

Import Ecstasy
Commercial Quantity
s.233B(1) (Cth) Customs Act

- s 233B(1)
- (b) import
 - (c) possess prohibited import
 - (ca) possess reasonably suspected prohibited import
 - (cb) conspire to import (*repealed 15.12.2001*)
 - (d) knowingly concerned in import (*repealed 15.12.2001*)

Subsection substituted 28.9.2004

- s 233B(1)
- (a)(iii) import
 - (a)(iv) possess prohibited import
 - (a)(vi) possess reasonably suspected prohibited import

Commercial Quantity: 500g

Maximum Penalty: Life

s.235(2)(c)(i)

s.16G (CTH) Crimes Act was repealed 16.1.2003 (applies to all sentences imposed after that date)

Section s 233B repealed 6.12.2005

<u>Case</u> (age if known)	<u>Offence</u>	<u>Amount</u> (pure)	<u>Plea</u>	<u>Result</u>	<u>Appeal</u>	<u>Record</u>	<u>Facts</u>
Carey (26) (1997) 97 A Crim R 552 (VSCA)	Import	2kg	PG	8y NPP 5y 6m	AA 6y NPP 3y 6m	Insignificant	English national carried drugs in suitcase - at home living in near poverty and tempted by offer of financial reward - courier. Assistance to police – successful controlled delivery.

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Bowers (1997) 97 A Crim R 461 NSWCCA	Import	7,000 tablets 719g	PG	8y 6m NPP 4y 6m	AD	Nil	Drugs strapped to waist - needed money.
Thorp (27) WASCA 5.11.1997	Conspiracy to import	804g on last shipment	PG	16y NPP 8y	AD	Nil drug offences	At least 4 shipments involved – arranged importation through couriers
Behar NSWCCA 14.10.1998	Import	1.231kg	PG	6y NPP 18m (50% assistance)	Crown AA 6y NPP 2y 6m	Nil	Courier with exceptional background - became involved with drugs through Orange People Since disavowed involvement with sect
Soonius NSWCCA 29.5.1998	Import	3.340kg	VG	11y NPP 6y (discount for assistance)	AA 9y NPP 5y 3m		Hidden in suitcase – courier Suffering psychiatric condition at time of offence - vulnerable.
Budiman (1998) 102 A Crim R 411 NSWCCA	Knowingly concerned in importation	591.6g	VG	8y 3m NPP 6y 3m	AD	Nil	Tablets found in speakers imported Controlled delivery to A at hotel - courier from Indonesia.
Slatinec [1999] NSWCCA 2	Knowingly concerned in import Supply large commercial qty	1214g	PG	9y NPP 6y 4y 6m (concurrent)	AA 8y NPP 5y		Involved in importation of MBDB – not at lower end of involvement – above courier
Power [1999] NSWCCA 25	Possess prohibited import	1056.5g	PG	9y NPP 5y 6m	AD		Arranged to pick up delivery of suitcases containing drug from co-offender who had brought suitcases from Holland - co-offender arrested and agreed to controlled delivery – more than mere courier – middleman

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Diefenbach (1999) 108 A Crim R 19 WASCA Co-offenders: PUNEVSKI (2000) RUVINOVSKI (2000) MUSTAFA (2001)	Import	562.3g	PG	12y NPP 6y	AA 10y NPP 5y (Parity)	Nil	Female - bought in drugs hidden on body with 3 others – recruited and advised other couriers
Camus [1999] NSWCCA 425	Possess prohibited import	736.5g	PG	8y NPP 5y	Crown AA 10y NPP 6y		Recruited by man in Bali to find customers for tablets - picked up tablets from Melbourne and sought to sell drugs in Sydney - management level - supplied some drugs to dealers before arrested - motivated by greed - to earn \$40,000 - objective criminality high.
MacGregor (23) (2000) 120 A Crim R 24 NSWCCA	Attempt possess Possess ecstasy Supply ecstasy Proceeds of crime	657.3g	PG	9y NPP 6y (other sentences concurrent)	AA 8y NPP 5y	n	German national carried drugs strapped to thighs – controlled delivery to offender – found in possession of \$67,750 and 2.16g ecstasy – motivated by financial gain Good prospects of rehabilitation
Ruvinovski (2000) 116 A Crim R 131 WASCA Punevski (2000) 116 A Crim R 146 WASCA Co-offenders: DIENFENBACH (1999) MUSTAFA (2001)	Attempt possess Attempt possess	513g	VG VG	13y NPP 8y 13y NPP 8y	AA 13y NPP 6y 8m 13y NPP 6y 8m	Nil significant	Involved in importation of over 2kg (pure) drug through four couriers – attempted to collect drugs from one courier - collectors

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Rocco [2001] NSWCCA 124	Knowingly concerned in importation	4.027kg	VG	13y NPP 9y	AD		Involved in importing drug in water pump consignment South African
Tan (41) [2001] NSWCCA 219	Import	736g	PG	7y NPP 4y 6m	AD	nil	Mere courier found with tablets taped to body. Isolation in custody - custody of two teenage children - needed money for ill mother.
Mustafa [2001] WASCA 192 (2002) 133 A Crim R 133 WASCA (2002) 136 A Crim R 570 WASCA Co-offenders: PUNEVSKI (2000) RUVINOVSKI (2000) DIEFENBACH (1999)	Attempt possess	513g	PG (25% plea and personal factors)	12y NPP 7y	AA 12y NPP 6y AA 10y 6m NPP 5y 6m AD	nil	One of 7 offenders – drugs brought into Australia by 4 couriers – recruited to assist in collecting drugs from couriers – minor role Original appeal to CA saw reduction in NPP only – Successful appeal to HCA meant matter returned to CA and sentence reduced - Final appeal to CA found mathematical error but no lesser sentence warranted
Efendi (39) (2001) 125 A Crim R 487 NSWCCA	Import Import traff qty methylamphet	0.8kg 10.7g	VG	10y NPP 6y 5y (concurrent)	AD	Nil	Indonesian national imported drugs concealed in exercise machine - courier
Tan [2001] NSWCCA 438	Possess prohibited import	6.15kg	PG (20%)	15y NPP 9y (JIRS summary)	AD	nil	Arrested following AFP investigation of Singapore/Chinese syndicate - suitcase containing drugs found during search of offender's premises - financial motive Married - one child.
Chua [2001] WASCA 353	Knowingly concerned in import	6.2kg	PG (25% on appeal)	16y NPP 8y	AA 13y 6m NPP 6y 9m	nil	Collected drugs from boat docked at Broome and drove to Alice Springs – at least a major courier Illegal immigrant – insufficient discount for guilty plea

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Van der Aar (45) (2001) 124 A Crim R 115 VSCA	Import	697.3g	PG	7y NPP 4y 6m	AD		Drugs sent in package containing machinery – with co-offenders collected boxes and arrested in act of opening machinery – sophisticated and well planned operation – active participant
X (35)	Consp import comm qty	24.4889kg	PG (58% assist)	7y 6m NPP 5y	Crown AA 10y NPP 5y	Old but serious offence of import heroin	Conspiracy extended over 6 months – travelled to Europe to arrange for importation of drugs concealed in hydraulic rams – packed drugs themselves then monitored progress – picked up rams upon arrival in Sydney – controlled delivery X recruited Y – not a principal but significant organisational responsibilities Y – role less than X but still active and important contribution
	Consp import comm qty cocaine	7.1648kg		7y 6m NPP 5y (concurrent)	10y NPP 5y (concurrent)		
Y (59)	Consp import comm qty	24.4889kg		5y NPP 3y	7y NPP 3y	nil	
(2002) 130 A Crim R 153 NSWCCA	Consp import comm qty cocaine	7.1648kg		5y NPP 3y (concurrent)	7y NPP 3y (concurrent)		
Guju (2002) 129 A Crim R 387 NSWCCA	Attempt obtain possession	10,000 tablets - 1.102kg	VG	8y NPP 5y 3m	AA 6y NPP 3y 9m	nil	Arrested after arriving to collect suitcase of 'drugs' at hotel under police surveillance - two co-offenders including husband for whom drugs were collected. SJ erred in assessment of role of applicant as more culpable than merely collecting drugs
Grimwood (41) [2002] WASCA 135	Import	1.4kg	PG (22% plea and mitigating factors)	14y NPP 7y	AD	Nil	British – claimed sole involvement for commercial gain – high level of involvement Pleaded guilty on fast track
Tyler (30) [2002] NSWCCA 272	Import Sched: Passport offence	947.6g	PG (20% on appeal – plea and mitigating factors)	7y 6m NPP 4y 6m	AA 6y NPP 3y 3m	minor	Female - imported tablets in luggage. Good prospects of rehabilitation

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Woolery [2002] NSWCCA 299	Import	1570.2g (30% pure)	PG (25% plea and assist)	7y 6m NPP 4y 6m	AD		Imported powder strapped to back Assistance to authorities
Lim Yeung [2002] NSWCCA 293	Possess Possess	46,000 tablets - 6.15kg	VG VG	9y NPP 5y 4m 9y NPP 5y 4m	Conviction AD AD		Found in possession of \$40,000 – drugs found in premises offenders travelling to
Togias (21) (2002) 132 A Crim R 573 NSWCCA	Import	967.5g	PG	5y GBB	Crown AD	Nil	Female - imported drugs from Bali - courier - subsequent to offence gave birth to daughter - evidence suggested delay in assessment of respondent for mother/daughter facilities in gaol - separation could cause psychological harm to child - originally given recognisance and sent back by CCA for re-sentence
Leung (36) (2002) 134 A Crim R 187 NSWSC	Knowingly concerned import Knowingly concerned import comm qty heroin	51.47kg 10.7kg	VG	14y 18y <u>Total:</u> 20y NPP 14y		nil	Drugs imported from China hidden in cans of pineapple – took delivery of drugs and stored them in storage unit – controlled delivery – significant role as middleman
Niketic [2002] NSWCCA 425	Import	1.19kg	PG (15%)	7y 6m NPP 4y 6m	AD		Imported tablets from Bali for \$10,000.
Schofield (2003) 138 A Crim R 19 NSWCCA	Attempt obtain possession Sched: 2 drug offences	2.0979kg	PG	2y 6m NPP 18m	Crown AA 5y NPP 3y	on parole for mal wound	Driver for associates picking up drugs secreted in automotive transmission Discount for assistance Includes table and summary of similar cases.
Soh [2003] WASCA 29	2 x Knowingly concerned in import	Not stated	VG	14y NPP 7y	AD		Slightly above courier – not clear from judgment if commercial quantity – assumed from length of sentence

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De Groot Van Embden (38) (2003) 140 A Crim R 403 NSWCCA	Attempt obtain possess	16.5kg	PG (65% plea and assist)	12y NPP 8y	AA 12y NPP 7y		Principal Australian organiser of Dutch syndicate arranging importation of drugs into Australia – to pick up and arrange sale of drugs Dutch citizen – father of four – significant assistance to authorities – family in witness protection – protection and isolation in gaol – anxiety for family
Simon (37) (2003) 142 A Crim R 166 NSWCCA	Import	921.4g	PG (20% on appeal)	6y NPP 3y 6m	AA 4y 6m NPP 2y 6m	nil	Courier – imported drugs in body bags – carefully planned – expected financial reward American – financial difficulties – out of character – health problems – evidence of rehabilitation Insufficient discount for guilty plea
Cant [2003] NTCCA 5	Knowingly concerned in import		VG	14y 8m (partially cumulative to existing sentence)	AA 14y NPP 8y 6m		Organised importation of tablets in steel cylinder - unpacked drugs and gave them to courier for delivery – advised courier 110,000 – 112,000 tablets in importation Subsequent to sentencing conviction from earlier sentence quashed
Evans [2003] WASCA 194	Import	686.3g	VG	14y NPP 7y 6m	AD		Drugs imported in luggage
Shepherd (44) (2003) 142 A Crim R 101 NSWCCA Co-Offender: PRASAD (2004) EI HANI (2004) L. SUKKAR (2005) J. SUKKAR (2006) S. SUKKAR (2005) CHOI (2007)	Knowingly concerned in import	34.401kg	PG (45% on appeal for plea and assist)	14y NPP 9y	AA 11y 6m NPP 7y 4m (assistance)	Nil relevant	Tablets hidden in freezer panels in packing crates on shipping container imported from Holland – assisted by arranging importation documents and delivery to warehouse Assistance
Balogun [2004] NSWCCA 72	Attempt obtain possession	1.323kg	VG	8y NPP 5y	AD		Internal courier – picking up package containing drugs

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<i>El Hani</i> [2004] NSWCCA 162 Co-Offender: SHEPHERD (2003) PRASAD (2004) L. SUKKAR (2005) J. SUKKAR (2006) S. SUKKAR (2005) CHOI (2007)	Knowingly concerned in importation	34.401kg	PG (25% plea and assist)	15y NPP 10y	AD		Involved in importation of tablets in freezer panels – senior person playing important managerial role Some assistance
<i>B</i> (22) [2004] WASCA 1	Aiding, abetting or procuring import	2.45kg (pure)	PG	7y NPP 3y 6m	Crown AD	nil	Israeli attempting to eliminate drug debt – role was to monitor courier and report back
<i>Prasad</i> (2004) 147 A Crim R 385 NSWCCA Co-Offender: SHEPHERD (2003) EI HANI (2004) L. SUKKAR (2005) J. SUKKAR (2006) S. SUKKAR (2005) CHOI (2007)	Knowingly concerned import	34.401kg	VG	14y NPP 8y 8m	Crown AD (exercise of discretion)		Drugs imported in freezer equipment – active and important role arranging clearing and collection of drugs – involved because of financial equipment
<i>Studenikin</i> (25) (2004) 147 A Crim R 1 NSWCCA	Import comm. Make false statement on entry to Australia	3.2786kg	PG	12y NPP 7y (concurrent sentence)	AA 10y 6m NPP 7y	fraud	POST 16G REPEAL Russian entered Australia with drugs hidden in suitcase Remorse – reasonable prospects of rehabilitation

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Kevenaar (23)	Attempt posses	5.9877kg	PG (40% plea and assist on appeal)	3y NPP 21.5m	Crown AA 7y NPP 4y 6m	Minor	POST 16G REPEAL Dutch nationals sent to Australia to collect drugs – less than middlemen – JP more involved than other two offenders Some contrition and mitigating circumstances in background - assistance
Dedoes (22)	Attempt posses		PG (35% plea and assist on appeal)	4y NPP 28.5m	7y 9m NPP 5y	minor	
Pan (22) (2004) 148 A Crim R 155 NSWCCA	Attempt posses		PG (20% plea and assist on appeal)	6y 6m NPP 43.5m	11y NPP 7y		
Neale (57) (2004) 148 A Crim R 493 NSWCCA	Knowingly concerned in import	52.33kg	VG	Life NPP 21y	AA Life NPP 15y	Dishonesty offences only	Drugs imported in cases of wine bottles Non-parole period reduced only because of age of applicant
Johnson [2004] WASCA 207	Attempt poss Attempt poss trafficable cocaine	805.2g 131.7g	PG	8y 3y 6m <u>Total:</u> 11y 6m NPP 5y 6m	AA 8y 3y 6m <u>Total</u> 9y NPP 4y 6m		Drugs brought into Australia from Indonesia strapped to body of courier – controlled delivery - paid to collect drugs and pass them on

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J (59)	Attempt possess	16.5 kg	PG (40% plea and assist on appeal)	7y 6m NPP 4y	Crown AA 9y 6m NPP 5y 9m	Numerous - 15y for heroin importation	POST 16G REPEAL Attempted to pick up consignment of ecstasy with street value of \$9M – controlled delivery – subordinate to co-offenders - J recruited 2 days before arrest – H only learnt that drugs involved on day of offence – part of large Dutch syndicate J: reformed since release – health problems – PTSD H: remorse – depression
H (52) (2005) 152 A Crim R 152 NSWCCA	Attempt possess		PG (18% on appeal)	7y NPP 3y 9m	Crown AA 9y NPP 5y 3m	7y for heroin importation	
S. Sukkar [2005] NSWCCA 54 Co-accused: PRASAD (2004) SHEPHERD (2003) EI HANI (2004) L. SUKKAR (2005) J. SUKKAR (2006) CHOI (2007)	Knowingly concerned	34.401 kg	VG	14y NPP 9y	Crown AD Sentence AD		POST 16G REPEAL Drugs imported in freezer equipment - brother involved as principal— acting in pre-concert Practising solicitor – good character
Millerat (25) [2005] NSWCCA 142	Import	2.0259kg	PG (25%)	5y 6m NPP 2y 9m	Crown AA 9y NPP 4y 6m	nil	POST 16G REPEAL French woman paid to bring in drugs from Holland – drug addict suffering severe depression
DPP v Inbar (23) [2005] VSCA 116	Aid and abet import Possess import Possess import	19kg+ 28.8g 0.12g	PG	5y 6m NPP 3y 3m 12m 7 days	Crown AA 7y 6m NPP 5y 12m 7 days	nil	Israeli citizen – drugs imported from Holland concealed in crates carrying chandeliers – not a principal – critical role in clearing drugs through customs – used false identities and documentation – LSD and ecstasy powder found in own room for personal use Drug addiction – isolation in custody

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C.A.S. (31) (2005) 160 A Crim R 451 NSWCCA Co-offender: NP (2008)	Aid and Abet importation	136.913kg	PG (50% overall discount)	8y NPP 5y	AD	nil	POST 16G REPEAL Company customs clerk arranged customs clearance for drugs imported in freezers – provided advice – junior but important role Element of duress – no financial gain – high order assistance
L. Sukkar [2005] NSWCCA 55 Co-accused: SHEPHERD (2003) PRASAD (2004) EI HANI (2004) J. SUKKAR (2006) S. SUKKAR (2005) CHOI (2007)	Knowingly concerned	34.401 kg	PG (25% plea and assist)	18y NPP 12y	AD	nil	POST 16G REPEAL Drugs imported in freezer equipment – co- principal and partner with brother

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Nguyen	Knowingly concerned in import	50.702kg	PG	25y NPP 16y	AA 21y	No priors	POST 16G REPEAL All involved in importation of 50.702kg ecstasy secreted in tiles - N and P also involved in importation of heroin in liquor bottle N – female – High level involvement – Experienced drug trafficker P – Male – Principal V – Male – Local courier – Lowest level of culpability T – Male
	Knowingly concerned in import traff. heroin	477.8g		15y <u>Total:</u> 25y 18y	10y <u>Total</u> 22y NPP 16y 6m		
Pham	Knowingly concerned in import	50.702kg	PG	Life NPP 23y	AA 27y	No priors	
	Knowingly concerned in import traff. heroin	477.8g		15y <u>Total</u> Life NPP 25y	10y <u>Total</u> 28y NPP 18y		
To (2005) 157 A Crim R 80 NSWCCA	Possess	50.702kg	PG	Life NPP 20y	AA 22y NPP 16y	Prior drug conviction	
Moore (50) [2005] NSWCCA 212	Possess prohibited import	92.442kg	PG (25% plea and assist)	20y NPP 15y	AD		POST 16G REPEAL Part of agreement to take possession of 980,000 tablets – leased premises and took delivery of drugs – senior and trusted member Limited assistance
Minniti (2006) 159 A Crim R 394 NSWCCA	Attempt possess prohibited import	20kg	VG	12y NPP 8y	AD	nil	POST 16G REPEAL Ecstasy imported from Belgium in machinery - minor but willing assistance – no financial reward Good character

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J. Sukkar (44) (2006) 172 A Crim R 151 NSWCCA Co-accused: SHEPHERD (2003) PRASAD (2004) EI HANI (2004) L. SUKKAR (2005) S. SUKKAR (2005) CHOI (2007)	Knowingly concerned in import	34.4g	PG (35% plea and assist on appeal)	13y 3m NPP 8y 6m	Crown AD 20y NPP 12y	Prior convictions for importing hashish oil	POST 16G REPEAL Drugs imported in freezer equipment – principal Assistance in relation to Netherlands associates – delay
Z (2006) 167 A Crim R 436 NSWCCA	Possess prohibited import Money laundering offence	16.86kg	PG (50% plea and assist on appeal)		5y 2m NPP 2y 7m 2y (concurrent)	Crown AA 8y NPP 4y 2y <u>Total</u> 9y NPP 5y	POST 16G REPEAL Israeli national travelled to Australia to assist international crime syndicate transfer money out of Australia – took delivery of Ecstasy tablets Suffering PTSD and depression from suicide bomb in Israel – assistance to authorities
Adams [2007] VSCA 37 [2008] HCA 15	Possess	8.916kg	VG	9y NPP 7y	AD HCA AD	Minor drug offences in America	American citizen - drugs imported hidden in containers – offender sent to Australia to locate container and extract drugs – significant role – more than mere courier
Choi [2007] NSWCCA 150 Co-accused: SHEPHERD (2003) PRASAD (2004) EI HANI (2004) L. SUKKAR (2005) J. SUKKAR (2006) S. SUKKAR (2005)	Knowingly concerned in importation	34.4kg	VG	20y NPP 13y	AD		POST 16G REPEAL Drugs imported in freezer equipment – arranged importation – senior to all except L and J Sukkar Granted s.16G discount

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Mauceri [2007] NSWCCA 262	Conspiracy import	56.5kg	PG (50% plea and assist)	8y NPP 5y	AD	nil	POST 16G REPEAL Drugs imported in container of furniture – significant role in importation arrangements – motivated by financial hardship. Assistance to authorities.
Alchikh [2007] NSWCCA 345	Conspiracy import	10.44kg	PG (33.3% plea and assist)	12y NPP 7y 3m	AD		POST 16G REPEAL Drugs hidden in refrigerators in consignment from UK – 164,462 tablets – retail value \$11.4 million – managerial role.
NP [2008] NSWCCA 205 Co-offender: C.A.S. (2005)	Conspiracy import	136.913kg	PG (50% plea and assist)	11y NPP 7y	AD	Nil	POST 16G REPEAL Part of conspiracy to import drugs concealed in freezer units imported from Malaysia – middleman facilitating contact between members in Sydney Out of character – evidence against co-offender – psychological problems – troubled family history
Keung Bow Liu (2008) 191 A Crim R 317 NSWCCA	Conspiracy to import Conspiracy to import Conspiracy to import	234.9kg	VG	Life NPP 18y 24y NPP 16y 21y NPP 14y	Conviction AD		POST 16G REPEAL Drugs imported from Netherlands concealed in pastry
DPP v Aisbett (40) DPP v Giampaolo (56) [2009] VSCA 172	Att possess Att possess	500kg	VG	6y NPP 4y 6y NPP 4y	Crown AD	Lengthy record Record including drug offences	Secreted in tiles imported from Italy – controlled delivery - collected tiles from warehouse and started unpacking – recruited days before to unpack tiles only – unaware of quantity of drugs

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El Jalkh [2011] NSWCCA 236	Conspiracy to import	4.3721kg	PG	10y NPP 5y 3m	AD	nil	POST 16G REPEAL Involved in conspiracy to import drugs from Europe and Middle East through shoe importer – flew overseas to make further arrangements – drugs obtained by co-offender seized in Italy – a principal but not driving force Medical condition
King [2012] NSWCCA 185	Conspiracy to import	165,000 tablets – 32kg	PG (25% plea and assist)	16y NPP 10y	AD	Lengthy. UK conviction for conspiracy supply drugs.	POST 16G REPEAL UK syndicate – drugs imported inside refrigerators – key organiser or very senior member. Arrested in 2003 – delay due to offender contesting extradition proceedings.
Balloey (51) [2014] NSWCCA 165	Attempt possess	87.44kg	PG (15%)	24y NPP 16y	AA 19y NPP 13y	Record – no drugs	POST 16G REPEAL Part of drug distribution group who came to Australia to distribute drugs – drugs imported in agricultural machinery – offender provided machinery and supervised loading – unpacked drugs in Australia – 10% reduction for element of coercion Belgian national – isolation from family
Kinch (57 at sentence) [2015] NSWSC 63 Hidden J	Consp import Consp import Money laundering Consp import pseudoephedrine	Total of at least 200kg 300kg	PG (30%-plea and assist) PG (20% -plea and assist)	22y 6m 22y 6m 7y 14y 6m NPP 10y Total: 24y 6m NPP 16y		Record in England – burglary and robbery – no drugs	POST 16G REPEAL 2001-2003 – two charges part of one conspiracy reflecting change in legislation – involved with Dutch syndicate – drugs imported on several occasions in PVC piping – senior and trusted member – supervisor of others – collected large amounts of money and sent it overseas 2006-2008 – became involved with senior police officer Standen – together conspired to import pseudoephedrine – principal Old offences – spent 4y 5m in difficult custodial conditions in Thailand – troubled upbringing

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