

Import MDMA / Ecstasy
Commercial Quantity
s.307.1 (Cth) Criminal Code

Commenced 6.12.2005

307.1 Importing and exporting commercial quantities border controlled drug

Commercial Quantity: 500gm

Maximum Penalty: Life

Ecstasy / MDMA: 3,4-methylenedioxymethamphetamine

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Record	Facts
1.	Englisch [2009] VSCA 71	Import comm qty	555.48g (0.55548kg) MDMA	PG	7y 6m NPP 5y	AD	Prior drug offence	Pills imported in hard cover books
2.	Rosenfeld [2009] NSWCCA 74	Import comm qty	90kg MDMA	VG	21y NPP 13y	Conviction AD		Drugs imported concealed in solar hot water tanks – collected tanks in Israel and delivered them for importation – controlled delivery - arranged for delivery of goods to storage unit and attempted to extract drugs
3.	Tsang [2011] VSCA 336	Import comm qty Att traffic comm qty: s.302.2	74.1kg MDMA	VG	Life NPP 27y Life NPP 27y	AA 28y 24y <u>Total</u> 29y NPP 19y	Nil	Involved in importing drugs hidden in ink containers – arranged customs clearance and transport of drugs to Sydney for storage – controlled delivery - very serious offence – principal player towards top of hierarchy – significant role in offences over 6 weeks in Australia Hardship as foreigner in custody - parity

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4.	Ljuboja (60) [2011] WASCA 143	Import comm qty Consp to traffic comm qty: s.302.2	60kg MDMA 35.2kgs MDMA	PG	25y NPP 16y 25y NPP 16 (concurrent)	AD	Dishonesty offences and appalling driving record	Role was to oversee importation, arrange for manufacture of drug into tablets, sell tablets and remit money to principals in Europe - existing associate of European drug traffickers - drugs did not belong to him - Australian agent and senior man in Australia - powder could have made at least 350,000 ecstasy tablets
5.	Dehghani [2011] 1 Qd R 339 [2011] QCA 159 Co-offenders: BURLING GILL	Import comm qty 3 money offences	5.219kg MDMA	PG (16.5%)	10y 10m NPP 6y 6m FT 2y (concurrent)	Crown AA 14y NPP 7y 9m		Travelled to UK with de facto partner B to purchase, package and send drugs in boxes marked toys – packages sent to G 27.78% for assistance - Failure to give promised assistance
6.	McCraw [2011] NSWCCA 162 Co-offender: ALPHA	Consp import comm qty	30.82kg MDMA	VG	17y NPP 11y	AD	Nil relevant	Drugs imported into Australia on ship from Belgium – used position as dock worker to access and unload drugs from ship – significant and crucial role

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9.	RCW (No.2) (54) (2014) 244 A Crim R 541 [2014] NSWCCA 190	Aid and abet import comm qty	2.25kg MDMA 3.96kg cocaine 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
10.	Burling (37) Gill (42) [2015] QCA 51 Co-offender: DEGHANI	Import comm qty Import comm qty	5.2193kg MDMA	VG VG	12y NPP 7y 3m 9y NPP 5y 6m	AD	Nil Nil	Females - B and her husband packaged drugs in London into toys and sent them to G – G to receive \$20-30,000 – controlled delivery B carer for three young children G – carer for disabled grandchild
11.	Schelvis (32) Hildebrand (37) (2016) 263 A Crim R 1 [2016] QCA 294	Consp import comm qty Consp import comm qty	104kg MDMA	VG	21y NPP 14y 14y NPP 9y	AD AD	Nil Nil	Sister and brother involved in conspiracy with others to import drugs from Spain concealed in olive oil bottles using S's importing company – conspiracy broke down before drugs arrived - S extensively involved – recruited H - would also have stored drugs for several weeks – aware of nature of drugs although possibly not exact amount – H lesser involvement S – female – gullible H – impeccable prior character

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12.	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 MDMA 3.79kg PMMA 1.97kg methylamphet	PG (10%) PG (25%)	14y NPP 7y 6m <u>Aggregate</u> 9y NPP 6y (concurrent)	Crown AA 14y NPP 7y 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
13.	Nozhat (No.3) [2019] ACTSC 160 Mossop J	Att import comm qty	279kg	PG	3y 7m NPP 1y 10m		Nil	Limited involvement in importation of drugs by co-offender from Germany hidden in chlorine – drugs intercepted - reckless only as to presence of drugs and not aware of amount – became reckless late in involvement and conduct limited to two phone calls – low objective seriousness Excellent character references – low risk of re-offending – good prospects of rehabilitation

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14.	Yavuz [2020] ACTSC 248 Loukas-Karlsson J [2022] ACTCA 5 Co-offenders: OMARI POULAKIS	Jointly import comm qty	1.771kg MDMA	PG (15%)	8y 6m NPP 5y 1m	AD	In custody for similar although unrelated offences	Involved in importation of drugs – sentenced only for one consignment although earlier consignment relevant as context - reckless to exact quantity but aware more than commercial amount – organizational role in syndicate at top level – circumstance of aggravation that offence committed while offender in custody for similar offences – acted for financial gain Prospects of rehabilitation guarded – hardship in custody
15.	Poulakis [2020] ACTSC 247 Loukas-Karlsson J Co-offenders: OMARI YAVUZ	Jointly import comm qty Traffic (ACT) Sched: Firearm and money laundering offences	2.2238kg MDMA 1.19kg dibutylone	PG (15%) (25%)	5y 9m NPP 2y 9m 9m <u>Total:</u> 6y NPP 3y		Limited	Involved in importation of drugs in two consignments – converted money for payment – ordered and tracked consignments – created and used fraudulent telephone accounts – lesser offender than Yavuz - dibutylone found in garage – firearm offence unrelated to drug offences Remorse and insight – good prospects of rehabilitation – impact of Covid
16.	Omari (early 30s) [2021] ACTSC 18 Loukas-Karlsson J [2022] ACTCA 4 Co-offenders: YAVUZ POULAKIS	Jointly import comm qty Traffic (ACT) Sched: 4 offences	2.2238kg MDMA 32.485g cocaine	PG (15%)	2y 9m 1y 3m <u>Total:</u> 3y (released after 15m for 2y)	Crown AA 3y 10m NPP 1y 7m 1y 3m NPP 8m <u>Total:</u> 4y 6m NPP 2y 3m	Driving offences	Involved in importation of drugs in two consignments – entered agreement to import marketable quantity reckless to possibility importation was commercial quantity – monitored consignment and attempted to arrange collection – involved over several months but not from beginning – became reckless as to amount later in conspiracy – lower level in hierarchy – some financial gain – followed instructions – trafficking offence to support personal use and lower end of range – scheduled offences related to drug offending Close family – some evidence of remorse and prospects of rehabilitation

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17.	Jomaa [2022] NSWCCA 112	Attempt import comm qty	154kg MDMA	PG (25%)	21y NPP 14y	AA 18y NPP 12y	Limited criminal history	With co-offenders; met in Australia and overseas to arrange importation – offender communicated with police undercover operative as part of extensive police investigation - very senior role: overall organiser or overseer of international operation - undercover operative offered encouragement to offender particularly by instilling confidence in reliability of importation method - motivated by financial gain. CCA: Sentencing judge erred in not placing any weight on role of police undercover operative - role was such that objective seriousness less than highest level although still well above middle of range. Changed attitude towards drugs – remorse - prospects of rehabilitation - strong subjective case.
18.	Ibrahim [2022] NSWCCA 161	Consp import comm qty Consp import comm qty s.400.3(1) s.400.3(1) s.400.3(1) Sched: 3 offences	594.43kg MDMA 737.555g (0.737555kg) MDMA 91.87kg Cocaine 12.04kg methamphet \$1,800,000 \$2,224,540 \$2,863,870	PG (25%)	<u>Indicative:</u> 21y 22y 6m 8y 6m 6y 7y 6m <u>Aggregate:</u> 30y NPP 18y	AA <u>Indicative:</u> 18y 18y 6m 8y 6m 6y 7y 6m <u>Aggregate:</u> 25y NPP 15y	No leniency	Involved in several conspiracies to import drugs and tobacco products – all offences initiated and encouraged by undercover officer – money offences relate to tobacco offences - senior role in purchase of smuggled cigarettes over four months – willing and trusted participant in drug conspiracies but not principal – involvement of UCO reduced culpability – no evidence was previously involved in any tobacco or drug importation Difficult childhood On appeal: drug offence sentences manifestly excessive – objective seriousness not of highest order

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19.	YM [2023] NSWCCA 75	Import comm qty Import comm qty amphetamine Import comm qty LSD 3 x supply lge comm qty [s.25(2) DMTA] Schedules: 14 offences	1.65199kg 1.9163kg 4.56g (88,308 tabs)	PG (50%)	6y 6y 5y <u>Aggregate</u> 11y NPP 6y <u>Aggregate</u> 10y NPP 6y <u>Total</u> 14y NPP 10y	5y 5y 4y 6m <u>Aggregate:</u> 7y NPP 3y <u>Aggregate:</u> 7y NPP 3y 6m <u>Total:</u> 10y NPP 6y 6m	Nil	Operated a drug importation and supply scheme using dark web - cryptocurrencies used as payment - principal in importation and supply network and sole person responsible for importing - set up multiple post office boxes at various post offices and collected imported consignments - delivered packages to co-offender, who stored and packaged drugs for sale to offender's customers. Prior good character – excellent rehabilitation – history of depression, substance abuse, severe social anxiety. CCA: SJ erred not considering effect of finding some connection between mental conditions and offending on moral culpability; error as to quantity of LSD tablets.
20.	Dib (35) [2023] NSWCCA 243 Co-offender: IBRAHIM AHMAD FAKHREDDINE	Conspiracy import comm qty	594.43kg	PG (30%)	18y 2m NPP 12y	AA 15y 7m NPP 10y 4m	Manslaughter, supply drugs	Over period of six months, conspired with number of others to import drugs - contributed \$25,000 to be paid to a facilitator, agreed to contribute further large amounts - actively involved in communications with co-conspirators - involved in transferring payment of \$1,120,000 in Australia - expected to receive as reward \$1,476,000, or between 26.17 - 28.79kg of pure MDMA. Regular drug use – wanted to repay his family for legal fees. CCA: Disparity with co-offender.

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21.	Elmir [2023] NSWCCA 260 Co-offender: IBRAHIM	Conspiracy import comm qty	First conspiracy: 392.95kg MDMA 15.77kg Cocaine Second conspiracy: 344.6kg MDMA 91.87kg Cocaine 12.04kg Methamphet	PG (25%)	24y NPP 14y	AA 20y NPP 12y	AOABH, affray, possess firearm	“Rolled up” charge of two separate conspiracies - co-offender Ibrahim and police operative offered services to offender and his associates, the Dutch syndicate – First conspiracy: offender to receive 80kg MDMA (20% of 320kg imported by Dutch syndicate) – Second conspiracy: negotiated with police operative; operative collected 498kg MDMA, 116kg cocaine and 15kg methamphetamine from Dutch syndicate; offender to again receive 20% of drugs. Domestic violence by father – drug abuse young age – mental health - extra-curial punishment: custody overseas for 2y 3m following arrest and prior to extradition – delay – remorse - some prospects rehabilitation. CCA: Disparity with co-offender found - hardship to family taken into account on re-sentence.
22.	Ahmad [2023] NSWCCA 294 Co-offender: IBRAHIM DIB FAKHREDDINE	Att import comm qty	594.43kg	PG (20%)	15y 2m NPP 8y 9m	AA 12y 8m NPP 7y 6m		Invited to participate in scheme importing drugs from Netherlands – become more involved over several months but not involved in decision making and no control – controlled delivery High level of stress following murder of brother provides some reduction in moral culpability – remorse – reasonable prospects of rehabilitation – onerous custodial conditions On appeal: erred in not taking into account family hardship

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23.	Fakhreddine [2024] NSWCCA 74 Co-offender: IBRAHIM DIB AHMAD	Att import comm qty	594.43kg	PG (20%)	13y 7m NPP 8y	AA 11y 6m NPP 6y 11m	Serious drug supply	Part of plan to import drugs with co-offenders - trusted participant acting on behalf of overseas contact who was sourcing drugs, providing degree of separation from Australian group - passed messages between the two groups – role of facilitator but with no autonomy or decision- making - seeking financial reward – delivered money intended as payment for overseas contact to unknown male – significantly lesser role than co-offenders I and D, slightly less than A. Gambling addiction - difficult war-torn childhood – married with children - remorse - rehabilitation guarded. CCA: 'Totaan error' – family hardship not taken into account.

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