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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposal of a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on appliances burning gaseous fuels

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1. PROBLEM DEFINITION

Despite successful functioning of the Gas Appliances Directive 2009/142/EC (GAD), a broad consensus exists that it needs some improvements. This view was shared also by the majority of the respondents to the Public Consultation (2011-2012).

Both the Public Consultation and the Impact Assessment Study (2012) gave a lot of emphasis on the identification of potential real problems and their causes. The in-depth analysis of all available data and the changes proposed showed that there was no evidence available justifying for expanding the scope for safety reasons. Regarding the functioning of the internal market no specific problems associated with barriers to trade could be identified. Consequently, there was no justification for bringing new products under the scope.

The areas of improvements do not involve major changes. The legal framework will remain unchanged and the changes are likely to involve minimal or no impacts. However, the following issues will need to be addressed:

Issue 1: Alignment of the GAD with the New Legislative Framework (NLF) Decision No 768/2008/EC

Many of the general problems identified by the NLF have also been observed in the context of implementing the GAD like differences between the qualities of the services provided by the notified bodies and their evaluation and monitoring practises. The legal framework is also experienced complex and inconsistent.

The Impact Assessment Report on the NLF Alignment Package has already examined in depth the different options to give effect to the NLF Decision. Since the options and their impacts are exactly the same for the GAD, the GAD Impact Assessment Report did not examine these aspects.

Issue 2: Removal of the 105°C temperature limit from the definition of the scope

The limit was originally introduced since the hazards due to pressure for the concerned products were subject to national legislation in most of Member States at the time the GAD was adopted. Currently, these hazards are under EU harmonisation legislation implying that no risk to conflict with national legislation exists thus the exclusion is not considered to serve any more a useful purpose.

Issue 3: The introduction of the currently missing definitions

The current wording of the definition of the scope is not precise and has led to the need for interpretation. This is because the scope is defined by providing a list of uses of products, but no definitions for the uses are provided. In the past, lots of efforts have been put to interpret

the scope which, however, does not provide the necessary legal certainty and stability requested by stakeholders.

Issue 4: The inadequate contents of the communication of the types of gas and the corresponding supply pressures

The types of gas and corresponding supply pressures are not subject to harmonisation in the framework of the GAD. In order to ensure the availability of this safety and performance relevant data, Article 2(2) requires that Member States must communicate the types of gas and corresponding supply pressures used on their territories.

The information currently communicated on the gas supply conditions is not sufficient.

Since the GAD does neither define which parameters should be provided nor harmonises the format of the communications, there is a need to determine these parameters and to define a common form to ensure the adequacy and comparability of the information. This would also ensure that the increase in the use of biogas would be appropriately dealt with by the GAD.

Issue 5: The clarification of the relationship between the GAD and the EU legislation on energy efficiency

The Essential Requirement 3.5. dealing with “rational use of energy” is very generic while the requirements under the Ecodesign Directive and its implementing measures are very detailed. Also the terminology used in the GAD is outdated and must be aligned with the modern one used in the recent EU energy efficiency legislation.

As the EU energy efficiency legislation is evolving fast and new implementing measures under the Ecodesign Directive applying to an ever-larger range of gas appliances will be introduced, it is necessary to clarify the application of the Essential Requirement 3.5. where more specific legislation exists.

Issue 6: Clarity of the provisions of the GAD

No other problems have been identified with the provisions of the GAD. Also the Essential Requirements have proved well cover the gas risks that appliances and fittings may present.

There are some broader safety concerns, in particular relating to CO poisoning which is the leading cause of fatalities associated with gas appliances. This appears to be related to matters outside the scope of the GAD, such as shortcomings in installation, lack of maintenance and incorrect use of appliances.

The GAD does currently not specify the general design principles that must be applied in order to achieve the safety of appliances and fittings. Although these principles are already considered being included in the current Essential requirements, it would be better to provide them in the legal text in order to avoid irresponsible parties to use e.g. only warnings instead of designing inherently safe products. The introduction the principles for safety integration would also facilitate market surveillance.

Necessity for public intervention

The EU action in this area is based on Article 114 of the TFEU. The aspects addressed in this context are already regulated by the GAD. This legislation does not however address the identified problem issues effectively. The study carried out and the conclusions on the options examined have shown that the issues will remain if the Directive is not revised.

2. ANALYSIS OF SUBSIDIARITY

The proper and effective functioning of the internal market requires common rules for gas appliances as regards health and safety risks due to use of gas as well as for their energy efficiency.

In order to avoid actions taken at national level creating obstacles to the free movements of appliances, any changes to the scope, procedures or requirements must be carried out at EU level. This would also improve the legal clarity, contribute to reduction of cost to manufacturers and ensure a common European framework for placing on the market of appliances and fittings.

The subsidiarity principle arises also with regard to the new provisions of the revision relating to the alignment with the NLF decision. Experience has shown that measures taken at national level have led to divergent approaches inside the EU, undermining the objectives of Internal Market

Coordinated action at EU level can also much better achieve the objectives set, and will in particular render market surveillance more effective.

3. OBJECTIVES

The objectives of this initiative are presented in Table 1.

Table 1: General, specific and operational policy objectives

GENERAL	SPECIFIC	OPERATIONAL
Better protect health and safety of users of gas appliances and fittings as well as to ensure their appropriate performance	Ensure that adequate safety and performance relevant data available on the framework conditions	Specify the contents of information to be communicated on the types of gas and corresponding supply pressures used in Member States
	Ensure the clarity of the requirements	Clarify the provisions
Improve the fair playing field for sector's economic operators	Ensure legal clarity regarding the application of more specific EU legislation	Introduce a new general Article on more specific EU legislation
		Clarify the Essential Requirement 3.5. on the rational use of energy
Simplify the European regulation environment in the field of gas appliances and fittings	Ensure that legislation is up to date	Remove the outdated exclusion of appliances with a normal water temperature that exceeds 105°C
	Ensure clarity of the scope	Clarify the scope by providing sector specific definitions

4. POLICY OPTIONS

Three alternative policy options have been considered:

- (a) the “do nothing” as baseline option;
- (b) the “soft law” option (non-legislative alternative consisting of issuing interpretation); and
- (c) the “legislative measure” option (change of the legal text).

The analysis of impacts of the policy options was separately carried out for each of the identified areas of improvement. First all the policy options for each problem were subject to a separate qualitative analysis. Next an in-depth analysis of the social and economic impacts of all the options was undertaken.

5. ASSESSMENT OF IMPACTS

The types of impacts assumed to be the most relevant to revision are provided in Table 2.

Table 2: The types of impacts being most relevant to revision of the GAD

Pre-screening of the Relevance of the Impacts	
Impact type	Relevant?
<i>Economic impacts</i>	
Functioning of the internal market and competition	Relevant
Competitiveness, trade and investment flows	Possibly Relevant
Operating costs and conduct of business/SMEs	Relevant
Administrative burdens on businesses	Relevant
Public authorities	Relevant
Innovation and research	Possibly Relevant
Consumers and households	Relevant
Third countries and international relations	Possibly Relevant
<i>Social impacts</i>	
Employment and labour markets	Possibly Relevant
Standards and rights related to job quality	Possibly Relevant
Public health and safety	Relevant

Since the modification of the scope cannot be justified, the GAD legal framework will remain unchanged. As a consequence, the affected economic operators and the other stakeholders will also remain the same as currently and the suggested changes represent rather an exercise to improve the readability and clarity of the scope, the Essential Requirements and other provisions.

The absence of particular concrete problems that need to be addressed implies that the proposed modifications do not have significant economic, social or environmental impacts except the minor impacts of clarifications which will yet highly facilitate the application of the GAD. Consequently, it is impossible to derive quantitative data on any specific impacts. Therefore the expected marginal benefits have been dealt with in a proportionate way carrying out a qualitative assessment enabling selection of the preferred option. For instance, it is possible to assess whether the proposed changes are favourable to safety and whether the effects of an option provide a steady solution to the identified issue.

To the extent possible, it was assessed, whether the implementation of a proposed change entails costs to manufacturers and authorities. However, it should be noted that it was not possible to monetise the effects since the proposed changes do not change in practise the legal framework.

The social impacts consist of benefits to the health and safety of the installers and users of gas appliances. However, the improved legal clarity and availability of data relevant for ensuring safe and energy efficient products may also have a slight positive impact on employment and achieving objectives like the Europe 2020 target of a 20% increase in energy efficiency.

Summary of the results of the main impacts and their extent is presented below in Table 3.

Table 3: The most relevant impacts to revision of the GAD

<i>Impacts of the preferred sub-options</i>		<i>Issue 2</i>	<i>Issue 3</i>	<i>Issue 4</i>	<i>Issue 5</i>	<i>Issue 6</i>
<i>Social impact</i>		<i>No impacts except ensures safety of products with a normal water temperature above 105°C</i>	<i>Slight reduction of non-compliant products</i>	<i>Safety of users and installer is improved</i>	<i>Contributes reaching Europe 2020 target, reduction of non-compliant products</i>	<i>Improved used safety, reduction of non-compliant products</i>
<i>Economic impact</i>	<i>Impact on cost-competitiveness</i>	<i>None</i>	<i>Clearer scope facilitates interpretation</i>	<i>Savings through technical and legal clarity</i>	<i>Savings through technical and legal clarity</i>	<i>Clearer legal situation, easier market surveillance</i>
	<i>Impact on capacity to innovate</i>	<i>None</i>	<i>None</i>	<i>Increased readiness to invest on product development, easier market access</i>	<i>Product development facilitated</i>	<i>None</i>
	<i>Impact on international competitiveness</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>More sophisticated designs improve international competitiveness</i>	<i>None</i>
	<i>Impact in SMEs</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>

6. COMPARISON OF OPTIONS

On the basis of the outcome of the in-depth assessment of the options, a comparison was performed to determine which options would deliver net benefits. Next the results of the comparisons were brought to one comparison table in order to visualise the impacts and to select the preferred options (Table 4). The criteria used in the options appraisal included the effectiveness, the efficiency and the coherence of the option.

Table 4. Comparison of the policy options

	Effectiveness	Efficiency Costs Benefits		Coherence (does the option contribute to better regulation and Single Market Act)
Scope - Product coverage				
a) Do nothing	0	0	0	0
b) Soft law	0 Specific objective not met as the 105°C temperature limit remains making it possible to avoid applying the GAD	- Costs due to remaining interpretation needs	0 None identified	0 No change, no contribution
c) Legislative measure	++ Specific objectives fully met; improvement of health and safety; clear legal situation	0 No impact but in theory a more level playing field for manufacturers	+ Legal clarity reduces administrative burden thus costs	++ Optimally contributing option; clear legal situation
Sector specific terminology and definitions				
a)	0	0	0	0
b)	+ Specific objectives partly met but legal clarity not reached; new interpretation needs will arise in case of innovative products	- Costs due to remaining interpretation needs on case by case basis	+ Slight reduction of non-compliant products	+ Will slightly contribute
c)	++ Specific objectives fully met as the scope and Essential Requirements are clarified; clear legal situation	0 No specific costs; clarification facilitates implementation resulting in savings	++ Legal clarity reduces administrative burden; reduction of non-compliant products thus improved safety	++ Optimally contributing option; clear legal situation assured
Communication of the types of gas and the corresponding supply pressures				
a)	0	0	0	0
b)	- Specific objectives not met as guidance may result in reliance on safety relevant data without cross-checking implying that unsafe designs might enter the market, no guarantee of quality of data	- Costs related to frequent need to update guidance, costs due to difficulties to obtain adequate data	- Does not guarantee reduction of non-compliant products, may mislead stakeholders to rely on data provided	- No contribution
c)	++ Specific objectives fully met; adequate health, safety and performance relevant information is made available; clear legal	++ Cost savings as reliable data available; reduction of administrative burden; means to	++ Reduction of non-compliant products; legal and technical clarity reduces costs; product development facilitated	++ Optimally contributing option; clear legal situation assured

	situation	verify the compatibility of products facilitates market access		
Rational use of energy				
a)	0	0	0	0
b)	+ Specific objectives partly met, improved clarity regarding more specific legislation, but difficulties to identify which regulations should be applied remain	- Costs related to developing guidance, costs for manufacturers due to administrative burden to identify applicable legislation	+ Guidance would slightly facilitate identification of legislation; minor reduction of non-compliant products	0 Will slightly contribute; unclear legal situation remains unchanged
c)	++ Specific objectives fully met as coherence of EU legislation is achieved; legal clarity is provided	+ Administrative burden is reduced, identification of legislation is facilitated, overlapping of requirements is avoided bringing savings	++ Reduction of non-compliant products; clarified legal situation facilitates development of new products	++ Optimally contributing option; contributes to Europee 2020 objective to improve energy efficiency; increases coherence of EU legislation
Requirements				
a)	0	0	0	0
b)	0 Only marginal impacts as no shortcomings with the current requirements were identified	- Minor costs related to developing guidance	+ Slight reduction of non-compliant products	+ Will slightly contribute
c)	++ Specific objectives fully met, clarity of legal requirements is ensured	+ No specific costs except cost savings for market surveillance	+ Improved readability of requirements reduces administrative burden; market surveillance is facilitated	+ Will slightly contribute

7. MONITORING AND EVALUATION

The monitoring and evaluation of the effectiveness of the legislation will be based on the feedback received through the various cooperation mechanisms like the Working Group Gas Appliances and the GAD Administrative Cooperation group.

In particular the GAD ADCO group will discuss the national market surveillance programs and the outcome of their execution, number of non-compliant products detected, types of non-compliances, etc. The Member States will be invited to use the RAPEX system, the ICSMS database as well as the safeguard clause notification procedure. Additional feedback will be obtained from the cooperation mechanisms provided for by NLF Regulation 765/2008. Different indicators based on information provided by the authorities will be used to monitor the reduction of non-compliant products

In line with its “Smart regulation” policy the Commission will evaluate the effectiveness of the Gas Appliances Regulation within a period of 5 up to a maximum of 10 years after the date of application of the Regulation.