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**COUNCIL OF
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OUTCOME OF PROCEEDINGS

from:	Working Party on Cooperation in Criminal Matters
on:	23 and 24 March 2000
Nos prev. docs:	6522/00 CATS 16 CRIMORG 34 COPEN 14 7090/00 CATS 19 CRIMORG 50 COPEN 20 7477/00 COPEN 23
Subject:	Mutual recognition of judicial decisions and judgments applied to the freezing of assets: legal aspects

At its meeting on 14 January 2000, the Article 36 Committee instructed the General Secretariat of the Council to prepare a draft text concerning the mutual recognition of judicial decisions applied to the freezing of assets, which is contained in COPEN 14. Analysis of the strategic aspects of this draft was entrusted to the Multidisciplinary Group on Organised Crime, whereas the Working Party on Cooperation in Criminal Matters is responsible for examining its legal aspects. On the basis of the initial ideas of the Working Parties concerned, the Article 36 Committee will resume its examination of the draft at its meeting on 18 April 2000.

At its meeting on 23 and 24 March 2000 the Working Party on Cooperation in Criminal Matters examined the subject on the basis of 6522/00 CATS 16 CRIMORG 34 COPEN 14 and 7090/00 CATS 19 CRIMORG 50 COPEN 20.

A general discussion enabled the Working Party on Cooperation in Criminal Matters to pinpoint the issues within its remit, while a more detailed discussion was held on the definition of the freezing of assets.

Delegations agreed to use the term "freezing" (rather than "seizing") provisionally as an independent concept which did not need to be examined from the viewpoint of existing legislation in Member States, but with reference to the concept of mutual recognition. Agreement in principle emerged on the following definition, which is based on Article 11(1) of the Strasbourg Convention of 8 November 1990 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

"Freezing" shall be a provisional measure taken by a judicial authority to prevent any dealing in, transfer or disposal of property which, at a later stage, may:

- (a) constitute an item of evidence in the framework of proceedings in the State which took the "freezing" measure, or*
- (b) be the subject of a request for confiscation in the State which took the provisional measure or which might be such as to satisfy the request.*

["Freezing" shall also be a provisional measure taken in order to prevent temporarily any dealing in, transfer or disposal of property where instructions have been given to that effect by a competent authority.]¹



¹ This second paragraph was deemed superfluous by several delegations.