

Introduction

The purpose of this study is to provide guidance on procedures for international judicial co-operation in civil and criminal matters for the use of law enforcement officers and legal practitioners seeking to serve documents, or to obtain evidence *abroad*, in connection with Canadian court proceedings. This study is also intended to provide information on such matters for the use of Canadian diplomatic and consular representatives abroad, and for foreign diplomatic and consular representatives in *Canada*, as required, for the purpose of legal proceedings in foreign and Canadian jurisdictions.

The Department of External Affairs is prepared to assist in facilitating international judicial co-operation, including service of documents and the taking of evidence, consistent with Canadian law and with international law and practice, while giving due consideration to the legal requirements of the foreign jurisdictions.

The courts of this country *can* lend their assistance to a foreign court in criminal, as well as in civil, commercial and administrative proceedings. Only rarely would a court refuse such co-operation. One exception might involve those cases which are political in nature.

It should be noted that under the Canadian constitution the administration of justice in the provinces is a matter falling within their jurisdiction. Thus, the service of judicial documents in Canada and the obtaining of evidence in Canada are matters primarily governed by provincial law. Besides treaties entered into by Canada that relate to judicial assistance in civil and commercial matters, there also exist certain informal arrangements between the provinces and some foreign countries. An example of this is the *Entente entre le Québec et la France sur l'entraide judiciaire en matière, civile, commerciale et administrative*, signed in 1977 (see Appendix A).