

## Exercise 3. Negotiating Access & Benefit sharing (group work)

*The aim of this exercise is to appraise the implications of the origin and movement of PGRFA on the development of sound policy.*

1. Form four groups of participants, each group elects a rapporteur. (5 minutes)

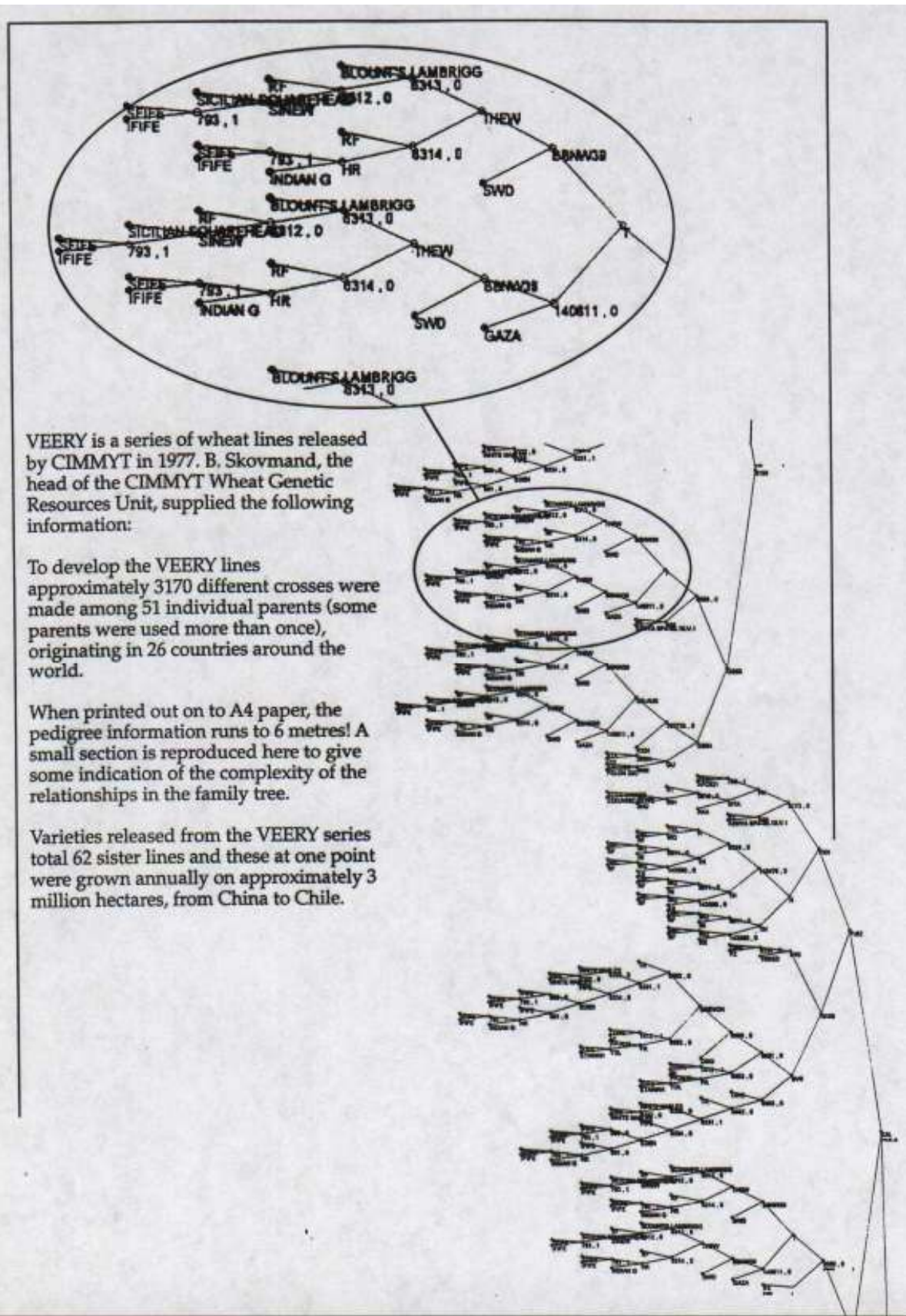


### Phase 1. Group work (45 minutes)

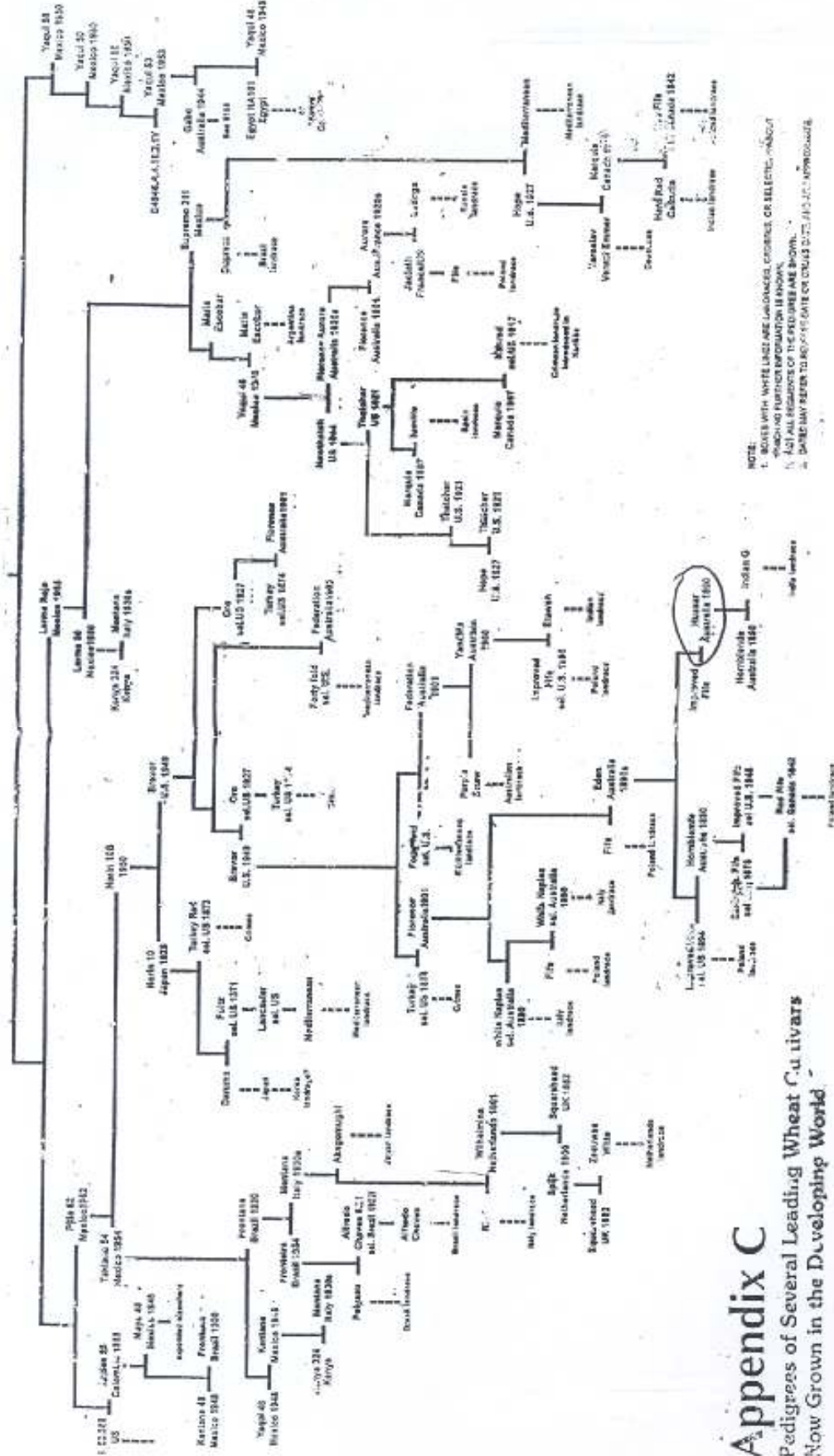
2. Examine the part of the pedigree of VEERY Wheat shown in handout 1.3.4. Notice that part of the pedigree has been circled. It has been determined that Country A is the country of origin of the landrace IFIFE, a landrace that was used in the breeding programme to produce VEERY Wheat. Now, suppose we are going back in time to the moment when access to the Country A landrace IFIFE is being requested: The Minister of Agriculture of Country A has asked for your advice on negotiating benefit-sharing arrangements with the (future) developer of VEERY Wheat. You may consider the CBD or, alternatively, the International Treaty applicable. What is your advice and why? What strategy or formula for access and benefit sharing would you recommend? Assume that Country A has a mix of agricultural production systems (including wheat) that encompass both large-scale cultivation relying on modern varieties for a limited number of crops and small-scale traditional farming. In addition, consider that the crop that is the subject of this exercise originated from West Asia and is now more or less ubiquitous, and assume that Country A is not located in this region.
3. Examine the pedigree for an additional wheat variety (handout 1.3.5), and notice that, again, one of the parents has been circled. Assume that a second breeder has now used VEERY Wheat in a breeding programme to produce a new variety. Assume it is VEERY Wheat that is circled in the pedigree. How would your strategy or recommendation achieve fair and equitable benefit sharing when Country A's contribution to VEERY Wheat has now become, indirectly, a contribution to the creation of yet another variety by another breeder?
4. Discuss the legal and administrative structure (and one that is cost effective) that is needed by Country A to deal with similar requests in future.
5. Remember that the rapporteurs will receive an overhead transparency from the trainer, to summarize the results of their groups and report to the audience in the next phase.

**Phase 2. Reporting and discussion (60 minutes)**

6. The rapporteurs present their group's results to the audience. Each rapporteur has five minutes to present. (20 minutes).
7. The trainer distributes handout 1.3.6 to the participants, analyses 'practical considerations' for the exercise, facilitates a discussion of the content of the presentations and provides feedback on the exercise. (40 minutes).







## Practical Considerations for Exercise 3

**(to be distributed after the exercise has been completed)**

*After doing this exercise, participants will have improved their insight into the implementation of access and benefit-sharing principles as formulated under the IT and CBD. As a result of doing this exercise, participants are now aware of (1) the complexities surrounding the implementation of access and benefit-sharing principles in regard to requests for germplasm that is to be used as a source in breeding programmes, and (2) how options for bilateral and multilateral arrangements are influenced by the current status of the crop's distribution.*

### Specific considerations

To be able to do the exercise, participants should first analyze the following factors, which might have an impact on the decisions to be made.

1. *Scope of access.* How much access is being negotiated now? Does it make sense to expand the scope of the agreement and cover more PGRFA in the original agreement, or to return, as necessary, and negotiate access for a new and subsequent breeding programme on a case-by-case basis for each accession and/or landrace?
2. *Prior Informed Consent.* Who negotiates and gives approval to the Mutually Agreed Terms? The same office in both cases? At what administrative/political level is this done? (A ministry? The collection holder? The community that has provided the landrace?) (As exchanges become more routine, expect the approval process to become more routine.)
3. *Mandate.* Are there standard forms or formulas for each of the possible circumstances in which access is sought/provided? Or is someone authorized to negotiate these? (Note: there are an almost infinite number of situations that could arise; thus, national laws and regulations should probably allow for and empower someone to be flexible and actually negotiate.)
4. *Interests.* Consider some of the variables that might influence the content of an access and benefit-sharing agreement:
  - a. type of material (landrace, 'improved variety', wild relative) and its characteristics (known, unknown, useful, rare or unique);
  - b. type of user (public, private, individual, serving a large or small market with or without commercial potential);
  - c. status of the material (legal status under international law, relevant property rights, etc.);
  - d. national situation (What are the needs of the supplier? Does supplier have a breeding programme in the crop? Does supplier have the capacity to develop the material nationally? Would information and improved materials be as useful as—and more valuable than—cash in obtaining access?).
5. *Type of benefits.* Benefits might be monetary and/or non-monetary. Which benefits do you consider most important for Country A and why? Consider different stakeholder groups and different time frames.
6. *Cost-benefit ratio.* The amount of benefits to be expected from an individual act of providing access has to justify the cost one puts into negotiating the terms of access—and

enforcing the agreement. Who will enforce? From which budget will such expenditures be paid? Is such a budget adequate? Are such expenditures authorized at present?

### **General issues**

Before you start developing your advice, please consider carefully the position of your country as a user and provider of germplasm, and the type of benefits that your country might need most.

In all the steps you take, please also consider whether your advice would be applicable to other crops and other requests, and whether this is desirable or not.

Keep in mind that different situations require different approaches, and will have different outcomes. As you visualize what it will be like to *provide* access and reap the resulting benefits, realize that all countries are interdependent and most countries have an agricultural system that is predominantly composed of ‘imported’ crops and PGR. So, visualize what it will be like to *seek* access (this may be more frequent than providing access). What kind of relationships do you want to construct with other countries and institutes? Market-driven, cooperative, other?

Policy and legal issues tend to encourage us to see interactions with others as adversarial and to discourage creative thinking about cooperation, generosity and community. What are our real interests? How can these best be met?

Please consider the following: What are the main crops in your country? Where do they come from originally? If you wish to develop them in the future, will you be happy to depend on the PGR you have of those crops right now? Are you going to want to develop a national breeding program for other crops in the future (for example, leafy vegetables)? Do you have collections within your country to support that program or will you need to collect materials from a number of other countries? Will you be the main supplier of your own PGR, or will you be a ‘buyer’? What system of access and benefit sharing do you now think would be best for you, in terms of helping you develop the crops that are important to your country?

Has the exercise changed your position regarding the implementation of the international agreements? In what sense?