

Import Cocaine
Commercial Quantity
s.307.1 (Cth) Criminal Code

Commenced 6.12.2005

307.1 Importing and exporting commercial quantities border-controlled drug

Commercial Quantity: 2kg

Maximum Penalty: Life

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
1.	J Anderson (68) M Anderson (30) NSWDC Flannery SC DCJ 27.11.2008 (J Anderson) (2010) 202 A Crim R 68 [2010] NSWCCA 130	Consp import comm qty Consp import comm qty	20kg cocaine	VG PG	18y NPP 11y 10y NPP 6y	AD	Lengthy Nil	Cocaine found attached to hull of two boats three months apart – J travelled to Panama to purchase cocaine – both men involved in retrieving cocaine from hull of ship on first occasion – M only involved in first shipment of 14.4kg - J involved in second shipment also – closer to middle level of criminality than upper level J – father – primary participant in conspiracy in Australia – poor health M – son – lesser criminality – unaware of amount involved – no financial gain – involved out of loyalty to father - early manifestations of paranoid schizophrenia at time of offence – remorse

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2.	<p>Nguyen (42)</p> <p>Pham (32)</p> <p>(2010) 205 A Crim R 106 [2010] NSWCCA 238</p>	<p>Import comm qty</p> <p>Import comm qty</p> <p>Sched: 2 x Att possess comm qty</p> <p>Att possess comm qty: s.307.5</p> <p>Sched: Att possess comm qty</p>	<p>27.1535kg cocaine</p> <p>13.04kg methamphet</p> <p>27.1535kg cocaine</p>	<p>PG (15%)</p> <p>PG (10%)</p>	<p>14y NPP 9y</p> <p>FT 7y 6m</p> <p><u>Total:</u> 14y 6m NPP 9y 6m</p> <p>11y NPP 7y</p>	<p>Crown AA 16y</p> <p>16y</p> <p><u>Total:</u> 18y NPP 12y</p> <p>Crown AA 15y NPP 10y</p>		<p>Cousins – drugs imported from Canada concealed in foot spa units – controlled delivery</p> <p>N – involved in setting up business and subsequently arranging to pick and store spa units, removed drugs from units and helped deliver to third person – not a principal but significant role in organisation – financial reward</p> <p>P – female – significant role liaising with people in Canada and unpacking drugs once they arrived in Australia</p>
3.	<p>Holland (57)</p> <p>[2011] NSWCCA 65</p>	<p>Aid and abet import comm qty</p>	<p>7.2444kg cocaine</p>	<p>PG (45% plea and assist)</p>	<p>6y 8m NPP 4y</p>	<p>Crown AD</p>	<p>nil</p>	<p>Paid to find storage unit for drugs – received directions from others in hierarchy – low level in hierarchy - not aware of amount of drug involved</p> <p>Canadian national – in financial difficulty</p>

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4.	<p>Nguyen (34)</p> <p>Phommalsack (25)</p> <p>(2011) 31 VR 673 [2011] VSCA 32</p> <p>Co-offenders: NGUYEN LUONG NGUYEN</p>	<p>Attempt import comm qty</p> <p>Att possess comm qty: s.307.5</p> <p>Att possess comm qty: s.307.5</p>	<p>29.1kg cocaine</p> <p>21.8kg methamphet</p> <p>6.3kg ecstasy</p> <p>29.1kg cocaine</p>	<p>PG</p> <p>PG</p>	<p>10y</p> <p>7y</p> <p><u>Total</u> 12y NPP 8y (14% assistance)</p> <p>12y NPP 9y</p>	<p>AD</p>	<p>Nil</p> <p>AR as a youth</p>	<p>Drugs concealed in foot spas – controlled delivery N arranged for lease of factory - liaised with customs brokers to arrange clearance and delivery - liaised with purchasers – signed for delivery of container – present when unpacking commenced. P – recruited and sent from Sydney to pick up drugs – arranged to have drugs concealed in car – drug user – to receive \$10,000 up front then \$40,000 N – female – promised assistance – became involved to repay debt to co-offender – to receive at least \$25,000 towards debt</p> <p>Co-offenders Luong (Hung) and Nguyen (Minh) dealt with for s.307.5: att possess comm qty</p>
5.	<p>Lau (34)</p> <p>Yim (36)</p> <p>Yung (20)</p> <p>[2012] VSC 325 Forrest J</p>	<p>Import comm qty</p> <p>Import comm qty</p> <p>Att possess comm qty: 307.5</p> <p>Sched: Proceeds of crime: s.400.9 (Cth) <u>Code</u></p>	<p>207.6kg cocaine</p> <p>207.6kg cocaine</p> <p>45.6kg cocaine</p>	<p>PG (20%)</p> <p>PG (20%)</p> <p>PG (20%)</p>	<p>20y NPP 16y</p> <p>19y NPP 15y</p> <p>11y NPP 6y 6m</p>		<p>Nil</p> <p>Nil</p> <p>Subsequent proceeds of crime offences</p>	<p>Drugs concealed in boxes containing lawn mowers – shipped from Brazil – controlled delivery Yim – involved in practical tasks of storing, repackaging and distributing drugs – to receive \$12,000 Lau - supervised Yim - instructed him as to unpacking and repacking of cocaine, liaised with purchaser/s, kept Hong Kong organisation informed – to receive \$60,000 Yung – collected portion of drugs on behalf of others – second offence unrelated</p>

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6.	Tang Pham [2012] VSCA 101	Import comm qty Import comm qty Import comm qty Att possess comm qty: 307.5 Att possess comm qty: 307.5 Att possess comm qty: 307.5	71.564kg cocaine 9.757kg ecstasy 29.285kg methamphet 71.564kg cocaine 9.757kg ecstasy 29.285kg methamphet	PG VG	15y 15y 15y <u>Total:</u> 19y NPP 14y 15y 15y <u>Total:</u> 19y NPP 14y	AD		Drugs imported from Canada concealed in spa and pedicure chairs – controlled delivery – role of each offender difficult to ascertain – highly organised and sophisticated business T greater culpability – more intimately involved and gave instructions – came out from Canada to confirm quantity of drugs and deal with discrepancies P – facilitated delivery to warehouse and unpacking of drugs
7.	Nguyen (39) [2012] VSCA 119 Co-offenders: PHUONG PHOMMALYSACK LUONG NGUYEN	Import comm qty Att possess comm qty: s.307.5	55kg mixture of cocaine, ecstasy and methamphet	PG (21% plea and assist)	12y 8y <u>Total:</u> 15y NPP 11y 6m	AD	nil	Female - drugs imported from USA in foot spas – controlled delivery - promised money, car and a house – recruited and gave directions to several co-offender Voluntarily returned from Vietnam Co-offenders Luong (Hung) and Nguyen (Minh) dealt with for s.307.5: att possess comm qty

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8.	Saab (37) [2012] VSCA 165	Import comm qty	14.6kg cocaine	PG	14y NPP 10y (pre discount for guilty plea: 15y NPP 11y)	AD	nil	Drugs concealed in machinery sent from Canada – controlled delivery – highly organised drug importation - Australian contact and principal organiser – supervised collection and unpacking of drugs and to organise distribution to pre-arranged parties Unsettled background
9.	Sparos (2013) 235 A Crim R 462 [2013] NSWCCA 223	Import comm qty Supply lge comm qty cocaine (NSW) Sched: Proceeds of crime	40-60kg cocaine	PG	14y 6m NPP 8y 6m 4y 4m NPP 3y 3m <u>Total:</u> 15y NPP 9y	AD		Drugs imported in saw blades through co-offender's family business – drugs delivered to home of co-offender – proceeds of crime offence related to over \$2 million dollars – subordinate to co-offender who was middle level manager
10.	Ruiz (33) [2013] VSCA 313	Consp import comm qty	Approx 30kg cocaine	PG	12y NPP 7y	AA 9y NPP 5y 6m		Mexican national - drug imported from Mexico concealed in garden furniture – controlled delivery – trusted observer – modest financial reward Early plea – remorse - fresh evidence of assistance on appeal – isolation in custody
11.	Webber [2014] NSWCCA 111	Import comm qty Possess proh drug (NSW) Supply proh drug (NSW) Possess proh drug (NSW)	2.2193kg cocaine 72.3g cannabis 1g cannabis 1.6g cocaine	PG (25%)	11y NPP 7y FT 15m FT 15m FT 12m (concurrent)	AD	Minor drug matters (old)	Nominated as consignee on parcel containing drugs imported from overseas – worked with other co-offenders - controlled police operation Respected professional golfer who worked as golf instructor – personal drug use.

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12.	RCW (No.2) (54) (2014) 244 A Crim R 541 [2014] NSWCCA 190	Aid and abet import comm qty	3.96kg cocaine 2.25kg ecstasy 1.34kg methamphet 3.79kg other	PG (50%)	5y 6m NPP 3y	AA 2y NPP 1y	Nil	Unusual case – pressured into assisting with delivery of drugs concealed in oven imported from Canada – spoke to police halfway through offence and commenced co-operation – duress – no evidence of financial gain Medical condition – assistance
13.	Bae (34) [2015] NSWCCA 133 [2020] NSWCCA 35	Aid and abet import comm qty Aid and abet import comm qty Aid and abet import comm qty Aid and abet import comm qty Aid and abet import mkt qty: s.307.2	3.713kg cocaine 4.021kg cocaine 2.266kg methamphet 2.243kg methamphet 650g heroin	PG (15% - increased on appeal)	10y 10y 10y 10y 5y <u>Total:</u> 20y NPP 12y	AD / AA 9y 9y 9y 4y 9m <u>Total:</u> 18y 6m NPP 11y	Nil	Korean – drugs found in 18 boxes sent from Canada over five months – came to Australia to co-ordinate receipt and collection of boxes, storage and subsequent transfer – part of well-organised scheme – not isolated – considerable financial gain Second appeal after s.79(1)(b) <i>Crimes (Appeal and Review) Act 2001</i> referral – application of <i>Xiao</i> – further discount for utilitarian value of plea – additional evidence of rehabilitation taken into account
14.	Velez (53) [2015] NSWCCA 177	Consp import comm qty	500kg cocaine	VG	18y NPP 10y 10m	AA 17y NPP 10y	Nil	Part of syndicate - imported into Australia large quantity of cocaine in December 2009-early 2010 - cocaine shipped from South America into Tonga then into Australia - some cocaine remained in Tonga - intention of conspirators to import "leftover" into Australia at later time – offender acted as conduit between two groups - passed on information and any instructions – vital role in syndicate. Depression – isolated from family in Colombia.

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15.	DPP (Cth) v Gow (2015) 252 A Crim R 573 [2015] NSWCCA 208	Import comm qty	2.3kg cocaine	VG	8y NPP 5y	Crown AD	Nil	Drugs secreted in computer towers in four packages – came to Australia from Canada to collect packages – towards lower end of hierarchy although with some autonomy
16.	Mato Rusu [2015] NSWCCA 328	Consp import comm qty Proceeds of crime: s.400.3(1) Consp import comm qty Proceeds of crime: s.400.3(1)	209kg cocaine	VG VG	26y 9m 12y 6m <u>Total</u> 30y 3m NPP 19y 27y 10y <u>Total:</u> 29y 9m NPP 18y 10m	AD AD	Assault, malicious damage Drug supply (old matters – not significant)	Six importations from USA with co-offender – co-offender paid \$1.4m to provide the paper work to enable drugs to be imported - extremely high level of organisation - approaching worst case category - additional criminality in proceeds offences concerning monies received from cocaine importations.

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17.	Thomson [2016] NSWCCA 56	Consp import comm qty Supply lge comm qty (NSW) Possess prohibited weapon Sched: Supply cocaine	3.96kg cocaine 1.3kg methamphet 2.25kg ecstasy 3.79kg PMMA 1.97kg methamphet	PG (10%) PG (25%)	14y NPP 7y 6m <u>Indicative</u> 8y 2y 6m <u>Aggregate</u> 9y NPP 6y (concurrent)	Crown AA 14y NPP 7y 6m <u>Indicative</u> 8y 2y 6m <u>Aggregate</u> 9y NPP 6y <u>Total:</u> 17y NPP 10y 6m	Minor	Drugs to be imported from Canada in industrial oven frame – controlled delivery – a principal – involved in making arrangements in Australia and supervising others – taser and 95.4g cocaine found in house – in unrelated transaction supplied methamphetamine to co-offender who took it to Melbourne on bus Difficult childhood – drug addiction from very early age – family history of mental illness
18.	Bernardo (23) [2017] QCA 6	Import comm qty	2.069kg cocaine	PG	9y NPP 5y 6m	AD	Nil	Brazilian national entered Australia with co-offender carrying drugs in pants Some financial pressure at home Co-offender CUNHA dealt with for importing marketable qty
19.	Elfar (49) Golding (41) [2018] 1 Qd R 608 [2017] QCA 170	Import comm qty Import comm qty	283kg cocaine 283kg cocaine	VG VG	30y NPP 20y 30y NPP 18y	AD AD	minor and irrelevant minor and irrelevant	Sailed boat to Coral Sea to pick up cocaine – once back in Moreton Bay delivered portion of drugs – E involved longer and had control of ship

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20.	Jaafar (49) [2017] NSWCCA 223	Consp import comm qty	123.4kg cocaine	PG (25%)	18y 6m NPP 11y	AA 17y 6m NPP 11y	Minor	Involved in conspiracy importing drugs from Argentina in wine bottles – controlled delivery - not principal but managerial role – major and substantial player – involved in receiving and storing bottles until drug could be extracted – performed other organisational tasks – aware large quantity of drugs Gambling problem – delay between guilty plea and sentence
21.	Phelps (30) Zapala (33) [2018] NSWCCA 191	Att possess comm qty Import comm qty Proceeds of crime s.400.6(1) Sched: 2 offences	11.99kg cocaine 11.99kg cocaine	PG (30% combined) PG (25%)	4y 6m NPP 2y 3m 8y 2y <u>Aggregate</u> 9y NPP 5y 3m	Crown AD Crown AD	minor drug nil	Sophisticated syndicate – cocaine imported in box marked ‘food sausage stuffer’ – controlled delivery and operation – Z senior and trusted member responsible for importation – delivered \$40,000 cash to car according to arrangements made with co-offender – obtained and passed on details of consignment – at least mid-range – P significant but not crucial role – picked up consignment using false identification – not aware of sophistication of operation or amount of drugs – reckless – limited involvement P – relatively good character – drug user – genuine remorse – some mental health problems Z – prior good character but previously involved in criminal activity – excellent prospects of rehabilitation
22.	Klomfar (41) [2019] NSWCCA 61	Import comm qty	4.653kg cocaine	PG (30% plea and assist)	7y 8m NPP 5y	AD	limited	Travelled to Australia with female co-offender collecting suitcases containing dugs in America – female offender carried 4701.5kg in her suitcase – to be paid upon return to Czech Republic – courier at lower end of scale – knowledge both of nature and amount of goods Some evidence of remorse – good prospects of rehabilitation
23.	Diaz (62) [2019] NSWCCA 216	Import comm qty	3.5kg cocaine	PG (25%)	9y 6m NPP 4y 10m	AA 9y NPP 4y 6m	Nil	With 2 others, each in possession of drugs on cruise ship travelling from Spain – US citizen - to receive US\$10k for import – travel had been paid for - needing money as a result of an expensive divorce. Very good progress made whilst in custody CCA: <i>Xiao</i> (2018) 96 NSWLR 1 error established

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24.	Wang (42) [2019] VSCA 250	Att import comm qty	123.84kg cocaine	PG (discount unclear)	13y 10m NPP 9y	Crown AA 16y 6m NPP 10y 9m (pre discount for guilty plea: 20y NPP 15y)	nil	Master of ship paid fixed amount to carry drugs from China to Australia – waited off shore while three failed attempts made to retrieve drugs from ship – not a principal but more than mere courier – high level of offending for this type of offence Married with children – isolated from family Failed to give promised assistance at trial of co-offender – sentence without discount for guilty plea on appeal indicated as 20y NPP 15y
25.	Gershuny (50) Ruiz [2019] NSWCCA 14	Import comm qty Import comm qty	3.5kg cocaine	PG (25%) PG (25%)	9y 6m NPP 4y 10m 9y 6m NPP 4y 10m	AA 9y NPP 4y 6m 9y NPP 4y 6m	Old cannabis offence.	Drugs located in possession on cruise ship - drugs hidden in shoe soles and shorts - both couriers. Gershuny – remorse – rehabilitation Ruiz – lower end seriousness –rehabilitation CCA: <i>Xiao</i> error established.
26.	Da Silva (39) [2020] QCA 176	Import comm qty Att possess comm qty: s.307.5 Dealing proceeds of crime	4.0537kg cocaine	PG	9y 4y 12m <u>Total:</u> 9y NPP 4y 6m	AD	nil	Involved in importation of drugs from Brazil using courier – tasked with collecting drugs from courier and making payment – limited but planned involvement – more culpable than courier Some contrition – offending out of character – effect of panic disorder on custodial conditions – excellent prospects of rehabilitation
27.	Estevez [2020] NSWCCA 184	Import comm qty	2.5393kg cocaine	PG (33.3% combined)	9y NPP 6y	AA 7y NPP 4y 8m		US citizen – cocaine detected in suitcase at airport – mobile phone conversations showed involvement to import cocaine – wholesale value \$761,420; street value \$2 million. Drug user - agreed to import for a promised amount of \$10,000 to clear drug debt. Genuine remorse- rehabilitation prospects. CCA: <i>Xiao</i> error established.

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28.	Nweke (39) [2020] NSWCCA 153 [2020] NSWCCA 227	Consp import comm qty	2.514kg cocaine	VG	13y 9m	AA 13y 3m NPP 8y	Lengthy – drug offences – offence committed while on parole for similar offence	Negotiated with males in Brazil and Nigeria over one month to import drugs from Brazil via Vanuatu using hapless, innocent agent – drugs intercepted in luggage – made numerous phone calls while in immigration detention centre – seeking financial advantage – high level role Nigerian national – 5% discount for conduct of trial – difficult life in Nigeria On appeal: discussion on application of revocation of parole sections in (Cth) <i>Crimes Act</i>
29.	Parker (40) [2020] NSWCCA 206	Import comm qty Import comm qty Import comm qty Proceeds of crime offences s.400.3(1) 2 x s.400.4(1) 2 x s.400.5(1)	50.7kg cocaine 15kg cocaine 60kg cocaine \$5.37m \$187,000 \$312,450 \$50,000 \$35,800	PG (10%)	27y 20y 26y 13y 7y / 8y 5y / 4y <u>Total:</u> 33y NPP 22y	AD	Nil	Sydney airport baggage carousel technician – drugs imported on six occasions over 1 year - removed drugs from baggage at airport – delivered to persons unknown outside airport – in contact with others regarding delivery of baggage and manipulation of airline baggage system - essential high ranking role due to access to secure baggage area – substantial reward of \$6 million subject of laundering offences – money spent on home, travel, jewellery - \$5.37 million cash found in home. Difficult childhood - hard-working, good father - reasonable prospects rehabilitation.

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30.	Jackson (63) [2020] NSWCCA 230	Import comm qty Proceeds of crime: s.400.5(1)	547.71kg cocaine \$60,000	PG (combined 40%)	19y NPP 12y FT 2y <u>Total:</u> 19y 6m NPP 12y 6m	AD	n/a	With two co-offenders imported drugs on yacht / catamaran from Tahiti – drugs seized from vessel – middle manager in operation; principal in Australia; met with more senior figure in Thailand - responsible for coordination and logistics as well as recruitment of co-offenders; collected money; gave instructions to co-offenders; provided encrypted mobile phones to co-offenders - was responsible for removing drugs and transporting onto dry land for delivery; was to exchange drugs for \$15 million; to receive \$3 million payment to split with co-offenders - proceeds of crime offence involved \$60k Separated from wife, children – depression - good character – prospects of rehabilitation
31.	Martinez [2020] NSWCCA 250	Import comm qty	2.565kg cocaine	PG (25%)	7y NPP 4y 8m	AD		Drugs detected concealed in suitcase after arriving from overseas by plane - premeditated offending committed for financial gain Financial stress from gambling debts
32.	Kaurasi (30) [2020] NSWCCA 253	Import comm qty	42.941kg cocaine	PG (30% combined on appeal)	12y NPP 9y	AA 11y 3m NPP 8y 5m	Nil	Organised shipment of drugs concealed in 'Fijian Water' boxes from Fiji – not principal but important role – financial gain Fijian national – good prospects of rehabilitation On appeal: <u>Xiao</u> error – evidence of subsequent remorse, insight and rehabilitation progress accepted
33.	Yavuz (26) [2020] SASCFC 97	Consp import comm qty	Not established – more than 2kg cocaine	PG (20%)	9y 6m NPP 6y 6m	AD Crown AD	Nil prior – committed unrelated cannabis offences at the same time	Involved in conspiracy to import drugs from Panama in boat – amount of drugs to be imported never finalised but over 2kg – fully engaged but secondary role – property used for meetings – recruited and supported courier who flew to Panama – drugs never left Panama due to leaking boat – conspiracy not well planned or executed Sentence imposed partially concurrent to sentence for unrelated cannabis offences committed at the same time Good work history - remorse – married with three children

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34.	Lembke [2020] NSWCCA 293	Import comm qty	700kg cocaine	VG	9y NPP 6y	Crown AD	Yes - not indicated.	Flew to Tahiti and sailed yacht back to Australia; received \$10k payment - drugs concealed in yacht - offered \$500k by co-conspirator when yacht arrived in Australia – sentenced on basis that state of knowledge was participation in conspiracy only after yacht had arrived in Australia – minimal involvement of facilitating removal of drugs from yacht by taking co-conspirator to yacht - below mid-range and top of low-range objective seriousness. Low likelihood of re-offending.
35.	Macallister (a pseudonym) [2020] NSWCCA 306	Import comm qty	32.1kg cocaine	PG (combined 50%)	8y 5m NPP 5y 7m	AA 7y 6m NPP 4y 7m	Nil	Involved in importation of drugs – unaware of weight – not principal – higher culpability than co-offenders Genuine remorse – assistance – good character – foreign national – positive prospects of rehabilitation On appeal: erroneously used statement of assistance to aggravate offence – <i>Bourchas</i> applied
36.	Carmona (25) [2020] VSCA 295 Weinberg JA Co-offenders: SALAZAR PALMISANO MUNOZ	Import comm qty Import comm qty Proceeds of crime: s.400.6(1)	5.766kg cocaine 4.072kg cocaine Over \$10,000	PG	10y 10y 1y Total: 14y 6m NPP 10y (pre discount for guilty plea: 18y NPP 14y)	Leave to appeal refused		Cocaine shipped in two consignments from Chile and Panama – pivotal role – in contact with supplier – directed co-offenders to take delivery of consignments and bring to apartment – second consignment a controlled delivery Colombian student – motivated by greed increasing moral culpability – some remorse – fair prospects of rehabilitation – isolation in custody – good character

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37.	Munoz [2020] VSCA 296 Weinberg JA Co-offenders: SALAZAR PALMISANO CARMONA	Att import comm qty Possess drug reas suspected of being imported s.307.10 Proceeds of crime: s.400.7(1)	4.072kg cocaine	PG	8y 6m 2m 15m <u>Total:</u> 9y 3m NPP 6y 3m (pre discount for guilty plea: 12y 6m NPP 9y)	Leave to appeal refused	nil	Cocaine shipped in two consignments from Chile and Panama – offender charged only with second consignment – remitted money to fund importation and involved in attempt to remove cocaine – expected financial reward – role marginally less important than co-offender Carmona Colombian student – model prisoner – isolation – good prospects of rehabilitation – delay On application: rejected parity argument
38.	Cressel (29) [2021] NSWCCA 26	Import comm qty Import mkt qty: s.307.2	3.3263kg cocaine 1.4237kg cocaine	PG (combined 35% on appeal)	<u>Indicative:</u> 9y 6y 6m <u>Aggregate:</u> 10y NPP 6y 6m	AA <u>Indicative:</u> 9y 6y 6m <u>Aggregate:</u> 10y NPP 6y	No	First quantity of drugs imported from USA concealed in multivitamins – upon arrest notified authorities of smaller amount imported several days later concealed in horse shampoo – acting on behalf of person – financial motivation – arranged delivery addresses for drugs – generally aware of amounts – solely responsible for facilitating receipt of drugs after importation – significant planning On appeal: <i>Xiao</i> error established. US citizen – remorse – assistance in relation to own involvement in second count – importance of general deterrence – good character – favourable prospects of rehabilitation – developing PTSD due to incident in custody

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39.	Garcia-Godos (38 at offence; 48 at sentence) [2021] NSWCCA 229	Import Conspire proceeds of crime: s.400.4(1) Sched: 1 offence	34kg cocaine \$702k	PG (10%) PG (25%)	24y 10y <u>Total:</u> 27y NPP 17y	AD	1990 offence for possess prohibited import.	Involved at high level in sophisticated criminal syndicate - travelled to Australia 3 times – recruited consignee in Sydney – established business front to make importation look legitimate - monitored importation, advised associates in Peru when drugs arrived - arranged for collection by consignee and transport to warehouse - oversaw in a general way sale of drugs, not involving much actual instruction or control - controlled remittance of cash proceeds – street value \$15m; wholesale value \$5m. Work ethic – previously successful businessman - good behaviour in prison, reflective of pro-social upbringing and education. CCA: re-sentence due to Xiao error, however, no lesser sentence warranted.
40.	Cth v D'Agostino (61 at sentence) [2021] NSWSC 291 Co-offender: D'AGOSTINO	Consp import comm qty Consp import comm qty Consp import comm qty	400kg (gross) cocaine 449.24kg Cocaine 18.728kg heroin	VG VG PG (5%)	<u>Indicative</u> 25y 18y 20y 10m <u>Total:</u> 30y NPP 20y		Serious drug offences – breached conditional liberty	(2014-2016) Three conspiracies over 18 months – plan to import heroin from Fiji using fishing boat as trial run – drugs seized in Fiji – separate plan to import cocaine from Colombia using fishing boat and submarine – drug pick up failed – third plan to import cocaine using yacht – drugs seized by French navy – complex and sophisticated planning involving numerous meetings and communications, counter-surveillance and outlay of substantial resources – criminality at very high level and persistent – conspiracies originated with offender who played pivotal role Importance of specific deterrence in view of record – mental health making custodial conditions harder – some indication of contrition – totality in view of existing sentence

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41.	Geraghty (69) [2023] NSWCCA 47	Consp import comm qty	1.11 tonnes cocaine	VG	Life NPP 25y	AD	Drug importation. On parole.	(2014-2017) Involved with 5 others – three attempts to transport drugs on ‘mothership’ to be met by boats off NSW – role with 2 others as Australian land-based conspirator - highest level within conspiracy - dominant, overarching role - primary role of negotiating, communicating, with persons who sourced drugs - principal role throughout conspiracy and oversaw steps undertaken by co-conspirators - following failed attempts, acted to revive conspiracy – outlaid considerable amounts of money to put conspiracy into effect - financial reward - highest band of objective seriousness. Advanced age – ill-health. CCA: sentence not manifestly excessive.
42.	AE [2023] NSWCCA 74	Import comm qty	15.35593kg cocaine	PG (25%)	10y 6m NPP 6y 6m	AD	Nil	Travelled to Spain – arranged importation of drugs hidden in containers containing granite tiles – customs officers substituted drugs - arranged for containers to be picked up and delivered to premises. Good character - responsible, well-paid employment - used drugs following marriage breakdown; depression - very good prospects rehabilitation. CCA: Sentencing judge gave full weight to “devastating” effect of incarceration upon parents and children.
43.	Giles-Adams (27) Preca (32) [2023] NSWCCA 122	Att import comm qty	1,552.6kg (1.5526 tonne) cocaine	PG (25%)	17y NPP 10y	AA 13y 6m NPP 8y	Minor Minor	Three offenders in boat took delivery of cocaine from fishing vessel off coast of NSW – intercepted – no evidence aware of exact amount – these offenders involved in preparations for several months – significant planning to avoid detection – financial gain – role above lower level Both of prior good character – heavy substance abuse – good prospects of rehabilitation – remorse – unlikely to re-offend On appeal: SJ erred in not taking into account willingness to facilitate justice distinct from utility of plea – error in assessing offenders’ role at intermediate level – disparity with sentence of third offender

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	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
44.	D'Agostino [2023] NSWCCA 212 Co-offender: D'AGOSTINO	Consp import comm qty Sched: Consp import comm qty	18kg heroin 610kg cocaine (gross) 400kg cocaine (gross)	PG (12.5%)	10y 6m NPP 6y 3m	AD	Nil	Involved with brother in three conspiracies to import drugs from Fiji and Colombia on boats – trusted lieutenant - not as culpable as brother – active participant involved in planning and preparation – conspiracies several months each in 2014-2016 Remorse – good prospects of rehabilitation and unlikely to re-offend – became involved because of gambling and misguided loyalty to brother – psychological and psychological health issues On appeal: evidence of deterioration in health did not justify allowing appeal
45.	Thompson (66 at offence; 70) [2023] NSWCCA 244	Consp import comm qty	1.11 tonnes cocaine	VG	Life NPP 22y	AD	Drug importation and supply	Participated in single conspiracy involving three separate attempts to import drug - first two attempts failed - third attempt, with alleged co-conspirator, departed New Zealand on yacht owned by applicant – met with mothership in international waters obtaining cocaine - yacht intercepted by Australian authorities - “principal” in sense of being responsible for (sophisticated) logistics of transporting cocaine across vast distance of ocean – conspiracy sophisticated, over considerable period of time. Largest quantity of cocaine seized in the course of importation into Australia. Low risk of reoffending because of “advanced age” upon release from prison.

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