



# General Assembly

Distr.: Limited  
28 April 1999

Original: Arabic and English

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## Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime

Third session

Vienna, 28 April-3 May 1999

Agenda item 3

**Consideration of the draft United Nations Convention against Transnational Organized Crime,  
with particular emphasis on articles 4, 4 *bis*, 7 and 8**

### **Proposals and contributions received from Governments on the draft United Nations Convention against Transnational Organized Crime**

#### **Kuwait: comments regarding the revised draft United Nations Convention against Transnational Organized Crime**

Having reviewed the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.1), the delegation of Kuwait has the following remarks to make regarding articles 4, 4 *bis* and 7:

(a) Article 4 (Money-laundering):

(i) The delegation of Kuwait supports option 1 of paragraph 1 because it is worded carefully, is easy to apply and is consistent with the provisions of the relevant international conventions, such as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988;

(ii) The delegation of Kuwait is of the view that both options of paragraph 2 (c) are appropriate because the question of the legal rules governing evidence presented before the court and the element of intent should be reserved for domestic laws, and such laws state that the accused is presumed innocent until proven guilty. Accordingly, this rule may not be breached by having the accused bear the burden of proving his or her innocence;

(iii) The delegation of Kuwait supports option 2 of paragraph 5 as it is carefully worded;

(b) Article 4 *bis* (Measures to combat money-laundering):

The delegation of Kuwait supports option 2 of paragraph 1 because the total lifting of bank secrecy laws may have several unnecessary consequences that

could harm national economies. Accordingly, bank secrecy should be dealt with as appropriate and should be restricted only in cases related to the detection, prevention and investigation of crimes involving money-laundering, as provided in the above-mentioned option;

(c) Article 7 (Confiscation):

(i) The delegation of Kuwait supports option 2 of paragraph 1 because the terms used are clear;

(ii) The delegation of Kuwait is of the opinion that paragraph 7 of article 7 should be eliminated, as it seeks to ensure that the onus of proof is reversed, which is contrary to the provisions of both international law and national law.