

Generally speaking, an originating process or other document to be served abroad may be served in the manner provided by the Rules of Practice for service within the province or in the manner prescribed by the law of the foreign state where service is made if that manner of service could reasonably be expected to give actual notice. Similarly, such service may be proved in the manner prescribed by these Rules or in the manner provided by the law of the state where service was made (e.g. Ontario Rules of Practice R. 17.05).

## 1. Treaty and Entente States

Canada is bound by several bilateral treaties which apply to civil and commercial matters, including non contentious matters. The provisions of these treaties are generally quite similar. (For a list see Appendix A).

All requests for service of judicial or extrajudicial documents in treaty states should be sent to the Department of External Affairs in the first place for onward transmission to the appropriate Canadian embassy or consulate where the documents will be sent by a Canadian diplomatic or consular officer to the competent authority of the state where they are to be served with the request that service be effected. The request for service must be drawn up in the language of the state where service is to be effected. It must indicate the names and descriptions of the parties, the name, description and address of the recipient, and the nature of the documents to be served, and must enclose the documents to be served in duplicate. In this connection, it is important to provide the Department of External Affairs with complete instructions as to the manner of service, i.e., which documents are to be left with the person who is served and which are to be returned, and which documents must be completed by the server to furnish proof of service. These documents are either to be drawn up in the language of the state of execution or to be accompanied by a translation in such language in duplicate. Such translation must be certified as correct by a diplomatic or consular officer of the state from whose territory the documents emanate. The translation should be done prior to forwarding the documents to the Department of External Affairs as the Department is not able to provide translation facilities for private cases. The public translator should attach a formal certificate identifying the documents, stating his qualifications to produce a true and correct translation so that the Canadian consular representative may be assured that the official consular certification concerning translation of the documents is acceptable.