

# Introduction

The purpose of this manual is to update and extend the scope of *International Judicial Co-operation in Civil, Commercial, Administrative and Criminal Matters* which was published in 1980. It is designed to cover some of the main legal enquiries and problems of a procedural nature which the Department of External Affairs has to handle as a result of its daily contacts with the Canadian public as well as foreign states and their diplomatic or consular representatives.

The manual does not purport to deal with substantive law except where it is absolutely necessary in order to understand the nature of the problems that are being discussed.

The major part of this manual is devoted to an analysis of procedures for international judicial co-operation in civil, commercial, administrative and criminal matters of interest to Canadian or foreign law enforcement officers and legal practitioners seeking to serve documents, or to obtain evidence abroad or in Canada in connection with Canadian or foreign court proceedings. It is also intended to provide information on such matters for the use of Canadian diplomatic and consular representatives abroad, and for foreign diplomatic and consular representatives in Canada for the purpose of legal proceedings in foreign and Canadian jurisdictions.

The Department of External Affairs is prepared to assist in facilitating international judicial co-operation, including service of documents and the taking of evidence, consistent with Canadian law and with international law and practice, while giving due consideration to the legal requirements of the foreign jurisdictions.

Canadian courts can and usually do lend their assistance to foreign courts in criminal, as well as in civil and administrative proceedings. Only rarely would Canadian courts refuse such co-operation. One exception might involve those cases that raise issues of a political nature.

It should be noted that under the Canadian Constitution the administration of justice in the provinces is a matter falling within their jurisdiction. Thus, the service of judicial documents in Canada and the obtaining of evidence in Canada are matters primarily governed by provincial law. Besides treaties entered into by Canada that relate to judicial assistance in civil and commercial matters, there also exist certain informal arrangements or understandings between the federal government or the provinces and some foreign states.