

# Milieudefensie et al. v. Royal Dutch Shell

Legal insights and the importance of carbon accounting

# Introduction

- ▶ Legal team led by Roger Cox
  - ▶ Dutch climate case - Urgenda (2015)
  - ▶ Shell climate case (2021)
  - ▶ Assisted Belgian climate case (2021)



# Starting points for climate litigation

- ▶ Paris Agreement as a factual starting point
- ▶ Defendants are all systemic players with various similar traits

# Short overview of the Shell case

- ▶ Defendant: Royal Dutch Shell plc. (RDS) → Shell Group's policymaker
- ▶ Tort law, based on 'duty of care'
- ▶ Claim: 45% reduction by 2030

# Carbon accounting

- ▶ RDS accounts for Shell's total greenhouse gas emissions based on WRI Greenhouse Gas Protocol
- ▶ Approx. 90% of total emissions are scope 3
- ▶ Court: Shell is “a major player in the worldwide market of fossil fuels”

# Legal responsibility for scope 3?

- ▶ Oil and gas companies determine the energy package they offer
- ▶ General consensus: reduction targets must encompass all business activities
  - ▶ UNGP
  - ▶ ‘Race To Zero’ (Oxford Analysis)
- ▶ Responsibility is not taken away by individual responsibility of end users!

# Concluding remarks

## Carbon accounting...

- ▶ Enables all companies to set Paris aligned climate targets
- ▶ provides climate litigants the required insight into defendants' impact on the climate problem