



## **FREQUENTLY ASKED QUESTIONS (FAQ) ON DUTCH DISTRICT COURT LEGAL CASE**

Shell has filed its appeal to the District Court of The Hague’s ruling from May 2021, ordering Shell plc (“Shell”) to reduce its worldwide aggregate carbon emissions by net 45% by 2030 compared to 2019 levels. The initial lawsuit was filed against Shell by Milieudefensie (Friends of the Earth Netherlands), six other NGOs and a group of private individuals.

Here we address frequently asked questions on this case, providing an update to the FAQ document first published in June 2021.

Updated 22 March 2022

### **Contents**

Q1: What was the case about in the first instance? .....	2
Q2: What was the District Court’s ruling and is it immediately enforceable? .....	2
Q3: What is the legal basis of the ruling?.....	2
Q4: What reason did the court give for specifying a net 45% reduction by 2030 as compared to the 2019 level? .....	2
Q5: Has the court introduced any financial penalties to enforce compliance with its ruling, especially with regard to it being immediately enforceable?.....	3
Q6: Why is Shell appealing the District Court’s ruling? .....	3
Q7: Can you summarize the arguments in your appeal?.....	3
Q8: When did Shell announce it would appeal? .....	4
Q9: How long will the appeal take?.....	4
Q10: Why do you believe litigation against companies does little to help tackle climate change? .....	4
Q11: What will Shell do now to comply with the ruling? .....	4



## **PART 1: The Milieudefensie case and the court ruling**

### **Q1: What was the case about in the first instance?**

In their claims, Milieudefensie, six other NGOs and 17,000 individuals sought:

1. A declaration that the current combined annual volume of carbon dioxide (CO<sub>2</sub>) emissions of Shell is unlawful and must be reduced.
2. A declaration and injunctive order (an order that requires a party to do or stop doing a specific action) that Shell reduce the net CO<sub>2</sub> emissions of the Shell group, including the energy products sold, by 2030 as compared to 2019 by 45%, 35% or 25%. "Net CO<sub>2</sub> emissions" means the emissions from our operations and from the fuels and other energy products we sell to our customers, lowered by the emissions that are captured and stored or balanced with offsets, such as planting trees and protecting nature.

### **Q2: What was the District Court's ruling and is it immediately enforceable?**

The court found that Shell is not currently acting unlawfully, however it ruled that Shell must reduce the aggregate CO<sub>2</sub> emissions of Shell group operations and energy-carrying products sold by 45% (net) by the end of 2030 compared to its emissions in 2019. The court ruled that the decision is immediately enforceable against Shell and should not be suspended pending an appeal.

According to the ruling, the reduction applies to both Shell's own emissions (Scope 1) where the court has imposed an obligation to achieve the specific result of a 45% reduction; and the emissions of Shell's energy suppliers (Scope 2) and customers (Scope 3) for which the court imposed a so-called "significant best-efforts obligation". 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.

The court specifically stated that Shell has the "total freedom to comply with its reduction obligation as it sees fit". The court allows for compensation of CO<sub>2</sub> emissions, for example through carbon capture and storage or nature-based solutions, such as planting trees and protecting nature.

### **Q3: What is the legal basis of the ruling?**

The court based its findings on an 'unwritten standard of care' under Dutch law. In addition, the court regarded climate change as a human rights issue and stated it is universally accepted that all companies must respect human rights and must assess any actual or potential negative impacts on human rights from their own activities or as a result of their business relationships. The court said that the consequences of climate change in the Netherlands and the Wadden region (islands and a body of water near the North Sea) pose a threat to the human rights of Dutch residents and the inhabitants of the Wadden region.

### **Q4: What reason did the court give for specifying a net 45% reduction by 2030 as compared to the 2019 level?**

The court decided that to limit global warming to 1.5 °C, the world should choose reduction pathways



that reduce CO<sub>2</sub> emissions by net 45% by 2030 relative to 2010 levels. The court specifically referred to the IPCC, UNEP, Paris Agreement, IEA and other international bodies, agreements and policies. The court chose 2019 rather than 2010 levels as the basis for this decision because Milieudefensie had specifically requested the 2019 date.

**Q5: Has the court introduced any financial penalties to enforce compliance with its ruling, especially with regard to it being immediately enforceable?**

The court found that Shell is not currently acting unlawfully and there is no ruling on potential liability in relation to future actions. The court did not order any potential sanctions against the company in relation to compliance with the judgment.

**PART 2: Shell's appeal**

**Q6: Why is Shell appealing the District Court's ruling?**

We see the court's ruling as an acceleration of our strategy and we want to rise to the challenge. We have an absolute climate target to halve emissions from our operations by 2030, compared to 2016 levels (on a net basis). This positions us well towards meeting the District Court's obligations, building on Shell's short- and medium-term energy intensity climate targets.

But even with an ambitious strategy and targets in place, there are aspects of the court's judgment that are just not feasible – or even reasonable – to expect Shell, or any single company, to achieve. The court's ruling, effectively holds Shell accountable for a wider global issue, reducing consumer demand for carbon-based fuels.

Shell continually works to help our customers reduce their emissions through the products we sell. But, despite being a major global energy producer, Shell alone cannot directly influence the energy choices made by its customers. It is for governments to determine the right trade-offs for society and put in place the policies that bring about fundamental changes in the way society consumes energy.

We believe we have good legal grounds to appeal, but we are also clear that regardless of the outcome, Shell aims to be a leader in the energy transition.

**Q7: Can you summarize the arguments in your appeal?**

The court based its ruling on an 'unwritten standard of care' under Dutch law. To be an unwritten standard of care, it would need to be so obvious, widely known and understood that everyone – not just countries and companies, but every person – knows and accepts that they must lower their carbon emissions by 45% by 2030. It's not clear how can Shell be ordered to reduce carbon emissions we do not control from customers who are not under a similar legal obligation to reduce their emissions.

Shell alone cannot directly influence the energy choices made by its customers; it is for governments to determine the right trade-offs for society and put in place the policies that bring about fundamental changes in the way society consumes energy. Nor can we go faster to decarbonise than the sectors in which we operate, although we will give it our best to push the pace. The obligation the court has set is much more stringent than the world's most progressive energy pathways and scenarios, such as the



EU's proposed 'Fit for 55' package and the International Energy Agency's Net Zero Emissions scenario.

Recent challenges in energy supply and spikes in energy prices further underscore the important role governments need to play in balancing the need to address climate change with ensuring a secure, reliable and affordable supply of energy.

**Q8: When did Shell announce it would appeal?**

Shell confirmed it would appeal the District Court ruling on July 20, 2021, and started appeal proceedings on August 23, 2021. Shell filed its Statement of Appeal with the Dutch Court of Appeal in The Hague on March 22, 2022. Any appeal in the Netherlands is completely "de novo", which means all issues and evidence can be reheard.

**Q9: How long will the appeal take?**

We expect the appeal process to take between 2-3 years.

**Q10: Why do you believe litigation against companies does little to help tackle climate change?**

The energy transition is a challenge for the entire world. To help transform to a lower-carbon energy system over the next three decades, current generations are being asked to change the way energy is generated and used on a scale and with a speed that humankind has never seen before.

We agree that for the world to make the transition to cleaner energy, we must move quickly, but we must also move together. Focusing on one company, as the District Court has done, results in others meeting the needs of that company's customers, not in a reduction in demand or emissions levels. This is a political balancing act, and effective, government-led, policies are needed to determine the right trade-offs and change the way society consumes energy, while addressing critical needs such as energy security and access, which vary by country. These challenges cannot be solved by litigation between private parties and judgments against individual companies.

**Q11: What will Shell do now to comply with the ruling?**

Appealing the court's judgment does not change Shell's goal to become a net-zero emissions energy company by 2050, in step with society. We see the court's order for us to reduce Shell's own emissions (Scope 1 and 2) as an acceleration of our Powering Progress strategy and aim to rise to the challenge.

Specifically, by 2030 we have set a target to reduce our Scope 1 and 2 emissions under our operational control by 50% on a net basis compared to our 2016 emissions. Our 2022 operating plan reflects this new target, which we intend to achieve, regardless of whether we win or lose our appeal against the ruling.

Our intent is to step up and accelerate Shell's transformation to a net zero business by not only reducing our own emissions but to help effect change in the wider energy system. This includes helping customers reduce their emissions when they use our products, known as Scope 3 emissions. Our approach includes, for example, investing in renewable energy so more homes and businesses can run



on low-carbon electricity, as recent announcements in the Netherlands, USA, the UK and Australia demonstrate; building a more extensive network of charging points for customers with electric vehicles; and investing in low carbon fuels for sectors that are harder to abate such as aviation and heavy-duty transport. This includes working with airlines such as KLM to make air travel more sustainable, and creating the infrastructure needed to bring clean hydrogen to fruition. The hydrogen electrolyser we recently started up in China supplied about half of the hydrogen for fuel cell vehicles at the Zhangjiakou competition zone during the recent Winter Games.



**Key reference materials**

**Press release July 20, 2021:** <https://shell.com/media/news-and-media-releases/2021/20-july-press-release.html>

**Shell Energy Transition:** <https://www.shell.com/energy-and-innovation/the-energy-future/shell-energy-transition-strategy.html>

**How is Shell accelerating to net zero?:** <https://www.youtube.com/watch?v=vcHx71LEKso>

**Shell Energy Transition – Frequent Asked Questions:** <https://www.shell.com/investors/investor-presentations/2021-investor-presentations/shell-energy-transition-strategy-2021.html>

**Shell Emissions Explainer:** [www.shell.com/emissionsexplainer](http://www.shell.com/emissionsexplainer)

Shell plc

March 22, 2022

[www.shell.com/investors](http://www.shell.com/investors)



## Cautionary Note

The companies in which Shell plc directly and indirectly owns investments are separate legal entities. In this FAQ “Shell”, “Shell Group” and “Group” are sometimes used for convenience where references are made to Shell plc and its subsidiaries in general. Likewise, the words “we”, “us” and “our” are also used to refer to Shell plc and its subsidiaries in general or to those who work for them. These terms are also used where no useful purpose is served by identifying the particular entity or entities.

“Subsidiaries”, “Shell subsidiaries” and “Shell companies” as used in this FAQ refer to entities over which Shell plc either directly or indirectly has control. Entities and unincorporated arrangements over which Shell has joint control are generally referred to as “joint ventures” and “joint operations”, respectively. Entities over which Shell has significant influence but neither control nor joint control are referred to as “associates”. The term “Shell interest” is used for convenience to indicate the direct and/or indirect ownership interest held by Shell in an entity or unincorporated joint arrangement, after exclusion of all third-party interest.

This FAQ contains forward-looking statements (within the meaning of the U.S. Private Securities Litigation Reform Act of 1995) concerning the financial condition, results of operations and businesses of Shell. All statements other than statements of historical fact are, or may be deemed to be, forward-looking statements. Forward-looking statements are statements of future expectations that are based on management’s current expectations and assumptions and involve known and unknown risks and uncertainties that could cause actual results, performance or events to differ materially from those expressed or implied in these statements. Forward-looking statements include, among other things, statements concerning the potential exposure of Shell to market risks and statements expressing management’s expectations, beliefs, estimates, forecasts, projections and assumptions. These forward-looking statements are identified by their use of terms and phrases such as “aim”, “ambition”, “anticipate”, “believe”, “could”, “estimate”, “expect”, “goals”, “intend”, “may”, “milestones”, “objectives”, “outlook”, “plan”, “probably”, “project”, “risks”, “schedule”, “seek”, “should”, “target”, “will” and similar terms and phrases. There are a number of factors that could affect the future operations of Shell and could cause those results to differ materially from those expressed in the forward-looking statements included in this FAQ, including (without limitation): (a) price fluctuations in crude oil and natural gas; (b) changes in demand for Shell’s products; (c) currency fluctuations; (d) drilling and production results; (e) reserves estimates; (f) loss of market share and industry competition; (g) environmental and physical risks; (h) risks associated with the identification of suitable potential acquisition properties and targets, and successful negotiation and completion of such transactions; (i) the risk of doing business in developing countries and countries subject to international sanctions; (j) legislative, judicial, fiscal and regulatory developments including regulatory measures addressing climate change; (k) economic and financial market conditions in various countries and regions; (l) political risks, including the risks of expropriation and renegotiation of the terms of contracts with governmental entities, delays or advancements in the approval of projects and delays in the reimbursement for shared costs; (m) risks associated with the impact of pandemics, such as the COVID-19 (coronavirus) outbreak; and (n) changes in trading conditions. No assurance is provided that future dividend payments will match or exceed previous dividend payments. All forward-looking statements



contained in this [report] are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. Readers should not place undue reliance on forward-looking statements. Additional risk factors that may affect future results are contained in Shell plc's Form 20-F for the year ended December 31, 2021 (available at [www.shell.com/investor](http://www.shell.com/investor) and [www.sec.gov](http://www.sec.gov)). These risk factors also expressly qualify all forward-looking statements contained in this FAQ and should be considered by the reader. Each forward-looking statement speaks only as of the date of this FAQ, March 22, 2022. Neither Shell plc nor any of its subsidiaries undertake any obligation to publicly update or revise any forward-looking statement as a result of new information, future events or other information. In light of these risks, results could differ materially from those stated, implied or inferred from the forward-looking statements contained in this FAQ.

The content of websites referred to in this FAQ does not form part of this FAQ.

We may have used certain terms, such as resources, in this FAQ that the United States Securities and Exchange Commission (SEC) strictly prohibits us from including in our filings with the SEC. Investors are urged to consider closely the disclosure in our Form 20-F, File No 1-32575, available on the SEC website [www.sec.gov](http://www.sec.gov).

Shell's operating plan, outlook and budgets are forecasted for a ten-year period and are updated every year. They reflect the current economic environment and what we can reasonably expect to see over the next ten years. Accordingly, Shell's operating plans, outlooks, budgets and pricing assumptions do not reflect our net-zero emissions target. In the future, as society moves towards net-zero emissions, we expect Shell's operating plans, outlooks, budgets and pricing assumptions to reflect this movement.