

the execution of the request has been refused or the competent authority to whom it has been forwarded for service.

The authority executing the request for service must provide a certificate proving the service or explaining the reason why such service has been prevented, and setting forth the fact, the manner, the place and the date of such service or attempted service; and shall send the certificate to the Canadian 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. As noted previously, proof of service is based on certification rather than a sworn affidavit. It is probable that Canadian courts will accept such certificates as evidence that the service was carried out in accordance with the required procedure under the local foreign law.

Finally, Canada is obliged to pay for the service according to the local tariff in the state of execution. Thus, when forwarding the documents to the Department of External Affairs, it is important to include an undertaking to reimburse the Department for these charges together with any expenses which might be incurred in carrying out the request.

Service of Quebec judicial documents in France may be made in accordance with the provisions of the 1977 Entente between Québec and France regarding judicial mutual aid in civil, commercial and administrative matters (see Appendix B). The methods provided for in the entente are not exclusive.

Once Canada becomes a party to the 1965 Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, service of Canadian documents in foreign states will have to comply with the provisions of this Convention as implemented by the appropriate provincial or federal rules of procedure.

## 2. Non-treaty and Non-entente States.

### a. Civil and commercial matters.

In the absence of a civil procedure treaty or entente, the question of service of an originating process or other document and the facilities provided for such procedure are based on the customary courtesies granted under the comity of nations. Thus, service abroad is possible provided the relevant law of Canada