cheap and abundantly available artificially propagated plants will take the pressure off wild populations is a central tenet in the cycad conservation strategy (see Donaldson, Giddy or any reputable conservation publication). Your scientific authority needs to explain to us all how withdrawing more than a million of these plants from the market will take the pressure off the wild populations.

(Your staff would be remiss in their duty if they do not take the necessary steps to verify for you, and for themselves, the facts presented above)

One should not lose sight of the fact that the imposition of any trade restriction is tantamount to dispossession, or freezing, of assets by the state. Even if there was patently merit in the proposed restriction of trade it should be quite obvious, bearing in mind the statistics presented above, that the effective dispossession suffered by legal cycad owners, and particularly legal traders, would be significant to most individuals and astronomical collectively. We strongly object in principle that the proposal requires a select group of law abiding citizens to sacrifice assets acquired by diligent labour and/or significant cash outlay and that, more significantly, it requires those in the cycad industry and their employees to forfeit their income and livelihood, especially when it is clear that the goal associated with the sacrifice has no chance of being achieved. Does your scientific authority really expect the commercial cycad cultivators and hundreds of their employees to forfeit their livelihood in support of this very flawed plan?

We do not have access at this time to the motivation that has been presented to you on this matter but we find it very difficult indeed to establish any relationship between a ban in trade, partial or total, and the prevention of the illegal removal of wild cycads. **Wild cycads are removed by criminals and disposed of to criminals, all operating outside of the laws that have been in force since 1971. It has always been prohibited to remove cycads from the wild and, *de facto*, prohibited to trade with them. It has been no less criminal to steal cycads from private gardens and nurseries but the incidence of this crime has risen in tandem with the theft of wild cycads. Why, one has to ask, would criminals stop their activity simply because the law they have been habitually breaking with impunity has now been written differently?** (We contend here that the recipients of plants stolen from gardens and those who receive the plants stolen from nature are one and the same persons and their arrest and prosecution would be a giant step toward stopping the problem we face).

When the strategy in the proposal is examined for merit we, The Cycad Society of South Africa, find it to be utterly devoid of any. We cannot but conclude that the proposal would be doomed not to succeed and, furthermore, if it is envisaged to be employed as the sole regulatory tool to combat cycad poaching and is ever enacted, then the wild populations are truly condemned to extinction. The proposal has been described as having the intellectual subtlety of "fishing with dynamite" and the analogy has been drawn of it being the equivalent of banning the trade of second hand cars of the makes popular to thieves and hijackers in order to stop this activity.

We would also like to remind you that during the tenure of your predecessor the ToPS regulations were enacted. The regulations contained clauses effectively banning the trade of listed Critically Endangered and Endangered species and severely curtailed the trade in all other species. These Cycad clauses never became effective. Negotiations between the Society and members of your

department, without ever having to resort to an outside adjudicator, soon showed the regulations to be contradictory, poorly conceived and, most importantly, unlikely to succeed in their purpose. (Mrs Wilma Lutsch and Mrs Magdel Boshoff of your staff can be consulted for a first hand report on the nature of and the conclusions of this dialogue). As a result of the poor work done in compiling the original regulations pertaining to cycads the implementation of effective and enforceable national regulations to combat cycad poaching has been delayed by at least 7 years. With the exception of the forlorn Regulation 25a there are effectively no national regulations in place protecting wild cycads and there will not ever be unless meaningful and enforceable regulations result from the current ToPS Regulations amendment initiative.

Madam, we of the Cycad Society would relish the opportunity of endorsing a regulatory strategy that will finally put an end to cycad poaching, but we deeply regret to note that this is certainly not that occasion. Likewise, the vast majority of our members as individuals, and members of the cycad community at large, have clearly indicated that they have found the proposal to be draconian, insulting and defamatory by insinuation and grossly unfair with absolutely no chance of succeeding in its aim, or even playing any part in the goal of combating cycad poaching.

We are duty bound to further report that an overwhelming number of individuals from the ranks of the Society, and from without, have indicated to us that, should this proposal ever be enacted to law, they would not hesitate to have the matter tested by the courts in a class action suit on the grounds of the arguments listed above. Such action would be unreservedly endorsed by the Society.

It is impossible for us to believe that your scientific authority is not aware of the situation with regard to artificially propagated cycads as we have described it above. We thus must conclude that you and the public are being deliberately misled for a reason that we cannot fathom. It should be obvious that we would perceive elements of vindictive malice in their actions and the proposed legislation can only be described as punitive in nature. We bring to your attention a PowerPoint presentation entitled "ADDRESSING SOUTH AFRICA'S CYCAD CRISIS - A Provincial Conservation Perspective & Gauteng's Proposed Strategy". It is a presentation we know to have been used in various forms and on various forums to promote a ban on the trade of cycads. We look forward to the opportunity to identify for you the self serving omissions, distortions of fact and downright lies in this electronic document.

Having concluded our argument we will set out for you specifically which parts of the proposal we support or reject.

1. We unreservedly support a ban in the international export of any indigenous Encephalartos specimen larger than 15 cm, whether wild collected or artificially propagated.
2. We reject without qualification any restriction on the international export of any artificially propagated Encephalartos specimen smaller than 15cm.
3. We reject without qualification the restriction of trade within the borders of South Africa of any artificially propagated Encephalartos specimen
4. We reject without qualification the restriction of trade within the borders of South Africa of any currently permitted Encephalartos specimen
5. We reject any proposal to micro-chip artificially propagated plants of any size. There is absolutely no conceivable necessity to do so. (With regard to wild plants the authorities must note: The peg that houses the micro-chip is disproportionately large and plants smaller than 15cm, ideally 30cm, are not yet robust enough to withstand its insertion without severe risk to the health of the plant)

At the meeting held by your department with stakeholders in the ToPS Regulation amendment initiative on 4 March 2011 we publically reaffirmed our commitment to cooperation to ensure the

enactment of practical and enforceable legislation for the protection of our wild cycads. We trust that you, in consultation with your legal department, now have the necessary information available to put the issue of restriction of trade of artificially propagated cycads to rest once and for all. We need very urgently now to move on to the job at hand.

Yours faithfully

D van der Walt
President: The Cycad Society of South Africa