

Import Heroin
Commercial Quantity
s.307 (Cth) Criminal Code

Commenced 6.12.2005

307.1 Importing and exporting commercial quantities border controlled drug

307.5 Possessing commercial quantities border controlled drug

307.8 Possessing commercial quantities border controlled drug reasonably suspected of having been unlawfully imported

Commercial Quantity: 1.5kg

Maximum Penalty: Life

Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
Basri (39)	Import	1.88kg	VG	5y 3m NPP 3y 3m		Nil	B (female) recruited in Malaysia to import drugs from India in suitcase – controlled delivery made to co-offenders M and O B – courier shepherding drugs from India – to report progress and any problems M and O – first point of distribution in Sydney – charged with taking drugs to distributors in Bankstown – lesser criminality than B B – difficult childhood and marriage marked by violence – assistance – good prospects of rehabilitation M – Nigerian – positive prospects of rehabilitation O – Nigerian – good prospects of rehabilitation
Madubuko (44)	Attempt possess		VG	6y 6m NPP 4y 2m	Conviction AD	Nil	
Okonkwo (45)	Attempt possess		VG	6y 6m NPP 4y 2m		Nil	
[2009] NSWDC 398 Nicholson SC DCJ (Madubuko) [2011] NSWCCA 135							

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
Ng (49) [2010] NSWCCA 232	Import	2.445kg	PG (25%)	11y 3m NPP 7y 3m	AD	Lengthy record in Singapore	Citizen of Hong Kong – heroin concealed in toiletries and food items – courier – clearing gambling debt Disadvantaged background – isolation in custody
Zhang [2011] NSWCCA 233	Import	1527.6g Heroin 108.6g Meth	PG (30% plea and assist)	14y NPP 9y	AD	Offence committed 18m after release to parole for imp 3.3kg heroin	Arranged for drugs to be imported from China to post box in Australia – voluntarily disclosed import of M after caught with heroin
A. Tran (20) P. Tran (20) Nguyen (20) [2013] NSWCCA 136	Attempt possess Import Import	6.25kg	PG (25%)	4y 6m NPP 2y 9m 7y 6m NPP 4y 6m 9y NPP 5y 6m	Crown AD	Nil	Drugs imported into Australia concealed in boxes marked statues, vase and bathroom accessories – N paid to arrange delivery – drugs delivered to P. Tran's house – all involved in unpacking – all motivated by financial gain Nguyen – major role – remorse – drug addiction – good prospects of rehabilitation P. Tran – lesser but still significant role – cocaine user – lacked knowledge about nature and amount of drug – good prospects of rehabilitation A. Tran – remorse – good character – cocaine dependent – good prospects of rehabilitation
Lau (34) [2014] NSWCCA 179	Attempt possess	102kg	VG	11y NPP 4y	AA 9y NPP 6y	Fraud offence in Hong Kong	Agreed to do a job involving illegality after arriving from Hong Kong – small financial reward promised – continued involvement after becoming aware of drugs – unpacked and delivered drugs hidden in shipment of timber doors – controlled delivery Intellectual disability - parity
Lay (61) [2014] NSWCCA 310	Att possess	4.8kg	PG (24%)	13y NPP 8y 6m	AD	Attempt possess imported heroin	Large quantities of heroin and methamphetamines imported in homewares containers – controlled delivery – appellant took delivery of 20kg of substituted drug – involved for several days prior to taking delivery of drugs – significant role - intended to sell drugs at Casino to discharge gambling debt

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
Lam (23) [2015] NSWCCA 143	Import	2.8959kg	PG	11y NPP 7y	AD	Possess drug	Key intermediary in international drug syndicate - 3 consignments linked to offender - trained other people in Australia to carry out the same role - surveillance recorded offender discussing weight of drugs imported or to be imported - ongoing course of planning and activity extending over at least three months - came to Australia for purpose of offence – premeditated planned offence From Hong Kong – illicit drug use - reasonable rehabilitation prospects.
Kev (40)	Import Possess	12.36kg	VG	14y 9m 6y <u>Total:</u> 14y 9m NPP 11y	AD	Nil	S travelled to Cambodia with knowledge of K to arrange importation of drugs – heroin suspended in liquid and sent in five packages to rental properties arranged by offenders – three controlled deliveries and one not delivered – seriousness of roles indistinguishable K – suffered persecution in Cambodia before coming to Australia S – Cambodian – drug addictions – depression and anxiety
Sok (35) [2015] VSCA 232	Import Possess		VG	14y 9m 6y <u>Total:</u> 14y 9m NPP 11y		Priors for violence	
Vo (49) [2016] VSCA 278	Consp import Dealing with proceeds of crime	1,497.7g imported – see facts	PG (25%)	AD	Minor	18y 18m <u>Total:</u> 18y 6m NPP 13y	Female – one of two Australian principals – conspired over 7 months to import drug from Vietnam - ongoing basis – supplied money to purchase drugs – arranged and organised couriers (often coercively) – liaised with contacts in Vietnam to prepare couriers – warehoused, prepared, supplied and distributed drugs – four successful importations – larger amounts sought and ordered Difficult and abusive background as refugee from Vietnam – suffering post-traumatic stress disorder

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
Hudson (49) [2016] SASCFC 60	Import	1.729kg	VG	9y NPP 4y 2m	AA 8y NPP 3y 6m (take into account PSC and home bail)	Limited – no drugs	Female from New Zealand – carried drugs in back pack from Singapore – motivation unclear – courier Grandmother with excellent work record
Afford [2017] VSCA 201	Import	2.415kg	VG	3y 2m NPP 2y	Crown AA 10y NPP 7y	Nil	Builder agreed to travel to Philippines to pick up goods in order to secure large building contract – suspicious as to nature of goods – aware of substantial risk – courier Motivated by greed – naïve and unsophisticated – prior good character – released to parole prior to appeal
Pham (35) Tran (32) Dang (51) [2017] QCA 46	Att possess Att possess Att possess	33.667kg 33.667kg 33.667kg	VG VG PG	12y NPP 7y 10y NPP 6y 10y NPP 5y 6m	Crown AD	Prior trafficking Nil Prior receiving	Heroin imported into Australia concealed in wooden altar – controlled delivery – found in possess of removing drugs from altars – all low level involvement – willing workers extracting drug
Tran (56) [2017] VSCA 346	Att possess	3.9883kg	PG	8y NPP 5y	AD	minor drug offences	Followed and took delivery of consignment containing drugs – checked package and prepared consignment for further distribution – anticipated \$20,000 for involvement – critical role and trusted associate Female – Vietnamese – mental health issues – impoverished and difficult background - remorse
Lee [2018] NSWCCA 75	Import Sched: 6 drug offences	13.9265kg	PG	12y NPP 6y 6m	AD		With 4 co-offenders imported drugs from Thailand during 2012 – offender made arrangements for importation in shipping container – co-offender employed by stevedoring company unloaded drugs and delivered to another co-offender – offender not at apex of operation Duress - threats from associate to whom offender owed gambling debt

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
Qui (39)	Import	16.3kg	PG	11y NPP 7y	AA 9y NPP 6y	nil	Brought in drugs concealed in suitcases from Malaysia – reckless as to contents – left suitcases on carousel to be collected by co-offender - couriers
Ng (33) [2019] VSCA 147	Import	13.4kg	VG	13y NPP 9y	10y 6m NPP 7y	nil	Both Malaysian citizens facing isolation in custody On appeal – breached parity with sentence imposed on third offender and failed to take into account intellectual disability of Ng
Le (33) [2019] VSCA 80	Import	3.689kg	PG	10y NPP 6y 6m	AD		Heroin imported in machinery parts from Thailand – controlled delivery – at least a principal and directly involved in arranging importation – gravity of offending high Female – Vietnamese – some isolation in custody due to language
DPP v Omar [2019] VSCA 188	Import	1.77kg	PG	5y 6m NPP 3y	Crown AA 8y NPP 5y		Flight attendant – agreed to import heroin in packages concealed under clothes for \$500 – role of courier aggravated by offender's position Malaysian national - isolation in custody
Kao (26 at offence; 31 at sentence) [2020] NSWCCA 38	Import	10kg	PG (25%)	8y NPP 5y	AA 7y 6m NPP 4y 8m	nil	Female – committed offence out of fear of person from criminal organisation to whom she owed money - Leased premises and arranged for delivery of consignment from overseas; removed drugs; packaged drugs. Mitigatory duress - powerful subjective features - lesser sentence warranted. CCA: error in not providing discount for utilitarian value plea of guilty (Xiao v R (2018) 96 NSWLR 1)
Sara (34) [2020] NSWCCA 119	Consp to import	18kg	PG (25%)	7y 6m NPP 5y	Crown AD	Drug offences	Participated in conspiracy to import drugs from Fiji – intermediary in Australia for overseas participant – relatively low role – participated for two months then voluntary withdrew after drugs seized – knew amount and type of drug – involvement of undercover operant from early in conspiracy reduced gravity Powerful subjective case – remorse – mental health issues – good prospects of rehabilitation On appeal: no error in findings of SJ - sentence not manifestly inadequate

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
Hong (29 at offending; 39 at sentence) [2020] NSWCCA 225	Attempt possess	25kg	PG (25%)	15y NPP 10y	AA 14y NPP 9y	Nil	2011 - Oversaw packaging of furniture containing drugs from overseas – arranged for furniture to be brought to Sydney- significant role. Gambling addiction – offence for money. Acceptance of responsibility and remorse; excellent, almost completely unblemished, progress over past years. CCA: <i>Xiao</i> error established.

Last updated – August 2020

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.