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Subject:	Proposal for a Regulation of the European Parliament and of the Council on appliances burning gaseous fuels - Preparation of the informal trilogue

I. INTRODUCTION

1. The Commission presented the above proposal on 13 May 2014.¹
2. The Council Working Party on Technical Harmonisation has examined the package at six WP meetings since June 2014.
3. The Council has agreed on a General Approach concerning this file on 17 December 2014². At this occasion, the Presidency was also mandated to enter into informal contacts with the representatives of the European Parliament and the European Commission in order to explore the possibility of an agreement at first reading.

¹ COM (2014) 258 final.

² doc. 16259/1/14 REV 1.

4. On the gas appliances dossier, there was one trilogue with the representatives of the European Parliament and the Commission on 11 May.
5. The Permanent Representatives Committee has renewed the mandate to the Presidency for entering into trilogues and technical meetings on 10 June 2015.

II. STATE-OF-PLAY

The trilogue of 16 June did not touch the gas appliances dossier. However, discussions at technical level with the representatives of the European Parliament have led to a provisional agreement on most of the questions as laid down in doc. 11650/15 with the exception of two outstanding issues. The Presidency asks the Committee to accept compromise solutions in this regard as set out in section III.

III. OUTSTANDING ISSUES

a) Article 4 (1a) and Annex II, recitals 61a, 62, 63 and Chapter V, "Implementing vs. delegated act"

During previous debates, the different points of view of Council delegations on one hand and the representatives of the European Parliament on the other hand could not be reconciled. It is thus still disputed whether the information of gas supply conditions should be regulated via implementing acts (Council) or delegated acts (EP), while the Commission can accept either solution.

While a number of alternative solutions have been discussed with the European Parliament concerning the information on the gas supply conditions, the only option for compromise with the EP now seems to accept a combination of delegated and implementing acts, where the form of Member States` communications is regulated via an implementing act and the content of the communications (parameters) via a delegated act.

Compared to the wording presented to the Committee on 10 June, the Presidency has adapted the necessary text for this combination solution to some extent so the compromise would read as follows:

Wording for Article 4, 37 and 38, 42 (3), Annex II; recital 61a, 62 and 63:

Article 4 (1):" Member States shall communicate to the Commission and the other Member States *[in accordance with Annex II and using the relevant form]* the types of gas and corresponding supply pressures of gaseous fuels used on their territory before [six months before the date referred to in Article 42(2)] and any changes thereof within six months after the announcement of *the envisaged* changes.

(1a) The Commission shall be empowered to adopt delegated acts in accordance with Article 38 concerning modifications to the content ~~and the form~~ of the communications of the Member States of the gas supply conditions *in* [on] their territory, as set out in Annex II, in order to take into account the technical developments with regard to the gas supply conditions.

(1b) The Commission may, by means of implementing acts, define the form of the communications by the Member States referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 36 (3).

(2) The Commission shall ensure that the information provided by Member States in accordance with under paragraph 1 is published in the Official Journal of the European Union.

Chapter V: Title: Committee procedure and delegated acts

Article 37: Deleted, substance moved to Article 4(1a)

Exercise of the delegation

- (1) The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
- (2) The delegation of power **to adopt delegated acts** referred to in Article 4 (1a) shall be conferred **on the Commission** for an indeterminate period of time **a period of five years from The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**
- (3) The delegation of powers referred to in Article 4 (1a) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
- (4) As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
- (5) A delegated act adopted pursuant to Article 4 (1a) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 42 (3):

- (3) By way of derogation from paragraph 2 of this Article:
 - (a) Articles 4, 19 to 35 and 36 **and Annex II** shall apply from [six months after entry into force].
 - (b) Article 39(1) shall apply from [1 year and 11 months after entry into force].

Annex II: unchanged from Commission proposal

Recital (61a) The examination procedure should be used for the adoption of implementing acts to define **the form for** the Member States communications on the gas supply conditions on their territory.

Recital (62) The power to adopt acts in accordance with Article 290 of the Treaty **on the Functioning of the European Union** should be delegated to the Commission in respect of the content of the Member State communications on the gas supply conditions on their territory.

Recital (63) The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

b) Annex I, point 1.6.2. "Advice on professional installation"

The EP would like to see its original IMCO amd. 131 maintained in order to give manufacturers the possibility to advise on professional installation without interfering with legal obligations which differ from Member State to Member State. In view of an overall compromise the Presidency suggests to the Committee to accept the wording of amd. 131.

Am. 131

Annex I, point 1.6.2. new second subparagraph inserted:

The manufacturers shall note in the instructions where they believe additional care is needed or where it would be advisable that any of the above work be carried out by a professional.

IV. CONCLUSION

The Committee is invited

- to agree to the Presidency compromises as suggested in section III.,
- to mandate the Presidency to continue the informal trilogues with the representatives of the European Parliament and the Commission on the basis of doc. 11650/15 and today`s compromise solutions in view of an agreement at first reading.