**District Court of The Hague**

C/09/571932 2019/379 **STATEMENT ON THE RECORD OF**

**AMENDMENT OF CLAIM**

Session: 21 October 2020 in the matter of:

1. **Vereniging Milieudefensie**

both on its own behalf, and in its capacity of representative ad litem and representative of the co-claimants who are listed on **Annex A**, which annex is attached to the summons and forms part thereof,

having its registered office in Amsterdam, the Netherlands;

2. **Stichting Greenpeace Nederland,**

having its registered office in Amsterdam, the Netherlands;

3. **Landelijke Vereniging tot Behoud van de Waddenzee**,

having its registered office in Harlingen, the Netherlands;

4. **Stichting ter bevordering van de Fossielvrij-beweging**,

having its registered office in Amsterdam, the Netherlands;

5. **Stichting Both ENDS**,

having its registered office in Amsterdam, the Netherlands;

6. **Jongeren Milieu Actief**,

having its registered office in Amsterdam, the Netherlands;

7. **Stichting ActionAid**,

having its registered office in Amsterdam, the Netherlands

Claimants

Hereinafter also called: "Milieudefensie et al.”

Counsel: R.H.J. Cox

Versus

**Royal Dutch Shell plc**

Having its registered office in The Hague, the Netherlands

Defendant

Counsel: J. de Bie Leuveling Tjeenk, N.H. van den Biggelaar and D. Horeman

**Amendment of claim**

1. On 2 September 2020, by statement on the record relating to the submission of additional exhibits, Milieudefensie et al. announced an amendment of claim.

2. In para. 18 of the statement on the record in question it was announced that an alternative reduced claim and a second alternative reduced claim would be added to the principal claim of a 45% reduction in 2030 presented by Milieudefensie et al. in the summons, taking into account the bandwidth of the maximum carbon budget associated with the temperature target of the Paris Agreement.

3. Carbon budget refers to the maximum quantity of CO2 which, bearing in mind the temperature target of the Paris Agreement, humankind can emit into the atmosphere before a specific CO2 concentration occurs in the atmosphere. Limits have thus been set for this quantity, which is why policymakers and scientists use the term carbon budget to specify this maximum amount of CO2 emission which is still acceptable.

4. Taking account of the bandwidth laid down in the carbon budget, in addition to the claim for a 45% reduction by 2030, the amendment of claim set out below alternatively seeks a reduction of 35% by 2030, with a second alternative claim of a reduction of 25% compared to the emissions level of the year 2019 as base year. This amendment of claim will be explained in the oral arguments, making use of the exhibits which the parties have submitted into the proceedings. These are, inter alia, data provided by the IPCC, UNEP and the IEA.

5. With regard to the base year 2019: the year 2019 is the last year for which Shell published its sustainability report and annual report, as well as other public reporting and statements which are relevant. 2019 is also the year in which Milieudefensie et al. issued summons against Shell (April 2019), which summons was preceded a year earlier by the notice of liability addressed to Shell in April 2018 and notice to effect the necessary emissions reduction (Exhibit 17 Milieudefensie et al.). Shell has therefore been able to take account of Milieudefensie et al.'s reduction claim since April 2018 (and on the basis of general knowledge and science in essence since the 1980s and 1990s, as was argued in the summons). These matters will be explained in further detail and clarified in the oral arguments.

6. In para. 18 of the statement on the record of 2 September 2020 it was furthermore announced that the claims for 2040 and 2050 presented by Milieudefensie et al. in the summons were being dropped so that the focus, in the continuation, of the lawsuit would be geared to claim(s) for a reduction by 2030. The amendment of claim therefore does not include any claims for reductions relating to 2040 and 2050. This too will be explained and clarified in further detail in the oral arguments.

7. The amendment of claim also seeks a declaratory judgment in connection with the substantiation presented by Milieudefensie et al. in the summons that Shell's scope of emissions already constitutes hazardous negligence and is an unlawful act. The amendment of claim furthermore encompasses tighter formulations and it clarifies how the claim against the defendant Shell company Royal Dutch Shell plc, being the head of the Shell concern, must be understood in relation to the group companies under its management. These matters will also be explained in further detail and clarified in the oral arguments.

8. The amended claim therefore reads as follows:

**THEREFORE**

That it may please the District Court, by judgment which is immediately enforceable in so far as possible:

1. To make a declaratory judgment:

(a)

that the aggregate annual volume in CO2 emissions to the atmosphere (scope 1, 2 and 3) that is connected with the business activities of and energy-carrying products sold by Royal Dutch Shell plc and the companies and legal entities which it includes in its consolidated financial statements and with which it jointly forms the Shell group, is unlawful with regard to the claimants and (i) this volume of emissions must be reduced by Royal Dutch Shell plc, both directly and via the companies and legal entities which it includes in its consolidated financial statements and with which it jointly forms the Shell group and (ii) this reduction obligation must take place with regard to the emissions level of the Shell group in the year 2019 and in accordance with the global temperature goal of Article 2(1)(a) of the Paris Climate Agreement and the related best available (UN) climate science.

(b)

that Royal Dutch Shell plc is acting unlawfully with regard to the claimants if it, both directly and via the companies and legal entities which it includes in its consolidated financial statements and with which it jointly forms the Shell group:

- Principally: has not at latest at the end of 2030 reduced or brought about the reduction of the aggregate annual volume of all CO2 emissions to the atmosphere (scope 1, 2 and 3) connected with the business activities of and energy-carrying products sold by the Shell group by at least 45% or net 45% in comparison to the level in the year 2019;

- Alternatively: has not at latest at the end of 2030 reduced or brought about the reduction of the aggregate annual volume of all CO2 emissions to the atmosphere (scope 1, 2 and 3) connected with the business activities of and energy-carrying products sold by the Shell group by at least 35% or net 35% in comparison to the level in the year 2019;

- Alternatively: has not at latest at the end of 2030 reduced or brought about the reduction of the aggregate annual volume of all CO2 emissions to the atmosphere (scope 1, 2 and 3) connected with the business activities of and energy-carrying products sold by the Shell group by at least 25% or net 25% in comparison to the level in the year 2019.

2. To order:

that Royal Dutch Shell plc both directly and via the companies and legal entities which it includes in its consolidated financial statements and with which it jointly forms the Shell group, limit or bring about the limiting of the aggregate annual volume of all CO2 emissions to the atmosphere (scope 1, 2 and 3) connected with the business activities of and energy-carrying products sold by the Shell group to such degree that this volume at the end of the year 2030:

- Principally: will be reduced by at least 45% or net 45% in comparison to the level in the year 2019;

- Alternatively: will be reduced by at least 35% or net 35% in comparison to the level in the year 2019;

- Alternatively: will be reduced by at least 25% or net 25% in comparison to the level in the year 2019.

3. With an order that Royal Dutch Shell plc pay the costs of these proceedings, to be paid within fourteen days after the judgment to be passed in this matter and for proper proof of discharge, including counsel's salary and disbursements, such to be increased by the costs arising after judgment on the basis of the fixed charges rate, with a determination that the statutory interest will be owed over the order for the costs of the proceedings if there has not been compliance with said order within fourteen days after the date of the judgment to be passed in this matter.

4. Or that the District Court make such decision as the District Court deems just.

Let this be entered in the record!

Counsel,

(signature)

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This case is being handled by R.H.J. Cox and D.M.J. Dexters

Paulussen Advocaten in Maastricht, the Netherlands