

4. Embedding human rights mechanisms within Shell Headquarters

This first empirical chapter describes and analyses the process of embedding (implementation and internalisation) of the human rights mechanisms within the Headquarters of Shell¹. This way, an answer is provided to the first research question (identifying the mechanisms of embedding human rights) by providing an analysis about the mechanisms through which Shell Headquarters embeds human rights in its policies and procedures. In addition, the degree of implementation and internalisation of human rights is also determined at Shell Headquarters level (second research question). Finally, by describing the *process* of implementation and internalisation, this chapter also provides more insight in explaining the degree of implementation and internalisation of these human rights mechanisms within Shell Headquarters (third research question).

The chapter starts with explaining the use of data (section 4.1), after which the overall policy and objectives of the company (section 4.2) and the company's approaches to embed human rights (section 4.3). Section 4.4 will introduce the Shell Group's management system, after which sections 4.5 to 4.10 will then analyse how human rights is embedded according to Shell's spheres of influence: employees (section 4.5), contractors (section 4.6), security forces (section 4.7), communities (section 4.8), government (section 4.9) and the international society (section 4.10). Section 4.11 continues the analysis with determining the degree of internalisation of human rights in Shell Headquarters. The chapter ends with a short summary and initial conclusion in section 4.12.

4.1 Use of data

Section 3.5.1 extensively explained how the research data are collected at Headquarters level (in the period of mid-2004 to mid-2006), i.e.:

- Applying the Quick Check version of the 'Human Rights Compliance Assessment' (HRCA) tool in the period September 2004 – April 2005 by reviewing internal policies and procedures and other documents and structured interviews with managers (approx. 25 interviews). More information is provided in appendix 6.
- Action research by implementing follow-up actions HRCA and using field notes, participatory observations and reviewing internal documents.
- Structured interviews with Shell's key stakeholders regarding human rights, reviewing Reputation Tracker results and internal and external documents, participatory observations in international forums.

Of the empirical chapters 4 – 7, this chapter uses most data from action research. Section 3.3 has described the (dis)advantages of this type of research and also provides an initial reflection of the researcher on her role. In order to ensure the validity of this research, several feedback loops needed to occur. The researcher worked alone during applying the Quick Check, but the researcher worked intensively together with the human rights focal point from the Shell policy team in verifying the results with the internal stakeholders and deciding on actions to close the found gaps. Hence, numerous feedback loops occurred through continuously discussing the results and mutually agreeing on the way forward. In addition, the researcher first developed the initial research model (mid 2004), before starting the action research. This model did not change throughout the

¹ Shell Headquarters refers to the compilation of corporate support functions based in Shell International BV.

research, which ensured that observations were consistently collected and interpreted. Finally, the interpretations of the researcher were again checked for validity with the human rights focal point, who had participated in most participatory observations as well.

Purposely, the nature of this chapter is very descriptive in order to provide sufficient transparency in the process of action research (actions, observations, interpretations, reflection and analysis) and thereby enhancing internal and external validity. A full analysis and conclusions will be drawn only in the last section. However, an important part of the analysis is implicitly described in the body of the chapter, since analysis has already occurred during interpreting and reflecting on the process of implementation.

As described in the previous chapter, some parts have been indicated as confidential for different reasons. In this chapter, this is valid for the explicit recommendations and details about its internal follow-up from the Danish institute for Human Rights, certain internal guidelines and assurance mechanisms that are not in the public domain, quotes, business partners and security forces. The confidential parts have been disclosed to the committees that had to assess this PhD thesis. Besides, the analysis from these confidential parts is drawn into the public conclusions at the end of this chapter and chapter 8 and has been shared within Shell for policy analysis.

Sections 4.5 to 4.9 start with describing the outcomes of applying the relevant questions from the Quick Check tool to the policies and procedures at Shell Headquarters. These outcomes provide the basis for determining the degree of implementation of human rights at Shell Headquarters level and also form the basis for explaining the process of agreeing and implementation of the follow-up actions. The latter provides insight into the factors that influence the degree of implementation (third research question).

The most outer sphere of influence (interaction with international society, described in section 4.10) uses the outcomes of reviewing stakeholder reports, structured interviews with stakeholders (see section 3.5.2 for selection and interview protocol) and observations from participating in stakeholder dialogues and internally within the company. Finally, the degree of internalisation (section 4.11) is determined based on the follow up actions resulting from the Quick Check and internal observations.

4.2 Overall policy and objectives on human rights

This first section depicts Shell's overall policy and objectives regarding human rights (sub-section 4.2.1) and explains the events that led to this commitment (sub-section 4.2.2).

4.2.1 Shell's policy and objectives regarding human rights

Shell's core values of honesty, integrity and respect for people are all closely related to the values underlying human rights principles. These values are embedded in the Shell General Business Principles (SGBP), first written in 1976, and describe the behaviour expected of every employee². As a result of a revision of the SGBP in 1996, Shell became one of the first companies to make an explicit commitment to safeguard human rights in 1997 (Business & Human Rights Resource Centre).

² See www.shell.com/sGBP

Two references to human rights are made in the Shell General Business Principles in the section on responsibilities towards stakeholders:

- Employees: *'To **respect the human rights of our employees** and to provide them with good and safe working conditions, and competitive terms and conditions of employment'*.
- Society: *'To conduct business as responsible corporate members of society, to comply with applicable laws and regulations, to **support fundamental human rights in line with the legitimate role of business**, and to give proper regard to health, safety, security and the environment'*.

Before the latest revision of the SGBP in 2005, the word 'express' was also included, so it read 'to express support fundamental human rights...'. The word 'express' was taken out to make the policy statement stronger, because it meant not only saying that the company supports human rights, but also doing it. Furthermore, Shell explicitly chose not to refer explicitly to the UDHR in its Business Principles, despite calls from important stakeholders (e.g. Amnesty International, Van Genugten, 2000), because *'it is a Shell product in which no external standards are mentioned'*, according to former Shell's manager of External relations and Social Responsibility (ERSR). However, referring to human rights in general in its Business Principles, without being specific, does not promote Shell to be trustworthy in its commitment (Van Genugten, 2000).

In order to support the policy statement on human rights, since 1997, Shell also expressed support for the international declarations and standards developed to foster human rights, including the Universal Declaration of Human Rights (UDHR, 1948), the International Labour Organization's Declaration on Fundamental Principles and Rights at Work (1998), the United Nations Global Compact (2000) and the Voluntary Principles on Security and Human Rights (VPSHR, 2001).³ The principles of these standards are reflected in the SGBP and are used as external benchmarks, but these standards are sometimes much more specific than the SGBP. The policy team of Shell have therefore recently evaluated these supportive statements with the purpose to answer internal questions what these statements mean in practice. The evaluation showed that the company supports more voluntary codes than its competitors (e.g. Exxon and Total) and/or that Shell is more open about its support than others (e.g. BP). The implications of supporting these voluntary codes are being evaluated at the time of writing this thesis. Shell also set specific policy objectives, which are confidential.

The next sub-section will explain why Shell made this commitment in 1997.

4.2.2 Why did Shell make its commitment to human rights?

Talking to people inside and outside Shell, as well as reviewing literature and other documentation, it can be said that two events have primarily contributed to its commitment to human rights in 1997. These events both take place around the year 1995 and deal with the decommissioning of the Brent Spar platform and the execution of the Nigerian activist Ken Saro Wiwa and his fellow Ogonis. In the later case, Shell was accused of not doing enough to speak out on human rights in Nigeria (discussed more in detail in section 7.3.1 of this thesis) and in the case of Brent Spar, Shell was accused of polluting the environment (see box 5). Van Genugten (2000) and Chandler (1998) stipulate that primarily the 1995 Nigeria crisis triggered the company to formulate its responsibilities in the field of human rights and related issues. The Corporate Managing Director at that time, Herkstroter, had committed Shell to redraft its Statement of General Business Principles in light of Brent Spar and Nigeria (Mirvis, 2000). This redrafting of the

³ See www.shell.com/voluntarycodes

SGBP led to intense internal discussions. It also led to extensive external discussions, because Shell Headquarters organised a series of round tables around the world with stakeholders. The result was, as the Shell Report of 1998 stated: *'we had looked in the mirror and we neither recognised nor liked what we saw'*. Shell Headquarters therefore came to the conclusion that it was time to be clearer on its commitment to human rights.

Box 5 Shell and the Brent Spar

The Brent Spar was a very large floating oil storage and loading buoy, operated by Shell UK and was taken out of operation in 1991. Detailed studies by several independent companies established that deepwater disposal of the Spar at a site in the deep Northern Atlantic was the best practicable environmental option. The Brent Spar became an issue of public concern in 1995, when the British government announced its support for Shell's application for this disposal. Greenpeace organised a worldwide, high-profile media campaign against this plan. Greenpeace activists occupied the Brent Spar for more than three weeks. Dramatic visual footage of activists being attacked with water cannons and relief teams being flown in by helicopter brought the stand-off to a massive audience. Although Greenpeace never called for a boycott of Shell service stations thousands of people stopped buying their petrol at Shell. In the face of public and political opposition in Western Europe, Shell reversed its decision and agreed to dismantle and recycle the Spar on land, despite the company still believed that it was the still the safest, and environmental best option. Greenpeace later apologised to have taken the wrong measurements of the amount of oil left in the Brent Spar. In the end, the Brent Spar has been dismantled on land and used as foundations for a new ferry terminal.

Sources: www.shell.com (Brent Spar dossier), www.greenpeace.org (the Brent Spar history)

Besides the commitment to human rights, the events of Brent Spar and the Ogoni crisis had more implications, as Bird (2004) explains: *'as a result of the Ogoni crisis, Shell International launched three significant reforms. First, they rewrote their 1976 statement of business principles, acknowledging not only to employees, customers and society generally but also to shareholders and all those with some Shell did business. Second, Shell has recognized in a much more serious way the importance of social and environmental issues. Third, Shell began to re-orient its outlook on social investments'*. Mirvis (2000) and Tangen et al (2000) even mention that these events led to a 'transformation process within Shell' (Mirvis provides a good overview of the outcomes of this transformation between 1994 and 1999). Besides, these events had a wider implication than Shell alone, as Tangen et al (2000) illustrate: *'the death penalty of Nigerian dissident Ken Saro Wiwa and the attempted dumping of the Brent Spar buoy put the social responsibility and the legitimacy of the oil companies on the top of the public agenda'*.

Why did these events take place when they did? Tangen et al (2000) explain that the oil industry experienced a legitimacy crisis in the 1990s, which was rooted in profound underlying societal changes, in particular the faltering trust in existing institutions and faster channels for distribution of information providing new groups with access to the global village. Shell's experience epitomises these changes and their importance. Hence, the Brent Spar and Ogoni events resulted from the same developments that led to the rise of Corporate Social Responsibility (see section 1.5).

It is one thing to make a policy statement and set objectives, it is another thing to implement these commitments. The next section will analyse Shell's general approach to implementation of human rights.

4.3 Approaches to embed human rights within Shell

After the commitment in 1997, the next step for Shell Headquarters was to take the human rights principles and start embedding them within the Shell Group. According to Shell's former head of External Relations and Social Responsibility,

two 'waves' can be recognised in the embedding efforts of the company, coinciding with the public debates around business and human rights. The first wave occurred directly after the commitment in 1997 to around 2000, when the public debates evolved around recognising and defining business responsibilities regarding human rights. Shell Headquarters developed a number of instruments to raise awareness within the Group in this period. After a rather quiet period from 2000 – 2002, when the international society focused on the millennium goals and sustainable development, the second wave started with the publication of the UN Draft Norms in 2003 (UNHCHR, 2003; see chapter 1) and was catalysed with the appointment of the UN Special Representative in 2005 (see sub-section 1.6.1). The current public debate revolves around ways of implementing and managing human rights and Shell Headquarters' current efforts also focus on this.

The approach taken during the first wave between 1997 and 2000 is discussed in sub-section 4.3.1, the activities in between waves in sub-section 4.3.2 and its approach taken during the second wave between 2004 and 2006 in sub-section 4.3.3.

4.3.1 Approach 1997-2000: exploring concepts and raising awareness

Before 1995, Shell Headquarters took a 'practical approach' instead of a 'policy approach' in dealing with human rights issues, as the former head of the social responsibility team explained. For example, when societal actors appealed to Shell to retreat from South Africa during the apartheid period in the 1980s because of human rights concerns (see box 6), Shell Group decided to do what it could do within the local context. It did not have worldwide implications, as such. However, after 1995 and since the Ken Saro Wiwa and Ogoni crisis, a worldwide approach to human rights was being developed within Shell Headquarters.

Box 6 Shell in the apartheid period, South Africa

In the 1980s, Shell and other corporations that continued to do business in South Africa came under fire from protesters who pressured them to pull out of the country as part of a campaign against the country's racist apartheid system. They charged that Shell had abused its workers and Shell supported apartheid by selling petroleum products to the South African government for use by its military and policy forces. Many countries issued an oil-embargo on South Africa, including The Netherlands, but Shell continued its operations in South Africa. In addition, they blamed Shell for continuing its oil supply to the former racist regime in Rhodesia (now Zimbabwe), despite the sanctions of the Security Council. Extreme groups, such as the RaRa, did not back away of burning down Shell retain stations.

Shell response was that a withdrawal from the country would mean that 'a strong voice against apartheid would be silent' and decided to stay. According to Shell, the company took on apartheid in two ways. Firstly, Shell publicly attacked apartheid as an inhuman system and called political change. Secondly, by setting an example as an equal opportunity employer, with high employment standards and a commitment to training and developing of all staff. Withdrawing from the country would also mean that 8000 workers would be left unemployed, the company argued. However, the company also stressed that it would never have stayed if it would not have been able to operate in a manner of which the rest of the Shell Group could be proud. After the end of apartheid, the newly liberated Nelson Mandela thanked Shell for its commitment to South Africa and its work against apartheid.

In 2002, Royal Dutch Shell has been sued in the United States under the ATCA by victims of the apartheid regime for helping to sustain the regime from 1948 to 1993 and being complicit in human rights abuses. The law suit is still running.

Sources: www.niza.nl (Nederland tegen apartheid dossier), Kerr (1991), BBC News (2002), www.shell.com (@month 2007)

The social responsibility team responsible for providing guidance on human rights decided that raising awareness amongst its employees needed to be the first step. This first step was made with the development of a so-called 'management primer' on business and human rights, primarily developed for Shell's country managers (country chairs). The objective of this management primer is to explain how human rights relate to a company like Shell and to address the most

important questions. The management primer has been developed in cooperation with Amnesty International and published in 1998⁴.

Later, another management primer on 'business and child labour' was published in 2000. These management primers are still used within the company in trainings of new recruits, employees and by other companies and education institutions and can be downloaded on www.shell.com/primers. However, internally, the social responsibility team within Shell Headquarters noticed that many country chairs found it not easy to translate human rights to their daily activities. Together with experts, the company therefore developed a 'human rights and business responsibilities map' or also called the 'onion model', as displayed in figure 1. This model was well received by the country chairs and led to much more understanding on what human rights meant for their work.



Figure 1 Shell's human rights and business responsibility map

This map represents the five 'spheres of influence' on human rights responsibilities (see section 2.3). At the core of this model (the first sphere of influence) is the responsibility to provide employees with good and safe working conditions, competitive terms and conditions of employment and channels to report concerns. Furthermore, the company aims to promote the development and best use of talents, to create an inclusive work environment where every employee has an equal opportunity to develop his or her skills and talents, and to encourage the involvement of employees in the planning and direction of their work.

The second sphere of influence concerns suppliers and contractors. The supply chain should also adhere to human rights principles, for example, by providing their employees proper working conditions, especially when they act on behalf of Shell. The third circle represents the company's responsibility to respect the human rights of communities where Shell companies⁵ operate, e.g. protecting water and land resources from pollution or having proper resettlement programmes in place when needed. Finally, the outer fourth and fifth circles

⁴ In 2007, Shell Headquarters was working to update the management primer.

⁵ The companies in which Royal Dutch Shell plc directly and indirectly owns investments are separate entities. The word 'subsidiary' refers to companies in which Royal Dutch Shell either directly or indirectly has control, by having either a majority of the voting rights or the right to exercise a controlling influence. However, some companies discussed in this chapter may be companies in which Shell has significant influence but not control. These companies will be indicated as 'joint ventures'.

represent the responsibilities regarding national and the international communities respectively by contributing to public policy debates and supporting international codes.

Next to raising awareness, Shell Headquarters also started to implement a system in order to gain information on how Shell subsidiaries and/or joint ventures are adhering to the business principles, including human rights. This process was put in place in 1997 and exists of two integrated components. Firstly, each year, the executive responsible for each Business and Function confirms to the Chief Executive, in writing, whether his or her organisation has acted in line with these requirements and to report material exceptions. Secondly, the country chairs communicate annually with the International Department (ID) on issues and dilemmas in their country, which is followed up by face-to-face meetings with the Regional Executive Directors. Action is then taken to address areas of concern. After these front-running activities in the end of the 90s, it took a couple of years to increase activities again in the area of human rights.

4.3.2 Approach 2000–2004: developing tools

As a former Shell CMD member stressed in 1998, putting human rights concerns into practise is difficult: *'it is easy to talk about issues of sustainable development and human rights, but a lot more difficult to apply the theory in the field'* (Herkstroter, 1998). The social responsibility team therefore developed two tools in this period to make awareness raising on human rights more accessible. The first tool included a training supplement with human rights dilemmas that would train employees to ask the right questions when faced with a dilemma. The supplement was published in 2002 for external use as well. The second tool contained an on-line human rights training for country chairs.

Furthermore, Shell Headquarters started to work with the consultancy agency Maplecroft to develop an on-line 'World map of risks and opportunities', which also covers human rights risks, categorising countries in terms of low, moderate, high and extreme human rights risk. It also highlights particular human rights-related events or issues. The objective is to help Shell companies assess human rights risks associated with their presence in a country or region. This tool seamlessly fit the strong focus on thinking in terms of risk within Shell Group. This thinking is even formalised in a 'Risk & Internal Control Policy', which means that the Shell Group has a risk-based approach to internal control and that management in the Group is responsible for implementing, operating and monitoring the system of internal control, which is designed to provide reasonable but not absolute assurance of achieving business objectives (Shell annual report, 2004).

The need arose to further understand and address the human rights risks faced by Shell subsidiaries and/or joint ventures entering or operating in particular countries. However, around 2000, Shell Headquarters found little information available on how private corporations should address or manage human rights. Headquarters faced difficult challenges, such as how to translate the human rights conventions drafted for states to measurable indicators that are relevant to the business context, so risks to violate human rights could be monitored and reported. Shell Headquarters started to look for solutions and came across the 'Danish Institute for Human Rights' (DIHR).

At that time, the DIHR had a Human Rights & Business project that sought to combine the expertise of the human rights community with the experience of business to develop practical and efficient human rights tools for companies. The ultimate aim was to assist business develop while maintaining good human rights

practices. To that end, the DIHR developed the Human Rights Compliance Assessment (HRCA) tools, which is discussed in appendix 6.

Spurred by this mutual interest in connecting business and human rights, Shell and the DIHR began collaborating in 2001 to road test these HRCA tools and deepen the understanding about what human rights means in practice for companies. The first step included a test in a Shell company in Southern Africa⁶ in 2001/2002 on four areas:

1. Does the HRCA identify the major human rights issues that the company is most likely to encounter?
2. Can the HRCA be conducted in a reasonable amount of time by the company?
3. Does the HRCA fit with the company structure and existing methods of addressing human rights?
4. Is the proposed HRCA method of checking suppliers/contractors viable?

The test proved useful in several ways and the questions all answered positively. In addition, the test also pointed to areas where the HRCA tools could be further streamlined, creating greater effectiveness. One issue, related to the first question, was that the HRCA was found to be strong on political rights, but weaker on labour rights. To address this imbalance, the DIHR decided to contract a labour law specialist. Another issue found that relates to the third question included managers being unclear about human rights/legal terms used in the HRCA, such as 'traditional knowledge holder' and 'disenfranchised group'. The DIHR decided to address this by adding a glossary of terms and tone down the number of legal terms.

As a result of the test, the step-by-step approach was developed (as described in appendix 6) and tested in a Shell company in 2002/2003 as a desktop exercise. This test proved that using a Country Risk Assessment in conjunction with the HRCA resulted in a more efficient tool that focused on the high risk areas for companies in that specific country. Chapter 6 will analyse the initiation, execution and outcomes of this test in detail.

The next step was to fine-tune the tests and start using the HRCA tools within Shell Group with the objective to monitor and address specific human rights risks. However, the collaboration with the DIHR leaned on the personal interests of two people within Shell Headquarters that either changed jobs or had other priorities. For example, the test with the tools was conducted, because of personal ties with the Shell joint venture in the country, not because it was initiated from Headquarters. This brought the activities to a lower pace between 2003 and 2004, after which the Dutch NIDO project (see chapter 3) provided the opportunity to pick up the pace again in 2004.

4.3.3 Approach 2004–2006: implementation

Through the NIDO project, the two people that previously were working on human rights were offered the opportunity to work together with the PhD researcher to apply the Quick Check version of the HRCA tools (see appendix 6) on Shell Group level to assess the extent in which policies and procedures on a corporate level address human rights. The reason for this project appeared from the tests with the HRCA and included that Shell Group standards sometimes covered human rights risks in cases where human rights risks were not covered by local standards. However, no clear understanding existed as to what extent human rights risks were addressed in policies, standards and guidelines on Shell

⁶ No country names are mentioned for confidentiality reasons.

Group level. The PhD researcher engaged the London based team at Headquarters level that was actually responsible for policy development on human rights to inform them about the initiative and obtain their commitment.

This policy team is headed at the time of writing of this thesis (2007-2008) by the Head of Policy & External Relations within the wider team 'Sustainable Development', which is in turn part of Shell's corporate affairs outfit. The Policy & External Relations team (in short, the policy team) are the 'custodians' of the SGBP and takes care of external policy development regarding SGBP related subjects, based on monitoring of and participating in international public debates. One of these subjects is human rights. To that end, the team builds relationships with key stakeholders (see section 4.9), such as Amnesty International, Human Rights Watch, the United Nations etc, and as such, the team is the gatekeeper for Shell Group regarding these relationships and debates.

The policy team explained that human rights violations had been indicated a medium risk to the Shell Group and there had been no specific internal demand for more support on human rights. That is why, amongst other reasons, that no fulltime designated human rights experts were working within the team. However, the two people that initially started to work with the DIHR held another view, as they felt the need to create an internal demand for support on human rights. The policy team recognised the need to raise awareness within Shell on the value or 'business case' of the HRCA tools.

The PhD researcher therefore performed the Group assessment of policies and procedures by interviewing employees working within the different functional areas (such as Human Resources, Security, Contracting & Procurement) that related to the Quick Check areas as well as reviewing all existing policies and procedures. The DIHR reviewed the results, performed an analysis of how company procedures addressed human rights and provided recommendations. The results of this assessment and the actual impact are discussed in sections 4.5 to 4.10. After the initial results of this assessment were presented, the policy team decided to pick up the activities around human rights more actively and incorporate the PhD researcher into the team.

The assessment showed that many existing Group policies and procedures already covered human rights, which confirmed the position that a new and separate Group standard on human rights was not needed. The assessment also showed several gaps, which needed to be addressed. The PhD researcher was therefore asked to engage the relevant functional areas and work with them to close these gaps. The PhD researcher later performed an additional assessment of the practices of human rights across Shell Group (see chapter 5 for the results) in order to steer policy development. Furthermore, after the final test of the HRCA tools in another country (see chapter 6), the business case of the tool was developed (see section 6.5.1). The next step was to 'create the demand' within Shell Group for human rights and the tools. One of the main associated questions was whether to embed the tools in a structural way into the Shell Group procedures or to use them on an ad-hoc basis. Several options were pursued.

1. Leadership support

The issue that the policy team continuously faces is how to balance the external and internal concerns/questions. The team needs to determine the point when further internal guidance needs to be provided to the Shell Businesses⁷. The policy team's advisory role presupposes that people will only really incorporate new elements when they see the value and own it themselves. Imposing

⁷ The 'Shell Businesses' include Exploration & Production, Gas & Power and Oil Products.

mandatory rules on people may not lead to this 'internalisation' of e.g. human rights. In some cases, however, explicit support from leadership in the company is asked to give more weight to the importance of the advice of the policy team. This was also needed for the HRCA tools, for which the reasons will be explained further in chapter 6.

In order to obtain leadership support, the need for action and the HRCA tools were presented to the International Department, who advise and train the country chairs, and head of Corporate Affairs. They did see the value of the HRCA tools, but asked for a legal review first. The legal department recognised the increased importance of human rights to the company and named a specific focal point for human rights. As a result of the legal review, the human rights focal point concluded that the HRCA tools should stay a 'soft' tool (voluntary tools as part of a toolset) than 'hardwiring' the tools (mandatory required for all subsidiaries).

2. Integration into existing processes

One of the objectives the policy team set regarding embedding human rights is to integrate human rights as much as possible into existing processes and not create a separate human rights process. One of the reasons for this approach is the view that human rights is one of the angles or 'lenses' to look at the social and environmental responsibilities of a company. Another reason is not to overburden the Shell subsidiaries and/or joint ventures with many separate initiatives that would lead to bureaucracy and complexity. It would be much more efficient if Shell subsidiaries and/or joint ventures could follow one process that would cover all the responsibilities. How the policy team tried to integrate human rights elements into the Group policies and procedures will be discussed in section 4.5 to 4.10.

In addition to the Group policies and procedures, one of the main processes in which human rights could be integrated is the 'integrated impact assessment'. This instrument has the objective to identify and assess the potential environmental, social and health impacts of a proposed project, evaluate alternatives, and design appropriate mitigation/enhancement, management and monitoring measures (Impact assessment manual, 2004). The policy team organised a workshop in 2005 with the focal points in the Businesses and other relevant departments within Shell Headquarters. The question posed in this workshop was whether it was just a question to change the label/language from 'social' to 'human rights' or whether human rights would add something unique to the process. This was followed up by internal research (confidential). Later, some important stakeholders (e.g. the UN special representative) asked whether human rights could even be integrated into the existing impact assessment process or a separate 'human rights impact assessment' would be needed. Because of the reasons explained earlier, it was decided to try to integrate human rights.

Another way to integrate human rights into existing processes is the standard project management process used in Shell E&P Business to assess the viability of projects, the Opportunity Realisation Process (ORP). Sustainable Development aspects are integrated in the relevant steps of the ORP. To that end, the policy team worked with the teams in the Businesses responsible for new business development to e.g. use the HRCA tools to assess the risks of violating human rights when entering in a particular country, joint venture or deal. Chapter 6 explains in which cases the HRCA tools were used.

3. Training and internal communication

The International Department (ID) is responsible for training country chairs on the Shell General Business Principles (SGBP). From the results of the practice assessment, the PhD researcher found that many country chairs held a rather narrow view on the SGBP, i.e. as bribery and corruption issues (see chapter 5). A senior adviser of ID explained that jobs in ID are primarily meant to provide senior business people exposure to and training in Headquarters issues, which attracts people with a highly varied background. The difficulty to understand the SGBP from different value systems led to this narrow interpretation of SGBP⁸. Besides, the period of the job is shorter as well, which leads to a high rotation. The policy team therefore regularly provides support to ID at country chair conferences, workshops in Headquarters and the Businesses to ensure that all relevant policy subjects are covered, including human rights. At the time of writing this thesis (2006-2008), however, the policy team looked into the possibility to organise in-depth human rights training for the different functions of Shell in order to stimulate ownership by these functions of the topic. Further, another tool developed and used since 2004 is a CD-ROM 'Business and human rights' for country chairs and external affairs managers to enable them to engage external audiences with confidence on the topic of human rights.

4. Sensitive countries

Towards 2005, the policy team wanted to focus efforts more on particular sensitive countries instead of trying to embed human rights in every country, because that would better address particular stakeholder concerns (see section 4.9). Besides, the team also noticed that one of Shell's main competitors, British Petroleum, gained a stronger reputation on human rights by focusing on managing particular cases. The policy team directly engaged the country chairs of the sensitive countries identified by ID (see chapter 3) as part of a practice assessment in order to assess and raise their awareness of the importance of proactively addressing human rights. From this exercise, the policy team decided to repeat this engagement annually. Furthermore, ad-hoc support is provided on the request of the Shell subsidiaries and/or joint ventures based in those countries. For example, the policy team provided substantial support to both Nigeria and Sudan. Both companies found themselves under close scrutiny of international NGOs or other actors for alleged complicity in human rights violations. In Nigeria, the policy team supported the development and execution of human rights training for staff (see chapter 7). In Sudan, the policy team supported a SGBP questionnaire amongst retail stations and engagement with international stakeholders (see section 4.10.1). Table 1 summarises the approaches to embed human rights within Shell Headquarters over the period 1997 – 2006.

⁸Responsibility of training country chairs on SGBP moved to the Ethics and Compliance office in 2006.

Period	Approach	Use of tools
1997 – 2000	Exploring the concept of human rights and raising awareness of the commitment within the company.	<ul style="list-style-type: none"> • Management primers on human rights and child labour • Defining business responsibilities regarding human rights • SGBP assurance process
2000 – 2004	Developing tools	<ul style="list-style-type: none"> • Training supplement on human rights dilemmas • HRCA tools • On-line human rights training • World map of risks and opportunities
2004 – 2006	Implementation	<ul style="list-style-type: none"> • Apply HRCA tool to Group policy and procedures • Develop external engagement tool (CD-Rom) • Assess human rights practices • Leadership support for implementation • Integrate into existing processes of project management and impact assessments • Further training and internal communication • Support to sensitive countries

Table 1 Approaches to embed human rights within Shell Headquarters 1997 – 2006

Before describing the degree of implementation for the different spheres of influence in sections 4.5 to 4.9, the management system within Shell will be introduced in section 4.4.

4.4 Management system related to human rights within Shell Group

As explained in chapter 2, a management system exists of the plan-do-check-review cycle. Sections 4.2 and 4.3 discussed the 'plan' and 'do' steps of this management system, i.e. setting the policy and objectives and the approaches to embedding human rights within Shell Group. In there, the policy team made a clear choice to manage human rights by integrating it into the existing Group policies and procedures instead of designing a separate management system. This section discusses how the Group policies and procedures that are related to human rights are organised (sub-section 4.4.1)⁹ and the governance of human rights within Shell Headquarters (sub-section 4.4.2). The final step of the management system (reporting human rights) is described in sub-section 4.4.3.

4.4.1 Organisation of procedures related to human rights

This sub-section summarises how Shell Headquarters organised its procedures and processes that are related to human rights. The PhD researcher performed the assessment of human rights coverage in Group policies and procedures in 2004/2005. In 2005/2006, however, the Group governance was updated to the 'Shell control framework' (see 2006 annual report Royal Dutch Shell, p.82), as a result of Shell's merger of the dual-ownership in 2005 (see box 7). During this period of updating, the PhD researcher liaised with the responsible functional departments to incorporate human rights in the new governance structure. The structure, at the time of research, can be found at www.shell.com.

⁹ The way the Shell Group governs its companies is not discussed in this section but in the next chapter, when the strategy regarding human rights is discussed.

Box 7 Misstatement of reserves and Shell merger

On 9 January, 2004, Royal Dutch/Shell issued a statement that, following internal reviews, 20% of its proved hydrocarbon reserves had to be 're-categorised'. This meant that the company overstated its oil and gas reserves by nearly four billion barrels. Investors and shareholders were shocked and the value of Shell stocks dropped by 7%. Shortly thereafter, Royal Dutch/Shell's chairman, Sir Philip Watts, the managing director Walter van de Vijver and the financial director left. Memo's leaked to American newspapers suggested that Sir Philip had known as far back as 2002 about the reserves problem. After restating its reserves four times, the US and British authorities penalized the company for \$150 million, settled for \$353 million with investors and the company had to regain trust in many countries where it operated. Following the controversy over the reserves, investors called on Royal Dutch/Shell to simplify its twin board structure, which lacked clarity and accountability. Until now, the firm has been 60% owned by Royal Dutch Petroleum and 40% owned by Shell Transport & Trading. Merging the two sides should simplify the chain of command. On 20th of July, 2005, the unification of Shell was completed under the name Royal Dutch Shell.

Sources: BBC News, Financial Times, www.shell.com/unification, Economist (11 March 2004)

Based on the assessment of Group policies and procedures covering human rights in 2004, the following functional areas, policies, standards and guidelines can be identified:

Functional area	Policies	Standards and guidelines
HSE	HSE Commitment and Policy	HSE management system, yellow guides, SP guidance notes, Group Health management standards, Design and Engineering Practices
Security	SGBP	Security Standard, Security guidelines
Product Stewardship	SGBP, Chemicals Global Product Stewardship System, Oil Products Key policies on Product Stewardship	Global Environmental Standards, Group minimum health standard
Diversity and Inclusiveness	SGBP	Diversity & Inclusiveness (D&I) Standard
Social Performance	SGBP, HSE Policy	SP guidance notes, SP plans and reviews, Impact Assessment, Group minimum environmental standards, etc
Data Privacy	Shell People Information Security Policy	Internal guidelines
Crisis management	SGBP	Group Crisis Plan, SP Guidance note, Shell's Crisis Management Principles
Business Integrity Services	SGBP	Management primer, Impact Assessment
Intellectual Property	SGBP	
Contracting & Procurement	SGBP	Internal guidelines
Human Resources	SGBP, People principles	Management primer on Business & Human rights and other internal guidelines
Employee Relations	SGBP	Internal guidelines
Harassment & Discrimination	SGBP	Internal guidelines

Table 2 Group policies, standards and guidelines covering human rights in 2004/2005

As part of the new Shell control framework, a People Standard was developed to cover Human Resources processes. In addition, a Code of Conduct was developed to cover bribery and corruption issues and certain Human Resources aspects, such as discrimination and harassment. In both instances, the PhD researcher liaised with the functional areas to integrate human rights elements in these documents. The results will be discussed in sections 4.5 and 4.9.

4.4.2 Organisation of responsibilities regarding human rights in Shell Headquarters

As described before, at the time of research, the Policy & External Relation team is responsible for coordinating the commitment to human rights, which fits under

Shell's organisation of sustainable development and part of the corporate affairs department in Shell Headquarters. The Social Responsibility Committee of the Shell Board reviews Shell Group's sustainable development policies and performance. The Chief Executive is responsible for sustainable development and therefore also human rights. On his behalf, the Corporate Affairs Director chairs the Group Sustainable Development (SD) and Health Safety and Environment (HSE) Executive. In addition, each line manager has responsibilities in his or her area. They are supported by a number of Shell-wide functions (Shell website, 2007). Since the policy team does not have line management responsibilities, this means that the policy team has to ensure that the transfer the responsibility of implementing human rights to the different line departments.

The management system of human rights (see section 2.11) within Shell is handled by the following Shell-wide functions:

1. Plan (human rights policy and objectives): Policy & External Relations
2. Do (human rights implementation): the functions as mentioned in table 2, Country Chairs and Businesses with the support of the policy team.
3. Check and review (human rights monitoring and reporting): the International Department is the main monitor of performance regarding SGBP in 2004/2005, including human rights (this moved to Ethics and compliance office in 2006). The team of the SD Development strategy, policy and reporting is responsible for reporting on human rights within the Shell Report (see 4.4.3).

There is no separate instrument for monitoring embedding human rights, but several instruments exist within Shell Group that can be used to monitor, when adapted to the topic of human rights, as explained in section 3.4. These instruments do not fit one on one to monitoring human rights, but some indication can at least be monitored on human rights performance. Not all the monitoring mechanisms have the same status. For example, the Country Chair Questionnaire (CCQ) is primarily used for the annual external Shell Sustainability Report and gathering information for policy purposes, but is not meant for assurance. The country chair does not sign off the CCQ. However, the policy owners regard the information coming out of the CCQ as a valuable source of information, next to the existing assurance and compliance tools. Furthermore, the Business Assurance Statements (BAS) do not formally fall under the responsibility of the country chair, but are dealt with per business via regular line management. The BAS are assured through line management and managed by Shell's controller and assurance department and not by International Department (who are coordinating the CCQ). All of this leads to diffused responsibility of monitoring human rights performance.

Although the coordination of human rights has always fit with the Policy & External Relations team, other departments of Corporate Affairs sometimes question this, because human rights cut across many different functions. For example, aspects that relate to the sphere of influence of communities may better fit with Social Performance (see section 4.8), but the other spheres of influence would not be covered in that case. Furthermore, human rights could also be managed by the Issues team within the team of Communications, but then it would lose its structured and global approach.

This internal discussion where to fit organisational ownership of human rights within Shell Headquarters forms part of a wider continuous discussion about the place of 'External Affairs' (public relations function, later called 'communications') and sustainable development within the organisation. These functions strongly overlap (e.g. stakeholder engagement is important for both), but they require different knowledge and competencies in other areas. Another dilemma is

whether to have designated focal points and departments to manage these aspects or to hand over the ownership of these aspects to the line functions, as mentioned in table 2. In principle, the line management should take ownership of their respective parts of implementing human rights, but the policy team found that it is a continuous challenge to increase the ownership and capacity of the line to do this, as will be described later in this chapter.

Other discussions exist in terms of the organisation of monitoring human rights implementation. Each year, ID, being the collector, but not the owners of the questions of the questionnaire, asks the respective owners, including the Policy & External Relations team (besides HR, Security and all other relevant owners) on input to the questions of the CCQ. ID wants to reduce the number of questions in order not to overburden country chairs, as it is not an assurance instrument, but the policy team wants to gather as much information as possible for policy development. Furthermore, the policy team has made an effort to embed human rights elements in order to increase the monitoring of human rights implementation, but with limited results. The Group Ethics & Compliance team did not regard human rights as a major liability risk to the company as yet. This led to discussions between these functions within Shell Headquarters as well.

4.4.3 Reporting on human rights

The progress on how Shell manages human rights is reported in the external annual Shell Sustainability Reports (www.shell.com/shellreport). The sustainability reports are targeted at external stakeholders, often specialists (other formats are used for employees and investors). The SD Development strategy, policy and reporting team decides on the structure of the Shell report together with an external stakeholder panel and the Social Responsibility Committee and discusses the contents with the relevant functional departments. Between 1998 and 2004, external auditors (e.g. KPMG and PricewaterhouseCoopers) audited the Shell reports to the best extent possible. In 2005, Shell Headquarters decided to change this approach to combining internal controls with an External Review Committee of experts to check that *'its reporting is balanced, relevant and responsive to stakeholders'* (Shell website, 2007). Furthermore, Shell Group publishes its report according to the guidelines of the Global Reporting Initiative (see section 2.11) and provides input to specific guidelines for the extractive sector. The company has been recognized for its innovation in environmental and social reporting (see e.g. Campbell & Beck, 2004, Mirvis, 2000). The table below displays the quantitative and qualitative coverage of human rights within these reports.

Year	Pages (words) ¹⁰	Mentioned human rights	Contents
1997	4 (1450)	48	Commitment human rights in SGBP, human rights primer, issue and underlying ideas discussed, Nigeria and South Africa case studies.
1998	3 (1650)	50	Commitments, responsibility map, child labour, Nigeria update, Use of force guidelines
1999	1 (1000)	30	Commitments to voluntary standards, stakeholder dialogue, management primers, case study Nigeria.
2000	¼ (170)	18	Continued commitments to voluntary standards, stakeholder dialogue and social performance assessment
2001	1½ (660)	36	Responsibility map, employee rights, national rights, security, advocacy and dilemma of stay/leave, South Africa test HRCA
2002	½ (270)	26	Human rights dilemmas and HRCA plans

¹⁰ This includes the amount of pages covering an explicit section on human rights and the number of words in that particular section.

2003	No explicit section	9	Mentioned HRCA test in Oman, referred to website
2004	¼ (110)	12	Explaining how human rights linked to other sections in report, and mentioned debate around UN Draft norms (see section 1.6).
2005	1½ (480)	36	Nigeria training, HRCA tools
2006	1 (950)	34	Security, resettlement, managing country risks, rights of employees

Table 3 Coverage of human rights within the Shell Sustainability reports 1997 - 2006

The table above underpins the two 'waves' in the embedding efforts of the company, as described in the previous section. Between 1997 and 2000, Shell spent many words on exploring the concept of business and human rights in its external reports. This changed between 2000 and 2004, when the company started to develop tools and could not report that much on progress of implementing human rights as yet. However, the reporting on human rights picked up again after 2004, when the human rights in Nigeria and more activities related to the HRCA tools were developed¹¹.

The PhD researcher has provided input into the Shell Sustainability reports of 2004, 2005 and 2006. One of the discussions with the SD Development strategy, policy and reporting team included the space available to pay explicit attention to human rights in the Shell reports. One of the causes for this discussion is that the Shell Report has a focus on sustainable development, focusing on people, planet and profit dimensions (see section 1.5). As described in section 1.6, human rights, however, is a different, but equally overarching concept as SD that cuts across the structure of the Shell Report. Besides, the reporting team needs to strike a balance between reporting information interesting to and understandable for both human rights specialists as well as the wider public. These issues posed difficulties in deciding how human rights should be reported.

One of the outcomes of this 'struggle' in reporting human rights can also be recognised in table 3. In the years 1998, 2001 and 2006, particular subjects, such as security or child labour, are covered under the heading of human rights. In other years, however, these are covered as separate headings or somewhere else in the reports. From discussions with the reporting team, it became clear that an important criterion for selecting the structure of the report is the external attention for particular issues. For example, the NGO 'Save the Children' and the general public are particularly interested in child labour and want to see this explicitly addressed in the report. After several discussions, however, the reporting team realized that the stakeholders working on human rights expected different and more human rights aspects to be covered under the heading of human rights, such as resettlement and the conduct of security forces. This is why the structure changed again in the 2006 Shell Sustainability report.

Here ends this analysis of Shell Group's management system related to human rights. The next sections will analyse how Shell Headquarters implements human rights according to the different spheres of influence.

4.5 Employees: global implementation of human rights

To what extent and in what way are human rights related to employees implemented at Shell Headquarters? As explained before, the researcher applied the Quick Check tool of the Danish Institute for Human Rights to assess which policies and procedures covered human rights elements.

¹¹ For example, the Shell Sustainability report team indicated the 2007 Shell report would cover two pages on human rights due to the growing importance of the subject.

The following sub-sections deal with specific labour related human rights issues and assess the degree of implementation at Headquarters level. The first sub-section describes the implementation of healthy and safe working conditions, after which four sub-sections follow that deal with the fundamental principles of the International Labour Organisation: the right to freedom of discrimination is discussed in sub-section 4.5.2, sub-section 4.5.3 deals with child labour, sub-section 4.5.4 with forced labour indicators and sub-section 4.5.5 with freedom of expression and association. Remuneration and benefits are described in sub-section 4.5.6 and practices that prevent bribery and corruption in sub-section 4.5.7.

4.5.1 Healthy and safe working conditions

Two questions and corresponding 36 indicators in the QC tool apply to Healthy and Safe working conditions:

1. Does the company ensure that its workers are afforded safe, suitable and sanitary work facilities? (24 indicators)
2. Does the company supply its employees with the protective equipment and training necessary to perform their tasks safely? (12 indicators)

The specifics of the management system around health and safety are mostly confidential, but general information can be found on www.shell.com/safety.

The medical health of employees is coordinated by the staff department 'Shell Health Services' (SHS). SHS uses the same HSE-MS, coordinates the implementation of the 'Minimum Health Management Standards' and owns specific health yellow guides. SHS provides clinical and travel health care to employees, dependants and third parties, runs occupational health programmes for staff and performs health impact assessments (see section 4.7). Until recently, local Shell companies employed local doctors, but these are now employed and managed directly by SHS.

From the application of the QC tool on the existing HSE policy and procedures, the Danish Institute came to the conclusion after reviewing the research that Shell International has good HSE coverage in its working practices, with respect to the health and safety of its workers. Many indicators are, however, covered by the yellow guides, which means that these are not mandatory for Businesses to implement. The policy focal point for Shell health services indicated that many discussions indeed exist about the status of the yellow guides, because of legal concerns in the United States. If Shell makes detailed statements in these guides, but these are not mandatory to follow, a discrepancy can grow between what the company says and what it does. In addition, the Danish Institute did recommend some specific actions to HSE, which the researcher discussed with the responsible policy owner in Shell. Examples include better tracking of HSE training programmes, sharing learning from incidents with employees or including specifications for protective personal equipment for pregnant women.

4.5.2 Preventing discrimination and harassment

Three questions and related 31 indicators in the QC tool apply to preventing discrimination and harassment:

1. Does the company ensure that its compensation, benefit plans, and employment-related decisions are based on relevant and objective criteria? (14 indicators)
2. Does the company seek to maintain a work environment that is culturally respectful and sensitive to the needs of all workers? (5 indicators)

3. Does the company take measures to protect workers from acts of physical, verbal, sexual, or psychological harassment, abuse, or threats in the workplace, including when determining and implementing disciplinary measures? (10 indicators)

During the researchers' review, preventing discrimination was mostly embedded within the term 'Diversity and Inclusiveness' (D&I). Since 1997, Shell established 'Diversity and Inclusiveness' as part of its business principles in order to create an inclusive workplace that values differences. This includes providing equal opportunities in recruitment, career development, promotion, training and reward for all our employees. In December 2001, the Shell Group adopted a D&I Standard and assurance process. By 2002, all businesses, major functions and countries have D&I plans in place. Supporting structures have been established to support businesses and functions with the implementation of D&I, including Global Head of Diversity, Global Diversity Practice and the Group Diversity Network. Mid-2004, training programmes had reached over 15,000 leaders plus an additional 50-60,000 employees. D&I had been integrated in key HR and business processes and compliance with the D&I standard is tracked via the D&I Business Assurance Statement.

Since 2005, the company tracks gender diversity, nationality and diversity perception of employees across the company. The D&I standard partially covered preventing harassment (the third question). More detailed procedures on e.g. investigating employee complaints could be found into a 'Harassment and Discrimination guide' that the Business Oil Products had developed. This guide was shared with other Businesses as an example, but no general Group guide was available. Most Shell subsidiaries and/or joint ventures based their discrimination and harassment procedures on local legislation. In addition, this guide was not mandatory to implement for Shell subsidiaries and/or joint ventures. Again, this does not lead to a consistent application of these procedures. Finally, the HR focal points and other employees working at Headquarters level indicated that concerns around discrimination did exist in some countries, especially between expatriates and local staff.

In order to strengthen the coverage of discrimination and harassment, the researcher engaged the relevant policy focal points within Human Resources. Since the recommendations from the human rights review on discrimination were consistent with most of the findings of the D&I review, only a few specific actions were taken forward. For example, it should be explicitly mentioned that the company allows employees to wear cultural garments to their work. The recommendation to include more harassment and discrimination aspects in a binding Group wide procedure was welcomed, but was postponed until the restructuring of Human Resources (HR) became clear. This restructuring included a partial centralisation of policies¹² and a move from a geographical to a functional organisation. At the time of the review, HR was still very much decentralized and based on the local situation mostly, due to the extensive local labour legislation that exists in countries. Some critical voices in the company, however, explained that HR at the Group level was a low priority in the past decade. The consequence was that little overview existed at Headquarters level and few central policies and procedures existed. The HR focal points promised to involve the policy & external relations team whenever relevant.

¹² The HR focal points indicated that they would work towards a balance of 80% of HR policies are local, 5% at Business level and 15% at Group level.

With the introduction of the new control framework in 2005/2006, the D&I Standard was cancelled and discrimination and harassment was integrated into the Code of Conduct, introduced late 2006. The researcher became aware of this development, because the policy & external relations team was strongly involved in the development of the Code of Conduct chapters related to business integrity (see sub-section 4.5.7). The researcher therefore contacted the relevant people within HR responsible for the Code of Conduct. The researcher then reviewed the relevant chapters 'Equal Opportunity' and 'Harassment'. These chapters appeared to contain Group binding specific procedures on discrimination and harassment, but had to be strengthened by including specific discriminatory basis (such as race, religion, gender, national or social origin, colour or political or other opinion) in order to be more specific and be in line with Shell's support to the ILO fundamental principles of work.

Together with other input from a human rights perspective regarding child labour, forced labour and freedom of association (see sub-sections 4.5.3, 4.5.4 and 4.5.5), the policy team engaged the HR team working on the relevant code of conduct chapters. The HR strategy team decided to escalate the issue in its own function, because they primarily focused on compliance with national legislation and guiding employee behaviours instead of company behaviour.

4.5.3 Preventing child labour

Three questions and related 21 indicators in the QC tool apply to preventing child labour:

1. Does the company comply with minimum age standards? (9 indicators)
2. If the company becomes aware that it is employing children of school age, does it ensure that the children are enrolled in a remediation / education programme, rather than being summarily terminated from employment? (3 indicators)
3. Does the company ensure that it does not hire minors (below 18 years of age) to perform work that is hazardous or harmful to their health, safety, or morals? (9 indicators)

No explicit binding policies or procedures exist within Shell Group that cover child labour, except for compliance with local legislation on minimum age etc. Child labour is not a high risk to Shell Group's core operations due to the highly skilled labour that is required for the oil and gas industry. However, Shell Headquarters recognizes that it may be a higher risk in the supply chain (see section 4.6). For this reason and because child labour was a high concern of many stakeholders, Shell developed the management primer on 'business and child labour' in 2002 and started to track the number of Shell subsidiaries and/or joint ventures that have procedures in place that prevent child labour through the Country Chair Questionnaire.

However, the researcher noted that although the management primer raised awareness on child labour, neither the document nor the CCQ are binding instruments that provide consistent assurance, in the period 2004-2006. Child labour specific procedures could be covered by HR or Health procedures, but these functions did not have anything related to the subject.

Since the policy team owns the management primers and provides input to the CCQ on child labour, the researcher engaged with her own team to change the primers, based on the recommendations from the Danish Institute. This was accepted, but had to be postponed until a general revision of the primers would be planned. In addition, the researcher engaged with HR and Health Services and discussed the possibilities to take up specific procedures to guarantee minimum age for certain types of work. Health Services saw an opportunity to integrate this

into a new guide on 'fitness to work'. The policy team also engaged HR to include child labour in the Code of Conduct. The result of engaging HR has been described in the previous sub-section. HR felt that child labour was not their responsibility, but more of Contracting & Procurement.

4.5.4 Preventing forced labour

Two questions and related 16 indicators in the QC tool apply to preventing forced labour:

1. Does the company take all necessary measures to ensure that it does not participate in, or benefit from any form of forced labour, (this can include bonded labour, debt bondage, prison labour, slavery, servitude, or human trafficking)? (12 indicators)
2. Does the company refrain from retaining the identity cards, travel documents, and other important personal papers of its employees (4 indicators)

Similarly to child labour, compliance with local legislation primarily covers forced labour. No other explicit binding policies or procedures exist within Shell that cover forced labour. However, whilst a management primer deals with child labour, no guidance or other documents such as a management primer cover forced labour. A reference to forced labour in the Business & Human rights management primer, which is not binding, were found in the review at Headquarters level. Relevant HR procedures in which forced labour could be integrated, such as leave, overtime, money deposits and wages, are all locally determined and no global HR procedures therefore exist.

In discussions with the relevant focal point concerning forced labour, the focal point assumed that this would be more a risk issue for Contracting & Procurement, because he believed that Shell subsidiaries and/or joint ventures do not force their employees to work for them. However, he was interested to receive the relevant data from the Country Chair Questionnaire. In addition, the focal point also committed to explain how the company covered employee rights on the public website.

4.5.5 Freedom of expression and association

Three questions and related 26 indicators in the QC tool apply to ensure freedom of expression and association:

1. Does the company recognise the freedom association rights of its workers, including the right to bargain collectively? (12 indicators)
2. If trade unions do not exist in the area of operation, or only state authorised organisations are allowed, does the company establish alternative measures to allow employees to gather independently to discuss work-related problems? (5 indicators)
3. Does the company have mechanisms for hearing, processing, and settling the grievances of employees? (9 indicators)

Attempting to find any Group wide policy or procedures that ensures freedom of association and expression, the researcher found that a team of two people coordinated 'global employee relations' through trade unions and staff representatives. At the time of research, employee relations was also decentralised, like the other parts of HR, due to the extensive local labour legislation that exists in countries.

After the review, the researcher contacted the ER coordinators again with the recommendations of the Danish Institute. They indicated to be willing to integrate the ILO fundamental principles within ER policies and guidance to be developed. For example, they recognised that guidance was needed on how to ensure

representation of employees in countries where unions are prohibited or state controlled and to develop criteria for fair hearing of employees. The only recommendation of the Danish Institute that could not be easily followed up was to include worker's representatives in the panels that handle employee grievances. The researcher also followed up some of the recommendations with the global business integrity manager, because she was working on a 'global whistleblowing scheme', which could potentially cover many human rights aspects of a grievance procedure for employees. She recognised that the scheme could be strengthened and agreed to include the recommendations.

Through the application of the Human Rights Compliance Assessment tools (see chapter 6) and the resulting internal relationships built, the researcher found out six months later that a new HR standard was being developed, the so-called 'People Standard', as part of the new Shell control framework. With the help of the VP of Sustainable Development, the researcher was able to review the new standard and assess the coverage of labour rights. The People Standard appeared to contain a section on employee engagement, which the researcher followed up with HR.

4.5.6 Remuneration and benefits

Three questions and related 30 indicators in the QC tool apply to remuneration and benefits:

1. Does the company provide a living wage, which enables workers to meet the basic needs of themselves and their dependents? (10 indicators)
2. Does the company grant employees paid holiday and sick leave each year, as well as parental leave to employees who must care for a newborn or newly adopted child? (7 indicators)
3. Does the company ensure that the work-week is limited to 48 hours, overtime is voluntary, infrequent, and does not exceed 12 hours per week, and that employees are given reasonable breaks while working, and sufficient rest periods between shifts? (13 indicators)

At the time of the review in 2004/2005, no Group wide HR policy regarding remuneration and benefits existed, except for a general reference in the SGBP to provide employees with 'good and competitive terms and conditions of service' and a standardised remuneration process for expatriates. Although a minimum wage can be lower than a living wage or a minimum wage cannot exist at all, a living wage is not mentioned in this document. Group pay surveys were conducted, but country specific pay surveys were locally coordinated.

After the review by the Danish Institute, the researcher again discussed the recommendations of the Danish Institute with HR. HR indicated that it would be highly unlikely that pay of employees falls below living wage and that defining a living wage per country in consultation with stakeholders would be too extensive to do. The policy team and HR did therefore agreed to a) develop possible statements that could cover both a minimum standard as well as competitive position and b) make information available to stakeholders (trade unions, NGOs) on external wage surveys. More difficulties were faced regarding benefits, e.g. to grant three weeks for all employees or to install a global 48 hour workweek, because HR indicated that Businesses are required to follow legal requirements and that it could lead to substantial extra costs in low margin business that would lead to competitive disadvantages. The HR focal points questioned why Shell Group had committed to the ILO in the first place, who decided ILO's absolute minimum requirements and what to do when local legislation was directly conflicting with ILO standards.

After the substantial push-back from HR, the policy team decided to research why and how strict these ILO articles applied to Shell and how other companies had resolved this issue. The policy team came to the conclusion that Shell Group supported the ILO Declaration for Fundamental Principles of Work, because the International Organisation of Employers also agreed, so it was rational for major companies to express support for it too. However, pay and benefits are not part of the ILO fundamental principles that Shell explicitly supports. Besides, other companies also did not refer to e.g. three weeks of leave, in their global policies. Furthermore, HR promised to take up other recommendations into the Group HR guidance to be developed, but without mentioning specific numbers. For example, HR regarded the promotion of a sound work/life to cover overtime procedures, instead of installing an overtime procedure of maximum of 12 hours per week.

Due to the unclarity of the minimum requirements of companies regarding living wage and benefits and the fruitless internal discussions around the Code of Conduct and the People Standard, the policy team decided to organise a joint workshop with the Danish Institute for Human Rights and the Headquarters' HR focal points. In this workshop, the representative of the Danish Institute also explained that the ILO articles regarding living wage and benefits are recommendations and not requirements and that these mostly apply to specific sectors. Although the Danish Institute regarded these recommendations as part of the minimum responsibility of companies as well, the policy team decided to focus its efforts first on the implementation of the ILO's fundamental principles (the previous sub-sections). HR planned to assess the gaps on the ground in terms of the ILO fundamental principles, because HR did not have the overview of what was happening on the ground. This project would need the mandate of senior leadership. Then, together with the policy team, policies and procedures needed to be developed that would be meaningful within Shell Group. However, these plans were postponed due to the outcomes of the discussions around the Code of Conduct (see section 4.5.2).

4.6 Contractors and business partners: global implementation of human rights

One question and related 8 indicators in the QC tool dealt with the company's responsibility in the supply chain and business partners:

1. Does the company screen and monitor all major suppliers, contractors, sub-suppliers, joint-venture partners, and other major business associates for commitment on human rights/social issues? (8 indicators)

In addition to the question above, two indicators in the QC tool related to the questions on living wage and forced labour (see previous section) also apply to the function that manages the supply chain, Contracting & Procurement (C&P).

The SGBP mention promoting these principles with 'those with whom we do business'. The key word in this sentence is 'promote'; what does this exactly mean when human rights is concerned? The Business & Human rights management primer mentions that 'the company should take active steps to screen', but this document is not binding.

In terms of assurance, the Global C&P manager indicated to be sure that a reference is made to the SGBP in all contracts, which includes human rights. However, contracts are usually set up according to local law (and include the clause with reference to the SGBP). According to the Global Audit manager, specific audits on contract managers and suppliers and contractors are done, but include only human rights issues from time to time (e.g. in Nigeria or Sakhalin no

human rights issues are covered in these audits). The criteria for these audits are locally determined and only take place on a reactive basis, i.e. when an issue arises. Hence, assurance is locally coordinated.

At the time of the review, the strategy for 2002-2006 included that 'Contractor credentials with respect to Sustainable Development should become an integral part of the pre-qualification process'. The Global C&P manager indicated to have just set up a network of C&P managers around the world in order to share best practices on SD in C&P of big projects¹³. The manager further explained that a global contracting system was being developed, defining global contract terms and conditions in detail, because he recognized a lack of coordination. These contract terms could include human rights elements. However, the Global C&P manager stipulated that the main focus of implementation was on contractor compliance with health and safety standards, business integrity and 'local content' (sourcing from local suppliers and contracts as much as possible to stimulate the local economy). Shell Group works with approximately 300.000 contractors and suppliers around the world (Shell Sustainability Report, 2006). The effort to manage and screen these contractors is enormous and C&P therefore first wanted to focus on addressing the highest risks in the supply chain. Labour issues, such as providing a living wage or preventing child labour, had a lower priority than the other issues mentioned above at the time of the review, because these were more difficult to assure against with contractors.

When the policy team approached the Global C&P manager with the recommendations from the Danish Institute, he recognised the issue, especially when the researcher showed him the results of the CCQ, which indicated that an average of 50% of the country chairs did not know whether their contractors had procedures in place to prevent child labour, forced labour, etc. He said he had not received this information before. Although he had many concerns about the assurance of labour aspects with contractors, the researcher and the Global C&P manager decided to include the ILO fundamental principles and living wage in the newly to be developed 'C&P framework'. This was done accordingly.

4.7 Security forces: global implementation of human rights

One question and related 5 indicators in the QC tool dealt with the company's responsibility towards security:

1. Are company security guards trained when to intervene in security-related situations and how to use the minimal authorized force necessary? (5 indicators)

In addition to the question above, more indicators in the QC tool apply to security, which relate to security guards respecting freedom of association of employees, protecting employees against harassment from outsiders and providing safe passage of indigenous people (see next section).

As described on www.shell.com/security (2009), Shell's Security Standards '*only permit armed security to be used when the law requires it or there is no other acceptable way to manage the risks. When we do rely on armed guards they must follow Shell's guidelines in this area. They are based on UN guidelines and conventions on the use of force, and the Voluntary Principles on Security and Human Rights (www.voluntaryprinciples.org). They require armed guards to first try to resolve a security incident without using force. If this fails then only the*

¹³ This network sent the researcher their available best practices on human rights elements, which included e.g. child labour and forced labour clauses in contracts.

minimum force needed can be used, and help offered to anyone injured as a result, including offenders. Regular checks are made on whether armed guards understand these rules.

The Voluntary Principles on Security and Human Rights are developed by non-governmental organisations (NGOs), governments and companies and are a guide for companies on risk assessment and interactions with public and private security. Shell included the Voluntary Principles in the Security Standard in 2007. As a result, the standard risk assessment that all our operations are required to do every year now covers background checks on security staff to make sure they have no past record of human rights abuse, and checks that security staff have been trained in using these Principles. Shell also refer to the Voluntary Principles in contracts with private security companies and when working with government security forces’.

This rest of this section has been indicated as confidential to ensure the security of Shell staff, communities and contractors, but conclusions from this section are integrated into the general, public, conclusions of this thesis.

4.8 Community: global implementation of human rights

Eight questions and related 51 indicators in the QC tool dealt with the company’s responsibility towards communities:

1. Before purchasing land, does the company consult with all affected parties, including both legal and customary owners, in order to seek their prior informed consent? (5 indicators)
2. Does the company ensure that it does not participate in or benefit from improper forced relocations, and adequately compensates inhabitants in voluntary relocations? (5 indicators)
3. Does the company honour the land, passage, and usage rights of local or indigenous peoples on company-controlled land? (5 indicators)
4. Does the company consult with the local inhabitants and take measures to address and mitigate any disruptive effects that its operations may have on company land, the local community, and the natural resources in the area? (7 indicators)
5. Does the company have emergency procedures in place to effectively prevent and address all health emergencies and industrial accidents affecting the surrounding community? (9 indicators)
6. Does the company have mechanisms for hearing, processing, and settling the grievances of the local community? (7 indicators)
7. Does the company exercise due diligence when designing, manufacturing and marketing products, to protect against product defects which could harm the life, health or safety of the consumer or others likely to be affected by the defective product? (8 indicators)
8. Before using local artistic or copyrightable material or patenting a previously unpatented invention that has already been in use by a local or indigenous people, does the company first obtain the informed consent of the creator or owner of the work? (5 indicators)

Different functions within Shell Headquarters deal with these questions, i.e. Social Performance (questions 1, 2, 3, 4, 5, 6), HSE (questions 4, 5, 7), Security (questions 2, 3) and Legal (questions 1, 8). These functions and how they cover the eight questions above will be explained per function.

The first function discussed here and the most important in terms of community relations is Social Performance. In 2001, the ‘Social Performance Management Unit’ (SPMU) was set up within corporate affairs to give expert support to Shell

subsidiaries and/or joint ventures. This unit provides guidance and practical support to the Businesses on managing their impact on local people such as resettlement of communities, air emissions, or operational activities on traditional lands. The SPMU also supports businesses to deliver benefits such as jobs and business opportunities for communities. Shell Group's full management SP framework has been published by Titus Fossgard-Moser (2005). For the purpose of this thesis, however, it is only necessary to explain the basics in order to make the link to human rights.

Shell Group requires that an Integrated (environmental, social and health) Impact assessment Management process (IIM) is carried out prior to any new project or significant modification of an existing one. These are used as a tool to aid design and decision-making. Shell Businesses are also required to produce SP plans for all major projects and operations that guide efforts to engage with stakeholders and manage impacts. They are supported in this through the 'Framework for Social Performance' which offers guidance notes and workshops to share best practice and offer support. Furthermore, SP reviews were introduced in 2005/2006 and which are conducted to check that Shell's subsidiaries and/or joint ventures are addressing the right issues, to assess effectiveness in managing our impacts and to take corrective actions as needed.

At the time of the review in 2004/2005, the SP function was trying to find its place and tasks within the Shell organization. However, after the first period of 2001 – 2004, the new SPMU manager chose to focus on solving the current problems with communities first (or 'fire fighting', as some called this approach) instead of focusing on further policy development. This choice was mostly due to the fact that the Businesses did not have the (right) capacity to deal with their community issues that they faced around the world. Nevertheless, this choice was questioned by many in corporate Headquarters, since they regarded the role of the SPMU more in policy development, as being a part of corporate affairs. Another discussion included the place of SP within the organisation. At the time of the review in 2004/2005, Social Performance was part of the then 'External Affairs' (EA) staff organisation, but was later changed to be part of the HSE organisation. The SPMU was later brought under the Sustainable Development staff department, but the Businesses, however, either chose to put SP with HSE or with Communications.

The SGBP provide the relevant policy statements on Shell's responsibilities regarding human rights and 'society'. As explained in section 4.2.1, this statement talked about 'express support for fundamental human rights in line with the legitimate role of business', which does not necessarily mean that the company would actually behave accordingly (this was later changed). Furthermore, at the time of the review in 2004/2005, the SGBP stated that *'opportunities for involvement will vary depending upon the size of the company concerned, the nature of the local society, and the scope for useful private initiatives'*. SP procedures that covered the first six questions above included EP's 'Social Impact Assessment Guidelines' (SIA) and a set of SP guidance notes, explaining possible processes and best practices on resettlement, social issues along pipelines, stakeholder engagement, managing community and NGO grievances, livelihood impacts and vulnerable groups and community health. Although these guidelines covered human rights aspects with communities to a great extent, these are not mandatory for subsidiaries and/or joint ventures to implement and e.g. shared with project managers on their request or in awareness raising sessions. This also means no SP assurance process was present, until the SP reviews were introduced in 2005. Besides, the social impact assessment guidelines were only used by other Businesses when it was practical and did not explain properly how to address human rights concerns.

The Danish Institute for Human Rights agreed with the researcher that Shell Headquarters had integrated their human rights responsibilities regarding communities into policies and procedures to a great extent. Nevertheless, both agreed that some procedures could be strengthened in e.g. making land management and resettlement procedures binding so that 'prior and free informed consent' of communities would be ensured. When the researcher discussed these recommendations with a SP adviser, she explained that they were already in the process of defining the company's position on the definition of 'prior and free informed consent'. This term came from the World Bank, but the bank had not explained what this exactly meant either. Did it mean that communities could stop any development or did it mean something else? In addition, the company was recommended to set up appropriate and binding community grievance measures in which dealing with disputes fairly. The relevant people, including the SP adviser and issue manager, agreed to change the relevant guidance notes accordingly when they would be scheduled for an update.

Next to these recommendations, the question became important to what degree human rights were integrated into project processes, such as through the IIM. An IIM is used to define and mitigate all the negative and positive impacts a project can have on the local environment. Instead of taking a functional approach, different project stages (e.g. identifying and assessing, construction, operations, divestment, etc) are analysed for their potential impacts. This way, integrating human rights into the IIM could be an important way to prevent violations of human rights. Besides, the UN Special Representative on Business and Human Rights and NGOs also started to ask companies to demonstrate how projects assessed and managed their potential impacts on human rights (see section 4.10). That is why the policy team, including the researcher, set up a working group with the relevant functions, including SP, and the Business focal points. In this working group, the discussion primarily evolved around whether the IIM already covered human rights. Was it just a question of changing the label when communicating externally or was there a gap? This was followed up by further internal analysis.

The next function that covers the human rights questions includes HSE. Section 4.5.1 already explained how this function is organised, but not yet how the function covers the external impact on communities. The Shell Group HSE policy states that the company should commit 'no harm to people' and be 'committed to protect the environment'. The 'minimum environmental standards' provide detailed criteria on environmental protection and specific guides explain how this should be implemented, such as the 'Technical Guide for the Investigation of Potentially Contaminated Land', the 'Environmental impact assessment guidelines' and the 'Guidelines for Shell Companies and Business Units on Preparedness, Response and Compensation for Oil and Chemical Spills Emergency response'. Based on the assessment of the researcher, the Danish Institute indicated that some procedures could be improved, i.e. regarding the needs of communities in the event of a company crisis (such as an explosion in a plant). The HSE manager indicated that this was more the responsibility of SP instead of HSE, because the attention of HSE is mostly internally focused to increase Shell's performance and SP is more externally focused. The SP adviser indicated that a new SP guidance note was being developed on crisis management regarding communities.

In addition, the function has an extensive 'product stewardship programme in place that protects consumers from harmful products (question 7). Moving on to the next function, security, the researcher found that the Voluntary Principles on Security and Human Rights (see previous section) mostly covered community questions 2 and 3. The issues around the implementation of the Voluntary

Principles at the time of the review are already explained in the previous section. Finally, the Intellectual Property Services department of the Legal function covers question 8, which the researcher discussed the recommendations of the Danish Institute with and decided on some follow-up actions.

4.9 Government: global implementation of human rights

This section describes the implementation efforts of human rights at Shell Headquarters with governments in general (sub-section 4.9.1). The second sub-section deals with a government specific question of the QC tool, i.e. how to prevent bribery and corruption with government officials (sub-section 4.9.2).

4.9.1 Government relations

At the time of the review, the policy team coordinates the relationships with the intergovernmental institution United Nations on social and environmental topics, including human rights. The policy team monitors and visits conferences of UN organisations such as the UNDP, Global Compact, ILO, UNIDO, UNEP, etc.

The International Department (ID, see also section 4.3) based in corporate affairs coordinates the relationships with host governments around the world. As stated in the Shell control framework, country chairs (representatives) provide country level co-ordination and guard the Group's reputation in countries where the Group has business interests. Hence, country chairs liaise with the host government when necessary to maintain good relationships. The same county chairs also have to make sure that the Shell subsidiaries and/or joint ventures (see section 4.6.2) that are controlled live up to Shell standards, although accountability for compliance lies in the business line. Since many joint ventures are made with host governments through e.g. national oil companies, this means that county chairs often find themselves in the position to explain Shell standards to governmental institutions.

ID indicates that talking with host governments about their human rights records is incredibly difficult (see next chapters for dilemmas faced). For Shell, good relationships with host governments become more and more important to maintain and grow new business, as national oil companies become more powerful (Jaffe & Soligo, 2007). Shell also recognises this development (see e.g. speech 'Who needs international oil companies?' from Brinded, 2007) and experiences that influencing the host governments becomes increasingly difficult. Criticising host governments by talking about their human rights records in general would weaken the position of Shell even further (see following chapters for examples), although international NGOs often expect the company to do exactly that (see next section). The sensitivity of engaging host governments on human rights is also an important obstacle to fulfil another expectation from the international society, i.e. sharing dilemmas and learning points on embedding human rights with the international society. The company also recognised that some Western governments are important levers to influence host governments.

Because the Shell Group has historic roots both in the United Kingdom and The Netherlands, the relationship with these governments are especially strong. In both home countries, the reputation of the Shell Group was severely affected by the reserves recategorisation issue. As part of the merger (see box 6), an agreement was made that Shell Group would be listed on the London stock exchange and the Headquarters would be based in The Netherlands. Previously, Shell's Headquarters had been based in both countries. After the merger, the Shell Group's reputation with governments was restored, but employees interviewed perceive a significant difference between both countries with Dutch

favouring Shell more than the British. This can also indicate that 'patriotic' feelings with both governments play a role, as some Shell employees indicate.

The staff IGR department makes an effort to strengthen the relationships with both governments, although the company recognises that the UK government has more influence in international relations than the Dutch government. Several measures are taken to strengthen relationships. Other ways include structured face to face conversations between senior officials. The growing relationship with both governments was demonstrated in the 'Sakhalin affair', when the Russian government pressured the Shell Group in 2006 to sell part of its shares to the national gas company Gazprom. At Shell's request, the Dutch Prime minister and the UK prime minister called the Russian president to express their concerns. In terms of human rights, the Shell Group is sometimes asked to exchange information about its experiences with tools or in specific countries.

4.9.2 Preventing bribery and corruption

One question and related 7 indicators in the QC tool apply to preventing bribery and corruption, as this can influence the human rights situation:

1. Does the company refrain from bribing, or using any other method, to unjustly influence government officials and/or the judiciary? (7 indicators)

In many host countries where Shell subsidiaries and/or joint ventures operate, the perception of the level of bribery and corruption is high and even endemic in some countries. What policy and procedures does the company have in place to prevent it from participating or benefiting from this? In terms of policy, the SGBP states that '*Shell companies do not make payments to political parties, organisations or their representatives or take any part in party politics*'. In support of this policy, the policy team has developed the extensive management primer on 'dealing with bribery and corruption'. The primer is available to all personnel and describes the context of corruption, types of bribery and how they can undermine Group businesses, Group and operating company policies, procedures and structures designed to combat bribery and corruption, how to deal with dilemmas and gives recommendations for good practices. The primer is used with training of country chairs and within Shell subsidiaries and/or joint ventures of training local employees¹⁴. In addition, bribery and corruption is mentioned in the 'impact assessment' guidance. Compliance is assured through the regular financial auditing and both of the 'Country Chair role Business Assurance Statements' and the 'SGBP Assurance Statements'. Finally, several indicators in the CCQ cover bribery, corruption as well as facilitation payments, which are also published annually in the Shell Sustainability Report.

After the review of the researcher, the recommendations of the Danish Institute were discussed with the relevant policy focal points. One of these recommendations included a global line where employees could report any breaches of the SGBP. Such a global line was indeed already being installed (see also sub-section 4.5.5), as a result of the Shell merger. The responsible business integrity manager explained that the SGBP alone was too abstract to provide proper guidance to employees. The global reporting line would be part of a full programme to enhance compliance on 'high risk areas' of non-compliance leading to high reputational value (including financial risk, anti-competition, bribery and corruption, data-protection and physical and intangible assets). The programme finally resulted in a Group wide 'Code of Conduct' (already mentioned in sections 4.4 and 4.5), covering detailed chapters on 'bribery and corruption', 'political

¹⁴ ID provided this training to country chairs with the support of the policy team and the Business Integrity Services (BIS) department. Since 2005, however, the training of the business integrity issues moved to the newly established Group Ethics and Compliance Office.

activities', 'conflicts of interest' and 'gifts and hospitality'. The policy team, including the researcher, developed these chapters and supporting tools (such as mandatory web-training and a conflict of interest register). By 2007, the Group Ethics and Compliance Office had taken over the implementation and monitoring of these aspects from the policy team. In other words, the coordination and implementation moved from a staff department to line management.

Another way in which Shell Headquarters aims to engage host governments on preventing bribery and corruption is through the support of the tri-partite 'Extractive Industry Transparency Initiative' (EITI). The EITI advocates transparency in the amounts that host governments receive from natural resources – both from private companies and state oil companies. An umbrella group of NGOs campaigns for companies to publicly declare the revenues that they pay host governments (the 'Publish What You Pay' campaign). The idea is that knowing how much money governments receive is a useful first step in helping them be more open and responsible in how those funds get spent. At the time of research, Shell International sits on the board of the EITI and support national programmes in Azerbaijan, Cameroon, Gabon, Kazakhstan and Nigeria.

4.10 International society on human rights: stakeholder engagement in the global context

This section describes how Shell Headquarters engages with and uses its relationships with its international stakeholders around human rights, using the framework as described in chapter 2. On the one hand, the company senses what the international society expects from Shell in terms of human rights and follows new developments in terms of standards and/or tools. On the other hand, the company also tries to exercise influence on the international society. This section starts with describing how Shell Headquarters engages with the international society on human rights, using a number of examples (sub-section 4.10.1). The second sub-section analyses the views of key international stakeholders on Shell and human rights, based on structured interviews (sub-section 4.10.2), after which sub-section 4.10.3 describes and analyses how Shell internally coordinates its engagement with the international society around human rights. The last sub-section 4.10.4 analyses the factors that influence the degree of implementing stakeholder engagement within Shell Headquarters.

4.10.1 Shell Headquarters' interaction with the international society around human rights

Shell Headquarters engages with external stakeholders to reach its business objectives, as stated the Shell General Business Principles (Principle 7): '*Shell companies recognise that regular dialogue and engagement with our stakeholders is essential*'. One of the business objectives is to create a 'license to operate', which means that the Shell Group should ensure that stakeholder interests are taken into account in business activities. The vision of Shell's Corporate Affairs department is to have one of the 'strongest reputation in the industry leading to preferred partner status' (this was later refined as 'top quartile reputation'). To attain this aim, the Shell Group wants to be perceived as a responsible company operating wisely in sometimes challenging circumstances in order to deliver license to operate. Upholding human rights is one of the elements of being a responsible company. In order to obtain this objective, the company engages with its external stakeholders on both the global and local level in order to communicate Shell's policies and best practices and monitor external developments. Some of these interactions are discussed below.

- *Competitors*

Companies have become increasingly aware of social issues and this has led to the creation of the Social Responsibility Working Group of IPIECA (International Petroleum Industry Environmental Conservation Association) and the ICC's Business and Society Commission. Shell Headquarters also shares information, good practices, and dilemmas with its competitors around human rights in order to obtain peer advice. Far and foremost, actions of competitors are used to determine priorities and legitimise activities and policies regarding human rights. For example, BP introduced a human rights guidance note in 2005, which explained how human rights is integrated in BP operations. Since Shell appeared to want to be one of the leading responsible companies, the company planned to produce a similar document in the form of an update of the human rights management primer. Equally, competitors also look at Shell in their human rights activities. For example, BP and Statoil requested Shell Headquarters to share their experiences with the human rights compliance assessment tools of the Danish Institute.

- *Shareholders/Investors*

Investors and banks also have reacted to increasing attention on this issue, setting a framework through the 'Equator Principles' to manage environmental and social issues in project financing. An example is the European Bank for Reconstruction and Development (EBRD), who demanded that Sakhalin Energy (Shell operated in 2005-2006) in Russia complied with the criteria of the International Finance Corporation (IFC). These included e.g. setting up an indigenous people's action plan and resettlement action plan. Another example on how investors exercise influence on Shell in the area of human rights is the letters that the Californian pension fund (CalPers) wrote to Shell with questioning the company's investments in Sudan. CalPers constituted a large investor in Shell Group and was forced by Californian legislation to divest from companies operating in Sudan over concerns of human rights violations in the region Darfur. As a result of CalPers' requests, Shell Sudan started to assess the 50 retail stations in Sudan on the potential complicity of human rights, which resulted in a positive result by raising awareness on the issue and a close dialogue with CalPers. Furthermore, several institutional investors are increasingly interested specifically on Shell's management human rights performance and visit the company to learn more. Shell Headquarters also pro-actively briefs large investors extensively, especially around the Annual General Meeting (AGM). Finally, investors make use of several indices that aim to measure the human rights performance of listed companies, such as the Dow Jones sustainability index or the FTSE4Good. These indices send long checklists or questionnaires to Shell Headquarters that the company annually fills in.

- *Media*

The media can have a substantial influence on Shell's reputation on human rights. In 2005, for example, a Shell manager participated in a conference with 'chatham house' rules. This means that there is a common understanding between all stakeholders that everything what is said during the conference will not be published without verification. However, some reporters did not observe those rules and the next morning, some of the dilemmas shared were published on the front page of the financial times. The result was that the international NGOs were very happy that Shell Headquarters shared its difficulties in some of the countries where it operates, but a lot of damage was done to the government relationships. Subsequently, Shell Headquarters had to explain this to the host governments mentioned.

A different way in which the media influences Shell is illustrated by the cartoons issue in Denmark. The cartoons published in Danish newspapers about Muslim

terrorists resulted in an enormous international debate about the freedom of expression versus respect for religion. Also, Danish companies were boycotted in the Muslim countries. As Shell Headquarters was using a tool to assess its human rights performance, developed by the Danish Institute for Human Rights, Shell's regional managers were extra alert and sensitive to use this tool.

- *NGOs*

International NGOs have been campaigning for governments to adopt international laws for multinational enterprises and call on companies to demonstrate how their commitment to human rights works on the ground. Other companies indicate that Shell is more vulnerable and therefore attracts more attention from NGOs because Shell has one international brand that is used worldwide, whilst other use local labels, which attracts less attention from international NGOs. Box 8 describes the interaction of Shell Headquarters with NGOs around the UN Draft norms on business and human rights (see chapter 1).

Shell Headquarters has the most frequent contact with the NGO Amnesty International. Amnesty interacts with Shell in e.g. the Voluntary Principles on Security and Human rights annual meetings and the Dutch roundtable discussions. The same issue around confidentiality plays a role in these fora. And even outside these fora, Amnesty interacts with Shell Headquarters. For example, in 2000, Amnesty demanded from Shell Headquarters to stop fuelling the combat aircrafts of the Sudanese army, because the army forces use this fuel to attack civilian populations in violation of international law (Amnesty, 2000). However, the Sudanese army demanded to continue the supply of fuel. Amongst other (more commercial) reasons, this finally resulted in the retreat of Shell aviation from Sudan.

Box 8 Shell and the debate around the UN Draft norms

As described in chapter 1, an international debate took place around the *'Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights'* that was published in 2003 (see appendix 4). The completely opposite views of the business community, represented by the International Organization of Employers (IOE) and the International Chamber of Commerce (ICC), and international NGOs resulted in a deadlock of the debate. Shell also participated in this debate. The Shell Report 2004 (published in 2005) summarised the company's position: *'we supported United Nations (UN) efforts to define the role of business in safeguarding human rights, but opposed the draft UN human rights norms for business. Like others, we believed they risked weakening governments' responsibilities under international law. We were criticised by some for this stand'*.

Although Shell did not actively campaign against the draft norms, like the ICC/IOE, Shell became one of the examples for some international NGOs of business lobbying against the norms. The main reason for this focus on Shell is that, at the time of the debate, the ICC's Commission on Business in Society was chaired by Robin Aram, who was also the Vice-President of External Relations, Policy and Social Responsibility at Shell. A number of NGOs did not agree with the ICC position, but directed much of their criticism at Shell, and at Aram personally (UN Global Compact, 2005). One of these NGOs included the Corporate European Observatory, which published an article with the title *'Shell leads international business campaign against UN human rights norms'* (CEO, 2004). In this article, CEO accuses Shell of *'greenwash'* and *'poor-wash'* with CSR claims and being determined *'to prevent the emergence of international mechanisms through which communities could hold it accountable to its pledges'*. Shell responded to this accusation that the company has been *'working hard to ensure human rights issues are properly taken into account in carrying out day-to-day business'* (Shell, 2004). Although the exact impact on Shell's reputation on human rights cannot be determined, the link between ICC and Shell around the Draft norms debate did affect the relationships with some key international stakeholders, such as Amnesty and BLIHR (see chapter 1).

With other NGOs, such as Human Rights Watch (HRW), Shell Headquarters has more ad-hoc engagements on specific issues. The primary reason for this ad-hoc engagement is the particular strategy of HRW to campaign on specific issues only. One of these specific issues includes the transparency of payments to governments, as discussed earlier.

- *Academic/research institutions*

Many universities take an interest in Shell's activities around human rights, environmental issues and/or stakeholder engagements. As section 3.4.1 indicates, Shell is regarded as a front-running company in terms of dealing with these aspects. Specific institutions and/or scholars within those universities use issues that the Shell Group faces (such as Brent Spar or Ogoni crisis) as material to teach their students or in their research and invite Shell managers to speak in conferences or lectures. Others, such as the human rights institute of Columbia University in New York, also try to influence Shell on their human rights performance, although they are also struggling to balance this with maintaining their level of (perceived) independence.

- *Intergovernmental organisations*

Intergovernmental organisations have activities that relate to business and human rights - the UN Global Compact, International Labour Organisation's labour standards, the World Bank's standard and activities of regional Human Rights commissions. As discussed in chapter 1, the Secretary General appointed a Special Representative on Business and Human Rights (Professor John Ruggie) in 2005 reporting to the Commission on Human Rights. John Ruggie visited Shell Headquarters the same year to learn about its experiences with implementing human rights into business practices. In this meeting, the researcher explained the experiences with the Human Rights Compliance Assessment, local staff from Nigeria discussed the approach in Nigeria and discussed the dilemmas and views openly. John Ruggie indicated that his concern was primarily about laggard companies and how to define the different roles of national governments and the human rights community. It appeared that he held Shell in a high regard in terms of its thinking and approach around human rights, but asked the company to make its initiatives more accessible and open to others to learn from.

4.10.2 Views of stakeholders

What do stakeholders think of Shell in terms of the implementation of its human rights commitment? As described in section 3.5.1, in-depth interviews with key global stakeholders of Shell were conducted in 2006 (refer to appendix 7 for interview questions). The results of these interviews are summarised below. In addition, Shell Headquarters conducts an annual assessment of its reputation with the general public and special publics such as NGOs, academia, etc (the so-called 'Reputation Tracker'). Although confidential, this data will also be integrated into the conclusions.

In the interviews, Shell's human rights performance is regarded to be mixed. Shell is seen to have far advanced human rights policies and guidance, but the implementation of these policies on the ground is seen to be lacking, especially in Nigeria (see chapter 7). Shell is regarded as a very responsive, professional company and always willing to engage on human rights issues or take part in new initiatives, but the results of those engagements is seen to be rather minimal. For example, most of the stakeholders appreciate that Shell takes part in the EITI, but some also indicate that should have happened much earlier, at a time when it was really relevant. In addition, stakeholders indicate that Shell does not always recognise or even denies its human rights responsibilities. In this context, Shell's seemingly opposing against the Draft UN Norms is mentioned (see box 7). Especially the Board of Shell is seen to be lacking sensitivity on human rights, according to external stakeholders. Key human rights issues for Shell are relationships with government, security, contractors and communities, resettlement, indigenous people, health and safety, but much less labour issues.

All stakeholders mention the record Shell has in Nigeria, which is expressed clearly by one stakeholder: '*there are two Shell's: Shell and Shell in Nigeria*'. At

Headquarters level, Shell is seen to be fully committed to human rights, but Shell finds the translation of policy to practice on the ground much more difficult. According to external stakeholders, many mistakes were and are made in Nigeria by SPDC in managing human rights and many stakeholders do not see much improvement. These mistakes stakeholder mention include hiring Nigerians in key positions who are part of the elite and are therefore not keen to change anything, a focus on development projects instead of a right based approach, no engagement with some local important human rights NGOs in Nigeria. The Voluntary Principles on Security and Human Rights is often mentioned as an area where stakeholders like to see improvement, e.g. engaging government about the performance of public security forces. According to Amnesty, SPDC takes a very defensive and too much of a victim role in Nigeria. The human rights training in Nigeria is regarded as a very good initiative, but some stakeholders find it worrisome that Shell does not want to speak in public about the problems they face in Nigeria. Some stakeholders also recognise that SPDC has become a victim of human rights abuses in Nigeria as well, because of the kidnappings of staff.

Sudan is also mentioned as a country where Shell was not willing to recognise its responsibilities when aviation fuel was sold through a third party to the Sudanese government who committed human rights abuses. Although the supply was stopped in the end, the perception of external stakeholders is that Shell Sudan took too long until it was no longer necessary, which made them complicit in human rights abuses. Further, they indicate that the company already knew about the Sudanese war a long time and still they did not anticipate anything. Besides Sudan, stakeholders see Shell's decision to stay in South Africa during the apartheid era to have initiated the company's poor reputation on human rights.

In comparison with Shell's competitors, Shell is still regarded to be amongst the leading companies on human rights by most stakeholders when the development of human rights policies and guidance is concerned. However, Shell is not regarded as a frontrunner anymore, as opposed to five years ago. Stakeholders indicate that others are catching up fast. In terms of Shell's human rights performance on the ground, one stakeholder indicates: *'I have less confidence that Shell will do something with the issues we raise with them than I have with a number of other companies'*. So, although many stakeholders indicate that they cannot assess Shell's performance on the ground to a great extent, all stakeholders express concerns of the lack of transparency and the lack of willingness to share evidence of the issues on the ground.

Most stakeholders indicate that especially BP is more advanced than Shell, especially on its willingness to share difficult dilemmas, evidence of how the company deals with human rights on the ground and even the mistakes that are made. Shell is regarded as much less transparent and much more defensive in its reactions towards concerns of stakeholders. The researcher Arnold (2000) also confirms this: *'for some reason Shell has not fared as well in reputational terms with NGOs and opinion formers as BP'*. Some stakeholders indicated that possible reasons are that the people who work on human rights within BP can raise issues more easily (e.g. more authority) with senior management and have more leverage with their business managers on the ground. However, the Danish Institute for Human Rights also recognises that BP has a slightly better human rights reputation than Shell, but the Danish Institute does not regard BP to mainstream human rights in the same extent as Shell does. BP seems to be much more successful in profiling their high human rights impact projects. Shell's human rights successes are more spread throughout the company, so it gives more of a stable basis for human rights, but it gives much less media-friendly

stories to capitalize on for the company. Other European companies, such as ENI and Total, are lagging behind, but are catching up fast.

Furthermore, most stakeholders indicate that they generally regard Exxon as doing worse in managing its human rights performance than Shell. For example, some stakeholders indicate that Exxon is currently lobbying to downgrade the VPs. Regarding stakeholder engagement, Chevron and ExxonMobil are also usually seen as less advanced in their willingness to engage with stakeholders¹⁵. However, other stakeholders interviewed indicate that Exxon is doing better compared with Shell. For example, one stakeholder regarded Exxon to have done more on the operationalisation of the Voluntary Principles of Security and Human Rights. Stakeholders explain this by stating Exxon does not seem to have the same human rights issues as Shell seems to have; some think this is because Exxon is just lucky and Shell is unlucky, others think this is because they have better management systems than Shell. Exxon appear to oversee its projects better and has better relationships with their local communities. One stakeholder summarised the difference between BP, Exxon and Shell as follows: *'Exxon is the Rottweiler, BP is the greyhound and Shell is the old friendly Labrador'*.

Some of the stakeholders think that Nigeria is not a stand-alone problem for Shell and think that Shell has a more general governance problem in managing its projects according to the global policies in any area. Shell does not seem to have the appropriate oversight or exertion of control over its projects in areas of finance, environment or human rights. Issues that come up could have been easily predicated and anticipated beforehand. Stakeholders indicate this is the result of complacency within the company, e.g. *'do not worry, we have our issues covered'* or *'human rights is important, but first let's get this project up and running'*. Especially project managers are seen by external stakeholders to not taking the environmental or social dimension of projects seriously and making the same mistakes in e.g. stakeholder management (see also section 4.11). As a result, actions taken by Shell to mitigate any concerns are too little, too slow, too late or inappropriate. Examples are mentioned of Sudan, Sakhalin (Russia), Sapref (South Africa), and Corrib (Ireland). The socially responsible investor, Insight Investment, indicates that there is a growing dissatisfaction of the bigger shareholders with Shell and an increasing frustration with senior executives.

Besides management of projects, stakeholders do not see that human rights are managed systematically throughout the company. According to some external stakeholders, having a senior human rights manager or a systematic monitoring and measuring of adherence to human rights would increase performance. Shell's track record in managing human rights in its supply chain is especially regarded as weak. Reactions from stakeholders on the use of the Human Rights Compliance Assessment (HRCA) tools are also mixed. On the one hand, stakeholders regard the willingness and interest of Shell to use the tools positive and regard the tool as comprehensive, primarily targeted at identifying risks of violating human rights and assurance of human rights performance. For example, the UN Special Representative (Ruggie, 2006a) stated that he will *'closely monitor two ongoing efforts. The first is a human rights compliance assessment tool developed by the Danish Institute for Human Rights'*. This indicates the importance of the tool regarding the topic. On the other hand, stakeholders criticise the tools for being *'very legal'* (and therefore not taking into account perceptions, building relationships, community dynamics, etc), *'dependent on subjective judgements'*, *'too large'*, *'too voluntary'*, *'static'* (and therefore outdated quickly), *'too much focussed on processes instead of relationship*

¹⁵ An Exxon official indicated in an informal talk that they want to change the company's culture to be able to be more open with its stakeholders, but that this takes time.

building with stakeholders or changing internal behaviour, *'not sector specific'*, *'not taking into account local dilemmas'* and *'can only be used by companies who have the commitment and resources'*. One of the largest competitors of Shell, BP, specifically chose not to use the tools, because the company wants to focus on specific human rights issues for the oil and gas business instead of using an all-encompassing general tool for processes. As the human rights focal point of BP illustrates: *'it is not about pregnant women in China, it is about our security issues in our business'*. In an informal discussion of sharing experiences, the human rights focal point of BP indicated to prefer working with particular experts to identify the risks in certain local contexts instead of embedding human rights into all global procedures.

Finally, all stakeholders mention that the reporting on Shell's human rights management is way too little. It is not clear how Shell identifies its risks, what are the problems and dilemmas they face, how Shell mitigates these risks and problems and what the impact and learning are of the actions taken. Stakeholders want to see more quantitative data.

Stakeholders put several recommendations regarding the implementation of human rights in the company forward. Shell should:

- Better analysis and addressing of the underlying causes of conflict in Nigeria, more coordination with other oil companies and NGOs in Nigeria on security forces;
- Have the CEO (Jeroen van der Veer) speak out on the importance of human rights more;
- Talk about its work in Nigeria in the context of human rights and not in developmental way.
- Manage community relations better;
- Be more outspoken in public on human rights on the country level where it is relevant;
- Be more stringent in implementing human rights principles on the ground;
- Better implement of the Voluntary Principles;
- Imagine the worst case scenario and try to anticipate those scenarios and be prepared to take strategic decisions when it actually happens.
- Make sure that people in Security, Community relations, Operations, etc have bought into the importance of human rights and be kept at the same pace at the same time;
- Incorporate human rights performance into management performance appraisals.
- Mainstream people who have a background in development, human rights, etc and have experts available when needed;

4.10.3 Coordination of stakeholder interactions

The internal coordination of interactions with stakeholders at Shell Headquarters level will be described according to the steps in stakeholder management¹⁶, as defined in section 2.9.1.

1. Stakeholder identification

The stakeholders with whom Shell subsidiaries and/or joint ventures interact are described in section 4.10.1. The organisational and economic stakeholders are defined by the extent a company's activities (employees, contractors, suppliers,

¹⁶ Within Shell, the term 'stakeholder management' changed to 'stakeholder engagement', because 'managing' stakeholders could be experienced as arrogant by these stakeholders. In other words, people indicated that Shell can only influence stakeholders to a very limited extent. Later again, the term 'engagement' changed to 'stakeholder alliance building' in order to give a purpose to this stakeholder engagement.

customers, etc). The societal stakeholders are defined by monitoring and engaging the international society. Thus, by actively participating in global fora and giving (potential) stakeholders the opportunity to talk with Shell, the company can identify the individuals or groups which either are harmed by, or benefits from Shell or whose rights can be violated, or have to be respected by Shell (definition stakeholders). Besides participating in global fora and individual engagements, Shell Headquarters uses a number of tools to identify stakeholders and record what they say about Shell's performance, such as media monitoring, NGO trackers, ethical risk analysis, etc.

2. Assess general nature of stakeholder claims and power implications &

3. Assess performance gaps and influence strategies

The general nature of stakeholder claims and performance gaps have been described in section 4.10.2. In sum, stakeholders demand that Shell increases its human rights performance on the ground and demand that Shell involves them in this process. Many cases show, such as the Brent Spar issue (see box 4) and the Ogoni crisis (see chapter 7), Non-governmental organisations (NGOs) play a major role in the interaction with Shell Group on human rights. As the world of NGOs is highly complex, Shell Headquarters has contracted specialised research agencies to assess their general nature of claims and power relations. In addition, Shell Headquarters can assess what the nature of key stakeholder claims and power implications are, from the company's own interactions and experiences. Nevertheless, the relevant people also indicate that this remains guessing, as it can never be assessed what stakeholders are really thinking.

The attitudes of these stakeholders differ according to the nature of the organisation. For example, since Amnesty International or Human Rights Watch are primarily advocacy organisations, they are more likely to take a critical (or adversarial) attitude towards Shell's activities than supportive (or co-operative). The Danish Institute for Human Rights is more of a research organisation that develops tools that enables companies to assess their human rights performance; they are more likely to take a supportive attitude. These different attitudes result in different influence strategies. The NGO Friends of the Earth, for example, is primarily launching public campaigns against Shell, whilst the Global Compact aims for having constructive dialogues with companies. More examples of different influence strategies have been described in section 4.10.1.

4. Prioritise stakeholder demands

Shell uses general models to prioritise stakeholder demands, which are indicated as confidential.

5. Develop organisational responses

The following model Shell uses for determining which organisational responses are appropriate:

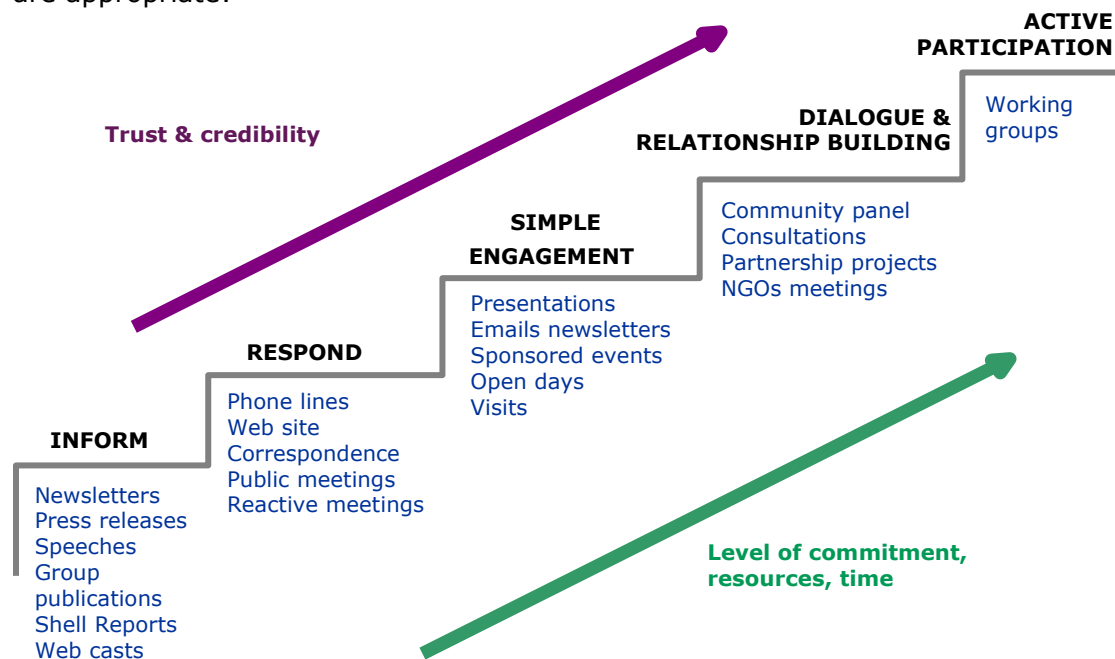


Figure 2 Model for engagement strategies and tactics used in Shell Headquarters (SustainAbility, 2002)

This model clearly shows that the more stakeholders are involved, the mutual trust and credibility can increase. However, the level of commitment, resources and time required to involve stakeholders also increases. Thus, it would also not be very efficient to involve every stakeholder with Shell Group's activities. Besides, some stakeholders also do not want to be involved and choose to, as part of their strategy, take an antagonistic attitude, such as the NGO Friends of the Earth. In those cases, it also does not make sense either to spend a lot of resources and time to involve those stakeholders. In that sense, building trust and credibility is more of a precondition than a result of engagement. On the other hand, Shell Headquarters also recognises that the international society increasingly demands greater transparency and to be involved, as trust in companies decreases. In the company's words, in the past, companies were inherently trusted, afterwards the international society asked the company to tell them about the activities of the company, but as trust diminished, it was necessary to show the company's activities and to involve them. As a result of this analysis (similar to the analysis of Kaptein & Van Tulder, 2006, in section 2.9.1), the company increasingly seeks strategic partnerships with stakeholders (see sub-section 4.10.1).

On a global level, Shell Headquarters sets a more proactive strategy to influence the media from 2006 onwards. As a result of the oil reserves issue in 2004 (see box 6), external communications dropped to a very low level because of a fear of backlash. The effect was that more unbalanced reports about Shell's activities started to appear in the news. As part of the new strategy, Shell Headquarters for example brought a group of journalists over to Sakhalin (Russia) to show them all their activities to protect the environment and the rights of local communities. This way, these journalists would have a more balanced view when writing about Shell in Russia. Finally, the issue management team extensively prepares the Annual General Meeting of shareholders (AGM), as some NGOs take that opportunity to organise protests and influence the shareholders. This includes

analysing the potential NGO strategies, briefing the Executive Committee on key messages and organising an internal role play with the EC to prepare them for the protests.

6. Monitoring and control

Identifying stakeholders and their claims and power relations is a continuous process, as the international society also changes continuously. The global issue matrix is therefore updated quarterly, based on issue matrices from countries and Businesses. The issue matrix allows also tracking progress on managing the issues. In addition, the issue briefs are regularly updated according to internal or external developments. Furthermore, in order to coordinate external engagements across 140 countries, Shell Headquarters had developed a mandatory extensive software package (Shell Stakeholder Management System), but this was changed later to a voluntary excel sheet, as people found SSMS too complex. Finally, Shell Headquarters tracks the effectiveness on its stakeholder engagement on a global level via the Reputation Tracker.

4.10.4 Degree of implementation of stakeholder interactions

Shell Headquarters has not always taken such a systematic approach to stakeholder interactions, as described in the previous sections. Before the events of the Brent Spar and the Ogoni crisis in the mid 90s, Shell Headquarters paid limited attention to societal stakeholders. As Mirvis (2000) describes a statement of the senior managers of Shell at the time of the Brent Spar: *'the Corporate Managing Director concurred that Shell overall gave primacy in decisions to analysis and hard facts rather than to dialogue and empathy. And they lamented the inability of both people inside and outside the company to talk openly and fully about concerns and problems'*. Shell Group still states on its website around the Brent Spar issue that *'we will also pay much more attention to listening to and consulting people about the many issues involved and to gaining their confidence and trust'* (March, 2008). Wheeler et al (2002) also indicates that the Ogoni crisis had such an impact on Shell: *'what makes the Ogoni affair almost unique is that it helped precipitate a fundamental change in corporate strategy and orientation towards stakeholders in one of the world's largest companies'*.

Ten years later, as several researchers (Arnold, 2000; Wheeler et al, 2002; Campbell & Beck, 2004; Mirvis, 2000) indicated, the international society has generally a more positive opinion about Shell's stakeholder engagement practices. However, some also indicate several gaps in its implementation or even a public relations campaign (e.g. 'Lessons not learnt' report of Friends of the Earth, 2004). In the stakeholder interviews carried out, stakeholders asked Shell Headquarters to standardise the stakeholder engagement approach, including training and procedures, as they noticed that not all operating companies implemented stakeholder engagement processes well. For example, Amnesty indicated that their contacts in the NGO sector in Nigeria always indicated they were not invited to Shell's stakeholder engagement sessions, as Shell always selected other groups from the Niger Delta. Amnesty felt it was unclear which criteria for selecting stakeholders were used. Wheeler et al (2002) argue that this tension is partly the result of dealing with a complex multinational corporation: *'how can a stakeholder group relate effectively to a complex multinational corporation which exhibits contradictions and inconsistencies in its rhetoric and behaviours between and within the corporation and its business units? How can a stakeholder group be simultaneously in opposition to one part of a corporation and in constructive dialogue with another whilst maintaining its own integrity and internal cohesion?'*

In the interviews, stakeholders also asked Shell Headquarters to consult them *before* issues come up by involving them in the design and implementation of

human rights in projects. This way, the expertise of stakeholders can be used to prevent problems instead of managed. In addition, they were not satisfied with the degree of openness of how Shell Group is implementing its human rights policies throughout the world, its results, dilemmas and lessons of implementation. Furthermore, some stakeholders see differences of approach with different businesses of Shell, as Wheeler et al (2000) state: *'the strategies of Shell's business areas have varied in the degree of social and environmental responsibility which is made explicit – with upstream business units tending to be more financially and technically driven and downstream units being more stakeholder responsive'*. The table below points out examples of factors that influences the implementation of stakeholder engagement practices within Shell Group, mentioned by external and internal stakeholders.

Source	Examples factors blocking implementation stakeholder engagement
External stakeholders interviewed and/or informal talks with stakeholders at global for a – see appendix 7	<ul style="list-style-type: none"> • No person present that has clear authority to raise issues on the highest level and get a response quickly. • Lack of overview what is happening on the ground • Not separating NGO grievances or criminal activities • No link between impacts on communities and social investments • Lack of accountability • Unclear, inaccessible internal guidance (too academic and abstract for project managers to extract any practical guidance) • Bureaucratic • <i>inability of the corporation to navigate complexity</i>, to span boundaries within and between the firm and to deal with the sorts of paradoxes
Internal (Corporate Affairs)	Confidential (but integrated into public conclusions)

Table 4 Examples factors blocking implementation stakeholder engagement mentioned by external and internal sources.

In addition to potential internal factors, external factors that influence the degree of implementation of stakeholder engagement include the structure of particular NGOs that make it difficult for Shell Headquarters to engage on a global level. For example, as the environmental NGO WWF is strongly decentralised, Shell Headquarters may have a collaborative relationship at global level and an antagonistic relationship with the same NGO at country level. Different strategies need to be taken in these different contexts. Another example is the engagement with the developmental NGO Oxfam-Novib. When Shell Headquarters and Oxfam Novib were talking about a possible cooperation in e.g. Nigeria in order to address the poverty situation, it would require a complex coordination between Shell Headquarters, Novib in Netherlands, Oxfam in the UK, local partners from Oxfam Novib in Nigeria and Shell Nigeria.

Furthermore, other companies indicate that the Shell Group will always face antagonistic attitudes from e.g. NGOs despite the company's efforts, because it an 'easy target' because of its size, the high impact of its operations, its well known global brand and its willingness to engage. The local context can also influence the possibilities to implement stakeholder engagement. From many internal conversations, it appeared that the British context (especially the media) is much more hostile towards Shell than the Dutch context (the two countries where Shell's Headquarters was based in 2004/2005). An illustrative example is that Shell Headquarters has a close cooperative relationship with the Dutch section of Amnesty International, but a non-existing, critical relationship with the English section and Head Office of Amnesty. The explanation that is often given internally for this difference is that the Dutch feel more patriotic towards Shell than the British (who feel more drawn towards BP). Another explanation is that the Dutch societal culture and historical traditions stimulate cooperative relations, as stipulated by Cramer (2005): *'the Dutch socio-political climate is based on the participation of a great variety of organisations, which have to negotiate with*

each other in order to reach consensus. This so-called 'polder model' dates back far in Dutch history and... stimulated various stakeholders to become active in CSR'.

Here ends this section on how Shell Headquarters manages international stakeholder interactions as well as the discussion on the degree of implementation of human rights within Shell Group. The next section discusses the degree of internalisation.

4.11 Degree of internalisation

As stated in section 2.6, the degree of internalisation is defined as the state in which the employees have committed to, are satisfied with and have psychological ownership of the practice. This 'practice' includes both stakeholder engagement as well as the human rights commitment. Hence, these practices should find commitment, satisfaction and ownership within Headquarters. Firstly, the internalisation of human rights is discussed (sub-section 4.11.1), after which the internalisation of stakeholder engagement in sub-section 4.11.2.

4.11.1 Internalisation of human rights commitment

As described in sub-section 4.2.1, the Shell General Business Principles state that Shell's shared core values are honesty, integrity and respect for people, which should underpin all the work the company does. The SGBP further state that these principles '*drive the behaviour expected of every employee in every Shell company in the conduct of its business at all times*'. Finally, the SGBP asks management to play a specific exemplary role: '*it is the responsibility of management to lead by example, to ensure that all employees are aware of these principles, and behave in accordance with the spirit as well as with the letter of this statement*'. As human rights are also mentioned in the SGBP, this means that both employees as well as managers need to be aware, understand what it means to their jobs and behave accordingly.

In general, as described in section 4.3, several documents (e.g. management primers) and tools (e.g. on-line training courses, HRCA) have been developed and/or used since Shell's commitment to human rights in 1997 that aim to raise awareness within the company on the importance of human rights for business and provide guidance on how to address human rights concerns. The (degree of) internalisation of the human rights commitment within Shell Headquarters is discussed according to the same structure of the previous sections.

1. HSE and Human Resources

Looking specifically at Health and safety practices, a great deal of attention from Shell Headquarters is focussed on internalising HSE standards in working practices. Within the framework of the HSE-MS, many types of internalisation instruments are used, such as training of employees and managers in health and safety to increase awareness and skills and dissemination of the lessons from previous incidents.

After putting the HSE-MS in place, Shell found that '*significant reductions in incident rates did occur, but it became apparent that the performance improvement was levelling out, especially for more serious incidents*' (Zijlker, 2005). Zijlker, the HSE and SD manager for Shell Exploration & Production further states that '*continuous improvement requires a deeper embedding of the management systems, which should lead to a culture in which people are intrinsically motivated to operate the elements of the HSE MS, because they believe in it, rather than they are being forced*'. The company therefore developed

a research based programme in 2002 that aims to achieve lasting health and safety performance by building a stronger safety culture, which is called the 'Hearts & Minds' programme (Shell Sustainability Report, 2006). This programme was still being implemented across Shell Group at the time of writing this thesis (2006-2008).

Shell Headquarters also recognises that changing the culture of the organisation towards intrinsically motivating people has value in other areas, as the CEO of Shell, Jeroen van de Veer, states: *'without a strong safety culture all other aspects of our culture will erode'*. Nevertheless, in other areas, this attention for internalisation aspects has not been that explicit. For example, as described in sub-section 4.5.2, Human Resources have internalised to a limited extent, because the function leadership takes limited psychological ownership and commitment to the practice of human rights. Nevertheless, specific areas within the HR function do recognise the importance of internalising human rights principles, such as Diversity & Inclusiveness (or preventing harassment and discrimination). Furthermore, the introduction of D&I has stimulated employee networks to emerge within Shell Group for women, ethnic minorities, people with disabilities, gay / lesbian, and young people across the world.

2. Contracting & Procurement and business partners

As described in section 4.6.1, the C&P function actually preferred to focus on internalisation measures instead of procedural measures. The SGBP state: *'We encourage our business partners to live by them or by equivalent principles'*. In order to stimulate the use of local contractors and suppliers, the Contracting & Procurement function train local companies to help them understand and meet Shell's standards, such as safety, so they can compete for contracts. By 2006, the Contracting & Procurement function developed a programme to promote the use of local suppliers in over 90% of the low and medium income countries where Shell subsidiaries and/or joint ventures operate.

Regarding business partners, the SGBP states that Shell Group *'promotes the application of the Shell General Business Principles or equivalent principles in such relationships. The ability to promote these principles effectively will be an important factor in the decision to enter into or remain in such relationships'*. In practice, this means that informal ways of influencing the business partner (often a state company) are used. Having a trustworthy relationship with the business partner and training plays a strong role in the success of this influence (examples are provided in chapter 6).

3. Security

As indicated before, this section is confidential, but conclusions from this section will be integrated into the general, public, conclusions of this thesis.

4. Social Performance

As described in section 4.8, Social Performance is defined as managing impacts on local communities where Shell subsidiaries and/or joint ventures operate. SP has easily internalised human rights, because of its inherent purpose (managing impacts on communities and therefore respecting right communities). Many discussions take place internally regarding the place of human rights responsibilities and competency development. One of these discussions included the formal place of Social Performance, which deals with Shell's human rights responsibilities regarding local communities. Social Performance requires both skills in external engagement (listening, open mindset, etc) and knowledge of the business operations (health and safety procedures etc). Thus, the question was whether to place Social Performance with External Affairs or HSE. In the end, it was placed with HSE in 2005 because it was found to be more important to stay

closely connected to the business operations. However, the place of SP changed to the department of Sustainable Development, when it was formed in 2007.

Social Performance was explicitly not formalised as a function, because of its broad application into the business and skills required. However, finding the people that have all of the knowledge and competencies required for Social Performance is therefore a challenge. Because of a lack of competent resources, people with either an engineering or a communications background are appointed as Social Performance focal points, which does not lead always to a proper implementation (see chapter 7). The Social Performance management unit has therefore been focussing on training the resources available.

5. Government relations and ID

The International Department, ID, trains, supports and advises the country chairs in engagements with host governments. An internal discussion exists, however, whether the International Department (who advises the country chairs) should continue being responsible for SGBP compliance in the countries. As described in section 4.3.3, people in the ID department have a varied background and a more frequent rotation due to the nature of the job. As a result, the degree in which human rights was understood by individual ID advisors differed strongly. Other, more general, notions that could potentially influence the internalisation of the human rights commitment in Shell Headquarters are mentioned below.

A general feeling exists within the company that resulted from the reserves crisis (see box 6) that the individual interests preside over the company's interests. The CEO Jeroen van der Veer analyses: *'I think that this should be looked at in the light of the nineties. People were with their heads up into the clouds, everything generated money. This did not particularly lead to the notion that the success of a company eventually emerges from a complexity of elements'* (Nobelen, 2005, translated).

In order to change this aspect of Shell Group's internal culture, an 'enterprise first' working group was established which had the task to turn the company's internal culture around so that every employee strived for the company's interests first. In the words of Jeroen van der Veer in the same interview: *'employees should first strive for the company's objectives and then the individual rewards will automatically follow, not the other way around'*. The working group proposed to change the internal processes accordingly, e.g. the reward structure, recruitment and appraisal of employees, in order to align them to *'our Business Principles, our values, leadership, accountability and teamwork, diversity & inclusiveness and sustainable development'* (Van der Veer, 2004). Since 2004, the company has been working on this refocus. Thus, as human rights are part of the business principles, this refocus of the internalisation of the business principles can help the internalisation of the human rights commitment as well.

It is also recognised internally that external stakeholders have increasing expectations about stepping up the company's human rights performance. The generally conservative approach of Shell prevents the company to take a leadership role unless absolutely necessary. In addition, several employees interviewed accuse the 'engineering' culture for this conservativeness. Besides, on an individual level, senior managers at Shell Headquarters indicated that their subordinates did not challenge them out of fear for reprisal and called for more 'silent leaders' and take personal responsibility to adhere to the principles of the company.

The latter also typifies Shell Group's organisational culture. When employees in Shell Headquarters compare themselves with ExxonMobil, Exxon is regarded as

doing the opposite: it is regarded as a highly hierarchical organisation in which employees do what 'their boss tells them'. As a result, Exxon is better at its global governance and living up to its standards, according to many. However, the same employees also indicate not to want to work in Exxon. On the other hand, several employees interviewed also indicate that this difference in working between Shell and Exxon is also a strength of Shell by being more strategic, flexible and innovative. The disadvantage is, nevertheless, that decision-making processes take more time. An important explanation of this flexibility and innovativity of Shell is, according to some, that the company employs much more people from different backgrounds as compared to Exxon. The advantage of employing local people is that local relationships can be build easily, but the disadvantage is that this is more difficult to manage, as this means to have a diverse organisational culture. Exxon has much more expatriates from the US working in its operations, who inherently have a more monogamous culture.

The engineering approach, as mentioned earlier, is also mentioned as the primary cause for a too strong emphasis on processes instead of people. As a result, the processes within Shell are too complex and too important and prevent building good relationships with e.g. local communities, as the head of Social Performance analyses. One of the priorities of Shell in the period of the reserves crisis has therefore also been to 'simplify' its processes. What element comes first, implementation procedures or internalisation instruments, have been a continuous discussion within Shell Headquarters during the research period. On the one hand, employees indicate that the company should focus on developing procedures first in order to align everybody and then obtain behaviour change, such as happened with safety. Other employees promote the change of the organisational culture first in order to create understanding and awareness, and then create appropriate procedures to guide this behaviour.

4.11.2 Internalisation of stakeholder engagement

The following table indicates examples factors that would potentially block the internalisation of stakeholder engagement, identified from interviews with stakeholders and people within Shell’s Corporate Affairs department:

Source	Examples factors blocking internalisation stakeholder engagement
External stakeholders interviewed and/or informal talks with stakeholders at global for a – see appendix 7	<ul style="list-style-type: none"> • Legal/compliance approach to stakeholder engagement • Lack of respect of (expertise of) NGOs • Lack of listening skills • Lack of understanding/trust in stakeholders • Lack of ability to learn • Seeing stakeholder engagement as a risk (leading to defensive behaviour) instead of opportunity (leading to pro-active behaviour) • Not seeing stakeholder engagement as strategic • Too afraid to involve stakeholders • Different use of language • Inability of leadership to establish consistent tone for stakeholder responsive dialogue • Lack of local management understanding of good practice • Instrumentalist approach to stakeholder responsiveness
Internal (Corporate Affairs)	Confidential (but integrated into public conclusions)

Table 5 Examples factors blocking internalisation stakeholder engagement within Shell Headquarters.

According to people interviewed in Corporate Affairs, especially project managers do not internalise stakeholder engagement skills, because they do not listen to others, especially not to external stakeholders, and are primarily focused internally. According to several people interviewed, this attitude is part of the inward looking/bureaucratic culture of Shell, particularly at senior level, as the

CEO Van der Veer (2004) confirms this: *'do they know the word humility?'. Do we think that the outside world is wrong to label us arrogant, slow and inward looking? Think about your last 10 journeys: what percentage was for customers or governments or NGOs? I bet you that most were for internal meetings, talking to ourselves'*.

Furthermore, several employees interviewed working in Corporate Affairs point out that there is sometimes no patience to build a good relationship with stakeholders with the result that stakeholders do not want to understand Shell's position. However, building good relationships requires empathy and this is not part of the culture of Shell, as Mirvis (2000) states: *'a Corporate Managing Director asked whether the prevailing rational-technical mindset of staff, an acknowledged strength, might also be a weakness. He speculated that it had led management to misread the emotional upset and misinterpret opponents' opposite views in the case of the Spar and Nigeria'*. Many people in Corporate Affairs interviewed often mention this rational technical mindset as an obstacle to internalise the practise of stakeholder engagement as well.

A solution that employees interviewed suggest could be to put 'new blood' in senior positions, especially from outside the company. Another initiative that was taken in 2006 to increase the understanding and competencies of project managers included the integration of in stakeholder engagement training in their training programme, the so-called Project Academy, also launched in 2006.

Employees also express their frustration that Shell seems to make the same mistakes in stakeholder engagement as with the Brent Spar (see box 4) and the Ogoni crisis (see chapter 7) in the mid 90s. Since then, Shell subsidiaries and/or joint ventures have faced community protests as a result of poor stakeholder engagement in Corrib (Ireland), Sapref (South Africa), Sakhalin (Russia), Klappan (Canada) and Alaska (USA). One external development NGO, who works closely with Shell, indicates that this is a missed opportunity: *'Shell has a lot of potential, more than other companies, to learn from its mistakes and be a great company'*.

Again others in Corporate Affairs interviewed blame the systems, such as the reward system and job tenure system of four years within Shell in which many expatriate employees participate, which prevents managers in Shell to focus on the long term impacts of a project. Project managers apparently want to make their mark in terms of delivering a project 'on time and on budget' (for which they are rewarded) in four years and then leave to the next project. During these changes, there is sometimes not sufficient time for a proper hand-over. Besides, the tight deadlines and budgets do often not allow for a proper stakeholder engagement. Proper stakeholder engagement and building trustworthy relationships with local stakeholders takes time and resources, which need to be build up again when a new project manager moves in. The same issue is valid for the knowledge of the dynamics of the local context and mistakes made in the past, without a proper hand-over. The CEO Van der Veer (2004) expressed his general concerns as well about the job tenure process: *'I wonder: has excessive job movement created too many gifted amateurs in a world that needs more professionalism, commitment to performance and discipline?'*. Shell Headquarters therefore decided to expand the job tenure for senior roles to 6-7 years.

This concludes the description and analysis of human rights implementation and internalisation within Shell Headquarters. The next section will provide a summary and draws conclusions from this analysis.

4.12 Summary and conclusions

This first empirical chapter has described and analysed the process of implementation and internalisation of human rights mechanisms within the Headquarters of Shell. As stated before, the nature of this chapter was descriptive on purpose in order to provide sufficient transparency in the process of action research and thereby enhancing validity. The conclusions will be drawn based on the theory developed in chapter 2 in the three steps of the human rights management system: plan, do and review.

1. Plan: human rights policy and objectives

A number of aspects of a human rights policy and objectives were described in section 2.11.1. In there, researchers stated that the contents of a human rights policy should explicitly mention the UDHR, set a standard for the degree of complicity and spheres of influence, covering all operations of a company as well as expectations of stakeholders. As follows from 4.2, Shell Headquarters developed its human rights policy as the first oil company as a result of events in local contexts that escalated to pressure in the global context. Hence, the link between the local and global external contexts played an important role in driving the commitment to human rights of Shell Headquarters.

Shell Headquarters developed its commitment with the input from external stakeholders, but chose not to refer explicitly to the UDHR in the SGBP, despite the call of several external stakeholders, such as Amnesty. The argument for this is that the contents of external codes are reflected in the SGBP, but not explicitly referenced. However, the legal language used in the human rights world to indicate the different duties of entities regarding human rights (respect, protect, promote and fulfil, see section 2.3) are only partly reflected in the SGBP ('respect', 'support'). Besides, unanswered questions remain with the words 'support fundamental human rights in line with the legitimate role of business', as it is not clear to what this legitimate role of business extends, what 'supporting' really means in practice and why only 'fundamental' human rights are supported. The policy team tried to address these questions in the later developed human rights management primer, the responsibility map and dilemma booklet. However, these documents provide a high level overview and need to be developed a step further to provide practical and detailed guidelines to Shell companies on how to implement human rights in Shell subsidiaries. Besides the SGBP, Shell Group did express its support to the UDHR and other voluntary codes in the 90s.

In terms of its policy objectives, sections 2.11.1 and 2.11.2 indicate that a management programme needs to be established, defining how the company will achieve its objectives and targets, including a time-frame, resources and ways of performance measurement. Although not shared in this thesis for confidentiality reasons, a detailed analysis of the policy objectives and strategy was performed and it can be concluded that most of these aspects are covered, except for ways of performance measurement. The policy objectives, as stated in section 4.2.1, clearly demonstrate that the company aims to demonstrate its commitment by promoting human rights at ground level in sensitive countries and engaging stakeholders. However, the strategy that was eventually taken in practise, as described in section 4.3.3, comprised a wider scope of activities, focussing also on gaining leadership support, integration of human rights elements into existing processes and training and internal communication.

2. Do: human rights implementation and internalisation

This research focused on the approach to implementation and internalisation of human rights mechanisms from 2004-2006. General aspects mentioned in section 2.11.2 around the step of implementation of human rights included that human rights should always be linked to existing processes (but a specific locus for human rights should be maintained within the organisation) and a common language needs to be developed. The former has been clearly demonstrated in this chapter, as Shell Headquarters chose to embed human rights through its existing processes, e.g. the integrated impact assessment and in different functions (table 2). The specific locus of human rights forms the policy and external relations team, based in Corporate Affairs. The policy team is driving the internal embedding process of human rights, but the balance between this specific locus and the link to existing processes forms part of a continuous discussion. Because the policy team is part of the corporate staff department, it therefore had to ensure that the responsibility of implementing human rights was transferred to the different line departments within Shell Headquarters. However, the team found that it is a continuous challenge to increase the ownership and capacity of the line to do this. The policy team uses internalisation instruments to transfer this responsibility and develop a common language that makes sense to all functions. For example, the policy team developed the communication toolkit on human rights and shared available information from the CCQ to inform policy owners.

Another aspect that was mentioned in chapter 2 was to achieve a 'right balance' between implementation and internalisation instruments to embed human rights in order to obtain a high degree of embeddedness. On the one hand, senior leadership explicitly prefers to focus on internalising instruments instead of making the Shell Businesses comply (see section 4.3.3). On the other hand, within the different approaches over time (ranging from exploring concepts and raising awareness, developing tools and implementation), as described in section 4.3, implementation and internalisation instruments are used in cycles, in which internalisation instruments are used to strengthen the impact of the implementation instruments. For example, after an explicit policy was made (relating to degree of implementation), the policy team started to raise awareness on human rights and develop training material (relating to the degree of internalisation). The policy team also worked on linking human rights to existing processes (implementation), which required building good relationships with the functions (internalisation). The SD team in Shell Headquarters also recognised this process of mixing instruments to reach its objectives, as is illustrated by a tightening rope in the figure below.



Figure 3 Shell Headquarters’ illustration of process of implementation and internalisation of sustainable development (www.shell.com, 2008).

When the instruments used (and the way they are used) to implement and internalise human rights mechanisms are compared with theory (tables 9 and 10 in section 2.11), it appears that Shell Headquarters uses all of the instruments as recommended in theory. However, not all are fully followed; with some instruments, Shell Headquarters takes a different approach on purpose (e.g. no checklists for local contexts at Shell Headquarters level), needs better implementation (e.g. monitoring done, but not systematically) or is in the process of setting up a particular instrument (e.g. embedding human rights into impact assessments). Other instruments that were not mentioned in chapter 2 are also used, such as internal networks to share best practice and/or issues and strategic partnerships with NGOs and governments to become involved in decision-making and exchange of employees.

Sections 4.5 to 4.11 analysed the process of implementing and internalising human rights within Shell Headquarters according to the spheres of influence (see section 2.3): employees, contractors, security forces, communities, government and the international society. In first instance, the degree of implementation was measured through the application of the Quick Check tool to Headquarters level. Overall, the findings show that Shell Group has well developed policies and standards covering human rights in a number of areas, but it also identifies particular issues where Shell needs to direct more attention. Based on the application of the Quick Check tool, the table below can be developed.

Sphere of influence	Strong	Fair	Areas for improvement
Core operations	Health and safety	Privacy	Harassment & Discrimination
		Child/forced labour	Benefits and remuneration Employee Relations
Contractors and business partners	HSE, Integrity	Local content	Labour conditions
Security forces	Confidential (but integrated into public conclusions)		
Communities	Social investment	Social Performance	
	Product Stewardship		
Government	HSE, Integrity	Security	Complicity
International society	Nigeria, Security, integrity, transparency		

Table 6 Degree of implementation human rights mechanisms within Shell Headquarters per sphere of influence at the time of research

In section 2.3, the assumptions were made that the wider the spheres of influence, the company has less control over the situation. On the one hand, the table above confirms these assumptions. Strong areas, such as protecting health and safety of employees and contractors and its promotion with governments, and the social investment projects of Shell are all activities that the company can relatively exercise more control over. Less strong areas, such as the impacts on local communities (social performance) and complicity are areas where the company has less control. Although the areas of harassment and discrimination, benefits & remuneration, and employee relations fall in Shell's core operations where possibility to control is high, the local contexts substantially influenced the company's control over these areas, as the relevant policy owners indicated. These initial conclusions will be tested in the following chapters. The conclusions within the separate spheres of influences are discussed first.

During the application of this tool, the researcher learnt that the status (mandatory or voluntary) of relevant Group policies, standards and guidelines was not always clear. For example, Shell International has extensive information and guidelines on how to perform Environmental, Social and Health Impact Assessments, as well as guidelines on Stakeholder Dialogue. Despite the high level requirement in the HSE-MS and other systems for these, it is unclear whether the supporting guidelines are applied consistently, or if they are mainly meant as inspiration to company managers involved in land management and external affairs. The same problem appears in relation to the management primers, which serve as very informative documents, but it is unclear how these documents are used within Shell operations (summary analysis, Danish Institute for Human Rights, 2005). Furthermore, the researcher found that some of the contents of the primers were not reflected into the Standards. If the status and/or consistency of contents are unclear, this may potentially create confusion at the subsidiary/joint venture level. This will be further researched in the next chapters.

Besides, applying the Quick Check tool as a means of analysis appears to lead to a bias towards procedures, as it relies strongly on the assumption that procedures will facilitate the embedding of human rights within a company and less on internalisation processes. As follows from section 4.2 and the follow-up activities from the Quick Check tool, Shell used a combination of implementation procedures and internalisation to embed human rights in Shell Headquarters. The results from the Quick Check (degree of implementation) as well as the follow-up activities to close gaps found (degree of internalisation) are discussed per sphere of influence.

- Core operations

In Shell Group's core operations, this review has shown that Human Resources is mostly locally determined during the review in 2004/2005, which means that on group level few policies and procedures are present in the areas of e.g. child/forced labour, leave, benefits and remuneration. Employee relations are also strongly decentralised and determined within the framework of the specific country. However, with the introduction of the Code of Conduct and People Standard, as a result of the reserves crisis, the area of harassment & discrimination and employee relations became more centralised. The possibilities of integrating human rights elements into these procedures, however, posed a challenge. In this process, as described in section 4.5, the importance of informal networks within the company (relational context) and knowledge of hierarchy proved to be crucial for the success of internalisation and therefore the implementation of the human rights mechanisms. Human Resources (HR) appeared to have internalised the commitment to human rights to a limited extent, as this function is highly inward-looking and therefore little exposed to the global context of human rights. In addition, the policy team did not approach the

right people in the hierarchy within HR and by the time it did, it was too late to influence anything. The process of embedding human rights within HR, however, continues.

In other areas of its core operations, Shell Headquarters has strongly developed and controlled policies and procedures in the areas of health, safety, environment (HSE), security and product stewardship. Nevertheless, extensive guidelines are not necessarily the same as a 'procedure' within Shell. Many documents with the status 'guidelines' (SP guidance notes, impact assessment guidelines, management primers, etc) cover important areas of human rights. However, at the time of the research period 2004-2006, it was not clear to many when and how subsidiaries and/or joint ventures of Shell Group should apply this information. In the area of HSE, an internalisation programme has also been made explicit on safety, which illustrates the importance of the organisational culture. Apparently, this was needed because procedures did not reach the objectives sufficiently. Looking more generally, the same was done when it was found that the internal organisational culture was one of the root causes for the reserves crisis, i.e. the behavioural change programme 'Enterprise first' was set up in Shell. As the safety procedural system was designed before the procedures in other areas, it remains to be seen whether such an explicit internalisation programme may be needed for other areas, such as Social Performance or human rights in general, as well in the future.

- Contractors and security forces

Moving further to the next sphere of influence, contracting and procurement and business partners, it became clear that the focal points relied strongly on internalising aspects rather than implementation in terms of human rights. The emphasis lies much more on building a trusting relationship with the business partners and contractors than asking compliance with procedures. Besides, a conscious choice was also made by focusing first on aspects that have a more direct (positive or negative) impact on Shell's own operations (health and safety and integrity), before starting with other aspects that have a more indirect impact (labour conditions). When senior leadership started to recognise that labour conditions of contractors influences their health & safety performance, the C&P function started to shift its policy focus, illustrating the importance of leadership.

- Communities

Looking at the following sphere of influence, communities, extensive guidelines exist on Social Performance that cover best practises and some mandatory requirements were introduced. During the research period, the Social Performance team primarily focussed on solving problems instead of policy development after setting up the SPMU and developing the guidelines. The SPMU was therefore not focussed to embedding human rights elements further at Shell Headquarters level, but more on internalisation processes (e.g. capacity building at Businesses and subsidiary/joint venture level) of Social Performance. Again, this change of focus was primarily due to a change in leadership, illustrating the importance of the relational context. Furthermore, just as with human rights, Shell Headquarters has difficulty to determine the organisational place of SP, as it cuts across different functions as well. This may potentially lead to confusion at Business level, which will be addressed in the following chapters.

- Government

Recognising the increasing importance of governments, Shell Headquarters decided to dedicate a separate department to managing the relationships with governments, i.e. government relations. The department prefers to talk about any human rights issues (without calling it human rights) connected to the company's operations, because of the sensitivity of the subject in international

relations. The local contexts in which Shell Headquarters is embedded play an important role (UK and The Netherlands) in using the relationships with these governments to the company's benefit. Internalisation through strengthening the relational context plays a key role in building these relationships by e.g. exchanges of employees. Another internalisation aspect that was a concern of the policy team included the capability of people in the International Department to train country chairs on human rights due to a high turn-over.

- International society

The final sphere of influence, the international society, has not been classified in table 6, because that would presume that Shell Headquarters was able to influence the topics of discussion with international stakeholders. As described in section 4.10, stakeholder engagement procedures and activities people working in Shell Headquarters are primarily focused on the strategy to try to work out who will be approaching the company about what and in what way, not to steer the highly complex global context. However, there are signs that the company is also trying to influence the external global context, although this might not always be possible (as some stakeholders will not change their standpoints). Section 4.11.1 provides a number of examples that indicate that the company aims to influence its stakeholders by e.g. showing the other side of the story and/or working together with its stakeholders. The dilemma for the company and its stakeholders here is that this 'influencing' should be done without compromising the integrity of these stakeholders, if they do not want to be accused of 'corrupting (or corrupted by) the other side'.

For the same reasons, Shell Headquarters talks about 'stakeholder engagement' instead of 'stakeholder management', which was used in section 2.9 where the elements of stakeholder management from a theoretical perspective were provided. Sub-section 4.10.3 showed that these elements can be recognised in the approach of Shell as well. The range of stakeholders that Shell Headquarters interacts with on human rights clearly shows that the company deals with organisational, economic as well as societal stakeholders. Interacting with all of these stakeholders indicates that Shell Headquarters spends a lot of time, resources and funding on stakeholder engagement (one of the ways to influence a high degree of implementation and internalisation, see section 2.9.2). For example, Shell Headquarters has a full department on Sustainable Development with many people engaging stakeholders. Having this separate department, however, could also result in the practice of stakeholder engagement not being fully integrated into the structures, policies and decision-making processes (ways to increase degree of implementation and internalisation). Furthermore, the demands of stakeholders of Shell confirms the analysis of Schierbeck (2000), as explained in section 2.9.1, since stakeholders are concerned about Shell's involvement in countries that are known to seriously violate human rights, the negative impacts of Shell's activities as well as the perceived lack of will to assume responsibility. Especially NGOs demand their 'societal stake' in Shell, which appears to be often the target because of its highly visible multinational brand and its large impacts on local communities. Using Michell's criteria (see section 2.9), Shell Headquarters prioritises stakeholder demands based on power ('critical to our success') and urgency ('high/low stakeholder concern'), but the company does not explicitly look in their tools whether the claims are legitimate. This may be the case because the company feels that it cannot make that assessment or that it is less relevant whether claims are legitimate based on previous experience (e.g. Brent Spar).

Despite their concerns, interviewed external stakeholders regard Shell Headquarters as a leader in policy development regarding human rights. However, striking in the analysis of section 4.11 is also that a disconnect seems

to exist between what is happening on the ground and Shell Headquarters. Environmental and social responsibilities appear to be treated as a 'tick-the-box' exercise without sufficient follow-up action. The poor internalisation of human rights and the importance of stakeholder engagement is primarily blamed on Shell project managers and the organisational culture, varying across different Businesses and subsidiaries. The rational engineering mindset, which is an important part of Shell's internal culture, forms a sharp contrast with the arguments of stakeholders, which are often based on emotions. Each of these mindsets are equally valid, but can lead to misunderstandings, as was illustrated in section 4.11. Hence, the cultural affinity and recognising the legitimacy of stakeholders (ways to increase degree of implementation and internalisation) appears to be crucial in the case of Shell's interaction with the international society. The importance of internalisation of stakeholder engagement around human rights is also confirmed when comparing tables 4 and 5. However, procedures, such as the focus on and rewarding of delivering larger projects in less time and costs, are also blamed.

Besides, as was mentioned before, the difficulty to manage a complex connectivity of the global and local contexts is also indicated as a possible explanation for this disconnect. Shell Headquarters has developed several tools to provide more insight into these contexts and links between them, but the question remains whether the company can really influence these. The key seems to be involving the right stakeholders (constructive, critical to success) at the right time (as early as possible), at the right place (specific subsidiaries?) in the right way. The following chapters may provide more insight into how Shell subsidiaries and/or joint ventures aim to engage its stakeholders in the local contexts.

A final conclusion can be drawn regarding the implementation step when the use of instruments is compared across the different spheres of influence. It appears that the more distant the sphere of influence, the less a company can rely on implementation and the more a company needs to rely on internalisation. For Shell's core operations, the company has several Standards (such as HSE, D&I and later the People Standard and Code of Conduct). Contract clauses are an important implementation instrument regarding contractors and suppliers and the Security Standard for private security forces. For business partners, communities and governments and international society, Shell Headquarters uses the Reputation Standard and a number of guidelines (e.g. Social Performance guidance notes). However, the Reputation Standard does not provide contents, rather a particular process of dealing with the external world. In these outer spheres of influence, the company needs to rely more exclusively on previous experiences, good practices, relationship and network building, training etc, which are all internalisation instruments. This difference seems to be explained by the dependency of Shell on actions of external stakeholders and therefore the degree of control that Shell can exercise to influence those actions.

3. Check and review: human rights monitoring and reporting

According to section 2.11, the ways of monitoring and reporting regarding human rights need to be ongoing, transparent and independent, involving local people and have the right balance between qualitative and quantitative reporting based on GRI criteria, to increase the degree of implementation and internalisation. This chapter showed that, until the application of the Quick Check tool to Shell policies and procedures, Shell Headquarters did not use any explicit monitoring instrument. However, adherence to its human rights commitment was (and still is) monitored through the existing (assurance) instruments, although they do not fit one on one to human rights. As one of the first companies, Shell Headquarters was able to obtain a comprehensive overview of the degree of implementation of

human rights within its policies and procedures by applying the Quick Check tool. This was done in a semi-independent way (using a PhD student and involving the Danish Institute for review) and was transparent to a limited extent (specific results were never published, but high level presented in several fora). Besides, the exercise has never been repeated either until the time of writing this thesis (2008). Finally, the Shell Group reports based on the GRI guidelines and in both qualitative as well as quantitative ways, but struggles with the way to report it, as human rights cuts across many functions.

The influence of the global context on Shell Headquarters turned out to be apparent in different ways. Firstly, the global context played an important role in driving Shell to make an explicit commitment to human rights in 1997. Secondly, the global context is driving the internal activities and debates further regarding implementation and internalisation into business operations by e.g. increasing a mandate for the activities of the policy & external relations team. The appointment of the UN Special Representative in 2005, for example, led to more activities on human rights within Shell Group. Thirdly, sections 4.4 as well as section 4.11 described how the reserves crisis (see box 6) strongly influenced the way procedures covering human rights are organised (e.g. this initiated a Code of Conduct, a People Standard, etc) and how these are internalised within Shell Headquarters (e.g. the Enterprise First programme). Regarding reporting, section 4.4.3 indicated that the global context also influenced the way human rights was reported in the Shell sustainability reports. Finally, not only the global context played a role in driving Shell Headquarters in its human rights commitment, also certain individuals in the company. For example, the period of implementation was initiated by the application of the HRCA to Shell Headquarters level, which was again initiated by two expatriates working at Headquarters level in Corporate Affairs, not by the policy & external relations team. Besides, the already indicated importance of leadership, this indicates that the relational context is important in driving implementation of human rights mechanisms.

The next chapter will shed more light on the relationship between Shell Headquarters and the subsidiaries and/or joint ventures in embedding its human rights commitment.