

For this reason, it has been the practice of the Department of External Affairs to require assurances from foreign government administrative agencies or tribunals of:

- (a) the fact that the person to be examined is willing to do so voluntarily;
- (b) that the testimony to be taken is entirely voluntary, and that the person's failure to appear or respond will carry no liability in any subsequent foreign proceeding;
- (c) that the person's consent to testify carries no liability or obligation in addition to the testimony itself, apart from perjury or false statements;
- (d) the date, time and location of the deposition, and the persons involved, including whether the person to be examined will be represented by counsel.

Only with these assurances will consent be granted to the conduct of such a hearing in Canada.

An application to a Canadian court is required where compulsion of the witness is necessary. In these circumstances, the services of a Canadian lawyer are needed.

1. Treaty and Entente States.

a. General.

The treaties and entente referred to in section A above also provide for the taking of evidence on a reciprocal basis between Canada and the states concerned in non-penal matters.

The treaties indicate the procedures under which letters of request issued in the requesting state should be transmitted to the competent Canadian authority. If it is determined that the authority to whom the letters have been addressed is without jurisdiction, they will be forwarded without any further request to the competent authority in Canada. The letters of request must be drawn up in the language of the authority to whom the request is addressed (English in the common law provinces, English or preferably French in the Province of Quebec) or be accompanied by a translation in such language certified as correct by a diplomatic or consular officer of the state making the request or by an official or sworn translator in Canada or the other state concerned. The requested authority can apply its own procedure in this regard. However, it may give effect to special demands in the letters of request if not incompatible with its own law.