

provincial officials then serve the documents in the usual way according to the local rules of procedure. Service by a diplomatic or consular officer of the requesting state or by the legal agent appointed for that purpose by a judicial authority of the requesting state or by the party on whose application the document was issued, is also authorized under the treaties, provided no compulsion is used. A few treaties also permit service through the postal channel, or by any other method not contrary to provincial law, or which is recognized by the law existing at the time of service in the requesting state, so long as no compulsion is used.

Although the treaties provide for transmission of legal documents directly from the foreign missions in Canada to the Attorney General of the province concerned, this procedure is not always followed and the Department of External Affairs receives a large volume of documents under cover of diplomatic notes, from both treaty and non-treaty states. In these cases, the documents are transmitted by letter to the Attorney General of the province concerned, with the request that they be served in accordance with local rules, and that the originals with affidavits of service and the account for service be returned to the Department of External Affairs for transmission to the foreign diplomatic mission in Ottawa.

In general, the authority by whom the request for service is carried out must furnish a certificate proving the service or explaining the reason which has prevented such service and setting forth the fact, the place, the manner and the date of such service or attempted service (and must send the certificate to the diplomatic or consular officer by whom the request for service was made). The certificate of service or of attempted service is placed on one of the duplicates or attached thereto. Proof of service is based on certification rather than a sworn affidavit since many states do not recognize the common law method of proof by statements made under oath.

Finally, all the treaties stipulate that although there is to be no special fee for complying with a foreign request, the requesting state is obliged to pay for the service according to the local tariff in the state of execution.

Canada is planning to become a party to the 1965 Hague Convention on the Service Abroad of Judicial and Extra-judicial Documents in Civil or Commercial Matters as soon as all the provinces have adopted rules of court implementing its