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Delegations will find attached document COM(2016) 793 final.

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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
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environment that were adopted under Council Directive 91/692/EEC have become
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of environment that were adopted under Council Directive 91/692/EEC have become
obsolete**

1. INTRODUCTION

The Communication concerns the repeal of Council Directive of 23 December 1991 standardizing and rationalizing reports on the implementation of certain Directives relating to the environment ("Directive 91/692/EEC"). It refers to obsolete Commission acts linked to Directive 91/692/EEC which affect several sectors of EU environmental policy, namely waste, climate action and greenhouse gas emissions, control of major-accident hazards and water.

The repeal of Directive 91/692/EEC is one of the first actions announced in the context of the Fitness Check of environmental monitoring and reporting¹.

The results of the legal analysis on reporting under Directive 91/692/EEC are summarised in the explanatory memorandum to the related proposal for a Decision of European Parliament and of the Council removing requirements for standardized reporting and consequently amending several pieces of EU legislation². Moreover, a more detailed analysis is presented in a supporting study which was published separately as a background document.³

2. PROPOSED ACTIONS TO REPEAL DIRECTIVE 91/692/EEC

The present Communication formally recognises the obsolescence of 11 implementing Decisions under Directive 91/692/EEC that are still in force. It complements the proposed Decision mentioned in section 1 above, as well as two proposals for Commission Decisions⁴ repealing two implementing acts that have exhausted their legal effect, but which, for procedural reasons, will be repealed via a later comitology procedure by the Commission.

Annex I lists the relevant Commission implementing Decisions and sets out the justification of the obsolescence of each act. They have all exhausted their effects and have become obsolete due to the time period they covered having expired or their legal basis no longer being in force. They were identified according to objective criteria guaranteeing that they have exhausted their effects and that all their obligations have been fulfilled.

¹ See Roadmap: http://ec.europa.eu/smart-regulation/roadmaps/docs/2017_env_002_monitoring_and_reporting_obligations_en.pdf

² Proposal for a Decision of the European Parliament and of the Council amending Directive 87/217/EEC of the Council, Directive 2003/87/EC of the European Parliament and of the Council, Directive 2009/31/EC of the European Parliament and of the Council, Regulation (EU) No 1257/2013 of the European Parliament and of the Council, Council Directive 86/278/EEC and Council Directive 94/63/EC as regards procedural rules in the field of environmental reporting and repealing Council Directive 91/692/EEC

³ Accessible under: http://ec.europa.eu/environment/legal/reporting/other_actions_en.htm

⁴ Planned Commission Decisions repealing Commission Decision 2011/92/EU concerning a questionnaire to be used for the first report on the implementation of Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide (OJ L 37, 11.2.2011, p. 19–24) and repealing Commission Decision (2010/681/EU) concerning a questionnaire for Member States reports on the implementation of Council Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations during the period 2011-2013 (OJ L 292, 10.11.2010, p. 65–67)

3. DECISIONS REMAINING IN FORCE

Despite the proposal for a repeal of Directive 91/692/EEC, several implementing Decisions that were adopted in the context of this Directive will remain in force.

The Decisions setting out questionnaires related to Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC will remain valid and relevant. The annual reports by the Member States required under Article 21(1) of Directive 2003/87/EC are based on these questionnaires and provide essential information on the application of this Directive and serve as a basis for the preparation of an EU-wide report. The Decisions concerned are as follows:

- Commission Implementing Decision 2014/166/EU of 21 March 2014 amending Decision 2005/381/EC as regards the questionnaire for reporting on the application of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C(2014) 1726)⁵,
- Commission Decision 2005/381/EC of 4 May 2005 establishing a questionnaire for reporting on the application of Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (notified under document number C(2005) 1359)⁶ and
- Commission Decision 2006/803/EC of 23 November 2006 amending Decision 2005/381/EC establishing a questionnaire for reporting on the application of Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (notified under document number C(2006) 5546)⁷.

Moreover, the following Decisions in the waste legislation domain will also remain in force as these are the only instruments to monitor implementation of the respective Directives:

- Commission Decision of 18.4.2012 establishing a questionnaire for Member States reports on the implementation of Directive 2008/98/EC of the European Parliament and of the Council on waste⁸,
- Commission Decision 2004/249/EC of 11 March 2004 on the implementation of Directive 2002/96/EC (WEEE)⁹,
- Commission Decision 2007/151/EC¹⁰ of 6 March 2007 amending Decisions 94/741/EC and 97/622/EC as regards the questionnaires for the report on the implementation of Directive 2006/12/EC of the European Parliament and of the

⁵ OJ L 89, 25.3.2014, p. 45–76

⁶ OJ L 126, 19.5.2005, p. 43)

⁷ OJ L 329, 25.11.2006, p. 38–63

⁸ C(2012) 2384 final

⁹ OJ L 78, 16.3.2004, p. 56–59

¹⁰ OJ L 67, 7.3.2007, p. 7–9.

Council on waste and on the implementation of Council Directive 91/689/EEC on hazardous waste,

- Commission Decision 2000/738/EC¹¹ of 17 November 2000 concerning a questionnaire for Member States reports on the implementation of Directive 1999/31/EC on the landfill of waste,
- Commission Decision 2001/753/EC¹² of 17 October 2001 concerning a questionnaire for Member States reports on the implementation of Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles,
- Commission Decision 97/622/EC of 27 May 1997 concerning implementation of certain Directives in the waste sector¹³ and
- Commission Decision 94/741/EC of 24 October 1994 concerning questionnaires for Member States reports on the implementation of certain Directives in the waste sector¹⁴.

4. CONCLUSION

In the framework of the simplification action related to Commission acts, the Commission decided that:

- the acts listed in Annex II shall be removed from the active EU legislation (*acquis*);
- the Publications Office of the European Union is invited to withdraw these acts from the Directory of Union legislation in force;
- Annex II is to be published in the C series of the Official Journal of the European Union.

¹¹ OJ L 298, 25.11.2000, p. 24–26

¹² OJ L 282, 26.10.2001, p. 77–80

¹³ OJ L 256, 19.9.1997, p. 13–19

¹⁴ OJ L 296, 17.11.1994, p. 42–55

ANNEX I

Specific justification for the Decisions based on Directive 91/692/EEC to be declared obsolete

- Commission Implementing Decision 2011/632/EU¹⁵ of 21 September 2011 establishing a questionnaire to be used for reporting on the implementation of Directive 2000/76/EC of the European Parliament and of the Council on the incineration of waste. The legal basis, Directive 2000/76/EC, was repealed as of 07 January 2014 by Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions and the questionnaire is no longer in use and is obsolete.
- Commission Decision 2007/531/EC¹⁶ of 26 July 2007 concerning a questionnaire for Member States reports on the implementation of Council Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations during the period 2008-2010. The legal basis, Council Directive 1999/13/EC, was repealed as of 07 January 2014 by Directive 2010/75/EU, and the questionnaire is no longer in use and is obsolete.
- Commission Decision 2003/241/EC¹⁷ of 26 March 2003 amending Commission Decision 1999/391/EC of 31 May 1999 concerning the questionnaire relating to Council Directive 96/61/EC concerning integrated pollution prevention and control (IPPC) (implementation of Council Directive 91/692/EEC). The legal basis, Council Directive 96/61/EC, was repealed as of 18 February 2008 by Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control that in turn was repealed by Directive 2010/75/EU, and the questionnaire is no longer in use and is obsolete.
- Commission Decision 2002/605/EC¹⁸ of 17 July 2002 concerning the questionnaire relating to Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances. The legal basis, Council Directive 96/82/EC was repealed as of 1 June 2015 by Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC, and the questionnaire exhausted its effect, is no longer in use and is obsolete.
- Commission Decision 1999/391/EC¹⁹ of 31 May 1999 concerning the questionnaire relating to Council Directive 96/61/EC concerning integrated pollution prevention and control (IPPC) (implementation of Council Directive 91/692/EEC). The legal

¹⁵ OJ L 247, 24.9.2011, p. 54–58.

¹⁶ OJ L 195, 27.7.2007, p. 47–49.

¹⁷ OJ L 89, 5.4.2003, p. 17–23.

¹⁸ OJ L 195, 24.7.2002, p. 74–80

¹⁹ OJ L 148, 15.6.1999, p. 39–43.

basis, Council Directive 96/61/EC was repealed as of as of 18 February 2008 by Directive 2008/1/EC that in turn was repealed by Directive 2010/75/EU, and the questionnaire is no longer in use and is obsolete.

- Commission Decision 1999/314/EC²⁰ of 9 April 1999 concerning the questionnaire relating to Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances. The legal basis, Council Directive 96/82/EC was repealed as of 1 June 2015 by Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC, and the questionnaire exhausted its effect, is no longer in use and is obsolete.
- Commission Decision 98/184/EC²¹ of 25 February 1998 concerning a questionnaire for Member States' reports on the implementation of Council Directive 94/67/EC on the incineration of hazardous waste (implementation of Council Directive 91/692/EEC). The legal basis, Council Directive 94/67/EC, was repealed as of 28 December 2005 by Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste, which was itself repealed as of 07 January 2014 by Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions, and the questionnaire is no longer in use and is obsolete.
- Commission Decision 96/511/EC²² of 29 July 1996 concerning the questionnaires provided for in Council Directives 80/779/EEC, 82/884/EEC, 84/360/EEC and 85/203/EEC. The legal basis, Council Directive 84/360/EEC was repealed by Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control²³ as of 30 October 2007. Further, legal basis, Council Directives 80/779/EEC, 82/884/EEC were repealed as of 01 January 2005, and 85/203/EEC was repealed as of 19 July 2001 by Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air that in turn was repealed as of 10 June 2010 by Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe²⁴ and the questionnaires are no longer in use and are obsolete.
- Commission Decision 96/302/EC²⁵ of 17 April 1996 establishing a format in which information is to be provided pursuant to Article 8 (3) of Council Directive 91/689/EEC on hazardous waste. The legal basis, Article 8 (3) of Council Directive 91/689/EEC, was repealed as of 24 February 2006 by Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending

²⁰ OJ L 120, 8.5.1999, p. 43–45.

²¹ OJ L 67, 7.3.1998, p. 48–50.

²² OJ L 213, 22.8.1996, p. 16–24

²³ OJ L 24, 29.1.2008, p. 8–29

²⁴ OJ L 152, 11.6.2008, p. 1

²⁵ OJ L 116, 11.5.1996, p. 26–27.

Council Directives 91/689/EEC and 96/61/EC²⁶ and the questionnaire is no longer in use and is obsolete.

- Commission Decision 92/446/EEC²⁷ of 27 July 1992 concerning questionnaires relating to Directives in the water sector, was amended by Commission Decision 95/337/EC of 25 July 1995 concerning questionnaires relating to directives in the water sector. The questionnaires established by these Decisions included references to several pieces of water legislation which are either repealed by European Parliament and Council Directive 2000/60/EC establishing a framework in the field of water policy or were amended without making use of Council Directive 91/692/EEC for the purpose of reporting. Consequently, these questionnaires are no longer in use and are obsolete.
- Commission Decision 95/337/EC²⁸ of 25 July 1995 amending Decision 92/446/EEC of 27 July 1992 concerning questionnaires relating to directives in the water sector. The questionnaire established by the Decision included references to several pieces of water legislation which are either repealed by European Parliament and Council Directive 2000/60/EC establishing a framework in the field of water policy or were amended without making use of Council Directive 91/692/EEC for the purpose of reporting. This questionnaire consequently is no longer in use and is obsolete.

²⁶ OJ L 33, 4.2.2006, p. 1–17

²⁷ OJ L 247, 27/08/1992 P. 0010 – 0036.

²⁸ OJ L 200, 24.8.1995, p. 1–34.

ANNEX II

List of acts to be removed from the acquis

- 1) Commission Implementing Decision 2011/632/EU of 21 September 2011 (OJ L 247, 24.9.2011, p. 54–58)
- 2) Commission Decision 2007/531/EC of 26 July 2007 (OJ L 195, 27.7.2007, p. 47–49)
- 3) Commission Decision 2003/241/EC of 26 March 2003 (OJ L 89, 5.4.2003, p. 17–23)
- 4) Commission Decision 2002/605/EC of 17 July 2002 (OJ L 195, 24.7.2002, p. 74–80)
- 5) Commission Decision 1999/391/EC of 31 May 1999 (OJ L 148, 15.6.1999, p. 39–43)
- 6) Commission Decision 1999/314/EC of 9 April 1999 (OJ L 120, 8.5.1999, p. 43–45)
- 7) Commission Decision 98/184/EC of 25 February 1998 (OJ L 67, 7.3.1998, p. 48–50)
- 8) Commission Decision 96/511/EC of 29 July 1996 (OJ L 213, 22.8.1996, p. 16–24)
- 9) Commission Decision 96/302/EC of 17 April 1996 (OJ L 116, 11.5.1996, p. 26–27)
- 10) Commission Decision 92/446/EEC of 27 July 1992 (OJ L 247, 27.8.1992, p. 10–36)
- 11) Commission Decision 95/337/EC of 25 July 1995 amending Decision 92/446/EEC of 27 July 1992 (OJ L 200, 24.8.1995, p. 1–34.)