

Government may, if so requested by the Canadian Government or on its own initiative, inform the court of how the national interests of Canada may be implicated by the suit or may offer to the court such other facts or views as it considers appropriate in the circumstances.

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

### a. General.

An application for an order to have evidence taken in Canada can be made under the Canada Evidence Act (Revised Statutes of Canada, 1970, c. E-10) for criminal and civil matters or under the provincial Evidence Acts for civil matters. (For instance, Ontario Evidence Act, Revised Statutes of Ontario, 1980, c. 145, s. 60 as amended, by Courts of Justice Act, Statutes of Ontario 1984, c. 11, s. 176). According to Section 43 of the Canada Evidence Act:

“Where upon an application for that purpose, it is made to appear to any court or judge, that any court or tribunal of competent jurisdiction, in the Commonwealth and Dependent Territories, or in any foreign country, before which any civil or criminal matter is pending, is desirous of obtaining the testimony in relation to such matter, of a party or witness within the jurisdiction of such first mentioned court, or of the court to which such judge belongs, or of such judge, the court or judge may, in its or his discretion, order the examination upon oath upon interrogatories, or otherwise, before any person or persons named in the order, of such party or witness accordingly, and by the same or any subsequent order may command the attendance of such party or witness for the purpose of being examined, and for the production of any writings or other documents mentioned in the order and of any other writings or documents relating to the matter in question that are in the possession or power of such party or witness.”

It should be noted that the words “court” and “judge” include the Supreme Court of Canada and any of its judges. Canadian courts have given to this section a broad and liberal construction in the interest of comity.

Most often a counsel for the applicant is appointed by the court to take evidence. He has the authority to compel the attendance of witnesses and the production of documents, and his orders may be enforced in the same manner as those made by