

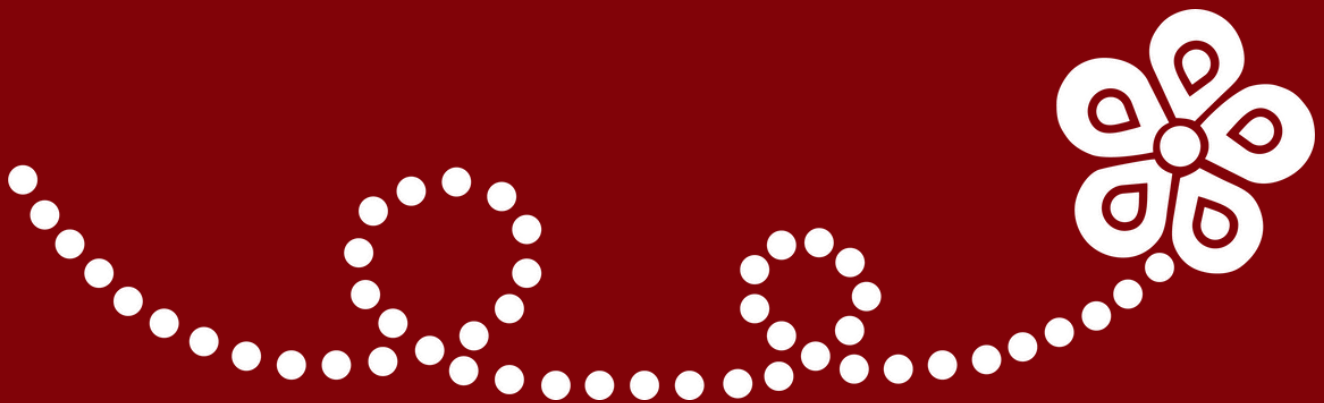


RALLIEMENT NATIONAL DES  
**MÉTIS**  
NATIONAL COUNCIL



# THINK GROWTH

Changing Trade Rules to Benefit Métis





## Key Takeaways

- The Canada-Métis Nation Accord affirms the rights of Métis communities, recognizing their distinct status and the need for economic self-determination.
- Increased access to international markets for Métis businesses is crucial for Métis economic prosperity and self-determination.
- UNDRIP Article 36 underlines that international trade is a right and pathway to economic self-determination.
- Canada's Free Trade Agreements, including CUSMA, CETA, and CPTPP include provisions that impact Indigenous trade, though often defensively rather than proactively enhancing market access for Métis products.
- Collaborative, customized support is essential for Métis export success, including the need to build a resilient Métis export ecosystem.

The purpose of this policy brief is to provide recommendations for government and corporate partners to support Métis economic self-determination through international trade, addressing key areas including: intellectual property rights, government procurement, export development, access to capital and leveraging international frameworks.

## Background

Métis peoples have a long history of international trade, spanning hundreds of years. Well-established trade networks were developed to facilitate the exchange of prized materials and manufactured goods.

Today, many Métis business people seek to re-establish and build new trading relationships and have often turned to multinational bodies to overcome the barriers to trade imposed by modern States. Article 36 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms this right, stating that "Indigenous peoples, in particular those divided by international borders, have the right to maintain

and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.” Furthermore, Subsection 2 of Article 36 mandates that “States, in consultation and cooperation with Indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.”

Mindful of this history and drawing upon UNDRIP, the Métis Nation General Assembly unanimously adopted a Resolution on October 27, 2022, that called for increasing trade and exports opportunities for the Métis Nation.

### **Intellectual Property**

Canada needs to recognize the authority of Métis Governments to certify Métis businesses as owned by Métis citizens and protect and defend Métis intellectual property. Traditional knowledge (TK) and cultural expressions (CEs) are widely used by Indigenous businesses; six in ten businesses use them, but only two in ten Indigenous businesses that use TK or CEs have IP protection for it.<sup>1</sup>

TK and CEs can include handing down practical knowledge from one generation to the next for adaptation and survival, often in the oral tradition, although there is no universally accepted definition for TK and CEs.

A few users of TK and CEs report experiencing unauthorized use.<sup>2</sup> Loss of cultural meaning and financial loss are identified as the most common impacts caused by unauthorized use. It is difficult to quantify the value of TK and CEs in monetary terms; however, the World Health Organization (WHO) estimates the global market for traditional therapies exceeds \$100 billion a year.<sup>3</sup>

Métis intellectual property rights are not recognized in Canadian law. Therefore, there is a need to develop legal frameworks that recognize and protect Métis intellectual property rights, including traditional knowledge, cultural expressions, and genetic resources. An important part of this effort is for Métis Governments to create their own protocols for protecting and promoting Métis citizens' intellectual property, based on their cultural practices, values, and traditions. These protocols can guide how community members use, share, and protect their traditional knowledge and cultural expressions.

1 Canadian Council for Indigenous Business. “Understanding Intellectual Property Awareness & Use by Indigenous Businesses”. 2021. [https://www.ccab.com/wp-content/uploads/2021/07/CCAB\\_english\\_FINAL\\_DIGITAL-ERG.pdf](https://www.ccab.com/wp-content/uploads/2021/07/CCAB_english_FINAL_DIGITAL-ERG.pdf)

2 IBID.

3 Bagley, M. A. (2022). Access and Benefit-Sharing in the Age of Digital Biology. In C. Oguamanam & J. R. Welch (Eds.), Genetic Resources, Justice and Reconciliation: Canada and Global Access and Benefit Sharing (pp. 211-232). Cambridge University Press.

## Government Procurement

Every FTA has a Chapter on Government Procurement that directly impacts the Government of Canada's ability to seek innovative ways to increase its purchases from Métis businesses. For example, the Government of Canada could change its procurement rules to raise the sole-source threshold for Métis businesses from its current level of \$40,000.00 to over \$100,000.00. This would create a meaningful incentive for Federal procurement officials to buy from Métis owned businesses as it would reduce their administrative costs, as well as reduce the administrative burden on Métis businesses.

It is important to note that this change was first recommended by National Indigenous Economic Organizations (NIEOs) in 2022.<sup>4</sup> At that time, it was explained that such a change to the sole-source threshold would violate Canada's FTAs.

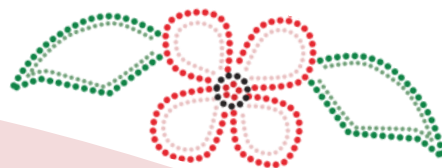
<sup>4</sup> House of Commons. "Standing Committee on Government Operations and Estimates". 2022. [https://publications.gc.ca/collections/collection\\_2022/parl/x70-1/XC70-1-2-441-44-eng.pdf](https://publications.gc.ca/collections/collection_2022/parl/x70-1/XC70-1-2-441-44-eng.pdf)

## Export Development

Canada is limited in how much it can support the export readiness of Métis businesses and their export growth. This is due to the WTO Agreement on Subsidies and Countervailing Measures Agreement (SCMA), which limits export credit guarantees and direct payments to exporters. There is also a provision in the CUSMA Chapter 3 that prevents Canada from adopting or maintain an export supports on any agricultural good destined for the U.S. or Mexico. These provisions significantly limit the ability of Canada to support Economic Reconciliation and economic self-determination with Métis peoples.

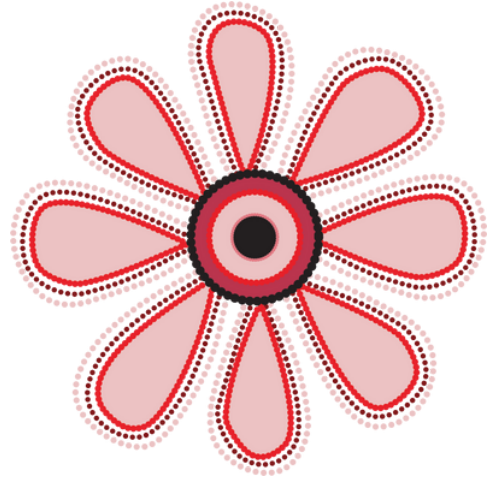
## International Examples of Indigenous Trade Policy Initiatives

Countries like Australia, New Zealand, and the USA have implemented various strategies to support Indigenous trade. Notable initiatives include Australia's Indigenous Diplomacy Agenda and the many Māori provisions in the New Zealand - United Kingdom FTA.



## Multilateral Efforts

Organizations like APEC, OECD, and the UN have frameworks and initiatives that can support Métis economic development through trade. For instance, the Indigenous Peoples Economic and Trade Cooperation Arrangement (IPETCA) aims to enhance Indigenous participation in international trade. However, continual effort will be required to ensure that IPETCA and policy work at the OECD are Indigenous led and Government supported.



## Recommendations

- Adopt the UK-Māori as model FTA text. This includes text that will commit all parties to the FTA to cooperate, with the inclusive participation of Métis, to enhance the understanding of issues connected with traditional knowledge and matters of interest to Métis relating to intellectual property, genetic resources and traditional cultural expressions.
- Negotiate mutual recognition of Indigenous businesses within relevant FTA texts, including CUSMA, CPTPP, CETA, Colombia and Peru, for the purposes of Government Procurement. This will allow the prospect of enhanced Indigenous joint ventures in Canada for Métis businesses and increased procurement opportunities for Métis businesses in other lands. Following this, Canada should introduce a sole source threshold of at least \$100,000.00 for Métis businesses in Canada's FTAs, indexed to inflation.
- Exempt Métis Export Development measures from international agreements regarding export subsidies. The SCMA does provide certain exemptions for export subsidies in the context of regional development. Specifically, Article 27 of the SCMA allows for the provision of export subsidies by developing countries for a limited period, under certain conditions. This change would allow for enhanced CanExport and other export supports for Métis businesses.

- Mitigate high shipping costs and foreign market representation through supporting shared shipping arrangements (Less than Container Load) and cost-sharing for foreign sales representatives.
- Obtain government and corporate support for Métis institutions to build export ecosystems with Métis experts to foster knowledge sharing and growth. This includes promoting Métis export experts and supporting their design and delivery of tailored training, including financial literacy.
- Support access to capital by providing incentives for non-dilutive private investment in Métis businesses and supporting capacity-building joint ventures.
- Leverage International frameworks and organizations like APEC, OECD, and the UN to advocate for Métis trade interests. This includes policy capacity to participate in initiatives IPETCA and trade policy initiatives at the OECD to enhance international trade opportunities for Métis businesses.
- Address infrastructure gaps through investing in reliable economic infrastructure, such as high-speed internet and transportation networks, to support Métis businesses in rural and remote areas. This will help reduce production costs and improve access to foreign and domestic markets.

## Conclusion

International organizations have initiatives that can support Métis economic development through trade. Just as important are international Indigenous trade policy sharing of technical knowledge, designed to build capacity of Indigenous institutions.

Continual effort will be required to ensure that these initiatives are Indigenous led and Government supported.

