

the financial and administrative burden on the recipient. Foreign antitrust authorities may conduct inquiries in Canada which include the search of public records and the receipt of voluntarily given evidence either on affidavit or by deposition, without involving the Canadian legal system or courts. However, in such a case the conduct of the hearing must be consented to by the Canadian Government (see *supra*, Section C).

If the foreign antitrust authorities are seeking evidence in the form of testimony of a witness before a rogatory commission or similar body, Canadian authorities would expect that the same notification and consultation standards are met as apply to other means for seeking information from private persons in Canada. Provided that neither the person whose testimony is sought, nor the Crown in right of Canada or a province object to the gathering of such evidence, it is not necessary for the foreign commissioners to satisfy any further formal requirements.

The compulsory taking of evidence of Canadian residents or citizens, in criminal and civil antitrust matters and the compulsory service of documents pertaining to it in Canada requires that the foreign party retain Canadian counsel to obtain a court order and a provincial government official (e.g., sheriff or bailiff) to serve the order.

It should be stressed that the Canadian Government expects notification and consultations to take place before the gathering of evidence in antitrust matters in Canada by O.E.C.D. members pursuant to the O.E.C.D. 1979 Council Recommendations on Notification and Consultation on Restrictive Business Practices (C (79) 154 Final, arts. 3 and 4).

### 3. Restrictions upon the Disclosure of Information.

Many statutes, federal and provincial, restrict the disclosure of information in one form or another. For instance, the Official Secrets Act (Revised Statutes of Canada 1970, c. O-3), prevents the disclosure of information subject to the legislation. Special legislation in Ontario (Business Records Protection Act, Revised Statutes of Ontario, 1980, c. 56) and Quebec (Business Concerns Records Act, Revised Statutes of Quebec, 1977, Ch. D-12) prohibit removal of business records that may have to be produced in compliance with orders issued outside the province. However, this legislation makes no provision for supplying the information as a result of inter-governmental consultations. The