

STILL PLAYING THE SHELL GAME FOUR WAYS SHELL IMPEDES THE JUST TRANSITION

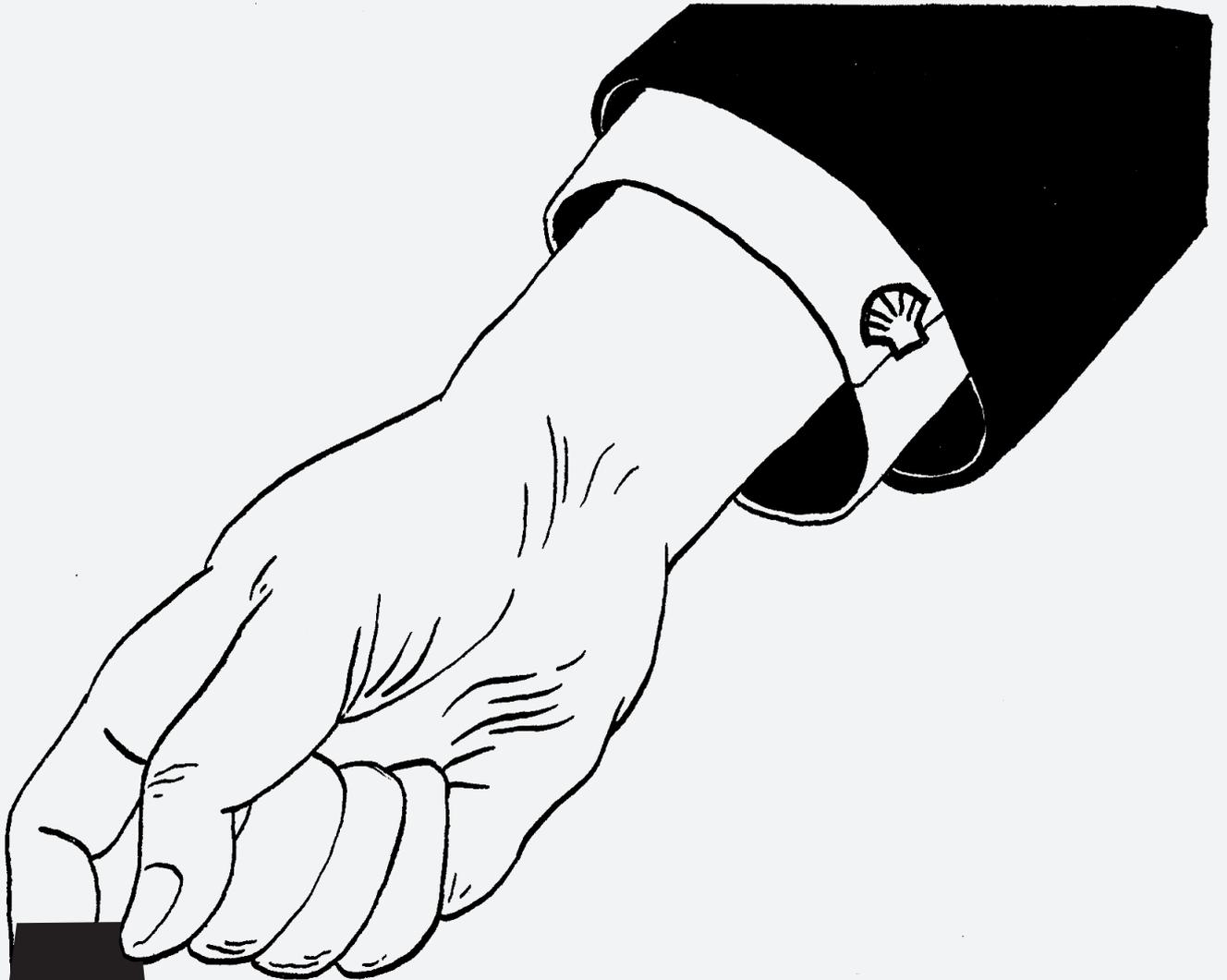
Rhodante Ahlers & Ilona Hartlief

Contributing authors:

Selçuk Balamir
Marten van den Berge
Tomas Hidde Hoekstra
Sara Murawski
Ilham Rawoot
Marie-Sol Reindl
Daniel Ribeiro
Femke Slegers
Jasper van Teeffelen
Bart-Jaap Verbeek
Stephanie Welvaart

STILL PLAYING THE SHELL GAME

March 2021



 .ORG

Authors

Rhodante Ahlers & Ilona Hartlief

Contributing authors

Selçuk Balamir (Code Rood)

Marten van den Berge (Decolonisation Network former Dutch East Indies)

Camiel Donice (SOMO)

Tomas Hidde Hoekstra (SOMO intern)

Sara Murawski (HandelAnders! Coalitie)

Ilham Rawoot (JA! Justiça Ambiental – Friends of the Earth Mozambique)

Marie-Sol Reindl (Code Rood)

Daniel Ribeiro (JA! Justiça Ambiental – Friends of the Earth Mozambique)

Femke Slegers (Fossilvrije Reclame)

Jasper van Teeffelen (SOMO)

Bart-Jaap Verbeek (SOMO)

Stephanie Welvaart (Decolonisation Network former Dutch East Indies)

And our friends who needed to stay anonymous.

With input from

Laurie van der Burg (Oil Change International)

Rodrigo Fernandez (SOMO)

Chihiro Geuzebroek (Stichting Aralez)

Tobias Klinge (Uleuven)

Illustrations

Gus Moystad (www.gusmoystad.com)

Design

Kees de Klein (www.keesdeklein.com)



Sarphatistraat 30
1018 GL Amsterdam
T: +31 (0)20 639 12 91
F: +31 (0)20 639 13 21
info@somo.nl
www.somo.nl

SOMO investigates multinationals. Independent, factual, critical and with a clear goal: a fair and sustainable world, in which public interests outweigh corporate interests. We conduct action-oriented research to expose the impact and unprecedented power of multinationals. Cooperating with hundreds of organisations around the world, we ensure that our information arrives where it has the most impact: from communities and courtrooms to civil society organisations, media and politicians. This publication has been made possible with funding from the Ministry of Foreign Affairs. The content of the publication is the full responsibility of SOMO and does not necessarily reflect the position of this funder.

The information in this report has been submitted to Royal Dutch Shell for review. Shell replied that they would refrain from responding to the findings of this report. Not all members of the research group work on all themes on which this report focuses. The different chapters therefore do not necessarily reflect the opinion of all members of the research group.

EXECUTIVE SUMMARY



EXECUTIVE SUMMARY

Can a company that puts profit before people possibly have the moral compass to navigate a just and fair energy transition?

Although the oil and gas industry has known about global warming, it has actively supported its denial and, through its exploitation of fossil fuels, has played a vital role in creating the current fossil dependent economy. As the consequences of climate change are felt globally, it is high time for the oil industry to be held responsible. Royal Dutch Shell (Shell) is one of the world's largest oil and gas majors and ranks 7th on the list of biggest carbon dioxide emitters since 1965 (the year that industry leaders and politicians learned of the environmental impacts of fossil fuels). Shell recently produced its 'Powering Progress' strategy to - as the company declares on its website - 'accelerate the transition of their business'. It is the first time that Shell has publicly recognised the climate crisis as a major challenge to its current business model. But though it might appear to demonstrate a change in course, the recent resignations of a number of Shell top executives responsible for energy transition suggests there might be fundamental incompatibilities between Shell's bottom-line and their energy transition imperatives.

Four ways in which Shell impedes a just energy transition

The oil and gas industry is first and foremost driven by the need to maximise profit. In doing so, it thrives on inequality and the violent exploitation of humans and ecosystems, undermines democratic decision-making institutions, and misleads the way in the energy transition. These four obstacles impede a just energy transition. A just transition is not about a narrow focus on CO2 emissions, but enables equal access to and democratic control over energy sources that guarantee ecological integrity. Such a transition addresses past injustices, prevents future injustices, and compensates those most affected.

Because Shell is a quintessential example of the oil and gas industry, it serves as a useful case to expose and explain these obstacles and why they impede a just energy transition: how the obstacles are created and how they can be removed to allow the much-needed social, political, and economic transformation.

Obstacle 1: Shell remains locked in profit maximisation

The downward trend of the oil and gas industry was accelerated by Covid-19, but it is not the cause of it. In the first two decades of the 21st century, Shell could have chosen to spend the US\$237bn that went to shareholders and share buybacks, on making its fixed capital stock more climate proof. Instead of giving society its rightful dues by paying taxes, Shell has burdened the world with global warming. The company has accrued far more debt than its competitors and, despite much rhetoric about 'leadership' and sustainable business practices, it relies on potential stranded assets and cuts 9000 jobs.

Prioritising the remuneration of top management has resulted in a CEO-to-worker compensation ratio in the Netherlands of 277:1, and in Nigeria of 4050:1. Significantly less priority has been given to investment in research and development that will secure future returns, or retraining employees about a more climate-friendly future. Every euro spent on exorbitant payouts to executives and shareholders, or shifted to tax havens, was a euro not spent on providing a decent wage, or retraining workers for climate resilient jobs, or cleaning up oil spills, or compensating frontline communities, or on achieving the target of zero emissions over the next 50 years.



Obstacle 2: Shell thrives on inequality and violence

Shell's century of global resource extraction and labour exploitation, causing global warming and environmental destruction, has been facilitated by violent colonialism. The close relationship(s) between the Dutch colonial rulers and Shell have enabled the company to grow and the coloniser to expand its territorial power. Some of the practices developed by Shell during colonial times, continue today through investment treaties and CO2 compensation schemes. These practices not only show Shell's inability to break with the past, but their continued use gives little credibility to the company's ability to address injustices today.

Shell's history raises questions of moral responsibility and the need for reparation. The company has, after all, grown on the back of oil reserves extracted from colonised territories, and had no qualms about providing fuel for, and engaging in, violent events. The damage done to Black and Indigenous people and their territories demands such recognition and reparation.



Obstacle 3: Shell undermines democratic decision-making

Shell uses its privileged access to, and influence on, policymakers to secure and promote its own interests, including those relating to climate policy. Obstacle 1 demonstrates that Shell's main focus is to please its shareholders, a priority which often runs counter to public interest on issues such as just transition and taking action against global warming. Part of the company's history, and way of working, also includes employees moving between careers in Shell and the Dutch government; this continues today. These 'revolving doors' relationships give Shell direct access to the highest decision-making bodies in the Netherlands and allows the company to engage with high-status and influential politicians, compromising independent and democratic decision-making within governing bodies.

Shell has also used bilateral and free trade agreements to shape policy in its favour. These agreements include far-reaching protection for companies and investors against any government measures that could impede their projected profits. The threat of arbitration when governments intend to take regulatory measures against climate change, inhibit legislators from taking action. This allows companies to potentially shift the risk and burden of their stranded assets onto the shoulders of taxpayers. Leaked emails have shown that Shell's strategies include structural links to state security services, and close relations with legislators do not benefit local communities and deprived upstream economies from badly needed revenue.



Obstacle 4: Shell misleads the way

Shell uses scenarios, marketing campaigns, and misleading advertising to present an image of itself as a company indispensable in providing energy and able to guide society through the energy transition. With the help of controversial marketing companies such as Edelman, Shell attempts to overwrite its role in global warming and social and environmental injustices. The company partners and collaborates with publicly recognisable and reliable partners to legitimise its public standing. Shell's education programmes that influence children, and may be the first encounter that children have with climate change and renewable energy, urgently need to be replaced with ones that have historically and scientifically correct content.

Shell uses advertising and marketing to dampen the sense of urgency about climate change, to maintain approval from the general public, and keep opinion-makers, politicians and government officials on its side so as to remain at the decision-making table with the government: influencing both the pace of the energy transition (not too fast), and



the direction (a continued need for fossil fuels). Shell has been able to redirect responsibility to change away from its own hazardous practices and shifted it onto consumers. The marketing makes climate change, and energy transition, a demand issue, rather than a supply driven one. It promises solutions from innovative technology that will enable storage of CO₂, so supply can continue unhindered. Shell sells seductive lies and tactfully manipulates the public away from remembering the past, and asking critical questions about its dirty practices today.



Shell presents itself as a global leader bringing prosperity, progress, and innovation. However, taking a closer look at the company's business model, history and current practices, it is clear that this prosperity is only for the few, any progress is limited, and 'innovation' involves primarily gas and carbon capture, both of which keep the world locked into a fossil future. In short, Shell continues its 'Shell game.' Lift the shells though, and the company is revealed to have been very successful in misleading the way. The obstacles identified show a history of business practices that seriously question the legitimacy of Shell's place at the decision-making table, the sustainability of its business model, and its integrity and intentions in contributing to a just transition.



The obstacles discussed for Shell are indicative for how the oil and gas industry impede a just energy transition. The intention of this report is to expose these obstacles and remove the illusion that the oil and gas industry can lead or will lead us into a meaningful transition for all. These obstacles also

provide the elements of focus to identify trajectories of collective strategising on how to seek reparation and redistribution, through imagining and creating alternative social ecological relations, built on solidarity and cooperation, diversity and sustenance.



The downfall of the oil industry happened before the Covid-19 crisis took hold, primarily due to its own focus on profit by all means and satisfying shareholders. But Covid-19 did remove all the window dressing and brought the oil and gas industry to its knees. It highlighted how an uncontrolled unravelling of the oil and gas sector disastrously impacts workers and frontline communities. But the crisis has also made it possible for visions of structural systemic change to emerge and gain traction in wider society. These includes taking the opportunity to listen carefully to the resilient voices that have led the struggle against Shell in the past, to rethink what is relevant and important for people and the planet, and to try and fundamentally transform the way we organise our societies.

INTRO DUCTION



INTRODUCTION

In February 2021, Shell presented its pathways to the future and ‘Powering Progress’ strategy to, as Shell declared on its website, ‘accelerate the transition of their business’.¹ This is the latest publication in Shell’s almost 50-year-old history of mapping future scenarios. At face value, these scenarios show Shell’s continued efforts to reinvent itself as a progressive player capable of swiftly adapting to changing socio-economic conditions and willing to serve wider society. This, though, is the first scenario in which Shell has recognised the climate crisis as a major challenge to its current business model. But though it might appear to demonstrate a change in course, the recent resignations of four Shell executives responsible for energy transition suggests there might be fundamental incompatibilities between Shell’s bottom-line and their energy transition imperatives.

During Shell’s annual shareholder meeting in 2019, activists from Code Rood, Gastivists and Climate Liberation Bloc (CLuB) announced their Shell Must Fall! (SMF) campaign and their plans to make the 2019 AGM “the very last one to be held”. The grassroots collectives called for ‘dismantling’ Shell to enable a rapid and just transition. Their rationale for taking such drastic measures was expressed as follows: “As long as you remain a company dedicated to maximising profit and short-term shareholder value, we know you will not keep fossil fuels in the ground. We know you won’t decommission your own infrastructure, nor provide a fair transition for workers, nor compensate damaged communities, nor repair the countless ecosystems your operations have devoured.” This action prompted several questions: how does the fossil industry, but also multinationals in general, influence a just transition? And to what extent do they enable or form an obstacle to a just transition?

Why Shell?

In the past year, three major issues have exposed the continuing inequalities within the global system of production and consumption: the Covid-19 pandemic, global support for the Black Lives Matter movements, and the unfolding climate crisis (with weather extremes exposing broader tensions). As one of the largest oil and gas companies, ranked seventh in the top 20 companies of carbon dioxide emitters since 1965 (the moment that the environmental impact of fossil fuels was known by industry leaders and politicians). Shell has not only influenced and profited from this system, but is substantially responsible for global warming.² Shell’s current net zero target is misleading because it does not include all the emissions produced throughout the production and distribution processes, and depends on solutions such as carbon storage that have not been proven effective or safe.³ The company has not set an end date for oil and gas extraction, and has not announced plans to support its workers to transition to other sectors. On the contrary, it recently announced it was cutting 9000 jobs!⁴

Throughout its history, Shell has repeatedly been the focal point of social and environmental protest. With headquarters in The Hague, the oil major has been active around the world for over a hundred years. Not only is it known as a fossil fuel and petrochemical group, but Shell’s complicity in a number of historic processes - including colonialism in Indonesia, apartheid in South Africa, the Chaco war in Latin America, the killing of the Ogoni nine – as well as its record on human rights abuses and environmental destruction, are well-documented.

A ‘just transition’ is not only about tackling Shell, it is about fundamentally questioning the system on which the company thrives. Shell is iconic for the oil and gas sector, and its business model is typical of a modern global firm that takes good care of its executives and shareholders. This business model is certainly not unique to Shell, but

1 Shell (2021). Powering Progress. Retrieved from <https://www.shell.com/powering-progress> on February 17, 2021.

2 Taylor, M. & Watts, J. (2019, 9 October). Revealed: the 20 firms behind a third of all carbon emissions. *The Guardian*. Retrieved from <https://www.theguardian.com/environment/2019/oct/09/revealed-20-firms-third-carbon-emissions> on November 30, 2020.

3 King, E. (2016, 1 November). 12 reports to read before the COP22 UN climate summit. Retrieved from <https://www.climatechangenews.com/2020/12/11/10-myths-net-zero-targets-carbon-offsetting-busted/> on December 23, 2020.

4 Raval, A. (2020, 21 December). Shell to take further \$4.5bn write-down after bruising year. *Financial Times*. Retrieved from <https://www.ft.com/content/23b4691f-d970-4161-be08-77b6c27cf0b9?desktop=true&segmentId=d8d3e364-5197-20eb-17cf-2437841d178a#myft.notification:instant-email:content> on December 21, 2020.



5 Please visit the Future Beyond Shell website for the full articles: <https://www.futurebeyondshell.org/>

6 Sealey-Huggins, L. (2017). ‘1.5°C to stay alive’: climate change, imperialism and justice for the Caribbean, *Third World Quarterly*, 38:11, 2444-2463. Retrieved from: 10.1080/01436597.2017.1368013

it is a model that Shell executes extremely well. Shell is both a symbol and a champion of the system that has enriched it, and so understanding the workings of Shell, therefore, provides insight into the workings of global multinationals in general. Tackling Shell will help inform how obstacles to a just transition can be approached and dismantled, to move towards the much-needed social, political, and economic transformation.

Royal Dutch Shell PLC (RDS) is the holding company of the international Shell group. Where it is not necessary to identify specific companies, RDS and its subsidiaries are collectively referred to as Shell.

Shell and the energy transition

Increasing our understanding of how Shell's business model produces obstacles to a just transition, informs strategies to remove these obstacles, opening up the way towards a much-needed social, political, and economic transformation. Does a company – in which profit and shareholder satisfaction come at the cost of depriving populations around the world from resources and revenues they need to improve their health and secure their livelihoods – have the moral compass necessary to influence a “just” transition, even if it were to switch tomorrow to windmills and solar collectors? Is a just transition simply a question of switching from one source of energy to another, or is deeper structural change required? And is such deeper structural change possible when decision-making is skewed towards corporate interests?

A research group, consisting of Decolonisation Network Former Dutch East Indies (DENVNI), HandelAnders!, JA! Justiça Ambiental/Friends of the Earth Mozambique, Reclame Fossilvrij, TNI and SOMO, looked at Shell from different perspectives to expose, explain, and deconstruct a number of issues including: the company's focus on profit-maximisation, how Shell thrives on inequality, how it undermines democratic decision-making, and how it misleads the public about future prospects. This report is a synthesis of the contributions written by the research group. The objective of the research project is to contribute to the debate on what a meaningful way forward would mean. SOMO took the lead in writing the synthesis, which was reviewed by the research group and the full articles can be found on the Future Beyond Shell website.⁵

A just transition/recovery

This report investigates the obstacles preventing a just transition. ‘Energy transition’ and a ‘just transition’ are politically defined concepts, and have different meanings for different interest groups. For SOMO, a just transition is about the transformation of the system of production and consumption, including underlying unequal social relationships. And instead of a narrow focus on CO₂ emissions and 1.5° scenario that serves only a privileged part of the global population⁶, important principles of the energy transition are equal access, democratic control, and ecological integrity.⁷ In addition, SOMO advocates a transition that addresses past injustices, prevents future injustices, and compensates those most affected.

This definition calls into question any vision of development based on infinite growth.⁸ Climate change, the scarcity of raw materials, soil depletion and water pollution through overproduction, and the additional social consequences for communities, are indicators of the limits to growth. Addressing the limits to growth requires a shift of so-

7

Hartlief, I. Ahlers, R. & Bakker, M. (2020). The far-reaching tentacles of the Port of Rotterdam. SOMO. p. 2. Retrieved from <https://www.somo.nl/the-far-reaching-tentacles-of-the-port-of-rotterdam/> on February 15, 2021.

8

See also: Hickel, J. & Kallis, G. (2019, 17 April). Is Green Growth Possible? New Political Economy. Retrieved from: <https://doi.org/10.1080/13563467.2019.1598964> on February 15, 2021.

9

See also: Degrowth. A history of degrowth. Retrieved from <https://www.degrowth.info/en/a-history-of-degrowth/> on February 15, 2021. Escobar, A. (2015, July). Degrowth, postdevelopment, and transitions: a preliminary conversation. *Sustainability Science*, 10, 451-462. Retrieved from <https://link.springer.com/article/10.1007%2Fs11625-015-0297-5> on February 15, 2021. Daly, H. (2014). *From uneconomic growth to a steady state economy*. Northampton, United Kingdom: Edward Elgar.

10

Oxford Dictionary.

11

Collins COBUILD Idioms Dictionary, 3rd ed. (2012). Retrieved from <https://idioms.thefreedictionary.com/shell+game> on February 18, 2021.

cio-economic priorities towards creating a prosperity that is accessible to all in a healthy environment. The goal is a society in which development is not imposed but democratically determined, and where value is not extracted but redistributed.⁹

- **A just transition cannot ignore either the damage done, or those who have profited from the damage;**
- **A just transition needs to recognise the rights and possibilities for decent work;**
- **A just transition de-centralises growth model demands for energy, and recognises pluriverse pathways to social and environmental justice.**

Such a transition is not without struggle. Those who shape and benefit from the current system will do anything to defend it. The oil and gas industry, for example, has known about global warming for several decades yet has supported climate change denial. And the importance of fuel and energy in the organisation of our everyday lives makes this industry economically, and politically, extremely powerful. This report focuses on the oil and gas industry because it has shaped the current world order, its relations of re/production, and has impacted climate change. The oil and gas industry, with its exploitation of fossil fuels, has played a vital role in driving our current system, and will, therefore, protect this predatory capitalist system by all means necessary, to defend its interests and ensure the accumulation of capital.

In this report we identify how Shell produces four obstacles to a just transition:

- **Shell's business model and focus on profit maximisation, prioritising shareholders and share value above everything else;**
- **Shell's inability to break with the past, along with continued colonial practices in the present;**
- **Shell's privileged access to, and influence on, decision-making processes which secure and promote its own interests, including those related to climate policy;**
- **Shell's presentation of scenarios, marketing campaigns, and misleading advertising that promote a mythical future which bears little resemblance to the present, and is a painful negation of the past.**

Together, these obstacles constitute what has become known as a “shell game”. Defined as a “deceptive and evasive action or ploy, especially a political one”¹⁰ or a “method of deception that involves hiding or obscuring the truth”.¹¹ This definition is a suitable (if not self-fulfilling) depiction of Shell’s role in the just transition. As long as the company claims to have a legitimate place at the table, it will delay and weaken meaningful action to advantage itself. We hope that these findings will inform and inspire political strategies and collective imaginaries towards building a future beyond corporate business-as-usual, a Future Beyond Shell as we know it.

OBSTACLE 1: SHELL REMAINS LOCKED IN PROFIT MAXIMISATION



OBSTACLE 1: SHELL REMAINS LOCKED IN PROFIT MAXIMISATION



“How to justify that Shell shareholders have raked in tens of billions of euros in profit every year for decades, while this has thrown the world into an ecological and humanitarian crisis?”

Lawyer, Roger Cox, in the climate case against Shell, December 2020

Key takeaways

- Shell has prioritised dividend payout and share buybacks, spending US\$237bn over the past 20 years;
- Shell continues investing in oil and expanding into gas;
- Shell has borrowed money, leaving it currently heavily in debt, and with assets compromised because they are mostly fossil fuel related;
- Despite spending US\$237bn in dividend pay-outs and share buybacks since 2000, Shell's share value has remained stable, but not increased;
- The combination of high dividend payouts and share buyback, with unprecedented levels of debt, has resulted in a financially fragile enterprise; profits are not reinvested in climate sensitive capital, or research and development, to secure future returns; or in retraining employees about a more climate friendly future;
- Shell engages in profit-shifting and makes extensive use of tax havens to avoid paying its public dues, resulting in an enormous loss of public income;
- Shell's business model benefits the top managers of the company, who are rewarded partly on Shell's performance in generating shareholder returns, cash flow from operating activities, and operational excellence. The CEO-to-worker compensation ratio in the Netherlands is 277:1 and, in Nigeria, 4050:1;
- Every euro that goes into exorbitant payouts to executives and shareholders, or is shifted to tax havens, is one not spent on decent wages, retraining workers for climate resilient jobs, cleaning up oil spills, or compensating frontline communities.

1.1 Introduction

Shell's business is fossil fuel and, since the 1960s, the company has known that its upstream and downstream activities, as well as the necessary transport between the two, have contributed considerably to global warming. As a globally operating fossil fuel corporation, it has fed on the increasing worldwide hunger for energy, the inequity between the Global North and the Global South, and taken advantage of cheap labour, and fragile states, in its accumulation of profit.

This chapter will look at Shell's accumulation of profit and, more specifically, the company's financial strategies over the last 20 years. In recent years, Shell has increasingly presented itself as a forerunner in energy transition, but is that reflected in the company's financial priorities? Is accumulated profit reinvested in renewable energy technology, or in training its employees towards a fossil free future, or in reshaping its operations to decrease emissions and prevent further global warming?

Shell's financial priorities over the past 20 years tell us to what extent it is building a business model that is both financially healthy, and prepared for an energy transition sensitive to climate change. An important element of this is whether Shell pays its dues to society in terms of taxes and compensation for damages, and whether it contributes to a healthy economy with fair wages.

1 For an overview of the methods used to examine corporate financialization see: Fernandez, R. & Klinge, T.J. (2020). Private gains we can ill afford. The financialisation of Big Pharma. Retrieved from <https://www.somo.nl/private-gains-we-can-ill-afford/> on January 25, 2021. Another example where this framework is applied is: Fernandez, R., Adriaans, I., Klinge, T.J. & Hendrikse, R. (2020). Engineering digital monopolies. The financialisation of Big Tech. Retrieved from <https://www.somo.nl/the-financialisation-of-big-tech/> on January 25, 2021.

2 Shell (2020). De geboorte van een wereldspeler [in Dutch]. Cited in: Van den Berge, M. & Welvaart, S. (2021). The birth of a corporate colonial player. Retrieved from <https://www.futurebeyondshell.org/birth-of-a-corporate-colonial-player/> on February 14, 2021.

3 Shell (2020). Company History. Retrieved from <https://www.shell.com/about-us/our-heritage/our-company-history.html> on November 26, 2020.

4 Medium (2020). Did you know that Shell began life as an antiques dealer? Retrieved from <https://tabitha-whiting.medium.com/did-you-know-that-shell-began-life-as-an-antiques-dealer-647b56e712d> on November 26, 2020.

Image 1: History of the Shell brand⁵



Methodology

To analyse Shell's business model and priorities, we examine its financial strategies, tax practices, and salary/bonus structure. It builds on a long history of research by academics, journalists, and civil society organisations (CSOs) on Shell's practices and impacts. This chapter is based on data from a diverse set of sources, such as academic literature, media outlets, NGO research, industry intelligence, and publicly available documentation such as financial reports and company websites, supplemented with data from Refinitiv Eikon and Orbis databases.

The framework and methods developed by Fernandez and Klinge¹ proved very useful to analyse Shell's financial strategies. A data set was compiled for the period 2000 to 2019, and updated, as far as possible, for 2020. Data sets were extracted using Refinitiv's Eikon Database, complemented by data from Shell's annual reports, such as its country-by-country reports for 2018 and 2019, as well as its annual financial reports. An overview of all company deals (mergers, acquisitions, investments or sellings) of Royal Dutch Shell PLC between 2011 and 2020, was extracted from the Refinitiv's Eikon database. The overview was complemented with information from tear sheets of the specific deals, and from secondary sources (such as Shell's annual reports and the company's website). Only the deals with a known rank value were included in the analysis. Tax payments were analysed using Shell's tax contribution reports over 2018 and 2019, complemented with information from the company's annual reports.

1.2 Shell and its financial strategies

Shell's roots go back more than 130 years, when Aeilko Jans Zijlker founded De Koninklijke (The Royal) in 1890 to commercialise the exploitation of oil in North Sumatra.² In 1907, when Shell Transport and Trading Company Ltd of the United Kingdom - a business that originally sold seashells from overseas to collectors, later switching to kerosene - and the Royal Dutch Petroleum Company merged, Royal Dutch Shell (RDS), as we know it today, was born.³ The company has a global presence and explores, extracts, produces, refines, transports, distributes, markets, generates, and trades fossil fuels around the world.⁴

1.2.1 Shell's value

At the beginning of 2020, the market capitalisation (the total market value of the company's outstanding shares) of oil-producing companies dropped dramatically compared to companies in other sectors, forcing these companies to finally admit the existence of a crisis they had themselves created. While the assurance, advisory and tax services network Pricewaterhouse Coopers explained that the oil and gas sector was hit hardest by the widespread impact and uncertainties caused by Covid-19,⁵ such an explanation glosses over the plummeting price of Brent crude with US\$40/barrel a result of the oil production wars between Saudi Arabia and Russia and the subsequent unlimited dumping of oil in the market (against OPEC agreements).⁶ As a result, the price of the US benchmark West Texas Intermediate (WTI) hit negative figures in April.⁷ Shell's market capitalisation (see

5 Shell (2020). History of the Shell brand. Retrieved from <https://www.shell.co.uk/about-us/history-of-the-shell-brand.html> on November 26, 2020.

6 PWC (2020). Global Top 100 companies by market capitalisation. Retrieved from <https://www.pwc.com/gx/en/audit-services/publications/assets/global-top-100-companies-2020.pdf> on November 30, 2020. The same table shows that of the global top ten fallers 4 are oil and gas (Exxon, Shell, Chevron, and BP).

7 Financial Times (2020, 22 April). Oil-producing nations grapple with latest price fall. Retrieved from <https://www.ft.com/content/8e1fd8dc-e45d-4cee-b671-bae767f93e3b> on December 23, 2020. Fattouh, B. (2020, July). Covid-19, the energy transition and oil companies' adaptation strategies. Retrieved from <https://www.oxfordenergy.org/wp-content/uploads/2020/07/OEF123.pdf> on January 19, 2021.

8 Financial Times (2020, 24 April). Oil prices on a slippery slope. Retrieved from <https://www.ft.com/content/eb-8804fe-96e1-4eb0-a9c8-ef4626f8e8f5> on December 23, 2020.

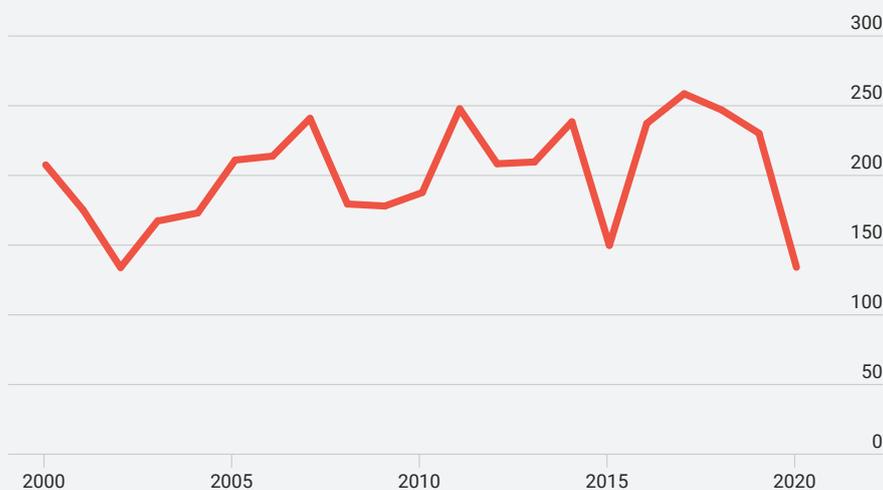
9 This information was retrieved from Refinitiv Datastream. Royal Dutch Shell PLC, Company Deals. Retrieved on February 8, 2021.

10 See also: Krippner, G.R. (2005). The financialization of the American economy. Retrieved from <https://www.depfe.unam.mx/actividades/10/financiarizacion/i-7-KrippnerGreta.pdf> on January 24, 2021. Fernandez, R & Klinge, T.J. (2020). Private gains we can ill afford: The financialization of Big Pharma. SOMO. Retrieved from <https://www.somo.nl/wp-content/uploads/2020/04/Rapport-The-financialisation-of-Big-Pharma-def.pdf> on January 24, 2021.

11 Magdoff and Sweezy (1969). In: Suwandi and Bellamy Foster (2016). Multinational Corporations and the Globalization of Monopoly Capital. Monthly Review. 68(3). Retrieved from <https://monthlyreview.org/2016/07/01/multinational-corporations-and-the-globalization-of-monopoly-capital-from-the-1960s-to-the-present/#en11> on February 14, 2021.

Figure 1) shows a similar trend. At the end of December 2019, the market capitalisation was still US\$238bn, but hit its lowest point at the beginning of March 2020 (US\$98 bn) and was US\$134bn by the end of 2020. A downward trend had already started before Covid-19 became a global pandemic.

Figure 1: Market capitalisation of Shell 2000-2020⁹



This research argues that the origins of the downward trend can be better understood by looking at the financialised business model pursued for almost half a century by companies like Shell (known as financialisation) (see box). We will look at Shell's financial strategies to see what the company prioritises in its decision-making, and what this means for its resilience.

What is financialisation?

Since the 1970s, in parallel with the rise of neoliberalism and the globalisation of the economy, a process of financialisation developed in all sectors of the economy. Whereas, previously, profits were extracted from trade and production, financialisation shifts this strategic focus to extract profit from financial channels.

Financialisation can be seen working at both a macro and a micro level. At the macro level, it is demonstrated by a shift from an economic model led by wages, to an economic model led by debt. At the micro level, there is an increase in corporate profits and financial assets on the balance sheet of non-financial companies (NFCs).

Shell is an example of such a non-financial company.¹⁰ As early as 1969, Magdoff and Sweezy concluded that the multinational "is the key instrument of finance capital in the second half of the twentieth century".¹¹

12 Gilblom, K. (2019). Shell promises significant increase in returns to investors. Bloomberg. Retrieved from <https://www.bloomberg.com/news/articles/2019-06-04/shell-sees-higher-dividends-as-share-buyback-program-progresses> on February 9, 2021. Reuters (2019). Shell eyes dividend and spending boost after 2020. CNBC. Retrieved from <https://www.cnbc.com/2019/06/04/shell-eyes-dividend-boost-after-2020.html> on February 9, 2021. McFarlane, S. (2020). Shell ties to woo investors with dividend raise, promise of future payouts. The Wall Street Journal. Retrieved from <https://www.wsj.com/articles/shell-tries-to-woo-investors-with-dividend-raise-promise-of-future-payouts-11603964968> on February 9, 2021.

13 Financial Times (2020). Shell cuts dividend for first time since second world war. Retrieved from <https://www.ft.com/content/9e9419b9-63d7-4671-9dd5-527b57434777?shareType=nongift> on December 3, 2020.

14 Aramonte, S. (2020, September). Mind the buybacks, beware of the leverage. Bank for International Settlements. Retrieved from https://www.bis.org/pub/qtrpdf/r_qt2009d.pdf on January 24, 2021.

15 Light, L. (2019, 20 August). More than half of all stock buybacks are now financed by debt: Here's why that that's a problem. Retrieved from <https://fortune.com/2019/08/20/stock-buybacks-debt-financed/> on January 24, 2021.

16 Fernandez, R & Klinge, T.J. (2020). Private gains we can ill afford: The financialization of Big Pharma. SOMO. Retrieved from <https://www.somo.nl/wp-content/uploads/2020/04/Rapport-The-financialisation-of-Big-Pharma-def.pdf> on January 24, 2021.

17 Caldecott, B. (2017). Introduction to special issue: stranded assets and the environment. Journal of Sustainable Finance & Investment. Retrieved from <https://doi.org/10.1080/20430795.2016.1266748> on July 23, 2020.

1.2.2 Shell's Strategy

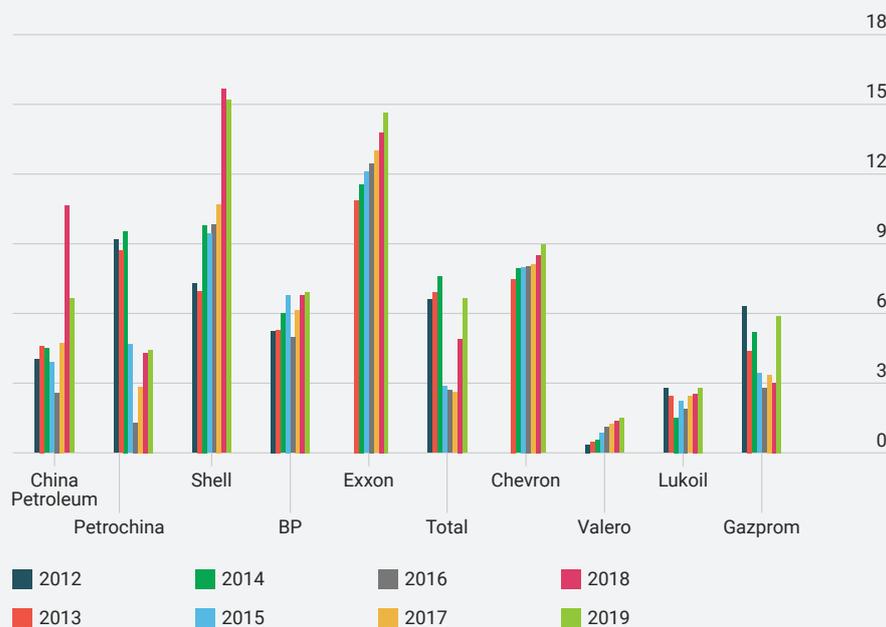
Dividend payout and share buyback

Every year, a company decides how much dividends it will pay to its shareholders and if it will repurchase shares (known as 'share buybacks'). Shell is known for paying out stable returns, which makes it attractive to investors.¹² Every now and then, it also repurchases shares, which increases the price per share, again benefiting investors in the short-term.

Over the past 20 years, Shell has consistently increased its dividend payouts, with 2018 and 2019 being the highest dividend payout years in its history (US\$15.7bn and US\$15.2bn, respectively). But in 2020, for only the first time since the Second World War, Shell slashed its total dividend payout to just over US\$5bn. In 2019, shareholders had received 47 cents per share, but this plummeted to 16 cents per share in 2020.¹³

Between 2000 and 2019, Shell increased its total dividends from US\$5bn to US\$15bn. Although, Exxon paid consistently more dividends during that time, Shell came in a close second (see Figure 2). In 2018 and 2019, Shell paid out over US\$2bn more than any of the other top ten oil and gas companies, but carried a debt of over US\$80bn. Between 2000 and 2019, Shell paid out a staggering total of US\$184bn to its shareholders (see Figure 3).

Figure 2: Dividend payout (\$US bn)



Another strategy primarily aimed at satisfying shareholders is share buybacks. A study by the Bank for International Settlements shows that companies buy back shares to change the debt-to-equity ratio by both increasing debt and decreasing equity, which ultimately increases the price per share.¹⁴ This increase in share value, however, is achieved by repurchasing shares formerly active in the market, with the decreased number of shares in the market subsequently increasing the dividends paid out per share. The share value or dividend, therefore, says little about the activities of the company, particularly as share buybacks often use borrowed money.¹⁵ Shell's highest repurchases of shares (see Figure 4) were in 2006 (US\$8bn), 2013 (US\$5.3bn) and 2019 (US\$10.2bn).

18

Mercure, J. F., et al (2018). Macro-economic impact of stranded fossil fuel assets. *Nature Climate Change*. 8(7), 588-593. Retrieved from <https://www.nature.com/articles/s41558-018-0182-1> on February 14, 2021.

19

Riedl, D. (2020). Why market actors fuel the carbon bubble. The agency, governance, and incentive problems that distort corporate climate risk management. *Journal of Sustainable Finance & Investment*. Retrieved from <https://doi.org/10.1080/20430795.2020.1769986> on February 14, 2021.

20

Shell (2021). More and cleaner energy. Retrieved from <https://www.shell.com/energy-and-innovation/the-energy-future/more-and-cleaner-energy.html> on January 24, 2021.

21

See for example: Oil Change International (2019, 30 May). Burning the gas 'bridge fuel' myth: why gas is not clean, cheap, or necessary. Retrieved from <http://priceofoil.org/2019/05/30/gas-is-not-a-bridge-fuel/> on December 24, 2020. European Watch Group (2019). Natural gas makes no contribution to climate protection. Retrieved from https://www.europeangashub.com/wp-content/uploads/2019/10/EWG_Natural_Gas_Study_September_2019-1.pdf on February 19, 2021.

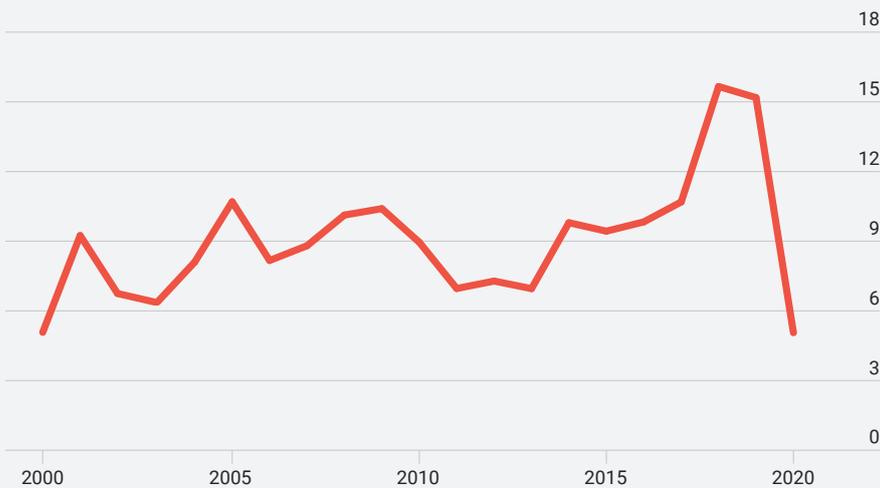
22

Vecchiato, R. (2019) Scenario Planning, cognition, and strategic investment decisions in a turbulent environment. Retrieved from <https://doi.org/10.1016/j.lrp.2019.01.00> on February 14, 2021.

23

Shell (2020). Sakhalin-2 – An overview. Retrieved from <https://www.shell.com/about-us/major-projects/sakhalin/sakhalin-an-overview.html> on December 24, 2020.

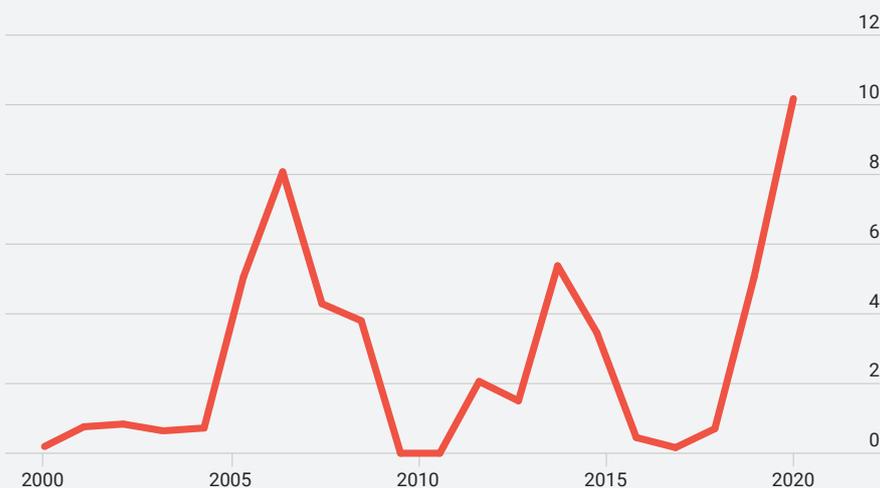
Figure 3: Total dividends paid out per year by Shell in \$US (bn)



Only in 2009, at the height of the financial crisis, did Shell not buy back shares. The company exceeds all its competitors in the oil and gas industry in share buybacks. Between 2000 and 2019, Shell repurchased shares with a total worth of US\$53bn. Share repurchases create income and wealth inequality as they only benefit relatively small income-groups.¹⁶

Financialisation, and its limited metrics, have become a ‘one-size fits all’ formula to both prioritise shareholders and assess a company’s financial health. This focus on shareholders, and earnings per share, is internalised by giving top management a variable income dependent on achieving these limited metrics (see Chapter 1.4.2.). Instead of investing in the company, and away from brown capital stock, Shell doled out US\$238bn, keeping it on a downward trajectory, which will ultimately negatively influence shareholder value, and makes the company ill-prepared for a post-fossil energy transition.

Figure 4: Share buybacks by Shell in \$US (bn)



24 See for example: Evans, R. & Macalister, T. (2006) Campaigners attack Shell’s charity arm over Sakhalin talks. The Guardian. Retrieved from <https://www.theguardian.com/business/2006/sep/28/freedomofinformation.oiland-petrol> on December 24, 2020. Bankwatch Network (2020). Boom time blues: Big oil’s gender impacts in Azerbaijan, Georgia, and Sakhalin. Retrieved from <https://bankwatch.org/publication/boom-time-blues-big-oils-gender-impacts-in-azerbaijan-georgia-and-sakhalin> on December 24, 2020. WWF (2005). Too little too late for Shell’s Sakhalin project. Retrieved from <https://wwf.panda.org/?54360%2FToo-little-too-late-for-Shells-Sakhalin-project>. on November 23, 2020.

25 Refinitiv Datastream. Royal Dutch Shell PLC, Company Deals. Retrieved on November 23, 2020.

26 Refinitiv Datastream. Royal Dutch Shell PLC, Company Deals. Retrieved on November 9, 2020.

27 Royal Dutch Shell PLC (2014). Shell boosts its leadership in global LNG with the completion of Repsol S.A. LNG Deal. Retrieved from <https://www.shell.com/media/news-and-media-releases/2014/shell-boosts-leadership-global-lng-completion-repsol-deal.html> on November 10, 2020.

28 Royal Dutch Shell PLC (2015). Recommended combination with BG Group. Retrieved from https://www.shell.com/investors/information-for-shareholders/bg-documents/recommended-cash-and-share-offer-for-bg-group-plc-by-royal-dutch-shell-plc/_jcr_content/par/textimage_1663662888.stream/1447807863941/d2988f262d22d7656e-75b79057a1466d63beb260/combination-with-bg-group-webcast-slides.pdf on February 22, 2021.

29 Ibid: p. 14.

30 Refinitiv Datastream. Royal Dutch Shell PLC, Company Deals. Retrieved on November 9, 2020.

31 Ibid.

Debt

Between 2000 and 2019, Shell paid out US\$184bn in dividends, and repurchased shares for US\$53bn, at the same time as increasing debt and financial reserves. Shell’s long-term debt, in particular, increased dramatically during this time (see Figure 5). Shell’s short-term debt also increased from US\$10bn in 2016 to \$15bn in 2019, but their long-term debt increased from US\$15bn in 2008 to US\$88bn in 2016, when Shell acquired the British oil and gas multinational company BG group. In 2019, this long-term debt reduced to US\$81bn. In comparison to the rest of the industry, Shell has accrued far more debt than its competitors, especially since 2016, when debt as a percentage of sales rose to 40 per cent (see Figure 6). In this context of an increase in debt load and an increase in debts relating to sales, the company nevertheless continues paying high dividends to its shareholders.

Figure 5: Long-term debt in \$US (bn)

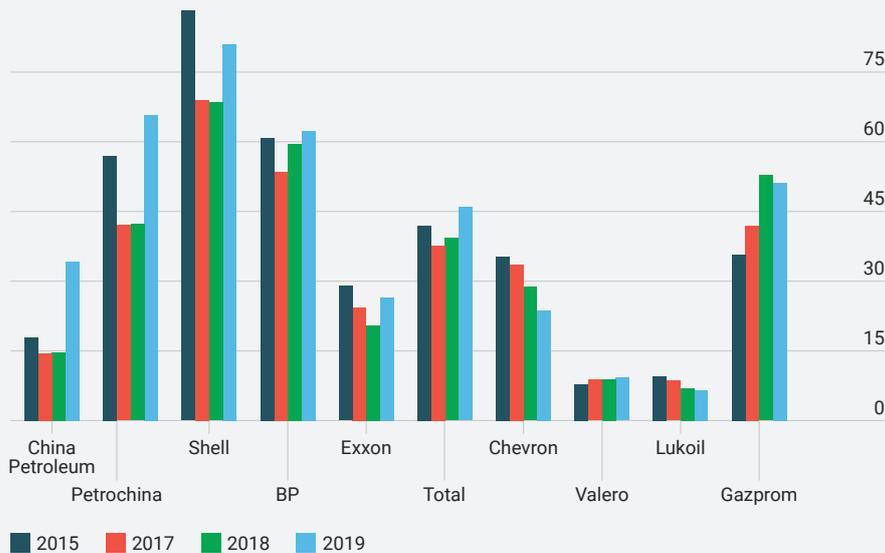
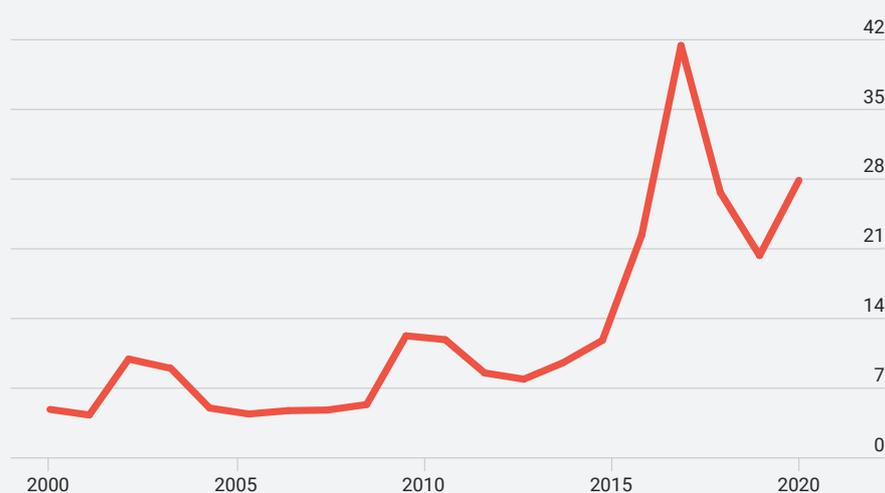


Figure 6: Total debt in proportion to net sales



32 Offshore Energy Website (2020). Kosmos Energy farms down asset portfolio to Shell for up to \$200M. Retrieved from <https://www.offshore-energy.biz/kosmos-energy-farms-down-asset-portfolio-to-shell/>

33 Refinitiv Datastream. Royal Dutch Shell PLC, Company Deals. Retrieved on November 9, 2020.

34 Van Drunen, S. et al. (2020). Big business, low profile. Shading light on oil trader Vitol’s operations in Nigeria. SOMO. Retrieved from <https://www.somo.nl/nl/big-business-low-profile/> on December 8, 2020.

35 Nwajiaku, K. Osuoka, I.A. and Zalik, A. (2020, June 18) The day after; Energy. Retrieved from <https://canadiandimension.com/articles/view/the-day-after-energy>, February 15, 2021. Gargliardi, L. 2013, June 28, (2013). Why oil and gas drilling is going deeper and further offshore. The Christian Science Monitor. Retrieved from <https://www.csmonitor.com/Environment/Energy-Voices/2013/0702/Why-oil-and-gas-drilling-is-going-deeper-and-further-offshore> on January 30, 2021.

36 Refinitiv Datastream. Royal Dutch Shell PLC, Company Deals. Retrieved on November 9, 2020.

37 Vaughan, A. (2017, 11 March). Shell’s sale of dirty tar sands assets cleans up debt and spruces image. The Guardian. Retrieved from <https://www.theguardian.com/business/2017/mar/11/shell-tar-sands-sale-spruces-image-cleans-debt> on December 23, 2020.

38 Refinitiv Datastream. Royal Dutch Shell PLC, Company Deals. Retrieved on November 9, 2020.

39 NS Energy (2020). Equinor, Shell acquire 49% stake in Bandurria Sur block in Argentina. Retrieved from <https://www.nsenenergybusiness.com/news/equinor-shell-bandurria-argentina/> on February 3, 2021.

Share value over time and market capitalisation

This chapter argues that dividend payouts and share value are a poor indication of a company's financial health, and whether its industry is prepared for likely future developments. Despite US\$237bn in dividend payouts and share buybacks since 2000, the company's share value has only gone down since then (see Figure 7). Financial resources that could, for example, have been invested in fixed capital, research and development, or renewable energy, or that simply could have been used to repay debts and invest in equity, have gone from the company and into the pockets of a relatively small group of people.

Figure 7: Share value of Shell over time



New frontiers but fixed on fossils: oil, gas, and tar sands

The 'elephant in the room' is the impact of stranded assets. In the light of environmental challenges, stranded assets are defined as 'environmentally unsustainable assets that suffer from unanticipated or premature write-offs, downward revaluations, or are converted to liabilities.'¹⁷ Financial losses from stranded assets in the fossil fuel industry are estimated to rise from US\$1tn to US\$4tn.¹⁸ As well as giving money to shareholders and using it in share buybacks, Shell continues to invest in fossil fuels and therefore contributes to, and should be held responsible for, an ever-growing risk of a global financial crisis, as fossil fuel investments worth trillions of dollars will lose their value.¹⁹

LNG

Shell began acquiring Liquefied Natural Gas (LNG) to buffer its oil stakes. Because it is the cleanest-burning hydrocarbon, LNG is often presented as a transition fuel, the fossil fuel of a lower-carbon future, but this is highly contested. Shell believes LNG will be vital to building a sustainable energy future, especially with regard to power generation, where it produces around half the CO₂ and just one-tenth the air pollutants, of coal.²⁰ However, the usage of LNG as a transition fuel is disputed. Critics argue that gas is ill chosen as part of a just energy transition, not only because of the methane leakage along the entire gas supply chain, but also because the CO₂ emissions from already existing fossil fuel reserves would take the world far beyond the carbon budget in the 1.5°C scenario.²¹

Shell decided in the early 1990s to increasingly shift its focus to gas. As early as 1992, Shell was working on the understanding that gas could replace oil as the primary energy source by 2025.²²

40

Shell (2021). New Energies: building a lower-carbon power business. Retrieved from <https://www.shell.com/energy-and-innovation/new-energies.html#iframe=L3dlYmFwcHMvMjAx-0V9uZXdfZW5lcmdpZXNfaW50ZX-JhY3RpdmVfbWFWLw> on January 24, 2021.

41

Fletcher, L., et al. Beyond the cycle. Which oil and gas companies are ready for the low-carbon transition? Retrieved from <https://www.cdp.net/en/articles/investor/european-oil-majors-spending-up-to-7-on-low-carbon-but-wider-industry-needs-to-step-up> on January 24, 2021.

Bouso, R. (2018, 12 November). Big oil spent 1 percent on green energy in 2018. Reuters. Retrieved from <https://www.reuters.com/article/us-oil-renewables-idUSKCN1NH004> on January 24, 2021.

42

Ambrose, J. & Jolly, J. (2020). Royal Dutch Shell may fail to reach green energy targets. The Guardian. Retrieved from <https://www.theguardian.com/business/2020/jan/03/royal-dutch-shell-may-fail-to-reach-green-energy-targets> on January 24, 2021.

43

Raval, A. & Hook, L. (2020). Shell executives quit amid discord over green push. Financial Times. Retrieved from <https://www.ft.com/content/053663f1-0320-4b83-be31-feb-c49b0efc> on January 24, 2021.

44

Shell only reports on corporate income tax in its Tax Contribution Report. The analysis in this report therefore only concerns Shell's profit shifting and use of tax havens regarding income tax. It does not say anything about Shell's payment or avoidance of withholding taxes, royalties, and other forms of taxes. Further research is required to expose how exactly Shell uses these tax havens and other jurisdictions to avoid taxes and shift profits.

45

Shell (2019). Tax Contribution Report 2018, p. 4. Retrieved from <https://reports.shell.com/tax-contribution-report/2018/> on January 14, 2021.

46

Shell includes both corporate income tax and withholding taxes when reporting on income tax, but the figures likely consist nearly entirely of corporate income tax.

This belief encouraged Shell to venture into Russia. In 1994, it established the Sakhalin Energy Investment Company, an integrated oil and gas project. Shell acquired 55 per cent, with Mitsui and Mitsubishi holding 20 per cent and 25 per cent, respectively. In 2005, Shell signed an agreement with Gazprom who became a major shareholder in 2006, leaving Shell with 27.5 per cent²³ but securing its stakes in Sakhalin and starting its gas exports in 2009. Since then, the project has expanded, and is highly controversial environmentally, politically, and socially.²⁴

One of Shell's most remarkable acquisitions – as well as its largest, financially – was BG Group. In 2015, Shell paid €64.4bn for BG, then the biggest ever acquisition by a Dutch company. Between 2012 and 2015, Shell acquired another two LNG assets worth €3.4bn. In 2012, it acquired the remaining 95.9 per cent interest in Gasnor AS²⁵ and, in 2013, it acquired the liquefied gas business of Repsol SA²⁶, consisting of LNG supply from Trinidad & Tobago, and Peru.²⁷ The infrastructure necessary for LNG distribution further locks us into a fossil future.

Deep-water oil

The acquisition of the BG Group did not only reflect Shell's ambition to be the major producer and supplier of LNG, but it also accelerated the company's deep-water development in Brazil.²⁸ Shell proudly states that, since its first deep-water project in 1978, it has gone deeper and deeper to reach less accessible oil reserves.²⁹ Recently, the Dordtsche Petroleum Maatschappij BV, a unit of Shell, acquired the entire share capital of Total E&P Deep Offshore Borneo BV with a total worth of €270m³⁰ and they acquired participating interest in blocks offshore São Tomé & Príncipe, Suriname, Namibia, and South Africa of Kosmos Energy Ltd for €167m.^{31 32}

Additionally, Shell has invested in two oil blocks acquired in Brazil (C-M-659 and C-M-713), together with an investor group in 2019.³³ At the same time, the company accelerated the sale of its assets in the Niger Delta to Nigerian companies. Shell sold OML 30 to the Shoreline Natural Resources Ltd for €671.271, OML 134 to ND Western Ltd for €317.400, and OML 24 to Newcross Expl & Prodn Ltd for €478.183. Although it may seem that the return on these investments is very low, these are mature onshore assets installed in the late 1950s and 1960s, with infrastructure nearing its decommissioning.³⁴ Critics argue that this enabled Shell to transfer the responsibility for, and remove itself from, the liability for decades of toxic pollution and conflicts with communities.³⁵

Tar sands

Besides deep-water exploration, Shell also engages in other forms of unconventional extraction. One of the company's biggest investments of the last ten years has been the acquisition of the entire share capital of Marathon Oil Canada Corp, in March 2017, including a 20 per cent stake in the Athabasca Oil Sands Project (AOSP).³⁶ Even though Shell has sold its 60 per cent interest in AOSP to Canadian Natural Resources Ltd, it is still operating an energy-guzzling plant that transforms extracted bitumen into crude oil.³⁷

SWEPI LP, a unit of Royal Dutch Shell's Shell Oil Co subsidiary, acquired the Permian Basin southern Delaware portion of Chesapeake Energy Corp (CE). This transaction reflects Shell's strategy of building liquid-rich shale resources.³⁸ At the beginning of 2020, Equinor ASA (50 per cent) and Shell Cia Argentina de Petroleos SA (50 per cent) acquired SPM Argentina SA (Schlumberger). The sale includes Schlumberger's Bandurria Sur block, a shale oil block in the Vaca Muerta basin.³⁹

Renewable energy

In 2016, Shell launched New Energies, its renewable energy branch, stating that it was investing up to US\$2bn a year in cleaner energy solutions.⁴⁰ A CDP study showed that between 2010 and the

7 Shell (2020). Tax Contribution Report 2019, p. 3. Retrieved <https://reports.shell.com/tax-contribution-report/2019/servicepages/downloads/files/shell-tax-contribution-report-2019.pdf> on January 14, 2021.

48 In order to determine what a tax haven is this report uses the Tax Justice Network's Corporate Tax Haven Index 2019. This index uses 20 indicators (such as tax rates, transparency and loopholes) to give jurisdictions a tax haven score. To ensure only the world's most egregious tax havens are included, only the jurisdictions with a Haven Score of 70 and above are used. The Netherlands is excluded from this list, because while it is one of the world's worst tax havens, it is also the location of Shell's headquarters. In the section on the Netherlands below we provide further information on how Shell uses the Netherlands as a tax haven. The list of tax havens used here consists of: United Arab Emirates, Switzerland, Singapore, Bermuda, Bahamas, Hong Kong, Ireland, Cayman Islands, Isle of Man, Mauritius, Luxembourg, and Cyprus. Source: Tax Justice Network (2019). Corporate Tax Haven Index 2019. Retrieved from <https://www.corporatetaxhavenindex.org/en/> on January 14, 2021.

49 This figure is based on the list of subsidiaries provided by Shell in its 2019 Annual Report. Source: Shell (2020). Annual Report and Accounts 2019. Retrieved from <https://reports.shell.com/annual-report/2019/> on January 14, 2021.

50 Shell (2020). Tax Contribution Report 2019, p. 83. Retrieved <https://reports.shell.com/tax-contribution-report/2019/servicepages/downloads/files/shell-tax-contribution-report-2019.pdf> on January 14, 2021.

51 Ibid.

52 Ibid.

third quarter of 2018, Shell spent just 1.3 per cent of its budget on clean energy.⁴¹ Data from Rystad Energy shows that, in 2018, Shell spent US\$23bn on all energy types, compared to US\$0.7bn on renewable energy.⁴² At the end of 2020, several of the top renewable energy executives left the company, because they believed that Shell's strategy towards cleaner energy was inadequate.⁴³ This shows Shell is not investing in renewable and green energies as it has promised. It raises the question to what extent it is even committing to an energy transition?

1.3. Tax avoidance

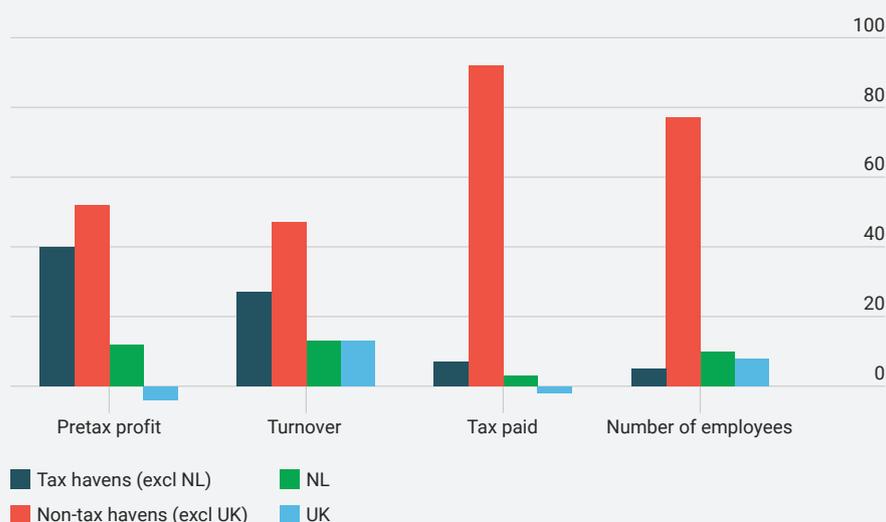
Recently, Shell has come under scrutiny in the Netherlands, and elsewhere, for tax-dodging. In 2019, Shell published, for the first time, its Tax Contribution Report, which gives an overview of how much tax the company pays, for a given year, in the countries where it operates (so-called country-by-country reporting).⁴⁴ In the report, Shell states: "the payment of taxes is a central link between Shell and the countries and communities where we operate. It is a vital part of our contribution to national economies and people's lives."⁴⁵ Shell reported that it paid US\$9.1bn in corporate income tax⁴⁶ across the world in 2019, and had an effective tax rate of 35.5 per cent.⁴⁷ However, analysis of its tax data indicates that Shell engages in profit shifting to some of the world's most egregious tax havens to avoid taxes. All the data used in the analysis below is from Shell's 2019 Tax Contribution Report.

Shell in tax havens

A closer look at Shell's presence in tax havens indicates that Shell engages in profit shifting and tax avoidance, strategically moving its earnings to tax havens.⁴⁸ Figure 8 shows where Shell registers its profits, and where it does and does not pay tax. The analysis shows that, in 2019, Shell recorded nearly half (40 per cent) of its total profits in tax havens (excluding the Netherlands), meaning that Shell registers two in every five euros of profit, in a tax haven. However, only five per cent of Shell's employees work in these tax havens, and only seven per cent of Shell's total tax bill falls in these tax haven jurisdictions. Shell's profits in these tax havens therefore go largely untaxed.

These figures also clearly show that Shell uses the Netherlands (ranked as the fourth worst corporate tax haven by the Tax Justice Network) as a tax haven: registering 12 per cent of its profits in the country, while paying next to no tax.

Figure 8: Shell in tax havens in 2019 (figures as % of total)



53
Guarascio, F. (2019, 10 October). EU removes UAE, Switzerland, Mauritius from tax haven list. Reuters. Retrieved from <https://www.reuters.com/article/us-eu-taxation-blacklist-idUSKBN1WP0SP> on February 17, 2021. Boffey, D. (2017). EU blacklist names 17 tax havens and puts Caymans and Jersey on notice. The Guardian. Retrieved from <https://www.theguardian.com/business/2017/dec/05/eu-blacklist-names-17-tax-havens-and-puts-caymans-and-jersey-on-notice> on January 14, 2021.

54
Rijksoverheid (2019, 30 December). Barbados en Turkmenistan toegevoegd aan Nederland lijst landen met te laag belastingtarief. Retrieved from <https://www.rijksoverheid.nl/actueel/nieuws/2019/12/30/barbados-en-turkmenistan-toegevoegd-aan-nederlandse-lijst-landen-met-te-laag-belastingtarief> on February 17, 2021 [in Dutch].

55
Shell (2020). Tax Contribution Report 2019, p. 83. Retrieved <https://reports.shell.com/tax-contribution-report/2019/servicepages/downloads/files/shell-tax-contribution-report-2019.pdf> on January 14, 2021.

56
Shell (2019). Tax Contribution Report 2018, p. 25. Retrieved from <https://reports.shell.com/tax-contribution-report/2018/> on January 14, 2021.

57
Racz, K. & van Dorp, M. (2014). The Swiss Connection. SOMO. Retrieved from <https://www.somo.nl/the-swiss-connection/> on January 14, 2021.

58
Shell Brands International AG is registered in the canton of Zug, a popular destination for multinational corporations who can take advantage of its low-income tax rate for foreign companies. See: Racz, K. & van Dorp, M. (2014). The Swiss Connection. SOMO. Retrieved from <https://www.somo.nl/the-swiss-connection/> on January 14, 2021.

Shell's subsidiaries in tax havens

Figure 9 shows the number of subsidiaries in tax havens as provided by Shell in its 2019 Annual Report.⁴⁹ The Netherlands stands out for its high number of subsidiaries, which is not surprising given the tax dodging opportunities offered by the country and being the location of Shell's headquarters. Shell also has a considerable presence in Singapore, Bermuda, and Switzerland. These countries play a key role in Shell's corporate structure, as will be seen in the next section.

Figure 9: Number of subsidiaries in tax havens

Jurisdiction	Number
The Netherlands	205
Singapore	30
Bermuda	25
Switzerland	13
Hong Kong	9
Cayman Islands	7
Isle of Man	4
Luxembourg	4
Ireland	3
Mauritius	3
United Arab Emirates	3
Bahamas	1
Cyprus	1
Jersey	1

Shell's key tax havens

Analysis of Shell's tax contribution data suggests that the five tax havens that Shell shifts the most profits to are the United Arab Emirates, Switzerland, Singapore, the Bahamas and Bermuda. Shell registers 40 per cent of its total profit (US\$9bn) in these tax havens, but only paid US\$500m in tax on it. The average effective tax rate paid by Shell in these five tax havens amounts to 5.5 per cent, very low compared to the company's total average ETR of 35.5 per cent, especially considering nearly half of Shell's total profits are registered in these five tax havens. When the Netherlands is included, the profit made in tax havens goes up to US\$12bn with a tax bill of US\$724m, for an average effective tax rate of six per cent.

59
Racz, K. & van Dorp, M. (2014). The Swiss Connection. SOMO. Retrieved from <https://www.somo.nl/the-swiss-connection/> on January 14, 2021.60
Shell (2020). Tax Contribution Report 2019, p. 64. Retrieved <https://reports.shell.com/tax-contribution-report/2019/servicepages/downloads/files/shell-tax-contribution-report-2019.pdf> on January 14, 2021.

61
Shell (2021). Pulau Bukom Manufacturing Site. Retrieved from <https://www.shell.com.sg/about-us/projects-and-sites/pulau-bukom-manufacturing-site.html> on January 14, 2021.

62
Shell (2019). Tax Contribution Report 2018, p. 50. Retrieved from <https://reports.shell.com/tax-contribution-report/2018/> on January 14, 2021.

63
Shell (2019). Tax Contribution Report 2018, p. 34. Retrieved from <https://reports.shell.com/tax-contribution-report/2018/> on January 14, 2021.

64
Ibid., p. 48.

65
Shell (2020). Tax Contribution Report 2019, p. 35. Retrieved <https://reports.shell.com/tax-contribution-report/2019/servicepages/downloads/files/shell-tax-contribution-report-2019.pdf> on January 14, 2021.

66
Shell (2020). Tax Contribution Report 2019, p. 37. Retrieved <https://reports.shell.com/tax-contribution-report/2019/servicepages/downloads/files/shell-tax-contribution-report-2019.pdf> on January 14, 2021.

67
Shell (2020). Tax Contribution Report 2019, p. 74. Retrieved <https://reports.shell.com/tax-contribution-report/2019/servicepages/downloads/files/shell-tax-contribution-report-2019.pdf> on January 14, 2021.

68
Shell (2020). Tax Contribution Report 2019, p. 74. Retrieved <https://reports.shell.com/tax-contribution-report/2019/servicepages/downloads/files/shell-tax-contribution-report-2019.pdf> on January 14, 2021.

Figure 10: Reported profit vs. tax paid in Shell's top five tax havens in 2019 in million \$

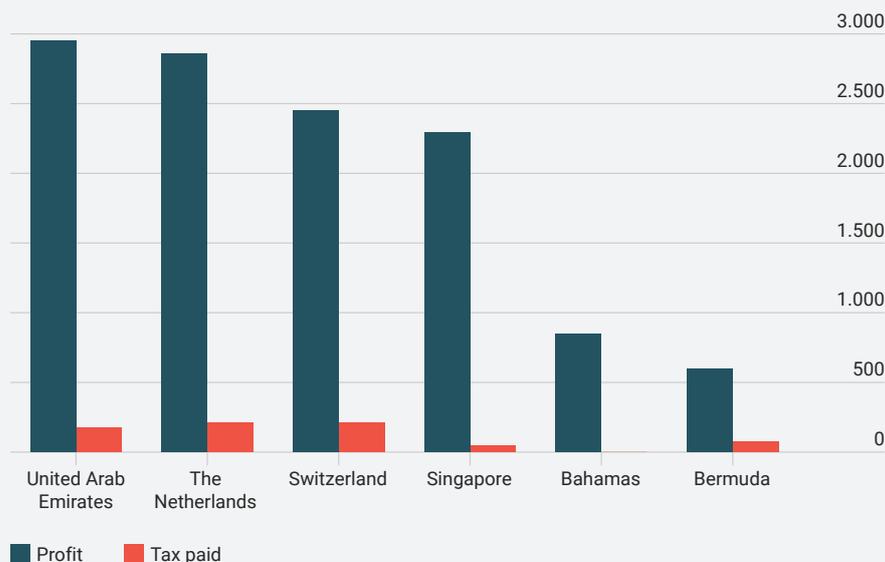


Figure 11: Shell's profit, tax bill, and employees in tax havens

Country	Pre-tax profit in million \$	% of total	Tax paid in million \$	Effective Tax Rate	# of employees	Employee profitability in million \$
1 United Arab Emirates	2,948	13%	172	5.83%	460	6.4
2 The Netherlands	2,859	12%	212	7.42%	8,505	0.34
3 Switzerland	2,453	11%	213	8.68%	118	20.8
4 Singapore	2,295	10%	50	2.17%	3,264	0.7
5 Bahamas	848	4%	0	0%	36	23.5
6 Bermuda	595	3%	77	12.93%	3	198.3

Profitability of Shell employees in tax havens

Another indication that Shell shifts profits to tax havens is the extreme profitability of its employees in these jurisdictions. Shell's companies in tax havens generate enormous profits, disproportionate to the number of employees that work there. Figure 11 shows the profitability of a Shell employee in given jurisdictions (calculated by dividing the total profits by the number of employees). According to these figures, an average employee in a tax haven generates over seven times more profits compared to an average Shell employee of the entire corporate group. In 2019, an employee in Bermuda generated on average \$US198.3m in profit and, in the Bahamas, the figure was US\$23.5m. Employee profitability in Singapore is much lower, because of the high number of employees in the country.

69
Kleinnijenhuis, J. & Kuijpers, K. (2018). Shell betaalt in Nederland geen winstbelasting. Trouw. Retrieved from <https://www.trouw.nl/nieuws/shell-betaalt-in-nederland-geen-winstbelasting~ba0ffbe9/> on January 14, 2021 [in Dutch].

70
Tweede Kamer (2019). Belastingafdracht multinationals. Retrieved from https://www.tweedekamer.nl/debat_en_vergadering/commissievergaderingen/details?id=2019A01752 on January 14, 2021 [in Dutch].

71
Kleinnijenhuis, J. & Kuijpers, K. (2018). Shell betaalt in Nederland geen winstbelasting. Trouw. Retrieved from <https://www.trouw.nl/nieuws/shell-betaalt-in-nederland-geen-winstbelasting~ba0ffbe9/> on January 14, 2021 [in Dutch].

72
Elsevier (2019). Shell bevestigt geen winstbelasting betaald in Nederland. Retrieved from <https://www.ewmagazine.nl/nederland/achtergrond/2019/05/shell-bevestigt-geen-winstbelasting-betaald-in-nederland-689265/> on January 14, 2021 [in Dutch].

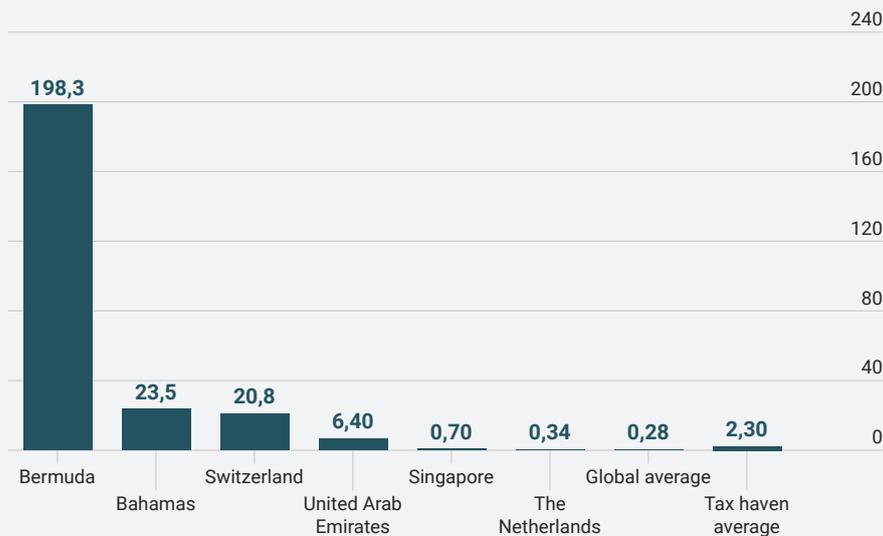
73
In October 2018, following months of protests and criticism, and after Unilever announced it would not move its headquarters to Rotterdam, the Dutch government decided not to abolish dividend tax.

74
Kleinnijenhuis, J. (2018, 16 June). Shell ontwijkt dividendbelasting. Trouw. Retrieved from <https://www.trouw.nl/cs-bb46a91f> on January 14, 2021 [in Dutch].

75
Kiezebrink, V. (2019). Herziening belastingdeal Shell blijft uit. SOMO. Retrieved from <https://www.somo.nl/nl/herziening-belastingdeal-shell-blijft-uit-nederland-verliest-weer-e893-miljoen-in-2018/> on January 14, 2021 [in Dutch].

76
Ibid.

77
Shell (2020). Tax Contribution Report 2019, p. 19. Retrieved <https://reports.shell.com/tax-contribution-report/2019/servicepages/downloads/files/shell-tax-contribution-report-2019.pdf> on January 14, 2021.

Figure 12: Average profit per employee in million \$

United Arab Emirates

In the United Arab Emirates (UAE), Shell reports that its tax bill “relates mainly to upstream activities” and that it pays taxes based on a concession agreement with the UAE Government. These upstream activities (such as oil production) are subject to a 55 per cent tax rate.⁵⁰ However, in addition to its upstream activities, Shell also has substantial downstream activities in Dubai, such as its regional headquarters for trading, marketing, and chemicals.⁵¹ Shell operates its Liquefied Natural Gas trading from Dubai; this serves a huge part of the world, including the Middle East, the Indian subcontinent, Europe, Middle and South America, and the Caribbean.⁵² It is likely that Shell chose Dubai as the location for this, to take advantage of the country’s very favourable tax regime for multinational corporations (UAE does not levy any corporate income tax). In 2017, the European Union added the United Arab Emirates to its blacklist of tax havens, but then removed it in 2019 because, according to the EU, the country had taken sufficient action to combat letterbox companies.⁵³ The Netherlands has added the UAE to its blacklist of low-tax jurisdictions.⁵⁴

As Shell states in its Tax Contribution Report: “in 2019, a greater proportion of profits arose from downstream activities that are not subject to income tax”.⁵⁵ It was not possible to establish how much of Shell’s revenue and profit in the UAE is made from upstream and downstream activities, respectively. Shell’s effective tax rate in the UAE is 5.83 per cent, while the statutory tax rate for its upstream activities is 55 per cent. Shell acknowledges that it pays no tax on certain downstream activities which - considering the low taxes and high profits recorded by Shell in the country - suggests Shell uses the country to avoid taxes.

Switzerland

The majority of Shell’s trademarks are owned by a Swiss subsidiary. Shell Brands International AG receives royalty payments from Shell companies across the globe for the use of over 15,000 trademarks owned and managed by the company.⁵⁶ In 2014, SOMO investigated the role of Switzerland and Shell Brands International AG in Shell’s tax planning.⁵⁷ The research showed that Shell probably uses (high) royalty payments for its trademarks to shift profits from countries where actual economic activities take place, to the low-tax jurisdiction of Switzerland.⁵⁸ Finally, Shell carries out

78

For further explanation how these interact: Moore, J.W. (2015). *Capitalism in the Web of Life: Ecology and the Accumulation of Capital*. London, UK: Verso.

79

Patel, R. & Moore, J.W. (2020). *A history of the world in seven cheap things*. London, UK: Verso.

80

FNV (2019, 7 February). Shellmedewerkers wijzen eindbod Shell voor cao massaal af. Retrieved from <https://www.fnv.nl/nieuwsbericht/sectornieuws/procesindustrie/2019/02/shellmedewerkers-wijzen-eindbod-shell-voor-cao-mas> on December 21, 2020 [in Dutch].

81

Shell (2019, 23 April). Shell weigert cao-voorstel bij rechter, acties gaan onverminderd door, overleg hervat. Retrieved from <https://www.fnv.nl/nieuwsbericht/sectornieuws/procesindustrie/2019/04/shell-weigert-cao-voorstel-bij-rechter-acties-gaan> on December 21, 2020 [in Dutch].

82

FNV (2019). CAO Shell Nederland Rafinaderij bv & Shell Nederland Chemie bv. Retrieved from https://www.fnv.nl/getmedia/1f734605-e1e7-413e-be84-1d652f81bb78/Shell_Nederland_Rafinaderij_Chemie_cao_.pdf?ext=.pdf&dt=20190911092318 on December 21, 2020 [in Dutch].

83

IndustriALL Union (2018, December 5). Shell’s hidden shame – Contract workers on the poverty line in Nigeria. Retrieved from <http://www.industrial-all-union.org/shells-hidden-shame-contract-workers-on-the-poverty-line-in-nigeria> on December 21, 2020.

84

IndustriALL Union (2016, September 27). Survey reveals abusive use of precarious work at Shell. Retrieved from <http://www.industrial-all-union.org/survey-reveals-abusive-use-of-precarious-work-at-shell> on December 21, 2020.

85

IndustriALL Union (2018). STOP Precarious Work. Retrieved from <http://www.industrial-all-union.org/stop-precarious-work-0> on December 21, 2020.

self-insurance activities from Bermuda and Switzerland. This way Shell can use the costs of its own insurance premium payments to reduce its taxable base in the countries where it operates. At the same time receiving this insurance income in tax havens, Switzerland and Bermuda.⁵⁹ Until 2020, Shell also provided financing to group companies from Switzerland.

Singapore

Singapore is a key country for Shell with over 3,000 employees working there, reporting US\$2.2bn profits.⁶⁰ Shell operates one of its largest oil refineries from the country. Furthermore, Singapore is an important trading hub for Shell and is one of its two treasury (financing) centres, which provides loans to Shell companies across the globe. According to Shell, it makes use of Singaporean tax incentives and tax relief schemes to reduce its tax bill.⁶² The high profits and low taxes paid by Shell in Singapore, suggest that the company has strategically located both its financing and its trading activities there to take advantage of the country's fiscal laws.

The Bahamas and Bermuda

Shell states that it has strategically located its West Africa and Latin America trading office of 36 employees in the Bahamas “to enable staff to meet with customers more frequently”.⁶³ A more likely explanation is tax avoidance. Shell's presence in the Bahamas enables the company to take advantage of the country's zero per cent corporate income tax rate, and other tax benefits. As a result, in 2019, Shell paid no tax in the Bahamas on profits of nearly US\$847m.⁶⁴ In Bermuda, Shell operates “reinsurance, lending and pension fund companies”. Like the Bahamas, Bermuda does not have corporate income tax, and Shell therefore paid no tax on almost US\$700m in profits it recorded there, apart from US\$77m in capital gains tax and withholding taxes on foreign income (for example, interest income on loans).⁶⁵ Shell has stated that, as of 2020, it has ceased its financing operations from Bermuda.⁶⁶

Shell's tax avoidance in the Netherlands

Shell reports USD 2.9 billion in profits in the Netherlands in 2019, over which it only paid USD 212 million in taxes.⁶⁷ According to Shell, the company made a profit of only US\$600m in the Netherlands, with the other US\$2.3bn consisting of profits made abroad, and taxed in those jurisdictions. The US\$212m paid by Shell in tax, consists mainly of withholding taxes on dividends, interests, and service fees paid not to the Dutch Government, but to foreign governments on income received in the Netherlands.⁶⁸ The Dutch newspaper, Trouw, revealed, in 2018, that Shell does not pay any corporate income tax in the Netherlands. Since 1969, Shell has been able to deduct foreign liquidation losses from profits registered in the Netherlands, allowing the company to pay no income tax since it can report a net loss.⁶⁹ Furthermore, Shell can deduct foreign interest payments, and other costs, from its Dutch profits.⁷⁰ Responding to these revelations, Shell claimed that: “our fiscal payments are entirely in line with tax law and regulation”.⁷¹ Six months later, however, in May 2019, the company admitted that it does not pay income tax in the Netherlands, despite reporting billions of dollars of profits in the country.⁷²

Corporate income tax is not the only Dutch tax Shell avoids. After years of lobbying by Shell and Unilever – during which both companies threatened to move their headquarters to the UK – the Dutch Government announced in 2017 it would abolish the 15 per cent Dutch withholding tax on dividends (dividend tax).⁷³ Trouw reported that Shell had already set up a tax avoidance structure approved by the Dutch tax authorities through a tax ruling,⁷⁴ which allowed some of their shareholders (those with the so-called B-shares) to avoid paying Dutch dividend tax. SOMO calculated that this structure enabled the company to avoid paying approximately €8.4bn in Dutch taxes between 2005

86

Lartson, V. (2018, November 5). Fact-finding trip to Shell's Nigerian operations proves eye-opening to USW oil worker. United Steelworkers. Retrieved from <https://www.usw.org/news/media-center/articles/2018/fact-finding-trip-to-shells-nigerian-operations-proves-eye-opening-to-usw-oil-worker> on December 21, 2020.

87

Conversion rate dollar to euro from December 22, 2020.

88

IndustriALL Union (2018, December 5). Shell's hidden shame – Contract workers on the poverty line in Nigeria. Retrieved from <http://www.industriall-union.org/shells-hidden-shame-contract-workers-on-the-poverty-line-in-nigeria> on December 21, 2020.

89

IndustriALL Union (2019, March 15). Shell worker abuses in Nigeria taken to UN Human Rights Council. Retrieved from <http://www.industriall-union.org/shell-worker-abuses-in-nigeria-taken-to-un-human-rights-council> on December 21, 2020.

90

CETIM (2019, 14 March). Oral Statement at the General Assembly Human Rights Council. Retrieved from http://www.industriall-union.org/sites/default/files/uploads/documents/2019/SWITZERLAND/SHELL_HRC/oral_stat_nigeria_final.pdf on December 21, 2020.

91

Shell (2019). Remuneration Policy. Retrieved from <https://reports.shell.com/annual-report/2019/governance/remuneration-policy.php> on January 24, 2021.

92

Macalister, T. (2015, 12 March). Shell CEO Ben van Beurden paid €24.2 m in 2014. The Guardian. Retrieved from <https://www.theguardian.com/business/2015/mar/12/shell-ceo-ben-van-beurden-paid-242m-in-2014> on October 8, 2020.

93

Shell (2018). Directors' remuneration for 2018. Retrieved from <https://reports.shell.com/annual-report/2018/governance/annual-report-on-remuneration/remuneration-for-2018.php> on December 22, 2020.

and 2018.⁷⁵ If Shell continues to be able to use this tax avoidance scheme, this amount could increase to a total of €13.7 to €22.8 billion in the coming years, depending on Shell's profits.⁷⁶

Shell's effective tax rate gives a distorted picture

Analysis of Shell's Tax Contribution Report indicates that Shell engages in massive profit-shifting and tax avoidance. It makes extensive use of renowned tax havens such as Singapore, the Bahamas, Bermuda, and the Netherlands. Shell claims it pays an average effective tax rate of 35.5 per cent but how is this possible when it registers nearly half (40 per cent) of its profits in tax havens where it enjoys a low effective tax rate of only 5.5 per cent? It can only be explained by the relatively high tax rates applied by countries to oil and gas activities, as Shell acknowledges in its report. This becomes clear when we look at the three countries where Shell claims to pay the most tax in 2019: Nigeria (US\$851m at an ETR of 39 per cent), Norway (US\$1.1bn at an ETR of 114 per cent) and Oman (US\$2.9bn at an ETR of 91.4 per cent). Shell pays 66 per cent of its entire tax bill in these three countries alone, even though it only records 27 per cent of its total profits there. These ETRs are a result of the relatively high tax rates levied by these governments for oil production. These taxes – which are specific to the oil and gas industry – are not regular corporate income taxes but are often the result of production sharing agreements, which dictate how an oil company is expected to share the oil it extracts with the jurisdiction's government, the actual owner of the oil. In Norway, for instance, the government levies an additional 56 per cent tax for oil production and transportation on top of the statutory 22 per cent corporate income tax rate. In Oman, Shell pays 39 per cent of the company's entire tax bill. Oman has a statutory corporate income tax rate of 15 per cent, which applies to its downstream activities, but Shell says its high tax bill results from the terms agreed in the oil production concession agreement with the government of Oman. In Nigeria, the statutory corporate income tax rate is 85 per cent for onshore oil production and 50 per cent for offshore oil production.

To illustrate further, if Nigeria, Oman, and Norway are excluded from Shell's tax bill, Shell's ETR comes down to a low 11 per cent, significantly less than the average corporate income tax rate in OECD countries (23.5 per cent). The relatively high tax rates paid by Shell in these countries therefore greatly inflate Shell's tax bill and its average ETR, and give a distorted picture of its tax practices. The analysis above suggests that Shell shifts profits to tax havens. The 35.5% ETR claimed by the company is therefore a figure that makes for excellent PR but misrepresents the company's tax practices and profit shifting. Further research is required to investigate exactly how Shell uses tax havens to avoid taxes, and which parts of the company's profits are taxed and which are not.

Conclusions

In its Tax Contribution Report, Shell states that “when we are present in low-tax jurisdictions, we are there for commercial reasons, such as crude oil trading and retail sites (...) and we do not use these locations to avoid tax on activities that take place elsewhere”.⁷⁷ This chapter's analysis clearly shows that Shell has a major presence in tax havens, and takes advantage of the tax benefits offered by these jurisdictions to pay little, or no, tax on the massive profits it registers there. Shell operates financing and trading operations from these jurisdictions to ensure it can take full advantage of the possibilities offered by these tax havens. A clear example of this is the location of its West Africa and Latin America trading office in the Bahamas (“to enable staff to meet with customers more frequently”, according to Shell), where it pays no tax on profits of nearly US\$850m. While Shell lauds its own Responsible Tax Principles and states that it has “reviewed” its presence in low-tax jurisdictions, it has also concluded that it has “a commercial reason” for continuing its presence in these countries.

94 Macalister, T. (2015, 12 March). Shell CEO Ben van Beurden paid €24.2 m in 2014. The Guardian. Retrieved from <https://www.theguardian.com/business/2015/mar/12/shell-ceo-ben-van-beurden-paid-242m-in-2014> on December 21, 2020.

95 Farrell, S. (2015, 26 March). Shell to cut at least 250 North Sea jobs to remain 'sustainable'. The Guardian. Retrieved from <https://www.theguardian.com/business/2015/mar/26/shell-says-it-will-cut-at-least-250-north-sea-jobs-to-remain-sustainable> on December 21, 2020.

96 Thomson Reuters Eikon Database (2020). Director Remuneration Royal Dutch Shell PLC - Fiscal Year Total Compensation. Retrieved on October 29, 2020.

97 Shell (2019). Remuneration Policy. Retrieved from <https://reports.shell.com/annual-report/2019/governance/remuneration-policy.php> on January 24, 2021.

98 Carbon Tracker (2020). Groundhog Pay: How executive incentives trap companies in a loop of fossil growth. Retrieved from <https://carbontracker.org/reports/groundhog-pay-how-executive-incentives-trap-companies-in-a-loop-of-fossil-growth/> on January 24, 2021.

99 Shell (2019). Annual report on remuneration. Retrieved from <https://reports.shell.com/annual-report/2019/governance/annual-report-on-remuneration/remuneration-for-2019.php?tabc=1e3> on January 24, 2021.

100 Note that this concerns Royal Dutch Shell PLC and not all the subsidiaries. Source: Shell (2018). Directors' remuneration for 2018. Retrieved from <https://reports.shell.com/annual-report/2018/governance/annual-report-on-remuneration/remuneration-for-2018.php> on December 22, 2020.

101 As the information in 2018 is complete, this year was taken as an example. In 2019, among other things Ben van Beurden received less tax equalization and made €1137 gross pay per hour. In order to make it easier to compare, the daily and hourly rate are not counted in working hours, but in days per month and hours per day.

“Taxes are a vital source of revenue for countries around the world and help to fund essential services like education, health care, and transport”, states Shell’s CFO, but these are empty words when the company’s tax avoidance practices shows it avoids paying its fair share and contributing to public revenues.

1.4 Salary and precarious work

Shell is not only one of the largest oil-producing global multinationals, it also employs a very diverse group of people from all over the world. Shell employees earn their incomes working in offices, in refineries, on oil tankers or platforms. And this income is, among others, generated by the extraction, transportation, and distribution of fossil fuels used by millions of people and companies to fuel their transport. This chapter has already established that US\$237bn goes to shareholders, but how does that compare to the amount paid as wages for labour? While accumulating wealth, Shell transforms natural landscapes into extractable resources, separating communities from their natural wealth, and transforming those resources into capital which it uses to consolidate its position of economic and political power. To do all this, Shell draws on the labour of thousands of workers, and leans on the unpaid work of families and communities of care. Shell should take its responsibility because it is very much part of these relationships where power, capital and nature interact.⁷⁸

Even though Shell has been aware, for some time, of the impact of their business on climate change, a relatively small group of people – of which Shell’s CEO Ben van Beurden is one – has continued to profit from the exploitation of people and planet. Not only does this group expropriate the fruits produced throughout the supply chain (from natural resources to labour), it uses it to consolidate its position of power and privilege. Though the responsibility for the impact of these activities might lie with these captains of industry, they are far removed from the consequences of their actions and the resulting climate crisis. “We may all be in the same boat when it comes to climate change,” as Patel and Moore put it, “but most of us are in steerage”.⁷⁹

1.4.1 The workforce

The Netherlands

Shell’s Collective Labour Agreement (CLA) (2019-2022) gives an insight into the salaries paid to Shell employees working for Shell Nederland Raffinaderij BV (Shell Pernis) and Shell Nederland Chemie BV (Shell Moerdijk). Shell is known in the Netherlands for its good working conditions, but the CLA came about only after pressure from employees. In April 2019, employees held a strike over pay increases. Shell proposed a pay rise of 2.5 per cent for 2019, and two per cent for 2020, rather than the five per cent (for 2019) the employees demanded.⁸⁰ The strike took place at two Shell facilities; Shell Pernis and Shell Moerdijk. During the strike, Shell management took FNV (one of the labour unions representing the employees) to court to try to force employees back to work.⁸¹ The court ruled against Shell and the employees continued to strike. After 19 days, an agreement was reached, for a salary raise of three per cent in 2019, two per cent in 2020 and 2.5 per cent in 2021.⁸² Figure 13 shows the agreed salaries, for eight different salary scales. The figure shows that the average worker employed in salary group 15, has a gross monthly salary of €2,530 while the highest paid salary group has an average gross monthly income of € 4,725.

Salaries and precariousness in Nigeria

In 2018, the global union federation IndustriALL went to Port Harcourt – where many of Shell’s activities in Nigeria are located – to meet and interview contract workers.⁸³ In Nigeria, contract workers outnumber permanent employees (this is also true in Pakistan, Iraq, and in the Brent and Central Fields in the northern North Sea)⁸⁴, meaning that a sub-contractor temporarily hires peo-

102
Calculation: 2* € 2,993 = € 5,986 versus 6,5* € 1,137.33 = € 7392,64.

103
Pay Scale (2020). Average hourly rate for Shell oil company employees. Retrieved from https://www.payscale.com/research/US/Employer=Shell_Oil_Company/Hourly_Rate on December 22, 2020.

104
Lartson, V. (2018, 5 November). Fact-finding trip to Shell’s Nigerian operations proves eye-opening to USW oil worker. United Steelworkers. Retrieved from <https://www.usw.org/news/media-center/articles/2018/fact-finding-trip-to-shells-nigerian-operations-proves-eye-opening-to-usw-oil-worker> on December 22, 2020.

105
Patel, R. & Moore, J.W. (2020). A history of the world in seven cheap things. London, UK: Verso.

ple to work at Shell facilities. Subcontracting benefits Shell because responsibility for the contract workers remains with the subcontractors. IndustriALL labels subcontracting as precarious work, as contract workers usually receive lower wages, have no job security, no social protection, and receive no fringe benefits.⁸⁵

During a fact-finding mission to Shell's oil and gas operations in Nigeria, IndustriALL, and two Nigerian unions, interviewed 20 workers.⁸⁶ They reported that, although the sub-contractor carries the final responsibility, it is Shell who determines the salary of the contracted worker. Contracted workers reported that they were working 12 hours a day, six days a week, and their monthly salaries varied between approximately US\$137 (€112) and US \$257 (€210).⁸⁷ Huge salary differences also existed among office employees that were directly contracted by Shell. While Nigerian workers are paid around US\$2,000 (€1653) a month, expatriate workers are paid ten times as much.⁸⁸

Sub-contracting also makes it more difficult for workers to unionise. On 14 March 2019, IndustriALL, Global Union, and the Swiss organisation, Europe-Third World Center (CETIM), took a case to the UN Human Rights Council. They called on the authorities in Nigeria to honour their commitment to human rights and international labour standards by taking action to ensure that Shell Nigeria respects the rights of the workers working on its behalf, to safety, health, a decent income, and freedom of association. They also called on the Human Rights Council to urge the Dutch Government to hold Shell to account for violations committed on Nigerian soil.⁸⁹

Diana Junquera of IndustriALL stated during the complaint: "We found that most, if not all, of Shell Nigeria's blue-collar workforce are employed by a complex network of recruitment companies on behalf of Shell, making it extremely difficult for workers to organise into trade unions. Contract workers at Shell Nigeria are living in poverty, with no job security and inadequate healthcare that is costing workers' lives. Contract workers face dismissal if they join a union or ask for a pay rise. They lack safety equipment and risk death in the field."⁹⁰

1.4.2 Top salaries

The amount paid in salaries to top management is based on a number of performance indicators. The main part of Ben van Beurden's remuneration, for example, is based on rewards for reaching specific goals (the long-term incentive plan). Shell's remuneration committee looks at Shell's performance in generating shareholder returns over a three-year period, compared to other oil majors and the wider oil and gas sector. The US\$61bn distributed to shareholders in the form of dividends and share buybacks played an important role in the vesting decision made by the committee.⁹¹

In 2014, the year that he became CEO of Royal Dutch Shell PLC, Ben van Beurden received €24.2m (see Figure 14) - the equivalent of €2m a month, or almost €67,500 a day - making him the second highest paid CEO in the FTSE 100⁹², an index of 100 companies with the highest market capitalisation, as listed on the London Stock Exchange. While Ben van Beurden's 2018 remuneration suggested a base salary of €1,527,000, he received a total of € 20.1m which included an annual bonus, pension, and awarded performance shares.⁹³

This high peak in salary, compared to other years, is not only remarkable, but also illustrates where Shell's priorities lie. Reacting to van Beurden's 2014 salary, Tom Greatrex, spokesperson for the Labour Party said in an interview with The Guardian: "Many workers in the North sea are concerned for their jobs and their ability to support their families and are facing changes to the way they work. In that context, such a massive pay package will strike many as astonishingly ill-judged and inappropriate."⁹⁴ In the following year, Shell cut at least 250 jobs from its operations in the North Sea.⁹⁵

Figure 14: Renumeration CEO and CFO at Royal Dutch Shell PLC⁹⁶

Name	Function	2017	2018	2019
Mr. Ben van Beurden	CEO	€ 8,909,000	€ 20,137,000	€ 9,963,000
Ms. Jessica Uhl	CFO	€ 2,994,000	€ 4,862,000	€ 6,005,000

Shell's executive remuneration is made up of a basic salary, an annual bonus (of which 50 per cent is paid in shares) and rewards for reaching specific goals (the long-term incentive plan).⁹⁷ In practice, for Ben van Beurden, it looks like this:

Figure 15: Renumeration for Executive Director, Ben van Beurden, in 2019

Ben van Beurden	2019
Salaries (base salary)	€ 1,557,000
Taxable benefits (car allowance, transport between home and office, employer contributions to life and medical insurance plan)	€ 20,000
Annual bonus (50% in cash, and 50% in shares: market price of A shares determined the number of shares delivered)	€ 800,000
LTIP (rewards for specific goals)	€ 7,191,000
Total direct remuneration	€ 9,568,000
Pension	€ 395,000
Tax equalisation	-
Total remuneration including pension and tax equalisation	€ 9,963,000
In dollars	\$ 11,155,000

The basis for the annual bonus is: 30 per cent on cash flow from operating activities, 50 per cent on operational excellence and 20 per cent on sustainable development indicators. As both production (12.5 per cent) and LNG liquefaction (12.5 per cent) make up a big part of the operational excellence, the Carbon Tracker Initiative argues that Shell's remuneration structure is still largely based on the growth of fossil fuels.⁹⁸ Incentives for sustainable development make up only 20 per cent of the bonus structure, and are based on decreasing greenhouse gases for upstream, integrated gas, refining, and chemicals.⁹⁹

1.4.3 Comparison

Every year, Shell publishes the CEO-to-worker ratio. This ratio is calculated by dividing the salary of the CEO by the salary of an average worker. In the UK, this ratio is 143:1. For the global workforce, the ratio is 149:1.¹⁰⁰

Figure 16: Comparison¹⁰¹

2019	Yearly	Monthly	Daily	Hourly
Ben van Beurden	€ 9,963,000(A)	€ 830,250	€ 27,295	€ 1,137.33
Median minimum salary of employees Shell Netherlands (salary scale 11)	€ 35,916	€ 2,993	€ 98.40	€ 4.10
High estimate of salary employee in Nigeria (in 2018)	€ 2,640	€ 220 (net)	€ 7.23	€ 0.30

1 As the information in 2018 is complete, this year was taken as an example. In 2019, among other things Ben van Beurden received less tax equalization and made €1137 gross pay per hour. In order to make it easier to compare, the daily and hourly rate are not counted in working hours, but in days per month and hours per day.

If van Beurden's €9,963,000 is divided by the total amount of hours in a year (365*24), it shows that, in 2019, he collected a gross amount of about €1,137.33 per hour, compared to an employee in the mean salary scale who earned €4.10 an hour. Put another way, one night of 6 - 6.5 hours of sleep, yields the CEO more than the amount earned in a month by two employees in group 11.¹⁰² At Shell Oil Company in the US, the average salary per hour is €17.63.¹⁰³ This has a factor difference of 130, meaning that one hour per day for the CEO equals the pay of 130 employees at Shell Oil Company.

Using the data from figure 16, the CEO-to-worker compensation ratio can be recalculated, but now the figure is different. Although, data is only available for the salaries of workers in Nigeria in 2018¹⁰⁴, it still demonstrates salary difference. Taking the CEO's salary of 2019 (€ 9,963,000) and dividing it by the highest salary payment in Nigeria (€2,460), the resulting ration is 1:4050. The wage ratio in The Netherlands (based on the median salary scale within the CLA) would be 1:277 (€ 9,963,000/€35,916). These employees do not work for the same company (but rather, for example, Royal Dutch Shell, Shell Nederland Chemie, Plantgeria), but they do work under the same flag and logo, and all are part of the social arrangements that contribute to the profitability of Shell. The salary of Shell employees in the Netherlands is much closer to their Nigerian colleagues, than to the CEO.

1.4.4 Unpaid labour

The social arrangements that define Shell's profitability go beyond the salary differences of waged work. Care work – caring for, nurturing, and raising communities – makes the whole system of waged work and Shell's activities possible.¹⁰⁵ Understanding is increasing of how society benefits from the massive amount of unpaid care work, and this also applies to companies whose everyday functioning is underpinned by, and dependent on, unpaid labour.

1.5 Conclusions

In the first two decades of the 21st century, Shell could have spent the US\$237bn that went to shareholders and share buybacks, on making its fixed capital stock more climate proof. Rather than providing the public with its rightful dues by paying taxes, it has burdened it with global warming. And despite much rhetoric about 'leadership' and sustainable business practices, the company floats on potential stranded assets while jobs are lost, emaciating the company.

Shell has accrued far more debt than its competitors. The company is not only heavily in debt, its assets are compromised because they are fossil fuel related. Prioritising the remuneration of top management has resulted in a CEO-to-worker compensation ratio in the Netherlands of 277:1

and of 4050:1 in Nigeria, with less priority given to investing in research and development to secure future returns, or retraining its employees about a more climate friendly future. Every euro spent on exorbitant payouts to executives and shareholders, or shifted to tax havens, was a euro not spent on providing a decent wage, or retraining workers for climate resilient jobs, or cleaning up oil spills, or compensating frontline communities, or on achieving zero emissions in the next 50 years.

OBSTACLE 2: SHELL THRIVES ON INEQUALITY AND VIOLENCE



OBSTACLE 2: SHELL THRIVES ON INEQUALITY AND VIOLENCE



“So for Shell, for me and the Executive Committee, it made us seek a deeper personal exposure to racial injustice in Shell. As a company we cannot take a stand in society nor be a force for good if we do not fix ourselves first.” Ben van Beurden, January 2021¹

Key takeaways

- **The close relation between the Dutch coloniser and Shell enabled the company to grow and the coloniser to rule;**
- **Shell's involvement in apartheid in Indonesia and South Africa and wars such as Aceh in Indonesia and Biafra in Nigeria to either extract oil or sell it shows its lack of moral compass;**
- **Shell 'beats itself on the chest' for the role it played in the 'civilising mission', and though this served the company very well, it silenced and side-lined frontline community perspectives, lives and livelihoods;**
- **Colonial relations of resource capture were formalized and legitimized by international investment treaties;**
- **By developing fossil-related extraction and processing, Shell locks countries into fossil fuel development for decades to come;**
- **Shell's CO2 compensation project to protect its business are false solutions and damage forests and the communities dependent on them.**

2.1 Introduction

On 23 April 1907, the Royal Dutch merged with Shell Transport and Trading Company to become the Royal Dutch Shell Group. On its website, Shell tells the adventurous history of ‘rapid expansion’ and ‘exciting opportunities’ that happened in a ‘fast developing market for petrol’.² But there is more to this history, on which it is silent. Colonial wars enabled Shell to grow and petrol markets fuelled geopolitical tensions; oil extraction was a dirty business, both socially and environmentally.

This chapter touches on a number of issues that reflect Shell’s modus operandi.³ This account can neither do justice to the pain and grief of all those who have suffered the consequences, directly or indirectly, of the petroleum industry, nor fully reflect the consistent and brave resistance that has taken place to counter these injustices. Farmers, fisherfolk, frontline communities, unions, and representative groups such as the National Association for the Advancement of Colored People (NAACP), and Indigenous, environmental and human rights (I)NGOs, have contested, resisted, and exposed Shell’s impact on their land, water, and human rights. Resistance has been documented in all corners of the world, on every continent, and throughout the twentieth and the beginning of the 21st century.

Shell’s activities in Indonesia, South Africa, Mozambique, Nigeria, and Canada are the focus of this chapter. While the struggles in Argentina, Bolivia, Curacao, Ireland, Iraq, Mexico, Philippines, Russia, and the US merit equal attention. The cases discussed illustrate how Shell has exploited and reproduced inequality and continues to do so. These cases were provided by JA! Justiça Ambiental/Friends of the Earth Mozambique,⁴ research by Van den Berge & Welvaart on behalf of the Decolonisation Network in the former Dutch East Indies⁵, resources collected and produced by Milieudefensie, Aralez⁶, and material from three researchers working on Shell in Nigeria who prefer to remain anonymous, as well as other publicly available resources. This chapter gives a short overview of the role played by Shell in the colonial project, and the violence of extraction and exploitation.

1 Wyatt, K. & van't Wel, R. (2021, 6 January). Resilience and change in a year like no other. Shell. Retrieved from <https://www.shell.com/media/speeches-and-articles/articles-by-date/resilience-and-change-in-a-year-like-no-other.html> on January, 29 2021.

2 Shell (2021). Company History. Retrieved from <https://www.shell.com/about-us/our-heritage/our-company-history.html> on January, 29 2021.

3 For an overview see: Mattera, P. (2018). Royal Dutch Shell: Corporate Rap Sheet. Corporate Research Project. Retrieved from <https://www.corp-research.org/royal-dutch-shell> on February 20, 2021. Good Jobs First (2021). Violation Tracker Parent Company Summary. Retrieved from <https://violation-tracker.goodjobsfirst.org/program.php?parent=royal-dutch-shell> on February 8, 2021.

4 JA! Justiça Ambiental (2021). JA 4 Change. Retrieved from <https://ja4change.org/> on February 16, 2021.

5 Van den Berge, M. & Welvaart, S. (2021). The birth of a corporate colonial player. Retrieved from <https://www.futurebeyondshell.org/birth-of-a-corporate-colonial-player/> on February 14, 2021. Dekolonisatie Netwerk voormalig Nederlands-Indië (2021). Facebook. Retrieved from <https://www.facebook.com/dekolonisationetwerk.vni/> on February 16, 2021. Dekolonisatie Netwerk voormalig Nederlands-Indië (2021). Instagram. Retrieved from <https://instagram.com/dekolonisationetwerk.vni> on February 16, 2021.

6 Stichting Aralez (2021). Grassroots Network and Organization for Decolonization. Retrieved from <https://stichtingaralez.com/> on February 16, 2021.

7 Wyatt, K. & van't Wel, R. (2021, 6 January). Resilience and change in a year like no other. Shell. Retrieved from <https://www.shell.com/media/speeches-and-articles/articles-by-date/resilience-and-change-in-a-year-like-no-other.html> on January 29, 2021.

Looking back on the Black Lives Matter protests of 2020, Ben van Beurden reflected that Shell wants to “really tackle this issue.”⁷ This report showed, in obstacle 1, how Shell accumulates wealth through a financialised business model, avoids paying public dues and has a tremendously skewed wage structure. This business model is possible due to, and thrives on, inequality and violence. The way the company’s business model is implemented means that communities of colour, and the landscapes their livelihoods depend on, are disproportionately affected. If we seek a just transition that fully recognises past injustices, and provides compensation for those most affected, Shell will be the last that comes to mind to “tackle the issue”.

2.2 Shell and the colonial system

Indonesia

The intricate relationship between oil interests and colonial interests mutually reinforced the corporate expansion of Shell and colonial domination across the Indonesian Archipelago.⁸ This relationship was so explicit, that historian and journalist, Paul van ‘t Veer, argues that Dutch imperialism around the turn of the twentieth century ‘had the scent of oil’.⁹ The colonial administration not only facilitated oil concessions and supplied state engineers, but also actively protected the oil reserves of the Dutch East Indies from exploitation by other foreign oil companies.¹⁰ This relationship between Shell and the colonial administration was reciprocal: the Dutch oil companies helped the colonial administration to expand colonial domination over the Archipelago in return for oil concessions. The presence of the oil company was used to justify administrative and military control over the area. In the case of Aceh, the violent response to local resistance lasted 40 years, making it the longest, and one of the deadliest, colonial wars in the former Dutch East-Indies.¹¹ It is worth noting, as it is emblematic of Shell’s modus operandi, that Loudon, then President of Koninklijke (Shell’s predecessor), was the son of the Governor-General James Loudon, who instigated the Aceh war.¹² Van den Berge & Welvaart¹³ provide a detailed overview of how this violence continued into the Second World War and the extent to which the company’s staff were incorporated into the Dutch military forces allowing them to destroy and later reboot oil extraction.

The Dutch colonisers institutionalised a system of apartheid where labour conditions, housing, and access to healthcare were based on ethnic background, with Europeans enjoying the better-quality facilities.¹⁴ A racist penal system also allowed Dutch employers to physically punish their workers.¹⁵ While this came to an end in 1932 in the former Dutch East Indies, following a year of resistance, it was allowed to continue until 1948 in Surinam. This violence of expropriation and exploitation was justified under the banner of the so-called civilising mission: Shell published different kinds of material such as films and books to exhibit its role in ostensibly ‘modernising’ colonised people and territories.¹⁶

South Africa

Shell similarly defended providing fuel to South Africa during apartheid¹⁷, as supporting the progress of the poor, black population.¹⁸ This defence was strongly countered by South Africans who explained the need for a boycott:

“The boycott is being carried out because of Royal Dutch/Shell’s activities in South Africa - particularly the company’s role in supplying petroleum products to the South African military and police, the enforcers of the racist and undemocratic system of apartheid, and its actions in suppressing the rights of its workforce.”¹⁹

The roots of South Africa’s apartheid lie in the violent and racist Dutch colonial project that began in Cape Town in 1652, which introduced a model of slavery and forced labour that

8 Much of this discussion on Indonesia is based on: Van den Berge, M. & Welvaart, S. (2021). The birth of a corporate colonial player. Retrieved from <https://www.futurebeyondshell.org/birth-of-a-corporate-colonial-player/> on February 14, 2021.

9 Hagen, P. (2018). Koloniale oorlogen in Indonesië? Vijf eeuwen verzet tegen vreemde overheersing. Amsterdam: de Arbeiderspers, p. 467 [in Dutch]. Cited in Van den Berge & Welvaart (2021).

10 Jonker, J. & Van Zanden, J.L. (2007). Van nieuwkomer tot marktleider, 1890-1939. Deel 1: Geschiedenis van Koninklijke Shell, Amsterdam: Boom.

11 Hagen, P. (2018). Koloniale oorlogen in Indonesië? Vijf eeuwen verzet tegen vreemde overheersing. Amsterdam: de Arbeiderspers, p. 467 [in Dutch]; Vanvugt, E. (2017). Roofstaat: de zeven grootste misdaden van Nederland overzee. Amsterdam: Nijgh & van Ditmar, p. 114 [in Dutch]. Both cited in Van den Berge & Welvaart (2021).

12 Jonker, J. & Van Zanden, J.L. (2007). Van nieuwkomer tot marktleider, 1890-1939. Deel 1: Geschiedenis van Koninklijke Shell, Amsterdam: Boom, p. 52 [in Dutch].

13 Van den Berge, M. & Welvaart, S. (2021). The birth of a corporate colonial player. Retrieved from <https://www.futurebeyondshell.org/birth-of-a-corporate-colonial-player/> on February 14, 2021.

14 Jonker, J. & Van Zanden, J.L. (2007). Van nieuwkomer tot marktleider, 1890-1939. Deel 1: Geschiedenis van Koninklijke Shell. Amsterdam: Boom, p. 35 [in Dutch].

15 Breman, J.C. (1987) Koelies, Planters en Koloniale Politiek. Amsterdam: KITLV Uitgeverij [in Dutch].

16 Van den Berge, M. & Welvaart, S. (2021). The birth of a corporate colonial player. Retrieved from <https://www.futurebeyondshell.org/birth-of-a-corporate-colonial-player/> on February 14, 2021.

has left South Africa struggling with racial and economic inequities ever since. During the global boycott against apartheid, Gerrit Wagner, former Shell Chair, said: “[T]here can be no doubt that the Netherlands has a special and extraordinarily uncomfortable tie with South Africa. In this, lie the roots of pre-eminent Dutch resistance. We have a bond with South Africa, but we want to deny that. We want to break free but cannot.”²⁰ The Dutch government abstained from, or opposed, many apartheid related UN resolutions and did not sign Anti-Apartheid Conventions.²¹ In South Africa today, Shell has miraculously marketed its way back into the hearts of the population. In 2020, they received the second highest rating in a South African ‘credible customer satisfaction index’,²² and came third in consumer loyalty.²³

Nigeria

In Nigeria, the bloodshed endured by the Ogoni²⁴, and other residents of the oil-producing Niger Delta region, received international attention in the early 1990s. Recently, it attracted attention again when a series of cases against Shell were brought before courts in Italy, the UK and the Netherlands²⁵, all but one related to Nigeria. A Dutch court ruled in January that Shell should compensate Nigerian farmers for oil spills which have ruined their land and livelihoods.²⁶ Ken Saro Wiwa’s execution under General Abacha’s regime is possibly the most well-known accusation Shell’s collusion with Nigerian state security forces in the deaths of Ogoni and other Niger Deltan peoples who have tried to resist the ecological degradation of their lands. But while Saro Wiwa’s execution proved a turning point in global public opinion, it was by no means the end of Shell’s involvement in human rights abuses. Organisations such as the Movement for the Survival of the Ogoni People (MOSOP)²⁷ and Environmental Rights Action (ERA) Nigeria²⁸, have documented these ongoing dynamics, and the resistance to them throughout the 1990s. Water and fields contaminated by oil have meant that families have been deprived of their livelihoods or, by being poisoned directly, have suffered severe health problems, miscarriages and infant mortality.²⁹ Communities are left without resources and in abject poverty.³⁰

Crucial reports by Human Rights Watch³¹, Amnesty International³², as well as various documentaries, have revealed the bloodshed, and paramilitary and state violence, underpinning the activities of Shell and other transnational oil companies in the Niger Delta. During Nigeria’s civil war (the Biafran war) in the 1960, Shell and the British Foreign and Commonwealth office were complicit in fuelling and gun-running to both sides as a ‘money spinner for Shell’, despite their purported support for the Nigerian federal forces.³³ The practices of European imperial companies, embedded in colonial divide and rule, have informed ongoing trade practices.

2.3 Continuation of colonial practices in the present

ISDS treaties

As formerly colonized territories were regaining independence, Shell was busy forging the first treaty texts that formed the basis of the current system of investment treaties and agreements. In the late 1950s, Shell Director, Hartley Shawcross, and Deutsche Bank Chair, Hermann Abs, developed a draft treaty which included far-reaching protection for foreign investments. The 1959 Abs-Shawcross draft convention contained many of the elements found in today’s international investment agreements, such as fair and equitable treatment, compensation for direct and indirect expropriation, and ISDS without requiring foreign investors to first exhaust domestic remedies.³⁴ Shell also lobbied the British and Dutch governments for investment protection and was allowed to comment in detail on both the first British model treaty and the draft version of the first Dutch treaty with

17 Hengeveld, R. & Rodenburg, J. (1995). Embargo: Apartheid’s oil secrets revealed. Retrieved from http://kora.matrix.msu.edu/files/50/304/32-130-1C09-84-embargo_Apartheids_Oil_Secrets_Revealed%20opt.pdf on January 30, 2021.

18 Los Angeles Times (1986). Shell oil deplores Apartheid but says boycott is misguided. Retrieved from <https://www.latimes.com/archives/la-xpm-1986-04-13-me-4509-story.html> on January 30, 2021. South African Press Association (1997). Oil giants fail to explain apartheid role. Retrieved from <https://www.justice.gov.za/trc/media/1997/9711/s971107d.htm> on January 30, 2021. Bailey, M. (1977). Shell and BP in South Africa. Retrieved from http://kora.matrix.msu.edu/files/50/304/32-130-64E-84-african_activist_archive-a0b4i8-a_12419.pdf on January 30, 2021.

19 Warren, J. (1987). Boycott presses Shell on South Africa. Retrieved from <https://www.chicagotribune.com/news/ct-xpm-1987-05-17-8702060608-story.html> on January 30, 2021. Bailey, M. (1977). Shell and BP in South Africa. Retrieved from http://kora.matrix.msu.edu/files/50/304/32-130-64E-84-african_activist_archive-a0b4i8-a_12419.pdf on January 30, 2021.

20 Hengeveld, R. & Rodenburg, J. (1995). Embargo: Apartheid’s oil secrets revealed. Retrieved from http://kora.matrix.msu.edu/files/50/304/32-130-1C09-84-embargo_Apartheids_Oil_Secrets_Revealed%20opt.pdf on January 30, 2021.

21 Hengeveld, M. (2013). Nelson Mandela and the Dutch. Retrieved from <https://africasacountry.com/2013/12/nelson-mandela-and-the-dutch> on January 30, 2021.

22 BusinessTech (2020). South Africa’s petrol stations with the best customer ratings. Retrieved from <https://businesstech.co.za/news/business/411683/south-africas-petrol-stations-with-the-best-customer-ratings/> on January 30, 2021.

23 BusinessInsider SA (2020). SA’s big petrol brands score high with customers – but one lags behind. Retrieved from <https://www.businessinsider.co.za/petrol-stations-brands-customer-satisfaction-engen-shell-caltex-bp-sasol-2020-6> on January 30, 2021.

Tunisia in 1963.³⁵ These treaty texts formed the basis of the system of investment protection as we know it today. In the next chapter, we explain this further with particular reference to the Energy Charter Treaty. These treaties enable the continuation of the access to resources under highly unequal terms, effectively replacing the colonial apparatus to secure exploitation and expropriation.

Forest grabbing for CO₂-compensation schemes

Shell's practices today are built on its legacy of the past. As part of its CO₂ compensation scheme, Shell currently invests in a forest protection programme.³⁶ Research collective, Investico, revealed that this concerns an already 'protected forest', belonging to land used by a local community to cultivate rice and vegetables. The community resists Shell's forest-grabbing tactics to greenwash the pollution of its fossil fuel sales.³⁷ Danish investigative journalists have blasted Shell's carbon-neutral-driving out of the water³⁸ and shown that not only does Shell 'offset' in areas that are already protected, these areas now show more deforestation than before.³⁹

Dispossessing communities and locking economies into fossil fuel extraction

Shell's involvement in developing its liquid natural gas (LNG) operation in Mozambique is the other side of the neo-colonial coin. Shell, along with the rest of the LNG industry in Mozambique, mobilised the same rhetoric about 'civilising' as it did in Indonesia and South Africa, arguing that because its projects provide employment, electricity, and fuel necessary for the economy, they are pivotal for the well-being, and economic and social progress, of the Mozambican people. Although the Global North is debating green new deals and seeks to reduce carbon emissions, demand for energy or products enabled by fossil fuels increases. Consequently, emissions are not reduced but outsourced. Presenting fossil projects as 'development' is not only externalising the costs of fossil fuel extraction on people in the Global South, it is locking these economies into fossil fuel extraction for many years to come, in addition to displacing communities who lose their livelihoods and their resources.⁴⁰ An FOI request⁴¹ revealed that support for Shell's project, from the Dutch embassy in Mozambique and the State Secretary for Economic Affairs, Henk Bleker, began as soon as the gas field was identified in 2011. In 2015, the Dutch Embassy advisor for Politics and Trade became a Shell employee, the same year that the State Secretary of Finance, Eric Wiebes, invited the Mozambican government to negotiate a tax agreement.

Even though Shell signed a purchase agreement with Anadarko in 2019⁴², following years of dispute and disagreement⁴³, the company announced in November 2020 that it was cancelling the greenfield gas-to-liquids (GTL) project in northern Mozambique. The gas for this plant was to be purchased instead from Total⁴⁴ and while it appears that Shell is still present in Mozambique, it is unclear what exactly that presence entails.

Shell has been active in Canada since 1911, and became a wholly owned subsidiary of Royal Dutch Shell in 2007. Before Shell began divesting from its oil sands operations in 2017⁴⁵, it had defended this controversial source which made up a third of the company's portfolio.⁴⁶ The invasive exploitation of oil sands⁴⁷ has been found to have "significant adverse cumulative environmental effects on wetlands; traditional plant potential areas; old-growth forests; wetland-reliant species at risk and migratory birds; old-growth forest-reliant species at risk and migratory birds; caribou; biodiversity; and Aboriginal traditional land use (TLU), rights, and culture."⁴⁸ The Jackpine Mine Expansion in the Alberta Tar Sands has, for example, been strongly opposed by the Athabasca Chipewyan First Nation (ACFN),⁴⁹ who found themselves in familiar neo-colonial relations with state institutions who approved the project because they considered "these effects to be justified and

24

Saro-Wiwa, K. (1995, June). Nigeria in crisis: Nigeria, oil and the Ogoni. Retrieved from <https://www.jstor.org/stable/4006321?seq=1> on January 30, 2021. Reuters (2018). Timeline: Shell's operations in Nigeria. Retrieved from <https://www.reuters.com/article/us-nigeria-shell-timeline-idUSKCN1M306D> on January 30, 2021.

25

Hodal, K. (2019). Dutch court will hear widows' case against Shell over deaths of Ogoni Nine. The Guardian. Retrieved from <https://www.theguardian.com/global-development/2019/may/01/dutch-court-will-hear-widows-case-against-shell-over-deaths-of-ogoni-nine-esther-kiobel-victoria-berahague> on January 30, 2021. Laville, S. (2020). Shell faces UK supreme court case over Niger delta pollution. The Guardian. Retrieved from <https://www.theguardian.com/business/2020/jun/23/shell-faces-uk-supreme-court-case-over-niger-delta-pollution> on January 30, 2021. Turner, J. (2019). Shell and Eni's OPL245 deal: a catalogue of scandal. Retrieved from <https://www.off-shore-technology.com/features/shell-and-eni-opl-245-deal-a-catalogue-of-scandal/> on January 30, 2021. Reuters (2020). FACTBOX-Legal cases sparked by Nigerian OPL 245 oilfield licence. Retrieved from <https://www.reuters.com/article/eni-shell-nigeria-corruption-idUKL8N2HW4QL> on January 30, 2021. Hurst, L. and Baazil, D. (2020). Dutch court case claims Shell's operations violate human rights. <https://www.worldoil.com/news/2020/12/17/dutch-court-case-claims-shell-s-operations-violate-human-rights> on January 30, 2021. Milieudéfense (2020, 1 December). Taking Shell to court - groundbreaking Dutch climate litigation case begins. Retrieved from <https://en.milieudéfense.nl/news/taking-shell-to-court-groundbreaking-dutch-climate-litigation-case-begins> on January 30, 2021.

26

Milieudéfense (2021, 29 January). Milieudéfense and Nigerian win landmark court case against Shell. Retrieved from <https://en.milieudéfense.nl/shell-in-nigeria/milieudéfense-and-nigerian-win-landmark-court-case-against-shell> on February 20, 2021. See also: Meijer, B.H. (2021). Environmentalists, farmers win Dutch court case over Shell Nigeria spills. Reuters. Retrieved from <https://www.reuters.com/article/us-shell-nigeria-court-idUSKBN29Y1D2> on January 30, 2021

that the Project is in the public interest” and “provides significant economic benefits for the region, the province, and Canada”.⁵⁰ The hearings process, in its tribunal form, was highly exclusionary as legal counsel was required for successful intervention.⁵¹ This situation was exacerbated when Shell bought the naming rights for the facility at which the hearings took place, in the week before the start of the hearings, and renamed it Shell Place.⁵² This meant that those opposing the project (the general public as well as those to be dispossessed from their historic land rights) had to defend their rights in a building carrying the name of their opponent. Clearly, this created a confusing setting for a democratic process and gave them little confidence that their rights would be protected.⁵³ Ultimately, Athabasca Chipewyan First Nation was victorious in their campaign against Shell. Shell pulled out their application for the Pierre River Mine on ACFN territory in 2015, and Shell divested a significant part of their tar sands assets in 2017.⁵⁴

Moving to ‘new’ frontiers

Through their divestment of holdings in areas such as the Niger Delta and Northern Alberta (Canada), oil majors, such as Shell, seek to avoid paying for the damage they have done to Black and Indigenous people and their territories.⁵⁵ Exploration is moving to offshore deep-water sites where returns are higher, and the risk of social contestation and being held accountable for environmental damage is less.⁵⁶ Although offshore drilling has been a substantial part of the oil and gas industry for a while⁵⁷, the depth at which this drilling occurs is increasing, and oceans are seen as the new frontier for extractive projects in general.⁵⁸ The oil and gas industry constitute the largest total value of ocean-based industries⁵⁹, and OECD data shows that support for ocean-based fossil fuel development is relentless.⁶⁰ The ‘blue economy’, and its importance in relation to the Green Deal⁶¹, is presented as one which will provide economic growth, improve livelihoods and tackle climate change through better ecosystem management.⁶² Deep sea drilling, however, raises a number of environmental concerns⁶³ and political questions.⁶⁴ Stripping the varnish off, it is apparent that deep sea drilling opens up new opportunities and territories for the extraction of resources.⁶⁵ This is also referred to as ocean grabbing.⁶⁶ Deep water drilling is expected to enable continued growth in both oil and gas exploration.⁶⁷

2.4 Conclusions

Shell’s century of global resource extraction, labour exploitation that have caused global warming and environmental destruction was made possible by violent colonialism. The close relation between the Dutch colonizer and Shell enabled the company to grow and the colonizer to rule. Shell’s continuation of their colonial practices in the present shows Shell’s inability to break with the past and gives them no credibility in addressing injustices today.

This also raises questions of moral responsibility and the need for reparation. The company has grown on the back of oil reserves extracted from colonised peoples and territories, and has shown no qualms about fuelling and engaging in violent events. On their way, they have silenced and side-lined frontline community perspectives, lives and livelihoods. All these processes are recognisable today in the revolving doors that Shell has with the Dutch government and the secure access to resources previously made possible by colonial violence that is now replaced by investment treaties that Shell has helped design.

27
ESCR-Net (2021). Movement of the survival of the Ogoni People (MO-SOP). Retrieved from <https://www.escr-net.org/member/movement-survival-ogoni-people-mosop> on January 30, 2021.

28
Environmental Rights Action (2021). Who we are. Retrieved from <https://erafoen.org/> on January 30, 2021.

29
Milieudefensie (2019). Hadden onze pensioenfondsen en banken kunnen voorkomen dat Godbless in de olie verdrinkt? Retrieved from <https://milieudefensie.nl/actueel/het-broertje-van-papilou-verdrank-in-de-olie-van-shell-mede-mogelijk-gemaakt-door-abn-amro-rabobank-en-ing> on January 30, 2021 [in Dutch]. Milieudefensie (2018). Baby’s in Nigeria 2 keer eerder dood door milieuvuiling. Retrieved from <https://milieudefensie.nl/actueel/babys-in-nigeria-gaan-twee-keer-eerder-dood-door-olievuiling> on January 30, 2021 [in Dutch]. Bruederle, A. & Hodler, R. (2017, 28 September). The Effect of Oil Spills on Infant Mortality: Evidence from Nigeria. CESifo Working Paper Series No. 6653. Retrieved from <https://ssrn.com/abstract=3043605> on January 30, 2021.

30
Okonta, I. & Douglas, O. (2003). Where vultures feast: Shell, human rights, and oil in the Niger Delta. Verso.

31
Human Rights Watch (1999, January). Nigeria. Retrieved from <https://www.hrw.org/reports/1999/nigeria/nigeria0199.pdf> on January 30, 2021.

32
Amnesty International (2017, 28 November). Investigate Shell for complicity in murder, rape and torture. Retrieved from <https://www.amnesty.org/en/latest/news/2017/11/investigate-shell-for-complicity-in-murder-rape-and-torture/> on January 30, 2021.

33
Zalik A. (2004). The Niger Delta: Petro-violence and Partnership Development. Review of African Political Economy, 31 (101) 407-408. Retrieved from <http://www.jstor.org/stable/4006964> on February 20, 2021.

- 34 Draft Convention on Investments Abroad. (n.d.). International Investment Instruments: A Compendium Retrieved from <https://www.international-arbitration-attorney.com/wp-content/uploads/137-volume-5.pdf> on January 22, 2021.
- 35 Bonnitcha, J., Poulsen, L. N. S., & Waibel, M. (2017). *The political economy of the investment treaty regime*; p. 188. Oxford University Press.
- 36 How this can be understood as greenwashing is explained by Monbiot, G. (2019) Shell is not a green saviour. It's a planetary death machine. *The Guardian*. Retrieved from <https://www.theguardian.com/commentis-free/2019/jun/26/shell-not-green-saviour-death-machine-greenwash-oil-gas> on January 30, 2021.
- 37 Dupont-Nivet, D. (2019, December). Het klimaatbos gaat in rook op. *De Groene Amsterdammer*. Retrieved from <https://www.groene.nl/artikel/het-klimaatbos-gaat-in-rook-op> on January 30, 2021 [in Dutch]. Dupont-Nivet, D. (2019, December). Branden en boeren bedreigen Shell-Klimaatbos in Indonesië. *Investico*. Retrieved from <https://www.platform-investico.nl/artikel/branden-en-boeren-bedeigen-shell-klimaatbos-in-indonesie/> on January 30, 2021 [in Dutch]. See also: Van den Berge, M. & Welvaart, S. (2021). *The birth of a corporate colonial player*. Retrieved from <https://www.futurebeyondshell.org/birth-of-a-corporate-colonial-player/> on February 14, 2021.
- 38 Skjoldrager, M., Arnfred, C.E. & Stryhn Kjeldtoft, S. (2020). Shell lover CO2-neutralitet til bilister, når de tanker, men det risikerer at skade klimaet. *Politiken*. Retrieved from <https://politiken.dk/indland/art7977829/Shell-lover-Co2-neutralitet-til-bilister-n%C3%A5r-de-tanker-men-det-risikerer-at-skade-klimaet> on January 30, 2021 [in Danish].
- 39 Lang, C. (2020, 19 November). "Worse than doing nothing": Shell's REDD offsets in Indonesia and Peru. Retrieved from <https://redd-monitor.org/2020/11/19/worse-than-doing-nothing-shells-redd-offsets-in-indonesia-and-peru/> on January 30, 2021.
- 40 Input from Ilham Rawoot and Daniel Ribeiro. JA! Justicia Ambiental (2021). Website: <https://ja4change.org/>.
- 41 Van Beek, B. et al (2018). *Nederland helpt Shell aan gaswinst in straatarm Mozambique*. Retrieved from <https://downtoearthmagazine.nl/nederland-gaskoorts-ontwikkelingsdoelen-mozambique/> on January 30, 2021 [in Dutch].
- 42 LNG World News (2019, 5 February). Shell grabs Mozambique LNG volumes. Retrieved from <https://www.offshore-energy.biz/shell-grabs-mozambique-lng-volumes/> on January 30, 2021.
- 43 Pilling, D. (2018, 13 November). Shell and Anadarko in dispute over Mozambique gas. *Financial Times*. Retrieved from <https://www.ft.com/content/a83be082-e642-11e8-8a85-04b8afea6ea3> on January 30, 2021.
- 44 Nicholas, S. (2021, 1 February). IEEFA: Growing risks for US\$50 billion of Mozambique LNG projects. Retrieved from [https://ieefa.org/ieefa-growing-risks-for-us50-billion-of-mozambique-lng-projects](https://ieefa.org/ieefa-growing-risks-for-us50-billion-of-mozambique-lng-projects/?utm_source=rss&utm_medium=rss&utm_campaign=ieefa-growing-risks-for-us50-billion-of-mozambique-lng-projects), on February 5, 2021.
- 45 Vaughan, A. (2017, 11 March). Shell's sale of dirty tar sands assets cleans up debt and spruces image. *The Guardian*. Retrieved from <https://www.theguardian.com/business/2017/mar/11/shell-tar-sands-sale-spruces-image-cleans-debt> on January 30, 2021.
- 46 Macalister, T. (2010). Shell faces shareholder revolt over Canadian tar sands project. *The Guardian*. Retrieved from <https://www.theguardian.com/business/2010/jan/18/shell-shareholders-fury-tar-sands> Arnott, S. (2011). Shell faces shareholder questions on tar sands. *Independent*. Retrieved from <https://www.independent.co.uk/news/business/news/shell-faces-shareholder-questions-on-tar-sands-1975710.html> on January 30, 2021
- 47 Leahy, S. (2019). This is the world's most destructive oil operation – and it's growing. *National Geographic*. Retrieved from <https://www.nationalgeographic.com/environment/2019/04/alberta-canadas-tar-sands-is-growing-but-indigenous-people-fight-back/> on January 30, 2021.
- 48 Canadian Environmental Assessment Agency (CEAA) (2013). *Joint Review Panel Report: Jackpine Mine Expansion Project*. Retrieved from <https://www.ceaa.gc.ca/050/documents/p59540/90875E.pdf> on January 30, 2021.
- 49 Response from Regional Director David Ingstrup to Chief Allan of the Athabasca Chipewyan First Nation on 21 November 2011 in Environment Canada. Retrieved from https://iaac-aeic.gc.ca/050/documents_stat-icpost/59540/82080/Appendix-F_-_Part_10.pdf on January 30, 2021. See also website of the Athabasca Chipewyan: <https://www.acfn.com/>.
- 50 Shell Canada Energy (2013). *Joint Review Panel Report: Jackpine Mine Expansion Project*. Retrieved from <https://www.ceaa.gc.ca/050/documents/p59540/90875E.pdf> on January 30, 2021.
- 51 Zalik, A. (2015). Resource sterilization: reserve replacement, financial risk, and environmental review in Canada's tar sands. *Environment and Planning A*, 47(12), 2446-2464.
- 52 MacDonald Island Park (2020). Shell Place. Retrieved from <https://www.macdonaldisland.ca/facilities/shell-place> on January 30, 2021.
- 53 Zalik, A. (2019) *Transparency and its Other – Studying the Oil Industry*. Retrieved from: <https://azalik.info.yorku.ca/2019/04/transparency-and-its-other-studying-the-oil-industry-2/> on January 30, 2021.
- 54 Shell (2015). Shell Canada withdraws regulatory application for Pierre River Mine. Retrieved from https://www.shell.ca/en_ca/media/news-and-media-releases/news-releases-2015/pierre-river-mine.html, and Shell (2017, May 13). Shell completes divestment of oil sands interest in Canada. Retrieved from <https://www.shell.com/media/news-and-media-releases/2017/completes-divestment-of-oil-sands-interests-in-canada.html> on January 31, 2021. Shell maintains considerable operations, see: https://www.shell.ca/en_ca/about-us/projects-and-sites/athabasca-oil-sands-project.html retrieved on February 15, 2021.
- 55 Nwajiaku, K. Osuoka, I.A. and Zalik, A. (2020, June 18) *The day after*; Energy. Retrieved from (<https://canadiandimension.com/articles/view/the-day-after-energy> February 15, 2021.
- 56 Gargliardi, L. (2013, 28 June). Why oil and gas drilling is going deeper and further offshore. *The Christian Science Monitor*. Retrieved from <https://www.csmonitor.com/Environment/Energy-Voices/2013/0702/Why-oil-and-gas-drilling-is-going-deeper-and-further-offshore> on January 30, 2021.
- 57 See for Shell's versions of its history in deepwater: Shell (2021). *Deepwater*. Retrieved from <https://www.shell.com/energy-and-innovation/deep-water.html> on January 28, 2021.
- 58 Bennet, N.J., Blythe, J., White, C.S., & Campero, C. (2021, March). Blue growth and blue justice: Ten risks and solutions for the ocean economy. *Marine Policy* 125. Retrieved from <https://doi.org/10.1016/j.marpol.2020.104387> on January 30, 2021. Jolly, C. (2016, 27 April). *The ocean economy in 2030*. OECD. Retrieved from <http://oecdinsights.org/2016/04/27/the-trillion-dollar-ocean/> on January 30, 2021.
- 59 Brent, Z.W., Barbesgaard, M. & Pedersen, C. (2020). *The Blue Fix: What's driving blue growth? Sustainability Science* 15, 31–43. Retrieved from <https://doi.org/10.1007/s11625-019-00777-7> on January 30, 2021.
- 60 OECD (2021). *Our data on the ocean*. Retrieved from <https://www.oecd.org/ocean/data/> on January 30, 2021.
- 61 European Commission (2020, 11 June). *2020 Blue Economy Report*. Retrieved from https://ec.europa.eu/commission/presscorner/detail/en/ip_20_986 on January 30, 2021.
- 62 The World Bank (2017, 6 June). *What is the blue economy?* Retrieved from <https://www.worldbank.org/en/news/infographic/2017/06/06/blue-economy> on January 30, 2021.
- 63 *Frontiers in Environmental Science* (2016, 16 September). *Environmental impacts of the deep-water oil and gas industry*. Retrieved from <https://www.frontiersin.org/articles/10.3389/fenvs.2016.00058/full> on January 30, 2021.
- 64 Zalik, A. (2009) *Zones of Exclusion: Offshore extraction, the Contestation of Space and Physical Displacement in the Nigerian Delta and the Mexican Gulf*. *Antipode* 41, p. 557–582. Retrieved from <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1467-8330.2009.00687.x> on January 30, 2021.

65

Bennet et al. provide an overview of the environmental and social injustices this has produced: Bennet, N.J., Blythe, J., White, C.S., & Campero, C. (2021, March). Blue growth and blue justice: Ten risks and solutions for the ocean economy. *Marine Policy* 125. Retrieved from <https://doi.org/10.1016/j.marpol.2020.104387> on January 30, 2021. Cisneros-Montemayor, A. et al. (2019). Social equity and benefits as the nexus of a transformative Blue Economy: A sectoral review of implications. *Marine Policy* 109. Retrieved from <https://doi.org/10.1016/j.marpol.2019.103702> on January 30, 2021.

66

See also: Barbesgaard, M. (2018). Blue growth: savior or ocean grabbing? *The Journal of Peasant Studies* 45, 130-149. Retrieved from <https://www.tandfonline.com/doi/abs/10.1080/03066150.2017.1377186> on January 30, 2021.

67

Brent, Z.W., Barbesgaard, M. & Pedersen, C. (2018). The blue fix: Unmasking the politics behind the promise of blue growth. Retrieved from https://www.tni.org/files/publication-downloads/the_blue_fix_english.pdf on January 30, 2021.

OBSTACLE 3: SHELL UNDERMINES DEMOCRATIC DECISION-MAKING



OBSTACLE 3: SHELL UNDERMINES DEMOCRATIC DECISION-MAKING



Key takeaways

- Shell uses its privileged access to, and influence on, policy makers to secure and promote its own interests, including those relating to climate policy.
- People moving between careers in Shell and the Dutch government allows Shell direct access to the highest decision-making bodies in the Netherlands.
- Revolving doors and lobby funding compromise independent and democratic decision-making within governing bodies that can result in corporate interests taking precedence over public needs in the debate around a just transition.
- Shell uses bilateral and free trade agreements to shape policy in their favour.
- Leaked emails related to the Nigerian case OPL245 have shown that Shell prioritised profit over its own anti-corruption protocols.
- Frontline communities and producing countries pay a high price for the company's structural links to state security services, and strategies for gaining influence.

3.1 Introduction

According to Marjan van Loon, the CEO of Shell Netherlands BV, energy transition requires ‘an unprecedented collaboration between the government, corporations, and the environmental movement’.¹ In April 2019, Friends of the Earth Netherlands (Milieudefensie), supported by a petition with 17,000 signatures, delivered a legal summons to Shell to appear at the climate case.² Van Loon implored the claimants ‘to enter into dialogue to really understand each other’s positions’.³ But if Shell really does want a dialogue about this issue, why did the company not listen to the concerted efforts of frontline communities, their spokespeople and activists around the world? And is it really possible for there to be a ‘level playing field’ between people, governments and companies when, as this section of the report demonstrates, public interest groups have only a fraction of the resources and access to decision-making processes available to Shell.

After explaining how Shell’s business model runs counter to public interest (obstacle 1) and is based on exploiting and reproducing inequality (obstacle 2), this chapter shows how Shell influences policy-making and undermines democratic decision-making. Many of the details included here come from research done by SOMO, the Transnational Institute (TNI), and the Handel Anders! Coalition.

By financing and participating in lobby coalitions and informal networks, Shell is able to influence policy, set political agendas, and network with members of the government. In the Netherlands, a ‘revolving doors’ relationship between the government and Shell has existed since the early twentieth century, consolidated by the existence of a formal exchange programme whereby civil servants work at Shell, and Shell employees work within ministries. Because of these links, Shell has had success in influencing several public policy areas, such as taxation and investment treaties. The Energy Charter Treaty (ECT) will be examined in more detail because it has been strongly influenced by Shell and could also potentially delay, and possibly deter, necessary and urgent climate policies. Finally, this chapter will explore the corruption charges against Shell, in the case of OPL245, an oil block off the coast of Nigeria currently under legal scrutiny in Milan.

3.2 Lobby

Political influence has always been central to Shell’s modus operandi.⁴ The company has honed its skills at using its political influence to access oil, discipline labour, and avoid paying millions of pounds in tax in colonised territories.⁵ Shell continues

1 VPRO Tegenlicht (2019, 9 april). Shell-zaak: Marjan van Loon spreekt (1.02min). Retrieved from <https://www.facebook.com/watch/?v=628235187602975> on January 6, 2021 [in Dutch].

2 The climate case is a civil court case in which seven environmental organisations led by FOE Netherlands demand that Shell reduces its CO2 emissions by 45 per cent by the year 2030. See: Milieudefensie (2021). Frequently asked questions about the climate lawsuit against Shell. Retrieved from <https://en.milieudefensie.nl/climate-case-shell/frequently-asked-questions-about-the-climate-lawsuit-against-shell> on January 6, 2021

3 VPRO Tegenlicht (2019, 9 april). Shell-zaak: Marjan van Loon spreekt. 1:39 Retrieved from <https://www.facebook.com/watch/?v=628235187602975> on January 6, 2021 [in Dutch]. In April 2019, Shell also started the #lieveringesprek campaign, to show it prefers to enter in a dialogue instead of seeing each other in court.

4 For a full overview see: Van den Berge, M. & Welvaart, S. (2021). The birth of a corporate colonial player. Retrieved from <https://www.futurebeyondshell.org/birth-of-a-corporate-colonial-player/> on February 14, 2021.

5 Van Beurden, T. (2020, 28 July). Shell begin vorige eeuw: de foefjes van een ‘zakkenroller’. Follow the Money. Retrieved from <https://www.ftm.nl/artikelen/shell-foefjes-van-eeen-zakkenroller> on January 7, 2021 [in Dutch].

6 Fossil Free Politics (2019, 24 October). Big Oil and gas buying influence in Brussels. Retrieved from <http://www.fossilfreepolitics.org/research.pdf> on January 7, 2021.

7 LobbyFacts.eu (2021). Retrieved from <https://lobbyfacts.eu/reports/lobby-costs/all/0/2/2/2/21/0/> on January 7, 2021.

8 European Commission (2021). Transparency Register. Retrieved from <https://ec.europa.eu/transparencyregister/public/consultation/display-lobbyist.do?id=05032108616-26> on January 7, 2021.

to invest in lobbying, regarding it as an important tactic to employ at different scales and in different regions, together with its fossil industry peers.⁶ On lobbying the EU commission alone, Shell spends between €4.5m and €4.75m a year.⁷ This does not include all the other lobbying done on behalf of Shell or the lobby groups it is part of. In 2019, only Google and Microsoft spent more on lobbying the EU. Shell employs 16 lobbyists (10.5 Fte)⁸ who regularly meet with Executive Vice-President, Frans Timmermans and members of his cabinet, concerning the European Green Deal, as well as DG Energy and DG Climate Action on decarbonisation scenarios and clean energy transition.⁹ Shell is also an active member of a at least 7 influential lobby associations, where for example Business Europe spent around €4mn in 2019 and had 67 meeting with the European Commission in 2020.¹⁰

Examples of lobbying

→ In 2007, Shell opposed the Fuel Quality Directive, a proposal by the European Commission which would have forced producers to reduce the emission intensity of their fuels by ten per cent by 2020. The European Petroleum Industry Association (EUROPIA) which represented Shell, lobbied the Commission to drop the ten per cent target. Shell also opposed efficiency requirements for refineries, included in the Fuel Quality Directive, and the limiting of emissions from gas flaring, because it claimed these changes would cost the industry too much.¹¹

→ In 2011, Shell successfully lobbied against binding renewable energy targets for EU-member states for 2030, which

would have been in addition to emission reduction targets for 2030. Shell wrote to the then President of the European Commission, Jose Manuel Barroso, stating that Europe could save €500bn by focusing on gas instead of renewable energy, and that the best way to meet emission reduction targets would be via a carbon market, rather than binding renewable energy targets.¹²

→ In 2017, and as a result of years of lobbying by Shell and other companies, the Dutch government announced it would abolish the 15 per cent Dutch withholding tax on dividends.¹³ Shell had threatened to move its Dutch head office to the UK if the government did not abolish the tax, and met with the government during the coal-

tion negotiations to discuss the abolition.¹⁴ In fact, Shell has been lobbying to get rid of the \$1.9bn p.a. dividend tax for years and had meetings with the Prime Minister in 2010 to lobby against the tax.¹⁵

→ Shell's approach to climate lobbying was revealed in a September 2018 leaked memo from BusinessEurope which discussed the strategy to be pursued by members regarding the EU's increased climate ambitions for 2030. The memo proposed "to oppose the new increase of ambition, using the usual arguments of global playing field, we cannot compensate for others, etc."¹⁶ When asked, Shell did not distance itself from this memo.¹⁷

In the Netherlands, a coalition of Dutch multinationals called ABDUP¹⁸ of which Shell is a prominent member, has been actively lobbying the government since 1946, and has direct access to the Ministry of Finance.¹⁹ This direct access allows ABDUP to influence policy matters, such as the US-Netherlands tax treaty, and the elimination of the dividend tax. A Freedom of Information (FOI) request revealed that so-called 'independent research' conducted by the University of Rotterdam on the Dutch investment climate, and used by the government in 2017 to support its claims that elimination of the dividend tax would have a positive influence on this climate, was actually financed by Shell²⁰ and commissioned by ABDUP.²¹ Since then, journalists have reported that decisions taken about FOI requests regarding Shell's entanglement with the Dutch government have been shared with Shell by the relevant governing bodies.²²

Revolving doors

Exchanging a government position for a corporate one, or vice versa, is often referred to as a 'revolving door' dynamic - also known as corporate political activity - and can result in regulatory capture.²³ Because of increased accessibility to information and decision-makers, these relationships can create conflicts of interest and unclear loyalties, thereby "undermining democratic, public interest decision-making".²⁴ Research has shown that "...regulators with prospective or previous experience in a regulated sector tend to be more supportive of that sector".²⁵

Public discontent has resulted in a demand for more scrutiny and regulation to prevent 'revolving door' relationships, including rules for cooling-off periods, and codes of conduct for politicians

9 LobbyFacts.eu (2021). Shell Companies (Shell) – Meetings with European Commission. Retrieved from <https://lobbyfacts.eu/representative/5c3fbbd9f4ec4a-5684955ce51301502f/shell-companies> on January 7, 2021.

10 No further information was found on the European Roundtable of Industrialists (ERT) and the European Technology Platform for Zero Emission Fossil Fuel Power Plants.

11 Milieudéfensie (2019, 5 April). Dagvaarding Royal Dutch Shell Plc [legal summons], p. 163-164. Retrieved from <https://milieudéfensie.nl/actueel/volledige-dagvaarding-shell.pdf/@download/file/2019-04-05%20DAGVAARDING.pdf> on January 11, 2021 [in Dutch].

12 Milieudéfensie (2019, 5 April). Dagvaarding Royal Dutch Shell Plc [legal summons], p. 164. Retrieved from <https://milieudéfensie.nl/actueel/volledige-dagvaarding-shell.pdf/@download/file/2019-04-05%20DAGVAARDING.pdf> on January 11, 2021 [in Dutch].

13 Teeffelen, van J. (2018, 10 September). Wob-verzoek SOMO legt jarenlange lobby tegen dividendbelasting bloot. SOMO. Retrieved from <https://www.somo.nl/nl/wob-verzoek-somo-legt-jarenlange-lobby-dividendbelasting-bloot/> on January 11, 2021 [in Dutch].

14 RTL Nieuws (2018, 10 September). Mails, bezoeken en praten met de benen op tafel: 15 jaar bedelen om afschaffing dividendtaks. Retrieved from <https://www.rtlnieuws.nl/economie/artikel/4412366/dividendtaks-afschaffing-lobby-vvd-rutte-unilever-shell> on January 11, 2021 [in Dutch].

15 RTL Nieuws (2018, 10 September). Mails, bezoeken en praten met de benen op tafel: 15 jaar bedelen om afschaffing dividendtaks. Retrieved from <https://www.rtlnieuws.nl/economie/artikel/4412366/dividendtaks-afschaffing-lobby-vvd-rutte-unilever-shell> on January 11, 2021 [in Dutch].

and political staff.²⁶ Juan José Aranguren, the current Minister for Energy and Mining in Argentina, for example, was employed by Shell for 36 years. When Aranguren took office, he still held shares in Shell worth 16m Argentinian pesos (€820.000), which he sold after a year, following public pressure.²⁷

Shell is a master at the ‘revolving door’ relationship, and has established a formal secondment of staff between the Dutch Ministry of Foreign Affairs and Shell.²⁸ Between 2017 and 2020, for example, a Foreign Affairs official worked as an advisor in Shell’s Government Relations department, and government officials have also worked as policy advisors on climate and development cooperation within Shell. In return, company advisors from Shell worked in the Ministry on climate financing and the energy sectors. In 2011, the Minister of Foreign Affairs explained that the staff exchange existed to support oil companies such as Shell to “safeguard their interests” abroad.²⁹ The exchange is to be put on hold after 2020.

The ‘revolving doors’ relationship between Shell and the Dutch government began in the early twentieth century and has been ‘flipping’ ever since. Hendrikus Colijn, the Dutch Prime Minister (1925 - 26 and 1933 - 39), was previously CEO of the Bataafse Petroleum Maatschappij, the Indonesian subsidiary of Shell (1914 - 22). Before then, he held a military position in the Dutch colonial army (KNIL), fighting in the Aceh war to protect and expand petroleum concessions in Sumatra.³⁰

Three ministers in the most recent Dutch government were former Shell employees:³¹ Eric Wiebes Minister of Economic Affairs and Climate (at Shell from 1987 - 89)³², Wopke Hoekstra, Minister of Finance, (at Shell from 2002 - 05),³³ and Sigrid Kaag, Minister for Foreign Trade and Development Cooperation and Leader of the Democratic Party D66 (at Shell from 1988 - 90). These connections between Shell and the government facilitate information exchange, not available to others, and provide the company with detailed knowledge of both the inner offices of the ministries and their policy plans. Furthermore, former Shell employees are arguably more likely to look favourably on the political interests of their former employer.

From Shell to government

The ministers mentioned above are only the most recent examples of the ‘revolving door’ relationship between prominent politicians and Shell. Other politicians include: Frits Bolkenstein, State Secretary of Foreign Trade (1982 - 86), Minister of Defence (1988 - 89) and Chair of the VVD Party (1989 - 98), who worked for Shell from 1960 - 1976³⁴; Wouter Bos, Secretary of State of Finance (2000 - 02), Chair of PvdA Party (2002 - 07) and Minister of Finance and Vice Minister President (2007 - 10)³⁵, who worked for Shell from 1988 - 1998.³⁶

From government to Shell

A notable example of a relationship in which an individual went from working for the government to working for Shell is Gerrit Zalm. He started his political career in 1971 with the Dutch Labour Party (PvdA), before going to the Liberal Party (VVD) in 1984. He became Minister of Finance (1994 - 07) and then Minister and Deputy Prime Minister (2003 - 07).³⁷ In 2013, he became the Non-Executive Independent Director at Royal Dutch Shell and was paid €177,000 annually in 2018 and 2019, and €117,000 in 2017.³⁸ In 2017, while being paid by Shell, Zalm chaired the negotiations to form a new Dutch government.³⁹ Under his supervision, a policy to eliminate dividend tax found its way into the coalition agreement of the Dutch government in 2017, a policy that Shell had been demanding for years but which had not been included in any of the election manifestoes. It is also notable that Zalm was Minister of Finance in 2004 when Shell made a deal with the Dutch tax authorities which enabled the company’s shareholders to avoid paying up to €7.5bn in dividend tax between 2005 and 2017.⁴⁰ Another example of this is Wim Kok, trade union leader, Minister of Finance 1989 - 94, and La-

17 Milieudéfensie (2019, 5 April). Dagvaarding Royal Dutch Shell Plc [legal summons], p. 165. Retrieved from <https://milieudéfensie.nl/actueel/volledige-dagvaarding-shell.pdf/@download/file/2019-04-05%20DAGVAARDING.pdf> on January 11, 2021 [in Dutch].

18 AkzoNobel, Bataafsche Petroleum Maatschappij (Shell’s original name), DSM, Unilever and Philips.

19 Teeffelen, van J. (2019). ABDUP: een onzichtbare maar invloedrijke lobby voor nederlandse multinationals. SOMO. Retrieved from <https://www.somo.nl/nl/abdup-een-onzichtbare-maar-invloedrijke-lobby-voor-nederlandse-multinationals/> on January 11, 2021 [in Dutch].

20 Bollen, T. (2018, 7 June). Door Shell gefinancierd onderzoek stond aan de basis van afschaffing dividendbelasting. Follow the Money. Retrieved from <https://www.ftm.nl/artikelen/shell-rsm-onderzoek-dividendbelasting> on January 11, 2021 [in Dutch].

21 Platform Authentieke Journalistiek. (2019, 27 July). ABDUP: al bijna 75 jaar de onzichtbare lobby van Nederlandse multinationals. Follow the Money. Retrieved from <https://www.ftm.nl/artikelen/abdup-lobby-nederlandse-multinationals> on January 11, 2021 [in Dutch].

22 Platform Authentieke Journalistiek. (2020, 21 August). Shell papers update: achter de schermen bij de overheid. Follow the Money. Retrieved from <https://www.ftm.nl/artikelen/shell-papers-wob-om-de-wob> on January 11, 2021 [in Dutch].

23 Hillman, A. J., Keim, G. D. & Schuler, D. (2004). Corporate political activity: A review and research agenda. *Journal of Management* 30(6), 837-857. See also: Dal Bo, E. (2006). Regulatory capture: A review. *Oxford Review of Economic Policy* 22(2), 203-225. Retrieved from <https://doi.org/10.1093/oxrep/grj013> on February 20, 2021.

24 Corporate Europe Observatory (n.d.). Revolving Door Watch. Retrieved from <https://corporateeurope.org/en/revolvingdoorwatch> on January 11, 2021.

bour Party Prime Minister 1994 - 2002.⁴¹ Not even a year later Kok joined the Supervisory Board of Shell, and served until 2011. During his nine years as a Commissioner for Shell, he pocketed roughly €770,000, excluding bonuses, pension and share packages.⁴²

Political advisors with insider knowledge also switch between the government and Shell.⁴³ Newspaper *De Volkskrant* describes the advantage for Shell of recruiting political insiders: “After all, anyone who is well versed in the Binnenhof, speaks the language of politicians and knows the codes can open doors. For Shell, Van Zeeland’s [political assistant to the former party leader of one of the ruling parties] knowledge must be invaluable: it knows what the coalition thinks about the energy transition.”⁴⁴

The ‘revolving doors’ relationship between Shell employees and legislators raises serious concerns about the conflict of interest for such legislators and the amount of direct influence Shell might have on policy-making and Dutch representatives at home and abroad. As well as the dividend tax, there are concerns over the preferential treatment given to Shell (and ExxonMobil) regarding compensation for lost revenue of €90mn in Groningen while the financial value of damages caused by earthquakes, provoked by extractive activities, have yet to be recognised. This amount was considered insufficiently justified by the Dutch Court of Audit.⁴⁵

Finally, an intimate relationship between government and corporation can not only influence regulation and policies but also obstruct judicial processes. For example: Fidelia Onoghaife worked at the Dutch embassy in Abuja, Nigeria. In 2019, she was fired shortly after reporting the very close ties between the residing ambassador, Robert Petri, and Shell. In particular, Onoghaife observed that Petri had warned the Director of Shell that the Dutch Fiscal Information and Investigation Service (FIOD) would be visiting Nigeria. The observation was later proven to be true. The Dutch Ministry of Foreign Affairs linked her dismissal to the tense atmosphere at the embassy but, in September 2020, a judge ruled that Onoghaife had been fired for whistleblowing.⁴⁶ This episode illustrates that the boundaries between government and the multinational are, at best, blurry. The ambassador obstructed a public democratic procedure but the Ministry fired Onoghaife instead of Petri; both actions severely undermine public interest in fairness and the authority of the institutions that exist to keep such abuse in check.

Both lobbying and ‘revolving door’ relationships are examples of the entanglement between public and private sectors. These practices undermine democratic decision-making and influence policymaking and investment agreements at a global scale in favour of corporate interests.

3.3 Investment treaties that provide corporate protection⁴⁷

Bilateral investment treaties (BIT), free trade agreements, and other economic partnership agreements with investment provisions - collectively referred to as International Investment Agreements (IIAs) - offer foreign investors extensive protection against adverse state actions and allow them to file compensation claims directly before international arbitration, through the investor-to-state dispute settlement (ISDS) mechanism. IIAs and ISDS offer fossil fuel companies and investors, like Shell, a powerful legal tool to challenge regulatory measures that may harm their investment interests and allow companies to shift the risks and burden of their stranded assets onto the shoulders of taxpayers.⁴⁸ In the 1950s, Shell helped sketch out and commented on treaty texts that form the basis of the system of investment protection as we know it today.⁴⁹ Elements found in today’s IIAs, such as fair and equitable treatment, compensation for direct and indirect expropriation, and ISDS without requiring foreign investors to first exhaust domestic remedies.⁵⁰

The same can be said for the Energy Charter Treaty (ECT) (see box for more information on the ECT). Shell, along with other major energy firms, is part of the ECT Industry Advisory Panel.⁵¹ In 2019, the Advisory Panel admitted that with regard to the ECT: “the industry is regular-

25

Coen, D. & Vannoni, M. (2016). Sliding doors in Brussels: A career path analysis of EU affairs managers. *European Journal of Political Research* 55, 811–826.

26

Corporate Europe Observatory (n.d.). Revolving Door Watch. Retrieved from <https://corporateeurope.org/en/revolvingdoorwatch> on January 11, 2021.

27

Higgins, F. (2016, 13 September). Macri Says Aranguren Has Sold His Shell Shares. *TheBubble*. Retrieved from <https://www.thebubble.com/macri-says-aranguren-has-sold-his-shell-shares> on January 20, 2021.

28

Follow the Money (2011, 21 January). Grote invloed Shell op buitenlandse zaken. Follow the Money. Retrieved from <https://www.ftm.nl/artikelen/grote-invloed-shell-op-buitenlandse-zaken?share=yW3rPaAZOS-V14ajBOFv5OpY3siC4B8YtrnQPcn-PKw26k%2FRrkRFSXmWe4mhNS> on July 10, 2020 [in Dutch].

29

Tweede Kamer der Staten-Generaal (2011). Vergaderjaar 2010-2011. Aanhangsel van de Handelingen 1357. Retrieved from <https://zoek.officielebekendmakingen.nl/ah-tk-20102011-1357.pdf> on February 14, 2021 [in Dutch].

30

Van den Berge, M. & Welvaart, S. (2021). The birth of a corporate colonial player. Retrieved from <https://www.futurebeyondshell.org/birth-of-a-corporate-colonial-player/> on February 14, 2021.

31

Platform Authentieke Journalistiek. (2019, 15 April). We gaan de verstrengeling tussen Shell en de Nederlandse overheid onderzoeken. Help je mee? Follow the Money. Retrieved from <https://www.ftm.nl/artikelen/proloog-shell-papers> on January 11, 2021 [in Dutch].

32

VVD. (2016). Eric Wiebes Staatssecretaris van Financiën. Retrieved from <https://www.vvd.nl/content/uploads/2016/12/Eric-Wiebes-1.pdf> on January 11, 2021 [in Dutch].

ly consulted on important issues and that its opinion is taken into consideration when priorities are discussed”.⁵² Referring to the formal process of reforming the ECT, begun in 2019 and still ongoing, the Panel advises against strengthening the “state right to regulate”, while stressing that the “provisions on expropriation and procedures for fair compensation remain absolutely central to the effectiveness of the Treaty and should not be diluted in any respect through the modernisation process”.⁵³

What is The Energy Charter Treaty?

The Energy Charter Treaty is a multilateral treaty signed in 1994 that provides rules on energy transition and trade, as well as protection for foreign energy investments, including ISDS. The ECT facilitates trade and investment in the global energy markets and mainly benefits the fossil fuel industry. The main pillars of the ECT are: to promote trade, and investment, in energy according to standards of the World Trade Organisation and other multilateral agreements; to protect foreign investments, including through ISDS. The ECT protects the (economic) interests of the energy industry of its 53 members in Europe and beyond. The ECT allows foreign investors in the energy sector to sue governments for decisions that might negatively impact their profits, including climate policies. Governments that phase out coal, end gas production, or stop new oil pipelines in order to keep fossil fuels in the ground, can be held liable for billions of Euros in damages. Governments have already been forced to pay out enormous sums, and pending ECT claims total around US\$28bn (the estimated annual cost for the entire African continent to adapt to climate change).⁵⁴

To consolidate its influence, a legal counsel for Shell was sitting on the Advisory Board of the European Federation for Investment Law and Arbitration (EFILA), at least until 2019. EFILA is a prominent arbitration lobby group set up by a former senior investment policy officer at the Dutch Ministry of Foreign Affairs, and claims to be the ‘main voice’ of the users of investment arbitration.⁵⁵ Among its members are some of the busiest ISDS law firms, and prominent ISDS arbitrators and practitioners feature on its executive board. The lobby group openly defends ISDS, and publishes detailed rebuttals to widespread critiques of ISDS.⁵⁶

International Investment Agreements and Shell⁵⁷

Of the 37 countries where Shell has oil and gas exploration and production activities, 27 either have a bilateral investment treaty with the Netherlands, are a member of the ECT, or both.⁵⁸ Shell also has 733 subsidiaries incorporated in 55 countries covered by an investment treaty, and 205 subsidiaries incorporated in the Netherlands. It is estimated that the company has US\$234bn in tangible assets and stated capital, covered by investment protection.⁵⁹

Shell's use of ISDS

Nigeria

In 2007, Shell filed an ISDS case against Nigeria under the Netherlands-Nigeria Bilateral Investment Treaty (BIT) in which the company claimed damages of US\$1.8bn in compensation for the withdrawal of an ultra-deep offshore exploration license for the oil field OPL245.⁶⁰ The Nigerian government is said to have forced Shell to return its interest in the oil field to Malabu, a Nigerian company which had been awarded the licence in 1999. Malabu is owned by former Nigerian Oil Minister, Dan Etete, a convicted money launderer. In 2011, Shell acquired the oil field, together with Italian company Eni, for US\$1.3bn. About a month after the controversial deal, Shell withdrew the ISDS claim against Nigeria.⁶¹ Following criminal investigations, both Shell and Eni are suspected of obtaining the license through bribery and are currently being prosecuted in Italy and

34 Zwaap, R. (1995, 6 September). De twaalf ambachten van Frits Bolkestein de Shell-man. De Groene Amsterdammer. Retrieved from <https://www.groene.nl/artikel/de-twaalf-ambachten-van-frits-bolkestein-de-shell-man> on November 18, 2020 [in Dutch].

35 Parlement.com. (2021). Drs. W.J. (Wouter) Bos. Retrieved from https://www.parlement.com/id/vg09ljtu-4za/w_j_wouter_bos on November 19, 2020 [in Dutch].

36 Bestuurdersnet. (2021). Wouter Bos. Retrieved from <https://www.bestuurdersnet.nl/wouter-bos/> on January 22, 2021 [in Dutch].

37 Refinitiv Datastream. Royal Dutch Shell PLC, Director Remuneration. Retrieved on October 29, 2020.

38 Ibid. Shell (2021). Board of Directors. Retrieved from <https://www.shell.com/about-us/leadership/board-of-directors.html> on January 22, 2020.

39 NRC (2017, 3 November). Shell begon al vroeg met lobby tegen dividendbelasting. Retrieved from <https://www.nrc.nl/nieuws/2017/11/03/shell-begon-al-vroeg-met-lobby-tegen-dividendbelasting-13823238-a1579820> on November 19, 2020 [in Dutch].

40 Van de Streek, J. L. (2018). Shell en de dividendbelasting. Weekblad voor Fiscaal Recht, 147(7244), 806-814. Retrieved from https://www.taxlive.nl/media/2150/wfr-7244_art-jan-van-de-streek.pdf on January 13, 2021. See also Kleinnijenhuis, J. (2018, 16 June). Een oplossing voor Shell. Trouw. Retrieved from <https://www.trouw.nl/nieuws/een-oplossing-voor-shell~b55464fc/> on January 13, 2021 [in Dutch].

41 Parlement.com (2021). Dr. W. (Wim) Kok. Retrieved from https://www.parlement.com/id/vg09lloazs/v/w_wim_kok on January 13, 2021 [in Dutch].

42 Motké, S. (2011, 10 March). Het driekwart miljoentje van Kok. Quote. Retrieved from <https://www.quotenet.nl/zakelijk/a30433/het-driekwart-miljoentje-van-kok-30433/> on January 13, 2021 [in Dutch].

Nigeria. Shell is also under investigation in the Netherlands, where the Dutch prosecutor has said there is a case to answer. The Milan prosecutor alleges that the money paid for the deal was siphoned to Nigerian politicians, Eni managers, and intermediaries.⁶² On 9 October 2020, Eni lodged an ISDS case against Nigeria through two of its Dutch subsidiaries under the Netherlands-Nigeria BIT, accusing Nigeria of refusing to convert the oil prospecting license for the offshore oil field into an oil mining license.⁶³

The Philippines

In 2016, Shell Philippines Exploration B.V., a Netherlands-registered subsidiary of Shell, filed an ISDS case in a tax dispute with the Philippine government regarding the Malampaya deep-water gas-to-power project.⁶⁴ In 2009, an audit report of the Philippine Commission showed US\$1.2bn in unpaid corporate income tax from the Malampaya concessionaire, which includes Shell Philippines, Chevron Malampaya LLC, and state-owned PNOC Exploration Corporation.⁶⁵ The consortium maintains that these tax liabilities are already covered by the 60 per cent share remitted by the government under the 60/40 service contract during the period of exploration (2002 - 09). In April 2015, the tax authorities upheld the Commission's findings and ordered the Malampaya consortium to pay the government the overdue tax.⁶⁶ The ISDS claim, filed under the Netherlands-Philippines BIT, is still pending.

Nicaragua

In 2006, two subsidiaries of Shell - Shell Brands International AG and Shell Nicaragua SA - filed an ISDS claim against Nicaragua under the Netherlands-Nicaragua BIT.⁶⁷ Nicaragua seized their trademarks in an effort to enforce a US\$489m judgment by a Nicaraguan court in 2002, against Shell Oil, Dow Chemical, and Dole Foods Corporation. The judgment was in favour of 500 Nicaraguan workers who claimed to have been adversely affected by the pesticide Dibromochloropropane (DBCP), manufactured for use on banana plantations in the 1960s and 1970s.⁶⁸ The pesticide, sold under the brand name Nemagon, was banned in the United States in 1979 - following the discovery of such side effects on humans as infertility, cancer, and kidney diseases - but was still used throughout the 1980s on plantations in Nicaragua and elsewhere.⁶⁹ The multinationals insisted that the Nicaraguan court lacked jurisdiction and denied them a fair trial. In 2006, and with revenues 60 times greater than Nicaragua's GDP, Shell took the country to the International Centre for Settlement of Investment Disputes (ICSID) and argued that the judgment related to companies other than themselves, in particular the US-based Shell Oil Company, which was a separate entity. Shell also claimed that while they may have sold the pesticide in other Central American countries, they never sold it in Nicaragua. In November 2006, the Nicaraguan Court of Appeal overturned the judgment and with the trademarks released, the two Shell companies abandoned their ICSID claim.⁷⁰ Thousands of Nicaraguan citizens have been seeking compensation from the multinationals for decades, and various legal actions are ongoing in different countries.

The Dutch government is keen to (re-)negotiate agreements with countries⁷¹ such as Qatar, the United Arab Emirates and Iraq, where Shell has significant investment interests. In Qatar, Shell operates the Pearl gas-to-liquids (GTL) plant and has a 30 per cent interest in Qatargas, four facilities that produce, process, and transport gas from the country's North Field.⁷² In the United Arab Emirates, Shell has a 15 per cent interest in

44 Korteweg, A. (2019, 27 March). 'Van klimaatdrammer naar klimaatvervuiler': de opmerkelijke overstap van de politiek assistent van Rob Jetten naar Shell. *De Volkskrant*. Retrieved from <https://www.volkskrant.nl/columns-opinie/van-klimaatdrammer-naar-klimaatvervuiler-de-opmerkelijke-overstap-van-de-politiek-assistent-van-rob-jetten-naar-shell~b0259044/> on January 13, 2021 [in Dutch].

45 Middel, M. (2020, 20 May). Rekenkamer: Wiebes kan 90 miljoen compensatiegelden aan oliemaatschappijen niet verklaren. *NRC*. Retrieved from <https://www.nrc.nl/nieuws/2020/05/20/rekenkamer-wiebes-kan-90-miljoen-compensatiegelden-aan-oliemaatschappijen-niet-verklaren-a4000355> on February 4, 2021 [in Dutch].

46 Rengers, M. & Houtekamer, C. (2020, 10 September). Rechter: klokkenluider Buitenlandse Zaken onrecht ontslagen. *NRC*. Retrieved from <https://www.nrc.nl/nieuws/2020/09/10/rechter-klokkenluider-buitenlandse-zaken-onrecht-ontslagen-a4011509> on February 3, 2021 [in Dutch].

47 Much of this discussion on international investment agreements is based on: Murawski, S. & Verbeek, B.J. (2021). Shell's legal weapon to threaten a just energy future. Retrieved from <https://www.somo.nl/shells-legal-weapon-to-threaten-a-just-energy-future> on February 14, 2021.

48 End Fossil Protection (n.d.). Open letter from climate leaders and scientists to signatories of the Energy Charter Treaty (ECT). Retrieved from <https://www.endfossilprotection.org/en> on January 20, 2021.

49 Bonnitcha, J., Poulsen, L. N. S., & Waibel, M. (2017). The political economy of the investment treaty regime; p. 188. Oxford University Press.

50 Draft Convention on Investments Abroad. (n.d.). International Investment Instruments: A Compendium Retrieved from <https://www.international-arbitration-attorney.com/wp-content/uploads/137-volume-5.pdf> on January 22, 2021.

the license of ADNOC Gas Processing, which exports propane, butane, and heavier-liquid hydrocarbons.⁷³ In Iraq, Shell has a 44 per cent interest in the Basrah Gas Company⁷⁴ which increased its capacity by 40 per cent in 2019 as part of an investment plan by Shell.⁷⁵ In May 2020, Iraqi workers at the Basrah Gas Company protested the company's failure to pay salaries. While workers ensured continued supply of LNG to Iraq's electricity and petrochemical plants despite demonstrations, road closures and the effects of the ongoing COVID-19 pandemic,⁷⁶ Shell evacuated its 60 foreign staff.⁷⁷

The Dutch government advises its citizens not to travel to large parts of Iraq, because of the possibility of violent protests and terrorist attacks.⁷⁸ A bilateral investment treaty would offer Shell extensive protections from possible interferences and damages to its investments. Government inaction to prevent social unrest could provide grounds for ISDS cases. In this light, the investment treaty between the Netherlands and Iraq becomes an insurance policy for Shell against terrorist attacks and social upheaval.

3.4 When corruption is a convenient option

It is not just in the Netherlands that Shell has 'well-oiled' access to ministries. Leaked US State Department cables from 2010 report that Shell infiltrated key Nigerian government departments, allowing the company "access to everything that was being done in those ministries".⁷⁹ Almost 40 years after Nigeria gained independence, the colonial officials may have gone, but Shell remains.

Shell's approach to its operations in Nigeria is well documented in the thousands of pages of internal Shell emails and other documents that have emerged as a result of the Italian investigation into the company's alleged corruption in the OPL245 case.⁸⁰ These leaked emails span almost a decade of internal discussions and give a stark view of the company, painting a very different picture to that in Shell's promotional brochures and videos. They show how Shell prioritises profit before everything else.

To recall, in 2017, the Milan Prosecutor charged Shell, together with the Italian oil multinational Eni and a number of former Shell managers, including ex-officers of the British secret service, with corruption. The Prosecutor alleges that the \$US1.1bn paid by Shell and Eni for the license to operate the OPL245 bloc was used to fund a massive bribery scheme involving senior Nigerian government officials, including former President, Goodluck Jonathan. The accused all deny any wrongdoing.

The money paid for the acquisition of OPL245 went to a convicted money launderer and former Nigerian Oil Minister, Dan Etete. In 1998, while he was Oil Minister in the regime of the military dictator Sani Abacha, Etete had used a company called Malabu Oil & Gas, which he secretly owned, to award himself ownership of OPL. Whether Shell and the other defendants in Milan are convicted or not, the emails and supporting documents show how Shell handled the deal, and how their general modus operandi runs counter to the public interest.

Shell has claimed for years to shareholders, the press and the public, that it "was not aware that that money was to be paid to Malabu".⁸¹ But the leaked emails tell a different story. Though the company has maintained that "inspection of Malabu's company records as part of due diligence did not establish any connection between Dan Etete and Malabu",⁸² the leaked internal emails include discussions of Shell's dealings with Etete and the existence of Malabu, from as early as 2000.⁸³ Other emails record meetings between Etete and senior Shell executives, revealing how deals are made: "We are getting along very well personally – lunch and lots of iced champagne."⁸⁴ When the emails were published,⁸⁵ Shell was forced to admit that it knew the money it had paid for OPL245 would go to Etete.⁸⁶

52 Energy Charter Secretariat. (2019). Report by the Chairman of the Industry Advisory Panel, 29 December. Retrieved from <https://www.energycharter.org/fileadmin/DocumentsMedia/CCDECS/2019/CCDEC201915.pdf> on January 22, 2021.

53 Energy Charter Secretariat. (2018). Report by the Chairman of the Industry Advisory Panel, 27 November. p. 7. Retrieved from https://www.energycharter.org/fileadmin/DocumentsMedia/CCDECS/2018/CCDEC201823_-_NOT_Report_by_the_Chairman_of_the_Industry_Advisory_Panel.pdf on February 14, 2021.

54 Powershift et al. (2020). Busting the myths around the Energy Charter Treaty. Retrieved from: <https://www.somo.nl/wp-content/uploads/2020/12/Busting-the-myths-around-the-Energy-Charter-Treaty.pdf> on February 2, 2021.

55 Perry, S. (2014, 7 July). Supporters of investment arbitration launch EU think tank. Global Arbitration Review. Retrieved from https://www.bilaterals.org/spip.php?page=print&id_article=25501 on January 22, 2021.

56 Alvarez, G. M., & Willinski, P. (2016). A Response to the Criticism against ISDS by EFILA. *Journal of International Arbitration*, 33(1). Retrieved from <https://core.ac.uk/download/pdf/83952088.pdf> on January 22, 2021.

57 Disclaimer: although we recognise Shell's dual structure, we take Royal Dutch Shell PLC as a Netherlands-incorporated company with its headquarters in The Hague and a registered office in London.

58 These include a number of treaties that continue to be effective for a further period of fifteen years from their termination, or twenty years in case of withdrawal from the ECT, in respect of investments made before the date of termination of withdrawal. These are the treaties between the Netherlands and Bolivia, Indonesia, Italy, South Africa and Tanzania. We were unable to specify which of Shell's investments in these countries were made prior to the date of termination of withdrawal.

The internal emails also mention money from the deal flowing into “political contributions”, and Nigerian officials seeking to either build “war chests” ahead of the 2011 election campaign, or buy ministerial office after the election. Although the current CEO of Shell has dismissed such emails as “pub talk”,⁸⁷ the same content can be found in the briefings provided for senior officials: “In country view [from Nigeria] is that the President is motivated to see 245 closed quickly – driven by expectations about the proceeds that Malabu will receive and political contributions that will flow as a consequence - reinforces need for a solution quickly”.⁸⁸ Another email speculates that “in the lead up to the elections” Etete may accept less than US\$2bn for the field, commenting, “Once offer is made it will clearly test Abuja appetite for short term cash”.⁸⁹ In effect, Shell knew that bribes would be paid.

The deal was hugely advantageous to the companies – and great cost to Nigeria, where around 90 million people live in extreme poverty⁹⁰, but not a cent of the US\$1.1bn paid by Shell and Eni for OPL245 (more than the entire Nigerian federal health budget at the time) went into the Nigerian public coffers. The deal also deprived Nigeria of future revenues. Although OPL245 is nominally being developed under a Production Sharing Contract (PSC), the signed agreement excluded Nigeria from any form of revenue ‘sharing’, the central feature of a standard PSC. All the companies were aware of this, and an internal Shell email bluntly acknowledged there would be “no revenues at all” for the government, and that future revenues would go to Shell and Eni.⁹¹ According to an analysis by Resources for Development Consulting, as a result of this agreement, Nigeria was deprived of \$5.8bn in revenues, compared to what it would have received under a standard PSC.⁹² This amount is equivalent to two times the health and education budgets combined, in a country where one in ten children do not live to see their fifth birthday.⁹³

3.5 Conclusions

Shell uses its privileged access to, and influence on, policy makers to secure and promote its own interests, including those relating to climate policy. As already shown in obstacle 1, Shell’s main focus is to please its shareholder, a priority which often runs counter to public interest on issues such as just transition and action against global warming. People moving between careers in Shell and the Dutch government has been a part of Shell’s history and continues today. This ‘revolving doors’ relationship allows Shell direct access to the highest decision-making bodies in the Netherlands and lets the company engage with high status and influential politicians. Altogether, this compromises independent and democratic decision-making within governing bodies that can result in corporate interests taking precedence over public needs in the debate around a just transition.

Shell has also used bilateral and free trade agreements to shape policy in their favour. These agreements contain far-reaching protections for companies against government measures that could impede their profits. Such actions could result in governments becoming reluctant to take more regulatory measures against climate change, allowing companies to potentially shift the risk and burden of their stranded assets onto taxpayer’s shoulders. Finally, frontline communities in producing countries are also fighting for a just transition but leaked emails have shown that Shell’s priorities (profit over everything else), the company’s structural links to state security services, and strategies for gaining influence, do not benefit these countries.

Is this the ‘level-playing field’ where we decide upon such important topics for our future?

59

According to Shell’s 2019 Tax Contribution Report, tangible assets comprise property, plant and equipment and inventories as at the closing balance sheet date on December 31, 2019. Stated capital is the amount of money invested in return for shares. We have looked at the tangible assets and stated capital in countries that either have a bilateral investment treaty with the Netherlands and/or are a member of the ECT. These include a number of treaties that have been terminated or withdrawn from but continue to be effective for a further period of fifteen to twenty years. We were unable to specify which of Shell’s assets in these countries were made prior to the date of termination or withdrawal. Nor were we able to filter Shell’s assets falling outside the scope of the ECT, which only protects investments in the energy sector. The total amount of tangible assets and stated capital covered by investment protection is therefore likely to be less than the estimated US\$324 billion. At the same time, the total value of Shell’s assets that is potentially covered by investment protection is likely to be many times higher as investment treaties generally protect a wide range of economic assets, including both direct and indirect forms of investment, shares, bonds, loans, contracts as well as intangible assets such as intellectual property rights, trademarks and goodwill.

60

Shell Nigeria Ultra Deep Limited v. Federal Republic of Nigeria, ICSID Case No. ARB/07/18.

61

Verbeek, B.J. & Bakker, M. (2019). Bend or Break. How Shell used an international investment treaty to browbeat Nigeria into a lucrative deal on OPL245 oil field. SOMO & Milieudefensie. Retrieved from <https://www.somo.nl/wp-content/uploads/2019/02/Shell-Nigeria-EN.pdf> on January 22, 2021.

62

Botje, H.E. (2019, 26 November). Shell is diep verstrikt in een gigantisch corruptieschandaal. Follow the Money. Retrieved from <https://www.ftm.nl/artikelen/shell-smeergeld-nigeria?share=ATsg%2BYMwY%2B-BR3uyJoGspCfrZWXJaiAvuS2KHi%2BSNR%2BMvflA0zwGDjaUISl%3D> on January 22, 2021.

- 63 Jewkes, S. & George, L. (2020, 13 October). Eni seeks World Bank arbitration in Nigeria oil field dispute. Reuters. Retrieved from <https://www.reuters.com/article/us-eni-nigeria-idUSKBN26Y1U1> on January 22, 2021.
- 64 Shell Philippines Exploration B.V. v. Republic of the Philippines, ICSID Case No. ARB/16/22.
- 65 Dela Paz, C. (2016, 22 July). Shell takes Malampaya tax dispute vs PH to int'l arbitration body. Rappler. Retrieved from <https://www.rappler.com/business/shell-coa-malampaya-arbitration-icsid> on January 22, 2021.
- 66 Ibid. IA Reporter (2016). Shell files investment treaty claim against the Philippines. Retrieved from <https://www.iareporter.com/articles/shell-files-investment-treaty-claim-against-the-philippines/> on February 14, 2021.
- 67 Shell Brands International AG and Shell Nicaragua SA v. Republic of Nicaragua, ICSID Case No. ARB/06/14.
- 68 Vis-Dunbar, D. (2006). Shell launches claim against Nicaragua over seizure of intellectual property. In: Investment Treaty News October 13, 2006. International Institute for Sustainable Development. Retrieved from https://www.iisd.org/itn/wp-content/uploads/2010/10/itn_oct13_2006.pdf on January 22, 2021.
- 69 Dörr, F. (2019). Bitter Bananas – the story of Nemagon. Future of Food: Journal on Food, Agriculture and Society, 1(1), 48-50. Retrieved from <https://www.thefutureoffoodjournal.com/index.php/FOFJ/article/view/151> on January 22, 2021. Bohme, S. R. (2015). Toxic injustice: a transnational history of exposure and struggle. University of California Press. Retrieved from <https://www.jstor.org/stable/10.1525/j.ctt13x1gm3> on February 14, 2021.
- 70 Vis-Dunbar, D. & Peterson, L.E. (2007). Shell drops ICSID suit against Nicaragua over seizure of trademarks. In: Investment Treaty News May 9, 2007. International Institute for Sustainable Development. Retrieved from https://www.iisd.org/itn/wp-content/uploads/2010/10/itn_may9_2007.pdf on January 22, 2021.
- 71 Dutch Ministry of Foreign Affairs. (2019). Verslag Raad Buitenlandse Zaken/Handel van 27 mei 2019. Retrieved from <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/vergaderstukken/2019/06/13/verslag-raad-buitenlandse-zaken-handel-van-27-mei-2019/verslag-raad-buitenlandse-zaken-handel-van-27-mei-2019.pdf> on January 22, 2021 [in Dutch].
- 72 Royal Dutch Shell. (2019). Energy for a Better Future, Annual Report and Accounts 2019, p.48. Retrieved from https://reports.shell.com/annual-report/2019/servicepages/downloads/files/shell_annual_report_2019.pdf on January 22, 2021.
- 73 Ibid: p. 56.
- 74 Ibid: p. 55.
- 75 Reuters Staff. (2019, 12 February). Update1 - Iraq's Basrah Gas Company to increase capacity by 40 pct. Reuters. Retrieved from <https://www.reuters.com/article/shell-iraq/update1-iraqs-basrah-gas-company-to-increase-capacity-by-40-pct-idUSL5N2072JI> on January 22, 2021.
- 76 IndustriALL Global Union. (2020). Iraq: protest at Basrah Gas Company/ Shell over non-payment of salaries. Retrieved from <http://www.industriall-union.org/iraq-protest-at-basrah-gas-company-shell-over-non-payment-of-salaries> on January 22, 2021.
- 77 Mohammed, A. (2020, 21 May). Shell evacuates foreign staff from Iraq's Basra Gas Project – executives. Reuters. Retrieved from <https://in.reuters.com/article/iraq-energy-shell-idINKBN22X1DC> on January 22, 2021.
- 78 Dutch Ministry of Foreign Affairs (2020, 28 September). 'Reisadvies Irak' Retrieved from <https://www.nederlandwereldwijd.nl/landen/irak/reizen/reisadvies> on October 1, 2020.
- 79 Reuters Staff. (2010). Shell had "access to everything" in Nigeria: WikiLeaks. Reuters. Retrieved from <https://www.reuters.com/article/us-nigeria-shell/shell-had-access-to-everything-in-nigeria-wikileaks-idUSTRE6B80HL20101209> on January 22, 2021.
- 80 Global Witness and Finance Uncovered. (2017). Shell knew: Emails show senior executives at UK's biggest company knew it was party to a vast bribery scheme. Global Witness. Retrieved from <https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/shell-knew/> on January 22, 2021.
- 81 Ibid.
- 82 Ibid.
- 83 Ibid.
- 84 Ibid.
- 85 Ibid.
- 86 Lee, A. (2017). New Global Witness bribery scheme revelations force Shell to admit it knew payments would go to convicted money launderer. Global Witness. Retrieved from <https://www.globalwitness.org/en/press-releases/new-global-witness-bribery-scheme-revelations-force-shell-admit-it-knew-payments-would-go-convicted-money-launderer/> on January 22, 2021.
- 87 Global Witness and Finance Uncovered. (2017). Shell knew: Emails show senior executives at UK's biggest company knew it was party to a vast bribery scheme. Global Witness. Retrieved from <https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/shell-knew/> on January 22, 2021.
- 88 Ibid.
- 89 Yusuff, S. (2018, 2 January). Leaked documents reveal how Shell blackmailed Nigeria in Malabu deal. Retrieved from <https://www.bilaterals.org/?leaked-documents-reveal-how-shell> on February, 4 2021.
- 90 Kazeem, Y. (2018, 25 June). Nigeria has become the poverty capital of the world. Quartz Africa. Retrieved from <https://qz.com/africa/1313380/nigerias-has-the-highest-rate-of-extreme-poverty-globally/> on January 22, 2021. World poverty clock. (2021). Nigeria. Retrieved from <https://www.worldpoverty.io/map> on January 22, 2021.
- 91 Global Witness (2018, 26 November). Take the Future: Shell's scandalous deal for Nigeria's Oil. Retrieved from <https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/take-the-future/> on February 4, 2021.
- 92 Ibid.
- 93 Ibid.

OBSTACLE 4: SHELL MISLEADS THE WAY



OBSTACLE 4: SHELL MISLEADS THE WAY



“Our ongoing work to provide more and cleaner energy should increase recognition of the positive contributions that Shell can make to society over the decades ahead. But our success in achieving these goals will depend largely on whether society trusts us. Investors invest in companies they trust, governments allow trusted companies to operate and consumers buy things from people they trust. Trusted companies are also likely to attract and retain the brightest minds, helping to ensure the lasting vitality of the business. Trust is clearly a virtuous circle. The question is, how can companies create and keep it? I believe this can only be achieved by everybody demonstrating unquestionable integrity – every day, in every way and everywhere we work. Unquestionable integrity is essential for earning and maintaining the trust of customers, investors and wider society.”

Chad Holliday, Chair RDS, 2019¹

Key takeaways

- **The Shell scenarios serve to normalise and promote Shell's perspective on the future;**
- **Shell most positive scenario presented in 2021 presents global oil and gas use as still respectively 93% and 85% of current levels in 2050 and not peak until 2080;**
- **In Shell's scenarios the state is a regressive and limiting force, and society/the public sector as conservative and inward-looking, while the market is presented as full of opportunities for individuals to maximise innovation and enjoy freedom;**
- **Shell scenarios are written for the downstream oil consuming public and the firms' shareholders, not for the upstream communities suffering the impact of production;**
- **Teaming up with the controversial marketing company Edelman, Shell is presented as an innovative pioneer in the fight against climate change, over writing its responsibility for global warming, oil spills, human rights abuses, damaged ecosystems, and colonised territories;**
- **Targeting young children with festivals and educational material, Shell's message of continued need for fossil and controversial carbon capture and storage technology may end up being the benchmark against which children measure all new information about energy transition.**

4.1 Introduction

In February 2020, the investigative journalist group, PAJ, revealed how, from 1989 to 1998, Shell financed Dutch scientist, Frits Böttcher, to set up an international network of climate sceptics to sow doubt about climate change.² Paid by Shell, Böttcher wrote opinion pieces on the ‘CO₂ myth’ at a time when the climate change debate was entering the political mainstream. This report has previously highlighted Shell’s consistent focus on self-enrichment at the cost of people and planet (obstacle 1), how the company has both exploited and consolidated inequality (obstacle 2), and how it has undermined democratic decision-making and democratic institutions (obstacle 3). All of these obstacles show that Shell is primarily concerned with its business model. This chapter takes a look at how Shell sees the world and wants us to perceive it. For the past forty years, Shell has developed elaborate scenarios that illustrate its ideological position and the interests it serves and protects. Interestingly, it is never involved or part of any of the events or processes it predicts. But, it spends millions of dollars globally on marketing³ itself as the inevitable partner in the energy transition, as well as presenting itself as a force for innovation and in-

1 Holiday, C. (2019). Chair's message: Building trust in Shell. Retrieved from <https://reports.shell.com/annual-report/2018/strategic-report/chairs-message.php> on December 10, 2020.

2 Platform Authentieke Journalistiek. (2020, February 22). Het Nederlandse bedrijfsleven financierde negen jaar lang een klimaatscepticus. Follow The Money. Retrieved from <https://www.ftm.nl/artikelen/frits-bottcher-multinationals-financierden-klimaatscepticus> on January 11, 2021 [in Dutch].

3 Brulle, R.J., Aronczyk, M. and J. Carmichael (2019). Corporate promotion and climate change: an analysis of key variables affecting advertising spending by major oil corporations, 1986–2015. *Climatic Change*, 159, 87–101. Retrieved from <https://doi.org/10.1007/s10584-019-02582-8> on January 11, 2021. For the year 2012 see: McClellan, S. (2012, 12 January). Gusher: Shell puts global media in review, spends \$250m in ads. Retrieved from <https://www.mediapost.com/publications/article/165685/gusher-shell-puts-global-media-in-review-spends.html> on January 11, 2021.

4 For a full and historic discussion of Shell's scenarios see: Zalik, A. (2010). Oil 'futures': Shell's scenarios and the social constitution of the global oil market. *Geoforum* 41(4): 553-564. Retrieved from <https://doi.org/10.1016/j.geoforum.2009.11.008> on January 11, 2021.

spiration. However, neither scenarios nor marketing can conceal the responsibility the company must take for global warming, or the role it has played in slowing down, rather than facilitating, the energy transition.

4.2 Shell's scenarios

Shell has been developing 'scenarios' since 1972⁴, and prides itself⁵ on 50 years of "constructive contribution to public debate on a wide range of issues – including energy transition and climate change."⁶ Shell has presented these 'scenarios' as possible futures which require the development of strategic responses.⁷ However, looking at scenarios from the 1970s until today, a clear pattern emerges of how Shell understands the world and its priorities in changing it. These scenarios are not only strategic exercises in future projection, they serve to normalise and promote Shell's perspective on that future. Its most recent scenarios, 'The energy transformation scenarios' presents three scenarios: Waves, Islands and Sky 1.5, where Sky 1.5 is the most optimistic to meet the Paris agreement goal to limit global warming to 1.5C. But even in that scenario, Shell presents global oil and gas use as still respectively 93% and 85% of current levels in 2050.⁸ A 2020 report by the NGO Corporate Europe Observatory entitled 'The Future According to Shell'⁹ explains in detail Shell's continued commitment to fossil fuels, which includes a shift from fossil oil to fossil gas and the controversial Carbon Capture and Storage (CCS). This attempt to greenwash itself as climate sensitive shows that its concern with net zero emissions overshadows a meaningful attempt to contribute to the Paris Agreements and remain below the 1.5 degrees threshold.

A brief analysis of Shells scenarios (1992-2016)

In 1992, Shell presented the 'Barricades' scenario versus the 'New Frontiers' scenario, in which resistance and identity politics on the barricades was contrasted with growth and change made possible by seeking new frontiers. This is possibly its most damning scenario of collective action and solidarity. In the 'Barricades' scenario, resistance to markets and growth, results in a protectionist, hierarchical world that introduces exorbitant regulations, whereas the 'New Frontiers' scenario exudes freedom and innovation. Three years later, in 1995, the Asian inspired 'Da Wo' (Literally 'big me' but can also be understood as 'the collective') scenario was presented alongside its opposite 'Just do it!' (exclamation mark included). While 'Da Wo' focuses on relationships built on trust, and the enabling role of government, 'Just do it!' is about innovation and self-reliance, allowing the "fullest expression of individual creati-

ty". In 1998, the 'New Game' Scenario (in which global competition solves problems and governments are reduced to setting minimal safety nets) is compared to the 'People Power' scenario (where diverse values and desires - so that "individual flowers blossom" - result in a volatile, unpredictable and fragmented world that crashes into the biggest recession since the 1930s). In, the 2002 scenarios 'Business Class' and 'Prism' are presented: 'Business Class' is characterised as "connected freedom", a network of the globally connected elite aligned with the US, reducing the power of national governments to create economic prosperity for everyone. Gas is the preferred source of energy, for health and environmental reasons. Power in this scenario is generated through networked relationships, with US interests coinciding with "global prosperity" because "the glue holding the world together is the dynamic of the

economy and the aspirations of people in nations all over the world." The contrasting scenario is 'Prism' where "connections that matter" and "collective values" that mean an "increased likelihood of boundary disputes" and "repressive regimes". For multinationals, this demands flexibility and attention to local detail that may enable corruption and limit growth. The 2013 'Mountain and Ocean' scenarios, the 2016 'Better-Life-With-A-Healthy-Planet' Interactive scenario brochure and the 2018 'Sky' scenarios, work with four Major global trends that Shell has identified: climate change, demographic change/migration, technological innovation, and politics. In 2021, Shell comes with a new set called the Energy Transformation Scenarios in which the notion of 'trend' is now called 'growing pressure': climate change, activism, legislative action, changing technology and evolving markets.

Shell scenarios have been remarkably consistent over the years in presenting not only what the company stands for, but what it will defend, and be likely to resist. Shell scenarios present contrasting positions such as state versus market, the collective versus the individual.²⁴ Shell's scenarios portray the state as a regressive and limiting force, and society/the public sector as conservative and inward-looking. The market, on the other hand, is presented as full of opportunities for individuals to maximise their innovation and enjoy freedom. Shell is quite particular about what it will, and will not, include in scenarios. The factors it chooses to omit are both surprising and remarkable

5 Pierre Wack was head of scenario planning at Shell. Wack, P. (1985, November). Scenarios: Shooting the rapids. *Harvard Business Review* 63 (6), 139–150. Retrieved from <https://hbr.org/1985/11/scenarios-shooting-the-rapids> on January 11, 2021. Wack, P. (1985, September). Scenarios: Uncharted waters ahead. *Harvard Business Review* (September–October), 73–89. Retrieved from <https://hbr.org/1985/09/scenarios-uncharted-waters-ahead> on January 11, 2021. See also: Wilkinson A. & Kupers, R. (2013, May). Living in the futures. *Harvard Business Review*. Retrieved from <https://hbr.org/2013/05/living-in-the-futures> on January 11, 2021. Wilkinson and Kupers are both ex Shell employees. Schoemaker, P.J.H & Van der Heijden, C.A.J.M. (1992). Integrating Scenarios into Strategic Planning at Royal Dutch/Shell. *Strategy & Leadership* 20(3). 41. Retrieved from https://www.researchgate.net/profile/Paul_Schoemaker/publication/235293413_Integrating_scenarios_into_strategic_planning_at_Royal_DutchShell/links/5473765c0cf2d67fc03738eb/Integrating-scenarios-into-strategic-planning-at-Royal-Dutch-Shell.pdf on January 11, 2021. Schoemaker worked at Shell during his sabbatical, Van der Heijden was Shell's head of scenario planning.

6 Shell. (2020). Shell Scenarios Sketch: A climate-neutral EU by 2050. p. 4. Retrieved from https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/scenario-sketches/new-sketch-a-climate-neutral-eu/_jcr_content/par/relatedtopics.stream/1587034457359/dad7b-112d536241e759584da50430cfad-e845d39/scenario-sketch-a-climate-neutral-eu-by-2050.pdf on August 8, 2020.

7 Vecchiato, R. (2019). Scenario planning, cognition, and strategic investment decisions in a turbulent environment. *Long Range Planning* 52(5). Retrieved from <https://doi.org/10.1016/j.lrp.2019.01.002> on February 20, 2021.

8 Shell (2021) The Energy Transformation. Retrieved from https://www.shell.com/promos/energy-and-innovation/download-full-report/_jcr_content.stream/1612814283728/d14d37b7dd060d78b65b-fee3c7654520e10381aa/shell-energy-transformation-scenarios-report.pdf, on February 15, 2021.

because these factors strongly determine the context in which the oil and gas industry works. Shell and the oil and gas industry, for example, are not mentioned or included in any of these scenarios. The company places itself outside of these scenarios and never mentions the oil and gas industry, as if they have no influence on policy, events, or global warming.

The scenarios portray a world where governments and markets are not influenced by the oil and gas industry. Chapter 3 showed how the oil and gas industry, and Shell in particular, directly influences politicians, policy-making, and the regulatory context. In 2019, Shell spent €4.5m on lobbying the EU alone, and €215m, since 2010, as a member of other EU lobby groups.²⁵ In the US, a 2019 NAACP report, Fossil Fuelled Foolery, described how the big oil companies, including Shell, spend between US\$4m and US\$7m annually on political lobbying.²⁶ And yet, corporate interference in policy-making, or corporate attempts to sabotage policy, exemplified by the Energy Charter Treaty, are conveniently disregarded in the scenarios.

Of secondary importance if at all: climate change, the price of oil and defining events

Although Shell was commissioning greenhouse effect studies in the early 1980s,²⁷ climate change appears in the scenarios²⁸ as late as 1998, and then it is only mentioned once.²⁹ It is not discussed as having any possible impact on the sector or life in general. In 2013, the disclaimer section on page 91 mentions that the legislation and regulation addressing climate change are possibly a risk.³⁰ In the 2016 scenario, climate change is reduced to a challenge for satisfying energy demand at an affordable cost.³¹ In its very latest set of scenarios, Waves, Islands and Sky 1.5, the COVID-19 pandemic is the motivation for a ‘healthy’ planet.

Another glaring omission from Shell’s scenarios is oil price. Zalik³² points out that in the 2008 scenarios, the futures market is not mentioned once. This is odd because “...speculative markets have increasingly come to determine oil prices in real time. Thus, contemporary oil markets are simultaneously constructed via (i) business agent perceptions of potential supply conditions, as well as (ii) the (use) value of oil.”³³ In 2008, as the financial crisis was unfolding, oil prices dropped from almost \$US100 per barrel to \$US59 per barrel (with 127 high, 35 low)³⁴, a situation remarkably similar to the 2020 fall in demand and plummeting oil price and before the COVID-19 pandemic took hold. An agreement by Russia and Saudi Arabia to coordinate a decrease in production to strengthen global oil prices, enabled OPEC to keep prices high until early 2020 when Russia refused further production cuts. The response by Saudi Arabia resulted in a production war, and the price of Brent crude fell by 30 per cent within 48 hours, dragging global stock markets down with it.³⁵ In its latest scenarios (2021) the oil price is given some attention, either because a high oil price keeps Russia, the US and Canada into oil (Waves scenario), or the shift away from oil decreases supply and increases price (Island scenario), or deep-sea exploration increases supply but demand will decrease (Sky 1.5 scenario).

The scenarios omit defining global events, such as the oil crisis of the 1970s and the financial crises of the 1990s and 2000s. Significant political developments in the Middle East, such as the US support for Israel which drove the 1974 oil crisis, and the changes in Russian politics following the arrival of Putin, are also glaringly absent from the scenarios. The complete absence of potential financial and political crises may perhaps be understood as strategic, but ignoring the impact of stranded assets, even if only in their disclaimers, is somewhat surprising given they are the bread and butter of Shell’s business.

No place for public concern and social discontent

Shell does not mention public concern over the environment and human rights abuses. Though social context is included in the scenarios, the potential impact of a public outcry against the sec-

9 Corporate Europe Observatory. (2020, 15 May). The future according to Shell: Climate rhetoric and fossil fuel expansion. Retrieved from <https://corporateeurope.org/en/future-according-shell> on July 12, 2020.

10 Shell (1992) Global scenarios 1992-2020. Retrieved from https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/new-lenses-on-the-future/earlier-scenarios/_jcr_content/par/expandablelist/expandablesection_225706646.stream/1519772700765/55072c78e86e63ba056fc29cf2fdb099e20a9650/shell-global-scenarios19922020.pdf on July 12, 2020.

11 Chinese English Pinyin Dictionary Yabla. Retrieved from <https://chinese.yabla.com/chinese-english-pinyin-dictionary.php?define=da+wo> on August 8, 2020

12 Shell (1995) Global Scenarios 1995-2020. Retrieved from https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/new-lenses-on-the-future/earlier-scenarios/_jcr_content/par/expandablelist/expandablesection_225706646.stream/1519772477959/e19b5221f581ce9c5e-5cee0069c7439720e81526/shell-global-scenarios19952020.pdf, on August 8, 2020

13 Ibid: p.4

14 Shell (2002) People and Connections. Retrieved from: https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/new-lenses-on-the-future/earlier-scenarios/_jcr_content/par/expandablelist/expandablesection_225706646.stream/1519772393196/1da4008a92b21b2424ff2aa526536007ac20ed47/shell-global-scenarios2020peopleandconnections.pdf, on August 8, 2020.

15 Ibid: p. 25.

16 Ibid: p. 34.

17 Ibid: p. 60.

18 Ibid: p. 75.

tor or Shell itself - as in 1995 following the executions in Nigeria, and the attempted dumping of Brent Spar - is not a variable for consideration in the scenarios. Elkington and Trisoglio explain that “Shell’s scenarios to date have been ‘individualist’, ‘hierarchist’ or some combination of the two; none have adopted an egalitarian or ‘values shift’ perspective”.³⁶ They argue that although Shell is well placed to sense global discontent and growing concerns about the environment and future of the planet, it either chooses to overwrite public demand for social and environmental justice with the need for more efficiency, or the company simply “badly misread key trends in public opinion.”³⁷ Any social discontent mentioned in the scenarios are not related to Shell, or the oil and gas industry, but are linked to local or global political economic processes. Social protest against human rights abuses and ecological disasters are deflected and subsequently rephrased as risk areas that can potentially increase scarcity and jeopardise the security of supply. Zalik explains in detail that the scenarios are written for the downstream oil consuming public and the firms’ shareholders, not for the upstream communities suffering the impact of production.³⁸

The role of fossil fuels

Shell continues, until today to defend the need for oil and its continued exploration and production, in addition to showing more interest in including gas in its business model. In its most optimistic scenario, peak use will fall in 2070.³⁹ When Shell invested in the Sakhalin oil and gas fields⁴⁰ in 1994, it presumed that, by 2025, gas (LNG) could replace oil as the primary energy source. In the scenarios, the company argues that “Oil and gas remain critical components of the energy system into the long term,”⁴¹ that energy demand will increase because development relies on fossil fuels⁴² and, increasing energy efficiency will result in increasing demand. Consequently, shifting attention away from fossil fuels towards:

- **The consumers who must change their behaviour;**
- **Technology that will make energy more efficient;**
- **Policies to allow corporate flexibility and innovation to deal with future developments.**

The scenarios are elaborate tales told to the public, investors, the media, and, perhaps, Shell employees, presenting an image of Shell as informed, innovative, creative, and prepared for the future. And because the scenarios defend the need for fossil fuels, and a shift towards gas, far into the 21st century, the company argues that rather than the fossil industry changing, it is consumer behaviour that needs to change, with technology, such as CCS, removing residual issues.

Shell works to carefully craft a world supportive of its business model and corporate interests, using sophisticated models to predict future demand, and presenting these in glossy interactive products. This very selective and limited world view underestimates climate change and places social and environmental concerns outside the realm and responsibility of the industry. Shell chooses to invest in buying a social license to operate, rather than change its business model.⁴³

4.3 Influencing the public realm

Only two months after the Paris Agreement was signed in 2015, Ben van Beurden boldly stated that Shell would extract as much oil as it possibly could (“Ik pomp alles op wat ik kan oppompen”).⁴⁴ Three years later, he reassured investors at the Oil and Money Conference “...that Shell’s core business is, and will be for the foreseeable future, very much in oil and gas, and particularly in natural gas. Oil is going to be needed by this world for a long time to come, and gas even more so”.⁴⁵ Shell

19 Shell (n.d.) New lens on the future. Retrieved from <https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/new-lenses-on-the-future.html> on July 12, 2020.

20 Shell International BV. (2016). A better life with a healthy planet: Pathways to net-zero emissions. Retrieved from https://www.shell.com/energy-future/scenarios/a-better-life-with-a-healthy-planet/_jcr_content/par/relatedtopics.stream/1475857466913/f53f377c-72c622102c589336d7eb60bfc1cf0c6b/scenarios-nze-brochure-interactive-afvv9-interactive.pdf on July 12, 2020.

21 Shell International BV. (2018). Sky: Meeting the goals of the Paris agreement. Retrieved from https://www.shell.com/promos/business-customers-promos/download-latest-scenario-sky/_jcr_content.stream/1530643931055/eca19f7fc0d20adbe830d3b0b27bc9ef72198f5/shell-scenario-sky.pdf on January 22, 2021.

22 Shell (2021) The Energy Transformation Scenarios. Retrieved from <https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/the-energy-transformation-scenarios.html#iframe=L3d-YmFwcHMvU2NlbnFyaW9zX2xvbnmdfaG9yaXpvnbnMv> on February 15, 2021.

23 Ibid: p.8.

24 This analysis is based on a discourse analysis of the scenarios since 1974, tracking the patterns and repetitions of words and ideas and their relationship. This was further informed by academics and publicly available resources. Most notable are DuMoulin, H. and Eyre, J. 1979 Energy scenarios a learning process. *Energy Economics* (1)2: 76-86; Vecchiato, R. (2019). Scenario planning, cognition, and strategic investment decisions in a turbulent environment. *Long Range Planning* 52 (2019) 101865, <https://doi.org/10.1016/j.lrp.2019.01.002>; Zalik, A. (2010) Oil ‘futures’: Shell’s scenarios and the social constitution of the global oil market. *Geoforum* 41 (4): 553-564. <https://doi.org/10.1016/j.geoforum.2009.11.008>.

deftly navigates between presenting itself as sensitive to customers' demands for cleaner energy, while also securing the interests of investors. Reclame Fossielvrij examined Shell's marketing campaigns and festivals, especially the company's focus on children through the Generation Discover festivals in the Netherlands.⁴⁶ These campaigns aim to portray Shell as a company acutely aware of the need for energy transition. With headquarters in the Hague, and solidly intertwined with Dutch society, they also show how Shell greenwashes its practices and presents a public image of itself far removed from reality.

In recent years, Shell's largest greenwash campaigns – such as Generation Discover⁴⁷, EcoMarathon and The Great Travel Hack – have been peppered with values such as optimism, innovation, collaboration, individual responsibility, and concern for the future, which have elicited a positive response from the public.⁴⁸ These green, positive, and upbeat campaigns - convincing because they appeal to shared societal values - sell five myths, although we prefer to call them tarradiddles⁴⁹:

- **Shell is an innovator in energy transition;**
- **Shell is actively working at mitigating climate change by promoting solutions;**
- **Shell is providing an invaluable contribution to society through jobs, knowledge, and innovation that will 'solve' climate change (such as by exploring gas, carbon capture and storage, hydrogen, and a little wind and solar energy);**
- **Young people and consumers will solve the problem of climate change;**
- **There is plenty of time to solve the climate crisis.**

These messages distract from the fact that Shell has been aware of the impact of fossil fuels on global warming for more than thirty years. The green and sociable facades of the campaigns divert attention from the company's use of the same old practices that caused global warming in the first place.⁵⁰ By focusing on the few sustainable and corporate social responsibility projects it runs, and by partnering with green and respected organisations, Shell presents itself as green, positive and sustainable. Shell intends to protect its 'social license to operate' by rebranding its image from a fuel major to a mobility partner. Instead of fuel, it provides energy and as energy provider it becomes a central player in providing what makes society run.

Following admissions that the company has harmed the environment, particularly in Nigeria⁵¹, and realising that "[T]rust in Shell has faded over the decade,"⁵² Shell has invested millions of euros⁵³ in convincing the public, its employees, politicians, civil servants, and investors otherwise. By partnering (cobranding) with recognised and well-respected public and cultural institutions - such as museums⁵⁴, the Dutch Defense Force⁵⁵, National forestry Service⁵⁶ - and by having public figures, such as mayors, open its festivals, Shell has sought to legitimise an image of itself as a trusted partner in the energy transition, so as to slow the pace and influence the content of climate policy. Research shows how marketing by the fossil industry is targeted to influence the climate debate, climate policy, and prevent regulatory measures.⁵⁷ This 'marketplace advocacy' is a controversial mix of public relations and advertising.⁵⁸ With adverts about gas, accompanied by solar panels and windmills, CO₂-compensation schemes, consumer responsibility and the potential of hydrogen, Shell intends to build the broad support for the government policy it wants.

Shell's annual children's festival Generation Discover illustrates its marketing strategy. The Festival focuses on the wind and the sun, and a little on gas. Children from the age of six learn how to generate energy by dancing. There is a food truck with organic pancakes, and solar energy is

25
Corporate Europe Observatory. (2020, 15 May). The future according to Shell: Climate rhetoric and fossil fuel expansion. Retrieved from <https://corporateeurope.org/en/future-according-shell> on July 12, 2021.

26
The Center for Responsive Politics (2016). Lobbying Spending Database: Oil & Gas. Retrieved from <https://www.opensecrets.org/lobby/industry-client.php?id=E01> on February 20, 2021. Cited in: NAACP (2019). Fossil Fueled Foolery. p.6. Retrieved from <https://live-naacp-site.pantheonsite.io/wp-content/uploads/2019/04/Fossil-Fueled-Foolery-An-Illustrated-Primer-on-the-Top-10-Manipulation-Tactics-of-the-Fossil-Fuel-Industry-FINAL-1.pdf> on January 21, 2021.

27
Climate files (n.d.). 1988 Shell Confidential Report "The Greenhouse Effect". Retrieved from <http://www.climatefiles.com/shell/1988-shell-report-greenhouse/> on January 21, 2021

28
Shell (1998). Global Scenarios 1998-2020. Retrieved from https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/new-lenses-on-the-future/earlier-scenarios/_jcr_content/par/expandablelist/expandablesection_225706646.stream/1519772497153/2c501efe-f838a67595501d4acb83194f-6c5da570/shell-global-scenarios19982020.pdf on January 21, 2021.

29
In 1998, climate is mentioned once, in 2002, twice, in 2008 a record 29 times and by 2013, 19 times, the latest scenario mentions it 59 times

30
Shell International BV. (2013). New lens scenarios: A shift in perspective for a world in transition, p. 91. Retrieved from https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/new-lenses-on-the-future/earlier-scenarios/_jcr_content/par/expandablelist/expandablesection_2136373973stream/1519787235340/77705819d-cc8c77394d9540947e811b8c35b-da83/scenarios-newdoc-english.pdf on July 12, 2020.

used to froth the milk for cappuccinos. The five-day festival, launched in 2016, ran for four years, and had a nationwide reach for more than a month per year. Using large advertising formats in local and national (social) media outlets, and with a commercial TV channel as a media partner,⁵⁹ the Festival attracted teachers, parents, and influencers. Shell's CEO holds consultation hours, and politicians and civil servants participate in the programme.⁶⁰ The Dutch Prime Minister, Mark Rutte, shows up.⁶¹ Shell uses its co-branding with other well-known, trusted, and respected organisations to legitimise the festival.⁶²

In Shell's view, "today's young people are the politicians, journalists and opinion makers who will soon determine the debate".⁶³ In Shell's communication plan 'Towards Net Zero Emissions'⁶⁴, the company describes millennials as being "more open-minded" towards Shell than older generations. Addressing the decision-makers of today, as well as those of the future, the Festival is meant to 'bring home' the message that Shell is a trusted partner, and that fossil fuels are essential for decades to come.

The Generation Discover festival was used to market educational materials, jointly developed by Shell and NEMO Science Museum, to elementary schools and teachers.⁶⁵ Schools that participate in Generation Discover are eligible to attend workshops led by Shell employees on how children can help the planet by reducing plastic bag usage and food waste. There is no mention anywhere of Shell's role in producing that plastic and in damaging the planet. As part of the programme,⁶⁶ Shell employees not only share what it means to work for Shell⁶⁷ they also influence the technology curriculum for primary and high schools⁶⁸ in which they promote CO₂-storage, CO₂ trade and gas.⁶⁹ Shell provides training on oil and gas for teachers.⁷⁰ Entitled 'It's All about Energy', the curriculum teaches that everything is energy, and energy is everything, and that Shell is all about energy, successfully re-branding itself away from fossil fuels and placing itself as an essential company for the survival of society. By having access to these children at such a young age, the first thing they learn about climate change and energy transition may come from Shell. Shell's message may, therefore, end up being the benchmark against which children measure all new information about energy transition.

Reclame Fossielvrij⁷¹ shows how both Generation Discover⁷², as well as EcoMarathon⁷³ and MakeTheFuture⁷⁴, were developed by Edelman, a well-known multinational communications firm with a controversial history. Between 1970 and 1990, Edelman played a key role in preventing effective legislation being introduced against the tobacco industry, and in manipulating public opinion on tobacco and its effects on health.⁷⁵ Accused of astroturfing⁷⁶, Edelman also supported lobby groups such as the American Legislative Exchange Council (ALEC)⁷⁷ and the American Petroleum Institute who denied climate change, as well as fossil majors Exxon, Shell, and Chevron.⁷⁸ Corporate Watch has shown how Edelman "has often led the industry in developing innovative ways to clean up corporate image and control public opinion".⁷⁹ In response to losing clients because of its anti-climate campaigns, Edelman announced in 2015 that it would stop working for climate deniers and coal companies.⁸⁰ For the last 20 years, Edelman has unabashedly linked its name to 'trust' and developed a trust barometer,⁸¹ even using an image of Greta Thunberg in its own publications.⁸²

Using Generation Discover, EcoMarathon, and MakeTheFuture, Shell aligns itself to governmental responsibilities such as technical education, future employment, and the UN Sustainable Development Goals (SDGs).⁸³ Through these campaigns, Edelman presents Shell as a driver of change, an innovative pioneer in the fight against climate change, and a good employer, communicating a clean and crisp image of Shell to the next generation, and overwriting its responsibility for global warming, oil spills, human rights abuses, resources from fragile ecosystems, and colonised territories.

Shell also targets particular groups deemed to be influential in the political debate about climate policies. The NRC, for example, a major Dutch newspaper popular with politicians and

31 Shell International BV (2016). A better life with a healthy planet: Pathways to net-zero emissions, p. 23. Retrieved from https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/a-better-life-with-a-healthy-planet/_jcr_content/par/relatedtopics.stream/1475857466913/f53f377c-72c622102c589336d7eb60bfc1cf0c6b/scenarios-nze-brochure-interactive-afwv9-interactive.pdf on July 12, 2020

32 Zalik, A. (2010). Oil 'futures': Shell's scenarios and the social constitution of the global oil market. *Geoforum* 41(4): 553-564. Retrieved from <https://doi.org/10.1016/j.geoforum.2009.11.008> on January 11, 2021.

33 Zalik, A. (2010). Oil 'futures': Shell's scenarios and the social constitution of the global oil market. *Geoforum* 41(4): 553-564, p. 554. <https://doi.org/10.1016/j.geoforum.2009.11.008> on January 11, 2021.

34 Macrotrends (2021). Crude Oil prices. Retrieved from <https://www.macrotrends.net/1369/crude-oil-price-history-chart> on January 11, 2021. Amadeo, K. (2021, 13 February). Oil price history – highs and lows since 1970. Retrieved from <https://www.thebalance.com/oil-price-history-3306200#oil-prices-by-year-average-high-low-and-events> on February 20, 2020.

35 For a full explanation and the ramifications for the implication of COVID 19 on the oil and gas industry, see: Hanieh, A. (2020, 8 April). When Oil markets go viral. Retrieved from <https://www.versobooks.com/blogs/4651-when-oil-markets-go-viral> on January 11, 2021. Brower, D. et al. (2020, 13 March). Eight days that shook the oil market – and the world. *Financial Times*. Retrieved from <https://www.ft.com/content/c9c3f8ac-64a4-11ea-a6cd-df28c-c3c6a68> on January 11, 2021. Reed, S. (2020, 6 March). Oil prices nose-dive as OPEC and Russia fail to reach a deal. *The New York Times*. Retrieved from <https://www.nytimes.com/2020/03/06/business/opec-oil-prices-russia.html> on July 12, 2020.

36 Elkington, J., & Trisoglio, A. (1996). Developing realistic scenarios for the environment: Lessons from Brent Spar. *Long Range Planning*, 29(6), 762-769, p. 762.

37 *Ibid.* p. 763.

government officials, ran an interview with Greenpeace Director, Joris Thijssen⁸⁴, alongside three Shell advertorials⁸⁵ with titles such as ‘If we can convert CO₂ to fuel, we close the circle’ and ‘We need a lot more energy, but it should be clean’. The most audacious example of this kind of targeting is branded content in which Shell “invites everybody to work together for a better future” (Shell nodigt iedereen uit om samen te werken aan een betere toekomst).⁸⁶ As if Shell is working a better future beyond its own profits, this is a painful affront to all of those who have suffered, and continue to suffer, the consequences of the fossil fuel industry. While other newspapers also publish Shell advertorials, NRC has a dedicated department of people who write branded content articles for Shell.⁸⁷ Research has shown that people directly scroll to an article’s content, hardly noticing whether or not it is sponsored.⁸⁸ In this particular case, the positive content, along with the Shell logo, next to a Greenpeace critique, undermines the content of journalism.

These different strategies all relate to one of Shell’s three main strategic ambitions: ‘A strong license to operate’.⁸⁹ Public support is key to maintaining access to politicians and ministries, and necessary to Shell if it is to influence and prevent policy, agree loans and permits, and benefit shareholders and employees. Shell’s advertising is not innocent. It does not advertise the company’s product, but feeds the public a world view that the planet will still be running on oil, and gas, in 60 years’ time. Advertising has allowed Shell to normalise its practises and maintain its position, be invited to schools to talk about a healthy future, and have a seat at policy-making tables to develop climate policies.

4.4 Conclusions

Shell uses scenarios, marketing campaigns, and misleading advertising to present a company indispensable for society for its role in providing energy and guiding through the energy transition. Only recently, in December 2020, four senior Shell executives responsible for renewable energy and the energy transition left the company questioning whether Shell is willing and able to move beyond its dependence on oil and gas.⁹⁰ The scenarios and the advertising promote a mythical future that bears little resemblance to the present and is a painful negation of the past. This attempt to overwrite its role in global warming and social and environmental injustice using controversial marketing companies, should be stopped. Shell’s partnerships and collaborations with publicly recognisable and reliable partners to legitimise its public standing, should be challenged. Its educational programmes that influence children, and are possibly the first encounter children have with climate change and renewable energy, need to be replaced with content that is historically and scientifically correct.

Advertising and marketing are effective tools for Shell to dampen the sense of urgency in society about climate change, maintain approval for the company from the general public, get opinion-makers, politicians and government officials on side, thereby keeping their place at the table with the government where they can influence both the pace (not too fast) and the direction of energy transition (with a continued need for fossil fuels). Shell has been able to redirect the responsibility to change away from its own hazardous practices by making climate change and energy transition a demand issue, rather than a supply driven one. It claims solutions must come from behaviour change in consumers, and technology that will store CO₂ so that supply can continue unhindered. Shell sells seductive lies and tactfully manipulates the public away from remembering the past, and asking critical questions about their dirty practices in the oil and gas industry.

38

For a full discussion, see: Zalik, A. (2010). Oil ‘futures’: Shell’s scenarios and the social constitution of the global oil market. *Geoforum* 41(4), 553-564. Retrieved from <https://doi.org/10.1016/j.geoforum.2009.11.008> on February 20, 2021.

39

Shell (2021) The Energy Transformation Scenarios. Retrieved from <https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/the-energy-transformation-scenarios.html#iframe=L3dlYmFwcHMvU2NlbmFyaW9zX2xvbmdfaG9yaXpvcnBm> on February 15, 2021.

40

Vecchiato, R. (2019). Scenario planning, cognition, and strategic investment decisions in a turbulent environment. *Long Range Planning* 52(5), p. 3. Retrieved from <https://doi.org/10.1016/j.lrp.2019.01.002> on February 20, 2021.

41

Shell International BV. (2017). Shell global supply model: Oil & gas: a view to 2100, p. 5. Retrieved from https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/shell-scenarios-energy-models/global-supply-model/_jcr_content/par/textimage.stream/1500439104411/88d-3c54a304eb12000e6f71bf27c-322456ca66d5/shell-global-supply-model.pdf on July 21, 2020.

42

Shell International. (2002). People and connections: Global scenarios to 2020. Public summary. Retrieved from https://www.shell.com/energy-and-innovation/the-energy-future/scenarios/new-lenses-on-the-future/earlier-scenarios/_jcr_content/par/expandablelist/expandablesection_225706646.stream/1519772393196/1da4008a92b21b2424f-f2aa526536007ac20ed47/shell-global-scenarios2020peopleandconnections.pdf on July 21, 2020.

43

Hope, M. (2018, April 11). How Shell Greenwashed its Image as Internal Documents Warned of Fossil Fuels’ Contribution to Climate Change. *Desmog*. Retrieved from <https://www.desmogblog.com/2018/04/11/how-shell-greenwashed-its-image-internal-documents-warned-fossil-fuels-contribution-climate-change-on-december-10-2020>.

- 44
de Kruij, I. (2016, February 6). Topman Shell: ik pomp alles op wat ik kan oppompen. NOS. Retrieved from <https://nos.nl/nieuwsuur/artikel/2084934-topman-shell-ik-pomp-alles-op-wat-ik-kan-oppompen.html> on December 10, 2020 [in Dutch].
- 45
van Beurden, B. (2018). Moving with the times. Retrieved from <https://www.shell.com/media/speeches-and-articles/2018/moving-with-the-times.html> on July 10, 2020.
- 46
Much of this discussion is based on: Reclame Fossielvrij (2021). Greenwashing, the dirty truth about Shell's children's marketing. Retrieved from <https://www.futurebeyondshell.org/greenwashing-the-dirty-truth/> on February 15, 2021.
- 47
Information on the event can be found on: <https://www.generationdiscover.nl/wat-is-generation-discover/generation-discover-en.html>. Information about actions against the event on: <https://fossielvrijonderwijs.nl/uncover-generation-discover/>
- 48
Miller, B. M., & Lellis, J. (2016). Audience response to values-based marketplace advocacy for the fossil fuel industries. *Environmental Communication*, 10(2), 249-268. Retrieved from <https://doi.org/10.1080/17524032.2014.993414> on February 4, 2021.
- 49
A taradiddle is a statement known by its maker to be untrue and made in order to deceive. Retrieved from <https://www.merriam-webster.com/thesaurus/taradiddle#noun> on February 4, 2021.
- 50
Oil Change International. (2020). Big Oil Reality Check: assessing oil and gas company climate plans, p. 2. Retrieved from <http://priceofoil.org/content/uploads/2020/09/Oil-Big-Oil-Reality-Check-vF.pdf> on January 22, 2021.
- 51
van Beurden, B. (2018). Is Big Tech the new Big Oil? And how can tech avoid oil's errors? (at 2:09). Retrieved from <https://youtu.be/VrPCoe4pYm0> on January 22, 2021.
- 52
Ibid: at 0.56.
- 53
Brulle, R. J., Aronczyk, M., & Carmichael, J. (2020). Corporate promotion and climate change: an analysis of key variables affecting advertising spending by major oil corporations, 1986–2015. *Climatic Change*, 159(1), 87-101. <https://doi.org/10.1007/s10584-019-02582-8>.
- 54
Nemo Amsterdam (n.d.). Shell. Retrieved from <https://www.nemosciencemuseum.nl/nl/over-nemo/steun-nemo/partners/shell/> on February 4, 2021 [in Dutch].
- 55
Ministerie van Defensie (2020) Defensie en Shell trekken samen op voor vrede en stabiliteit. Retrieved from <https://www.defensie.nl/actueel/nieuws/2021/01/20/defensie-en-shell-trekken-samen-op-voor-vrede-en-stabiliteit> on February 8, 2020 [in Dutch].
- 56
Staatsbosbeheer (n.d.). Shell en Staatsbosbeheer planten 5 miljoen bomen. Retrieved from <https://www.staatsbosbeheer.nl/shell>, on February 8, 2020.
- 57
Brulle, R. J., Aronczyk, M., & Carmichael, J. (2020). Corporate promotion and climate change: an analysis of key variables affecting advertising spending by major oil corporations, 1986–2015. *Climatic Change*, 159(1), 87-101. <https://doi.org/10.1007/s10584-019-02582-8>.
- 58
Miller, Barbara (2012) Marketplace Advocacy Campaigns: Generating Public Support for Business and Industry. Amherst: Cambria Press.
- 59
Award Analyst. (2019, 11 December). Why Shell and BrandBase created a STEM-themed youth festival in the Netherlands. The Drum. Retrieved from <https://www.thedrum.com/news/2019/12/11/why-shell-and-brandbase-created-stem-themed-youth-festival-the-netherlands> on January 22, 2021.
- 60
Uitnodiging Generation Discover Festival. (n.d.). Expertisecentrum wetenschap + technologie Zuid-Holland. Retrieved from <https://www.ewtzh.nl/uitnodiging/> on January 22, 2021 [in Dutch]. Shell Media (2016, 3 October). Jonge wetenschapper wint Christiaan Huygens wetenschapsprijs uitgereikt op het Shell generation discover festival. Retrieved from <https://www.shell.nl/media/persberichten/2016-media-releases/science-award-for-research-into-design-supercomputer.html> on January 22, 2021.
- 61
Picture on <https://drive.google.com/file/d/1ljzfol9mllikcZoBowM05EeK5swQLUE/view?usp=sharing>
- 62
Cineac Den Haag. (2017, 28 September). Subsidie Shell. Retrieved from <https://www.youtube.com/watch?v=Yx0GCGQXSkQ> on January 22, 2021.
- 63
Shell (n.d.). Shell brief: Towards net zero emissions. Retrieved from https://drive.google.com/file/d/0B_L1nW8WLu0Bb1QWnJRcHlZbIE/view on February 19, 2021.
- 64
Johnson, G., & Kahya, D. (2016, 6 July). Leaked: The strategy behind Shell's low emissions PR push. UNEARTHED. Retrieved from <https://uneartthed.greenpeace.org/2016/07/07/leaked-strategy-behind-shells-low-emissions-pr-push/> on February 4, 2021.
- 65
The Shell Centenary Scholarship Fund (TSCSF) en Shell Nederland zijn partners van het Maakkunde onderwijsprogramma. Retrieved from: <https://www.nemosciencemuseum.nl/nl/over-nemo/steun-nemo/partners/shell/> on February 4, 2021
- 66
Shell. (2016, April). De toekomst van energie... Wat denk jij? Retrieved from https://denhaag.raadsinformatie.nl/document/5719939/1/RIS297974_Bijlage_Shell_Energie_transitie on January 22, 2021.
- 67
Fossielvrij Onderwijs. (2018, 9 October). Na lessen van Shell: "Ik koos voor het B-profiel om verkeerde redenen". Retrieved from <https://fossielvrijonderwijs.nl/2018/10/09/na-lessen-van-shell-ik-koos-om-verkeerde-redenen-voor-het-b-profiel/> on January 22, 2021.
- 68
Shell International BV. (2012). It's all about energy! Deel 2 Lespakket over de energieuitdaging voor HAVO en VWO. Retrieved from <https://drive.google.com/file/d/0B4fPTR3E0yGkbmJKVWZNTjYUjQ/view?usp=sharing> on December 10, 2020.
- 69
Shell International BV. (2012) It's all about energy! Lespakket over de toekomst van energie, oliewinning en CO2. Retrieved from http://jet-net.nl.i-s.nl/wp-content/uploads/2018/04/IAAE1_Nederlands-lessen_prof.pdf on December 10, 2020. Shell International BV. (2012). It's all about energy! Deel 2 Lespakket over de energieuitdaging voor HAVO en VWO. Retrieved from <https://drive.google.com/file/d/0B4fPTR3E0yGkbmJKVWZNTjYUjQ/view?usp=sharing> on December 10, 2020.
- 70
U-Talent. (2018, July 6). Shell nascholing – Technologie achter olie- en gaswinning. Retrieved from <https://u-talent.nl/activiteit-archief/shell-nascholing-technologie-olie-en-gaswinning-2/> on January 22, 2021 [in Dutch].
- 71
Reclame Fossielvrij (2021). Gre enwashing, the dirty truth about Shell's children's marketing. Retrieved from <https://www.futurebeyondshell.org/greenwashing-the-dirty-truth/> on February 15, 2021.
- 72
Edelman. (2019). Shell: Generation Discover. Retrieved from <https://www.edelman.amsterdam/work/generation-discover> on January 22, 2021.
- 73
Edelman. (2021). Shell: Engineering real life heroes. Retrieved from <https://www.edelman.co.uk/work/engineering-real-life-heroes> on January 22, 2021.
- 74
Edelman. (2021). Make the future live 2017. Retrieved from <https://www.edelman.co.uk/insights/make-future-live-2017> on January 22, 2021.
- 75
Sustana, R. (1978). Letter: Since my meeting with you and Dick Aurelio. Truth Tobacco Industry Documents. Retrieved from <https://www.industrydocuments.ucsf.edu/tobacco/docs/#id=qsdk0072> on July 10, 2020.
- 76
Astroturfing is the organization of a fake movement by for example a corporation. See: <https://www.merriam-webster.com/dictionary/astroturfing>
- 77
Dickson, V. (2012, 10 May) Under-fire advocacy group ALEC works with Edelman. Retrieved from <https://www.prweek.com/article/1279251/under-fire-advocacy-group-alec-works-edelman>, on September 9, 2020.
- 78
Coleman, J. (2014, 20 November 20). Leaked: What you should know about Edelman and TransCanada's attack plan. Retrieved from: <https://www.greenpeace.org/usa/leaked-edelman-transcanadas-pr-attack-plan/>, on July 10, 2020. See also: Merchant, B. (2014, 5 August). How the world's biggest PR firm helps promote climate change denial. Vice. Retrieved from <https://www.vice.com/en/article/wrjgnq/how-the-largest-pr-firm-in-the-world-promotes-climate-change-denial> on July 10, 2020. Goldenberg, S. & Karim, N. (2014, 4 August). World's top PR companies rule out working with climate deniers. The Guardian. Retrieved from <https://www.theguardian.com/environment/2014/aug/04/worlds-top-pr-companies-rule-out-working-with-climate-deniers> on July 10, 2020.

- 79
Corporate Watch. (2012). Edelman Company Profile. Retrieved from <https://corporatewatch.org/edelman-company-profile/> on July 10, 2020.
- 80
Goldenberg, S. (2015, 15 September). Edelman ends work with coal producers and climate change deniers. The Guardian. Retrieved from <https://www.theguardian.com/environment/2015/sep/15/edelman-ends-work-with-coal-and-climate-change-deniers> on July 10, 2020.
- 81
Edelman. (2020a). 2020 Edelman Trust Barometer. Retrieved from <https://www.edelman.com/trustbarometer> on July 10, 2020.
- 82
Edelman. (2020b). Edelman Trust Barometer. Global Report. Retrieved from <https://cdn2.hubspot.net/hubfs/440941/Trust%20Barometer%202020/2020%20Edelman%20Trust%20Barometer%20Global%20Report-1.pdf> on January 14, 2021.
- 83
Edelman. (2019). Shell: Generation Discover. Retrieved from <https://www.edelman.amsterdam/work/generation-discover> on January 22, 2021.
- 84
Verbied Fossiele Reclame. (n.d.). NRC helpt Shell greenwashen. Retrieved from <https://verbiedfossielereclame.nl/fossiele-reclame/nrc-helpt-shell-greenwashen/> on July 10, 2020 [in Dutch].
- 85
An advertorial is advertisement in the form of an article. For an example take a look at: <https://special.nrc.nl/shell/nu-al-voldoende-co-gecompenseerd-voor-duizend-rondjes-rond-de-wereld?linkId=67821535> [in Dutch].
- 86
For examples of branded content, take a look at: NRC (n.d.). XTR Branded Content. Retrieved from <https://www.nrc.nl/advertentie/shell/> on July 10, 2020 [in Dutch].
- 87
NRC (n.d.). XTR Branded Content. Retrieved from <https://www.nrc.nl/advertentie/shell/> on July 10, 2020 [in Dutch].
- 88
Benjamin, J. (2016, 5 April). Is het nieuws of een advertentie? NRC. Retrieved from <https://www.nrc.nl/nieuws/2016/04/05/is-het-nieuws-of-een-advertentie-1605832-a70614> on February 17, 2021 [in Dutch].
- 89
Outen, G. (2018). Decision-making in the face of a radically uncertain future [PowerPoint slides]; slide 12. Royal Dutch Shell. Retrieved from https://www.enecho.meti.go.jp/en/committee/studygroup/ene_situation/pdf/005_005.pdf on July 10, 2020.
- 90
Raval, A. and Hook, L. (2020, 8 December). Shell executives quit amid discord over green push. Financial Times. Retrieved from <https://www.ft.com/content/053663f1-0320-4b83-be31-feb-c49b0efc>, on February 8, 2021. See also: Hopsbn, C. (2020, 9 December). Mindset not there: Shell green-energy executives said to quit over slow pace of oil giant's energy transition. Retrieved from <https://www.rechargenews.com/transition/mindset-not-there-shell-green-energy-executives-said-to-quit-over-slow-pace-of-oil-giants-energy-transition/2-1-927233> on February 8, 2021.



CONCLUSIONS

Still playing the Shell game



Shell presents itself as a global leader bringing prosperity, progress, and innovation. Taking a closer look at the company's business model, its history and current practices, this prosperity is only for the few, the progress is limited, and 'innovation' involves primarily gas and carbon capture, both of which keep the world locked into a fossil future. In short, Shell continues the 'Shell game.' This report has lifted the shells to reveal that Shell has been very successful in misleading the way. We identified four obstacles: Shell remains locked in profit maximization, it thrives on inequality and undermines democratic decision-making, and finally, its scenarios and marketing are misleading. Together these obstacles show a history of business practices that seriously questions the legitimacy of Shell's place at the decision-making table, the sustainability of its business model, and its integrity and intentions in contributing to a just transition.

¹ For a more comprehensive discussion see Bengi Akbulut (2019) on anti-capitalist commons as a degrowth strategy.

Obstacles to a just transition

Shell's business is to extract, transport, refine, and distribute fossil fuels. This business, and the revenue from it, lie at the heart of global warming; with the company's operations causing environmental damage and social suffering. Over the past 20 years, Shell has accrued far more debt than its competitors (currently lugging a debt load of over US\$80 bn), and has spent US\$237bn on dividends and share buybacks. Missing the opportunity to invest in a climate resilient work force, energy sources or business, the company instead has invested in its shareholders and, by extension, its top management. Whether this is irresponsible or financial mismanagement, it means the company is financially unfit for the future, and its business model is ill-prepared for the challenges posed by the climate crisis. The reluctance to compensate frontline communities for the livelihoods lost and the environmental damage the company has inflicted, shows the company's lack of moral compass. Rather than being a responsible partner in development, Shell avoids paying taxes, becomes involved with corruption, and after all the damage done has the audacity to use investment treaties to demand compensation in both Nigeria and the Netherlands. With the help of controversial marketing consultants, such as Edelman, Shell sells a seductive image of itself to young people, remaining silent on the social and environmental damage it has caused around the world. Shell's heavily funded marketing campaigns, and glossy scenarios, have not, however, prevented people from standing up and calling them out. Protests have taken place in Indonesia, South Africa, Nigeria, Curacao, Argentina, Bolivia, Nicaragua, Canada, Alaska, Russia, the UK, Ireland, and The Netherlands. It is thanks to this persistent resistance that we are able to peel off the varnish and expose the damage caused by Shell.

Ingredients for collective strategising

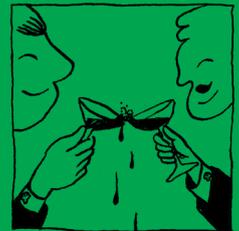
The Covid-19 crisis has brought the oil industry, including Shell, to the brink of collapse. It has highlighted how an uncontrolled unravelling of the oil and gas sector disastrously impacts workers and frontline communities. But the crisis has also made it possible for visions of structural systemic change to emerge and gain traction in wider society. This includes taking the opportunity to listen carefully to the resilient voices that have led the struggle against Shell in the past, to rethink what is relevant and important for people and the planet, and to try and fundamentally transform the way we organise our societies. The obstacles identified for Shell are representative of the challenges that the energy transition faces if multinationals continue to influence and determine the trajectory of the energy transition. Any restructuring undertaken by Shell needs to be embedded in the practices, and inspired by those ideas that can break down, and replace, the profit-seeking, extractivist, anti-democratic and exploitative dynamics that currently drive economic growth and its uneven development across the globe. The intention of the report is to provide ingredients for collective strategising on how to demand reparation and redistribution, through imagining and creating alternative social ecological relations, built on solidarity and cooperation, diversity and sustenance.¹

KEY TAKEAWAYS



OBSTACLE 1: SHELL REMAINS LOCKED IN PROFIT MAXIMISATION

- Shell has prioritised dividend pay-out and share buybacks, spending US\$237bn over the past 20 years;
- Shell continues investing in oil and expanding into gas;
- Shell has borrowed money, leaving it currently heavily in debt, and with assets compromised because they are mostly fossil fuel related;
- Despite spending US\$237bn in dividend pay-outs and share buybacks since 2000, Shell's share value has remained stable, but not increased;
- The combination of high dividend pay-outs and share buyback, with unprecedented levels of debt, has resulted in a financially fragile enterprise; profits are not reinvested in climate sensitive capital, or research and development, to secure future returns; or in retraining employees about a more climate friendly future;
- Shell engages in profit-shifting and makes extensive use of tax havens to avoid paying its public dues, resulting in an enormous loss of public income;
- Shell's business model benefits the top managers of the company, who are rewarded partly on Shell's performance in generating shareholder returns, cash flow from operating activities, and operational excellence. The CEO-to-worker compensation ratio in the Netherlands is 277:1 and, in Nigeria, 4050:1;
- Every euro that goes into exorbitant pay-outs to executives and shareholders, or is shifted to tax havens, is one not spent on decent wages, retraining workers for climate resilient jobs, cleaning up oil spills, or compensating frontline communities.



OBSTACLE 2: SHELL THRIVES ON INEQUALITY AND VIOLENCE

- The close relation between the Dutch coloniser and Shell enabled the company to grow and the coloniser to rule;
- Shell's involvement in apartheid in Indonesia and South Africa and wars such as Aceh in Indonesia and Biafra in Nigeria to either extract oil or sell it shows its lack of moral compass;
- Shell 'beats itself on the chest' for the role it played in the 'civilising mission', and though this served the company very well, it silenced and side-lined frontline community perspectives, lives and livelihoods;

- Colonial relations of resource capture were formalized and legitimized by international investment treaties;
- By developing fossil-related extraction and processing, Shell locks countries into fossil fuel development for decades to come;
- Shell's CO2 compensation project to protect its business are false solutions and damage forests and the communities dependent on them.



OBSTACLE 3: SHELL UNDERMINES DEMOCRATIC DECISION-MAKING

- Shell uses its privileged access to, and influence on, policy makers to secure and promote its own interests, including those relating to climate policy.
- People moving between careers in Shell and the Dutch government allows Shell direct access to the highest decision-making bodies in the Netherlands.
- Revolving doors and lobby funding compromise independent and democratic decision-making within governing bodies that can result in corporate interests taking precedence over public needs in the debate around a just transition.

- Shell uses bilateral and free trade agreements to shape policy in their favour.
- Leaked emails related to the Nigerian case OPL245 have shown that Shell prioritised profit over its own anti-corruption protocols.
- Frontline communities and producing countries pay a high price for the company's structural links to state security services, and strategies for gaining influence.



OBSTACLE 4: SHELL MISLEADS THE WAY

- The Shell scenarios serve to normalise and promote Shell's perspective on the future;
- Shell most positive scenario presented in 2021 presents global oil and gas use as still respectively 93% and 85% of current levels in 2050 and not peak until 2080;
- In Shell's scenarios the state is a regressive and limiting force, and society/ the public sector as conservative and inward-looking, while the market is presented as full of opportunities for individuals to maximise innovation and enjoy freedom;
- Shell scenarios are written for the downstream oil consuming public and the firms' shareholders, not for the upstream communities suffering the impact of production;
- Teaming up with the controversial marketing company Edelman, Shell is presented as an innovative pioneer in the fight against climate change, over writing its responsibility for global warming, oil spills, human rights abuses, damaged ecosystems, and colonised territories;
- Targeting young children with festivals and educational material, Shell's message of continued need for fossil and controversial carbon capture and storage technology may end up being the benchmark against which children measure all new information about energy transition.





STILL PLAYING THE SHELL GAME





 **.ORG**