

**xx/xx/xxxx – Draft Decree of the Government of the Brussels-Capital Region on
Miscellaneous Provisions for the Transport of Dangerous Goods**

The Government of the Brussels-Capital Region,

Having regard to the Law of 5 May 1936 laying down the status of harbour masters;

Having regard to the Law on Road Traffic Police, coordinated on 16 March 1968, Articles 1(1), 62(1) and 65;

Having regard to the Law of 18 February 1969 on measures for the implementation of international treaties and acts relating to transport by sea, road, rail or inland waterway, Article 1(1);

Having regard to the Law of 21 June 1985 on the technical conditions to be met by any land transport vehicle, its components and safety accessories, Article 1;

Having regard to the Order of 3 December 1992 on the operation and development of the canal, port, outer port and their dependencies in the Brussels-Capital Region, Article 16a(2);

Having regard to the Decree of the Executive of the Brussels-Capital Region of 27 May 1993 laying down the specifications to which the Port of Brussels is subject, as amended by the Decrees of the Government of the Brussels-Capital Region of 19 May 1994, 30 May 1996 and 28

Having regard to the Royal Decree of 24 March 1997 on the collection and deposit of a sum in respect of offences relating to the carriage by road of dangerous goods, with the exception of explosive and radioactive substances.

Having regard to the Royal Decree of 31 July 2009 on the transport of dangerous goods by inland waterway;

Having regard to the Decree of the Government of the Brussels-Capital Region of 4 March 2010 of the Government of the Brussels-Capital Region adopting the Police Regulations for the canal and Port of Brussels;

Having regard to the Decree of the Government of the Brussels-Capital Region of 22 September 2022 on the transport of dangerous goods by road and inland waterway with the exception of explosive and radioactive substances;

Having regard to the "equal opportunities" test of 19 May 2023, as required by the Decree of the Government of the Brussels-Capital Region of 22 November 2018 implementing the Order of 4 October 2018 introducing the equal opportunities test;

Having regard to the opinion of the Inspector of Finances, given on xx/xx/xxxx;

Having regard to the agreement of the Minister for the Budget, given on xx/xx/xxxx;

Having regard to the opinion of the Administration-Industry Advisory Commission, delivered on

Having regard to the consultation with the other regional governments and the federal government, as prescribed by Article 6 § 2(5) and § 3a(6), of the Special Law of 8 August 1980 on Institutional Reforms, at the interministerial conference held on xx/xx/xxxx;

Having regard to Opinion No xx.xxx/x of the Council of State given on xx/xx/xxxx, pursuant to Article 84(1), subparagraph 1(2), of the Laws on the Council of State, coordinated on 12 January

Whereas Commission Delegated Directive (EU) 2022/2407 of 20 September 2022 amending the Annexes to Directive 2008/68/EC of the European Parliament and of the Council as regards adaptation to scientific and technical progress should be partially transposed as regards the parts falling within the competences of the Brussels-Capital Region;

Whereas Article 2 of the Royal Decree of 31 July 2009 on the transport of dangerous goods by inland waterway states that this Decree is applicable only in the exercise of federal powers and that it is therefore not applicable to the transport of dangerous goods by inland waterway falling within the jurisdiction of the Brussels-Capital Region;

That it is therefore appropriate, for the sake of clarity, to delete all references in this Royal Decree of 31 July 2009 to the regulations of the Brussels-Capital Region;

Having regard to Opinion No 72.579/4 of the Council of State given on 19 December 2022, pursuant to Article 84, § 1, subparagraph 1(2), of the Laws on the Council of State, coordinated on 12 January 1973, concerning a draft ministerial decree of the Brussels-Capital Region on the transport of dangerous goods by road adopting provisions supplementing the ADR and laying down delegations of competence;

That it is therefore appropriate to provide for a sufficient delegation in this Decree with a view to the adoption by the Minister of provisions complementary to the ADR;

On the proposal of the Minister of Mobility and the Minister for the Port of Brussels;

Following deliberation,

Decrees:

Chapter 1. Amendment of the Decree of the Executive of the Brussels-Capital Region of 27 May 1993 adopting the specifications that the Port of Brussels is subjected to

Article 1. In the Decree of the Executive of the Brussels-Capital Region of 27 May 1993 laying down the specifications to which the Port of Brussels is subject, the following amendments are made:

(1) Article 1 is supplemented by a subparagraph 2 worded as follows:

“ The port area of the Port of Brussels is delimited in accordance with the drawings set out in Annexes 2 and 3 to this Decree.”;

(2) Annexes 2 and 3 are inserted, which are attached as Annexes 1 and 2 to this Decree.

Chapter 2. Amendment to the Decree of the Government of the Brussels-Capital Region of 22 September 2022 on the transport of dangerous goods by road and inland waterway with the exception of explosive and radioactive substances

Article 2. In the Decree of the Government of the Brussels-Capital Region of 22 September 2022 on the transport of dangerous goods by road and inland waterway with the exception of explosive and radioactive substances, Article 1 is replaced by a new Article 1 worded as follows:

“ Article 1. This Decree partially transposes, as regards the parts falling within the competences of the Brussels-Capital Region, Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods, as amended by Commission Directives 2010/61/EU of 2 September 2010, 2012/45/EU of 3 December 2012, 2014/103/EU of 21 November 2014, (EU) 2016/2309 of 16 December 2016, (EU) 2018/217 of 31 January 2018, Commission (EU) 2018/1846 of 23 November 2018 and Commission Delegated Directives (EU) 2020/1833 of 2 October 2020 and (EU) 2022/2407 of 20 September 2022.”.

Article 3. In Article 2 of the same Decree, the following amendments are made:

- (1) the definition of the term “ADN”, referred to in (2), is supplemented by the following words: “, as set out in the Annex to the Royal Decree of 31 July 2009 on the transport of dangerous goods by inland waterway”;
- (2) a new point 7/(1) is inserted between point (7) and point (8), which reads as follows: “7/(1) “DVTM”: The Vehicles and Freight Transport Division of Brussels Mobility;”;
- (3) After point (13), a new (14) shall be added, worded as follows: “(14) “inland waterway”: an inland waterway located within the Brussels-Capital Region.”.

Article 4. In Article 3, § 1, of the same Decree, the words “national and international transport” are deleted.

Article 5. In Article 11 of the same Decree, paragraph 2 is repealed.

Article 6. In Article 14 of the same Decree, the words “by extract from the Moniteur belge” are replaced by the words “on the Brussels Mobility website”.

Article 7. In Article 22 of the same Decree, point (3) of paragraph 1 is replaced by the following: “(3) does not comply with the provisions of this Decree or with the measures taken in implementation of this Decree and with the requirements of the ADR;”

Article 8. In the same Decree, the heading “Chapter 3 – Control”, comprising Articles 23 and 24, is replaced by the terms “Chapter 3 – Additional provisions to ADR”.

Article 9. Article 23 of the same Decree is replaced by the following:

“ Article 23. The Minister may adopt additional and general provisions to ADR with regard to:

- (1) the supervision of the manufacture, reconstruction or repackaging of packagings, IBCs, and large packagings and the related inspection rules;
- (2) periodic tests on IBCs;
- (3) transport in tanks;
- (4) surge plates and partitions;
- (5) vehicle safety equipment;
- (6) the construction and approval of vehicles.

For the purposes of this Article, the terms “packagings”, “IBCs”, “large packagings”, “periodic tests”, “tank”, “surge plates” and “partitions” have the same meaning as in ADR.”

Article 10. Article 24 of the same Decree is repealed.

Article 11. In Article 27, subparagraph 2, of the same Decree, the words: "Brussels Mobility Vehicles and Freight Transport Division" is replaced by the words: " DVTM".

Article 12. In the same Decree, a Title IV, entitled "Control and sanction", containing new Articles 27/1 and 27/2, is added under Article 27. It is worded as follows:

“ Title IV – Control and sanction

Article 27/1. § 1. The following shall be competent to establish infringements of the provisions of ADR and this Decree concerning the carriage of dangerous goods by road, in addition to criminal investigation department officers:

(1) the members of the operational staff of the local and the federal police and officials of the Federal Public Service Finance Customs and Excise Administration in the exercise of their duties;
(2) officials or agents of the Brussels Mobility Operations and Transport Department.

§ 2. The following shall be competent to establish infringements of the provisions of ADN and this Decree concerning the carriage of dangerous goods by inland waterways, in addition to criminal investigation department officers:

(1) the members of the operational staff of the local and the federal police and officials of the Federal Public Service Finance Customs and Excise Administration in the exercise of their duties;
(2) harbour masters and deputy harbour masters and harbour inspectors, referred to in the Law of 5 May 1936 fixing the status of harbour masters;
(3) the managing official, the deputy managing official or the A-level official designated for this purpose by the Board of Directors of the regional public law company of the Port of Brussels referred to in the Order of the Brussels-Capital Region of 3 December 1992 relating to the operation and development of the canal, port, outer port and their dependencies in the Brussels-Capital Region.

Article 27/2. § 1. Infringements of the provisions of the ADR, of this Decree, and of the Decrees adopted pursuant to this Decree on the carriage of dangerous goods by road shall be punished in accordance with the Law on Road Traffic Police, coordinated on 16 March 1968, and the Royal Decree of 24 March 1997 on the collection and deposit of a sum when offences relating to the transport of dangerous goods by road, with the exception of explosive and radioactive materials, are detected.

§ 2. Infringements of the provisions of the ADN, of this Decree and of the provisions adopted pursuant to this Decree concerning the carriage of dangerous goods by inland waterway shall be penalised in accordance with the provisions laid down in Article 16a of the Order of 3 December 1992 on the operation and development of the canal, port, outer port and their dependencies in the Brussels-Capital Region.”.

Article 13. In the same Decree, the terms "Title IV. — Transitional and final provisions" is renumbered "TITLE V. – Transitional and final provisions".

Article 14. In Article 28 of the same Decree, the words "The Minister responsible for road safety" are replaced by the words "The Minister responsible for the regulation of transport of dangerous goods by road".

Article 15. Article 32 of the same Decree is replaced by the following:

“ The Minister responsible for the regulations relating to the transport of dangerous goods by road and the Minister responsible for the rules governing the policing of navigation on inland waterways shall each be responsible for the implementation of this Decree.”.

Chapter 3. Repealing and final provisions

Article 16. The Decree of the Government of the Brussels Capital Region of 27 September 2018 amending the Royal Decree of 31 July 2009 on the transport of dangerous goods by inland waterway is repealed.

Article 17. The Decree of the Government of the Brussels Capital Region of 12 May 2021 amending the Royal Decree of 31 July 2009 on the transport of dangerous goods by inland waterway is repealed.

Article 18. The Minister responsible for the regulations relating to the transport of dangerous goods by road, the Minister responsible for the rules governing navigation on inland waterways and the Minister responsible for the Port of Brussels shall each be responsible for the implementation of this Decree.”.

Brussels, xx/xx/xxxx

On behalf of the Government of the Brussels-Capital Region:

Minister-President of the Government of the Brussels-Capital Region,

The Minister of the Government of the Brussels Capital Region, responsible for Mobility, Public Works and Road Safety,

The Minister of the Government of the Brussels Capital Region responsible for Climate Transition, Environment, Energy and Participatory Democracy,