



Oxfam Canada submission to Export Development Canada on the Review of its Environmental and Social Risk Management Policies*

September 7, 2018

Oxfam Canada welcomes this opportunity to provide input to Export Development Canada (EDC) on the review of its Environmental and Social Risk Management (ESRM) policies. Oxfam Canada is part of an international confederation, active in more than 90 countries around the world, engaged in humanitarian relief, long-term development and advocacy to end global poverty. Oxfam Canada believes that ending poverty begins with realizing women's rights and achieving gender equality.

The Government of Canada has made a clear commitment to advancing women's rights and gender equality in all areas of foreign policy, including international trade and investment. Therefore, Oxfam Canada strongly encourages EDC to prioritize and fully integrate women's rights and gender equality into its ESRM policies.

In tandem with this policy review process, Oxfam Canada is aware that the Government of Canada is about to begin a legislative review of the *Export Development Act*. Mandated once every ten years, the legislative review provides a good opportunity to ensure that EDC's governing legislation is fit for purpose and reflects current and future needs of Canadians and our trading partners. While Oxfam Canada encourages EDC to update its ESRM policies to incorporate women's rights and gender equality, we also believe that the *Export Development Act* itself must be updated to reflect Canada's commitments in these areas.

There are many opportunities to enhance the ESRM policies of EDC to reflect better Canada's commitments to advancing gender equality and women's rights. In general, the global economy is failing women and girls and not addressing their most fundamental needs and rights. Women are generally concentrated in the lowest paying and most precarious jobs.¹ They can face discrimination and harassment in the workplace. Significant gender pay gaps have been documented in all sectors of the

* The recommendations in this submission have also been endorsed by Above Ground and Inter Pares.

economy. Furthermore, women entrepreneurs report challenges in accessing credit and are less likely than their male counterparts to be exporting to international markets.

EDC can play a constructive role in reversing these trends by explicitly examining the impacts of its transactions on women and girls and proactively supporting transactions that level the playing field for women and promote gender equality. While EDC has invited feedback on five separate policy documents, we have organized our input at the level of the overall policy framework and encourage EDC to take an integrated approach to apply these recommendations when revising its policies.

Recommendation 1: Engage women’s rights organizations

First and foremost, women and gender-diverse people must be included in EDC’s risk management and due diligence processes. Without full and equal participation of all people, regardless of gender, EDC can easily overlook or underestimate the social and environmental risk factors of a given transaction. In order to do this well, EDC must reach out proactively to women’s rights organizations and networks that are active in the countries where it conducts business. To facilitate this process, EDC could work with Global Affairs Canada, which is deepening its understanding of women’s rights movements in the global South as part of its implementation of Canada’s *Feminist International Assistance Policy*.

Recommendation 2: Conduct comprehensive gender impact assessments

While all transactions should be reviewed from a gender lens, for any transaction with a high risk of having adverse impacts on women’s rights or gender equality, EDC and its prospective client should conduct a comprehensive gender impact assessment (GIA). Transactions should be screened to identify risks to women’s rights and gender equality, based on various factors including country risk and sectoral risk. Oxfam and other organizations have developed tools to assist private sector actors in designing and conducting such assessments.ⁱⁱ Mitigation measures resulting from a GIA can be built into contractual terms with client companies to ensure their full implementation. In certain cases, EDC may determine through a GIA that social risks cannot be adequately mitigated and the transaction in question should not be approved.

Recommendation 3: Ensure environmental and social risk management is informed by gender-based analysis and feminist principles

ESRM policies should be revised to include an explicit commitment to incorporate gender-based analysis into EDC’s review processes. There are systemic barriers to women’s full and equal participation in the global economy. By recognizing these barriers explicitly in the ESRM policies, EDC can reduce transaction risks and better align with the Government of Canada’s international commitments around gender equality. The following five areas should be considered when conducting reviews:

- a) **Protecting fundamental rights of women workers** – EDC should disclose how it applies a gender lens in ensuring client companies respect core labour rights throughout their operations. Female workers can face discrimination, pay disparities, sexual harassment and other forms of gender-based violence. Compliance with international labour rights standards should be a

minimum requirement for all EDC clients.

- b) Closing the gender wage gap** – EDC should work with client companies to measure, analyze and address the gender pay gap that sees female and male workers receiving unequal and unfair remuneration for their labour. EDC should report how it and its clients are ensuring women and men have equal access to occupations and what steps companies are taking to close the gender wage gap.
- c) Supporting women-owned enterprises in supply chains** – EDC can assist client companies in fostering business partnerships with small and medium enterprises owned and operated by women, both in Canada and in the global South. Tools from the International Finance Corporation demonstrate some of the best practices in this area.ⁱⁱⁱ
- d) Valuing the care economy** – Unpaid care work, largely performed by women and girls, is a huge invisible/unaccounted subsidy to the global economy. Women care for children while other family members, usually men, enter the formal economy and earn wages. When workers come home sick or injured due to occupational health and safety risks, women often care for them and sometimes support workers with chronic health issues for years. In many countries, women and girls are the primary providers of food and water to their whole family, taking many hours each day to secure sufficient food and water to provide for basic needs. Foreign investors rarely take into account the unpaid care work upon which their business activities depend. Not only is it unjust that women and girls should bear a disproportionate burden of care work, it presents social risk factors that EDC and other investors are not taking into account in their investment decision-making.

EDC should study unpaid care work in its major markets and determine the extent to which the unpaid and undervalued labour of women and girls indirectly supports its business transactions. Feminist economists and women’s rights organizations can be engaged to lead such studies and act as key informants. Understanding the social risks associated with unpaid care work will improve social risks assessments undertaken by EDC and reveal how the care economy can be better supported by employers, governments and other actors. In turn, EDC can play a proactive role in investing in infrastructure projects—such as water, electricity and heat — that will help reduce or redistribute the unpaid care work more equitably.
- e) Protecting public services from privatization** – At the same time, EDC should clarify its position on the privatization of essential public services. Women and girls are in general more reliant on public services and tend to be more heavily employed in those sectors. Also, when public services diminish, it is often women who fill the gap further increasing their unpaid care work. Water, health care, education and other essential services are economic activities that Canadians have, by and large, decided to keep under public control. EDC should avoid transactions that contribute to the privatization of public services, both to protect equal access for all citizens and promote better working conditions in those sectors.
- f) Combatting tax avoidance** – Essential services delivered by public institutions depend on the state maintaining a well-run, efficient system of taxation from a strong and growing tax base.

One of the greatest contributions that EDC could make to gender justice would be to ensure client companies are not engaged in tax avoidance schemes to deprive citizens, particularly those living in the global South, of their country's fair share of taxes. EDC should review all transactions to prevent aggressive tax avoidance tactics. Public financing from EDC should never be used in transactions that are structured to avoid tax payments in other jurisdictions. Eliminating tax avoidance must become an explicit part of EDC's risk management process.

Recommendation 4: Strengthen protection of human rights

As our official export credit agency and a federal Crown corporation, Export Development Canada is bound by Canada's international human rights obligations. The UN Guiding Principles on Business and Human Rights (2011) explicitly refer to export credit agencies as an example of state institutions that must uphold the duty to protect human rights in relation to business-related activities.^{iv} EDC has not kept pace with evolving global expectations when it comes to policy development around human rights. EDC's Statement on Human Rights (2008) should be replaced by a robust Human Rights Policy. The policy should cover all aspects of how EDC understands and operationalizes its human rights obligations, including how it promotes respect for human rights by client companies and addressing any adverse human rights impacts resulting from its transactions. Women's rights can be a cornerstone of the policy by making explicit reference to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the International Bill of Rights, the UN Declaration on the Rights of Indigenous Peoples and the core labour rights conventions of the International Labour Organization. In developing the policy, Oxfam Canada strongly encourages EDC to engage with women's rights organizations, Indigenous organizations and human rights defenders in Canada and internationally.

Recommendation 5: Strengthen access to remedy through collaboration with the Canadian Ombudsperson for Responsible Enterprise

In its ESRM policies, EDC should publicly commit to cooperate fully with the Office of the Canadian Ombudsperson on Responsible Enterprise. Cooperation with the Ombudsperson should be added as a provision in contracts with client companies in the relevant sectors. If the Ombudsperson investigates human rights impacts of any business activities in which EDC is a direct or indirect party, EDC should cooperate fully with the investigation and facilitate the implementation of any resulting recommendations directed to EDC or its clients.

Recommendation 6: Improve reporting on climate financing

The Government of Canada has started including some of EDC's transactions as part of its Biennial Assessment Report on Climate Financing under the UN Framework Convention on Climate Change.^v EDC uses the International Finance Corporation's "Special Climate" category to define its climate financing transactions, which does not require a quantification of the greenhouse gas emission reductions. Oxfam Canada encourages EDC to use the IFC's more rigorous "Mitigation" and "Adaptation" frameworks to track its climate financing activities.^{vi} Furthermore, EDC should take loan repayments into account so

that the Government of Canada's reporting reflects the *net value* of climate financing. Canada can demonstrate global leadership by reporting along these lines.

Climate reporting could likewise be enhanced by integrating a commitment to gender-based analysis in how climate change impacts people differently based on gender and how opportunities to address climate change – both mitigation and adaptation – can be more inclusive of women and gender-diverse people.

Recommendation 7: Promote increased public disclosure by client companies

Disclosure is a key component of gaining and maintaining public trust. EDC should promote increased public disclosure of environmental and social information by its client companies. For example, it could follow in the footsteps of the IFC, which requires its extractive sector clients to publicly disclose oil, gas and mining contracts signed with host governments.^{vii} Oxfam has identified contract disclosure in the oil, gas and mining industries as an emerging global best practice.^{viii} Such a commitment to contract disclosure by EDC could have a significant impact on the industry, considering that EDC facilitated over \$24 billion in transactions in the oil, gas and mining sector last year.

ⁱ Ravon, L. and Stefov, D., 2016, *Shortchanged: Make Work Paid, Equal and Valued for Women*, Oxfam, Ottawa. <https://www.oxfam.ca/shortchanged-report>

ⁱⁱ Hill, C., Madden, C. and Collins, N., 2017, *A Guide to Gender Impact Assessment for the Extractive Industries*, Oxfam, Melbourne.

ⁱⁱⁱ International Finance Corporation, Gender Resources web page: https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Gender+at+IFC/Resources/

^{iv} See Principles 4-8, in particular, of the UN Guiding Principles on Business and Human Rights: https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

^v Environment and Climate Change Canada. 2018. *Canada's Seventh National Communication on Climate Change and Third Biennial Report—Actions to meet commitments under the United Nations Framework Convention on Climate Change*, Government of Canada, Gatineau. http://unfccc.int/files/national_reports/national_communications_and_biennial_reports/application/pdf/82051493_canada-nc7-br3-1-5108_eccc_can7thncomm3rdbi-report_en_04_web.pdf

^{vi} International Finance Corporation, 2017. *IFC's Definitions and Metrics for Climate-Related Activities*, IFC, Washington, DC. <https://www.ifc.org/wps/wcm/connect/8ea3b242-c6bb-4132-82b1-ee4bd7007567/IFC+Climate+Definitions+v3.1+.pdf?MOD=AJPERES>

^{vii} International Finance Corporation, Contract Disclosure web page: https://www.ifc.org/wps/wcm/connect/industry_ext_content/ifc_external_corporate_site/ogm+home/priorities/contract+disclosure

^{viii} Munilla, I., and Brophy, K., 2018. *Contract Disclosure Survey 2018: A review of the contract disclosure policies of 40 oil, gas and mining companies*, Oxfam, Washington DC. <https://www.oxfam.org/en/research/contract-disclosure-survey-2018>