

Annex 1 – Detailed substantiation on the misalignment between Shell’s Powering Progress strategy and the judgment

1. Introduction

In today’s letter, Milieudefensie has substantiated that Shell’s current strategy is not in line with the judgment. This is contrary to the message Shell has conveyed to the public. In this Annex, Milieudefensie will provide examples of Shell’s response to the judgment and explain how these communications are capable of misleading stakeholders about the implications of the judgment for Shell and the implications of Shell’s Powering Progress strategy as such. In Chapter 4, we will discuss how Shell’s marketing strategy is misleading consumers, as confirmed by the Dutch Advertising Code Committee.

2. Shell’s Powering Progress strategy is not in line with the judgment

In its first elaborate response to the judgment from the Court, Shell’s CEO was quick to emphasize that Shell was “*more determined than ever to play its part and lead in this global challenge,*” despite its disappointment about the judgment.¹ In that same article, the CEO claimed that the ruling of the Court does not mean a change, but rather an acceleration of Shell’s Powering Progress strategy, which was announced after the hearings in the Shell-case and therefore not considered by the Court:

“The court has said its decision applies immediately and should not be suspended pending an appeal. For Shell, this ruling does not mean a change, but rather an acceleration of our strategy. [...] In April this year we published our detailed Energy Transition Strategy. [...] The court did not consider this because the hearing that led to the ruling took place several months before we published this strategy and, of course, before major investors demonstrated their support at the AGM.”²

Shell seems to suggest that it believes the outcome of the case would have been different if the Court had considered Shell’s new strategy and that compliance with the judgment would merely entail an acceleration. The message that Shell would step up its efforts and “*rise to the challenge*” dominated global news headlines. It was the start of a sophisticated PR campaign to let the world know that Shell would act decisively and even take the lead in helping to solve the climate crisis.

In subsequent communications, Shell has maintained and elaborated on this narrative. In July 2021, the CEO compared Powering Progress to the judgment and said: “*directionally, it is not any different. You could argue a little bit, is a 45 percent correct? But the point is that our strategy is to purposefully and to profitably decarbonise our customers on their road to net zero, which is exactly what the court asked us to do with significant best efforts.*”³

These statements by the CEO are inaccurate. At this point in time, Shell only had a target to reduce its carbon intensity in Scopes 1, 2 and 3 by 20% in 2030, 45% in 2035 followed by net-zero in absolute

¹ Ben van Beurden 8 June 2021, The spirit of Shell will rise to the challenge, article available on Shell.com.

² Ben van Beurden 8 June 2021, The spirit of Shell will rise to the challenge, article available on Shell.com.

³ Outrage + Optimism 3 July 2021, Climate, Fossil Fuels and the Future of Shell with Ben van Beurden. See also the article published in [The Guardian](#) on 29 July 2021: Shell boss: we have no plans to change strategy despite emissions ruling: “*Our strategy is very much aligned with what the plaintiffs would want us to do, which is working on our own emissions reduction, and also helping customers reduce emissions.*”

emissions by 2050, accompanied by its standard catchphrase “*in step with society*” with which Shell retains the right to move slower. Chapter 3 will explain that reducing carbon intensity is markedly different from reducing emissions in absolute terms.

There is a sharp contrast between this narrative and what the Court ordered Shell to do. The Court did not “ask” Shell to “profitably” decarbonize its customers, it ordered Shell to reduce its emissions or be in breach with the duty of care it owes to society and violate the human rights of citizens. The Court explicitly considered that Shell may be required to take drastic measures and make financial sacrifices, in light of the urgent threat of dangerous climate change and its grave risks to human rights.⁴ In addition, Shell deflects its lack of action until 2030 by referring to its ambition to become a net-zero emissions business in 2050.

Ultimately, the judgment requires Shell to become a smaller oil and gas company by 2030, whether or not Shell chooses to expand its renewable energy business. The Court has explicitly recognized that Shell may have to forgo new investments in the extraction of fossil fuels and/or limit its production of fossil resources.⁵

However, Shell’s Powering Progress strategy aims to significantly grow the fossil gas business towards 2030. Shell has stated that its oil production already peaked – this is due to market developments, not climate policy – and is expected to slowly decline by 1-2 % per year. Shell’s production from existing fields is declining more rapidly. This means Shell will continue to invest in new oil fields.⁶ Overall, Shell will continue to direct the majority of its capital expenditures towards its oil and gas business. The investor-focused research initiative Global Climate Insights (“GCI”) forecasted that Shell’s absolute emissions will continue to increase until 2030 (see further below).

Note: in 2022, Shell intends to invest USD 3 billion of its total USD 23 – 27 billion cash capex on the Renewables and Energy Solutions business. However, this includes Shell’s integrated power activities, which also includes marketing, trading and selling of gas.⁷ Furthermore, Shell intends to invest USD 16 – 20 billion in its Upstream, Integrated Gas and Chemicals and Products business units.⁸ Compared to 2021, Shell plans to increase its spend on the Upstream business from USD 6 billion to USD 8 billion.

In light of all this, a suggestion that the outcome of the case might have been different if the Court had been able to review the later announced Powering Progress strategy is misleading. The essence of the Court’s ruling is that Shell has an individual legal responsibility to proactively pursue far-reaching

⁴ District Court The Hague 26 May 2021, [ECLI:NL:RBDHA:2021:5339](#), par. 4.5.54

⁵ District Court The Hague 26 May 2021, [ECLI:NL:RBDHA:2021:5339](#), par. 4.5.39

⁶ Shell Energy Transition Strategy 2021, p. 23: “A natural decline in production happens in oil and gas reservoirs at a rate of around 5% a year across the oil and gas industry. It takes constant reinvestment to sustain production and extract resources. Our planned capital investment of \$8 billion in our Upstream business in the near term is well below the investment level required to offset the natural decline in production of our oil and gas reservoirs, and will not sustain current levels of production. As a result of this planned level of capital investment, we expect a gradual decline of about 1-2% a year in total oil production through to 2030, including divestments.”

⁷ Shell Annual Report 2021, p. 49: “Renewables and Energy Solutions includes Shell’s production and marketing of hydrogen, nature and environmental solutions as well as our integrated power activities. Our integrated power activities comprise: ■ generating electricity through wind and solar; ■ providing electricity storage; ■ marketing and trading gas and power; ■ selling gas and power to commercial, industrial and retail customers; ■ providing electric vehicle charging services; and ■ providing customers with digitally enabled solutions.”

⁸ Fourth Quarter 2021 Results, Slide 18

emission reductions between 2019 and 2030, and cannot take a ‘wait-and-see’ approach.⁹ The Court requires absolute emission reductions, so the carbon intensity targets set by Shell do not suffice.

In October 2021, Shell communicated that the acceleration of its strategy and the widely reported “*rise to the challenge*” relates to the group’s Scope 1 and 2 emissions and not to its Scope 3 emissions, that account for about 95% of total emissions.¹⁰

The reality is that Shell still does not have a target to reduce absolute emissions in Scope 3 towards 2030, which account for about 95% of its total emissions and it is unlikely that its current strategy will lead to absolute emission reductions by 2030. In addition, Shell misrepresents the implications of the judgment by pushing the idea that Shell has been held liable for how the world uses energy and claiming that the company has been ordered to reduce consumer demand.

The court’s ruling effectively holds Shell accountable for a wider global issue – reducing consumer demand for carbon-based fuels – something we cannot do alone and that requires action from all quarters.”¹¹

That is not what the Court’s order entails. As stated above, the judgment requires Shell to become a smaller oil and gas company and sell less carbon-based fuels, which it can control. The Court order does not make Shell responsible for reducing consumer demand or allow Shell to act only in response to a reduction in consumer demand. Neither did the Court order Shell to find ways to decarbonize its customers. Shell is free to do so, as long as significant best-efforts are directed at achieving 45% absolute emission reductions on the road to 2030.¹² To the extent that achieving emission reduction would require cooperation with others, this still does not justify the lack of a policy in line with the judgment and does not take away from the fact that the Court imposed an onerous obligation on Shell.

Shell’s current strategy will not suffice. Global Climate Insights even forecasts that Shell’s Powering Progress strategy will lead to an increase in absolute emissions of 4.4 % by 2030:¹³

Our forecasts indicate that RDS will not be able to achieve the 45% reduction in net emissions required by the Hague District Court Dutch court by FY30, and will instead increase net emissions by 4.4%. We note our forecasts are sensitive to the assumptions for the intensity of gas hydrogen production and RDS’ renewable electricity production split. However, assuming half the intensity of gas hydrogen and double the proportion of renewable power delivered, RDS net emissions would reduce 1% from FY16.

This is the opposite of what the Court has ordered Shell to do and what is unequivocally necessary to stay within the remaining carbon budget to limit global warming to 1.5 °C.

⁹ See Annual Report 2021, Our Context, p. 12 for Shell’s description of the core of its strategy: “*We seek to work with our customers to profitably serve their changing needs, and to help decarbonise the energy system and reach net-zero emissions. Our approach is to start with the customer or sector and ask: what do they want and need – today, and in the future?*”

¹⁰ Shell Q3 2021 Results: “*Today, we also set a new 2030 target to halve the absolute emissions from our operations, compared to 2016 levels on a net basis. Altogether, this is clear evidence of how we are accelerating our Powering Progress strategy, purposefully and profitably.*”

¹¹ [FAQ](#) about the Shell case, available at Shell.com.

¹² District Court The Hague 26 May 2021, [ECLI:NL:RBDHA:2021:5339](#), par. 4.5.39

¹³ Global Climate Insights, Initiation of coverage, Part 1: Royal Dutch Shell GHG emissions, October 2021, p. 17. After publication of this report, Shell announced it would reduce absolute emissions in Scope 1 and 2 by 50% by 2030. This has not been included in GCI’s analysis. However, since about 95% of Shell’s total emissions are Scope 3 emissions, Milieudefensie believes these new targets will not significantly impact Shell’s total absolute emission reductions.

It is also noteworthy that GCI scrutinizes the feasibility of Shell's own intensity targets. In this respect, GCI forecasts that Shell will not deliver on its own strategy beyond 2023. GCI particularly questions the credibility of CO₂-compensation, Shell's reliance on Carbon Capture & Storage and the planned growth of the renewables business.¹⁴

In summary, Shell's policy is not in line with the judgment. The way in which Shell has responded to the judgment has conveyed the message that Shell would step up and take decisive action to comply with the order from the Court. However, it has only announced a new target that relates to about 5% of total emissions. It is also unclear whether this new target is conditional on society's progress, which would still make it inconsistent with the judgment.¹⁵ In the next chapter, Milieudéfense will explain that Shell also fails to inform stakeholders about the implications of its Powering Progress strategy.

3. Shell's lack of transparency towards stakeholders

In addition to inaccurate statements about the alleged alignment of Shell's strategy with the judgment, Shell also fails to communicate transparently about the implications of Powering Progress.

It is clear that Shell has no target to reduce its absolute emissions in Scope 3 by 2030. Instead, it has a target to reduce the Net Carbon Footprint – the carbon intensity – of its products by 20 % in 2030 and by 45 % in 2035. However, Shell leaves stakeholders in the dark regarding the consequences of Powering Progress for absolute emissions on the way to 2030.

With carefully chosen words and visuals, Powering Progress conveys a message that Shell is significantly reducing its emissions. But it is not. Milieudéfense will give a few examples of this.

Shell claims that its strategy aligns with the goal to limit the global average temperature increase to 1.5 °C. In this context, Shell focuses on the end-point of net-zero by 2050. It should be clear from Milieudéfense's letter that Paris-alignment is not just about reaching that end-goal, but more importantly it is about reducing total absolute emissions by at least 45% by 2030. As explained in our letter, the political and scientific world is in consensus that this 2030-milestone is absolutely crucial to achieve if to preserve a chance of meeting the Paris goals. Shell accompanies its net-zero pledge with the statement that it believes that total absolute emissions peaked in 2018 and will be brought down to net-zero by 2050. This may sound promising, but it does not say anything about 2030 or the pathway to net-zero in general and the cumulative emissions that will be caused by Shell on that pathway.¹⁶

¹⁴ GCI Initiation of coverage, Part 1: Royal Dutch Shell GHG emissions, p. 10: "RDS is targeting a double-digit share of "clean" (gas with CCUS and renewable) hydrogen by FY30. Its gas-based production of hydrogen will be reliant on large amounts of CCUS. By FY35, production is projected to reach 9 Mt, yielding 56 Mt of CO₂. Assuming 85-95% CCUS capture efficiency is achieved by FY35, RDS would need to sequester 48-54 Mt of CO₂. This is double the 25 Mt p.a. provided in RDS' ambitions." See also p. 31 about the reliance on nature-based solutions: "RDS' FY30 target equates to 240,000 square kilometres of land, approximately the size of the UK." And p. 25: "RDS lacks a strong presence and expertise in the renewable energy sector. RDS has a renewable capacity of 8,623 million MJ p.a operational today (see appendix), ~0.4% of its total power sales. RDS' current and future renewable investments amount to a capacity of 62,387 million MJ per year. This accounts for ~4% of RDS' 2030 renewables target, and the remaining 96% must come from additional investment in renewable projects, acquisitions, and purchased renewable power from third-party producers over the coming decade."

¹⁵ Shell refers to this target as a strategic milestone on the path to become a net-zero emissions business, in step with society, see Annual Report 2021, p.18. Although Shell's CEO claims in his introduction of the Energy Transition Progress Report 2021 that the target for 2050 is no longer conditional, the report also states on page 36 "In the future, as society moves towards net-zero emissions, we expect Shell's operating plans to reflect this movement", suggesting it is still a conditional target. In addition, the statement only mentions 2050, so it is unclear what the status is of the interim targets.

¹⁶ Image from Q4 Results 2021, Slide 21.

UN PARIS AGREEMENT

Strategy aligns with goal to limit the increase in the global average temperature to 1.5 degrees Celsius above pre-industrial levels

NET ZERO BY 2050

Net-zero emissions energy business by 2050 including all emissions (Scopes 1, 2 and 3) in step with society

FROM 1.7 GTPA TO ZERO

We believe Shell's total carbon emissions from energy sold peaked in 2018 at around 1.7 Gtpa and will be brought down to 0 by 2050

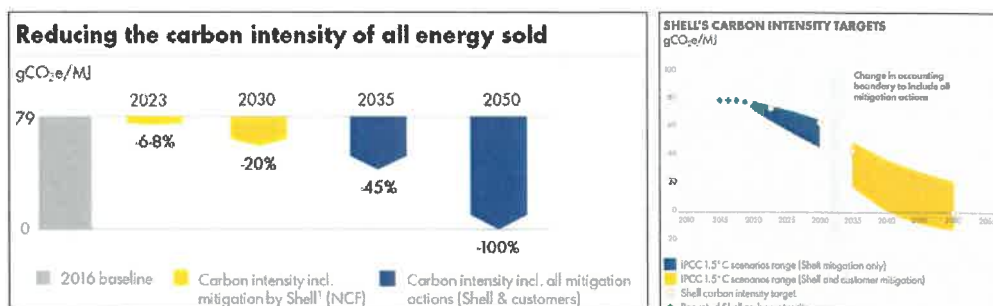
Overall, Shell never gives a clear answer on where its total absolute emissions will be in 2030. The focus is always on reducing carbon intensity. However, Shell never clearly explains the difference between carbon intensity targets and absolute emission reduction targets to its stakeholders.

There is a crucial difference between carbon intensity targets and the obligation to reduce absolute emissions. Carbon intensity expresses the average carbon footprint of all products in Shell's fossil fuel-dominated product portfolio. If Shell manages to increase its energy efficiency in production, the average carbon intensity per product will be reduced. However, Shell's absolute emissions can still increase if it sells more products, which is what Shell is planning to do. If Shell adds more renewable energy to its product portfolio, the average carbon intensity of its portfolio will also decrease, without selling less fossil fuels. Reducing carbon intensity therefore has no connection to the reduction of absolute emissions.

This is one of the main reasons why the Court has ordered Shell to reduce its emissions in absolute terms with at least 45% by 2030. One has to wonder whether the fact that Shell is not informing its stakeholders properly on this most important issue is consistent with its disclosure and/or transparency obligations.

In an FAQ about the judgment, Shell recognizes there is a difference between both measures, but does not say what that means, as if the difference would not be relevant.¹⁷

Shell uses graphs to visualize the reduction in carbon intensity up to 100% in 2050 and relates that reduction to IPCC 1.5 °C scenarios based on a methodology created by Shell.¹⁸ However, this does not mean that absolute emissions will be reduced with these percentages before 2050. Shell does not make any statement to what extent these intensity targets result in absolute emission reduction before 2050.

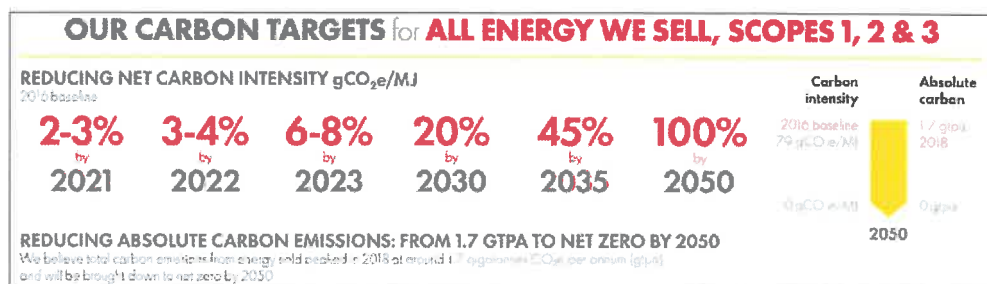


Other crucial visuals in the Powering Progress strategy also combine the ambition of absolute emission reductions to net-zero in 2050 with the intermediate targets to reduce the carbon intensity of Shell's

¹⁷ Shell FAQ's about the Dutch District Court judgment: "The court referred to Shell's worldwide emissions, not only emissions within the Netherlands, and it referred to emissions reduction in absolute terms, not carbon intensity"

¹⁸ See Powering Progress energy transition strategy, p. 9: "In the absence of a broadly accepted standard, we developed our own approach to demonstrate Paris alignment by setting carbon intensity targets using a pathway derived from the IPCC scenarios aligned with the Paris goal."

products on the way to net-zero as if would all be the same thing. Stakeholders are unlikely to understand from this image that Shell has no target to reduce absolute emissions on the way to net-zero for about 95% of its total emissions.



To Milieudéfense’s knowledge, it was only in March 2022 that Shell explicitly stated that it had no target to reduce absolute emissions in Scope 3, on p. 91 of Shell’s 2021 Annual Report. However, such a statement does not outweigh all other communications in which Shell suggests alignment with the order from the Court.

Milieudéfense will give two more examples of Shell’s overall lack of transparency in its communication. In response to the question “What will Shell do now to comply with the ruling,” Shell repeats that it plans to get to net-zero in step with society, that it will step up by reducing absolute Scope 1 and 2 emissions but avoids a clear answer on what it will do with Scope 3 emissions:

“Our intent is to step up and accelerate our transition to net-zero, not only to reduce our own emissions but to effect change in the wider energy system. We want governments to go further and faster as this will allow us to step up and scale-up our low carbon businesses.”¹⁹

At the shareholder meeting of December 2021, Shell’s chairman was asked explicitly whether absolute emissions would be down by 45% in 2030 and failed to provide a clear answer. Shareholder group Follow This concluded: “I take this answer as a “no” or an “I don’t know”. In response, Sir MacKenzie defends Shell’s use of carbon intensity targets and disputes the conclusion of Follow This:

Sir Andrew MacKenzie (chairman Shell): “I know we are talking about absolute versus relative emissions. But I don’t think you can take it as a no. I think we are trying very hard to substantially reduce the carbon content of the products that we offer whilst continuing to serve the markets and do provide all the services that Shell have provided for over a 100 years. To the extent we are able to do that, we will have shown the world what is possible in moving towards decarbonisation. We may measure it differently. We may feel more strongly about the carbon intensity of our products than you do. But I don’t think you can take it as a no.”

That answer again incorrectly suggests that there is no material difference between carbon intensity targets and absolute emission reductions. More importantly, the response is also incorrect as Sir MacKenzie suggests that absolute emissions will be down by 45%, putting investors and other stakeholders on the wrong track.

It is clear that Shell will continue to rely on carbon intensity targets, which allows the company to sell as many fossil fuel products as possible with a slightly lower average carbon content between now and

¹⁹ Shell’s FAQ on Dutch District Court legal case dated October 2021, Question 8, page 5.

2030. Shell's goal is to bet on fossil fuels for the remaining part of this decade, which may even lead to an increase in its total absolute emissions. This is the opposite of Paris-alignment.

On 30 March 2022, investor collective Climate Action 100+ comprising of 700 investors, responsible for over \$68 trillion in assets under management, published its Net Zero Company Benchmark assessments in which it analyzes climate policies of the largest climate polluters in the world. The assessment found that Shell's short-, medium- and long-term targets are not aligned with the goal of limiting global warming to 1.5°C. With respect to the question whether the company has a decarbonisation strategy that explains how it intends to meet its long and medium-term GHG reduction targets, Shell does not meet three out of four benchmark criteria. In addition, Climate Action 100+ finds that Shell does not meet any of the criteria of the benchmark that assesses whether the company is working to decarbonise its capital expenditures or discloses the methodology used to determine the Paris alignment of its future capital expenditures.²⁰

4. Shell is misleading with its marketing strategy

Shell's efforts aim to convince stakeholders – whether shareholders, consumers or governments – that the company is taking the necessary action to contribute to the universal goal of the Paris Agreement. In this Annex, Milieudefensie focused primarily on public statements by directors and statements and visuals in Shell's publications. However, Shell's efforts to influence public opinion go way beyond that.

With Powering Progress, Shell has launched a variety of widely broadcasted media campaigns that aims to convince all stakeholders of Shell's accelerated green ambitions. Commercials on TV, radio, internet, and newspaper advertising accompanied by advertisements at Shell's 46.000 Shell-branded retail stations which service 32 million customers per day²¹ all push the idea that Shell is driving the energy transition.

In the first 2,5 months of 2022 alone, the Dutch Advertising Code Committee (the "RCC") has already issued four separate decisions in which it concluded that Shell cannot back up its claims and is therefore greenwashing Shell's action and role in the energy transition.

Notably, the RCC found that Shell cannot claim to be "*changing, in one of the largest drivers of the energy transition*".²²

The RCC established that Shell maintains its investments in the fossil fuel business, which are scaled down very slowly. These circumstances, the RCC finds "*cannot justify the fact that Shell refers to itself as "one of the biggest drivers of the energy transition", giving the impression that it is an initiator and accelerator of the transition.*"

²⁰ <https://www.climateaction100.org/company/royal-dutch-shell/>, based on disclosures until 31 December 2021.

²¹ Shell Q4 Results Slides, 3 February 2022 p. 6.

²² RCC 14 February 2022, case number 2021/00576/A.

In response to other complaints, the RCC also ruled that Shell wrongly labeled its hydrogen as ‘green’²³ and concluded the claim “*we are making millions of kilometers cleaner*” was misleading.²⁴ In addition, Shell may not claim that it “*makes electric driving easier [...] with 47.000 charging points.*”²⁵

Last year, the RCC also ruled that Shell cannot use the advertising claim “*Drive CO2-neutral*” in the Netherlands.²⁶ Shell has continued the campaign in other countries, such as the United Kingdom.²⁷

5. Conclusion

This Annex shows that Powering Progress is not in line with the judgment from the Court and – in light of that – also not aligned with the goals of the Paris Agreement. Shell paints the picture of being a global force for change and a leader in the energy transition. In reality, the company is a well-oiled marketing machine whose ongoing push for fossil fuels continues to damage our planet. If this doesn’t change, it will have disastrous consequences.

²³ RCC 10 February 2022, case number 2021/00596: “*In this case, it concerns hydrogen that is a by-product of the chlorine-alkali electrolysis process. This process uses energy that is ‘green’ according to a certificate. This is not what the average consumer will expect from the designation “green hydrogen”*”

²⁴ RCC 10 February 2022, case number 2021/00561. The RCC found that Shell fails to provide any context to consumers of the extent of Shell’s contribution: “*Without context, the term “millions of kilometers” suggests a significant contribution, while this contribution is (currently still) small in relation to the total number of kilometers driven,*” according to the RCC.

²⁵ RCC 8 March 2022, case number 2021/00575. According to the RCC, this claim is misleading because it paints too much of a rosy picture of (the magnitude of) Shell’s change and its contribution to making electric driving easier.

²⁶ RCC 26 August 2021, case number 2021/00190. In short, the claim is too absolute, while Shell cannot guarantee the promised result of carbon neutrality.

²⁷ <https://www.shell.co.uk/business-customers/shell-fuel-card/fuelcardco2.html>