

## AGREEMENT

### **BETWEEN THE GOVERNMENT OF THE REPUBLIC OF TURKEY AND THE EUROPEAN COMMISSION ON THE RULES FOR CO-OPERATION CONCERNING EU-FINANCIAL ASSISTANCE TO THE REPUBLIC OF TURKEY AND THE IMPLEMENTATION OF THE ASSISTANCE UNDER COMPONENT V (IPARD) OF THE INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA)**

The European Commission, hereinafter referred to as "the Commission", acting for and on behalf of the European Union

of the one part, and

The Government of the Republic of Turkey, acting on behalf of the Republic of Turkey, hereinafter referred to as "Turkey"

of the other part,

hereinafter jointly referred to as "the Contracting Parties",

Whereas:

- (1) On 17 July 2006, the Council of the European Union adopted Regulation (EC) No 1085/2006<sup>1</sup> establishing an instrument for pre-accession assistance (hereinafter referred to as "IPA Framework Regulation"). That instrument constitutes with effect from 1 January 2007 the legal basis for the provision of financial assistance to candidate countries and potential candidate countries in their efforts to enhance political, economic and institutional reforms with a view to becoming members of the European Union.
- (2) On 12 June 2007, the Commission adopted Commission Regulation (EC) No 718/2007<sup>2</sup> implementing the IPA Regulation, detailing applicable management and control provisions (hereinafter referred to as "IPA Implementing Regulation").
- (3) The instrument for pre-accession assistance (IPA) replaces the five previously existing pre-accession instruments: Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to the Republic of Hungary and the Polish People's Republic<sup>3</sup>, Council Regulation (EC) No 1267/1999 of 21 June 1999 establishing an Instrument for Structural Policies for Pre-Accession<sup>4</sup>, Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period<sup>5</sup>, Council Regulation (EC) No 2500/2001 of 17 December 2001 concerning pre-accession financial assistance for Turkey<sup>6</sup> and Council Regulation (EC) No 2666/2000 of 5 December 2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia<sup>7</sup>.
- (4) Those instruments shall continue to apply for legal acts and commitments implementing the budget years preceding 2007.
- (5) Turkey is eligible under IPA as provided for in the IPA Framework Regulation and in the IPA Implementing Regulation.
- (6) Turkey figures in Annex I of the IPA Framework Regulation, and should therefore have access to the 5 components established under IPA, i.e. the Transition Assistance and Institution Building Component, the Regional and Cross-Border Co-operation Component, the Regional Development Component, the Human Resources Development Component and the Rural Development Component (hereinafter referred to as "IPARD").
- (7) Turkey has approved and submitted a programme to the Commission in accordance with Article 184 of the IPA Implementing Regulation for approval as its Agriculture and Rural Development Programme (hereinafter referred to as "the IPARD Programme").

<sup>1</sup> OJ L 210, 31.7.2006; p. 82.

<sup>2</sup> OJ L 170, 29.6.2007, p. 1.

<sup>3</sup> OJ L 375, 23.12.1989, p. 11. Regulation as last amended by Regulation (EC) 2257/2004 (OJ L 389, 30.12.2004, p. 1).

<sup>4</sup> OJ L 161, 26.6.1999, p. 73. Regulation as last amended by Regulation (EC) No 2112/2005 (OJ L 344, 27.12.2005, p. 23).

<sup>5</sup> OJ L 161, 26.6.1999, p. 87. Regulation as last amended by Regulation (EC) No 2112/2005.

<sup>6</sup> OJ L 342, 27.12.2001, p. 1. Regulation as last amended by Regulation (EC) No 2112/2005.

<sup>7</sup> OJ L 306, 7.12.2000, p. 1. Regulation as last amended by Regulation (EC) No 2112/3005.

- (8) The IPARD Programme was approved by Commission Decision of 25 February 2008<sup>8</sup> taken in accordance with Article 7(3) of the IPA Framework Regulation. It is therefore necessary to set out the conditions for the execution of the IPARD Programme, and any amendments thereof, by Turkey.
- (9) According to Article 17 of the IPA Framework Regulation the Commission and the beneficiary countries shall conclude Framework Agreements on the implementation of the assistance. Sectoral Agreements concerning implementation of the IPARD Programme shall be concluded between the Commission and the beneficiary countries or its implementing authorities as required.
- (10) On 24 December 2008 a Framework Agreement<sup>9</sup> was concluded between the Government of the Republic of Turkey and the Commission on the rules for co-operation concerning European Union financial assistance to Turkey and the implementation of the assistance under IPA.
- (11) The assistance under IPA is implemented through fully decentralised management according to Article 10 of the IPA Implementing Regulation.
- (12) It is therefore necessary to set out further detailed rules for Turkey for the implementation and management of the IPARD Programme in a Sectoral Agreement (hereinafter referred to as the "Agreement").

HAVE AGREED AS FOLLOWS:

## SECTION I GENERAL PROVISIONS

### *Article 1 Scope*

This Agreement relates to the management and implementation of the IPARD Programme of Turkey and complements the Framework Agreement.

### *Article 2 General provisions of the Framework Agreement*

Articles 1 and 2 of the Framework Agreement shall apply *mutatis mutandis* to this Agreement. References in those provisions to the IPA Framework Regulation and IPA Implementing Regulation shall be construed as also including the Framework Agreement.

### *Article 3 Compliance with the Agreements*

1. Turkey shall take all necessary steps in order to ensure the proper execution of all assistance activities and to facilitate the implementation of the IPARD Programme in compliance with the Framework Agreement and this Agreement. Reference to compliance with these Agreements shall be understood to also include compliance with the IPARD Programme, the Multi-annual Financing Agreement and the Commission Decision referred to in Article 25.

<sup>8</sup> C(2008)691.

<sup>9</sup> C(2007)3208, 6.7.2007.

2. In case of conflict, the provisions of the Agreements shall prevail over those in the IPARD Programme.

#### Article 4

##### *Consistency with other Instruments*

1. In addition to Article 4(1)(a) of the Framework Agreement, the Commission and Turkey shall ensure consistency and co-ordination of assistance within and between the IPARD Programme, the other components under the IPA Framework Regulation and assistance from the European Investment Bank (EIB) and other international financial instruments, at the levels of planning, programming and implementation.
2. Any overlap between actions covered by assistance provided under the different IPA components shall be avoided and no expenditure shall be financed under more than one component.
3. Turkey shall ensure in particular that where a project under the IPARD Programme, due to its nature, could also be potentially eligible in full or in part for assistance under one of the other instruments referred to in paragraph 1, there is no risk of expenditure being aided more than once. For all such projects, all receipted invoices as referred to in Article 44(1)(b), shall be clearly stamped "IPARD" by an authorised official before being the subject of a payment from the IPARD Agency, as referred to in Article 12.
4. Implementation of the IPARD Programme shall be consistent with the relevant rules applicable to rural development programmes in Member States. However, only the provisions of the Agreements and the IPARD programme approved by the Commission shall apply.

#### Article 5

##### *Protection of the European Union's financial interests*

1. In the implementation of Articles 28 and 29 of the Framework Agreement by Turkey, the provisions laid down in Articles 1 – 9 of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995<sup>10</sup> on the protection of the European Communities financial interests shall apply, *mutatis mutandis*.
2. Without prejudice to paragraph 1, in the event of suspected or proven failure by a final beneficiary to respect obligations in relation to the IPARD Programme as well as attempts to secure from the IPARD Agency, as referred to in Article 12, and the National Fund payments for which there is no entitlement, Turkey shall pursue all such failures and attempts under national legal procedures in a manner no less rigorous than in instances involving national public funds.

#### Article 6

##### *State Aid*

Turkey shall ensure that for any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods granted under IPARD, which concern products other than those referred to in Chapter II of Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on

<sup>10</sup> OJ L 312, 23.12.1995, p.1. Regulation as last amended by Commission Regulation (EC) No 1233/2007 of 22 October 2007 (OJ L 279, 23.10.2007, p. 10).

implementing the final phase of the customs union<sup>11</sup>, Chapter IV, Section II of the said EC-Turkey Association Council Decision is respected.

## SECTION II MANAGEMENT AND CONTROL SYSTEM

### *Sub-section 1 General provisions*

#### *Article 7*

##### *Scope*

This Section sets out the management and control system for the execution of the IPARD Programme and complements the provisions under Sections II and III of the Framework Agreement.

#### *Article 8*

##### *Implementing principles*

1. Implementation of the IPARD Programme shall be carried out by Turkey on the basis of decentralised management without ex ante controls, whereby the Commission confers the management of the IPARD Programme on the management and control system designated for IPARD, while retaining overall final responsibility for general budget execution in accordance with Article 53c of the Financial Regulation and the relevant provisions of the EC. It shall be implemented in accordance with the provisions laid down in Article 53c of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002<sup>12</sup>.
2. The financial year shall be from 1 January to 31 December.

### *Sub-section 2 Structures and authorities*

#### *Article 9*

##### *Functions and common responsibilities of the structures, authorities and bodies*

1. The structures, authorities and bodies mentioned in Article 6 of the Framework Agreement shall be allocated the functions and responsibilities as set out in its Annex A.
2. Turkey shall, by a formal act at ministerial level, decide on the designation of the structures, authorities and bodies referred to in paragraph 1 after it has satisfied itself that the administrative arrangements of the concerned structures, authorities and bodies offer sufficient assurance that they are capable of fulfilling their functions and responsibilities.
3. The structures, authorities and bodies mentioned in Article 6(1)(d), (e) and (f) of the Framework Agreement, and any of their functions and responsibilities including functions delegated to other bodies, constitute the management and control system and therefore shall be, after their designation, subject to accreditation by Turkey and conferral of management by the Commission. They shall be allocated the main functions and responsibilities as set out in Annex I

<sup>11</sup> OJ L 35, 13.2.1996, p. 0001-0047.

<sup>12</sup> OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).

(hereinafter referred to as "accreditation criteria"), including all necessary arrangements adopted to protect the European Union's interests.

4. All other structures, authorities and bodies established within the overall framework defined in Article 6 of the Framework Agreement but outside the management and control system shall be designated before first accreditation of the management and control system. They shall not be subject to accreditation by Turkey nor conferral of management by the Commission.
5. The National Fund and the IPARD Agency, as referred to in Article 12, and any of their delegated bodies, shall maintain a separate accounting system or separate accounting codifications that meet International Generally Accepted Accounting Principles. They shall as well set up procedures to ensure the retention of all documents required to guarantee an adequate audit trail.

#### *Article 10*

##### *Functions and responsibilities of the Competent Accrediting Officer*

1. The Competent Accrediting Officer (hereinafter referred to as the "CAO") shall act as the sole interlocutor for all questions relating to IPARD as regards the communication to the Commission of the information referred to in Articles 22, 23 and 25(1) of this Agreement.
2. In performing its tasks, the CAO may, in accordance with national procedures, call on other administrative bodies or departments, particularly on those with accounting or technical expertise.
3. The CAO shall ensure that any proposed changes in the management and control system's paying and implementing arrangements after their accreditation and conferral of management are submitted to the Commission, with copy to the Audit Authority, for examination and approval in advance of their implementation. It shall state, in written form, after duly examination of the proposed changes, whether it is satisfied that the continuous fulfilment of all the requirements set out in the Agreements is confirmed.

#### *Article 11*

##### *Functions and responsibilities of the National Authorising Officer and the National Fund*

1. The National Authorising Officer (hereinafter referred to as the "NAO") including the National Fund (NF) shall be allocated the functions and responsibilities in accordance with Annex I.
2. The NAO shall bear overall responsibility for the financial management of European Union funds in Turkey and shall be responsible for the legality and regularity of the underlying transactions. The NAO shall act as the sole interlocutor with the Commission for all questions relating to IPARD as regards:
  - (a) the distribution of European Union texts and guidelines relating thereto to the management and control system and to any other bodies responsible for their implementation, as well as their harmonised application;
  - (b) the communications to be made to the Commission of the information referred to in Article 24;
  - (c) the availability to the Commission of a full record of all accounting information required for statistical and control purposes.

3. The NAO shall ensure that any proposed changes in the IPARD Agency's implementing or paying arrangements, as referred to in Articles 12 and 14, after their accreditation are submitted to the CAO and the Commission, with copy to the Audit Authority, for examination and approval in advance of their implementation.

### *Article 12*

#### *Designation of the Operating Structure*

1. The Operating Structure to be designated for IPARD in accordance with Article 28 of the IPA Implementing Regulation, Article 6(1)(f) and Annex A of the Framework Agreement shall consist of the following separate bodies:
  - (a) the Managing Authority;
  - (b) the IPARD Agency.
2. They shall be set up according to Articles 13 and 14.
3. The heads of the bodies constituting the Operating Structure shall be clearly designated and shall be responsible for the tasks assigned to their respective bodies, in accordance with Article 8(3) of the Framework Agreement.

### *Article 13*

#### *Functions and responsibilities of the Managing Authority*

1. The Managing Authority shall be allocated the functions and responsibilities in accordance with Annex I.
2. The Managing Authority shall carry out of the following tasks:
  - (a) drafting of the IPARD Programme;
  - (b) ensuring that operations are approved and funded in accordance with the criteria and mechanisms applicable to the IPARD Programme, and that they comply with the relevant European Union and national rules;
  - (c) IPARD Programme monitoring and assisting the work of the IPARD Monitoring Committee as defined in Article 61, notably by providing the documents necessary for monitoring the quality of implementation of the IPARD Programme;
  - (d) drawing up the annual and final implementation reports as defined in Article 68 and, following consultation with the IPARD Agency, and after their examination by the IPARD Monitoring Committee, submitting to the Commission, the National IPA Co-ordinator (NIPAC) and the NAO, with a copy to the Audit Authority;
  - (e) setting up, maintaining and updating the reporting and information system.

3. The Managing Authority shall in pursuance of Articles 63 - 67, set up a system to gather financial and statistical information on progress of the IPARD Programme, if the setting up of such a system is not undertaken by the IPARD Agency, and shall forward this data to the IPARD Monitoring Committee, in accordance with arrangements agreed between Turkey and the Commission, using where possible computerised systems permitting the exchange of data with the Commission.
4. The Managing Authority shall propose adjustments of the IPARD Programme to the Commission and to the NIPAC after consultation with the IPARD Agency, and following agreement by the IPARD Monitoring Committee. The Managing Authority is responsible for ensuring that the relevant authorities are informed of the need to make appropriate administrative changes when such changes are required following a Decision by the Commission to amend the IPARD Programme.
5. The Managing Authority shall each year draw up an action plan for the operations envisaged under the Technical Assistance measure which shall be submitted to the IPARD Monitoring Committee for agreement.
6. The Managing Authority shall each year consult and inform the Commission, having taken advice from the IPARD Monitoring Committee, of the initiatives taken and those to be taken, with regard to informing the general public about the role played by the European Union in the IPARD Programme and its results.
7. The Managing Authority shall ensure that IPARD Programme evaluations are conducted within the time limits laid down in this Agreement and conform to the common monitoring and evaluation framework in pursuance of Article 63(5), and for submitting evaluations undertaken to the relevant national authorities and the Commission.
8. The Managing Authority shall ensure compliance with the obligations concerning publicity referred to in Article 24 of the Framework Agreement.
9. When a part of its tasks is delegated to another body, the Managing Authority shall retain full responsibility for the efficiency and correctness of management and implementation of those tasks.

#### *Article 14*

#### *Functions and responsibilities of the IPARD Agency*

1. The IPARD Agency shall be allocated the functions and responsibilities in accordance with Annex I.
2. The IPARD Agency shall carry out, *inter alia*, the following implementing and paying tasks:
  - (a) making calls for applications and publicising terms and conditions for eligibility;
  - (b) selecting and checking operations in accordance with the criteria and mechanisms applicable to the IPARD Programmes, and complying with the relevant European Union and national rules;

- (c) checking of applications for approval of projects against terms and eligibility conditions, and compliance with the Agreements including, where appropriate, public procurement provisions;
- (d) laying down contractual obligations in writing between the IPARD Agency and the final beneficiaries including information on possible sanctions in the event of non-compliance with those obligations and, where necessary, the issue of approval to commence work;
- (e) arranging for the implementation of grant schemes and the ensuing contracting;
- (f) making payments to, and recovery from, the final beneficiary;
- (g) execution of on-the-spot checks to establish eligibility both prior to and following project approval;
- (h) carrying out checks to ensure that the expenditure declared has actually been incurred in accordance with applicable rules, the products or services have been delivered in accordance with the approval decision, and the payment requests by the final beneficiary are correct. These checks shall cover financial, administrative, technical and physical aspects of operations, as appropriate;
- (i) follow-up action to ensure progress of projects being implemented;
- (j) reporting of progress of measures being implemented against indicators;
- (k) ensuring that the final beneficiary is made aware of the European Union contribution to the project;
- (l) ensuring irregularity reporting;
- (m) ensuring that the NAO, the National Fund and the Managing Authority receive all information necessary for them to perform their tasks.

In respect of investments in infrastructure projects of a type that would normally be expected to generate substantial net revenue, the IPARD Agency shall assess, prior to entering into contractual arrangements with a potential beneficiary, whether the project is of this type. Where it can be concluded that it is, the IPARD Agency shall ensure that the public aid from all sources does not exceed 50% of total costs related to the project and considered as eligible for European Union co financing.

3. In respect of investments in projects except those in infrastructure of a type not generating substantial net revenue, the IPARD Agency shall ensure that for any project under the IPARD Programme the accumulation of public aid granted from all sources does not exceed the maximum ceilings for public expenditure set out in Article 34. Measures for training are considered to be human capital and not investment for the purposes of this paragraph.



*Designation of the Audit Authority*

1. The Audit Authority to be designated for IPARD in accordance with Article 29 of the IPA Implementing Regulation and Article 6(g) and Annex A of the Framework Agreement shall be designated by Turkey.
2. The Audit Authority shall be operationally and functionally independent of the management and control system and shall have the appropriate technical vocation.

Article 16

*Functions and responsibilities of the Audit Authority*

1. The Audit Authority shall act as the Commission's sole interlocutor for all questions relating to IPARD as regards the distribution of European Union texts and guidelines relating thereto to its functions and responsibilities.
2. The Audit Authority shall act under the responsibility of its head. It shall in particular fulfil the following functions and assume the following responsibilities:
  - (a) During the course of each year, it shall establish and fulfil an annual audit work plan which encompasses audits aimed at verifying:
    - i. the effective functioning of the management and control systems,
    - ii. the reliability of accounting information provided to the Commission.

The annual audit work plan shall be transmitted to the Commission and the CAO, with copy to the NAO, before the start of the year in question.

- (b) It shall submit reports and opinions as follows:
  - i. an annual audit activity report following the model in Annex C to the Framework Agreement which sets out the resources used by the Audit Authority, with a summary of any weaknesses found in the management and control system or in transaction findings from the audits carried out in accordance with the annual audit work plan during the previous 12 month period, ending on 30 September of the year concerned. The annual audit activity report shall be addressed to the Commission and the CAO, with copy to the NAO by 31 December each year. The first such report shall cover the period 1 January 2007 - 30 September 2008.
  - ii. An annual audit opinion following the model set out in Annex D to the Framework Agreement, accompanied by a report supporting this opinion, as to whether the management and control system functions effectively and conforms to the requirements of the Agreements and the IPA Implementing Regulation. The opinion shall be addressed to the Commission and the CAO, with copy to the NAO. It shall cover the same period and have the same deadlines as the annual audit activity report.

iii. An annual audit opinion on the accounts and statement of expenditure, accompanied by a report supporting this opinion, or at the time of the final closure of the IPARD Programme an audit opinion, accompanied by the final Audit Report, on the final statement of expenditure according to the model in Annex E to the Framework Agreement. It shall be sent to the Commission and to the CAO at the same time as the relevant final statement of expenditure submitted by the NAO, or at least within three months of the submission of that final statement of expenditure.

3. The reports and opinions referred to in paragraph 2 shall be based on an examination of procedures and of a sample of transactions.
4. The annual audit opinion on the management and control system, and the related audit reports, shall cover conformity of the accredited structures with the Agreements as to whether their management and control system - designed to contribute to the production of reliable accounts and statements of expenditure presented to the Commission and therefore to help to ensure, inter alia, the legality and regularity of the transactions underlying those statements - were operated effectively.

The Audit Authority shall state, in the opinion referred to in this paragraph, whether it has gained reasonable assurance that:

- (a) the management and control system established for the operations under the IPARD component during the period concerned were operated effectively in all material respects; and
- (b) audit findings are of a representative nature in respect of the Statement of Assurance by the NAO.

The report referred to in this paragraph shall state whether:

- (a) the management and control system complies with the accreditation criteria;
- (b) the management and control system's procedures and functions are such as to give reasonable assurance that the operations charged to the IPARD Programme comply with this Agreement, and what recommendations have been made for the improvement of the system;
- (c) recommendations on the improvement of the management and control system addressed to the NAO have been followed up;
- (d) audit findings are consistent with the presence or absence of reservations by the NAO to the Statement of Assurance;
- (e) any exceptional transactions or technical difficulties have been experienced regarding the period concerned;
- (f) any significant modification has been made since the previous report of the information.

The report shall be accompanied by information on the number and qualifications

of staff undertaking the audit, on the work done, on the number of transactions examined, on the level of materiality and confidence obtained, on any weakness found and recommendations made for improvement, and on the operations of both the Audit Authority and other audit bodies, internal and external to the management and control system, from which all or part of the Audit Authority's assurance on the matters reported was gained.

5. The annual audit opinion on the accounts and statement of expenditure or, at the time of the final closure of the IPARD Programme, the audit opinion on the final statement of expenditure, the closure of a IPARD Programme or parts of a IPARD Programme, and the related audit reports, shall cover compliance of payments with the Agreements only as regards the capability of the accredited administrative structures to ensure that such compliance has been checked before a payment is made.

The Audit Authority shall state, in the opinion referred to in this paragraph, whether it has gained reasonable assurance that:

- (a) the certified accounts and statements of expenditure, and for the closure of a IPARD Programme or parts of a IPARD Programme the declaration of expenditure for the final balance of the European Union contribution to the IPARD Programme, to be transmitted to the Commission are free of material misstatements; and
- (b) no significant changes have affected its annual audit opinion on the management and control system.

For final closure purposes, this opinion shall address the validity of the final declaration of expenditure, the accuracy of the financial information and be supported by a final audit activity report.

The report referred to in this paragraph shall state whether:

- (a) the annual accounts referred to in Article 50 are in accordance with the books and records of the National Fund and the IPARD Agency;
- (b) the declarations of expenditure as provided for in Article 39 are a materially true, complete and accurate record of the operations charged to the IPARD Programme;
- (c) the financial interests of the European Union are properly protected as regards amounts to be collected and, where appropriate, guarantees obtained;
- (d) any exceptional transactions or technical difficulties have been experienced regarding the financial year concerned;
- (e) any significant change has affected the management and control system, in particular regarding the compliance with the accreditation criteria and, wherever areas of improvement were previously identified, appropriate follow-up has been given since the previous report and opinion referred to in paragraph 4.

The report shall be accompanied by information on the number and qualifications

of staff undertaking the audit, on the work done, on the number of transactions examined, on the level of materiality and confidence obtained, on any weakness found and recommendations made for improvement, and on the operations of both the Audit Authority and other audit bodies, internal and external to the management and control system, from which all or part of the Audit Authority's assurance on the matters reported was gained.

6. The Audit Authority shall conduct its examination of the management and control system according to International Generally Accepted Auditing Standards and any guidelines on the application of these standards established by the Commission. Where the body appointed is a national audit institution, it may delegate some or all of the examination tasks referred to in paragraph 2 provided the tasks are discharged effectively. The Audit Authority in all cases retains overall responsibility for the tasks.

The checks shall be undertaken both during and after the end of each financial year.

7. The Audit authority's opinion on the annual account and the audit report of its findings referred to in paragraph 2(b)(iii) shall in particular state whether it has gained reasonable assurance that the accounts to be transmitted to the Commission are true, complete and accurate, and that the internal control procedures have operated satisfactorily. The opinion and the report shall be drawn up by 15 April at the latest of the year following the financial year concerned and communicated by the Audit Authority to the Commission by 30 April at the latest.

8. The IPARD Monitoring Committee referred to in Article 61 shall receive a copy of the opinions and reports.

#### *Article 17*

#### *Communication of information*

Turkey shall send to the Commission the following information, declaration and documents:

1. for the accredited structures, authorities and bodies of the management and control system as defined in Articles 9, 10, 11, 13 and 14 of the Framework Agreement:
  - (a) their accreditation act;
  - (b) their functions and responsibilities;
  - (c) where relevant, the withdrawal of their accreditation;
  - (d) and all other relevant information required by the Commission.
2. For the NIPAC, the CAO and the Audit Authority:
  - (a) its name;
  - (b) its address details;

(c) all other relevant information required by the Commission.

3. For measures relating to operations financed by IPARD:

- (a) declarations of expenditure, which also act as payment applications, signed by the NAO and accompanied by the requisite information in accordance with Article 39;
- (b) estimates of its financial requirements in accordance with Article 38(4);
- (c) audit opinions and audit reports on the management and control system drawn up by the Audit Authority referred to in Article 28;
- (d) the annual accounts referred to in Article 50 with a statement of assurance signed by the NAO as set out in Article 27, accompanied by the requisite information for their clearance in accordance with Article 51, and audit opinions and audit reports on the accounts and statements of expenditure drawn up by the Audit Authority referred to in Article 28.

Exchange of information and documents between the Commission and Turkey authorities shall be made by electronic means, using a secure system. Where there is a malfunction in a computer system or no stable connection, Turkey may, with the prior approval of the Commission, send the documents in another form, under the conditions laid down by it. The arrangements concerning the exchange of data required are to be agreed between the Commission and Turkey not later than the designation of the concerned structures, authorities and bodies defined in Article 6 of the Framework Agreement.

### *Sub-section 3 Controls*

#### *Article 18*

#### *General principles of control*

- 1. Controls shall, where appropriate, include pre-project selection checks, remeasurement, checks on quantity and quality of goods or services delivered, an analysis or a sample check, pre-payment checks, ex-post payment checks and any special provisions for implementing the Agreements as to the regularity and legality of the expenditure.
- 2. Without prejudice to specific provisions in the Agreements, Turkey shall ensure that the legality and regularity of the amount to be paid to a claimant or to their assignee(s), including all the eligibility criteria established by the European Union or by the IPARD Programme, can be checked according to a set of verifiable indicators to be established by Turkey.
- 3. Without prejudice to specific provisions in the Agreements, no payment shall be made in favour of a claimant or to their assignee(s) for whom it is established that they artificially created the conditions required for obtaining such payments with a view to obtaining an advantage contrary to the objectives of the support.
- 4. Turkey shall define suitable criteria, methods and means for verifying the conditions for granting support for each support measure.

5. Verification of the eligibility criteria shall consist of administrative and on-the-spot checks, undertaken on all applications for approval and claims for payment, and shall cover all elements that it is possible and appropriate to control. These checks shall also be carried out after the final payment is made for a project, as set out in Article 21. The procedures shall ensure the recording of monitoring work undertaken, the results of the verification and the measures taken in respect of discrepancies.
6. Where applicable, verification of the eligibility criteria shall take into account the results of verifications carried out by other services, bodies or organisations involved in checks on agricultural subsidies.

*Article 19*  
*Administrative checks*

1. Administrative checks on applications for approval shall in particular include a verification of:
  - (a) the eligibility of the operation for which support is requested;
  - (b) the respect of the selection criteria set out in the IPARD Programme;
  - (c) the compliance of the operation for which support is requested with applicable national and European Union rules on, in particular, and where relevant, public procurement, state aid and other appropriate obligatory standards established by national legislation or established in the IPARD Programme;
  - (d) the reasonableness of the costs proposed, which shall be evaluated using a suitable evaluation system, such as reference costs, a comparison of different offers or an evaluation committee;
  - (e) the reliability of the applicant, with reference to any third party information.
2. Administrative checks on claims for payment shall include in particular, and as far as this is appropriate for the claiming question, a verification of:
  - (a) the delivery of the products and services co-financed;
  - (b) the reality of expenditure claimed;
  - (c) the completed operation compared with the operation for which the application for support was submitted and granted.
3. Payments by beneficiaries shall be supported by original invoices and documents proving payment. Where this cannot be done, payments shall be supported by documents of equivalent probative value.
4. Administrative checks shall include procedures to avoid irregular double financing with other European Union or national schemes. Where financing from other sources exists these checks shall ensure that the total aid received does not breach the maximum permissible aid ceilings.
5. Indications of irregularities shall be followed-up by any other appropriate administrative procedure.

*Article 20*  
*On-the-spot checks*

1. On-the-spot checks shall cover all the commitments and obligations of a claimant or a final beneficiary which can be checked at the time of the visit.
2. Before any payment is made, Turkey shall organise on-the-spot checks on all applications for approval and claims for payment.
3. The results of on-the-spot checks shall be evaluated to establish whether any problems encountered are of a systemic character, entailing a risk for other similar operations, final beneficiaries or other bodies. The evaluation shall also identify the causes of such situations, any further examination which may be required and the necessary corrective and preventive action.
4. Advance notice of on-the-spot checks may be given, provided that the purpose of the control is not jeopardised. If the advance notice exceeds 48 hours then it should be limited to the minimum necessary, depending on the nature of the measure and the operation being co-financed.
5. Through the on-the-spot checks, Turkey shall endeavour to verify the following:
  - (a) that the payments made to the final beneficiary can be supported by accounting or other documents held by the bodies or firms carrying out the operations supported;
  - (b) for an adequate number of expenditure items, that the nature and timing of the relevant expenditure comply with European Union provisions and correspond to the approved specifications of the operation and the works actually executed or services delivered;
  - (c) that the use or intended use of the operation is consistent with the use described in the application for European Union support;
  - (d) that the publicly funded operations have been implemented in accordance with the Agreements, especially the rules on public tendering and relevant mandatory standards established by the IPARD Programme.
6. Except in exceptional circumstances, duly recorded and explained by the national authorities, the on-the-spot checks shall include a visit to the operation or, if the operation is intangible, to the operation provider.
7. Where specific controllers have been given responsibility for checking applications for approval, they shall not be involved in checks for the claims for payment of the same investment operation.

*Article 21*  
*Ex-post checks*

1. Where required by contractual obligations between the IPARD Agency and the final beneficiary or by provisions of the IPARD Programme, checks on final beneficiaries after payment of aid shall be carried out to establish whether the terms and eligibility conditions of the support continue to be respected.

2. The controllers for the ex-post checks shall not have been involved in any ex-ante checks of the same investment operation.
3. The objective of the ex-post checks shall be to:
  - (a) verify the regularity and legality of the underlying transactions of the investment operations;
  - (b) verify the reality and finality of payments made by the final beneficiary;
  - (c) ensure that the same investment has not been financed in an irregular manner from different national or European Union sources.
4. The ex-post checks shall be carried out within 5 years of the date of final payment to the final beneficiary and cover each year at least 50% in monetary value of eligible expenditure for operations referred to in paragraph 1 for which the final payment has been made within the year. All investments shall be checked at least once.
5. Any investment, for which the ceiling of 50% of the total eligible cost of the investment in accordance with Article 34(2) is exceeded, shall be checked once within the 4 years of the date of final payments and a second time during the 5<sup>th</sup> year following the date of the final payment to the final beneficiary.
6. The ex-post checks shall be based on an analysis of the risks and financial impact of different operations, groups of operations or measures.
7. The sample of approved operations to be checked in accordance with paragraphs 4 and 5 shall take into account in particular:
  - (a) the need to check an appropriate mix of types and sizes of operations;
  - (b) any risk factors which have been identified following national or European Union checks;
  - (c) the need to maintain a balance between the axes and measures.

#### ***Sub-section 4 Accreditation and conferral of management powers***

##### *Article 22*

##### *Common requirements*

1. Where specific persons have been given responsibility for an activity in relation to the management, implementation and monitoring of IPARD Programmes, Turkey shall enable such persons to exercise the duties associated with that responsibility, including in cases where there is no hierarchical link between them and the bodies participating in that activity. Turkey shall, in particular, provide those persons with the authority to establish, through formal working arrangements between them and the bodies concerned:
  - (a) an appropriate system for the exchange of information, including the power to require information and a right of access to documents and staff



on the spot if necessary;

- (b) the standards to be met;
- (c) the procedures to be followed.

2. In order to be accredited and conferred for managing a measure, the structures, authorities and bodies of the management and control system as defined in Articles 6, 7 and 8 of the Framework Agreement shall have a well-defined administrative organisation and system of internal controls with full internal rules of procedure, clear institutional and personal responsibilities, which comply with the criteria set out in Annex I regarding the following areas:

- (a) internal control environment;
- (b) planning and risk management;
- (c) control activities;
- (d) information and communication;
- (e) monitoring activities.

Where the Managing Authority is concerned, the criteria as set out in Annex I regarding control activities, planning and risk management and monitoring activities shall not apply.

3. Turkey may lay down further accreditation criteria to take account of the size, responsibilities and other specific features of the management and control system.

4. Prior to accrediting the concerned structures, authorities and bodies of the management and control system, Turkey shall be satisfied that their functions, procedures and responsibilities include all necessary arrangements adopted to protect the European Union's financial interests, in respect of transactions to be financed by the IPARD Programme, namely:

- (a) the execution of payments;
- (b) the safeguarding of the treasury;
- (c) the security of computer systems;
- (d) the maintenance of accounting records;
- (e) the division of duties and the adequacy of internal and external controls;
- (f) guarantees to be obtained;
- (g) amounts to be collected;
- (h) the selection of projects, tendering, contracting; and
- (i) the respect of procurement rules.

5. National accreditation may be provisionally granted for a period to be fixed in

relation to the seriousness of the problem pending the implementation of any requisite changes to the administrative and accounting arrangements. In instances where such a provisional accreditation is envisaged, there must be satisfactory compliance with the accreditation criteria, in particular in the following areas:

- (a) internal control environment;
- (b) control activities;
- (c) monitoring activities.

In reference to paragraph 2, where the Managing Authority is concerned, the criteria set out in Annex I regarding control activities, planning and risk management and monitoring activities shall not apply.

6. The communication provided for in Article 17 shall be made immediately after the structures, authorities and bodies defined in Article 6 of the Framework Agreement are first designated and, where appropriate, accredited, and in any case before any expenditure effected by them is charged to IPARD. They shall be accompanied by the following declarations and documents concerning:

- (a) their functions and responsibilities;
- (b) the allocation of responsibilities between their departments;
- (c) their relationship with other bodies, public or private, which are responsible for implementing any measures under IPARD;
- (d) the procedures by which the main functions in respect of IPARD expenditure are ensured;
- (e) the provisions concerning the security of information systems; and
- (f) all other relevant information required by the Commission.

#### *Article 23*

#### *Procedure for accreditation of the NAO and the National Fund by the CAO*

1. Before accrediting the NAO and the National Fund, the CAO shall be satisfied that the administrative and internal control arrangements of those structures offer the following guarantees:

- (a) the checks laid down by the Agreements are made;
- (b) the requisite documents are presented within the time-limit and in the form stipulated by the Agreements;
- (c) the documents are accessible and kept in a manner which ensures their completeness, validity and legibility over time, including with regard to electronic documents within the meaning of the Agreements.

2. The examination referred to in paragraph 1 shall be conducted according to International Generally Accepted Auditing Standards.

3. The CAO shall ensure that the National Fund's accounting system meets Internationally Generally Accepted Accounting Principles.
4. Communication in respect of the accreditation of the NAO and the National Fund shall be submitted to the Commission, copy to the Audit Authority. It shall include following particulars of the NAO and National Fund accredited to carry out the functions and responsibilities set out in Article 11:
  - (a) the name and statute of the concerned structures, bodies and authorities;
  - (b) the administrative, accounting and internal control conditions under which payments are made relating to implementation of the IPARD Programme;
  - (c) the act of accreditation which shall consist of a written confirmation that the concerned structures, bodies and authorities meet the criteria for accreditation, and, when relevant, shall set out the instructions as to changes and the period set;
  - (d) information on the following:
    - the responsibilities vested in the NAO and the National Fund,
    - the allocation of responsibilities between their departments,
    - their relationship with other bodies, public or private, which also hold responsibilities for executing measures under which it charges expenditure to the IPARD Programme,
    - the procedures which ensure that the management and internal control system has been implemented in an adequate manner in order to fulfil the criteria set out in Annex I and, where applicable, appropriately planned procedures and structures, subject to accreditation, are actually operating,
    - the provisions for internal audits.
5. The CAO shall ensure that any proposed changes in those particulars referred to in Articles 22 and 23 after their accreditation are submitted to the Commission, with copy to the Audit Authority, for examination and approval before those changes are implemented.
6. If the CAO is not satisfied that the NAO and/or the National Fund comply with the accreditation criteria, it shall address to the NAO instructions specifying the conditions it is required to fulfil before accreditation may be granted.
7. After accrediting the NAO and the National Fund, the CAO shall keep them under supervision. For this purpose, he shall use the information at his disposal, including, inter alia, the statements of assurance by the NAO and the reports and opinions of the Audit Authority. At least every two years, he shall review whether the NAO and the National Fund continue to comply with the accreditation criteria. It shall inform the Commission of the results of its review.
8. Turkey shall establish a system that ensures that any information suggesting that the NAO and/or the National Fund do not comply with the accreditation criteria is communicated to the CAO without delay.

*Procedure for accreditation of the Operating Structure*

1. Before accrediting the IPARD Agency, the NAO shall be satisfied that its administrative, accounting, payment and internal control arrangements offer the following guarantees:
  - (a) the eligibility of applications and compliance with the Agreements are checked before contracts with claimants are signed and the commitments recorded;
  - (b) the admissibility of claims as well as their compliance with the Agreements are checked before payment is authorised;
  - (c) the commitments and payments effected are accurately and completely recorded in the accounts;
  - (d) the checks laid down by the Agreements are made;
  - (e) the requisite documents are presented within the time-limit and in the form stipulated by the Agreements;
  - (f) the documents are accessible and kept in a manner which ensures their completeness, validity and legibility over time, including with regard to electronic documents within the meaning of the Agreements.
2. If the NAO is not satisfied that the IPARD Agency complies with the accreditation criteria, it shall address to the head responsible for the tasks assigned to his respective body instructions specifying the conditions it is required to fulfil before accreditation may be granted.
3. The IPARD Agency shall hold documents justifying the payments effected and documents concerning the carrying out of the prescribed administrative and physical checks. Where the relevant documents are held by the bodies responsible for authorising the expenditure, those bodies must transmit reports to the IPARD Agency on the number of checks carried out, their content and the action taken in the light of the results.
4. The NAO shall ensure that the IPARD Agency's accounting system meets International Generally Accepted Accounting Principles.
5. The NAO shall be satisfied that the administrative and internal control arrangements of the Managing Authority offer the following guarantees:
  - (a) the requisite documents are presented within the time-limit and in the form stipulated by the Agreements;
  - (b) the documents are accessible and kept in a manner which ensures their completeness, validity and legibility over time, including with regard to electronic documents within the meaning of the Agreements.
6. The examinations referred to in paragraphs 1 and 5 shall be conducted according to International Generally Accepted Auditing Standards.

7. If the NAO is satisfied that the Operating Structure complies with all relevant requirements, it shall proceed with its accreditation. Otherwise, it shall address to the Operating Structure instructions relating to the administrative and accounting arrangements, and in particular to any conditions the Operating Structure is required to fulfil before accreditation may be granted.
8. Communication in respect of the accreditation of the Operating Structure shall be submitted both to the CAO and the Commission, with copy to the Audit Authority. For this purpose, the NAO shall communicate the following particulars of the Operating Structure accredited to carry out the functions and responsibilities set out in Articles 13 and 14:
- (a) the name and statute of the constituting bodies of the Operating Structure;
  - (b) the administrative, accounting and internal control conditions under which payments are made relating to implementation of the IPARD Programme;
  - (c) the act of accreditation which shall consist of a written confirmation that the constituting bodies meet the criteria for accreditation, and, when relevant, shall set out the instructions as to changes and the period set;
  - (d) information on the following:
    - the responsibilities vested in the constituting bodies of the Operating Structure,
    - the allocation of responsibilities between their departments,
    - their relationship with other bodies, public or private, which also hold responsibilities for executing measures under which they charge expenditure to the IPARD Programme,
    - the procedures by which claims by final beneficiaries are received, verified, and validated, and by which expenditure is authorised, paid and accounted for,
    - the provisions for internal audits.

It shall also communicate to the Commission and the CAO, with copy to the Audit Authority, the results of both examinations referred to in paragraphs 1 and 5 of this Article.

9. The NAO shall ensure that any proposed changes in those particulars referred to in Articles 22 and 23(1) and (5) after their accreditation are submitted to the Commission and the CAO, with copy to the Audit Authority, for examination and approval before those changes are implemented.
10. The NAO shall keep the Operating Structure under constant supervision. At least every two years, it shall review whether the Operating Structure continues to comply with the accreditation criteria. It shall inform the CAO and the Commission, with copy to the Audit Authority, of the results of its review.

11. Turkey shall establish a system that ensures that any information suggesting that the Operating Structure does not comply with the accreditation criteria is communicated to the NAO without delay.

#### *Article 25*

##### *Procedure for conferral of management powers by the Commission*

1. The CAO shall notify the Commission of the accreditation of the NAO and the National Fund and the designation of the other structures, authorities and bodies established within the overall framework defined in Article 6 of the Framework Agreement but outside the management and control system, not later than the notification of the first accreditation of the Operating Structure.
2. Turkey shall permit the Commission to verify compliance with the conditions as laid down in Article 9, prior to taking a decision on conferral of management powers.
3. For the establishment of compliance with the conditions and with the Articles mentioned in the second paragraph, the Commission shall:
  - examine the NAO's, National Fund's and Operating Structure's accredited procedures and structures related to the implementation of the IPARD Programme and, where appropriate, procedures and structures of other bodies to which functions may have been delegated in accordance with Annex I,
  - ensure the existence and effective functioning of the other structures, authorities and bodies established within the overall framework defined in Article 6 of the Framework Agreement but outside the management and control system,
  - carry out verifications on-the-spot.
4. Conferral of management by the Commission to Turkey may be considered for the concerned structure, authority or body of the management and control system where the following conditions, hereinafter referred to as "the conditions", are met:
  - (a) commitment by the NAO to bear the full financial responsibility and liability for the IPARD Programme;
  - (b) compliance with the minimum criteria as set out in paragraphs 1, 2, 3 and 4 of Article 22;
  - (c) a recent financial and operational audit showing effective and timely management of European Union assistance or national measures of similar nature;
  - (d) procurement rules which are endorsed by the Commission as meeting the requirements of Article 23 of the Framework Agreement;
  - (e) all the other structures, authorities and bodies (established within the overall framework defined in Article 6 of the Framework Agreement but outside the management and control system) are established and are functioning effectively.

5. For the purpose of paragraph 4, the concerned structures, authorities and bodies shall have procedures in place to ensure that:
- (a) all communications to the Commission are based on information from properly authorised sources;
  - (b) communications to the Commission are properly authorised before transmission;
  - (c) a proper audit trail exists to support the information transmitted to the Commission;
  - (d) a record of information received and transmitted is securely stored, either in paper or in computerised format.
6. The decision to confer management of aid on the management and control system in Turkey may be made on a provisional basis for a period to be fixed in relation to the seriousness of the problem pending the implementation of any required conditions. In instances where such a provisional conferral of management is envisaged, there must be satisfactory compliance with the two first conditions set out in paragraph 4.
7. The CAO shall inform the Commission, with copy to the Audit Authority, of any plan drawn up pursuant to paragraph 6 as well as of its implementation.
8. Where the Commission finds that Turkey has not complied with its obligation to draw up a remedial plan pursuant to paragraph 6 or that the management and control system continue to be accredited without having fully implemented such a plan within the determined period, it shall either suspend or withdraw the conferral of management and pursue any remaining deficiencies in accordance with Article 54.
9. The Commission shall inform the Committee on the Agricultural Funds of its decision to confer management powers to Turkey or any significant change affecting this decision.

#### *Article 26*

#### *Supervision, control and audit by the Commission and the European Court of Auditors*

1. The application by Turkey of the Agreements as well as the resulting IPARD Programme and subsequent contracts shall be subject to control by the Commission including the European Anti-Fraud Office (OLAF) and audits by the European Court of Auditors. The duly authorized agents or representatives of the Commission and of OLAF shall have the right to carry out any technical and financial verification that the Commission and OLAF consider necessary to follow the implementation of the IPARD Programme including visits of sites and premises at which European Union financed activities are implemented. The Commission shall give sufficient prior notice of such inspections to Turkey. Officials of Turkey may take part in the inspections.

2. Turkey shall supply all requested information and documents including any computerized data and take all suitable measures to facilitate the work of the persons instructed to carry out audits or inspections.
3. Turkey shall maintain records and accounts adequate to identify the services, supplies, works and grants financed under the Multi annual Financing Agreement referred to in Article 35 in accordance with sound accounting procedures. Turkey shall also ensure that the agents or representatives of the Commission including OLAF have the right to inspect all relevant documentation and accounts pertaining to items financed under the related Multi annual Financing Agreement and assist the European Court of Auditors to carry out audits relating to the use of European Union funds. In order to improve checks, the Commission may, with the agreement of Turkey, enlist the assistance of the national authorities for certain inspections or enquiries.
4. In order to ensure the efficient protection of the financial interests of the European Union, the Commission including OLAF may also conduct documentary and on-the-spot checks and inspections in accordance with Council Regulation (EC, Euratom) No 2185/1996 of 11 November 1996<sup>13</sup> as provided for in Article 27(4) of the Framework Agreement.
5. The controls and audits described above are applicable to all contractors and sub-contractors who have received European Union funds including all related information to be found in the documents of the National Fund of Turkey concerning the national contribution.
6. Without prejudice to the responsibilities of the Commission and the European Court of Auditors, the accounts and operations of the National Fund and, where applicable, of the IPARD Agency may be checked at the discretion of the Commission by the Commission itself or by an external auditor assigned by the Commission.

#### *Article 27*

#### *Statement of assurance by the NAO*

1. The statement of assurance shall comply with the content and format set out in Annex B of the Framework Agreement and may be qualified by reservations which shall quantify the potential financial impact. In that case, it shall include a remedial action plan and a precise timetable for its implementation, and subsequently provide confirmation of the implementation of the measures and the withdrawal of the corresponding reservations.
2. The statement of assurance shall rely on an effective supervision of the management and control system in place throughout the year.
3. The statement of assurance shall be accompanied by information covering the previous 12 months period, in particular on:
  - (a) the number of payment claims for each IPARD measure as well as the total amount checked;

<sup>13</sup> OJ L 292, 15.11.1996, p. 2.



- (b) the results of the ex-ante checks carried out in accordance with Articles 19 and 20 indicating the reductions and exclusions;
  - (c) the number of ex-post checks undertaken under Article 21, the amount of expenditure verified and the results of the checks, indicating the reduction and exclusions;
4. The NAO shall conduct his examination of the management and control system in accordance with the Agreements and any other guidelines on the application of these provisions established by the Commission. It may delegate some or all of the examination tasks provided the tasks are discharged effectively. The NAO in all cases shall retain overall responsibility for these tasks.
  5. The IPARD Monitoring Committee as referred to in Article 61 shall receive a copy of the statement of assurance.

#### *Article 28*

#### *Establishment of reports and opinions by the Audit Authority and follow up by the NAO and the Commission*

1. The Audit Authority shall in particular provide the following reports and opinions:
  - (a) an annual audit activity report according to the model in Annex C to the Framework Agreement;
  - (b) an annual audit opinion, accompanied by a report supporting this opinion, on the management and control systems according to the model in Annex D to the Framework Agreement;
  - (c) an annual audit opinion on the accounts and statement of expenditure, accompanied by a report supporting this opinion, or at the time of the final closure of the IPARD Programme an audit opinion, accompanied by the final Audit Report, on the final statement of expenditure according to the model in Annex E to the Framework Agreement.
2. Following receipt of the annual audit activity report and the annual audit opinions referred to in paragraph 1, the CAO shall assess whether the continuous fulfilment of all the requirements for this accreditation is confirmed. If any of the applicable requirements set out in Article 23 are not, or are no longer fulfilled, the CAO shall act in accordance with Article 13(2) of the Framework Agreement.
3. Following receipt of the annual audit activity report and the annual audit opinion referred to in paragraph 1, the NAO shall:
  - (a) decide whether any remedial plan or specific identified improvements to the management and control system are required, record the decisions in that respect and ensure the timely implementation of those remedial actions or improvements;
  - (b) make any necessary adjustments to the declaration of expenditures to the Commission in accordance with Article 55.

4. The Commission may decide either to take follow-up action itself in response to the reports and opinions, for example by initiating a financial correction procedure, or to require Turkey to take action, while informing the CAO and the NAO of its decision.

*Article 29*  
*Specific bodies*

Within the overall framework defined by the structures and authorities as set out in Article 9, the functions described in Articles 13 and 14 may be grouped and assigned to specific bodies within or outside the Operating Structure initially designated. This grouping and assigning shall respect the appropriate segregation of duties imposed by Regulation (EC, Euratom) No 1605/2002 and ensure that the final responsibility for the functions described in the said Article shall remain with the Operating Structure initially designated. Such a restructuring shall be formalised in written agreements and shall be subject to accreditation by the NAO and, whether the CAO is satisfied that the continuous fulfilment of all the requirements set out in the Agreements is confirmed, submitted for conferral of management powers by the Commission.

**SECTION III FINANCIAL PROVISIONS**

*Sub-section 1 General provisions*

*Article 30*  
*Scope*

This Section sets out the financial provisions for the execution of the IPARD Programme and complements Sections I and IV of the Framework Agreement.

*Article 31*  
*General rules on financial assistance*

1. All activities receiving assistance under the IPARD Programme shall require co-financing by Turkey and the European Union. Where the execution of activities depends on financial contributions from Turkey's own resources or from other sources of funds, the funding of the European Union shall become available at such time as the financial contribution of Turkey and/or the other sources of funds themselves become available. However, in the case of final beneficiaries in the public sector, the European Union contribution may be made later than that of other public bodies. In no case may the European Union contribution be made before the contribution by public bodies in Turkey.
2. In cases where the balance on the IPARD euro account is insufficient to cover the payment requests submitted by final beneficiaries pending the receipt of payment from the Commission Turkey shall use national funds to pre-finance the EU contribution. In these cases the national funds shall be treated as European Union funds and the provisions of Article 45(1) and (2) shall apply at the moment when the full payment of the national contribution and the European Union contribution pre-financed from national funds is recorded in the accounts of the National Fund.
3. The European Union contribution will co-finance public expenditure actually paid to the final beneficiary.

4. European Union financing shall be subject to the fulfilment of Turkey's obligations under the Agreements and under the Multi-annual Financing Agreement in accordance with Article 35.
5. The National Fund, on behalf of Turkey, shall open a euro account for the IPARD Programme, hereinafter referred to as "IPARD euro account", in a financial or treasury institution bearing interest. The account shall be used to receive payments referred to in Article 38 and shall be used exclusively for transactions relating to that Programme. It shall be maintained in euro and shall not be subject to any charges or taxes.

Turkey shall notify the Commission of the account name or numbers in accordance with the format under Annex V.

6. Turkey shall communicate to the Commission a sample of the signatures of all actors involved in applications for payment from the European Union under Article 39. The NAO shall be the contact point for financial information sent between the Commission and Turkey. The exchange of information shall, where appropriate, be made by means of the secure system as referred to in Article 17, using procedures agreed upon between the Commission and Turkey.

*Article 32*  
*Eligibility of expenditure*

1. Expenditure paid earlier than the date of conferral of management shall in no case be eligible with the exception of technical assistance and general costs, covered by the technical assistance measure of the IPARD Programme and the activities referred to in paragraph 6(c).
2. Expenditure shall be eligible if it is in accordance with the principles of sound financial management and, in particular, of economy and cost-effectiveness.
3. Turkey shall notify the Commission of the rules for eligibility of expenditure for each measure. It shall also notify the Commission of the costs explicitly provided for in the standard contract(s) for each measure as issued by the IPARD Agency to beneficiaries. The Commission shall notify Turkey of its acceptance or otherwise of the proposed rules within three months of their receipt but in any case no later than the date when the Commission Decision conferring management of aid provided for in Article 25 is taken. The rules and costs shall be applicable thereafter.
4. The following expenditure shall not be eligible under the IPARD Programme:
  - (a) taxes, customs and import duties and levies and/or taxes of equivalent effect, as provided for in Article 26 of the Framework Agreement;
  - (b) purchase, rent or leasing of land and existing buildings, irrespective of whether the lease results in ownership being transferred to the lessee;
  - (c) fines, financial penalties and expenses of litigation;

- (d) operating costs;
- (e) second hand machinery and equipment;
- (f) bank charges, costs of guarantees and similar charges;
- (g) conversion costs, charges and exchange losses associated with the IPARD euro account, as well as other purely financial expenses;
- (h) contributions in kind;
- (i) the purchase of agricultural production rights, animals, annual plants and their planting;
- (j) any maintenance, depreciation and rental costs;
- (k) any cost incurred by public administration in managing and implementing assistance, namely those of the Operating Structure and, in particular, overheads, rentals and salaries of staff employed on activities of management, implementation, monitoring and control.

By way of derogation from sub-paragraphs (b) and (d) the items mentioned in those sub-paragraphs may be eligible under measures "preparation and implementation of local rural development strategies" and "support for the setting-up of producer groups".

5. Unless the Commission expressly and explicitly decides otherwise the following expenditure is also not eligible:

- (a) the costs of any services, supplies and works costing more than an amount equivalent to € 10 000 for which the beneficiary has not obtained quotations from at least three suppliers, the originals of these being included in the applications for approval of projects;
- (b) expenditure on projects which, before completion, have charged fees to users or participants unless the fees received have been deducted from the costs claimed;
- (c) promotional costs, other than in the collective interest;
- (d) expenditure incurred by a final beneficiary where more than 25% of whose capital is held by a public body or bodies unless the Commission has so decided in a specific case on the basis of a complete reasoned request from Turkey. The Commission shall take its decision within three months of receiving the request. This exclusion shall not apply to expenditure on infrastructure or human capital.

6. Notwithstanding paragraphs 4 and 5, in the case of investments:

- (a) eligible expenditure shall be limited to the construction or improvement of immovable property;
- (b) the purchase or lease-purchase of new machinery and equipment, including computer software, up to the market value of the asset shall be considered

as eligible; other costs connected with the leasing contract, such as lessor's margin, interest refinancing costs, overheads and insurance charges, shall not be eligible;

- (c) general costs linked to expenditure referred to in points (a) and (b) of this paragraph such as architects', engineers' and other consultation fees, feasibility studies, the acquisition of patent rights and licences shall be eligible up to a ceiling of 12% of the costs referred to in the said points (a) and (b) according to the following conditions:
- for projects with eligible expenditure of the investments referred to in sub-paragraphs (a) and (b) greater than € 3 million, the business plan preparation costs cannot be greater than 3% of the eligible expenditure of these investments,
  - for projects with eligible expenditure of the investments referred to in points (a) and (b) of at least € 1 million and no more than € 3million, the business plan preparation costs cannot be greater than 4% of the eligible expenditure of these investments, and
  - for projects with eligible expenditure of the investments referred to in points (a) and (b) less than € 1 million, the business plan preparation costs cannot be greater than 5% of the eligible expenditure of these investments.

The detailed provisions concerning the maximum eligible amount under this paragraph shall be established in the IPARD Programme on the basis of an assessment of the level of costs for similar actions in Turkey.

7. Investment projects shall remain eligible for European Union financing provided they do not, within five years from the final payment by the IPARD Agency, undergo a substantial modification. Substantial modifications to a project are those which:

- affect its nature or its implementation conditions or give undue advantage to a firm or public body, and/or
- result either from a change in the nature of ownership of an item of infrastructure, or a cessation or relocation of a productive activity co-financed.

Where any such modification is detected by Turkey, it shall immediately inform the Commission.

8. No project shall be eligible for co-financing where Turkey reduced the amounts payable or paid to the final beneficiary, where this reduction applies only to payments under the IPARD Programme. However, the IPARD Agency may make reductions for amounts owing to it due to:

- overpayments under the IPARD Programme,
- a failing by a final beneficiary to respect conditions under the IPARD Programme.

9. In the event that the Commission determines that an exceptional natural disaster has affected Turkey it may, on the basis of a reasoned request by Turkey, authorise, for relevant projects in the region affected and for a specified period, derogation from provisions of paragraphs 5(a), (d) and 7.
10. In the event that the Commission determines that the expenditure is not fully in conformity with the Agreements and in particular the principles set out in this Article, it shall assess the amounts to be not eligible under the IPARD Programme on the basis of the gravity of the non-conformity recorded. It shall take due account of the nature and the gravity of the non-conformity and of the financial damage caused to the European Union. In instances where such a decision is envisaged, there must be satisfactory compliance with the two first conditions set out in paragraph 4 of Article 25.

*Article 33*  
*Rules on procurement*

1. For the purposes of this Agreement the contracting authority in accordance with Article 167 of the Financial Regulation shall be a national public-sector body who is a final beneficiary of assistance under the Programme.
2. As regards Article 23(4) of the Framework Agreement, in cases where the final beneficiary is a public-sector body, any requirement for ex-ante approval by the Commission included in the procedures and standard documents referred therein shall not apply.
3. In the event that the Commission determines that an exceptional natural disaster has affected Turkey, and on the basis of a reasoned request by Turkey, the Commission may in accordance with Article 57(2)(d) authorise, for relevant projects in the region affected and for a specified period, less burdensome procedures

*Article 34*  
*Aid intensities and rate of European Union contribution*

1. For the purpose of the IPARD Programme the European Union contribution shall be calculated on the basis of public expenditure.
2. Public expenditure shall not exceed a ceiling of 50% of the total eligible cost of the investment. However, that ceiling shall be:
  - (a) 55% for investments in agricultural holdings made by young farmers;
  - (b) 60% for investments in agricultural holdings in mountain areas;
  - (c) 65% for investments in agricultural holdings in mountain areas made by young farmers;
  - (d) 75% for investments referred to in paragraph 4(b) and for investments in agricultural holdings to implement the Council Directive 91/676/EEC of

12 December 1991<sup>14</sup>, subject to the existence of a national strategy for its implementation;

- (e) 100% for investments in infrastructure not of a nature to generate substantial net revenue;
- (f) 100% for measures referred to in Article 182 of the IPA Implementing Regulation.

3. In determining the rate of public expenditure for the purposes of this Article, account shall not be taken of national aid to facilitate access to loans granted without any European Union contribution provided under the IPA Implementing Regulation.

4. The European Union contribution shall not exceed a ceiling of 75% of the public expenditure. However, that ceiling shall be:

- (a) 80% for the measures covered by priority axis 2 referred to in Article 171(3) of IPA Implementing Regulation and for activities covered by Article 182 of IPA Implementing Regulation;
- (b) 85% in the case of investment projects carried out in regions where the Commission determines that exceptional natural disasters have occurred.

### ***Sub-section 2 Financial Management***

#### *Article 35*

##### *Financing Decisions and Agreements*

No earlier than the adoption of the financing decision by the Commission approving the IPARD Programme in accordance with Article 39 of the IPA Implementing Regulation, and conclusion of the Framework Agreement and this Agreement, a Multi-annual Financing Agreement (hereinafter referred to as "MFA") shall be concluded in accordance with Article 8 of the IPA Implementing Regulation. The MFA shall set out the breakdown of the multi-annual legal commitments and the period of validity of those commitments, which are broken down over several years into annual instalments. The MFA shall be revised on an annual basis to take account of the amounts provided for in the Multi annual Indicative Planning Document (MIPD) concerned and, where appropriate, amendments of this Agreement.

#### *Article 36*

##### *Commitments from the Commission*

The Commission shall automatically decommit any portion of a budget commitment for the IPARD Programme where, by 31 December of the third year following year *n* being the one in which the budget commitment was made:

- It has not been used for the purpose of pre-financing in accordance with Article 40, or
- It has not been used for making interim payments in accordance with Article 41, or
- No declaration of expenditure has been presented in relation to it.

*Article 37*  
*Financing plan for the IPARD Programme*

1. The financing plan for the IPARD Programme shall lay down, in particular, the maximum amount of the European Union contribution, its annual breakdown, a breakdown by priority and the co-financing rates applicable for each priority, and, for Programme monitoring purposes, an indicative breakdown by measure.
2. The financing plan shall enter into force and financial operations of the IPARD Agency shall only start after the IPARD Programme has been adopted by the Commission and after the decision on the conferral of management to the management and control system has been taken.
3. The financing plan for the IPARD Programme and any adjustments thereof shall be entered in a secure system for the exchange of information and documents between the Commission and Turkey as referred to in Article 17.

*Article 38*  
*Payments from the Commission*

1. Only assistance under the IPARD Programme granted in accordance with the Agreements and paid by the IPARD Agency shall be subject to co-financing by the European Union.
2. Payments by the Commission of the European Union contribution shall be made within the limits of the funds available in accordance with the MFA referred to in Article 35. Each payment shall be posted to the earliest open budget commitment made for the IPARD Programme.
3. Payments shall take the form of pre-financing, interim payments and payment of the final balance. They shall be calculated on the basis of the European Union contribution to the financing of the operations concerned, up to the amount obtained by applying the co-financing rate laid down for each priority axis in the financing plan in force to the eligible expenditure, subject to the maximum European Union contribution for each priority axis.
4. By 28 February each year, Turkey shall send to the Commission, using the model in Annex IV, a forecast of its likely declarations of expenditures for the financial year concerned and for the subsequent financial year, in relation to the IPARD Programme. The Commission may ask for an update of the forecast as appropriate.
5. The combined total of pre-financing and interim payments shall not exceed 95% of the European Union contribution as set out in the financing table of the IPARD Programme.
6. When the ceiling referred to in paragraph 5 is reached, the NAO shall continue transmitting to the Commission the certified declarations of expenditure in accordance with Article 39, as well as information about the amounts recovered.



7. Payments by the Commission to the National Fund shall be made in euro to the IPARD euro account, subject to the availability of budget appropriations and in accordance with the provisions laid down in Articles 40, 41, 42 and 43 and in the MFA, provided that the verifications referred to in these Articles have not indicated any problems.
8. Turkey shall ensure that the final beneficiaries receive the total amount of the public contribution in due time and in full. No specific charge or other charge with equivalent effect shall be levied which would reduce these amounts for the final beneficiaries.
9. The expenditure may be covered by European Union financing only if it has actually been incurred and paid by the final beneficiary. Expenditure paid by final beneficiaries shall be substantiated by receipted invoices or accounting documents of equivalent probative value. Where assistance is not a function of expenditure, other appropriate documents, as specified in the IPARD Programme may be accepted. In all cases, expenditure shall be certified by the NAO.

*Article 39*  
*Declaration of expenditure*

1. The NAO shall make declarations of expenditure for the IPARD Programme. These declarations shall also act as payment applications and shall cover, for each IPARD Programme measure, the amount of eligible public expenditure for which the IPARD Agency has actually paid the corresponding European Union contribution during the reference period.
2. Declarations of expenditure shall be drawn up in accordance with the model in Annex II. They shall be signed and certified, and transmitted by the NAO, on behalf of Turkey, to the Commission, with copies to the CAO and the Audit Authority.
3. Once the provisions of Article 37(2) have been fulfilled, Turkey shall submit to the Commission its declarations of expenditure by the following deadlines:
  - (a) by 30 April at the latest in the case of expenditure in the period 1 January to 31 March;
  - (b) by 31 July at the latest in the case of expenditure in the period 1 April to 30 June;
  - (c) by 31 October at the latest in the case of expenditure in the period 1 July to 30 September;
  - (d) by 31 January at the latest in the case of expenditure in the period 1 October to 31 December.

Expenditure declared in respect of a period may contain corrections to data declared in respect of the preceding declaration periods of the same financial year.

Declarations shall be sent even in cases in which no reimbursement is requested.

4. Where there are disagreements, differences of interpretation or inconsistencies relating to declarations of expenditure for a reference period, resulting in particular from the failure to communicate the information required under the Agreements, and these require further checks, Turkey shall be required to provide additional information. Such information shall be provided in accordance with Articles 40, 41 and 43.

The time limit for payment laid down in paragraph 6 may in such cases be interrupted for all or part of the amount for which payment is claimed, from the date on which the request for information is sent until receipt of the information requested but no later than the date on which the declaration of expenditure for the following period is submitted.

Where no solution is found within that time limit the Commission may suspend or reduce payments in accordance with Article 46.

5. Cumulative data relating to expenditure made by 30 September, to be submitted to the Commission by 31 October at the latest, may be corrected only in the annual accounts to be sent to the Commission in accordance with Articles 50 and 51.

6. Interim payments shall be made by the Commission within 45 days of registering a declaration of expenditure for which the requirements set out in Article 41 are met, without prejudice to the decisions referred to in Articles 53 and 54 provided that:

- (a) the expenditure declared is eligible for European Union funding in accordance with Article 32;
- (b) the checks in Article 41 have not indicated any problems;
- (c) no suspension of payments has been decided concerning the measure(s) that is or are the subject of the application in question;
- (d) appropriations are available.

#### *Article 40* *Pre-financing*

1. Pre-financing payments may amount to 30% of the European Union contribution for the first three years of the IPARD Programme. It may be split between several financial years and paid in two or more instalments.

2. The Commission shall make an initial pre-financing payment of at least 50% of the amount referred to in paragraph 1 as first instalment.

3. The first instalment of the pre-financing payment shall be made by the Commission when the following conditions are fulfilled:

- (a) the NAO has notified to the Commission the opening of the IPARD euro account for the IPARD Programme;

- (b) the accreditations delivered by the CAO and the NAO are in force and the conferral of management by the Commission remains valid;
- (c) the MFA has entered into force.

Additional instalments may be paid following a request of Turkey in accordance with the requirements provided for in paragraph 1 and 4 of this Article.

- 4. Where the pre-financing payments referred to in paragraph 1 are not sufficient to ensure timely payment of claims from final beneficiaries, they may be increased. The increase shall be the amount needed for this purpose. It shall be based on the sum of substantiated expenditure incurred by beneficiaries but not yet settled due to the exhaustion of European Union funding in the IPARD euro account. However, the cumulative amount of payments for pre-financing shall not exceed 30% of the European Union contribution for the three most recent years established in the MFA.
- 5. The total amount paid as pre-financing shall be reimbursed to the Commission with all interest accrued if no declaration of expenditure for the IPARD Programme is sent within 15 months of the date on which the Commission made the first pre-financing payment. The European Union contribution to the IPARD Programme shall not be affected by such reimbursement.
- 6. In accordance with Articles 31 and 45 interests on pre-financing shall be recognized on a monthly basis. The interest rate applied can in no case be lower than the interest rate Turkey is receiving on its foreign currency deposits for this month.

*Article 41*  
*Interim payments*

- 1. In the case of a declaration of expenditure for an interim payment, in order for the Commission to approve the application the minimum requirements to be fulfilled are the following:
  - (a) the NAO has sent to the Commission a payment application and a statement of expenditure relating to the payment in question; the statement of expenditure shall be certified by the NAO;
  - (b) the ceilings for European Union assistance under each priority axis in accordance with Article 42(4) have been respected;
  - (c) the annual implementation reports as referred to in Article 68, including the most recent one due have been sent to the Commission;
  - (d) information requested by the Commission necessary to clarify any elements relevant to the declaration of expenditure has been provided, including information on the reporting of irregularities in accordance with Article 28 of the Framework Agreement.

If one or more of the conditions mentioned in this paragraph are not met, Turkey shall, when so requested by the Commission and within the time limit fixed by the Commission, take the necessary steps to remedy the situation before the payment is made.

2. If it appears that the applicable rules have not been complied with or that European Union funds have been improperly used, the Commission may reduce interim payments to Turkey or temporarily suspend them, in accordance with the provisions of Articles 39(4) and 46. It shall inform Turkey accordingly.
3. The suspension or reduction of interim payments shall comply with the principle of proportionality and shall be without prejudice to the decisions of conformity and clearance of account and financial corrections.

#### *Article 42*

#### *Calculation of the amount to be paid*

1. The European Union contribution to be paid in respect of the eligible public expenditure declared for each priority axis for each reference period shall be calculated on the basis of the financing plan in force on the first day of that period.
2. The amounts of the European Union contribution recovered from final beneficiaries under the IPARD Programme during each reference period and the debts that have not been collected within 2 years of their registration in the debtor's ledger shall be deducted from the amount to be paid by the Commission in the declaration of expenditure for that period in accordance with Article 55.
3. Amounts resulting from the clearance of accounts carried out in accordance with Article 53 which may be re-used for the IPARD Programme shall be added to or deducted from the amount of the European Union contribution at the time of the next declaration.
4. Without prejudice to the ceiling of 95% as provided for in Article 38(5), where the combined total of declarations of expenditure exceeds the total programmed for a given priority axis, the amount to be paid shall be capped at the amount programmed for that priority axis in the financing plan in force. Expenditure excluded as a result may be taken into account in a subsequent declaration of expenditure provided that an adjusted financing plan has been submitted by Turkey and accepted by the Commission.

#### *Article 43*

#### *Payment of the final balance*

1. In the case of the payment of the final balance, the deadline of Article 36 as laid down in the MFA shall apply and the minimum requirements for the Commission to approve the application are the following:
  - (a) the NAO has sent to the Commission a final declaration of expenditure and a final statement of expenditure; the final statement of expenditure shall be certified by the NAO and supported by a final statement of assurance;
  - (b) the Managing Authority has sent to the Commission the final report for the IPARD Programme, as referred to in Article 68;
  - (c) the decision referred to in Article 53 is adopted.

2. The payment shall not prejudice the adoption of subsequent decisions pursuant to Article 54.
3. The payment shall also not prejudice the follow-up of the provisions laid down under Article 44(8), Article 48 and Article 55.
4. No further financial transactions may be made by Turkey on the IPARD euro account after the final payment claim was sent to the Commission. Turkey shall ensure that the requirements referred to in paragraph 1 are respected until the requirements mentioned under Article 48 are fulfilled. As regards the provisions under Article 55, the Commission should be informed whenever the recovered amounts are recorded in the national accounts.
5. Turkey shall set up a system which allows it to follow-up on the requirements set out in paragraph 4. Turkey shall identify the responsible body and shall inform the Commission of the practical arrangements concerning the transfer of responsibilities to this body.

*Article 44*  
*Payments to final beneficiaries*

1. Turkey shall ensure that payments to the final beneficiaries are:
  - (a) made in national currency and debited as appropriate against the IPARD euro account. The payable order(s) or any other accounting documents of equivalent probative value to the final beneficiary(ies) or to their assignee(s) shall as a general rule be issued within three working days of this debit;
  - (b) based on declarations of expenditure incurred by the final beneficiary and evidenced by original receipted invoices. Where assistance is not a function of expenditure, other appropriate documents, as specified in the IPARD Programme may be accepted.
2. In order to be eligible, expenditure shall not be incurred before the date of conclusion of the contract which made the claimant a final beneficiary under the IPARD Programme. In the case where aid is not a function of expenditure, the events which trigger assistance shall not occur before that date. These restrictions on date shall not apply for feasibility and related studies and for the Technical Assistance measure.
3. Except for actions under the Technical Assistance measure and activities referred to in paragraph 6(c) of Article 32 expenditure shall in no case relate to projects selected, contracts concluded by or on behalf of the IPARD Agency and final beneficiaries, and expenditure paid earlier than the date(s) specified in the Commission Decision referred to in Article 25.
4. No payments shall be made in cash.
5. Where original invoices or the other relevant documents referred to in paragraph 1(b) are not retained by the IPARD Agency following receipt, the IPARD Agency shall ensure that copies shall be taken and arrangements made to ensure that the originals will be made available for audit and inspection purposes.

6. The NAO and the IPARD Agency shall ensure that total public expenditure by all public bodies in Turkey for each measure and project is identifiable in the IPARD Agency's accounts.
7. The IPARD Agency shall maintain records of each payment which include at least the following information:
  - (a) the amount in national currency;
  - (b) the corresponding amount in euros.
8. The ratios of European Union and national contributions to public expenditure, and of total public expenditure to total eligible costs, shall be determined in national currency.
9. The NAO and the IPARD Agency shall ensure that any amount(s) which they find has been inadvertently paid in excess of the sum due, noted by them and which have been incorporated in expenditure declarations charged to the IPARD euro account, are recorded within three working days in the IPARD euro account and deducted from the next application for payment to the Commission referred to in Article 39.
10. The NAO and the IPARD Agency shall ensure timely treatment of payment requests by final beneficiaries. In cases where the interval between receipt of the supporting documents needed to make the payment and issuing of the payment order exceeds three months, European Union co-financing may be reduced in accordance with the following rules:
  - (a) where expenditure effected after the deadlines is equal or less than 4% of the expenditure effected before the deadlines, no reduction shall be made, irrespective of the number of months' delay;
  - (b) where expenditure effected after the deadlines is greater than 4% of the expenditure effected before the deadlines, all further expenditure effected with a delay of up to:
    - i. one month shall be reduced by 10%,
    - ii. two months shall be reduced by 25%,
    - iii. three months shall be reduced by 45%,
    - iv. four months shall be reduced by 70%,
    - v. five months or more shall be reduced by 100%.
11. However, the Commission may apply a different time scale and/or lower or zero reductions, if exceptional management conditions are encountered for certain measures, or if well-founded justifications are provided by Turkey.
12. Before taking the decision the Commission shall inform Turkey allowing it to make its position known within 10 working days. The Commission shall inform Turkey of its final decision, stating the reasons on which the decision is based.

13. For any expenditure effected after the deadlines Turkey shall submit to the Commission a detailed justification of the delay, written evidence to substantiate this justification as well as a demonstration of a direct relationship between the justification and the relevant expenditure effected after the deadlines.

*Article 45*

*Exchange rate and interest*

1. Turkey shall ensure that the rate recorded for conversion between euro and national currency is the monthly accounting rate of the euro established by the Commission for Turkey for the month during which the expenditure was registered in the accounts of the National Fund and the IPARD Agency. However:
- (a) for payments by the IPARD Agency the date the payment order is issued to the final beneficiary or their assignee shall be the date shown in the accounts;
  - (b) for overpayments by the IPARD Agency in accordance with Article 44(9) and for debts not recovered, as well as debts that have not been collected within two years of their registration in the debtor's ledger in accordance Article 55, the rate in the month preceding the month during which the overpayment or the debt were first noted;
  - (c) for amounts fixed by the clearance of accounts and/or conformity clearance Decisions, the rate in the month preceding the month during which the Decision was taken;
  - (d) for debts and interest recovered in accordance with Article 55 the rate in the month preceding on the month during which the debt was recovered;
  - (e) for irregularities recovered in accordance with Article 28 of the Framework Agreement, the rate in the month preceding the month during which the amount was recovered;
  - (f) for interest earned on the National Fund's and the IPARD Agency's account(s), the rate on the month the interest was credited to the account(s) which must be at least monthly.

These provisions shall also apply to cases covered by Article 31(2).

2. In the event that a rate for a month is not published, the rate for the most recent previous month of publication shall be used.
3. Where the time-limits in the Decisions taken pursuant to Articles 53 and 54 are not complied with, any outstanding amount shall generate interest at a rate equal to the Euribor rate for three month deposits published by the European Central Bank plus 1,5% points. That rate shall be the monthly average of the month in which those Decisions were taken.
4. Any interest earned on the IPARD euro account remains the property of Turkey. Interest generated by the financing by the European Union of the IPARD Programme shall be posted exclusively to the IPARD Programme, being regarded

as a resource for Turkey in the form of a national public contribution, and shall be declared to the Commission, at the time of the closure of the IPARD Programme.

5. Accounts related to the IPARD Programme funds held by the IPARD Agency shall bear interest. Interest earned on those accounts attributable to the European Union contribution shall also be used exclusively for the IPARD Programme and shall not be subject to any charges or taxes. All interest attributable to the European Union contribution shall be additional to the amounts included in the MFA and shall be regarded as a resource for Turkey.

*Article 46*  
*Suspension of payments*

1. All or part of the payments may be suspended by the Commission where:
- (a) there is a serious deficiency in the management and control system of the IPARD Programme which affects the reliability of the procedure for certification of payments and for which corrective measures have not been taken; or
  - (b) the accreditations delivered by the CAO and/or the NAO are suspended or withdrawn; or
  - (c) the conferral of management decision by the Commission is suspended or withdrawn; or
  - (d) expenditure in a certified statement of expenditure is linked to a serious irregularity which has not been corrected; or
  - (e) clarifications are needed regarding the information contained in the declaration of expenditure; or
  - (f) the most recent audit reports and audit opinions due have not been sent to the Commission in accordance with Article 28; or
  - (g) the NAO has not sent to the Commission the annual statements of assurance as referred to in Article 27, including the most recent one due.
2. Turkey shall be given the opportunity to present its observations within a period of two months before the Commission decides on a suspension in accordance with paragraph 1 of this Article.
3. The Commission shall end the suspension when Turkey has taken the necessary measures to remedy the deficiency, irregularity or lack of clarity referred to in paragraph 1 of this Article.
4. If those measures have not been taken by Turkey, the Commission may decide to cancel all or part of the European Union contribution to the IPARD Programme in accordance with Article 54.



*Article 47*

*Closure of the IPARD Programme*

1. After an application for final payment has been received by the Commission, the IPARD Programme is considered closed as soon as one of the following occurs:
  - (a) payment of the final balance due by the Commission;
  - (b) issuance of a recovery order by the Commission;
  - (c) de-commitment of appropriations by the Commission.
2. The closure of the IPARD Programme does not prejudice the Commission's right to undertake a financial correction in accordance with Article 54 at a later stage.
3. The closure of the IPARD Programme does not affect the obligations of Turkey under Articles 44(9), 48 and 55 and to continue to retain related documents, in accordance with Article 48.

*Article 48*

*Retention of documents*

1. All documents related to the IPARD Programme, including those relating to projects that have not been selected, shall be retained by Turkey for at least three years after the closure of the IPARD Programme or in case of investment projects for a period of five years following the date of the final payment as laid down in Article 172(4) of the IPA Implementing Regulation. This period shall be interrupted either in the case of legal proceedings or at the duly motivated request of the Commission.
2. The IPARD Agency and the National Fund shall ensure that if they do not hold those documents themselves, the documents are kept at the disposal of the Commission for that period. In the case of irregularities or negligence, the supporting documents referred to in paragraph 1 shall be kept at the disposal of the Commission for at least five years following that in which the sums are entirely recovered from the final beneficiary and credited to the IPARD Programme or in which the financial consequences of non-recovery are determined under Article 55.
3. In case of a conformity clearance procedure provided for in Article 54, the supporting documents referred to in paragraph 1 shall be kept at the disposal of the Commission for at least one year after the conclusion of that procedure or, if a conformity decision is the subject of legal proceedings before the Court of Justice of the European Union, for at least one year after the conclusion of those proceedings.

### *Sub-section 3 Financial corrections*

#### *Article 49*

#### *Protection of the financial interests of the European Union and assurances regarding the management of European Union funds*

1. Turkey shall adopt all legislative, regulatory and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the European Union, and particularly in order to:
  - i. check the genuineness and compliance of operations financed by the European Union,
  - ii. prevent and pursue irregularities,
  - iii. recover sums lost as a result of irregularities or negligence.
2. Turkey shall inform the Commission of the provisions adopted and measures taken under paragraph 1 and the measures taken for management and control in compliance with European Union legislation concerning support for the IPARD Programme in order to protect the financial interests of the European Union.

#### *Article 50*

#### *Content of the annual accounts*

1. The annual accounts referred to in Article 27(3) of the Framework Agreement shall include:
  - (a) a complete set of financial statements in accordance with the books and records of the National Fund and the IPARD Agency, showing European Union and national parts, and including the following components:
    - i. balance sheet,
    - ii. economic outturn account (including segment reporting by measures),
    - iii. statement of changes in net assets/liabilities,
    - iv. cash flow table, accompanied by information relating to the IPARD euro account,
    - v. annex to the financial statements.
  - (b) the revenues and the expenditure of the IPARD programme, showing European Union, national and total revenues and expenditure summarised by measures and presented on an annual basis, as referred to in first subparagraph of paragraph 1 and submitted using Form D 2 as set out in Annex III;
  - (c) information regarding expenditure and revenues for the whole period of implementation of the IPARD programme or confirmation that the detail of each transaction is held on computer file at the disposal of the

Commission;

- (d) a table of differences by IPARD Programme and measure, between the expenditure and the revenues declared in the annual accounts and that declared for the same period in the documents referred to in Article 39, accompanied by an explanation for every difference;
- (e) the table of the amounts to be recovered for the end of the exercise.

2. The form and content of the financial statements referred to in the first subparagraph of paragraph 1 shall be established in accordance with International Generally Accepted Accounting Principles and any guidelines on the application of these standards established by the Commission.

#### *Article 51*

#### *Transmission of the clearance information*

1. For the purpose of the clearance of accounts pursuant to Article 30(1) of the Framework Agreement, the NAO shall send to the Commission, with copy to the CAO:

- (a) the items included in the annual accounts, as referred to in Article 50, together with any reports by authorities acting under delegation from structures, authorities and bodies mentioned referred to in the Article 9(3);
- (b) the opinions and reports established by the Audit Authority, as referred to in Article 16;
- (c) complete recording of all the accounting information, as referred to in Article 50 and required for control purposes;
- (d) the statement of assurance as referred to in Article 27.

2. The documents and the accounting information referred to in paragraph 1 shall be signed and certified, and transmitted by the NAO, on behalf of Turkey, to the Commission by 30 April at the latest of the year following the end of the financial year which it concerns, with copies to the CAO and the Audit Authority. The documents referred to in points (a) and (b) of that paragraph shall be sent in one copy together with an electronic copy in accordance with the format and under the conditions established by the Commission, following the model set out in Annex III and in the table referred to under Article 50(e).

3. At the request of the Commission or on the initiative of the NAO, further information concerning the clearance of accounts may be addressed to the Commission within a time period set by the Commission, taking into account the amount of work required for providing that information. In the absence of that information, the Commission may clear the accounts on the basis of such information as is in its possession.

4. In duly justified cases, the Commission may accept a request for a late submission of information, if that request is addressed to it before the deadline for submission concerned.

*Article 52*  
*Form and content of the accounting information*

1. The form and content of the accounting information referred to in Article 51(1)(c) shall be established in accordance with International Generally Accepted Accounting Principles and any guidelines on the application of these standards established by the Commission and shall ensure that total public expenditure by all public bodies in Turkey for each measure and project is identifiable in the books and records of the National Fund and the IPARD Agency by an adequate accounting code.
2. Where there are disagreements, differences of interpretation or inconsistencies relating to documents and the accounting information referred to in paragraph 1 of this Article for a reference period, resulting in particular from the failure to communicate the information required under this Agreement, and these require further checks, Turkey shall be required to provide additional information.
3. The accounts referred to in Article 50 shall be submitted using Form D 2 as set out in Annex III.
4. Where payments due under the IPARD Programme are encumbered by claims, they shall be deemed to have been made in their entirety:
  - (a) on the date of the payment of the sum still due to the beneficiary, if the claim is less than the expenditure settled;
  - (b) on the date of the settlement of the expenditure, if the latter is less than or equal to the claim.
5. The accounting information shall be used by the Commission for the sole purposes of:
  - (a) carrying out its functions in the context of the clearance of accounts pursuant to IPA implementing rules;
  - (b) monitoring developments and providing forecasts in the agricultural sector;
  - (c) in this context, the European Court of Auditors and the European Anti-fraud Office (OLAF) have access to that information.
6. Payment orders not executed and payments debited to the account and then re-credited shall be shown in Form D 2 as deductions from expenditure in respect of the month during which the failure to execute or the cancellation is reported to the IPARD Agency.
7. Turkey shall set up, in respect of the IPARD Programme, a system for the recognition of all amounts due and for the recording in a debtors' ledger of all such debts, including irregularities prior to their receipt. Without prejudice to Article 44(6) or any national provisions concerning recovery of debts, any financial contribution charged to the European Union in respect of these sums including irregularities shall be written off at the end of the second year following its registration in the debtors ledger and deducted from the next application for payment as provided for in Article 42(2). Any interest recovered by the IPARD Agency attributable to the European Union contribution in respect of debts

recovered shall be recorded in the IPARD Agency account(s) and used exclusively for the IPARD Programme. The IPARD Agency and the National Fund shall ensure that any amounts recovered are credited to the IPARD euro account within 3 working days of the date of recovery.

8. Any personal data included in the accounting information collected shall only be processed for the purposes specified in paragraph 2. In particular, if accounting information is used by the Commission for the purpose referred to in paragraph 5, the Commission shall make such data anonymous and process it in aggregated form only.
9. Any queries concerning the processing of their personal data shall be addressed by the persons concerned to the Commission as set out in Section 5 of Commission Regulation (EC) No 1828/2006 of 8 December 2006<sup>15</sup>.
10. The Commission shall ensure that the accounting information is kept confidential and secure.

### *Article 53* *Financial clearance*

1. The clearance of accounts decision referred to in Article 30(1) of the Framework Agreement shall determine the amounts of expenditure effected in Turkey during the financial year in question which shall be recognised as being chargeable to the IPARD Programme on the basis of the accounts referred to in Article 50 and the funds which may be re-used by Turkey under Article 35 of the Framework Agreement.

2. The Commission shall, by 30 September at the latest of the year following the financial year concerned, on the basis of the information referred to in paragraph 1, take a Decision to clear the accounts of the National Fund and the IPARD Agency (hereinafter referred to as "the clearance of accounts Decision").

The clearance of accounts Decision shall cover the integrality, accuracy and veracity of the accounts submitted and shall not prejudice the adoption of a subsequent conformity clearance Decision, pursuant to Article 54.

The clearance of accounts Decision shall also cover the clearance of the IPARD euro account and amounts to be credited to that account in accordance with Article 55 and Article 52(6).

3. The Commission shall also communicate to Turkey the results of its verification of the information supplied, together with any amendments it proposes, by 15 July following the end of the financial year at the latest.
4. If, for reasons attributable to Turkey, the Commission is unable to clear the accounts before 30 September of the following year, the Commission shall notify the NAO, with copy to the CAO and the Audit Authority, of those additional inquiries it proposes to undertake pursuant to Article 26.
5. The amount which, as a result of the clearance of accounts decision, is normally recoverable from or payable to Turkey shall be established by deducting the

interim payments in respect of the financial year concerned from the expenditure recognised for the same year in accordance with paragraph 1 of this Article. That amount shall be deducted by the Commission from or added to the following interim payment or the final payment.

6. However, where the amount to be deducted fixed by the clearance of accounts Decision exceeds the level of possible subsequent payments, the NAO shall ensure that the amount not covered by the balance shall be credited to the Commission in euro within two months of notification of that Decision. The Commission may however, on a case by case basis, decide that any amount to be credited to it shall be offset against payments due to be made by the Commission to Turkey under any European Union instrument.
7. This Article shall apply, *mutatis mutandis*, to pre-financing payments within the meaning of Article 40.
8. Article 42 of the Framework Agreement does not apply to the financial clearance.

#### *Article 54* *Conformity clearance*

1. If the Commission finds that expenditure under the IPARD programme has been incurred in a way that has infringed applicable rules, it shall decide what amounts are to be excluded from European Union financing.
2. The Commission shall assess the amounts to be excluded on the basis of the gravity of the non-conformity recorded. It shall take due account of the nature and the gravity of the non-conformity and of the financial damage caused to the European Union.
3. When, as a result of any inquiry, the Commission considers that expenditure was not effected in compliance with the applicable rules, it shall communicate its findings to the CAO and the NAO, and indicate the corrective measures needed to ensure future compliance with those rules.

The communication shall make reference to this Article. The NAO shall reply within two months of receipt of the communication, with copy to the CAO and the Audit Authority, and the Commission may modify its position in consequence. In justified cases, the Commission may agree to extend the period for reply.

After expiry of the period for reply, the Commission shall convene a bilateral meeting and both parties shall endeavour to come to an agreement as to the measures to be taken as well as to the evaluation of the gravity of the infringement and of the financial damage caused to the European Union budget.

4. Within two months from the date of the reception of the minutes of the bilateral meeting referred to in the third subparagraph of paragraph 3, the NAO shall communicate any information requested during that meeting or any other information which it considers useful for the ongoing examination.

In justified cases, the Commission may, upon reasoned request of the NAO, authorise an extension of the period referred to in the first subparagraph. The

request shall be addressed to the Commission, with copy to the CAO and the Audit Authority, before the expiry of that period.

After the expiry of the period referred to in the first subparagraph, the Commission shall formally communicate its conclusions to the NAO, with copy to the CAO and the Audit Authority, on the basis of the information received in the framework of the conformity clearance procedure. The communication shall evaluate the expenditure which the Commission envisages to exclude from European Union financing.

Where the Commission proposes a financial correction on the basis of an extrapolation or at a flat rate, the NAO shall be given the opportunity to establish the actual extent of the irregularity, through an examination of the documents available. In agreement with the Commission, the NAO may limit the scope of this examination to an appropriate proportion or sample of the documents available. Except in duly justified cases, the examination and the communication of its results to the Commission shall take place within two months from the date of reception of the Commission's proposal for a financial correction.

5. The NAO shall inform the Commission, copy to the CAO and the Audit Authority, of the corrective measures it has undertaken to ensure compliance with the applicable rules and the effective date of their implementation.
6. The deductions from the European Union financing shall be made by the Commission from the following interim payment or the final payment. However, at Turkey's request and where warranted by the materiality of the deductions the Commission may set a different date for the deductions.
7. In accordance with Article 35(1) of the Framework Agreement the deductions made by the Commission shall not be reallocated to the IPARD Programme.
8. Article 42 of the Framework Agreement does not apply to the conformity clearance.

#### *Article 55*

#### *Recovery of funds in case of irregularity or fraud*

1. The NAO shall recover the European Union contribution paid to the final beneficiaries from those who committed the irregularity, fraud or corruption or benefited from it, in accordance with Article 29(2) of the Framework Agreement.
2. The NAO shall make financial adjustments where irregularities or negligence are detected in operations of the IPARD Programme by totally or partially cancelling the European Union contribution to the operations concerned. The NAO shall take into consideration the nature and gravity of the irregularities detected and the financial loss to the European Union contribution.
3. The European Union contribution recovered pursuant to paragraph 1 and cancelled pursuant to paragraph 2 may be reused in accordance with paragraph 4(c).
4. The financial adjustments and reuse of funds shall be undertaken by the NAO and shall be subject to the following conditions:

- (a) where irregularities are detected, the NAO shall extend its inquiries to cover all operations liable to be affected by such irregularities;
  - (b) the NAO shall notify the corresponding adjustments to the Commission, with copy to the CAO and the Audit Authority;
  - (c) amounts of the European Union contribution which are cancelled and amounts recovered, as well as the interest thereon, shall be reallocated to the IPARD Programme concerned. However, the cancelled or recovered European Union contribution may be reused only for an operation under the same IPARD Programme and provided the contribution is reallocated to operations which have not been the subject of a financial adjustment.
5. When the annual accounts are sent, as provided for in Article 51, the NAO shall provide the Commission, with copy to the CAO and the Audit Authority, with a summary report on the recovery procedures undertaken in response to irregularities. This shall give a breakdown of the amounts not yet recovered, by administrative and/or judicial procedure and by year of the primary administrative or judicial finding of the irregularity.
6. After the procedure laid down in Article 54(3) and in the first three subparagraphs of Article 54(4) has been followed, the Commission may decide to charge the sums to be recovered to Turkey in the following cases:
- (a) where the NAO has not initiated all the administrative or judicial procedures for the recovery of the contribution paid to the final beneficiaries within the year which follows the first administrative or judicial finding;
  - (b) where the NAO has failed to comply with its obligations under paragraph 4.
7. The European Union contribution not recovered by the IPARD Agency from the final beneficiaries within two years of their registration in the debtor's ledger shall be refunded by the NAO to the European Union budget. Where possible, the contribution recovered shall be deducted by the Commission from the following interim payment or the final payment to Turkey. Any interest recovered by Turkey attributable to the European Union contribution in respect of debts recovered shall be recorded in Turkey's account(s). Turkey shall ensure that any amounts recovered are credited to the IPARD euro account within 3 working days of the date of recovery.
8. Where it has been possible to effect the recovery referred to in paragraph 1 when the combined total of declarations of expenditure exceeds the ceiling of 95% as provided for in Article 38(5) or after closure of the IPARD Programme, the NAO shall refund the sums recovered to the European Union budget in accordance with the procedures laid down in Article 34 of the Framework Agreement.
9. This Article shall cease to apply five years after closure of the IPARD Programme. Any contribution not yet recovered at that date shall be written-off in the debtor's ledger and the corresponding amount shall be refunded to the European Union budget. This payment shall not prejudice the adoption of a subsequent decision pursuant to Article 54.



## Article 56

### *Definition of primary administrative or judicial finding*

The primary administrative or judicial finding referred to in Article 55 means the first written assessment of a competent authority, either administrative or judicial, concluding on the basis of actual facts that an irregularity has been committed, without prejudice to the possibility that this conclusion may subsequently have to be adjusted or withdrawn as a result of developments in the course of the administrative or judicial procedure.

### *Sub-section 4 Exceptional natural disasters*

## Article 57

### *Exceptional natural disasters*

1. The Commission may, in the event that it determines that an exceptional natural disaster has affected Turkey, on the basis of a reasoned request by Turkey, for relevant projects in the region affected and for a specified period, permit rates of European Union co-financing to total public expenditure above those specified in the IPARD Programme but within the ceiling of 85%.
2. Moreover, the Commission may authorise the following derogations from provisions of this Agreement as follows:
  - (a) the 50% thresholds as provided for in Article 34(2) may be replaced by thresholds of up to 75%;
  - (b) requests for additional pre-financing payments may also be based on estimates of needs flowing from the expected impact of the exceptional natural disaster in addition to the conditions referred in Article 40(4);
  - (c) the requirement for declarations of expenditure incurred by the final beneficiary to be evidenced by receipted invoices may be replaced by a formal decision by the IPARD Agency to support the project. The criteria for such decisions shall be specified in the reasoned request submitted by Turkey and approved by the Commission. The final beneficiary shall undertake within a period not exceeding one year to provide declarations of expenditure actually incurred as provided for in Article 44(1)(b). No payment to any beneficiary pursuant to this derogation may exceed 20% of the total cost of the investment approved by the IPARD Agency and any such payment shall be the subject of appropriate guarantees. The provision limiting expenditure declarations to events occurring no earlier than the date the contract was concluded making the claimant a final beneficiary may be replaced by a limit of no earlier than the date the exceptional natural disaster occurred;
  - (d) the obligation for procurement by public bodies of services, works and supplies, referred to in Article 23(4) of the Framework Agreement, may in accordance with Article 33(3) be replaced by less burdensome provisions including those permitting negotiated procedures whereby authorities consult providers of their choice and negotiate the terms of the contract with one or more of them.

*Sub-section 1 General provisions*

*Article 58*

*Scope*

This Section sets out the provisions for the management, monitoring and evaluation of the IPARD Programme and complements the related provisions under Section V of the Framework Agreement. Turkey shall ensure that it applies these provisions.

*Article 59*

*Partnership*

1. Assistance under the IPARD Programme shall be implemented through close consultations (hereinafter referred to as "partnership") between the Commission and Turkey and with the authorities and bodies designated by Turkey under national rules and practices, including:
  - (a) the competent provincial, local authorities and other public authorities;
  - (b) the economic and social partners;
  - (c) any other appropriate body representing civil society, non-governmental organisations, including environmental organisations, and bodies responsible for promoting equality between men and women.
2. Turkey shall designate the most representative partners at national, provincial and local level and in the economic, social, environmental or other sphere (hereinafter referred to as "partners"). It shall create the conditions for a broad and effective involvement of all appropriate bodies, in accordance with national rules and practices, taking into account the need to promote equality between men and women and sustainable development through integration of environmental protection and improvement requirements.
3. The partnership shall be conducted with due regard to the respective institutional, legal and financial responsibilities of each category of partner as defined under paragraph 1.
4. The partnership shall be involved in the preparation, implementation, monitoring and evaluation of the IPARD Programme. Turkey shall involve all appropriate partners at the various programming stages, due regard being given to the time limit set for each step.

*Sub-section 2 Monitoring of the IPARD Programme*

*Article 60*

*Programme Monitoring and Monitoring Indicators*

1. The Managing Authority and the Monitoring Committee for the rural development component (hereinafter referred to as "IPARD Monitoring Committee") shall monitor the effectiveness and the quality of the

implementation of the IPARD Programme. They shall report to the IPA Monitoring Committee and to the Commission on progress of the measures.

2. Programme Monitoring shall be carried out by reference to relevant physical, environmental and financial indicators. These indicators, concerning the inputs, the outputs and the results of the IPARD Programme, shall relate to the specific character of the assistance concerned, its objectives and the socio-economic, structural and environmental situation of Turkey.

*Article 61*  
*IPARD Monitoring Committee*

1. In accordance with Article 36 of the IPA Framework Agreement the IPARD Monitoring Committee shall be set up by Turkey within six months after the entry into force of the first MFA, after consultation with the Commission and the partners referred to in Article 59.
2. The IPARD Monitoring Committee shall satisfy itself as to the effectiveness and quality of the implementation of the IPARD Programme in order to attain the Programme's objectives.
3. The IPARD Monitoring Committee shall be composed of representatives of relevant authorities and bodies, and appropriate economic, social and environmental partners. It shall draw up and approve in consultation with the Managing Authority, the IPARD Agency and the Commission its rules of procedure. These rules of procedure shall be adopted by the IPARD Monitoring Committee at its first meeting. These may be changed by this Monitoring Committee as the need arises. Such changes shall be communicated in advance to the Commission.
4. The IPARD Monitoring Committee shall report to the IPA Monitoring Committee. It shall provide the IPA Monitoring Committee in particular with information relating to:
  - (a) the progress made in implementing the IPARD Programme, by priority axis and, where relevant, by measures or operations; this shall include the results achieved, financial implementation indicators, and other factors and shall be established with a view to improving the implementation of the IPARD Programme;
  - (b) any aspects of the functioning of the management and control system raised by the Audit Authority, the NAO or the CAO.
5. The IPARD Monitoring Committee shall be chaired by a representative of Turkey. The person designated shall not hold a position in the IPARD Agency.
6. The Commission, the Head of the IPARD Agency, the NAO and the NIPAC shall participate in the work of the IPARD Monitoring Committee without voting right.
7. The IPARD Monitoring Committee shall be consulted, within four months of the Decision approving the IPARD Programme on the selection criteria for financed operations. The selection criteria shall be revised according to programming needs.

8. The IPARD Monitoring Committee shall examine the results of the IPARD Programme in particular the achievement of the targets set for the different measures and the progress on utilisation of the financial allocations to those measures and allocations to sub-measures within measures where the IPARD Programme includes such allocations. In this regard, the Managing Authority shall ensure that all relevant information on the progress of measures and, as appropriate, sub-measures, is made available to the Monitoring Committee and the NIPAC.
9. The IPARD Monitoring Committee shall periodically review progress made towards achieving the objectives set out in the IPARD Programme. For this purpose, it shall, in particular, be given the following:
  - (a) information on any sectors where difficulties are experienced;
  - (b) information on the results of checks carried out; and
  - (c) the list and characteristics of approved projects and those not approved.
10. The IPARD Monitoring Committee shall consider and approve, where appropriate, any proposal to the Commission to amend the IPARD Programme.
11. Notwithstanding the provisions of Article 13(4) the IPARD Monitoring Committee may, following consultation with the Managing Authority and the IPARD Agency, propose to the Commission and to the NIPAC, with a copy to the NAO, amendments or reviews of the IPARD Programme to ensure the achievements of the Programme's objectives and enhance the efficiency of the assistance provided.
12. The IPARD Monitoring Committee shall consider and approve the annual and final implementation reports before they are sent to the Commission, the NIPAC and the NAO, with a copy to the Audit Authority.
13. The IPARD Monitoring Committee shall examine the on-going and interim evaluation of the IPARD Programme referred to in Articles 65 and 66.
14. The IPARD Monitoring Committee shall consider and approve the communication plan referred in Article 70 as well as any subsequent updates of the plan.
15. When required by the IPARD Programme to give an opinion on any matter, the IPARD Monitoring Committee shall act accordingly.

*Article 62*  
*Indicators*

1. The progress, efficiency and effectiveness of the IPARD Programme in relation to its objectives shall be measured by means of indicators relating to the baseline situation as well as to the financial execution, outputs, results and impact of the programme.
2. The IPARD Programme shall specify a limited number of additional indicators specific to that Programme.

### *Sub-section 3 Evaluation*

#### *Article 63*

#### *Principles for the evaluation of the IPARD Programme*

1. Evaluations shall aim to improve the quality, effectiveness and consistency of the assistance from European Union funds and the strategy and implementation of the IPARD Programme.
2. The IPARD Programme shall be subject to ex-ante and to an on-going evaluation system which shall take the form of ex-post and, where appropriate, interim evaluations carried out by independent evaluators under the responsibility of Turkey.
3. The evaluations shall assess the implementation of the IPARD Programme towards the achievement of objectives set out in Article 12 of the IPA Framework Regulation. In particular the effectiveness of the measures of the IPARD Programme shall be assessed on the basis of their overall impact on:
  - (a) contributing to the preparation of Turkey for the implementation of the *acquis communautaire* concerning the Common Agricultural Policy and related policies;
  - (b) contributing to the sustainable adaptation of the agricultural sector and rural areas in Turkey;
  - (c) the objectives in the IPARD Programme.
4. The evaluations shall examine the degree of utilisation of resources, the effectiveness and efficiency of the programming, its socioeconomic impact and its impact on the defined priorities. They shall cover the goals of the IPARD Programme and aim to draw lessons concerning rural development policy. They shall identify the factors which contributed to the success or failure of the implementation of the IPARD Programme, including the sustainability of actions and identifications of best practices.
5. Evaluations shall respond to a common monitoring and evaluation framework defined by the Commission in consultation with Turkey and shall, as a general rule, be accompanied by achievement related criteria and indicators. In addition, evaluations may be required to answer specific questions related to the objectives of the IPARD Programme.
6. Turkey shall assemble the appropriate resources and collect the data required to ensure that evaluations can be carried out in the most effective manner. In this connection, evaluation shall make use of the various particulars that the Programme monitoring arrangements may yield, supplemented where necessary, by the gathering of information to improve its relevance.
7. Evaluation reports shall explain the methodologies applied, and include an assessment of the quality of the data and the findings.
8. The quality and implications of evaluations shall be assessed by the Managing Authority, the IPARD Monitoring Committee and the Commission.

9. The results of the ex-ante and the interim evaluations shall be taken into account in the programming and implementation cycle.

#### *Article 64*

##### *Ex-ante evaluation of the IPARD Programme*

1. Ex-ante evaluation shall form part of drawing up the IPARD Programme and aim to optimise the allocation of budgetary resources and improve programming quality. It shall identify and appraise medium and long-term needs, the goals to be achieved, the results expected, the quantified targets particularly in terms of impact in relation to the baseline situation, the European Union value-added, the extent to which the priorities defined have been taken into account, the lessons learned and the quality of the procedures for implementation, Programme monitoring, evaluation and financial management.
2. Ex-ante evaluation shall be carried out under the responsibility of Turkey.

#### *Article 65*

##### *On-going evaluation*

1. Turkey shall establish a system of on-going evaluation for the IPARD Programme. This system shall be organised on the initiative of the Managing Authority in cooperation with the Commission on a multi-annual basis and shall cover the entire programming period.
2. The Managing Authority and the IPARD Monitoring Committee for the Programme shall use on-going evaluation to:
  - (a) examine the progress of the IPARD Programme in relation to its goals by means of result and, where appropriate, impact indicators;
  - (b) improve the quality of IPARD Programme and their implementation;
  - (c) examine proposals for substantive changes to the Programme;
  - (d) prepare for interim and ex-post evaluation.
3. The Managing Authority shall report each year on the on-going evaluation activities to the IPARD Monitoring Committee with copies to the CAO and the Audit Authority. A summary of the activities shall be included in the annual report provided for in Article 68.

#### *Article 66*

##### *Interim evaluation*

1. If the Commission considers as appropriate, in the third year following the year of adoption of the first Decision of the conferral of management of aid of the IPARD Programme, the on-going evaluation shall take the form of a separate interim evaluation.
2. The interim evaluation shall propose measures to improve the quality of the IPARD Programme and its implementation. In particular Turkey shall ensure that the interim evaluation examines the initial results of the IPARD Programme, their

consistency with the ex-ante appraisal, the relevance of the targets and objectives and the extent to which they have been attained. It shall also assess the quality of Programme monitoring and implementation and the experience gained in setting up the system for implementation of the IPARD Programme.

3. The interim evaluation shall be submitted to the IPARD Monitoring Committee, and to the Commission by 31 December of the year referred to in the paragraph 1 of this Article.
4. In addition to the assessment referred to in Article 63(8), the IPARD Monitoring Committee, the Managing Authority and the Commission shall consider the implications of the evaluation with a view to reviewing the IPARD Programme.
5. The Managing Authority shall inform the Commission about the follow-up to the recommendations in the evaluation report.
6. If Turkey fails to submit the interim evaluation report by the date referred to in paragraph 3 the provisions of Article 39(4) shall apply.

*Article 67*  
*Ex-post evaluation*

1. During the last year of validity of the commitment established in the most recent MFA concluded with Turkey, the on-going evaluation shall take the form of a separate ex-post evaluation. It shall be completed and submitted to the Commission not later than the end of that year.
2. On the basis of the evaluation results already available as well as evaluation questions relevant to the IPARD Programme, the ex-post evaluation shall cover the utilisation of resources and the effectiveness and efficiency of the IPARD Programme, its impact and its consistency with the ex-ante evaluation. It shall cover factors contributing to the success or failure of implementation, the achievements of the IPARD Programme and results, including their sustainability. It shall draw conclusions relevant to the IPARD Programme and to the enlargement process.
3. If Turkey fails to submit the ex-post evaluation report by the date referred to in paragraph 1 the provisions of Article 39(4) shall apply.

*Sub-section 4 Reporting*

*Article 68*  
*Annual and Final reports*

1. The Managing Authority, following consultation with the IPARD Agency, shall draw up annual reports and a final report on the implementation of the IPARD Programme.
2. The annual reports on implementation of the IPARD Programme shall cover the calendar year and shall include the cumulative financial and monitoring data for the whole period of implementation of the IPARD Programme. The final reports on implementation of the IPARD Programme shall cover the whole period of implementation and may include the last annual report.

3. The reports referred to in paragraph 1 of this Article shall be sent to the Commission, the NIPAC and the NAO, with a copy to the Audit Authority, after examination and approval by the IPARD Monitoring Committee.
4. The annual reports shall be submitted within six months of the end of each full calendar year of the implementation of the IPARD Programme. The final report shall be submitted at the latest six months after the final date of eligibility of expenditure under the IPARD Programme.
5. All annual and final implementation reports shall include the following information:
  - (a) any change in general conditions of relevance to the implementation of the IPARD Programme, in particular, the main socio-economic trends, changes in national, regional or sectoral policies and, where applicable, their implications for the consistency between IPARD assistance and that from other European Union financial instruments;
  - (b) the progress in the implementation of priorities and measures in relation to the attainment of the objectives of the IPARD Programme, their specific targets in the IPARD Programme, with a quantification, wherever and whenever they lend themselves to quantification, of the physical indicators and indicators of results and of impact, in the IPARD Programme;
  - (c) the steps taken by the Managing Authority, the IPARD Agency where appropriate, and the IPARD Monitoring Committee to help to ensure the quality and effectiveness of implementation, in particular:
    - i. programme monitoring and evaluation measures, including data collection arrangements,
    - ii. a summary of any significant problems encountered in implementing the IPARD Programme and any action taken, including that on recommendations for adjustments made pursuant to paragraph 9,
    - iii. a summary of the results of the controls carried out per measure and of the irregularities detected,
    - iv. the use made of technical assistance,
    - v. the steps taken to involve local bodies to a greater extent,
    - vi. the steps taken to ensure publicity for the IPARD Programme,
    - vii. data to demonstrate that European Union funds are complementing funding available in Turkey.
  - (d) The steps taken to ensure co-ordination of all the European Union pre-accession assistance referred to in Article 4;
  - (e) financial tables showing European Union, national and total expenditure per measure and, where appropriate, per sub-measure.



- (f) a summary of the on-going evaluation activities in accordance with Article 65;
  - (g) a description of the activities carried out for the implementation of the communication plan referred to in Article 70.
6. Once the Commission has received an annual report, it shall inform Turkey, within a period of one month, if the report is considered as complete. Otherwise, the report shall be deemed to be complete.
  7. The Commission shall have three months to comment on the annual report after it has been sent by the Managing Authority. That time limit shall be increased to five months for the last report of the IPARD Programme. If the Commission does not respond within the time limit set, the report shall be deemed to have been accepted.
  8. Every year, when the annual report is submitted and accepted, the Commission, the NAO and the Managing Authority and, where appropriate, the IPARD Agency shall review the main outcomes of the previous year. The Commission shall consult with the NAO and the Managing Authority and, where appropriate, the IPARD Agency on the arrangements to be defined for such a review.
  9. If, after this review, the Commission makes comments to Turkey, it shall inform the Commission of the action taken on these comments. Where the Commission, without prejudice to the Decisions to be taken pursuant to Articles 53 and 54, makes recommendations to Turkey for adjustments aimed at improving the effectiveness of the Programme monitoring or management arrangements for the IPARD Programme, Turkey shall subsequently demonstrate the steps taken to improve the Programme monitoring or management arrangements or it shall explain why it has not so acted within three months of the receipt of the Commissions' comments. The IPARD Monitoring Committee shall be informed on these activities.

### ***Sub-section 5 Information and visibility***

#### *Article 69*

#### *Information and publicity*

1. Turkey shall provide information on and publicise the IPARD Programme and the European Union contribution in accordance with Annex VI of Commission Regulation (EC) No 1974/2006 of 15 December 2006, which shall apply *mutatis mutandis* to this Agreement. This information shall be aimed at the general public. It shall highlight the role of the European Union and ensure the transparency of European Union assistance.
2. The Managing Authority for the IPARD Programme shall be responsible for its publicity as follows:
  - (a) it shall inform potential beneficiaries, professional organisations, the economic and social partners, bodies involved in promoting equality between men and women and the non-governmental organisations concerned, including environmental organisations, of the possibilities

offered by the IPARD Programme and the rules for gaining access to IPARD Programme funding;

- (b) it shall inform the general public about the role played by the European Union in the IPARD Programme and the results thereof.

3. The IPARD Agency shall be responsible for the publication of the list of the final beneficiaries in accordance with the conditions established by Article 24(2) of the Framework Agreement. It shall inform the final beneficiaries of the European Union contribution.

*Article 70*  
*Visibility*

1. Activities to make available, and publicise, in Turkey, information about assistance under the IPARD Programme as referred to in Article 24(4) of the Framework Agreement will be implemented based on a communication plan to be agreed between the Managing Authority and the Commission before the adoption by the Commission of the decision referred to under Article 25. This communication plan shall be appraised by the IPARD Monitoring Committee and shall set out:

- (a) the aims and target groups;
- (b) the content and strategy of the communication and information measures, stating the measures to be taken;
- (c) its indicative budget;
- (d) the administrative departments or bodies responsible for implementation;
- (e) the criteria to be used to evaluate the impact of the information and publicity measures in terms of transparency, awareness of the IPARD Programme and the role played by the European Union.

2. The amount allocated for information and publicity may be part of the technical assistance measure of the IPARD Programme.

3. At the meetings of the IPARD Monitoring Committee the Chairperson shall report on progress in implementing the information and publicity measures and provide the Committee members with examples of such measures.

4. When the implementation of the present Article implies specific information and publicity activities at project level such activities shall be the responsibility of the final beneficiaries, and shall be funded from the amount allocated to the relevant project.

Article 71

*Final provisions of the Framework Agreement*

1. Section VI of the Framework Agreement shall apply mutatis mutandis to this Agreement.
2. However, as regards Article 44(2) of the Framework Agreement, the addresses shall be as follows:

- (a) For all correspondence other than that referred to in point (b):

*For the European Union:*

European Commission  
Directorate General for Agriculture and Rural Development  
Unit for Pre-accession assistance  
Rue de la Loi 130  
BE - 1049 Brussels  
Telephone: + 32 2 296 73 37  
Fax: + 32 2 295 17 46  
E-mail: agri-ipard@ec.europa.eu

*For the Republic of Turkey:*

Prime Ministry  
Secretariat General for EU Affairs  
Mustafa Kemal Mahallesi, 6. Cadde, No. 4  
TR - 06800 Bilkent, Ankara  
Telephone: + 90 (312) 218 13 00  
Fax: + 90 (312) 218 14 64

- (b) For correspondence relating to information set out in Article 28 of the Framework Agreement, the addresses shall be as follows:

*For the European Union:*

European Commission  
OLAF – European Anti-Fraud Office  
Directorate C  
30, Rue Joseph II  
BE - 1049 Brussels

*For the Republic of Turkey:*

Undersecretariat of Treasury  
National Fund  
Irregularity Officer  
İnönü Bulvarı 36  
TR - 06100 Emek, Ankara  
Telephone: + 90 (312) 204 64 42  
Fax: + 90 (312) 212 85 50  
E-mail: mehmet.ak@hazine.gov.tr

3. However as regards Article 48 of the Framework Agreement, where the

Commission has detected non-compliance with the obligations of this Agreement, it:

- (a) shall notify Turkey of its intentions, with justification(s); and
- (b) shall have the right, with regard to the IPARD Programme, but without prejudice to the Decisions referred to in Articles 53 and 54:
  - i. to make financial corrections against Turkey,
  - ii. to cease to transfer monies to Turkey,
  - iii. to refrain from undertaking any new financial obligations on the part of the European Union, and
  - iv. if appropriate, to terminate this Agreement with effect from the time non-compliance was first detected.

*Article 72*

*Entry into force*

This Sectoral Agreement shall enter into force on the date on which the Contracting Parties inform each other in writing of its approval in accordance with the existing internal legislation or procedure of each of the Parties.

*Article 73*

*Signature*

This Agreement is drawn up in duplicate in English and in Turkish languages. The English version shall prevail in case of divergence between the two versions or in case of differences of interpretation.

Done at Brussels and at Ankara, respectively, this seventh day of May in the year two thousand and ten.

*For the Government of the Republic of Turkey:*

.....  
**Volkan BOZKIR**  
**Ambassador**  
**Secretary General**  
**National IPA Co-ordinator**

*For the European Commission:*

.....  
**Jean-Luc DEMARTY**  
**Director General for Agriculture and Rural Development**  
**Delegated Authorising Officer**

# ANNEXES

## ANNEX I

### ACCREDITATION CRITERIA

#### I. INTERNAL CONTROL ENVIRONMENT (ESTABLISHMENT AND MANAGEMENT OF THE ORGANISATION AND THE STAFF)

##### A. ORGANISATIONAL STRUCTURE

The structures, authorities and bodies of the management and control system as defined in Articles 6 – 8 of the Framework Agreement shall have an organisational structure allowing them to execute the following main functions in respect of IPARD expenditure:

The basic approach for the allocation of functions and responsibilities shall be established in accordance with the following table:

General Functions	Specific Functions	NAO	National Fund	Operating Structure	
				IPARD Agency	Managing Authority
<b>Managing functions</b>	Programme monitoring				*
	Evaluation				*
	Reporting				*
	Coordination				*
<b>Paying functions</b>	Authorization & control of commitments			*	
	Authorization & control of payments		(*)	*	
	Execution of payments			*	
	Accounting for commitment and payment		*	*	
	Treasury		*		
<b>Implementing functions</b>	Selection			*	
	Publicity			*	*
	Assurance	*			

In case it is indicated as optional (\*), the function may be allocated depending on the size, the responsibilities and other specific features of the management and control systems.

Unless the Commission expressly and explicitly otherwise, allocations of functions and responsibilities must not be in contradiction to the basic approach as shown in this Annex.

## A.1. Managing functions

- (a) *Programme monitoring*: the objective of this function is to monitor the effectiveness and the quality of the implementation of the IPARD programme. It shall be carried out by reference to relevant physical, environmental and financial indicators. It shall also ensure that operations are selected for funding in accordance with the criteria and mechanism applicable to the programme, and comply with the relevant European Union and national rules.
- (b) *Evaluation*: the objective of this function is to improve the quality, effectiveness and consistency of the assistance from European Union funds and the strategy and implementation of the IPARD Programme. The evaluations shall examine the degree of utilisation of resources, the effectiveness and efficiency of the programming and its socioeconomic impact on the defined priorities, and shall, as a general rule, be accompanied by achievement related criteria and indicators.
- (c) *Reporting*: the objective of this function is to ensure that implementation of the Programme and progress of the individual projects and measures are reported in a way which helps to ensure the effective and efficient implementation of the measure, using adequate information and communication systems.
- (d) *Coordination*: the objective of this function is to guide and monitor the work of the IPARD Monitoring Committee as defined in Article 36(2) of the Framework Agreement, notably by providing the documents necessary for monitoring the quality of the implementation of the programmes.

## A.2. Paying functions

- (a) *Authorisation and control of commitments and payments*: the objective of this function is to establish that the applications for approval of projects and subsequent amount to be paid to a claimant or to their assignee(s) is in conformity with the Agreements and eligible for the European Union assistance claimed, which shall include, inter alia, the administrative and on-the-spot controls, in particular those concerning the regularity and legality of the expenditure:
  - checking the eligibility of applications for approval and claims for payment,
  - checking of compliance with commitments entered into concerning project approvals,
  - and where appropriate, checking of tendering and contracting procedures and verification of the work carried out or services supplied.

Controls shall be executed both prior and following project approval and may include pre-project selection checks, remeasurement, checks on quantity and quality of goods or services delivered an analysis or a sample control, pre-payment checks, ex-post payment checks and any special provisions for implementing the Agreements as to the regularity and legality of the expenditure. In order to establish the regularity and legality, controls shall include, where appropriate, examinations of a technical nature, which can involve economic financial assessments and checks of a specific agricultural, technical or scientific nature.

- (b) *Execution of payments*: the objective of this function is the issuing of an instruction to the Operating Structure's bankers, or, in appropriate cases, a governmental payments office, to pay the authorised amount to the claimant (or their assignee(s)).
- (c) *Accounting for commitment and payment*: the objective of this function is the recording of all commitments and payments in the separate books of accounts for IPARD expenditure, which will normally be in the form of an electronic data processing system, and the preparation of periodic summaries of expenditure, including the expenditure declarations to the European Commission. The books of account shall also record the assets financed by the Funds, in particular concerning uncleared debtors.
- (d) *Treasury*: the objective of this function is to organise the bank accounts, requesting funds from the Commission, verifying the existence and correctness of the co-financing elements, authorising the transfer of funds from the Commission to the *IPARD Agency* or to the final beneficiaries and the financial communication to the Commission, which includes the quarterly and annual declarations.

### A.3. Implementing functions

*Selection*: the objective of this function is

- (a) *Selection*: the objectives of this function are to select operations in accordance with the criteria, mechanisms and rules applicable to the IPARD programme.
- (b) *Publicity*: the objectives of this function are both:
  - i. the issuing of calls for applications and publicising terms and conditions for eligibility, including information on contractual obligations and possible sanctions in the event of non-compliance with those obligations and, where necessary, the issue of approval to commence work,
  - ii. and to highlight of the role of the European Union and to ensure the transparency of European Union assistance.

- (c) *Assurance*: the objective of this function is to provide assurance to the CAO and the Commission about the regularity and legality of IPARD expenditure and the complete identification and immediate communication of any irregularity relating to this expenditure, and to make the financial adjustments required in connection with irregularities detected, in accordance with Article 50 of the IPA Implementing Regulation.

The organisational structure shall provide for clear assignment of authority and responsibility at all operational levels and for separation of the three first paying functions referred to in the second paragraph, the responsibilities of which shall be defined in an organisational chart. It shall include the technical services and the internal audit service referred to under point 4.

#### B. *HUMAN RESOURCE STANDARD*

The structures, authorities and bodies of the management and control systems as defined in Articles 6 - 8 of the Framework Agreement shall ensure the following:

- (a) Ethics and integrity policies required by top management are understood throughout the organisation.
- (b) Appropriate human resources (including positions of responsibility and sensitive positions<sup>16</sup> are allocated to carry out the operations and the technical skills required at different levels of operations are present. They must have suitable technical skills and experience, language skills and be appropriately trained in implementing European Union Programmes.
- (c) The bodies and individuals have full legal authority to fulfil their functions.
- (d) Establishment of accountability, responsibility, delegated responsibility, and any necessary related authority for all tasks and positions throughout the organisation are formally defined (in writing), including the setting of financial limits to manager's authority. For commitments or payments engaged to third parties, a single manager should be accountable for all aspects of the transaction. Mission statements, job descriptions etc are up to date and known.
- (e) The division of duties is such that no individual has responsibility for more than one of the three functions of authorisation, execution and accounting of sums charged to IPARD, no individual performs one of those tasks without his work coming under the supervision by way of re-performance of a second individual and this division of duties complies with the principles laid down in the Financial Regulation and its Implementing Rules. Each of those functions shall be the responsibility of a separate administrative sub-unit whose responsibilities shall be defined in an organisation chart.
- (f) Staff planning, recruitment, training and appraisal are appropriate at all levels of operation, and there is a policy for rotating staff in sensitive positions, or alternatively for increased supervision.

<sup>16</sup> Positions where the staff may become vulnerable to undue influence by the nature of their contacts with third parties or the information they have.



(g) Appropriate measures are taken:

- i. to identify and avoid a conflict of interests where a person occupying a position of responsibility or a sensitive position with regard to the verification, authorisation, payment and accounting of commitments and payments also fulfils other functions outside the agency and to ensure that appropriate controls are applied. All the staff shall sign a Declaration of confidentiality and impartiality to avoid conflicts of interest,
- ii. to ensure possible irregularities noted lower down the organisation are reported appropriately and followed-up, including protection for 'whistle-blowers'.

### C. *DELEGATION*

Part or all of the evaluation, reporting, authorisation and control functions<sup>17</sup> may be delegated to other bodies provided that the following conditions are fulfilled:

- (a) A written agreement must be concluded between the concerned structures, authorities and bodies of the management and control systems and that body specifying the nature of the information and the supporting documents to be submitted and the time limit within which they must be submitted. The agreement must permit the management and control systems to comply with the accreditation criteria. A sufficient audit trail shall be maintained.

The overall system, including the delegated functions performed by other bodies, shall be set out in an organisation chart.

The agreement shall provide for access by duly authorised agents or representatives of Turkey or the European Union to information held by these delegated bodies and for the investigation by such officials of applications including the carrying out of checks on projects and recipients of aid and any other information they need for the execution of their tasks.

- (b) The concerned structures, authorities and bodies of the management and control systems shall in all cases remain responsible for the efficient management of the Fund.
- (c) The responsibilities and obligations of the other body, notably concerning the control and verification of the compliance with the Agreements, shall be clearly defined.
- (d) The concerned structures, authorities and bodies of the management and control systems shall ensure that the body disposes of effective system for ensuring that it fulfils its responsibilities in a satisfactory manner.
- (e) The body shall explicitly confirm to the concerned structures, authorities and bodies of the management and control systems that it in fact fulfils its responsibilities and shall describe the means employed.

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<sup>17</sup> In no case may the functions of execution of payment, and of accounting of commitment and payment be delegated.

- (f) The concerned structures, authorities and bodies of the management and control systems shall review, including sample re-performance of checks, on a regular basis the functions delegated to confirm that the work performed is of satisfactory standard and that it is in compliance with the Agreements.
- (g) The concerned structures, authorities and bodies of the management and control systems shall be informed on a regular and timely basis of the results of checks effected, so that the adequacy of the checks may always be taken into account before a claim is authorised or settled or an invoice is paid. The work performed shall be described in detail in a report accompanying each application and claim, batch of applications and claims or, when appropriate, in a report covering one year. The report shall be accompanied by an attestation of the eligibility of the approved applications and claims and of the nature, scope and limits of the work done. The report shall identify physical and administrative checks performed, the method described, the results of all inspections and the action taken in respect of discrepancies and irregularities reported upon. The supporting documents submitted to the concerned structures, authorities and bodies of the management and control system shall be sufficient to provide assurance that all the required checks on the eligibility of the claims or invoices authorised for payment have been performed.
- (h) *IPARD Agency* must be satisfied, before the project is approved and before the aid is granted, that the other bodies have followed procedures which comply with the criteria set out in this Annex.
- (i) Where documents relating to the claims authorised, expenditure committed and controls effected as well as those relating to projects not selected are retained by other bodies, both these bodies and the *IPARD Agency* shall set up procedures to ensure that the location of all such documents that are relevant to specific payments made by the *National Fund* or *IPARD Agency* is recorded, and that these documents shall be made available for inspection at their offices at the request of the persons and bodies who would normally have the right to inspect such documents, including:
- i. the *IPARD Agency*'s staff who deal with the claim,
  - ii. the *National Fund* or *IPARD Agency*'s internal audit services,
  - iii. the *Audit Authority* that attests the NAO's annual declaration,
  - iv. duly authorised officials or representatives of the NAO or the CAO,
  - v. duly authorised agents or representatives of the European Union.
- (j) The *Audit Authority* shall report on the delegated functions as if they were managed by the agency itself.

## 2. PLANNING / RISK MANAGEMENT

The structures, authorities and bodies of the management and control systems as defined in Articles 6 – 8 of the Framework Agreement shall ensure that:

- (a) Risk identification, assessment and management

that risks are identified and management, in particular that adequate control resources are applied in all areas, in function of the significance of different risks they mitigate.

(b) Objective setting and allocation of resources against objectives

- appropriate (and measurable) objectives at output and impact level are established at all levels and understood throughout the organisation,
- resources are appropriately allocated against those objectives respecting transparent sound financial management principles,
- responsibility for those objectives is clear.

(c) Planning of the implementation process

clear planning of steps needed to deliver objectives - including timing and responsibility for each step, and critical path analyses where necessary are adopted.

### 3. CONTROL ACTIVITIES

Sound internal control requires the following procedures or those offering equivalent guarantees:

#### A. COMMON WRITTEN PROCEDURES

In general, appropriate procedures shall be adopted for ensuring:

- (a) Double-check of all steps in a transaction (ex-ante and ex-post) and where different tasks in the life of the same transaction are allocated to different staff to ensure some automatic cross-checking controls.
- (b) Responsibility is supported by active supervision by accountable management of tasks delegated to subordinates (including annual statements of assurance from subordinate actors) - and not merely considered a passive or theoretical concept.
- (c) Exceptions (*inter alia*, exceptions to normal procedures approved at appropriate level, unapproved exceptions and control failures whenever identified) are always recorded, logged, reviewed at appropriate levels and reported.
- (d) Registration of any internal control weakness identified from any source and management responses are recorded and followed-up.
- (e) Significant risks to continuity (e.g. concerning loss of data, absence of individuals, etc) are identified and contingency plans put in place where possible.
- (f) Every change in the procedures and the programme, and in particular those relating to the financial provisions, is recorded and the manuals, instructions, databases, checklists updated in due time.

When applicable, the concerned structures, authorities and bodies of the management and control systems as defined in Articles 6 - 8 of the Framework Agreement shall adopt the following procedures or those offering equivalent guarantees:

- (a) They shall lay down detailed written procedures for the receipt, recording and processing of applications for project approval, claims, invoices and supporting documents and control reports, including a description of all documents to be used. These procedures shall ensure that only claims for payment or projects selected which comply with the project selection criteria are processed and shall ensure the maintenance of a project file with all relevant documentation to audit the project.
- (b) Each individual responsible for authorisation shall have at his disposal a detailed checklist of the verifications he is required to undertake, and shall include in the supporting documents of the claim his attestation that those checks have been performed. That attestation may be made by electronic means subject to the control requirements referred to in point 5. There shall be evidence of review of the work by a more senior staff member. The analysis, the appraisal and approval of the projects shall be evidenced in writing. The analysis of the project shall be guided by the principles of sound financial management.
- (c) An application or claim shall be authorised for payment only after sufficient checks have been made to verify that it complies with the Agreements. Those checks shall include those required by the regulation governing the specific measure under which aid is claimed, and those required pursuant to Article 28 of the Framework Agreement to prevent and detect fraud and irregularity with particular regard to the risks incurred.

As part of the authorisation function, applications shall be subject to checks which include establishment of adherence to terms and conditions, eligibility, completeness of documents, correctness of supporting documents, date of receipt. All checks to be undertaken shall be specified in a check-list, and their performance shall be attested for each application and claim, or for each batch of applications or claims.

As regards the services or goods delivered, the control shall consist of:

- i. documentary control: to ensure that data on quantity, quality and price of the goods or services on the invoice reconcile with those ordered,
- ii. physical control: to ensure that the quantity and quality of the goods or services match those mentioned in the invoice or claim form.

This control of services or goods can also be performed on a continuous basis during delivery, that is to say, when initial or interim payments are made.

- (d) The management shall, at an appropriate level, be informed on a regular and timely basis of the results of controls carried out, so that the sufficiency of those controls may always be taken into account before a claim is settled.
- (e) The work performed shall be described in detail in a report accompanying each

claim, batch of claims or, when appropriate, in a report covering one financial year. The report shall be accompanied by an attestation of the eligibility of the approved claims and of the nature, scope and limits of the work done. There shall in addition be an assurance that the criteria for the granting of aid have been respected and that all applicable rules of the Agreements have been complied with, particularly the rules on public procurement and respect of the environment. If any physical or administrative checks are not exhaustive, but performed on a sample of claims, the claims selected shall be identified, the sampling method described, the results of all inspections and the measures taken in respect of discrepancies and irregularities reported upon. The supporting documents shall be sufficient to provide assurance that all the required checks on the eligibility of the authorised claims have been performed.

- (f) Applications from claimants shall be processed in a timely manner.
- (g) Where documents (in paper or electronic form) relating to the claims authorised and controls effected are retained by other bodies, both those bodies and the concerned structures, authorities and bodies of the management and control systems shall set up procedures to ensure that the location of all such documents that are relevant to specific payments made by the agency is recorded.
- (h) Without prejudice to the provisions of Article 61(7), criteria for assessing applications and their order of priority shall be clearly defined and documented.

#### C. *PROCEDURES FOR BUDGET AND PAYMENT*

- (a) When applicable, the concerned structures, authorities and bodies of the management and control systems as defined in Articles 6 – 8 of the Framework Agreement shall adopt the necessary procedures to ensure that National Authority can fulfil its local contractual commitments regardless of delays or interruptions in funding from Commission.
- (b) Procedure shall ensure that payments are made only to the final beneficiaries, to their bank account or to their assignee.
- (c) The payment shall be executed by the IPARD Agency's banker, or, as appropriate, a governmental payments office, or the cheque mailed, as a general rule, within 3 working days of the date of debit against the IPARD euro account. No payments shall be made in cash.
- (d) All payments, for which transfers are not executed, shall be re-credited to the IPARD euro account within 3 working days of notification of their non-execution. Amounts arising from cheques not cashed within the period of their validity shall be credited to the IPARD euro account within 3 working days of notification of their non-execution.
- (e) The approval of the authorising individual and/or his supervisor may be made by electronic means, provided an appropriate level of security over those means is ensured, and the identity of the signatory is entered into the electronic records.

- (f) Procedures shall ensure that the existence and correctness of the national co-financing element are verified.

D. *PROCEDURES FOR ACCOUNTING*

- (a) The structures, authorities and bodies of the management and control systems shall adopt full and transparent accounting procedures following international accepted accounting principles and any guidelines on the application of these standards established by the Commission.
- (b) They shall lay down detailed procedures to ensure that quarterly and annual declarations are complete, accurate and timely, and that any errors or omissions are detected and corrected, in particular through checks and reconciliations (wherever possible against 3rd party information) performed at intervals of not more than three months. A full audit trail for every item entered into the accounts shall be provided.
- (c) The IPARD Agency's accounting procedures shall ensure that the accounting system can produce, in euro and national currency, for each provincial office, and for each project, contract or measure and sub-measure, the total cost, the committed expenditure, part payments and balance payments. Deadlines shall be set for the cancellation of commitments where work has not been completed within an agreed timetable. Such cancellations shall be appropriately recorded in the accounting system.

E. *PROCEDURES FOR DEBITS*

All the criteria provided for in points A) to D) shall apply, *mutatis mutandis*, to levies, forfeited guarantees, reimbursed payments, etc. which the agency is required to collect on behalf of the IPARD Programme.

The IPARD Agency shall set up a system for the recognition of all amounts due and for the recording in a debtor's ledger of all such debts, including irregularities, prior to their receipt. The debtor's ledger shall be inspected at regular intervals and action shall be taken to collect debts that are overdue, in particular in the case of forfeited guarantees and reimbursed payments. Without prejudice to Article 44(9) or any national provisions concerning recovery of debts, any financial contribution charged to the European Union in respect of these sums including irregularities shall be written off at the end of the second year following its registration in the debtors ledger refunded to the European Union budget as provided for in Article 55.

The IPARD Agency may delegate the collection of certain categories of recoveries to other bodies, subject to the conditions referred to under point 1.C), adapted as appropriate and to the additional condition that these other bodies report to the IPARD Agency on a regular and timely basis, not less than monthly, on all revenues recognised and monies received.

#### *F. AUDIT TRAIL*

The information regarding documentary evidence of the authorisation, accounting and payment of claims and handling of debts shall be available to ensure at all times a sufficiently detailed audit trail.

The management shall, at an appropriate level, be informed on a regular and timely basis of the results of controls carried out, so that the sufficiency of those controls may always be taken into account before a claim is settled.

For those purposes, the structures, authorities and bodies of the management and control systems as defined in Articles 9 shall set up necessary procedures to ensure the retention of all documents required to guarantee an adequate audit trail.

### **4. MONITORING ACTIVITIES**

#### *A. ONGOING MONITORING VIA INTERNAL CONTROL ACTIVITIES*

The internal control activities shall cover at least the following areas:

- (a) Monitoring of the technical services and delegated bodies responsible for carrying out the controls and other functions to ensure a proper implementation of regulations, guidelines and procedures.
- (b) Initiating of system changes in order to improve control systems in general.
- (c) Reviewing claims and requests submitted to the structures, authorities and bodies of the management and control systems as defined in Articles 9 and 10 of the Framework Agreement as well as other information providing suspicion of irregularities.

Ongoing monitoring is built into the normal, recurring operating activities. At all levels the daily operations and controls activities shall be monitored on an ongoing basis to ensure a sufficiently detailed audit trail.

#### *B. SEPARATE EVALUATIONS VIA AN INTERNAL AUDIT SERVICE*

For each of its different constituting bodies, structures, authorities and bodies of the management and control system as defined in Articles 6 – 8 of the Framework Agreement shall adopt in this respect the following procedures:

- (a) The internal audit service shall be independent of the other departments and shall report directly to the top management.
- (b) The internal audit service shall verify that procedures adopted by the concerned structures, authorities and bodies of the management and control systems, and modifications thereto, are adequate to ensure that compliance with the Agreements is verified, that the functioning of their systems at subordinate levels operates efficiently and that the accounts are accurate, complete and timely. Verifications may be limited to selected measures and sub-measures and to samples of transactions provided that an audit plan ensures that all significant areas, including the departments and bodies responsible for authorisation and those departments and bodies to which functions have been delegated, are covered over a period not exceeding five years. May involve some ex-post transaction checking but should be more focussed on effectiveness and efficiency of system and organisation design.
- (c) The internal audit service's work shall be performed in accordance with international accepted auditing principles, shall be recorded in working papers and shall result in reports and recommendations addressed to the top management.

- (d) The audit plans and reports shall be made available to the Audit Authority, to the duly authorised officials or representatives of the CAO and the NAO, and to the duly authorised agents or representatives of the European Union to undertake financial audits and for the sole purpose of appraising the effectiveness of the internal audit function.

## 5. INFORMATION AND COMMUNICATION

### A. COMMUNICATION AND PUBLICITY

- (a) The structures, authorities and bodies of the management and control systems as defined in Articles 6 – 8 of the Framework Agreement shall adopt the necessary procedures to ensure that every change in the European Union's regulations, in particular changes in rates of aid or terms and conditions for the grant of aid, are recorded and the instructions, databases and checklists updated in good time.
- (b) Any proposed changes in the management and control system's paying and implementing arrangements after their accreditation and conferral of management shall be submitted to the competent national authority(ies) and the Commission, with copy to the Audit Authority, for examination and approval in advance of their implementation.
- (c) The IPARD Agency shall ensure that adequate publicity is given to the availability of support, while the Managing Authority shall monitor and guarantee in this respect the compliance with the obligations concerning publicity. This publicity shall make reference to European Union co-financing and be directed towards all potential project managers and operators so as to obtain as wide as possible a selection of potential project managers and operators. Standard application forms with clear guidelines for completion and conditions for eligibility shall be drawn up in advance of the launch of the scheme. No charges shall be imposed on potential final beneficiaries or on final beneficiaries for information, including application forms, relating to the IPARD Programme. This provision is without prejudice to the application of charges levied generally in the rest of the economy.

### B. INFORMATION SYSTEMS SECURITY

A comprehensive information technology security policy shall be developed on the basis of an approved strategy for information and communication technology to ensure confidentiality, integrity and availability of all data:

- (a) Information systems security shall be based on the criteria laid down in the version applicable in the financial year concerned of International Standards Organisation 17799/British Standard 7799: Code of practise for Information Security Management (BS ISO/IEC 17799) and any guidelines on the application of these standards established by the Commission.
- (b) Security measures shall be adapted to the administrative structure, staffing and technological environments of each individual structure, authority or body of the management and control systems. The financial and technological effort shall be in proportion to the actual risks incurred.

### C. REPORTING

- (a) An appropriate management information system shall be set up for the speedy generation of appropriate data and reports on IPARD Programme implementation.
- (b) Procedures for regular reporting at appropriate levels on efficiency and effectiveness of internal control, ensuring all staff at all levels receive adequate regular information in order to fulfil their accountabilities.

The arrangements concerning the exchange of appropriate data and reports shall be agreed not later than the designation of structures, authorities and bodies defined in Article 6 of the Framework Agreement.



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- (b) Security measures shall be adapted to the administrative structure, staffing and technological environments of each individual structure, authority or body of the management and control systems. The financial and technological effort shall be in proportion to the actual risks incurred.

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- (a) An appropriate management information system shall be set up for the speedy generation of appropriate data and reports on IPARD Programme implementation.
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The arrangements concerning the exchange of appropriate data and reports shall be agreed not later than the designation of structures, authorities and bodies defined in Article 6 of the Framework Agreement.



**ANNEX III**

**FORM D 2 - ANNUAL DECLARATION OF ACCOUNTS  
FOR FINANCIAL YEAR (.....)**

*(to be sent together with the documents required, under Articles 50 and 51 of the Sectoral Agreement, to the European Commission, DG AGRI, (IPARD), Rue de la Loi 130, BE - 1049 Brussels)*

**IPARD Programme:** .....

**Commission Decision(s) No** ..... **of** ..... **(as last modified by Decision No** ..... **of** .....

**Commission reference number (CCI):** .....

The undersigned, ....., as the National Authorising Officer representing Turkey as provided for in the Agreements concluded between Turkey and the Commission, hereby declares that the total eligible expenditure in accordance with the programme incurred from (1/1/year ..... to 31/12/year ..... ) amounts to ..... euros.

Details relating to this expenditure are set out in the table annexed hereto and form an integral part of this declaration.

I also declare that the measures are progressing at a satisfactory rate in accordance with the objectives laid down in the Programme, and that the supporting documents are, and will remain, available as provided for in Article 48 of the Sectoral Agreement.

I declare that:

1. The listing of expenditure is exact. It is based on accounts at the level of individual projects and supported by documentary evidence.
2. Payments to the final beneficiaries were made without any specific charge, deduction or withholding of any amount which might reduce the amount of financial assistance to which they are entitled.
3. I have checked that the expenditure declared eligible has been carried out in compliance with the Programme, the MFA, the Commission Decision(s) referred to in Articles 25, 53 and 54 of the Sectoral Agreement and the principles of sound financial management.

4. The declaration includes all debts which have been registered for less than two years. The total amount of these debts at the end of the year to which this declaration refers amounts to ..... euros.
5. The volume of European Union funds in the IPARD euro account as at the end of the year to which this declaration refers amounts to ..... euros.
6. Conversions between national currency and euro have been carried out in conformity with the provision of Article 45 of the Sectoral Agreement.
7. Interests generated by the financing of the European Union have been established and registered in accordance with the provisions of Article 45 of the Sectoral Agreement.
8. The clearance information, as referred to in Article 51 of the Sectoral Agreement, has been certified and transmitted to the Commission on time.
9. The form and the content of the annual accounts, as referred to in Article 50 of the Sectoral Agreement, and the accounting information, as referred to in Article 52 of the Sectoral Agreement, have been established in accordance with International Generally Accepted Accounting Principles and any guidelines on the application of these standards established by the Commission.
10. The supporting documents are, and will remain, available as provided for in Article 51 of the Sectoral Agreement. They are open to verification.

This declaration of accounts contains ..... numbered pages.

This declaration has been made by: .....  
*(Date, stamp and signature of the Head of the National Fund)*

The declaration has been established on the basis of financial amounts provided by: .....  
*(Date(s), stamp(s) and signature(s) of the Accountant of the IPARD Agency and/or the National Fund)*

Certified by: .....  
*(Date, stamp and signature of the National Authorising Officer on behalf of Turkey)*

Done at ....., ..... *(Date)*

**FORM D 2 - ANNUAL DECLARATION OF ACCOUNTS FOR FINANCIAL YEAR (YEAR)**  
**European Commission - IPARD**

IPARD Programme:

CCI Number:

Measure / Axis	Shortname	European Union part that has been requested to IPARD in quarterly declarations for the financial year (YEAR)
		<i>to be filled in by beneficiary country</i>
101	Investments in agricultural holdings	
102	Support for the setting-up of producer groups	
103	Investments in the processing and marketing of agriculture and fishery products	
Total priority axis 1	Improving market efficiency and implementation of European Union standards	
201	Actions to improve environment and countryside	
202	Preparation and implementation of local rural development strategies	
Total Axis 2	Preparatory actions	
301	Improvement and development of rural infrastructure	
302	Diversification and development of rural economic activities	
303	Improvement of training	
Total Axis 3	Development of rural economy	
		Technical Assistance

<b>Grand Total</b>	
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Total amount of outstanding debt at 31.12.(YEAR)	
Closing balance of the IPARD Euro-account at 31.12.(YEAR)	

**ANNEX IV**

**PAYMENT FORECASTS**

**FORECASTS OF THE AMOUNT TO BE PAID BY IPARD  
 TO BE SUBMITTED  
 NOT LATER THAN 28 FEBRUARY**

<b>Estimate of the amounts in euros to be paid by IPARD in year 'n' for:</b>			
Programme	January - March	April - June	July - September
<b>Estimate of the amounts in euros to be paid by IPARD in year 'n+1' for:</b>			
October - December	January - March	April - June	July - September