

Letters of request shall state the nature of the proceedings for which the evidence is required, and the full name and descriptions of the witnesses. They shall either be accompanied by a list of interrogatories and a translation thereof or shall request the competent authority to allow such questions to be asked *viva voce* if the parties or their representative so desire.

A universal provision in these treaties states that the judicial authority to which letters of request are addressed must give effect thereto by the use of the same compulsory measures as are employed in the execution of a commission or order emanating from the authorities of its own state.

Certain situations may arise where Canada will refuse to execute the request:

- (a) if the authenticity of the letters of request is not established;
- (b) if the execution of the letters in question does not fall within the function of the judiciary;
- (c) if it is considered that Canada's sovereignty or safety would be compromised thereby.

The diplomatic or consular officer by whom the letters of request are transmitted shall, if he so desires, be informed of the date and place where the proceedings will take place in order that he may inform the interested parties who shall be permitted to be present in person or be represented if they so desire.

Most treaties provide that evidence may also be taken, without any request to or intervention of the Canadian authorities, by a person in Canada directly appointed for that purpose by the court of the state of origin. A consular officer acting for the state of origin or any other suitable individual may be so appointed. Of course, such a person lacks any compulsory powers in Canada. The evidence may be taken in accordance with the procedure recognized by the law of the state of origin.

A person appointed by Canada may exercise compulsory powers where needed. In such a situation the local laws of procedure apply.

The treaties provide a right to counsel for those examined.