International Legal Assistance for Confiscation of Proceeds of Crime under United Nations Convention against Corruption

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I, Chen Lin Jun, hereby declare that, I am the author of the above thesis and it is my original research work. This work has not been submitted anywhere else, either in part or whole, for a degree or other academic credits. I undertake the sole responsibility for any inaccuracy in this declaration.

Yours sincerely,

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International Legal Assistance for confiscation of proceeds of crime

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Abstract

With economic globalization, there is an increasing rate of cross border crime. Governments realize it is inefficient or not sufficient to control crimes within their territory by simply using their internal powers. Therefore, some conventions were drafted aiming at standardizing substantial crimes and also at strengthening procedural cooperation among countries in criminal matters. Legal assistance for confiscation of proceeds of crime is one aspect that has been addressed in recent years by many conventions. The purpose of legal assistance is to effectively trace and confiscate assets, especially in matters such as money laundering and corruption. To effectively prevent and control these crimes and to find and confiscate the proceeds, it is necessary to have legal assistance among different countries so as to ensure cooperation and a degree of harmonization on asset confiscation. When the process happens to be successfully concluded, the issue of asset sharing among the jurisdictions involved then arises.

The substantive international rules on asset confiscation will be presented and discussed in the thesis, based on the important global convention, the 2003 United Nations against Corruption. A small reference will also be made to civil confiscation, which is not required by international law and is an optional approach in the fight against crimes.

The thesis shall address the methods of cooperation. How does legal assistance work? Are there obstacles to cooperate?

Key Words: international legal assistance, seizure, confiscation, proceeds of crime
Abbreviations

CCAC  Commission Against Corruption of Macao  
CDD  Customer Due Diligence  
ECHR  European Convention for the Protection of Human Rights and Fundamental Freedoms  
EAG  Eurasian Group on Combating Money and Financing of Terrorism  
EU  European Union  
FATF  Financial Action Task Force  
FIU  Financial Intelligence Unite  
HK  Hong Kong  
HKSAR  Hong Kong Special Administrative Region  
ICAC  Independent Commission Against Corruption of Hong Kong  
IMF  International Monetary Fund  
Interpol  International Criminal Police Organization  
MSAR  Macao Special Administrative Region  
POCA  Proceeds of Crime Act  
STR  Suspicious Transaction Report  
UN  United Nation  
UNCAC  United Nations Conventions against Corruption  
UNODC  United Nations Office for Drug Control and Crime Prevention  
UNTOC  United Nation Conventions against Transnational Organized Crime
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