

# COMMISSION OF THE EUROPEAN COMMUNITIES

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Revised version

Proposal for a  
COUNCIL DIRECTIVE

on the approximation of the laws of the Member States  
relating to appliances burning gaseous fuels

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(presented by the Commission)

## EXPLANATORY MEMORANDUM

### I. General

#### 1. Subject

This proposal for a directive has been prepared in application of the Council Resolution of 7 May 1985<sup>1</sup> on a new approach to technical harmonization and standards. It is part of the work programme set out in the White Paper which should lead to the completion of the internal market by the end of 1992.

The area covered by this proposal comprises non-industrial appliances burning gaseous fuels, hereinafter referred to as "appliances", including appliances manufactured in series as well as single units.

The aim of this directive is to harmonize national provisions concerning safety and energy conservation, thereby ensuring elimination of technical barriers to trade arising out of the disparities in such national provisions.

In the context of these objectives it has to be noted that different conditions with regard to the types of gas and supply pressures are in force in the Member States. Therefore the manufacturer when designing appliances has to take the above mentioned conditions into account.

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1 O.J. n° C 136, 4.6.1985, p. 1

The essential requirements as set out in Annex I of the proposal for a directive will allow a high level of protection to be attained.

The Commission has taken into account the requirements of Article 8.c) of the Treaty in the preparation of this proposal and has concluded that no special provision seems to be justified at this state.

2. Economic and social impact

The number of appliances in use throughout the Community exceeded 120 million units in 1985. Approximately 15 million appliances were produced within the Community for its market in the same year, 12 000 and 15 000 million ECU, whilst the overall exports by Community manufacturers are estimated at around 500 000 appliances per year, corresponding to a value of around 400 million ECU.

It is no simple matter to assess the economic impact of existing trade barriers and to evaluate their cost. Furthermore it should be noted that the sector contains a large number of small and medium-sized enterprises and barriers to trade very often force them to concentrate on their local or national markets, therefore not allowing expansion. The lost opportunity costs resulting from this inability to expand or take opportunities cannot readily be assessed by economic analysis.

The Commission based the preparation of this directive on an in-depth survey of the national regulations in force in the different Member States. The survey highlighted considerable differences, not only with regard to legal and technical specifications, but also in the administrative procedures for examinations, testing and inspection.

The extent of these differences and their impact on trade within the Community have become even clearer since the implementation of the procedures for the provisions of information in the field of technical regulations and standards laid down by Directive 83/189/EEC.<sup>2</sup>

There are no Community statistics on the number of accidents caused by use of appliances. Figures available in two Member States show a significant decline in accidents considering the increase in the gas quantity supplied and in the number of customers. One of the main reasons for the decline in those accidents attributed to failure of the appliances themselves has been the prescription of built-in safety devices in new appliances. The specific essential requirements set out in this proposal for a directive are designed to ensure, in conjunction with the other safety provisions, a high level of protection throughout the Community and to make a contribution to further reducing the number of accidents and all the associated human and economic consequences.

3. Consultation of the parties concerned

From the start of the preparatory work the Commission has involved all the parties concerned, namely representatives of governments, European federations of manufacturers, gas industry, consumers and the CEN.

The Commission will ensure that all the parties concerned, including the consumer federations are involved in the elaboration of harmonized standards.

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<sup>2</sup> O.J. n° L 109, 26.4.1983, p. 8

4. The role of standardization

The role of standardization is to codify in a free and non-binding manner the state of the art as regards the means to be used to satisfy the obligations laid down by the essential requirements. Since, under the new approach, Member States will have to presume that products manufactured in accordance with the harmonized standards comply with the essential requirements, the latter can, in the event of dispute, constitute an extremely important element with respect to the liability for the manufacturer.

European standardization at the same time helps to achieve the objective of industrial rationalization, improves the quality and safety of appliances and offers the manufacturer some degree of security. The Commission already has the necessary instruments to promote the role of standardization, namely financial resources provided for in the Community budget to finance the activities of CEN and the standardization remits from the Commission to this body as provided for in Directive 83/189/EEC, with consultation of the Standing Committee provided for in Article 5 thereof.

Without underestimating the importance of these instruments, which have already proved their effectiveness on the practical and political levels, it is clear that the success of standardization, and hence of the Directive itself, will depend to a large extent on the level of industry's commitment to the standardization work.

In the middle of 1988 CEN took the initiative of setting up a programming committee for appliances which is made up of representatives of the standards bodies and the industry.

This committee has a threefold task:

- to identify standardization needs in relation to the essential requirements
- to establish a standardization programme and its priorities
- to supervise progress.

On the basis of the standardization programme the Commission, after consultation of the Standing Committee set up under Directive 83/189/EEC, will give standardization remits to CEN in accordance with the procedure provided for in Article 6 of that Directive.

However, in the field in question, given the broad scope of the directive, it will probably take a relatively long time for all the European standards concerned to become available.

The Council Resolution of 7 May 1985 provided that, as a temporary measure and while awaiting the availability of European standards, the presumption of conformity of products to the directive could be proved by conformity to national standards, whose correspondence to the essential requirements of the directive will have been verified by the Commission after consultation of the Standing Committee set up under Directive 83/189/EEC.

## II. The proposal for a directive

### 1. Field of application

The field of application of this proposal covers the broad area of appliances used for cooking, heating, hot water production, refrigeration, lighting or washing, regardless of whether those appliances are manufactured in series or are produced as a single unit. It includes all applications of those appliances, whether they are used for domestic, commercial or industrial purposes. Appliances where the pressure vessel aspect plays a dominant role e.g. steam boilers and those appliances specifically designed for use in industrial processes are, because of their specific technical aspects, excluded.

### 2. Means of attestation of conformity

Considering the nature of the appliances and the specific risks involved, the means of attestation of conformity provided for by the directive require at both the design and the manufacturing level the intervention of a notified third party.

At the design level, a type examination is obligatory for each kind of appliance which is manufactured in series.

At the manufacturing level three procedures are provided for in the case of series produced appliances, which allows the manufacturer to choose the most suitable procedure taking into account his manufacturing process.

Two of these procedures are based on specific product inspection, the third being based on control of the manufacturing process through application of a quality assurance system.

A special procedure is provided for in the case of the production of an appliance as a single unit, whereby a notified body checks and attests conformity of the appliance with the requirements of the directive. In this case a type-examination is not requested.

Furthermore, the means of attestation of conformity include the procedure to be followed when the appliances are also subject to other Community directives. The CE-mark shall only be affixed when the requirements of all relevant directives are satisfied.

### 3. The essential requirements

The Commission has studied the question of the high level of safety, health, environmental and consumer protection required by the terms of Article 100 A(3). It has done so following consultation with the industrial and social partners concerned and in the light of an analysis of the risks inherent in this area and of the current technical capabilities of European industry. The proposal takes full account of these considerations in the light of the overall objectives of this provision of the Treaty.

The essential requirements refer to safety and energy conservation and take into account the specific risks of appliances.



Attention has been paid to the inclusion of requirements which provide for intrinsic safety of appliances, in particular with regard to their combustion and to the evacuation of combustion products.

With regard to energy conservation it has to be noted that, taking into account the state of the art, the provision requires only a minimum of efficiency. It guarantees free movement of the appliances, leaving it open to the manufacturers and to the market to opt for better performance.

## FINANCIAL MEMORANDUM

on the proposal for a Council directive on the approximation of the laws of the Member States relating to appliances burning gaseous fuels

### 1. Introduction

The proposal for a directive relating to appliances burning gaseous fuels sets out the essential requirements with which those appliances must comply. Article 5 of the proposal makes a general reference to harmonized standards, as a priority, or to national standards, as a temporary measure where there are no European standards. Appliances manufactured in accordance with these standards are presumed to comply with the relevant essential requirements of the directive.

The Commission intends to help to step up European standardization by giving CEN the task of preparing the necessary harmonized standards in the sector of appliances in accordance with the general guidelines for cooperation between the Commission and CEN, as approved on 13 November 1984. This work will be carried out in the context of standardization requests given to CEN in application of the framework agreements signed on 10 October 1985 which will be prolonged and which allow for financial support from the Commission.

The work described above, which is of limited duration, must be integrated into the general framework of the management of the directive, which is along term activity.

Any figures can only be rough estimates as the planning work for European standardization is in the process of being organized.

2. Budget lines affected

Article 775: Community projects concerning the internal market

Item 7750: Harmonization of industrial and labour legislation Multiannual activities for strengthening European standardization bodies

3. Legal basis

3.1 Council Resolution of 7 May 1985<sup>3</sup> on a new approach to technical harmonization and standards.

3.2 Council directive on the approximation of the laws of the Member States relating to appliances burning gaseous fuels, when adopted.

4. Proposed classification

Non-compulsory expenditure.

5. Description and justification of the activities

5.1 *Objectives*

The planned activities should help in particular with the preparation of harmonized standards satisfying the essential requirements of the directive on appliances, without which the directive would be difficult to apply. Moreover, the harmonized standards will help to boost the competitiveness of European industry.

5.2 *Parties concerned*

In accordance with the Council Resolution of 7 May 1985 standardization work is not the Commission's responsibility but rather that of the European standards organizations.

6. Type of expenditure and method of calculation

6.1 *Type of expenditure*

Standardization requests under the framework agreement of 10 October 1985 between the Commission and CEN.

6.2 *Calculation*

The amount of the financing of standardization services will be determined for each order voucher on the basis of the work given to contractors.

It comprises the expenses borne by the central units of the European standards bodies for the implementation of the standardization programmes entrusted to them and a contribution to the expenses of the committees and technical working parties for the execution of these programmes. It also includes the private expenses of experts assigned specific work in this context.

These expenses are calculated on the basis of the man/month unit which is currently worth 5 000 ECU.

The work of preparing the harmonized standards will certainly last at least until 1992.

7. Financial impact of the activity on operating appropriations

7.1 *Schedule of commitment and payment appropriations:  
(item 7750)*

	CAs (ECU)	PAs (ECU)
1989	400 000	200 000
1990	400 000	400 000
1991	400 000	400 000
1992	300 000	300 000
1993		200 000
	1 500 000	1 500 000

7.2 *Community share of financing*

The Community generally limits its contribution to the work of the CEN central secretariat and to about 50% of the work of the secretariats of the technical committees involved.

It should be noted that the Community contribution will be reduced if the EFTA countries decide to take part in this standardization work.

Experts involved in standardization work are normally expected to pay their own expenses.

8. Observations

European federations, such as MARCOGAZ, BEUC, AEGPL, AFECI, AFECOGAZ, CEB, CEFACED, EFCM and UEC will contribute to CEN work by submitting contributions to the standardization work free of charge.

9. Financial impact of the activity on the staff and administrative appropriations

9.1 *Staff required to work on this activity only*

This activity also includes the work of managing the directive on appliances which will require full-time assistance from the relevant Commission department (DG III).

For 1989 this work will require:

one A grade official half time and one expert half time.

9.2 & 9.3 *Staff and administrative appropriations*

The necessary appropriations are estimated at:

120 000 ECU a year for an A grade official who will be covered by the normal staff appropriations and 90 000 ECU a year for an expert remunerated through budget line 7750.

## IMPACT ON COMPETITIVENESS AND EMPLOYMENT

### I. Principal grounds for introducing the measure

The appliances sector is an important sector of the European economy.

However, national legislation on appliances differs considerably from one Member State to another as regards both safety and certification.

Furthermore, de facto mandatory technical specifications and standards, whose observance is in practice a prior condition for placing on the market, are often incompatible between the various Community countries. This disparity hinders trade by creating technical barriers to the free movement of goods within the Community, thus preventing the completion of the internal market.

This proposal for a directive aims to ensure the free placing on the market and putting into service of appliances which satisfy the essential requirements laid down in the directive and which are properly certified.

### II. Characteristics of the firms concerned. In particular:

Are many small and medium-sized firms affected?

In the appliances sector there are firms of all sizes, including small and medium-sized firms, depending on the type of appliance manufactured.

Are there concentrations in regions

- eligible for regional aid from the Member States?

No

- eligible under the ERDF?

No.

III. What obligations are imposed directly on firms?

From the date of entry into force of this directive, all the appliances covered must be so designed and manufactured as to satisfy the provisions of the directive. All appliances manufactured must bear the CE mark and an EC declaration of conformity has to be issued. The EC-conformity procedures do not differ significantly from those currently in force in the Member States.

IV. What obligations may be imposed indirectly on firms by local authorities?

The Commission considers that no new obligations will be imposed on firms by local authorities after the introduction of this directive.

V. Are there any special measures for small and medium-sized firms?

No.



VI. What is the likely effect?

- on firms' competitiveness?

The placing on the market of appliances certified as being in conformity with the directive and bearing the CE mark will be speeded up and will lead to a reduction in costs for manufacturers, especially with regard to intra-community trade.

The certification procedures set out in the directive allow the manufacturer to choose the most appropriate procedure taking into account his manufacturing process. This possibility can be of particular interest to small and medium-sized enterprises.

- on employment?

The reduction in costs should lead to a general improvement in competitiveness for European manufacturers and hence a beneficial effect on the labour market can be expected.

VII. Have employers' and consumers' representatives been consulted?

Employers' representatives : yes

Consumers' representatives : yes

- AEGPL, AFECI, AFECOGAZ, CEB, CEFACED, EFCEM and UEC as European federations representing the manufacturers, MARCOGAZ as the European federation representing the gas producing and supplying industry and BEUC as the European federation representing the consumers took an active part within the Commission working group of experts contributing directly to the preparation of this proposal for a directive.

**Proposal for a  
Council Directive  
on the approximation of the laws of the Member States  
relating to appliances burning gaseous fuels**

**THE COUNCIL OF THE EUROPEAN COMMUNITIES,**

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 a thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

In cooperation with the European Parliament<sup>2</sup>

Having regard to the opinion of the Economic and Social Committee<sup>3</sup>

Whereas Member States have the responsibility of ensuring on their territory the health and safety of their people and, where appropriate, of domestic animals and goods in relation to the hazards arising out of the use of appliances burning gaseous fuels;

Whereas, in certain Member States, mandatory provisions define in particular the safety level required of appliances burning gaseous fuels by specifying design, operating characteristics and inspection procedures; whereas these mandatory provisions do not necessarily lead to different safety levels from one Member State to another but do, by their disparity, hinder trade within the Community;

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1 OJ No. C

2 OJ No. C

3 OJ No. C

Whereas different conditions as regards types of gas and supply pressures are in force in the Member States; whereas these conditions are not harmonized because each Member State's energy supply and distribution situation is peculiar to it;

Whereas the White Paper on the completion of the internal market, approved by the European Council in June 1985, provides in paragraphs 65 and 68 for a new approach to legislative harmonization;

Whereas Community law provides - by way of derogation from one of the fundamental rules of the Community, namely the free movement of goods - that obstacles to movement within the Community resulting from disparities in national legislation relating to the placing on the market of products must be accepted in so far as such obstacles can be recognized as being necessary to satisfy mandatory requirements;

Whereas the essential health and safety requirements must be observed in order to ensure that appliances burning gaseous fuels are safe; whereas energy conservation is considered essential; whereas these requirements must be applied with discernment to take account of the state of the art at the time of construction;

Whereas this Directive therefore contains only mandatory and essential requirements; whereas, to facilitate proof of conformity with the essential requirements, it is necessary to have harmonized standards at European level in particular as to the design, construction and testing of appliances burning gaseous fuels so that products complying with them may be assumed to conform to the essential requirements; whereas these standards, harmonized at European level, are drawn up by private bodies and must remain non-mandatory texts; whereas for that purpose the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC)

are recognized as the competent bodies for the adoption of harmonized standards in accordance with the general guidelines for cooperation between the Commission and those two bodies signed on 13 November 1984; whereas, for the purposes of this Directive, a harmonized standard is a technical specification (European standard or harmonization document) adopted by one or both of those bodies upon a remit from the Commission in accordance with the provisions of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations<sup>4</sup> and the above-mentioned general guidelines;

Whereas, while awaiting the adoption of harmonized standards within the meaning of this Directive, conformity with the essential requirements and the free movement of appliances burning gaseous fuels should be facilitated by the acceptance, at Community level, of products conforming to the national standards whose conformity with the essential requirements has been confirmed by a Community checking procedure;

Whereas a check on compliance with the relevant technical requirements is necessary in order to provide effective protection for users and third parties; whereas the existing certification procedures differ from one Member State to another; whereas, in order to avoid multiple inspections, which are in effect barriers to the free movement of appliances burning gaseous fuels, arrangements should be made for the mutual recognition of certification procedures by the Member States; whereas, in order to facilitate mutual recognition of certification procedures, harmonized Community procedures should be set up and the criteria for appointing the bodies responsible for carrying out these procedures should be harmonized;

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<sup>4</sup> O.J. n° L 109, 26.4.1983, p. 8

Whereas the Member States' responsibility on their territory for safety, health and energy conservation covered by the essential requirements must be recognized in a safeguard clause providing for an adequate Community procedure;

Whereas the addressees of any decision taken under this Directive must be informed of the reasons for such a decision and the legal remedies available to them;

Whereas the Council adopted on 17 September 1984 a framework Directive on gas appliances (84/530/EEC)<sup>5</sup> and a separate Directive on gas water heaters (84/531/EEC)<sup>6</sup>; whereas those Directives cover the same area as this Directive and should therefore be repealed;

Whereas the measures aimed at the gradual establishment of the internal market must be adopted by 31 December 1992; whereas the internal market consists of an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured,

**HAS ADOPTED THIS DIRECTIVE:**

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5 OJ No L 300, 19.11.1984, p. 95

6 OJ No L 300, 19.11.1984, p. 106

CHAPTER I

SCOPE, PLACING ON THE MARKET AND FREE MOVEMENT

Article 1

1. This Directive shall apply to appliances burning gaseous fuels used for cooking, heating, hot water production, refrigeration, lighting or washing and having, where applicable, an operating water temperature not exceeding 105°C, hereinafter referred to as "appliances".
2. Appliances specifically designed for use in industrial processes are excluded from the scope defined in paragraph 1.
3. For the purposes of this Directive "gaseous fuel" means any fuel which is in a gaseous state at a temperature of 15°C under a pressure of 1 bar.
4. For the purposes of this Directive "normally used" appliances means
  - when correctly installed, taking especially into consideration the type of gas and the supply pressure used in the Member State of destination, and
  - when used with the normal variation of the gas quality and the normal fluctuation of the supply pressure and when regularly serviced and
  - when used in accordance with its intended purpose or in a way which can be reasonably foreseen.

Article 2

1. Member States shall take all necessary steps to ensure that the appliances referred to in Article 1 may be placed on the market and put into service only if, when normally used, they do not compromise the safety of persons, domestic animals and property.
2. Member States shall communicate the types of gas and corresponding supply pressures used on their territory to the other Member States and the Commission. The latter shall ensure that they are published in the Official Journal of the European Communities.

Article 3

Appliances as referred to in Article 1 shall satisfy the relevant essential requirements set out in Annex I.

Article 4

1. Member States shall not impede the placing on the market and the putting into service of appliances which satisfy the requirements of this Directive.
2. Member States shall not impede the placing on the market for professional use of safety and controlling devices, hereinafter referred to as "devices", which are designed to be part of an appliance and whose characteristics are stated in an attestation as referred to in Article 8(4).

Article 5

1. Member States shall presume compliance with the relevant essential requirements referred to in Article 3 in respect of appliances and devices which are designed for incorporation in an appliance when conforming to:

- (a) The relevant national standards implementing the harmonized standards, whose reference numbers have been published in the Official Journal of the European Communities.

Member States shall publish the reference numbers of the said national standards.

- (b) The relevant national standards referred to in paragraph 2 in so far as, in the areas covered by such standards, no harmonized standards exist.

2. Member States shall communicate to the Commission the texts of their national standards, as referred to in paragraph 1(b), which they regard as complying with the essential requirements referred to in Article 3. The Commission shall forward these national standards forthwith to the other Member States. In accordance with the procedure provided for in Article 6(2), it shall notify the Member States of those national standards in respect of which there is a presumption of conformity with the essential requirements referred to in Article 3.

Article 6

1. Where a Member State or the Commission considers that the standards referred to in Article 5(1) do not entirely meet the essential requirements referred to in Article 3, the



Commission or the Member State concerned shall bring the matter before the Standing Committee set up under Directive 83/189/EEC, hereinafter referred to as "the Committee", giving the reasons therefor. The Committee shall deliver an opinion without delay.

In the light of the Committee's opinion, the Commission shall inform the Member States whether or not it is necessary to withdraw those standards from the publications referred to in Article 5(1).

2. After receipt of the communication referred to in Article 5(2) the Commission shall consult the Committee. Upon receipt of the latter's opinion, the Commission shall, within one month, inform the Member States whether or not the national standard(s) in question are to enjoy the presumption of conformity; if so, the Member States shall publish the reference number(s) of that (those) standard(s). The Commission shall also publish them in the Official Journal of the European Communities.

#### Article 7

1. Where a Member State finds that normally used appliances bearing the CE mark might compromise the safety of persons, domestic animals or property, it shall take all appropriate measures to withdraw those appliances from the market and prohibit or restrict their being placed on the market.

The Member State concerned shall immediately inform the Commission of any such measure, indicating the reasons for its decision and, in particular, whether non-compliance is due to:

- (a) failure to meet the essential requirements referred to in Article 3, where the standards referred to in Article 5(1) have not been applied;
  - (b) incorrect application of the standards referred to in Article 5(1);
  - (c) shortcomings in the applied standards referred to in Article 5(1) themselves.
2. The Commission shall enter into consultation with the parties concerned as soon as possible. Where, after such consultation, the Commission finds that any measure as referred to in paragraph 1 is justified, it shall immediately so inform the Member State that took the action and the other Member States.

Where the decision referred to in paragraph 1 is attributed to shortcomings in the standards, the Commission, after consulting the parties concerned, shall bring the matter before the Committee within two months if the Member State which has taken the measures intends to maintain them, and shall initiate the procedures referred to in Article 6.

3. Where an appliance which does not comply bears the CE mark, the competent Member State shall take appropriate action against whomsoever has affixed the mark and shall inform the Commission and the other Member States thereof.
4. The Commission shall ensure that the Member States are kept informed of the progress and outcome of this procedure.

**CHAPTER II**

**MEANS OF ATTESTATION OF CONFORMITY**

**Article 8**

1. The means of attestation of conformity of series-manufactured appliances shall be:
  - (a) at the design level
    - the EC-type examination as referred to in Annex II(1)
    - and
  - (b) prior to their being placed on the market, at the choice of the manufacturer,
    - the EC declaration of production conformity (type 1) referred to in Annex II(2) or
    - the EC declaration of production conformity (type 2) referred to in Annex II(3) or
    - the EC verification (type 1) referred to in Annex II(4).
2. The means of attestation of conformity in the case of production of an appliance as a single unit shall be the EC verification (type 2) referred to in Annex II(5).
3. After completion of the procedures referred to in paragraphs 1(b) and 2 the CE mark of conformity shall be affixed to conforming appliances in accordance with Article 10.

4. The procedures referred to in paragraph 1 shall be applied in respect of devices as referred to in Article 4(2) which are designed to be part of an appliance. However, no CE mark of conformity shall be affixed to the device; instead an attestation shall be issued stating its characteristics.

The attestation shall accompany the device.

5. Where the appliances are also subject to other Community Directives,

- the appliances shall be checked to ensure compliance with the requirements of this Directive in accordance with the procedures stated in paragraphs 1 and 2 and
- it shall be ensured that the appliances also comply with the requirements of the other Directives in accordance with the relevant procedures in those Directives.

The affixing of the CE mark as referred to in paragraph 3 shall attest that the provisions of all relevant directives are satisfied.

6. Records and correspondence relating to the means of attestation of conformity shall be drafted in the official language(s) of the Member State(s) where the said procedures are to be carried out or in a language accepted by the notified body concerned.

#### Article 9

1. Each Member State shall communicate to the other Member States and to the Commission the notified bodies responsible for carrying out the procedures referred to in Article 8.

The Commission shall publish in the Official Journal of the European Communities a list of the notified bodies with their identification symbols and shall ensure that the list is kept up to date.

2. Member States shall apply the criteria set out in Annex V for the evaluation of the bodies to be notified.

Bodies which satisfy the criteria for evaluation set out in the relevant harmonized standards shall be presumed to be in conformity with the criteria set out in that Annex.

3. A Member State which has notified a body must withdraw approval if it finds that the body no longer meets the criteria referred to in paragraph 2. It shall immediately inform the other Member States and the Commission accordingly.

### CHAPTER III

#### CE MARK OF CONFORMITY

##### Article 10

1. The CE mark of conformity and the inscriptions as set out in Annex III shall be affixed in a visible, easily legible and indelible form to the appliance or to a data plate attached to it. The data plate shall be so designed that it cannot be re-used.
2. The affixing to appliances of marks which are likely to be confused with the CE mark shall be prohibited.

##### Article 11

Where it is established that the CE mark has been wrongly affixed to appliances or that the attestation for devices has been wrongly attributed because:

- the appliances or the devices do not conform to the appliance or the device as referred to in the EC type approval certificate,
- the appliances or the devices conform to the appliance or the device as referred to in the EC type approval certificate but which do not meet the essential requirements applicable to them,
- the manufacturer has failed to fulfil his obligations as specified in Annex II,

the notified body shall withdraw the right to affix the CE mark or to issue the attestation and shall so inform the other notified bodies and report to the Member State concerned.

CHAPTER IV

FINAL PROVISIONS

Article 12

Any decision taken pursuant to this Directive which results in restrictions on the placing on the market and/or putting into service of an appliance shall state the precise grounds on which it is based. Such a decision shall be notified without delay to the party concerned, who shall at the same time be informed of the legal remedies available to him under the laws in force in the Member State in question and of the time limits to which such remedies are subject.

Article 13

Directives 84/530/EEC and 84/531/EEC are hereby repealed.

Article 14

1. Before 1 January 1991 Member States shall adopt and publish the laws, regulations and administrative provisions necessary in order to comply with this Directive. They shall inform the Commission thereof.

They shall apply such provisions from 31 December 1992.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

Article 15

This Directive is addressed to the Member States.

Done at Brussels

For the Council

The President



## 1. ESSENTIAL REQUIREMENTS

### 1.1 General conditions

1.1.1 An appliance shall be so designed and built as to operate safely and present no danger to persons, domestic animals and property during a reasonable lifetime when normally used as defined in Article 1.4.

1.1.2 When placing the appliance on the market, the manufacturer's instructions for:

- installation, servicing and adjustment, intended for the installer
- safe use and servicing, intended for the user

shall be provided with the appliance in the official language(s) of the Member State of destination.

1.1.3 A device intended to be part of an appliance shall be so designed and built as to operate correctly for its intended purpose, when incorporated in accordance with the device manufacturer's instructions.

The instructions for installation, adjustment, operation and maintenance shall be provided with the device.

## 1.2 Materials

- 1.2.1 Materials shall be appropriate for their intended purpose and shall withstand the mechanical, chemical and thermal conditions to which they will foreseeably be subjected.
- 1.2.2 The pertinent properties of materials that are relevant to safety shall be guaranteed by the supplier or the manufacturer of the appliance.
- 1.2.3 The materials used in the gas circuit shall be such that in the presence of an external fire the risk of an explosion shall be minimized.

## 1.3 Design and construction

### 1.3.1 General

- 1.3.1.1. The construction of an appliance shall be such that, when normally used, instability, distortion or wear likely to impair its safety will not occur.
- 1.3.1.2 Condensation produced at the start-up and/or during use shall not affect the safe operation of the appliance.
- 1.3.1.3 The construction of the appliance shall be such that water and inappropriate air penetration into the gas circuit shall not occur.
- 1.3.1.4 In the case of a normal fluctuation of auxiliary energy the appliance shall continue to operate safely.
- 1.3.1.5 Abnormal fluctuation or failure of auxiliary energy and its restoration shall not lead to an unsafe situation.

- 1.3.1.6 Where electricity is used with a nominal value outside the ranges of 50 to 1000 V in the case of alternating current and 75 to 1500 V in the case of continuous current, the appliance shall also be so designed and constructed as to avoid electrical hazards.
  - 1.3.1.7 Pressurized parts of an appliance shall withstand, without deformation which impairs its safety, the mechanical and thermal stresses to which they are subjected.
  - 1.3.1.8 An appliance shall be so designed and constructed that failure of a device shall not lead to an unsafe situation.
  - 1.3.1.9 If an appliance is equipped with safety and controlling devices, the functioning of the safety devices shall not be overruled by the functioning of the controlling devices.
  - 1.3.1.10 All parts of an appliance which are set at the stage of manufacture and which should not be manipulated by the user and the installer shall be appropriately protected.
- 1.3.2 Unburned gas release
- 1.3.2.1 The construction of an appliance shall be such that the gas leakage rate of an appliance shall be limited to a risk-free amount.
  - 1.3.2.2 The construction of an appliance shall be such that gas release during ignition and/or re-ignition and after flame extinction shall be limited in order to avoid a dangerous accumulation of unburned gas in the appliance.

### 1.3.3 Ignition

The construction of the appliance shall be such that, when normally used,

- ignition and re-ignition shall be smooth and
- cross-lighting shall be assured.

### 1.3.4 Combustion

1.3.4.1 The construction of the appliances shall be such that, when normally used, the flame stability shall be assured and the combustion products shall not contain unacceptable concentrations of harmful elements.

1.3.4.2 The construction of an appliance shall be such that, when used normally, and also in abnormal draught conditions for appliances which are connected to a flue, there will be no unintended escape of combustion products.

1.3.4.3 Instantaneous water heaters and individual heaters, not connected to a flue, shall not cause a carbon monoxide concentration in the room exceeding a value of 0,01 %.

### 1.3.5 Efficiency

An appliance shall have a minimum efficiency taking into account the state of the art.

### 1.3.6 Temperatures

1.3.6.1 Parts of an appliance which are intended to be placed in close proximity to the floor or other surfaces shall not reach temperatures which present a danger to the surroundings.

1.3.6.2 The surface temperatures of knobs and handles of appliances intended to be manipulated shall not reach values which present a danger to the user.

1.3.6.3 The surface temperatures of external parts of an appliance intended for domestic use, with the exception of surfaces or parts with the function of transmitting heat, shall under operating conditions not exceed values which present a danger to the user and in particular to children for whom an appropriate contact time has to be taken into account.

1.3.7 Foodstuffs and water used for sanitary purposes

Materials and components used for construction of an appliance, which may come into contact with food or water used for sanitary purposes, shall not impair their quality.

PROCEDURES FOR ATTESTATION OF CONFORMITY

1. EC-TYPE EXAMINATION

- 1.1 The EC-type examination is that part of the procedure by which a notified body ascertains and certifies that an appliance, representative of the production envisaged, meets the provisions of the directive that apply to it.
- 1.2 The application for the type examination shall be lodged by the manufacturer or his authorized representative established within the Community with a single notified body.
  - 1.2.1 The application shall include
    - the name and address of the manufacturer and, if the application is lodged by the authorized representative, his name and address in addition
    - a written declaration that the application has not been lodged with any other notified body
    - the design documentation, as described in Annex IV.
  - 1.2.2 The manufacturer shall place at the disposal of the notified body an appliance, representative of the production envisaged, hereinafter called "type". The notified body may request further samples of the type if needed for the text programme.

The type may additionally cover variants of the type provided that those variants do not have different characteristics with respect to safety and efficiency.

1.3 The notified body shall:

- 1.3.1 examine the design documentation and verify that the type has been manufactured in conformity with the design documentation and identify the elements which have been designed in accordance with the relevant provisions of the standards and the elements which have been designed in accordance with the essential requirements of the directive.
- 1.3.2 perform or have performed the appropriate examination and/or tests to check whether the solutions adopted by the manufacturer meet the essential requirements where the standards referred to in Article 5 have not been applied.
- 1.3.3 perform or have performed the appropriate examinations and/or tests to check whether the relevant standards were effectively applied where the manufacturer has chosen to do so, thereby assuring conformity with the essential requirements. Where the manufacturer declares having designed the product entirely to the standards and where conformity of the products to be manufactured can be assessed without testing by the notified body, an EC-type examination shall be carried out on the sole basis of the design documentation.
- 1.4 Where the type meets the provisions of the directive the notified body shall issue an EC-type approval certificate to the applicant. The certificate shall contain the conclusions of the examination, the conditions, if any, for its validity and the necessary data for identification of the approved type and, if relevant, descriptions of its functioning. Relevant technical elements such as drawings and schemes shall be annexed to the certificate.

- 1.5 The notified body shall inform the other notified bodies forthwith of the issuing of the EC-type approval certificate and additions as referred to in 1.7, if any, on the said type. They may obtain a copy of the EC-type approval certificate and/or its additions and on a reasoned request may obtain a copy of the annexes to the certificate and the reports on the examinations and tests carried out.
- 1.6 A notified body that refuses to issue or withdraws an EC-type approval certificate shall so inform the Member State which notified this body and the other notified bodies, giving the reasons for the decision.
- 1.7 The applicant shall keep the notified body that has issued the EC-type approval certificate informed of all modifications to the approved type with respect to the essential requirements.

Modifications to the approved type must receive additional approval from the notified body that issued the EC-type approval certificate where such changes affect the essential requirements or the prescribed conditions for use of the appliance. This additional approval is given in the form of an addition to the original EC-type approval certificate.



## 2. EC DECLARATION OF PRODUCTION CONFORMITY (Type 1)

2.1 The EC declaration of production conformity (type 1) is that part of the procedure whereby the manufacturer declares that the appliances concerned are in conformity with the type as described in the EC-type approval certificate and satisfy the requirements of this directive that apply to them. The manufacturer shall draw up a written declaration of conformity and he or his authorized representative in the Community shall affix the CE mark on each appliance. The declaration of conformity shall cover either individual or several appliances and be kept by the manufacturer. The CE mark shall be accompanied by the identification symbol of the notified body responsible for the random checks set out in 2.3.

2.2 The manufacturer shall take all measures necessary in order that the manufacturing process including final product inspection and testing shall ensure homogeneity of production and conformity of the appliances with the type as described in the EC-type approval certificate and with the requirements of the directive that apply to them. A notified body, chosen by the manufacturer, shall carry out random checks on the appliances as set out in either paragraph 2.3.a) or 2.3.b).

2.3 a) The appliances shall be subject to statistical control by attributes and shall therefore be grouped into identifiable batches consisting of units of a single model which are manufactured under essentially the same conditions. At random intervals a batch shall be examined to determine conformity by applying a sampling plan with the following operating characteristics:

- a standard quality level of the batch submitted, corresponding to a 95% probability of acceptance with a percentage of non-conformity between 0.5 and 1.5%
- a limiting quality of the batch submitted, corresponding to a 5% probability of acceptance with a percentage of non-conformity between 5 and 10%.

In those cases where a batch is rejected the notified body shall take the appropriate measures to prevent the putting on the market of the batch.

- 2.3 b) On-site checks of appliances shall be undertaken at random intervals of one year or less. An adequate number of appliances shall be examined and appropriate tests as set out in the relevant standards referred to in Article 5 or equivalent tests shall be carried out in order to ensure conformity with the relevant requirements of the directive. In those cases where one of the appliances under examination does not conform, the notified body shall take measures appropriate to the nature of the defect(s) and it shall also inform the other notified bodies of such measures taken.

### 3. EC DECLARATION OF PRODUCTION CONFORMITY (Type 2)

3.1 The EC declaration of production conformity (type 2) is the procedure whereby the manufacturer who satisfies the obligations of paragraph 3.2 declares that the appliances concerned are in conformity with the type as described in the EC-type approval certificate and satisfy the requirements of this directive that apply to them. The manufacturer shall affix the CE mark to each appliance and draw up a written declaration of conformity. This declaration shall cover either individual or several appliances and be kept by the manufacturer. The CE mark shall be accompanied by the identification symbol of the notified body responsible for EC surveillance.

3.2 The manufacturer shall have adequately implemented a quality system that will ensure conformity of the appliances with the type as described in the EC-type approval certificate and with the requirements of this directive that apply to them. The manufacturer is subject to EC surveillance as specified in paragraph 3.4.

#### 3.3 Quality system

3.3.1 The manufacturer shall lodge an application for approval of his quality system with a notified body.

The application shall include:

- all relevant information, in particular the quality system documentation and the design documentation of the approved type

- an undertaking to carry out the obligations arising from the quality system as approved
- an undertaking to maintain the approved quality system to ensure its continuing suitability and effectiveness.

3.3.2 All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation shall ensure a common understanding of the quality programmes, plans, manuals and records. It shall contain, in particular, an adequate description of

- the quality objectives, the organizational structure and responsibilities of management and of their powers with regard to product quality
- the manufacturing processes, quality control and quality assurance techniques and systematic actions that will be used
- the examinations and tests that will be carried out before, during and after manufacture and the frequency with which they will be carried out
- the means to monitor the achievement of the required product quality and the effective operation of the quality system.

3.3.3 The notified body shall examine and evaluate the quality system to determine whether it satisfies the requirements referred to in paragraph 3.3.2. It shall presume conformity with these requirements in respect of quality systems that implement the corresponding harmonized standard.

It shall notify its decision to the manufacturer and inform the other notified bodies thereof. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

3.3.4 The manufacturer shall keep the notified body that has approved the quality system informed of any updating of the quality system in relation to changes brought about by, e.g. new technologies and quality concepts.

3.3.5 A notified body that withdraws approval of a quality system shall so inform the other notified bodies, giving the reasons for the decision.

#### 3.4 EC surveillance

3.4.1 The purpose of EC surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

3.4.2 The manufacturer shall allow the notified body entrance for inspection purposes to the locations of manufacture, inspection, testing and storage and shall provide it with all necessary information, in particular

- the quality documentation
- the design documentation
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned etc.

3.4.3 The notified body shall make sure that the manufacturer maintains and applies the quality system and shall provide a surveillance report to the manufacturer.

4. EC VERIFICATION (Type 1)

4.1 The EC verification is that part of the procedure whereby a notified body checks and attests that the appliances are in conformity with the type as described in the EC-type approval certificate and satisfy the requirements of the directive that apply to them. The notified body shall affix the CE mark to each appliance and draws up a written certificate of conformity.

The certificate shall cover individual or several appliances and be kept by the manufacturer.

4.2 Each appliance shall be examined and appropriate tests as set out in the relevant standards referred to in Article 5 or equivalent tests shall be carried out in order to ensure conformity of the appliance with the relevant requirements of the directive.

### 3. EC VERIFICATION (Type 2)

5.1 The EC verification is a procedure whereby a notified body checks and attests that an appliance is in conformity with the requirements of the directive that apply too it. The notified body shall affix the CE mark to the appliance and draw up a written certificate of conformity.

The certificate shall be kept by the manufacturer.

5.2 The design documentation as set out in Annex IV shall be made available to the notified body.

5.3 The appliance shall be examined and appropriate tests shall be carried out in order to ensure conformity of the appliance with the requirements of the directive.

If deemed necessary by the notified body, the examinations and the appropriate tests shall be carried out after the installation of the appliance.

**CE MARK AND INSCRIPTIONS**

1. The CE mark shall consist of the symbol CE as given below, the last two digits of the year in which the mark was affixed and the identification symbol of the notified body that has carried out the random checks, the EC surveillance or the EC verification.
  
2. The appliance or data plate must bear the CE mark together with the following inscriptions:
  - the manufacturer's name or identification symbol
  - the trade name of the appliance
  - the electrical supply used, if applicable
  - the appliance category.

Additional information needed for installation shall be added according to the nature of the different appliances.





ANNEX IV

DESIGN DOCUMENTATION

The design documentation shall contain the following information, so far as is required by the notified body for assessment:

- a general description of the appliance
- conceptual designs and manufacturing drawings and schemes of components, sub-assemblies, circuits etc.
- descriptions and explanations necessary for the understanding of the above, including the operation of the appliances
- a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements where the standards referred to in Article 5 have not been applied
- test reports
- the manuals for installation and for the user.

**MINIMUM CRITERIA FOR EVALUATION OF NOTIFIED BODIES**

The notified bodies designated by the Member States must fulfil the following minimum conditions:

- availability of personnel and of the necessary means and equipment,
- technical competence and professional integrity of personnel,
- independence, in carrying out tests, preparing the reports, issuing the certificates and performing the surveillance provided for in this directive, of staff and personnel in relation to all circles, groups or persons directly or indirectly concerned with appliances,
- maintenance of professional secrecy by personnel,
- subscription of a civil liability insurance unless that liability is covered by the State under national law.

Fulfilment of the conditions in the 1st and 2nd indent shall be verified at intervals by the competent authorities of the Member State or by bodies designated by the Member State.