

## Steps to equating offences.

<b>Step 1</b>	<p><b>Identify the foreign conviction or act.</b></p> <p><i>Foreign Record Sources</i></p> <p><i>It can often be a challenge to obtain foreign conviction records. Some of the following are useful sources:</i></p> <ul style="list-style-type: none"> <li>• <i>US National Crime Information Centre (NCIC). IEOs who are authorized Canadian Police Information Centre (CPIC) users have access to NCIC via CPIC</i></li> <li>• <i>US courts will often fax or e-mail copies of conviction records on request</i></li> <li>• <i>US police authorities will often provide conviction records on request</i></li> <li>• <i>Interpol Ottawa can assist in obtaining copies of foreign warrants for persons who are wanted internationally. Alerts for some Interpol warrants (Red Notices) are downloaded from CPIC to FOSS</i></li> <li>• <i>IEOs can send requests to CBSA Liaison Officers posted abroad or CIC visa officers in Canadian Embassies abroad to assist in obtaining required evidence</i></li> <li>• <i>Interpol Ottawa may also assist in requesting certificates of convictions from other countries, but this process is primarily aimed in getting information for persons facing criminal charges in Canada, rather, than immigration violations and may take a long time</i></li> <li>• <i>Versions of foreign criminal statutes are now frequently available online and some jurisdictions may also post information concerning criminal convictions online</i></li> </ul>
<b>Step 2</b>	<p><b>Obtain:</b></p> <p><b>1. The best proof of the conviction available in the circumstances;</b></p> <p><i>Proof of Conviction</i></p> <p><i>The following are various types of evidence used to prove a conviction. Often a combination of evidence is relied upon.</i></p> <ul style="list-style-type: none"> <li>• <i>Certificate of conviction</i></li> <li>• <i>Warrant of committal</i></li> <li>• <i>Statutory declaration from the court officer</i></li> <li>• <i>Statutory declaration from the individual</i></li> </ul> <p><b>2. The wording of the foreign statute and, if available;</b></p> <p><i>Evidence of Foreign Statute</i></p> <p><i>When including evidence from a foreign statute, officers should include the statute's cover page, table of contents and all pages dealing with the actual offence. If the foreign statute is not in English or French, both the original language version as well as an English or French translation should be included.</i></p> <p><b>3. The details of what was actually done.</b></p> <p><i>Details of the Offence</i></p>

	<p><i>Being able to prove some of the details of what actually happened is often critical to the equation.</i></p> <p><i>Some sources of details are:</i></p> <ul style="list-style-type: none"> <li>• <i>Indictment</i></li> <li>• <i>Accusation</i></li> <li>• <i>Judge's decision</i></li> <li>• <i>Police report</i></li> <li>• <i>Details provided by the individual and submitted in the form of a statutory declaration</i></li> </ul>
<b>Step 3</b>	<p><b>Identify the approximate Canadian equivalent.</b></p> <p><i>At this stage, you're not deciding which Canadian offence is equivalent, just selecting the most likely one to examine. For example, if you have information that a foreign national was convicted of theft in the UK, you will know that the Canadian equivalency for this offence would come from the Criminal Code of Canada (rather than another Act of Parliament) and may bear some similarity to Canadian offences relating to theft.</i></p>
<b>Step 4</b>	<p><b>Break each down to its basic elements.</b></p> <p><i>This is exactly the same process as breaking the inadmissibility allegations down into their basic elements. To accomplish this process, you will need a copy of the foreign statute relating to the offence as well as a copy of the Canadian statute (for example the Criminal Code) with the exact text of the offence.</i></p>
<b>Step 5</b>	<p><b>Compare each foreign element to its Canadian equivalent and determine if it is equal, broader, or narrower.</b></p>
<b>Step 6</b>	<p><b>For those foreign elements that are broader, examine the details of the offence to determine if this aspect of the actual act committed satisfies the Canadian element.</b></p>
<b>Step 7</b>	<p><b>Come to an overall conclusion as to whether the foreign equates to the Canadian.</b></p>
<b>Step 8</b>	<p><b>If the two offences equate, taking into account the penalty for the Canadian offence, decide which allegation under A36 is appropriate.</b></p> <p><i>Is the equivalent Canadian offence indictable or summary? If indictable, what is the maximum term of imprisonment - less than 10 years or 10 or more? On the basis of this information, select the correct allegation under A36.</i></p>