ANNEX 1: BACKGROUNDER ON APPLICABLE AND FORESEEN LEGAL CONDITIONS FOR THE INNOVATION ASSIGNMENT

PREFACE

The Netherlands aims to enable the safe and responsible integration of automated road transport into the Dutch mobility system. This program is designed to learn in practice and to demonstrate societal value at a meaningful scale, particularly in public transport and logistics. The innovation assignments are therefore not technology showcases in isolation. They are structured as operational innovation assignments, embedded in real-world contexts, to test whether and under which conditions automated transport can contribute to public policy goals such as accessibility, reliability, affordability and the resilience of logistics chains whilst safeguarding road safety. The program aims to move beyond single-vehicle demonstrations.

At the same time, the program recognises that credible deployment requires a pathway of research and development. For automated driving systems, regulatory development at EU and global level increasingly expects public-road evidence as part of type-approval processes. The program therefore seeks to create a pilot operation under existing legal instruments towards eventual readiness for type-approved deployment, without compromising safety or legal certainty.

Candidates are expected to develop and deploy their technology through an incremental, risk-informed scaling trajectory. This means that early phases are likely to begin in environments that allow strong operational control (e.g., closed sites or restricted-access operational areas), after which operation can progressively expand to public-road segments with limited complexity and clearly defined operational constraints. The program is designed for pace and learning: innovation assignments are intended to start in 2026 and run through 2029, and vehicles are expected to be operational on public roads for a substantial period during the pilot window, so that effects can be observed and lessons can be embedded in public operational procedures.

The following paragraphs are meant to provide clarity to candidates on the legal options that are currently available and the legal developments that are being pursued in parallel. Please be aware of the fact that this Annex serves to inform interested Candidates of the available and foreseen legal options for the innovation assignments. It is the responsibility of the interested Candidates themselves to thoroughly examine the applicability and/or compliance in lieu of their envisioned propositions. IenW cannot be held responsible for any error or misinterpretation in this Annex 3.

The Netherlands is establishing a structured innovation program that starts from existing statutory instruments and competent-authority procedures, and that supports stepwise growth towards market-ready deployment. The program is not intended as an open-ended experimentation environment for early-stage research; rather, it is a structured pathway aimed at demonstrating societal value at meaningful scale and generating the evidence needed to inform competent authorities and public policy.

Existing legal options

The program is built around a set of interlocking legal options under Dutch and European law. Within these established legal frameworks, IenW and its partners will explore where procedures can be

made more efficient—without legislative change—provided that safety and legal certainty remain fully safeguarded. Candidates remain responsible for selecting and initiating the appropriate legal application option (s) for their vehicle and use case, in close coordination with the competent authorities. The following five (5) existing legal options are to be considered by a Candidate.

1) Article 2.4(b) of Regulation (EU) 2018/858 it allows an individual prototype (category M,N,O) —specifically designed and built for a defined test program—to be used temporarily on the road subject to conditions set by the competent authority, typically including safeguards such as operational limitations, documentation requirements and safety measures. This procedure is Intended to validate vehicles and/or systems in the final phase of development; it does not constitute market access and it does not replace any element in the type-approval process.

2) Article 39 Regulation (EU) 2018/858 is an option for manufacturer to introduce new technologies in respect of a type of vehicle, system, component or technical unit that incorporates new technologies or new concepts that are incompatible with one or more regulatory acts.

3) Article 3.7.1 (Regeling voertuigen, NL) of the Vehicles Regulation allows for the granting of a provisional national individual approval for a period of up to two years (*with an extension up to five years, with the prospect of adjusted national legislation enabling definitive approval thereafter*) for a vehicle, system, component or separate technical unit that requires national approval and incorporates new technologies that are incompatible with one or more type-approval requirements. The RDW is the competent authority to authorise the vehicle for use and may, where necessary, seek advice from other organisations.

4) A procedure under Article 2.4(b) (provided that the conditions of Article 39 of Regulation (EU) 2018/858 are also met), Article 3.7.1, or Article 39 may, subject to the condition of fulfilment of the relevant requirements, can transition into a procedure under Article 149aa, provided that the vehicle involves a new technology or new concept that is incompatible with one or more type-approval requirements, in order to reduce complexity and enable a grow path towards safety driver outside of the vehicle.

5) The Dutch *Experimenteerwet* (max duration of three years) (*Article 149aa and further of the Road Traffic Act – Wegenverkeerswet 1994 as technical requirements per 2021/1426 ADS implementing act*) provides a specific legal option to conduct controlled experiments on public roads with vehicles using automated driving functions in situations where the "driver" is not seated in the vehicle. It enables the Minister of Infrastructure and Water Management—after consultation with the Minister of Justice and Security and on the basis of required safety input (including RDW's safety assessment and advice from relevant actors such as the road authority)—to grant a permit for a specific period of time to run a pilot under strict conditions, such as a defined operational design domain, safety measures, supervision arrangements, reporting and incident management. This instrument is designed for learning and experimentation in a real-world context (public-interest innovation assignments);

applicants should therefore expect a permitting trajectory that is case-specific, condition-heavy and focused on public safety and legal certainty for other road users.

Foreseen legal options

Pre-homologation: laws and regulations to allow testing for alternative purposes (circa 2027)[1]

Under an upcoming proposal to amend the Dutch Road Traffic Act. The legal and policy framework is updated in order to allow automated vehicles to be tested on public roads in the Netherlands for learning, experimentation and pilot purposes, outside the formal type-approval process. It explains how existing national instruments—most notably the Dutch Experimental Framework (including Article 149aa of the Road Traffic Act 1994)—provide controlled space to gain experience with new technologies, governance models and operational concepts, including scenarios where the driver is not physically present in the vehicle. The emphasis of this framework is on safety, accountability and societal learning: tests are permitted only under strict conditions, with clearly defined responsibilities, safety assessments and the involvement of relevant authorities such as RDW, road authorities, police and the Ministry of Justice and Security. This legal option is therefore explicitly designed to support innovation assignments and experimentation that generate insight and prepare public authorities and operators for future deployment, but it is not intended to lead directly to market access or type approval.

Homologation: laws and regulations to allow testing for type approval (circa 2027)[2]

This Policy Compass addresses a different and structural issue: the lack of a national legal basis to conduct mandatory on-road tests with non-type-approved vehicles as part of the European type-approval process for automated driving systems (such as ALKS and ADS). While EU legislation increasingly requires practical testing on public roads to complete type approval, Dutch law currently prohibits the use of non-approved vehicles on public roads, and existing exceptions do not adequately cover this situation. The document explains why current instruments—such as the Experimental Framework, the prototype legal option, Article 3.7.1 of the Vehicles Regulation or Article 39 of Regulation (EU) 2018/858—are insufficient for this purpose, as they are either intended for learning-only innovation assignments or for limited exemptions related to incompatibilities with existing requirements. As a result, the Policy Compass concludes that a targeted amendment of the Road Traffic Act 1994 is necessary to create a specific legal exception for on-road testing required for type approval. This would allow the RDW to remain a leading type-approval authority, enable manufacturers to complete full approval trajectories domestically, and ensure alignment with European obligations, while maintaining a high level of safety and legal certainty.

Change in legislation

Given the legal interdependence between public-road testing for type-approval purposes and public-road testing for other purposes—and the fact that both require amendments to national legislation—the Netherlands is developing these changes in a single, consolidated legislative proposal. The current objective is for the amended legislation to enter into force in 2027. Once in force, the revised statutory framework will provide a clear legal basis to conduct testing with

[1] Beleidskompas wijziging wet- en regelgeving testen voor andere doeleinden (link)
[2] Beleidskompas wijziging wet- en regelgeving testen voor typegoedkeuring (link)

automated vehicles on public roads in the Netherlands under the conditions set out in the updated rules. These will then take precedent over the current frameworks.

International legal options

Cross border

Alongside national legal instruments, the Netherlands is also engaging with Belgium (federal and regional levels) and Luxembourg through the Benelux Union as a practical coordination setting to support cross-border testing, including actual border crossings, and stepwise scaling. The Benelux framework can be used to convene the relevant competent authorities—transport ministries, road and infrastructure managers, type-approval bodies, enforcement and other actors—to improve predictability and operational compatibility of procedures across borders. The intention is not to replace national law or national decision-making, but to reduce the risk that cross-border innovation assignments evolve into separate national tracks that only converge late in the process.

In practical terms, this Benelux track is aimed at developing a shared, multi-year approach for "continuous" cross-border testing: a common understanding of how innovation assignments can progress from closed or controlled environments to limited public-road operation and, where feasible, to cross-border operation along defined corridors. The focus is on clarifying expectations on safety management and ODD definition, data exchange and reporting, incident handling and escalation, enforcement interfaces, and governance arrangements. Where legal frictions arise—such as differences in road-access permits, operational permissions (including freight operations), or the legal status of remote supervision—the coordination is intended to distinguish what can be addressed through administrative alignment and procedural clarity, and what would require explicit national legal bases. In that sense, the workstream is meant to complement national pilot instruments and EU testbed cooperation by increasing predictability for applicants and supporting a more coherent pathway for cross-border scaling over the coming years.

European Testbeds

The EU "large-scale cross-border testbeds" initiative is intended to accelerate real-world pre-deployment of automated road transport by creating a structured cooperation environment ("regulatory sandbox") in which participating authorities align rules, processes and evidence expectations, and support one another in permitting, information-sharing and regulatory learning—explicitly building on the existing EU frameworks for type-approval and ADS (notably Regulation (EU) 2018/858 and Implementing Regulation (EU) 2022/1426).

The Netherlands is engaging with Member States and European Commission in a cross-border "testbed" cooperation under the Industry Automotive Action Plan. This cooperation does not create new legal powers or replace national road-access authorisations. Instead, it is intended to provide a structured cooperation environment in which participating authorities align technical assessment approaches and evidence requirements, and jointly develop procedures that can facilitate interoperability and learning across borders, including for small-series style deployment pathways under the 2018/858 architecture. It aims to help streamline the technical dialogue and promote consistency in how safety cases, validation evidence, and vehicle-level assessments are reviewed across participating countries. However, applicants should note that authorisation to operate on public roads remains a national (and where relevant, local) competence in each participating

country; any required permits or commissioning decisions must still be obtained under the applicable national frameworks.

The Benelux Union track is positioned as the pragmatic regional workstream to address “actual border crossing” frictions in a continuous way, including work towards a temporary legal framework for the Netherlands (led via Benelux Union) that is consistent with French and German deployment frameworks, so that cross-border innovation assignments can be organized as one coherent trajectory rather than three disconnected national ones.