COMMISSION DECISION

of 18 March 2003

on the publication of the reference of standard EN 521:1998 'Specifications for dedicated liquefied petroleum gas appliances — Portable vapour pressure liquefied petroleum gas appliances', point 5.7.2.1, in accordance with Council Directive 90/396/EEC

(notified under document number C(2003) 711)

(Text with EEA relevance)

(2003/190/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/396/EEC of 29 June 1990 on the approximation of the laws of the Member States relating to appliances burning gaseous fuels ([1]), as amended by Directive 93/68/EEC ([2]), and in particular Article 6(1) thereof,

Having regard to the opinion of the Standing Committee set up in accordance with Article 5 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information Society Services ([3]), as amended by Directive 98/48/EC ([4]),

Whereas:

(1) Article 2 of Directive 90/396/EEC provides that gas appliances 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) Under Article 5 of Directive 90/396/EEC, gas appliances are presumed to comply with the essential requirements referred to in Article 3 of that Directive if they conform to the national standards applicable to them, transposing the harmonised standards, the reference numbers of which have been published in the *Official Journal of the European Union*.

(3) Member States are required to publish the reference numbers of national standards transposing harmonised standards, the reference numbers of which have been published in the *Official Journal of the European Union*.

(4) The Netherlands raised a formal objection in respect of point 5.7.2.1 'appliances fitted to pierceable cartridges' of standard EN 521:1998 'Specifications for dedicated liquefied petroleum gas appliances — Portable vapour pressure liquefied petroleum gas appliances', adopted by the European Committee for Standardisation (CEN) on 21 May 1997, the reference number of which was published in the *Official Journal of the European Communities* on 25 July 1998 ([5]), on the grounds that it does not fully satisfy the essential requirements of Directive 90/396/EEC.

(5) According to the Dutch authorities, portable (camping) gas appliances fuelled by liquid petroleum gas (LPG) with the LPG fed to the burner from a pierceable cartridge may, if the cartridge is replaced in a way which does not comply with the instructions for use, become unsafe, thus possibly resulting in gas leaks and serious burns. They claim that such behaviour should be foreseen since, as these applicances are typically used in particular conditions such as on campsites and in tents for short periods of the year, not all users systematically read the instructions for use nor is there enough light to read them, so that there is de facto a risk that the user will not insert the cartridge properly.

(6) Under Directive 90/396/EEC all appliances must be accompanied by instructions for use and servicing intended for the user, containing all the information required for safe use. This implies that a prerequisite for the safe functioning of appliances complying with the Directive is that users follow those instructions.

(7) Although the problem raised by the Dutch authorities stems mainly from users' behaviour, the CEN should nevertheless, in the light of the evolution of the users' behaviour and taking into account the particular conditions in which this kind of appliance is likely to be used, examine the possibility of improving the intrinsic level of safety in relation to the replacement of gas cartridges.

(8) For this purpose, the Commission will request CEN to present, within two years, a revised version of EN 521:1998. Following the implementation of this mandate and depending on its results, possible further decisions concerning the current version of the standard could be envisaged.

([1]) OJ L 196, 26.7.1990, p. 15.
([2]) OJ L 220, 30.8.1993, p. 1.
([3]) OJ L 204, 21.7.1998, p. 37.
([4]) OJ L 217, 5.8.1998, p. 18.
([5]) OJ C 233, 25.7.1998, p. 16.

(9) As regards the request that the presumption of conformity is withdrawn, account should be taken of the fact that, according to the information received, pierceable gas cartridges have been in widespread use for more than 30 years, with about 50 million sold each year throughout the Community and that the number of accidents that occur in comparison with the number of units in use is extremely low.

(10) Furthermore, it should be taken into account that portable (camping) gas appliances necessarily present an elevated risk in all circumstances, due to the characteristics of the technique used (open flame, hot surface etc.), so that the risks referred to in the formal objection exist in all cases where consumers' behaviour does not comply with the instructions for use.

(11) It must therefore be concluded, on the basis of EN 521:1998 as well as the information submitted by the Netherlands, by the other national authorities, by CEN and by the industry, and after consulting the Gas Appliances Expert Group and the Committee set up by Directive 98/34/EC, that it would not be consistent with the principle of proportionality and thus justified to withdraw the presumption of conformity of point 5.7.2.1 of EN 521:1998,

HAS ADOPTED THIS DECISION:

Article 1

The reference of standard EN 521:1998 'Specifications for dedicated liquefied petroleum gas appliances — Portable vapour pressure liquefied petroleum gas appliances', adopted by the European Committee for Standardisation (CEN) on 21 May 1997 and published for the first time in the *Official Journal of the European Communities* of 25 July 1998, shall not be withdrawn from the list of standards published in the *Official Journal of the European Union*. The standard shall therefore continue to confer the presumption of conformity to the relevant provisions of Directive 90/396/EEC.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 18 March 2003.

For the Commission

Erkki LIIKANEN

Member of the Commission