

Request" addressed to the competent authority of the country where the evidence is to be taken, request such authority to appoint to take the evidence a person specially designated in the "Letters of Request."

A Consular Officer of the High Contracting Party whose judicial authority requires the evidence, or any other suitable person may be so designated.

(b) Where this procedure is adopted the provisions of paragraphs (b), (c), (f), and (g) of Article 8 shall apply, but the following paragraphs shall be substituted for paragraphs (d) and (e) of that Article.

(c) The competent authority to whom the "Letters of Request" are transmitted or forwarded shall give effect thereto, and shall appoint the person designated to take the evidence unless such person shall be unwilling so to act. In addition, if necessary, such authority shall make use of such compulsory powers as it possesses under its own law to secure the attendance of and the giving of evidence by the witnesses and the persons to be examined and the production of documents before the person so appointed.

(d) The person thus appointed shall have power to administer an oath, and any person giving false evidence before him shall be liable in the Courts of the country where the evidence is taken to the penalties provided by the law of that country for perjury.

(e) The evidence shall be taken in accordance with the law of the country for whose judicial authority the evidence is required, provided such method is not contrary to the law of the country where the evidence is being taken, and the parties shall have the right to be present in person or to be represented by barristers or solicitors or by any other persons who are competent to appear before the Courts of either of the countries concerned.

ARTICLE 10.

(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 recognized 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.

ARTICLE 11.

The fact that an attempt to take evidence by the method laid down in Article 10 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 Articles 8 or 9.

ARTICLE 12.

(a) Where evidence is taken in either of the ways provided in Articles 8 or 9 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 be 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 13.

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 14.

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

ARTICLE 15.

The present Convention, of which the English and Spanish texts are equally authentic, shall be subject to ratification.

Ratification shall be exchanged in Madrid. 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 16.

(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 territories administered by his 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 15, by a notification given through his Ambassador at Madrid, 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 15 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 17.

(a) This Convention shall not apply *ipso facto* to any of the colonies or protectorates of His Catholic Majesty the King of Spain, but his Government may at any time extend this Convention to any of such colonies or protectorates by a notification given through his Ambassador in London.

(b) The provisions of paragraph (b) of Article 16 shall apply to any such notifications.

(c) The provisions of paragraphs (c) and (d) of Article 16 shall apply to any colonies or protectorates of His Catholic Majesty to which this Convention has been extended.

ARTICLE 18.

(a) His Britannic Majesty may at any time, while the present Convention is in force, either under Article 15 or by virtue of any accession under this Article, by a notification given at Madrid 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 Catholic Majesty has given notice of termination in respect of all the territories of His Britannic Majesty to which the Convention applies. The provisions of Article 16 (b) shall be applicable to such notification. Any such accession shall take effect one month after the date of its notification.