

Keeping in mind the importance of reciprocity, Canada recognizes that while it is the proper function of the members of the diplomatic or consular mission to communicate with the citizens of their own country, it is not within their normal functions to effect service of judicial documents outside the premises of the mission even if no compulsion is to be used, unless specifically authorized to do so by treaty.

In the Province of Quebec, Article 136 of the Code of Civil Procedure provides that the Attorney General may, on request made through diplomatic channels, direct a bailiff to serve upon a person in Quebec any proceeding issued by a tribunal foreign to Canada. Such service is made by leaving with the party in the ordinary way a true copy of such proceeding, certified by an officer of the court by which such proceeding was issued. If such copy is not drawn in the French or English language, a certified translation thereof must be annexed thereto. The return of service is also made in the ordinary way, but with the notation, where necessary, of the fact that a translation was annexed to the copy served. The capacity and the signature of the serving officer must be attested by the prothonotary of the Superior Court of the district where he resides. The Lieutenant Governor may attest the signature of and the declaration by the prothonotary, and have the original proceeding with the return of service and the taxed bill of costs transmitted to the Department of External Affairs.

As with the treaty states, "letters of request" (also called letters rogatory) need not follow a prescribed form, provided that they contain the essential information needed to identify and serve the intended recipient. The documents will be forwarded by the Department of External Affairs to the provincial Ministry of Justice or Department of the Attorney General for service by the sheriff or bailiff in the jurisdiction concerned, as the Department of External Affairs does not employ the services of private process-servers. Proof of service, if effected, will be by sheriff's or bailiff's Affidavit of Service which will accompany the original or certified true copy of the documents; the duplicate set being left with the person served. The documents are returned to the Department of External Affairs, together with the sheriff's or bailiff's account for service for transmission to the foreign diplomatic mission or consular officer. Service through the diplomatic channel takes considerably longer than making a direct request to the sheriff in the jurisdiction concerned. Whichever method is employed, the foreign diplomatic mission is responsible for the