

NOTIFICATION EFFECTED BY AN

EXCHANGE OF NOTES

(October 9, 1935, January 1 and 7, 1936)

EXTENDING TO CANADA AS FROM FEBRUARY 1, 1936

THE CONVENTION

BETWEEN

HIS MAJESTY

AND

HIS MAJESTY THE KING OF DENMARK  
AND ICELAND

REGARDING

LEGAL PROCEEDINGS IN CIVIL AND  
COMMERCIAL MATTERS

Signed at London November 29, 1932

Ratifications exchanged at London May 12, 1933

IN FORCE FEBRUARY 1, 1936



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OTTAWA  
J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY



NOTIFICATION EFFECTED BY AN EXCHANGE OF NOTES (OCTOBER 9, 1935, JANUARY 1 AND 7, 1936) EXTENDING TO CANADA AS FROM FEBRUARY 1, 1936, THE CONVENTION BETWEEN HIS MAJESTY AND HIS MAJESTY THE KING OF DENMARK AND ICELAND REGARDING LEGAL PROCEEDINGS IN CIVIL AND COMMERCIAL MATTERS SIGNED AT LONDON NOVEMBER 29, 1932

*From the Secretary of State for External Affairs of Canada to the  
Secretary of State for Dominion Affairs*

DEPARTMENT OF EXTERNAL AFFAIRS

OTTAWA, October 9, 1935.

No. 252

SIR,

I have the honour to refer to my despatch No. 126\*, dated the 17th May, 1935, and to the Civil Procedure Conventions which have been concluded with Estonia, Denmark, Finland, Lithuania and the Netherlands; all of which have been signed and duly ratified.

I have the honour to state that His Majesty's Government in Canada desire that, in accordance with the stipulations therein contained, these Conventions shall be extended to Canada by notification to the respective Governments. Such extension should, if it is possible, come into force from a fixed date and it is desirable that that date should be the first day of January, 1936. If, however, the adoption of a fixed date is impracticable, the date of ratification would be satisfactory; and, further, if the date suggested is not satisfactory, a later date, say the first day of February, 1936, should be adopted.

The authorities to whom judicial and extra-judicial Acts and Commissions Rogatoires are to be transmitted will be, where action is to be taken in any Province in Canada, the Attorney-General of such province; in the North West Territories, the Commissioner of the North West Territories; and in the Yukon Territory, the Gold Commissioner of that territory. The language in which communications to such authorities, and translations, are to be made, will be English, except in the Province of Quebec, where they may be made either in English or in French. In order to insure due execution, Commissions Rogatoires should contain full and complete interrogatories.

I have included a tabulated list of the authorities, together with their addresses, in my despatch No. 251 of even date, herewith.

I shall be obliged, therefore, if steps will be taken to make the necessary notifications to the interested Governments.

I have the honour to be,

Sir,

Your most obedient,  
humble servant,

O. D. SKELTON

*for the Secretary of State for External Affairs*

\* See Nos. 11-19, 1935 Treaty Series.  
40986-14

PROVINCE OR TERRITORY	AUTHORITY AND ADDRESS	LANGUAGE
Ontario	Attorney-General, Toronto	English
Quebec	Attorney-General, Quebec	English or French
Nova Scotia	Attorney-General, Halifax	English
Prince Edward Island	Attorney-General, Charlottetown	English
New Brunswick	Attorney-General, Fredericton	English
British Columbia	Attorney-General, Victoria	English
Manitoba	Attorney-General, Winnipeg	English
Saskatchewan	Attorney-General, Regina	English
Alberta	Attorney-General, Edmonton	English
North West Territories	Commissioner of the North West Territories, Ottawa	English
Yukon Territory	The Gold Commissioner of the Yukon Territory, Dawson City	English

I have the honour to refer to my despatch No. 1287, dated the 17th May 1938, and to the Civil Procedure Conventions which have been concluded with the various Provinces, Islands, Fisheries and the Netherlands, all of which have been signed and duly ratified.

I have the honour to state that His Majesty's Government in Canada desire that in accordance with the stipulations therein contained, these Conventions shall be extended to Canada by notification to the respective Governments. Such extension should, if it is possible, come into force from a fixed date and it is desirable that that date should be the first day of January 1939. It however, the adoption of a fixed date is impracticable, the date of ratification would be satisfactory; and further if the date suggested is not satisfactory, a later date may the first day of February, 1939, should be adopted.

The authorities to whom judicial and extra-judicial Acts and Commissioners Magistrates are to be transmitted will be where action is to be taken in any Province in Canada, the Attorney-General of such Province; and in the Yukon Territory, the Commissioner of the North West Territories; and in the Yukon Territory, the Gold Commissioner of that territory. The language in which communications to such authorities and translations are to be made other than English, except in the Province of Quebec, where they may be made either in English or in French. In order to facilitate execution, Commissioners, Registrars should contain full and complete interrogatories.

I have included a tabulated list of the authorities together with their addresses in my despatch No. 251 of even date herewith.

I shall be obliged, therefore, if steps will be taken to make the necessary notifications to the interested Governments.

I have the honour to be,  
 Sir,  
 Your most obedient,  
 humble servant,

O. D. SKELTON

for the Secretary of State for External Affairs

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*From the British Minister at Copenhagen to the Minister for  
Foreign Affairs of Denmark*

BRITISH LEGATION

COPENHAGEN, January 1, 1936.

No. 1

YOUR EXCELLENCY,

At the instance of His Majesty's Government in Canada I have the honour to notify to Your Excellency, in accordance with Article 16 (a) of the convention regarding legal proceedings in civil and commercial matters, which was signed at London on the 29th November, 1932, the accession of His Majesty to that convention in respect of the Dominion of Canada.

The attached list indicates in respect of each province or territory in Canada the authority to whom requests for service or for the taking of evidence should be transmitted. The language in which communications and translations are to be made is English except in the province of Quebec where they may be made in English or French.

In accordance with Article 16 (a) of the convention, the accession now notified will come into force one month from the date of this note, that is to say, on the 1st February next.

In requesting that Your Excellency will be so good as to acknowledge the receipt of this communication,

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

PATRICK RAMSAY

(Translation)

*From the Minister for Foreign Affairs of Denmark to the  
British Minister at Copenhagen*

UDENRIGSMINISTERIET

COPENHAGEN, January 7, 1936.

MONSIEUR LE MINISTRE,

I have the honour to acknowledge the receipt of your notes Nos. 1 and 2 (64/1/36 and 64/2/36) dated the first instant, by which you were good enough to inform me that the Convention concluded in London on November 29, 1932, between Denmark and Great Britain and Northern Ireland regarding certain civil procedure measures, shall also apply to Canada as from the first of next month.

I avail myself of this opportunity to renew to you, Monsieur le Ministre, the assurance of my highest consideration.

H. A. BERNHOFT  
For the Minister.



**CONVENTION BETWEEN HIS MAJESTY, IN RESPECT OF THE UNITED KINGDOM, AND HIS MAJESTY THE KING OF DENMARK AND ICELAND REGARDING LEGAL PROCEEDINGS IN CIVIL AND COMMERCIAL MATTERS**

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Denmark and Iceland:

Being desirous to render mutual assistance in the conduct of legal proceedings, in their respective territories, in civil and commercial matters which are being dealt with or which it is anticipated may be dealt with by their respective judicial authorities;

Have resolved to conclude a Convention for this purpose and have appointed as their Plenipotentiaries:

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India:

For Great Britain and Northern Ireland:

The Right Honourable Sir John Allsebrook Simon, G.C.S.I., K.C.V.O., O.B.E., K.C., M.P., His Principal Secretary of State for Foreign Affairs; and

His Majesty the King of Denmark and Iceland:

Count Preben Ferdinand Ahlefeldt-Laurvig, His Envoy Extraordinary and Minister Plenipotentiary in London;

Who having communicated their full powers, found in good and due form, have agreed as follows:—

*I.—Preliminary*

**ARTICLE 1**

(a) This Convention applies only to civil and commercial matters, including non-contentious matters.

(b) In this Convention the words "territory of one (or of the other) High Contracting Party" shall be interpreted as meaning at any time any of the territories of such High Contracting Party to which the Convention at that time applies.

(c) In this Convention the words "subject of one (or of the other) High Contracting Party" shall be deemed, in relation to His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, to mean all subjects of His Majesty wherever domiciled, and shall include all persons under His Majesty's protection.

*II.—Service of Judicial and Extra-Judicial Documents*

**ARTICLE 2**

When judicial or extra-judicial documents drawn up in the territory of one of the High Contracting Parties are required by a judicial authority situated therein to be served on persons, partnerships, companies, societies or other

corporations in the territory of the other High Contracting Party, such documents may, without prejudice to the provisions of Article 5, be served on the recipient, in either of the ways provided in Articles 3 and 4.

### ARTICLE 3

(a) A request for service shall be addressed by a Consular Officer of the High Contracting Party from whose territory the documents to be served emanate, to the competent authority of the country where the documents are to be served, requesting such authority to cause the documents to be served. The request shall be sent by such Consular Officer to such authority.

(b) The request for service shall be drawn up in the language of the country where service is to be effected.

The request for service shall state the full names and descriptions of the parties, the full names and address and description of the recipient, and the nature of the document to be served, and shall enclose the documents to be served in duplicate.

(c) The document to be served shall either be drawn up in the language of the country in which it is to be served, or be accompanied by a translation in such language. Such translation shall be certified as correct by a Consular Officer of the High Contracting Party from whose territory the document emanates.

(d) Requests for service shall be addressed and sent—

In England, to the Senior Master of the Supreme Court of Judicature.

In Denmark, to the Court in whose district the person to be served is resident or sojourning, and where such person is resident or sojourning in Copenhagen, to the Copenhagen Town Court.

If the authority to whom a request for service has been sent is not competent to execute it, such authority shall of his own motion transmit the document to the competent authority of his own country.

(e) Service shall be effected by the competent authority of the country where the document is to be served, who shall serve the document in the manner prescribed by the municipal law of such country for the service of similar documents, except that, if a wish for some special manner of service is expressed in the request for service, such manner of service shall be followed in so far as it is not incompatible with the law of that country.

(f) The execution of the request for service duly made in accordance with the preceding provisions of this Article shall not be refused unless (1) the authenticity of the request for service is not established, or (2) the High Contracting Party in whose territory it is to be effected considers that his sovereignty or safety would be compromised thereby.

(g) The authority by whom the request for service is executed shall furnish a certificate proving the service or explaining the reason which has prevented such service, and setting forth the fact, the manner and the date of such service or attempted service, and shall send the said certificate to the Consular Officer by whom the request for service was made. The certificate of service or of attempted service shall be placed on one of the duplicates or attached thereto.

### ARTICLE 4

(a) Unless the recipient is a subject of the High Contracting Party in whose territory the document is to be served, service may be effected without any request to or intervention of the authorities of the country where it is effected—

(1) By a Consular Officer of the High Contracting Party from whose territory the document emanates.



(2) By an agent appointed for the purpose either by the judicial authority by whom service of the document is required or by the party on whose application the document was issued.

(b) All documents served in the manner provided in the preceding paragraph shall, unless the recipient is a subject of the High Contracting Party from whose territory the document to be served emanates, either be drawn up in the language of the country in which service is to be effected or accompanied by a translation into such language certified as correct as prescribed in Article 3 (c).

#### ARTICLE 5

Nothing in this Convention shall render illegal or inadmissible the service in the territory of one High Contracting Party of documents drawn up in the territory of the other High Contracting Party by any one of the following methods of service in any case where such method is recognised as valid by the law of the country from which the documents emanate:—

(a) By the competent officials or officers of the country where they are to be served acting directly at the request of the parties concerned in cases where such officials or officers are not prohibited from so acting by the law of that country;

(b) Through postal channels; or

(c) By any other mode of service which is not illegal under the law existing at the time of service in the country where it is to be effected.

#### ARTICLE 6

(a) In any case where documents have been served in accordance with the provisions of Article 3, the High Contracting Party, by whose Consular Officer the request for service is addressed, shall pay to the other High Contracting Party any charges and expenses which are payable under the law of the country where the service is effected to the persons employed to effect service, and any charges and expenses incurred in effecting service in a special manner. These charges and expenses shall not exceed such as are usually allowed in the courts of that country.

(b) Repayment of these charges and expenses shall be claimed by the competent authority by whom the service has been effected from the Consular Officer by whom the request was addressed when sending to him the certificate provided for in Article 3 (g).

(c) Except as provided above, no fees of any description shall be payable by one High Contracting Party to the other in respect of the service of any documents.

### III.—*Taking of Evidence*

#### ARTICLE 7

When a judicial authority in the territory of one of the High Contracting Parties requires that evidence should be taken in the territory of the other High Contracting Party, such evidence may be taken in either of the ways prescribed in Articles 8 or 9.

#### ARTICLE 8

(a) The judicial authority by whom the evidence is required may, in accordance with the provisions of its law, address itself by means of "Letters of Request" to the competent authority of the country where the evidence is to be taken, requesting such authority to take the evidence.

(b) The "Letter of Request" shall be drawn up in the language of the country where the evidence is to be taken, or be accompanied by a translation in such language. Such translation shall be certified as correct by a Consular

Officer of the High Contracting Party from whose judicial authority the request emanates. The "Letters of Request" shall state the nature of the proceedings for which the evidence is required, the full names and descriptions of the parties thereto, and the full names, addresses and descriptions of the witnesses. They shall also either be accompanied by a list of interrogatories to be put to the witness or witnesses and a translation thereof certified as correct in the manner heretofore provided or shall request the competent authority to allow such questions to be asked *vivâ voce* as the parties or their representatives shall desire to ask.

(c) The "Letters of Request" shall be transmitted—

In England by a Danish Consular Officer to the Senior Master of the Supreme Court of Judicature.

In Denmark by a British Consular Officer to the court in whose district the witness is resident or sojourning, and where such person resides or is sojourning in Copenhagen, to the Ministry of Justice.

In case the authority to whom "Letters of Request" are transmitted is not competent to execute them, the "Letters of Request" shall be forwarded without any further request to the competent authority of his own country.

(d) The competent authority to whom the "Letters of Request" are transmitted or forwarded shall give effect thereto and obtain the evidence required by the use of the same compulsory measures and the same procedure as are employed in the execution of a commission or order emanating from the authorities of his own country, except that if a wish that some special procedure should be followed is expressed in the "Letters of Request" such special procedure should be followed in so far as it is not incompatible with the law of the country where the evidence is to be taken.

(e) The 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 party or parties, who shall be permitted to be present in person or to be represented if they so desire.

(f) The execution of the "Letters of Request" can only be refused—

(1) If the authenticity of the "Letters of Request" is not established.

(2) If in the country where the evidence is to be taken the execution of the "Letters of Request" in question does not fall within the functions of the judiciary.

(3) If the High Contracting Party in whose territory the evidence is to be taken considers that his sovereignty or safety would be compromised thereby.

(g) In every instance where the "Letters of Request" are not executed by the authority to whom they are addressed, the latter will at once inform the Consular Officer by whom they were transmitted, stating the grounds on which the execution of the "Letters of Request" has been refused, or the judicial authority to whom they have been forwarded.

#### ARTICLE 9

(a) The evidence may also be taken, without any request to or the intervention of the authorities of the country in which it is to be taken by a person in that country directly appointed for the purpose by the court by whom the evidence is required. A Consular Officer of the High Contracting Party whose court requires the evidence or any other suitable person may be so appointed.

(b) A person so appointed to take evidence may request the individuals named by the court appointing him to appear before him and give evidence or to produce any document. He may take all kinds of evidence which are not contrary to the law of the country where the evidence is being taken and shall have power to administer an oath, but he shall have no compulsory powers.

(c) Requests to appear issued by such person shall, unless the recipient is a subject of the High Contracting Party for whose judicial authority the evidence is required, be drawn up in the language of the country where the evidence is to be taken, or be accompanied by a translation into such language.

(d) The evidence may be taken in accordance with the procedure recognised by the law of the country for whose judicial authority the evidence is required, and the parties will have the right to be present or to be represented by barristers or solicitors of that country or by any persons competent to appear before the court of either of the countries concerned.

(e) The procedure provided for in this Article is purely voluntary and any individual requested to appear is free to refuse to comply with any such request or to give any evidence or produce any document. Any such refusal shall not render such individual liable to any penalty or prejudice in relation to the proceedings for which the evidence is required.

#### ARTICLE 10

The fact that an attempt to take evidence by the method laid down in Article 9 has failed owing to the refusal of any witness to appear, to give evidence, or to produce documents does not preclude a request being subsequently made in accordance with Article 8.

#### ARTICLE 11

(a) Where evidence is taken in the manner provided in Article 8 the High Contracting Party by whose judicial authority the "Letters of Request" are addressed, shall repay to the other High Contracting Party any expenses incurred by the competent authority of the latter in the execution of the request in respect of any charges and expenses payable to witnesses, experts, interpreters, or translators, the costs of obtaining the attendance of witnesses who have not appeared voluntarily, and the charges and expenses payable to any person whom such authority may have deputed to act in cases where the law of his own country permits this to be done, and any charges and expenses incurred by reason of a special procedure being requested and followed. These expenses shall not exceed such as are usually allowed in similar cases in the courts of the country where the evidence has been taken.

(b) The repayment of these expenses shall be claimed by the competent authority by whom the "Letters of Request" have been executed from the Consular Officer by whom they were transmitted when sending to him the documents establishing their execution.

(c) Except as above provided no fees of any description shall be payable by one High Contracting Party to the other in respect of the taking of evidence.

#### IV.—*Judicial Assistance for Poor Persons, Imprisonment for Debt and Security for Costs*

#### ARTICLE 12

The subjects of one High Contracting Party shall enjoy in the territory of the other High Contracting Party a perfect equality of treatment with subjects of that High Contracting Party as regards free judicial assistance for poor persons and imprisonment for debt; and provided that they are resident in any such territory, shall not be compelled to give security for costs in any case where a subject of such other High Contracting Party would not be so compelled.

## V.—General Provisions

## ARTICLE 13

Any difficulties which may arise in connexion with the operation of this Convention shall be settled through the Diplomatic channel.

## ARTICLE 14

The present Convention, of which the English and Danish\* texts are equally authentic, shall be subject to ratification. Ratifications shall be exchanged in London. The Convention shall come into force one month after the date on which ratifications are exchanged and shall remain in force for three years after the date of its coming into force. If neither of the High Contracting Parties shall have given notice through the Diplomatic channel to the other not less than six months before the expiration of the said period of three years of his intention to terminate the Convention, it shall remain in force until the expiration of six months from the day on which either of the High Contracting Parties shall have given notice to terminate it.

## ARTICLE 15

(a) This Convention shall not apply *ipso facto* to Scotland or Northern Ireland, nor to any of His Britannic Majesty's Colonies or Protectorates, nor to any territories under his suzerainty, nor to any mandated areas administered by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland, but His Britannic Majesty may at any time, while the Convention is in force, under Article 14, by a notification given through His Minister at Copenhagen, extend the operation of this Convention to any of the above-mentioned territories.

(b) Such notification shall state the authorities in the territory concerned to whom requests for service or for the taking of evidence are to be transmitted, and the language in which communications and translations are to be made. The date of the coming into force of any such extension shall be one month from the date of such notification.

(c) Either of the High Contracting Parties may, at any time after the expiry of three years from the coming into force of an extension of this Convention to any of the territories referred to in paragraph (a) of this Article, terminate such extension on giving six months' notice of termination through the Diplomatic channel.

(d) The termination of the Convention under Article 14 shall, unless otherwise expressly agreed to by both High Contracting Parties, *ipso facto* terminate it in respect of any territories to which it has been extended under paragraph (a) of this Article.

## ARTICLE 16

(a) His Britannic Majesty may at any time, while the present Convention is in force, either under Article 14 or by virtue of any accession under this Article, by a notification given through the Diplomatic channel, accede to the present Convention in respect of any of His self-governing Dominions or India, provided that no notification of accession may be given at any time when His Majesty the King of Denmark and Iceland has given notice of termination in respect of all the territories of His Britannic Majesty to which the Convention applies. The provisions of Article 15 (b) shall be applicable to such notification. Any such accession shall take effect one month after the date of its notification.

\* Not printed.

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(b) After the expiry of three years from the date of the coming into force of any accession under paragraph (a) of this Article, either of the High Contracting Parties may, by giving a six months' notice of termination through the Diplomatic channel, terminate the application of the Convention to any country in respect of which a notification of accession has been given. The termination of the Convention under Article 14 shall not affect its application to any such country.

(c) Any notification of accession under paragraph (a) of this Article may include any dependency or mandated area administered by the Government of the country in respect of which such notification of accession is given; and any notice of termination in respect of any such country under paragraph (b) shall apply to any dependency or mandated area which was included in the notification of accession in respect of that country.

In witness whereof the undersigned have signed the present Convention, in English and Danish texts, and have affixed thereto their seals.

Done in duplicate at London, this 29th day of November, 1932.

(L.S.) JOHN SIMON

(L.S.) P. F. AHLEFELDT-LAURVIG

THE PRESIDENT OF FINLAND  
 LEGAL PROCEEDINGS IN CIVIL AND  
 COMMERCIAL MATTERS

Signed at London August 11, 1933  
 Ratifications exchanged at London January 28, 1934

IN FORCE FEBRUARY 1, 1934

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