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INFORMATION NOTE

From: General Secretariat of the Council

To: Delegations

No. prev. doc.: 12758/19

Subject: Opinion of the Enlarged Board of Appeal of the European Patent Office on the patentability of plants obtained by essentially biological processes (case G 3/19 - 'Pepper case')

Further to the *amicus curiae* submission¹ of the European Union of 1 October 2019 to the Enlarged Board of Appeal of the European Patent Office in case G 3/19 ('Pepper case') on the patentability of plants obtained by essentially biological processes, delegations are informed that the Enlarged Board of Appeal today, 14 May 2020, rendered its Opinion in this case.

In short, in its Opinion, the Enlarged Board of Appeal has concluded, in line with the Union's submission, that plants and animals exclusively obtained by essentially biological processes are not patentable.

The full text of the Opinion can be found at the following link:

[http://documents.epo.org/projects/babylon/eponet.nsf/0/44CCAF7944B9BF42C12585680031505A/\\$File/G_3-19_opinion_EBoA_20200514_en.pdf](http://documents.epo.org/projects/babylon/eponet.nsf/0/44CCAF7944B9BF42C12585680031505A/$File/G_3-19_opinion_EBoA_20200514_en.pdf)

¹ See doc. 12758/19.