

## Taiwan Frigates Case

**Case ID:**

ARW-180

**Jurisdiction of Origin of Public Official or Entity Allegedly Involved:**

Taiwan, China

**Position of Public Official(s) (yrs in office):**

Navy Captain (Kuo Li-heng)

**Jurisdiction of Asset Recovery:**

Switzerland

**Jurisdiction of Asset Recovery ? Description:**

Location of Recovery Effort, Asset Location / Alleged Asset Location

**Asset Recovery Start:**

2001

**Asset Recovery End:**

2007

In part

**UNCAC Offenses Implicated:**

Art.16

**Legal Basis for Asset Recovery:**

Actions Initiated by Foreign Jurisdiction; Criminal Prosecution and Forfeiture

**Intl.Cooperation: MLAT/Letter of Request?:**

MLAT

**Basis for Intl Cooperation:**

Federal International Mutual Legal Assistance Act

**Contributing Factors in Asset Recovery:**

2007 Asset Return: Express consent of two account-holders concerned and Taiwan's guarantee that they would abide by the Swiss Federal Examining Magistrate's condition that the "legal proceedings against the two persons would comply with human rights principles." (Source: Federal Office of Justice Press Release, "USD 34 million handed over to Taiwan," June 13, 2007.)

**Status of Asset Recovery :**

Completed (in part) and Ongoing (in part)

**Stage in Asset Recovery Chain:**

Assets Returned to Victim or Requesting Jurisdiction (in part)

**Assets Returned (USD) - Description:**

\$34,000,000

**Agreement for Returned Assets - Description:**

N/A

**Case Summary:**

According to the Swiss Ministry of Foreign Affairs, as of September 30, 2009, \$34 million was returned to Taiwan (in 2007) and \$800 million remain frozen. According to the December 8, 2003 press release by the Swiss Federal Office of Justice, Switzerland provided legal assistance to Taiwan, France and Liechtenstein which had been requested in connection with legal proceedings related to the \$2.5 billion sale of six frigates to Taiwan in 1991 by the then French company Thomson. According to the press release, "Although a clause in the contract

expressly forbids the payment of commission, the Taiwanese authorities concluded from the inflated price that the deal constituted a serious case of international corruption. On 6 November 2001 they submitted a request for legal assistance from Switzerland in connection with criminal proceedings on the grounds of fraud, money laundering and corruption." The press release stated that the French authorities requested assistance "in connection with criminal proceedings on the grounds of disloyal business management and handling stolen goods" and Liechtenstein request was in connection with "criminal proceedings on the grounds of money laundering and participation in a criminal organization." (Source: Federal Office of Justice Press Release, "Frigate sale to Taiwan: Switzerland provides legal assistance," December 12, 2003.) The Swiss Federal Office of Justice announced, on June 13, 2007, that with the "express consent of the two account-holders concerned, the competent Federal Examining Magistrate ordered the return of USD 34 million to Taiwan." According to the press release, on September 5, 2006, the Taiwanese authorities lodged an application for the handover of assets that had been frozen in Switzerland as part of criminal and international legal assistance proceedings. The Taiwanese application was not based on any court recovery order, but the press release noted that "in exceptional cases - such as where the frozen assets are clearly of criminal origin - the Federal International Mutual Legal Assistance Act permits assets to be returned without a recovery order issued by the applicant state." The Taiwanese authorities had stated in their application that based on their review of the bank records provided to them by the Swiss authorities, the funds frozen can be proven to originate from the frigate affair. (Source: Federal Office of Justice Press Release, "USD 34 million handed over to Taiwan," June 13, 2007.) On May 3, 2010, the French company Thales S.A. (formerly Thomson-CSF) announced that it had been notified of the award handed down that day in the arbitration case against Taiwan (The Navy of the Republic of China (Taiwan) v. Thales S.A. (formerly Thomson-CSF) (France). According to the company's release, the total amount of the award was around 630 million euros (plus interest). The company's share of the litigation was 27.463% of the total award, corresponding to its industrial share in the supply contract. Please see entry on "Taiwan Frigates Case" Jurisdiction of Recovery Effort - France for an update. (Source: Thales, "Thales: Results of the arbitration with the Republic of China (Taiwan), May 3, 2010.)

#### **Disposition of Criminal Case(s):**

According to a November 2010 Taipei Times article, Taiwan prosecutors announced that they would not appeal the earlier acquittals against five co-defendants in the Taiwan frigates case but would appeal the acquittal of Mr. Kuo Li-heng, a Navy captain accused of taking bribes. (Source: Taipei Times, "Prosecutors won't appeal acquittals in frigate case," November 11, 2010, accessed at <http://www.taipetitimes.com/News/taiwan/archives/2010/11/11/2003488256> .)

#### **Jurisdiction of Origin: Investigative Agency:**

Unspecified

#### **Jurisdiction of Origin: Prosecuting Authority/Civil Attorney(s):**

Unspecified

#### **Jurisdiction of Origin: Courts Involved:**

Unspecified

#### **Jurisdiction of Asset Recovery: Investigative Agency:**

Federal Examining Magistrate (Geneva)

#### **Jurisdiction of Asset Recovery: Prosecuting Authority/Civil Attorney(s):**

Unspecified

#### **Jurisdiction of Asset Recovery: Courts Involved:**

Swiss Federal Tribunal (Geneva); [ICC Paris]

#### **Documents:**

Attachment	Size
 Taiwan_Frigates_Swiss_EJPD_Press_Release_Assistance_Dec_8_2003.pdf	81.91 KB
 Taiwan_Frigates_Swiss_EJPD_Press_Release_34M_Handed_Over_Jun_13_2007.pdf	82.29 KB
 Taiwan_Frigates_Thales_Press_Release_Arbitration_Decision_May_3_2010.pdf	28.87 KB
 Taiwan_Frigates_Prosecutors_No_Appeal_Taipei Times_Nov_11_2010.pdf	135.21 KB

**Other Sources:**

Swiss Ministry of Foreign Affairs, September 30, 2009; Swiss Federal Office of Justice Press Releases, "Frigate sale to Taiwan: Switzerland provides legal assistance," December 8, 2003, accessed at [http://www.ejpd.admin.ch/content/ejpd/en/home/dokumentation/mi/2003/ref\\_2003-12-08.html](http://www.ejpd.admin.ch/content/ejpd/en/home/dokumentation/mi/2003/ref_2003-12-08.html), and "USD 34 million handed over to Taiwan," June 13, 2007, accessed at [http://www.ejpd.admin.ch/content/ejpd/en/home/dokumentation/mi/2007/ref\\_2007-06-13.html](http://www.ejpd.admin.ch/content/ejpd/en/home/dokumentation/mi/2007/ref_2007-06-13.html); Thales Press Release, "Thales: Result of the arbitration with the Republic of China (Taiwan)," May 3, 2010, posted on company website, at <http://www.thalesgroup.com/Pages/PressRelease.aspx?id=12795>; AFP (Taipei), "Prosecutors won't appeal acquittals in frigate case," printed in Taipei Times, November 11, 2010, accessed at <http://www.taipetimes.com/News/taiwan/archives/2010/11/11/2003488256>.