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20th OSCE Economic and Environmental Forum
“Promoting Security and Stability through Good Governance”

2nd Preparatory Meeting

“Promoting Good Governance and Combating Corruption
in Support of Socio-Economic Development”

Dublin, 23-24 April 2012

**Closing Statement by the Minister for Justice, Equality and Defence,
Alan Shatter. T.D.,**

Distinguished Participants,
Ladies and Gentlemen,

I am honoured by this opportunity to address the closing session of this important conference and share with you some thoughts about how we can be more effective in promoting good governance and combating corruption in our countries and the role the OSCE could play in that regard.

As our work comes to its conclusion, I will try to summarise some of the key messages that emerged from this Forum meeting.

First and foremost, I am pleased to note the general consensus among the Forum’s participants that good governance is a key element, conducive not only to economic development but also to sustainable development, equal opportunities for all and, ultimately, to stability and security.

The lack of good governance, the absence of efficient and accountable institutions, the lack of transparency - all these lead to economic underperformance, open the door to corruption and abuses of power and generate an array of security risks at national and regional level. As rightly mentioned in the OSCE Strategy for the Economic and Environmental Dimension, “Good governance at all levels contributes to prosperity, stability and security.”

Secondly, promoting good governance requires a comprehensive, multi-dimensional and multi-stakeholder approach. Promoting good governance and combating corruption is not a simple task and consistent action on several fronts is needed. Preventive measures have to be intertwined with enforcement measures. Legislative improvements have to be supported by strengthening the implementation capacity of relevant institutions. A culture of integrity, transparency and accountability at central and local level has to be promoted. At the same time, it is important to strengthen whistleblowers and safeguards for protection. Asset and income declaration systems are important corruption prevention measures but they have to be backed by effective verification mechanisms and ultimately by the capacity to identify, freeze and recover stolen assets.

Good governance is most successfully promoted through the participation and co-operation of all stakeholders - governments and government agencies, the business sector, non-governmental organisations and the media. It is particularly important that civil society actors acquire the knowledge and the capacity to raise awareness and tackle corruption issues.

Thirdly, the Forum’s deliberations highlighted the need to address corruption with even stronger determination. Stronger efforts have to be made to implement agreed standards and commitments. Enhanced co-operation at all levels - amongst states, between governments and civil society and the business community, between countries and international organisations – is needed in that regard.

Let me turn now to the possible role for the OSCE.

The OSCE is a forum for political dialogue. The Organisation can thus be instrumental in fostering high-level political support for regional initiatives that promote good governance and tackle corruption.

The OSCE can also be useful in identifying gaps and areas where further action is desirable. Especially in the area of prevention, the OSCE has been actively supporting participating States over the years in their work to strengthen their national legal frameworks and anti-corruption institutions, develop anti-corruption strategies and action plans, establish codes of ethical conduct, introduce more effective and transparent public procurement regulations and increase civil society participation. I think this valuable work should continue in close co-operation and coordination with other actors, such as the United Nations Office on Drugs and Crime (UNODC), the OECD, the Council of Europe and the European Union.

The OSCE field operations can be instrumental in strengthening local capacity to combat corruption. The field operations also play a key role in co-ordinating the local actors and the international donors in efforts to promote good governance in their host countries.

Corruption is primarily motivated by the prospect of financial gain. It is crucial that we address this fact in the most effective way possible – by constantly striving to introduce better co-ordination and international information sharing.

Ireland's ratification last year of the UN Convention against Corruption further signals our determination to advance international cooperation in this area. This UN Convention is a comprehensive anti-corruption treaty which requires countries to implement legal and regulatory regimes both within the private and public sectors. The OSCE Ministerial Council Declaration on Combating Corruption specifically highlights this Convention and encourages OSCE participating States to ratify it.

As highlighted in the Convention, asset recovery is a key element of a comprehensive anti-corruption framework. An important and effective tool in the fight against criminality is the development of best practice in tackling proceeds of crime and criminal financing. You have heard today of the work of Ireland's Criminal Assets Bureau. The Bureau through its multi-disciplinary approach to targeting the proceeds of crime has served Ireland well in tackling the proceeds of crime in this jurisdiction.

The Bureau came into existence following a particularly turbulent time in Irish criminal history - when criminal gangs came to the fore and those who orchestrated the activities of these gangs sought to remain beyond the reach of the State authorities.

Ireland is one of a small number of states who have adopted both conviction based and non-conviction based models for the confiscation of proceeds of crime. While conviction based models are the norm in many states, the non-conviction based model, as deployed by the Criminal Assets Bureau in this jurisdiction, is less known.

Whereas the conviction based model of confiscation acts *in personam* against a convicted person, the non-conviction based approach can act *in rem* against property which constitutes the proceeds of crime. In the Irish model, civil law rather than criminal law concepts apply and therefore the civil law standard applies with regard to matters of evidence, that is, judgements are made on the balance of probabilities. Our system also includes a number of very important safeguards, either expressly provided for in legislation or through accompanying administrative measures.

The multi-disciplinary structure of the Bureau and its supporting legislative framework represent an effective model that is both fair and balanced, and the Irish Government is committed to further strengthening the operation of the model in this jurisdiction.

I am aware of the concerns that are expressed from time to time regarding the non-conviction based model. However, I believe these concerns can be addressed through a legislative framework that is proportionate and which provides for the necessary safeguards and protections. The particular legislation in Ireland was considered very novel at the time of its inception. Much thought went into ensuring that our constitutional requirements were met and that fair procedures applied.

The Irish legislation has been the subject of a number of constitutional challenges to the Irish Supreme Court during its time in operation. A significant number of the arguments made in these cases reflect matters that could possibly have been raised under the Convention for the Protection of Human Rights and Fundamental Freedoms, had the Convention been incorporated into Irish domestic legislation at the time of the cases. For example, the challenges which were made included arguments to the effect that the Act constituted a criminal procedure by another name and did not therefore provide for the necessary protections that would apply in a criminal procedure; that the Act involved the contravention of the privilege against self-incrimination and that the Act breached rights to private property. However, the legislation has withstood all of these challenges.

I firmly believe that effective non-conviction based regimes can respect our constitutional rules, and the fundamental rights and legal principles provided for in the EU Treaties and the European Convention on Human Rights.

I believe that increased cooperation at international level is core to the targeting of proceeds of crime and that more can be done through further enhancements to the regimes that exist.

As many of you will be aware, a proposal for a Directive on the freezing and confiscation of proceeds of crime in the European Union has recently been published. I believe that this proposal will provide us with further opportunities to encourage thinking at European Union level about the model operated in this jurisdiction. I will seek to encourage the Member States to take the

opportunity to consider this model further, particularly in the context of mutual recognition of our respective regimes. The forthcoming Irish Presidency of the Union will be used to advance this.

I am very heartened by the interest that has been expressed within this wider network of states with regard to the work of the Bureau. I would encourage and support continued work in this area through the international fora and within the framework of the OSCE.

I should also like to take the opportunity to acknowledge the extensive work that takes place in the field of anti-corruption and in the general area of good governance within other international fora - a number of these bodies are represented here today.

In this regard, I should like to mention that the Third Phase of Ireland's Evaluation by the Greco was finalised recently, and we were pleased that the Greco Evaluation Team reported on our strong commitment to consolidate and reform the law on corruption, while also recommending that we continue with efforts to revise existing criminal law in this field, to enhance consistency and clarity.

Our membership of the key international anti-corruption groups affords us a further opportunity to review the various anti-corruption measures we have already in place, and to improve our laws in the light of our experience and participation in these international fora.

Turning to the legislative framework in Ireland, my overall objective for our new Criminal Justice (Corruption) Bill is to clarify and reform the anti-corruption laws dating back to 1889 so that the relevant anti-corruption measures are made clearer and more accessible for everyone. One of the themes addressed here this morning was the need for civil society involvement in anti-corruption efforts. In an effort to facilitate such participation the Government plans to publish the general scheme of the

Corruption Bill. This will allow all concerned to make an input even before the Bill is drafted or presented to parliament for debate.

Another important part of the framework of anti-corruption law is that concerning political funding. The Electoral (Amendment) (Political Funding) Bill 2011 significantly reforms political funding arrangements in Ireland, and is currently before our Parliament. The input of GRECO, through its third round evaluation of party funding has been invaluable in informing the development of the Bill. The Government also plans to legislate for a statutory register of lobbyists, along with rules concerning the practice of lobbying, and work is ongoing on this subject. To compliment this work I have reviewed our approach to trading in influence and I aim to ensure that it is addressed in a robust, discrete offence provision in the forthcoming corruption Bill.

Distinguished delegates, you will have heard of the recent reports by the Moriarty and Mahon tribunals here in Ireland. While I know that those reports are a cause of great concern to the public and indeed to all of us in Government, I wish to look on the positive side. It is the mark of a mature democracy that it can engage in such detailed and open self-examination of its failings. The response of the Government in reforming in light of that examination will be the mark of our integrity as ministers and parliamentarians. For my part I have directed my officials to carefully consider all of the tribunal's recommendations so as to ensure that they are properly reflected in the corruption Bill.

I am certain that all of the states represented here today are similarly engaged in the ongoing development and reform of their domestic arrangements in this area. I hope that this meeting has provided some useful insights in this regard and that we will see the benefits of our discussions in the years ahead.

To conclude, I would like to thank once again the distinguished speakers who have participated over the last two days. I am delighted to see that many of the international organisations who work closely with the OSCE are represented here today. The discussions have been very productive and I

am aware that these deliberations will continue at the concluding Forum meeting in Prague in September. Ultimately, our aim is to prepare proposals for the Dublin OSCE Ministerial in December. The task will be for us to define more clearly the OSCE's role to maximise its support for international efforts in promoting good governance.

The Irish Chairmanship remains committed to ensure a successful Forum process. We welcome the progress made and I can assure you that we will work hard to deliver meaningful proposals in this regard.

Thank you.