

# Gender, trade and the rules-based international order

Submission to Global Affairs Canada's consultation on a Feminist Foreign Policy White Paper

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AS PART OF Canada's Feminist Foreign Policy White Paper consultation, the federal government has asked civil society organizations and individuals how Canada can use the diplomatic tools at its disposal, in multilateral and bilateral forums, "to reinforce efforts to uphold and advance human rights, gender equality and inclusion, while helping to reform the current international rules-based order and shape the system as it evolves to Canada's advantage."

The Canadian Centre for Policy Alternatives (CCPA) is an independent, non-partisan public policy research institute. For over 40 years, through our national and provincial offices, we have advocated for policies that would advance social, economic and environmental justice in Canada and abroad. Gender and racial equality are integral to the research we pursue and policies we recommend—from access to affordable child care and other expanded public services, to "just transition" policies aimed at de-carbonizing the Canadian economy, to an international trade regime founded on principles of solidarity and human rights.



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The CCPA strongly holds that the global trade regime, and Canadian trade and investment policy, as important building blocks of the current “rules-based order,” must be factored into any foreign policy calling itself “feminist.” Much of the world’s interactions with Canada and Canadians are commercial in nature. International diplomatic relations, public and private capital investment decisions, and prospects for inclusive economic development options are influenced and often constrained by the present neoliberal global trading order.

That order, which protects “market-based” relations within and between nations while warding off or penalizing progressive government interventions in the economy (to make economic activity more inclusive, for example), has deeply harmed gender equality by contributing to the privatization of public services, intensifying “low-skilled,” precarious or informal work among women, and feminizing poverty both in Canada and abroad (Macdonald and Ibrahim, forthcoming). Unpaid work done by women contributes [at least US\\$10.8 trillion to the global economy](#), while the richest 22 men in the world hold more wealth than all the women of Africa, according to Oxfam.

An honest conversation about what Canada can do to reverse these trends should not be siloed within the Inclusive Trade section of Global Affairs Canada. A conversation about the global rules-based order is meaningless if it does not address the nature of important global trade rules, whose interests they privilege and how the current order perpetuates economic injustices of such breadth and magnitude.

With these general comments in mind, the CCPA makes the following recommendations based on several of the questions in the scene-setting document concerning a feminist approach and possible “gender forward” reforms to the current rules-based international order (RBIO).

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## **How can Canada leverage its diplomatic engagement to modernize the RBIO while employing a feminist approach?**

Canada is positioning itself as a global leader when it comes to accounting for the gender impacts of domestic policies and trade patterns and with respect to the use of gender-based analysis plus (GBA+) to guide public policy choices. This leadership includes Canada’s co-founding—with the governments of Chile and New Zealand—of the Inclusive Trade Action Group (ITAG), which has developed a Global Trade and Gender Arrangement, “to increase women’s participation in trade as part of broader efforts to improve gender equality and women’s economic empowerment.”

These and other WTO initiatives aimed at increasing the number of women-owned businesses engaged in trade, and the number of women executives in large trading firms, are “gender forward” but frequently class-blind; they acknowledge gender

imbalances “at the top,” so to speak, but have little to say about the structural inequalities the trade regime may aggravate and lock in for lower-income female (and male) workers. Canada’s aggressive pursuit of services liberalization in bilateral trade agreements and at the WTO, its support for stronger monopoly rights for private pharmaceutical companies, and its commitment to investor-state dispute settlement (ISDS) compromise avenues for sustainable, inclusive, gender-balanced economic development.

Canada has pursued unenforceable gender chapters in some bilateral trade deals and is seeking “gender forward” language within contested plurilateral negotiations at the WTO on domestic regulation of services and investment facilitation. According to Global Affairs Canada, Canadian negotiators are seeking language in a domestic regulation agreement, for example, that ensures government measures relating to licensing and qualification requirements and authorizations do not discriminate on the basis of gender. This could be seen as positive, except that many developing countries and global civil society groups oppose such global domestic regulation disciplines outright. [Canadian researchers point out](#) that the CETA Domestic Regulation chapter already includes overly broad definitions of what might count as onerous authorization and certification requirements on services contracts in essentially any area of the economy (e.g., pipeline approvals, consumer protections, universal service obligations), which could deter governments from setting high standards and holding firms to account for them.

Canada should use its diplomatic heft instead to put more fundamental trade policy reforms on the agenda of ITAG and work to expand the group’s membership to include other forward-looking countries in the Global North and South. In particular, Canada should endorse an end to ISDS in international trade agreements, as agreed in the CUSMA. Investment arbitration is almost entirely a man’s game. [Only 9% of appointments](#) to ICSID tribunals and committees between 1966 and 2017 were women. More importantly, ISDS challenges claiming billions of dollars in compensation are frequently used by multinational corporations to penalize cash-strapped countries for introducing completely legitimate measures aimed at meeting human rights obligations, such as [raising the minimum wage or expanding public services](#).

Canada should also join Global South nations in calling for a broad waiver of WTO intellectual property rules to help governments quickly and affordably address public health emergencies, such as the current COVID-19 pandemic. Strong intellectual property protections for pharmaceutical products, medical devices and treatments have failed in delivering medicines and technologies to developing countries. Where medicines do exist, exorbitant prices and long patent terms make them inaccessible to lower-income people, with more pronounced effects on women. As reported by the [Third World Network](#) in a *Trade and Gender Brief*:

Even products, systems and technologies which are imperative for basic sustenance such as traditional knowledge and medicines, seed and food, cultivation systems and bio-diversity are all increasingly controlled by this [IPR] regime. These affect women much more compared to men, because women, not being so much integrated into the mainstream economic structure, sustain themselves and their families off such basic systems.

Furthermore, Canada should work with ITAG and other WTO member countries on a strong carveout (general exception) for public services, which are proven equalizers within society and the workforce. Gender and race-based pay gaps tend to be [much lower in the public sector](#), where unionization rates are higher, compared with the private sector. Privatization also [increases the cost](#) of essential public services, sometimes through high user fees (for water and electricity, etc.). [Access to health care, clean water and sanitation](#), and retirement security for women (and men) is also [higher in countries where these essential services are publicly delivered](#).

Yet Canada's bilateral trade agreements [facilitate the privatization and marketization](#) of these sectors, while creating venues—in state-to-state or investor-state dispute settlement—for multinational companies to challenge the expansion of public services. A clearly worded, legally effective exception for public services in Canadian and global trade agreements would provide substantial benefits to women in Canada and in our trading partner countries.

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## **What measures can Canada implement to more effectively increase the representation of diverse groups of women and other underrepresented groups in global bodies, boards and supply chains?**

In Canada, as in much of the world, women—and in particular racialized and Indigenous women—are underrepresented in high-paid, “high-skill” jobs and overrepresented in temporary, irregular, precarious and otherwise low-paid forms of employment. This is reflected in Canada's poor ranking in the [World Economic Forum's Global Gender Gap Index](#), where we dropped from 18<sup>th</sup> place in 2018 to 19<sup>th</sup> place in 2019—behind South Africa, the Philippines, Costa Rica, Rwanda, Nicaragua, Ireland, etc.

Between 2006 and 2018, Canada's gender pay gap inched forward an average of 0.2% per year. “At this rate,” according to the 2019 [Parallel Report on Canada's Implementation of the Beijing Declaration and Platform for Action](#), “it will take 164 years to close the economic gender gap in Canada.” The gap is even larger for racial-

ized women and Indigenous women in Canada, whose average incomes were 60% and 57% the average non-racialized men's income in the 2016 census.

It goes without saying that the federal public service should lead by example by appointing women, and members of Indigenous or racialized groups, to senior positions within government, including senior trade policy and trade negotiator roles and forward-facing regulatory leads, as well as to international boards. But the federal government can also directly help to increase women's participation in supply chains through strategic procurement policy.

Canadian governments spend an average of 13% of GDP a year on goods and services. The [Women-Owned Small Business Federal Contracting Program](#) in the United States aims to award at least 5% of federal government contracts to women-owned small businesses every year. Canada has no similar procurement policy at the federal level. Federal procurement policy should be used to support women-owned businesses, help train and bring more women and other marginalized groups into the workforce, and generally encourage sustainable, inclusive growth.

The government should establish a “sustainable procurement” policy taking into account the power of procurement to help governments achieve social, environmental and economic development objectives. A portion of government spending on goods and services could be targeted to women-, Indigenous-, and racialized-person-owned businesses, for example. If this requires re-opening procurement negotiations with trading partners such as the EU, or at the WTO, then this should be done. Federal transfers to the provincial, territorial and municipal governments should come with strings attached, requiring similar “sustainable procurement” targets are met at those levels of government as well.

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## **What are some of the emerging human rights and gender equality challenges with respect to the RBIO?**

Canadian mining companies dominate globally, and the Canadian government's support for their commercial activities—through preferential tax rules, EDC support, public investment, commercial consular assistance, and assistance in the development of mining law and policy—is internationally recognized. So are the negative social and environmental impacts of mining and other extractive industries, as highlighted in global campaigns to hold mining companies to account for their involvement in human rights violations, corruption, and tax avoidance.

Canada's [continued commitment to ISDS](#) (currently, for example, in talks with Mercosur and Pacific Alliance countries) [prioritizes and privileges Canadian mining investment](#), often at the expense of host communities and in ways that worsen gender

inequality. At the same time, Canadian civil society groups [have lost confidence](#) in the ability of Canada's National Contact Point to fairly address complaints from people around the world who have been harmed by the activities of Canadian corporations. The same groups have refused to endorse the Canadian Ombudsperson for Responsible Enterprise (CORE), recently established without the key powers that are necessary to discharge the office's functions.

Mining is not a gender-neutral activity. The industry is dominated by male workers and "disempowers communities who would prefer to protect their water and land from the harmful social and environmental effects of extractives," according to [research by Oxfam](#). Women are often not involved when mining companies negotiate access to land, compensation or benefits, which tend to be paid to men, thus depriving women of economic independence.

Gender-based violence is also a constant threat where male-dominated extractive operations set foot. Hundreds of women in Papua New Guinea [have](#) alleged they were raped by mine security at a Canadian-owned site, for example, and dozens of them were financially compensated by the Canadian mining company. Women human rights defenders are [regularly harassed and murdered](#) for their opposition to harmful extractive projects. In Canada, according to the [Native Women's Association of Canada](#):

Sexual violence, harassment and discrimination are prevalent realities for Indigenous women that are often exacerbated by the presence of industrial projects, including mining projects. The persistence of "rigger culture" in mining work sites and work camps perpetuates a form of racism and misogyny [that] undermines the human worth of Indigenous women and exposes them to heinous and entirely intolerable acts of sexual violence and discrimination. Whatever the positive economic effects of mining activities are or may be, the continued prevalence of these offences slides the scale firmly against a net socio-economic benefit for Indigenous women.

Greenfield mining operations are also ecologically unwise in an era of climate crisis. Prioritizing mining investments over economic justice in countries that are actively removing Indigenous peoples and biodiverse forest cover for the purposes of export-oriented agriculture and mining (such as in the Amazonian rainforest) is precisely opposite to the kind of inclusive RBIO Canada is involved in building. Yet this is the effect of Canada's commitment to ISDS, at home and abroad, giving extractives firms the right to be compensated, by impoverished countries, for environmental and human rights measures that disrupt their expectations of earning a profit.

Canada agreed to remove ISDS from CUSMA, a decision former foreign affairs minister Chrystia Freeland [claimed](#) "strengthened our government's right to regulate in the public interest, to protect public health and the environment." As a sign of good faith to the world, Canada should cease negotiating new ISDS clauses in current and

future trade deals, including potentially with Mercosur and, eventually, the United Kingdom; freeze its existing bilateral investment treaties and free trade deals that include ISDS; and join international negotiations toward a [binding treaty](#) on human rights and transnational corporations that would more effectively hold extractive companies to account for violations of human, ecological and Indigenous rights.

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In summary, Canada’s foreign policy cannot be unbundled from trade policy and the commercial activities of Canadian firms abroad, both of which have disproportionately negative impacts on women. A Feminist Foreign Policy must strive to build a new RBIO founded on values of economic justice, environmental sustainability, fair trade, and international solidarity. That will require that we rethink the core tenets of Canada’s neoliberal trade policy, rather than tinkering at the margins with unenforceable gender chapters and “gender forward” but class-blind language in contested new services, investment and trade disciplines at the WTO and in Canadian free trade agreements.

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## Notes

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