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JUSTIFICATIONS FOR ART TRADE RESTRICTIONS: 
THE ECONOMIC PERSPECTIVE

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1. INTRODUCTION

In the last decade, rising concern has been voiced among European art lovers about the further plundering of the art treasures of the old continent by American and Japanese financial power. These apprehensions are not completely unfounded. For instance, the Getty Museum, as a "private operating foundation", is legally required to spend 4.25 percent of its endowment in three out of four years on its operating activities. On 31 December 1984, its endowment amounted to $2.3 billion, which means that roughly $100 million must be spent per year. Moreover, the museum’s focus is on European art before 19001. While the Trust did not and will not

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spend all the $100 million per year on the purchase of European art, the sum is so huge that a major outflow of art treasures from the old continent can be expected. The same can be said with respect to Japanese foundations and firms which buy classical European art at an increasing rate.

International trade in art is not a new phenomenon; it has existed as long as art itself. Neither is the sale of European art to America new. For at least a century now, rich Americans have bought European art for their private collections, much of which has finally found its way into museums such as the Metropolitan Museum of Art or the Frick Collection in New York. This movement of art has been accompanied by persistent complaints, especially in Britain and Italy, that the national patrimony is being depleted by the export of the country's art treasures\(^2\). In 1983, for instance, a well-known writer on art, Denys Sutton\(^3\), considered that the export of art from Britain to America had reached such an alarming degree that it called for a summit conference of, at that time, President Reagan and Prime Minister Thatcher.

International trade in art not only relates to a voluntary exchange between highly developed and industrialized countries, but also to the forced transfer from colonies and Third World countries to those of the West. Rome and Paris would look different without the obelisks from ancient Egypt. More recently pre-Colombian art treasures from Latin America, in particular Mayan sculptures, have been exported to North America and Europe, leading one expert to comment: «Not since the Sixteenth Century has Latin America been so ruthlessly plundered» [Coggins (1969, p. 94)]. There has also been a sharp growth of interest in ethnographic art from Africa and Oceania; and perhaps the greatest increase of all in art exports has been from the Asian countries of India, Thailand and Cambodia\(^4\). Part

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\(^2\) See Bator (1982, p. 293) and Lawrence, Bachmann and von Stumm (1988).

\(^3\) Editor of *Apollo* (June 1983).

\(^4\) The consequences are sometimes quite relevant as, for instance, in the case of the National Museum of Benin. It contains only photographs and copies of the national art treasures, the original objects having been distributed worldwide as part of private collections as well as those of public museums. But even in the case of highly developed countries like Italy the extent of theft (and illegal export) of art objects can be significant. According to Chatelain (1975) the number of stolen art objects amounted to about 44,000 - and the statistics indicate an increase since the 'seventies.
of this exportation occurs without compensation. During wars, men such as Napoleon and Goering amassed art treasures from the occupied territories in the name of national glory. Raiding by the Nazis was followed by somewhat differently motivated plunder by the Allies after the Second World War [Fiedler (1991)]. Today, illicit trade in stolen art presents a major problem. While many agree that a very large amount of art is illegally exported, "nobody has even an approximate idea of what quantities and value are involved."\(^6\)

This paper analyses concern about the international trade in art from the point of view of economics. Part two presents the market viewpoint. While this approach is useful for many purposes, it overlooks essential aspects of the international trade in of works of art. The following parts of the paper endeavour to remedy this lacuna by focusing on these neglected aspects, drawing on the economic theory of politics and on results from experimental psychology. Part three is devoted to individual actions, taking the endowment and commercialization effects into account. Part four deals with institutional aspects of the international art market, while the final part considers whether a restriction of free trade in art makes sense.

2. **DO INTERNATIONAL ART MARKETS WORK?**

A. **Allocation**

In a pure price system, market transactions take place by voluntary consent. Both sellers and buyers profit, i.e. trade is mutually beneficial. While the art market has special features that distinguish it from some others (Baumol, 1986) this does not change the basic conclusion of economic analysis that voluntary trade in art is advantageous for all concerned.

Nevertheless, public opinion condemns such trade, and in particular the export of art to foreign countries. Thus Ian Finlay, a British museologist, stated that "the auction houses of this country destroy our real wealth by

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\(^5\) Even the French revolutionary army (under the command of general Bonaparte), in spite of the motto "liberté, égalité, fraternité", plundered the famous art gallery at Parma and transferred the most important objects to Paris.

\(^6\) See Bator (1982, p. 289), who provides an excellent survey of the known facts, the problems involved and the measures taken, from the point of view of a lawyer.
facilitating the export of art" [quoted by Grampp (1985, p. 2)]. Of course, everybody knows that these exports are paid for handsomely. But perhaps what this means is that less is paid than for alternative investments. The art world and the general public do indeed pay considerable attention to the profitability of investments in art. There seems to be a widespread belief (nurtured especially by US banks interested in this type of business) that the rate of return on art investments is very high, certainly exceeding that of gold and bonds.

So far, only a few serious studies have analyzed this proposition with regard to paintings. Information regarding the price of pictures is only available with respect to auctions. However, this limitation is not very serious because the prices asked and paid elsewhere are strongly influenced by auction prices. In addition to the average rate of return, risk must be accounted for. Existing studies focus on the risk attached to price variations, while disregarding the risk of the pictures being stolen, mutilated or destroyed.

In his analysis of the development of the prices of paintings auctioned in the UK and Britain in the period 1946-68 (deceased painters only) John Stein (1977) calculated a nominal rate of return of 10.5 per cent per year. This was lower than the rate of return on shares or bonds, which amounted to 14.5 per cent per year. Moreover, there was a clearly higher variation in the price of pictures than in the case of the monetary assets.

A number of economists used the time series of prices for pictures by "the best-known painters in the world" by Gerald Reitlinger (1961, 1970) covering four centuries. Robert Anderson (1974) looked at 1730 changes in property occurring between 1635-1970. The average nominal rate of return amounted to 3.3 per cent per year and was thus only half as large as the return on stocks. The variability of returns was again much higher in the case of pictures than in that of stocks. William Baumol (1986) considered 640 transactions between 1652 and 1961 listed in Reitlinger. He calculated a real rate of return on art investment of 0.6 percent per year. In a recent study extending the period considered up to the 1980s (nearly 2000 transactions), a real rate of return of 0.8 per cent per year was computed [Pomerrehne and Frey (1989)]. The corresponding real rate of return in government securities was 2.5 per cent. An investor in a representative collection of paintings would thus have suffered an opportunity loss of about 2 per cent per year. According to these studies, the risk involved in price
changes was also much higher for pictures than for government securities\textsuperscript{7}.

The studies all come to the same conclusion: an investment in art has a lower rate of return than an investment in monetary assets, and moreover carries a higher risk. It is \textit{not a financially profitable investment}. Provided these findings continue to hold in the future, Europeans could let Americans and Japanese buy European art, invest the money in monetary assets, and (if they want) buy the European art back at a later date, leaving themselves a monetary profit. From the European point of view, there is little to be said against exporting art to America and Japan. Hence the argument that a country that sells art objects for money makes a loss - or "destroys real wealth" - is mistaken.

While voluntary trade in art is beneficial for both seller and buyer, it need not be so for society as a whole, owing to effects outside the market (external effects) on monopoly elements, as well as to a number of special cases that might interfere with free trade. Are there such market failures in the case of international trade in art?

\textbf{B. Market failures}

\textit{(i) Externalities}

The additional demand caused by American and Japanese investors and museums raises the price for European art. This creates incentives for \textit{stealing} art\textsuperscript{8}. However, the functioning of the market as such is not thereby decreased. Stealing involves a transfer of ownership and does not lead to resource costs; it is a distributional act. There are, however, three \textit{indirect effects} which impair the efficiency of the price system in the international trade in art:

\textit{(1) In the process of stealing, works of art are mutilated\textsuperscript{9}. This may

\textsuperscript{7} Similar conclusions are drawn by Singer (1978, 1982), Hautemanière (1990) and Pesando (1990) with respect to modern prints, graphics and paintings, and by Ross and Zondervan (1989) for such collectable art objects as Stradivarius violins.

\textsuperscript{8} See Meyer (1973), Bator (1982) and Edelson (1984) for excellent accounts.

\textsuperscript{9} In some cases, however, the art objects are better preserved when they are stolen from the original sites and incorporated in a well-organized private or public collection. An example is the Elgin Marbles - though they were not exactly stolen from the Greeks but rather sold by the Turks - which would almost certainly be in a much worse state had they remained in Greece.
happen in museums, churches and palaces, but it often causes very serious damage when archaeological sites are pillaged. In the case of pre-Colombian art,

«...the monuments involved are enormous, thieves cannot remove them without mutilation. The large intricately carved "stelae", some of them as tall as forty feet and weighing five tons, must be "thinned" - that is, sawed, hacked, split apart with crowbars, or simply smashed into moveable pieces - before they are ready for the art market» [Bator (1982, p. 278)].

(2) Owing to the higher risk of theft more resources are used for protective measures, which reduces art lovers' net benefit in two respects. First, the museums and especially the original locations of art (churches, castles and palaces) are less accessible; the opening hours are reduced, and the art treasures are exhibited in a way that makes viewing them more difficult. Second, art lovers are burdened (to a certain extent) by the monetary cost of protective measures (more guards, technical devices and increased insurance)\(^{10}\), which are reflected in higher entrance fees and higher taxes.

(3) A rise in the price of works of art may lead to yet another negative external effect, namely greater incentive to produce forgeries and fakes, which in turn raises uncertainty on the art market. Transaction costs rise because more effort and money has to be invested in order to maintain the same level of certainty. From a somewhat more detached viewpoint, however, it may be argued that there is no real difference between copies and original works of art, and that the small differences that exist do not matter, at least not from the aesthetic and educational point of view\(^{11}\). Given the present state of technology, many art objects

\(^{10}\) For the economics of fine art insurance see Lawrence and von Stumm (1985). In the case of public museums the damaging effect may be more indirect. As entrance fees are kept fixed (or remain zero) the museum directorate's fund available for other purposes (such as restoration, cataloguing or purchases) is reduced.

\(^{11}\) See also Banfield (1984) and earlier, Malraux (1947); for the educational aspect, see Smolensky (1986). Of course, this perspective does not take into account that from an emotional and art-historical point of view a big difference may exist between copies and originals of works of art and that, as with all types of counterfeiting, the existence of fakes and forgeries affects the market value of the original works of an artist in the long run.
including paintings can be reproduced in such a perfect way that nobody can discover any difference from the originals except by the use of high-technology equipment - not even the artists who created them in the first place\textsuperscript{12}. If, indeed, copies cannot be distinguished from originals, it is difficult to see - it has been argued - what utility loss is suffered by art lovers from reproductions\textsuperscript{13}. According to this view, the effort devoted by art lovers and art investors to finding the original should not be counted as cost but rather as part of the pleasure.

In total, the price increases due to the rise in theft caused by American and Japanese demand are responsible for some, but possibly rather minor, negative external effects and, ironically, these are partly compensated for by the positive external effect of better preservation. Exactly the same effects would occur if art prices rose owing to increased European demand. It must therefore be concluded that there is little reason to argue against the international market in art on the basis of the externalities produced.

So far, we have implicitly considered only the trade in works of art produced in the past and the potential negative externalities arising from it. But the same conclusion also holds with respect to the current production of new cultural goods and its potential positive externalities. If it is argued that external benefits other than consumption arise from the production of art, and that these benefits cannot be fully captured by the producer, the

\textsuperscript{12} The best-known example of a (nearly) perfect forger is Hans van Meegeren. He sold eight pictures claimed to be by Vermeer and de Hoch for a grand total of $2,289,000. His forgeries would probably still be unrevealed were it not for the fact that he was called into court on a charge of being a collaborator and selling national treasures, namely great Dutch Old Master paintings, to an enemy country, Germany. His last forgery, 'Christ and the Adultress', was bought by German Reichsmarschall Goering for almost half a million dollars (see Rush, 1961, p. 338). Ironically, van Meegeren, when imprisoned, had to create another "Vermeer" in order to convince the international group of art experts that the paintings under discussion were not "art treasures of immense worth", but only "fakes of no value". For further cases of art forgery see Dutton (1979), Fine (1983) and Lawrence (1989).

\textsuperscript{13} Indeed, even forgeries have not always been found particularly detestable. A legend is told about Michelangelo who, at the age of 21, carved in marble a sleeping Eros, or Cupid, in imitation of ancient Roman works he admired. This carving was sold as an antique to the well-known collector Cardinal Riario, who valued it highly. When Michelangelo stepped forward and claimed the work as his own, he was famed as a young man able to rival the works of the venerated ancient sculptors.
economic rule for correcting such a market failure is to attack the problem at the exact point of distortion so as to offset it completely. This provides a plausible case for defining the artist’s property rights in his/her country as well as elsewhere (and possibly also the case for subsidizing the producer to expand output), but not a plausible case for restricting the international trade by quotas and tariffs in order to protect the home industry from foreign competition.

(ii) Monopolistic elements

In general, a market loses its favourable (Pareto-optimal) properties when either supply or demand is concentrated in few hands. Art historians consider each work to be unique, and in this sense the owner is a monopolist. There is only one Mona Lisa (as exhibited in the Louvre). Even disregarding copies, however, from the economic point of view substitutability exists: a prospective buyer trades his or her desire for a particular painting with a higher price against his or her desire for a similar lower-priced painting. Accordingly, many suppliers can offer works in the art market, as evidenced by the lively activities of private art dealers. Neither is there a strict buyer (monopsony) power. Occasionally the Getty Museum is considered a monopsonist because of its huge purchase funds. It may indeed sometimes be the dominant demander, but there are many others, such as the young, upwardly mobile professionals in America, who have started to invest in art and who have become well informed about qualities and prices. Thus, it has to be concluded that while the international art market is not perfect, it seems to function at least as well as many other markets, and that Pareto-optimality is unlikely to be seriously hampered.

(iii) Special cases of interference

A number of other arguments are brought forward against free trade which could justify interference with free trade in cultural goods:

14 Nevertheless, one country that has expressed the most vocal fears of the domestic impact of free trade in art, Canada, expresses that fear from an alleged position of little market power (as compared to the U.S.) from either side of the market. In Europe, there seems to be relatively more support from smaller countries for free trade in art. This is in line with the economic rationale that efficiency-enhancing effects accrue to a country that cannot affect its terms of trade (yet another rationale may consist in avoiding onerous EC quotas that would continue to restrict consumer choice).
(1) The *infant industry* argument is basically that the creation of art objects may not survive without protection. However, this argument leaves out of account that the sector concerned should generate sufficient cost savings to the economy in the future to compensate for the consumer losses suffered during the protectionist period. To know whether this will really be the case requires very difficult measurements of the relative magnitudes, as well as the necessity of discounting the future benefits (which reduces the likelihood of a net gain to the economy from protecting the infant industry). Faced with (domestic) market failures, the real issue boils down to the adage that even if there is a market problem, trade interference is not the best solution (but government subsidies may be justified).

(2) Arguments that protectionism makes sense in order to protect such sectors as the cultural industry from cheap foreign labour or to maintain employment in key industries are also not convincing. The first argument has to counter the usual caveats about the adequate measurement of labour and capital costs and comparative advantage versus absolute advantage; moreover, it is faced with the problem that cultural giants seldom include countries with cheap labour (indeed most of them are high labour-cost countries). The second argument suffers from the same weakness as the well-known argument that "voluntary quotas" help to save jobs in the automobile industry. Meanwhile it is well known that the tax which domestic consumers have to pay (in order to save some few jobs), as well as the secondary and further effects of such a policy, do not justify it.

C. **Distributional concerns**

Economists' emphasis on efficient markets may be misplaced in the context of the international art market. The main problem may be of a *distributional* nature; the cause for anxiety about the export of works of art may be the change in ownership, not the resource costs involved.

Two distributional aspects should be distinguished: (1) the locational (and thus national and intercontinental) distribution; and (2) the distribution of works of art between closed (mostly private) and open collections which may be visited by the public.

Considering the purchase of art from European sellers by American and Japanese buyers, four distributional cases arise (see table 1). Today, there
are few, if any, sales from public collections in Europe to America, so that cases (3) and (4) in the table are of limited relevance. When a work of art moves from a closed European to a closed American or Japanese collection [case (1)], we have a pure case of a locational redistribution\textsuperscript{15}. When the same work of art finds its way into an open American or Japanese collection [case (2)], the change in ownership may, from the European point of view, have two opposite effects: it is beneficial because, if an open collection is assumed preferable, art lovers have better access to the art object; but it is detrimental because this happens in America or Japan instead of in Europe. Such distributional considerations are without doubt of major importance in the international art market. However, the effects are not as one-sided as they appear at first sight.

Table 1: Distribution between locations and types of collections

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<th>European sellers</th>
<th>American/Japanese buyers</th>
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<td></td>
<td>Closed (private) collection</td>
<td>(1)</td>
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<td></td>
<td>Open (public) collection</td>
<td>(3)</td>
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Taking all of the above factors into account, we have come to the conclusion that efficiency is little impaired in the international art market.

\textsuperscript{15} Of course, this "pure case of locational redistribution" may be affected by the fact that in the US (but much less in Japan) works of art originally forming part of closed (private) collections are donated or bequeathed to public museums owing to tax incentives.
Misgivings about the export of art across nations and continents are ill-founded. Government intervention in the form of export restrictions and prohibitions can therefore not be justified and, thus, could be expected to decline. Yet, in reality, we observe the opposite trend, i.e. an increase of trade restrictions and export prohibitions. Thus traditional economic analysis may be useful for some purposes, but it seems to neglect important and essential features of art. These aspects are dealt with in the following sections.

3. INDIVIDUALS AND INTERNATIONAL TRADE

A. The endowment effect

The endowment effect, which has been well established in laboratory experiments [Kahneman and Tversky (1979), Thaler (1980)] may be illustrated by the following example:

Mr X bought a bottle of good red wine for $10 in 1985. Recently his wine merchant offered to buy the bottle back for $40. Mr X refused, although he has never paid more than $20 for a bottle of wine.

This effect cannot be explained by traditional economic concepts; it exists even when the influence of rising income and transaction costs are

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In many countries such restrictions have been valid for a long time. For instance, since the 15th Century historical buildings and archaeological sites have been protected and their sale regulated by Papal edicts. In 1749 the Austrian Empress Maria-Theresa forbade by edict the export of pictures, sculptures and collections of coins. Later, a large number of countries introduced legal restrictions on international trade in art. Today, in Austria and Britain, these restrictions are linked to a maximum value of the work of art, up to which no export allowance is necessary. In Germany, Italy and in the Netherlands the export permission depends on whether the work is listed in the register of art objects whose export requires an export licence (the length of the respective inventories is quite different according to the country: In the Netherlands it contains 50 works of art, in Germany 500, and in Italy 3 million). Another strategy consists of a general export prohibition combined with restrictively handled exceptions, mostly linked to some specific historical date or the age of an object (thus, in the case of Greece, the export of works of art originating before 1830 is forbidden; in Spain an export licence is required in the case of an art object more than 100 years old; while in Britain the age limit is 50 years). Recently, the European Parliament as well as the Ministers of Culture of the Member States of the EC (in an informal meeting on 19 October, 1990) declared in favour of more rigorous trade interference and an increase of export control.
accounted for. Neither is it identical with option, existence, bequest and prestige effects. The endowment effect leads to a sharp difference between buying and selling prices. It suggests that one should distinguish between out-of-pocket costs and opportunity costs. The same work may have two prices: a higher one when it is in one's endowment, and a lower one when it is owned by someone else.

The endowment effect is of immediate relevance for art. An owner may not be prepared to part with a work of art in his possession for price Z, even though he would not buy it for price Z on the market. This difference in an individual's selling and buying prices has further connotations. Often, the owner of an art treasure sells it in order to meet tax demands or because of other pressing needs (e.g., in the case of aristocracy, to undertake urgent repairs of a stately home). For an economist, this is simply an instance of mutually beneficial trade - because otherwise the sale would not be transacted. Things look different when the endowment effect is taken into account: the owner feels subjectively "forced" to sell, or would at least not sell voluntarily for the price offered. Although the transaction constitutes "a voluntary mutually beneficial trade" (in the traditional sense) because an evaluation of the benefits and costs leads the owners to prefer selling the work object to keeping it, it is nevertheless displeasing. The marginal evaluation leads the owners to sell, but the transaction results in a decrease of their total utility. The sellers therefore resort to action through a different decision-making mechanism, usually a political one. Owing to the endowment effect, it is possible that owners of works of art may be prepared to sell them on the international market but at the same time be willing to support political action envisaging export restrictions of such art.

Given that an endowment effect exists for works of art, the above-mentioned trade between Europeans and Americans/Japanese must be examined in a different light. European sellers are dissatisfied when they are "forced" to sell such objects of art, but they know at the same time that they would not be prepared to buy it back at the current price even if the price increase is smaller than the return on the selling value when invested. The endowment effect, which has been experimentally established for indivi-

17 The latter effects increase the valuation beyond what it would be for art's sake but it does not lead to a difference between buying and selling prices [see Pommererhne and Frey (1990) for a further discussion]. The prestige effect in the form of national feeling is empirically studied and confirmed for the fine arts by Singer (1985).
duals, may also manifest itself at the collective level. This is displayed in the form of *patrimoine national*, an idea that plays a significant role in discussions among art experts and art lovers. Even lawyers such as Bator (1982, p. 303) write as a matter of course about "art as a part of national wealth or capital".

An art treasure belonging to the *national heritage* of a particular country\(^\text{18}\) is not sold, or is sold only reluctantly, for a particular price outside the country, but would not be bought at that price. If circumstances force an owner to sell a work of art, the transaction is resented not only by him- or herself but also by others, and political action is likely to arise with the goal of preventing such utility losses in the future. There is evidence that the endowment effect does indeed exist at collective level. Public fund-raising drives tend to be undertaken when there is a danger of an art object being sold outside the country, i.e. to prevent a loss of the endowment. Such fund-raising drives are much less often undertaken in order to *buy* some work of art deemed worthwhile by art experts. In 1984 a fund-raising drive among public authorities and large private banks made it possible for German museums to buy the *Evangeliar Heinrichs des Löwen*, produced in 1173-5, for the sum of DM 32.4 million (£8.5/$11.5 million) on the international art market (a Sotheby's auction). Although in this case the action was not to prevent a loss but to acquire a work, it is generally acknowledged that this *Evangeliar* belongs to Germany's *national heritage*, because it was originally presented to the Braunschweig Cathedral. This example suggests that individuals and firms can usually be motivated to donate sufficient amounts only if they consider the art treasure concerned to belong to their national endowment.

The collective endowment effect may apply not only at national but also at municipal level. In 1967, the wealthy owner of a collection of modern paintings on loan to the Kunstmuseum in Basel was forced to sell (among other things) two Picasso paintings in order to compensate for business losses, a referendum approved a sufficient sum of money to prevent the loss to the city [see Pommernheine and Schneider (1985)].

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\(^{18}\) To what nation an art object belongs is decided by history, and may be open to dispute. The Elgin Marbles are, according to Bator (1982), part of Britain's and not Greece's national patrimony. However, a recent attempt, by the Italian Government, to claim a Matisse that has been part of an Italian private collection for just a few years as part of the national heritage, and this to prevent its export, met with no success.
B. The commercialization effect

Most people dislike using the price system in many circumstances. The notion that buying and selling certain goods or services on a market destroys general well-being has been advanced by Hirsch (1977) and others. Informal exchanges involving mutual obligations are seen as preferable to the market with its corollary of explicit monetary prices for goods and services.

Art is one of the main areas where many people reject the price system. This applies in particular to dedicated art lovers and critics. While the international art market may function efficiently and quantities may react systematically to price-changes in the way predicted by economic theory, people resent the operation of the market. The market is considered a public evil in the case of art, reducing well-being. Even those taking part in the market may not like it, and may resort to non-market action in order to restrict it. The existence of many laws in practically all countries in the world inhibiting international trade in art may be attributed to this bad public image of the art market. Far fewer restrictions exist with respect to the international lending of art treasures, sometimes even on a permanent basis; on the contrary, the organization of "block buster" exhibitions of art objects from foreign countries has become a major activity of the world's most prominent museums [Garvin (1981), Noble (1986)].

To sum up, endowment and commercialization effects may be responsible for the effort to impede the workings of the international art market. Whether these restrictions have been successful is quite another matter. Most of them have not. Embargos have proved to be ineffective; they are administratively unenforceable, and irresistible pressures are created to circumvent them via the "grey" and black markets. Britain's selective export controls, which have gained wide public attention, only temporarily prevent art exports unless a British museum or collection offers to buy the work of art at its market price. The law thus gives time to launch a fund-raising drive, with some success: major works such as El Greco's Dream of Phillip

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20 For instance by Kelman (1981) for the case of the environment.
21 See Bator (1982, p. 310 et seq.) for an extensive account.
II, Ruben's *The Holy Family* and Titian's *The Death of Actaeon* have been secured in this way for Britain (although neither the painters nor the subjects of these paintings can be said to be British).

4. INSTITUTIONS AND INTERNATIONAL TRADE IN ART

The discussion so far has analysed the way in which psychological factors such as commercialization and endowment-effects influence people's behaviour. In this part, the emphasis shifts to the study of organizations (museums, government, private art firms) and of groups of individuals (art dealers and private collectors) in given institutional and historical contexts, drawing on previous research [Pommerehne and Frey (1980), Clarkson (1981)]. The first section sketches the behaviour of the most important actors with respect to the international art trade. In the second, some of the main consequences of the interaction between these institutional decision-makers are considered.

A. The main actors

(i) Fine art museums

Fine art museums play a major role in the international art market. They not only buy works of art from foreign countries but may also sell abroad. Moreover, they have a strong influence on the regulation or even prohibition of the international trade in this area. Through the prestige, experience and sources of information, they command, they may formally and informally influence the behaviour of the other decision-makers in this area.

This section concentrates on public museums in the European institutional context, where they are part of the government sector. They are thus faced with two major restrictions on their behaviour. First, museum administrators are required to follow the general rules and procedures obtaining in the public sector; in particular, if they run a surplus, it has to be transferred to the national budget. Thus they have no interest either in setting keen prices or in selling works of art in order to engage in profitable
speculation. Second, their budget is provided by the government. The actual subsidy provided is the result of a bargaining process between the ministries concerned and the museum directorate, in the course of which the museum administrators use the advantage of their knowledge of the museum's artistic activities. The funds for acquiring additional major works of art are not usually decided in conjunction with the current subsidy. The museum directorate has to come forward with a specific request to buy a particular work of art, and if this catches the imagination of leading bureaucrats and politicians they can grant the large sums required. Museum directors have a good chance of getting these sums from the government when they invoke the endowment effect, i.e. when a particular painting (or other work of art) is in danger of being sold abroad. The endowment effect with respect to art treasures existing at the individual level is thus used strategically by museum administrators from time to time in order to get additional funds from the public purse. In the same way, the endowment effect serves to tap private sources of finance in the form of donations by individuals and private firms. In principle, a work of art may be desired by a museum either because it rounds off a collection by closing a gap, or because it broadens the collection. Museum directors may strategically bring forth whichever argument best suits the purpose of getting additional funds in a particular set of circumstances.

Within the context defined by administrative and financial restrictions, the museum directorate may pursue its own goals, in particular that of enjoying a high prestige among colleagues and other members of the art world (art critics and journalists, other museum directors, art collectors and dealers, art lovers). The art world is very international in nature, and directors of major museums therefore have an incentive to play an international role. This implies being involved in the international art market when an art object in any way connected with the particular museum is offered for sale.

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22 The incentives for both activities are different for public museums in the US [see for example O'Hare and Feld (1975), Montias (1973)]. It need not be stressed that the underlying institutional conditions ensuring behaviour are different in the case of private museums. Whereas in Europe the sale of works of art even by private museums is rather an exception, it is quite common in the US. Analysing only the transactions of Christie's (New York), Cantor (1991, p.21) observes that, during the season of 1988/89, 88 private museums sold art objects for a total value of about $30 million (also at Christie's, 93 museums bought works of art for a total value of about $38 million).
Top museum administrators are confronted with a dilemma. On the one hand it is in their interest to get involved in the monetary aspects of the international art market as seldom as possible. On the other, they wish to become active in that market when the need arises. This dilemma is solved by delegating commercial aspects to professional dealers to a considerable extent, thus allowing the museum directorate to maintain the desired distance from the monetary aspects of art.

(ii) Governments

As artistic affairs are of quite limited interest to most voters, politicians are free to undertake a museum policy largely according to their own liking as long as paying the bill is not too onerous. The situation may be quite different if there is a threat of losing a work of art belonging to the national heritage through its sale in the international market. Owing to the endowment effect, the individual voter’s interest in a particular item of art may rise rapidly. Politicians may increase their popularity with the electorate by presenting themselves as saviours of the national heritage, especially in countries with strong national feelings. An example of such behaviour is the Spanish Government’s decision in 1986 to buy the (not really first-rate) Marquesa de Santa Cruz by Francisco Goya for $6 million from an Englishman (Lord Wimborne) for exhibition in the Prado. Playing on emotions already existing in the population, governments often take the line that a work of art not secured for a museum of their own country would be a loss to mankind. In reality, the only thing that happens in most cases is that the work is exhibited in a foreign museum instead of one of its own.

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Accordingly, they have no interest in subjecting the works of art in their possession to a monetary evaluation. If this were done, they would run the risk that the political decision-makers would not be ready to come up with the sums required to buy a particular work of art, arguing that they could sell another one particularly if it is not exhibited. Moreover, being part of the civil service, it is out of the question for museum directors to engage in art speculation which would not be in conformity with the principles of sound administration. As has been pointed out, a museum directorate has no interest in doing so because the profits cannot be used. Moreover, it would introduce an unnecessary monetary evaluation into the "artistic" world of the museum, thus inviting more stringent monetary control from outside. Finally, there is an asymmetry between buying and selling with respect to the risks involved. When buying, a board of directors faces little or no risk because the value of the work of art is evaluated according to artistic or historical criteria and can thus always be adjusted to the price paid. Selling is more risky because the work sold may be traded later in the market at a higher price, suggesting that the museum had charged too little; see Montias (1973) and Weil (1987).
An important additional reason why governments involve themselves so strongly in maintaining and enlarging the national art heritage is the pressure exerted by the local business community in the place where the work of art is to be exhibited. Many businesses can derive direct monetary benefits from having a museum attracting hordes of visitors and a qualified work force, while the bill is paid by the local, or more usually the national, community. Much the same applies to theatres and festivals. Governments are thus interested in the functioning of an international art market as far as buying art is concerned; however, they would prefer that no free market existed as far as selling is concerned. They therefore tend to regulate severely or even prohibit the export of works of art.

Another constraint determining a government's possibilities is budget restrictions. The money used to buy works of art in the international market is compared with the benefits that other types of expenditure could confer on the nation. In order not to burden the budget with explicit outlays for art, politicians prefer less visible costs by granting tax deductions. When an expensive work of art is bought to avoid its export, or to bring it home, the government's contribution is often made conditional on individuals and firms also contributing an appropriate share. In so far as such private donations are tax-deductable, it is mainly the taxpayer who has to foot the bill.

Within the possibilities determined by the above-mentioned restrictions, politicians may use art to further their own goals. Art is a suitable vehicle for creating national prestige and glory, and is therefore used by some politicians who are trying to secure a place in history. While this has often been achieved by plunder in wartime, in peaceful conditions it may be accomplished by the purchase of internationally renowned works of art.

(iii) Private art enterprises

Private galleries, art dealers and auction houses are those who have the strongest interest in maintaining an international market in art. A considerable proportion of the major houses' total business takes place across borders, and closing down the international art trade would have strongly adverse consequences for many of them. These enterprises are already severely impeded in their commercial activities by the export restrictions imposed by national governments, and they have an incentive in circum-
venting them so far as possible\textsuperscript{24}. Their interest groups lobby politically against such restrictions. This activity is, however, toned down, because the art dealers and auction houses are closely connected with the museums whose directors generally favour restricting and controlling the international market in art\textsuperscript{25}. So, if a country claims that a work of art has been exported illegally and is now up for sale, the international art dealer or auction house involved is interested in finding a mutually satisfactory compromise. To do otherwise would discourage the museums as customers, and would create conflicts with the public administration.

(iv) Private collectors

Art may be collected by either individuals or firms, the latter for image purposes (but even in this case, there is a private collector in the background). Historically, large private collectors have played a considerable role in enriching public museum collections, and as wealthy individuals are well-considered taxpayers, their economic and political influence may have been significant in some cases. However, they do not form an organized pressure group but are rather individuals acting in isolation. Thus, today, their political influence appears to be rather limited, so that their interest in a properly functioning international market for both buying and selling seems of little consequence.

(v) General public

The population at large is generally not concerned about art, and in particular about the functioning of the international art market. Interest may suddenly rise if there is a threat that a prominent work of art may be lost from the national heritage. Individuals can then be motivated to make a contribution to the common wealth. The situation is similar to that following a catastrophe, when people may behave in an altruistic way.

\textsuperscript{24} There is an endogenous limit to the incentive of cheating because a work of art immediately loses much of its value if the property rights are not clearly established. Thus acquiring a work of art which has been exported in doubtful or even illegal circumstances, or which may have been stolen, is not necessarily profitable, because the potential buyers are only prepared to pay a lower price. Well known art houses may also fear the loss of credibility involved.

\textsuperscript{25} Recently, the Swiss museums have claimed that legal export restrictions should be introduced in combination with the possibility of government pre-emption of the works of art concerned (as in Germany and the United Kingdom).
Some parts of the population, notably art lovers, have a more continuous interest in the arts. While in principle they are in favour of an open market in the international trade in art, they are also the most strongly subject to the endowment effect. They will then use their political influence (which is not negligible because art lovers tend to belong to the upper ranks of society) to establish export restrictions.

B. The consequences

The interaction of the various agents within given institutional conditions leads to specific consequences with respect to the international art market. Five are discussed in the following paragraphs.

(1) Art has a strong international aspect. In particular, first-rate contemporary art has no national boundaries. Correspondingly, the decision-makers in the major museums and in the art world in general have a strong international orientation; international exchange in the area of the arts is favoured. There are two ways in which this goal could (in principle) be achieved: by trading in the international market, or by employing non-market means of international exchange.

(2) The international art market is appreciated in a buying context and abhorred in a selling one. The relevant decision-makers support its existence only vaguely, and are not ready to incur high costs in order to defend its freedom. At the same time, the general public aversion to commercializing art extends to the international art market, which diminishes support even more.

(3) Various decision-makers have a strong interest that specific works of art should not be subjected to monetary evaluation. This applies particularly to museums acting within the conditions of public administration. As a consequence, works of art which are the property of museums are usually not sold. For the same reason, private collectors are discouraged from selling abroad. This drastically restricts the international market.

(4) Resistance against operating in the international art market is characterized by cycles. High points are reached if a work of art cherished by the art community is in danger of being lost to a country. In this case, the endowment effect existing among the general public is mobilized to prevent the export of comparable works of art in the future by lobbying for export restrictions.
(5) Finally, all decision-makers (except private art enterprises and private collectors) use non-market means for the international exchange of art to a considerable extent. These may take the form of loans to foreign museums or participation in international exhibitions. In this case, there is no need to resort to monetary evaluation of the works of art exchanged, so that the public's aversion to commercialization is not activated. At the same time, the fact that the works are only loaned and not sold means that they remain among the country's assets, so that the endowment effect is cared for. This obviously applies to temporary loans. It may be thought that this is not so true in the case of permanent loans because the legal property right still existing is of no importance since the work of art has left the country for good. Nevertheless, the possibility of asking for the permanently loaned work back gives the illusion that the work is still part of the national art endowment.

5. Free trade for art?

According to conventional market analysis, there is little reason to interfere in the international art market. There are few, if any, external effects, the monopoly element is not stronger than in many other markets and special cases of interference are of low significance. One major cause for concern - the mutilation and destruction of art treasures to make their exportation possible - is due more to the existence of export restrictions and prohibitions than to that of an (acknowledged) art market. However, this analysis disregards effects recently discovered in cognitive psychology which relate directly to international trade in art. The endowment effect leads individuals to be averse to the export of art treasures. The commercialization effect works against a monetary evaluation of art in general, and therefore also against trading art in the international market. Both effects are used by institutional actors in the art world to their own advantage. A particularly visible and important case arises if an art treasure considered by the art world-especially the museum administrators and art critics - to belong to the national patrimony is in danger of being exported to a foreign country. A campaign is then mounted to raise additional funds which would otherwise not be forthcoming. This is done by strategically using the endowment effect among the general public.
Such interaction among decision-makers results in little support for a free international art market. The interests are opposed: whereas everyone is interested in the possibility of buying in the market, there is much opposition to selling. As a consequence, there is strong political activity demanding export restrictions, with the result, to be observed in almost all countries, that "national" art (defined most extensively) may not be sold to foreign countries.

International trade in art is even more strongly curtailed by the fact that museum administrators (at least European ones) find it against their interest to sell works of art from their existing stock. This drastically restricts the quantity of art offered in international markets. However, in order to be involved in the international art world - which increases their effectiveness through the prestige thus gained - museum directors exchange works of art internationally in the form of temporary or permanent loans, thus evading the commercialization effect.

As Bruce Seaman (1992, p. 159) recently put it: «There is always a temptation when discussing cultural goods to start from the premise that these goods are different from other commodities so that a unique analysis of the economics of those industries is required». Yet, from an economist's viewpoint, «it is a valuable intellectual exercise to begin from the premise that such goods and services are not so unique that novel intellectual gymnastics are required to analyse them» and then to proceed «to see how far economic analysis can take us, before declaring that such arguments do not apply» to the art sector. Nevertheless, it may well be the case that, as suggested in this paper, only non-economic arguments can explain the popularity of restrictions on free trade in works of art. Economists (and others) suggesting a free international art market, since they cannot detect any strong market failures, would have little chance of affecting current policies restricting the market because of the strong interests working in the opposite direction. Their main job at that level of decision consists in indicating the less inefficient of the whole set of restricting measures.

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26 There is a tendency to define 'national heritage' in a broader and broader sense, i.e. including folkloristic objects and even non-material traditions. Of course, such an enlarged definition could create major problems for the European Common Market; yet, Article 36 of the EC Rome Treaty provides the possibility for the Member States to retain their trade restrictions ... «for the protection of the national heritage of artistic, historical and archaeological value».
The situation is different at the constitutional level, or at the level of the social consensus. There may be a chance to open up the international art market by negotiations between countries, because each has an interest in being able to buy in this market. However, it is difficult to reach a consensus because the distribution of the stock of art treasures is skewed, much of it being in European museums (though a considerable part of it is never exhibited). The European museum community can be motivated to favour an opening of the international art market only if it is made clear that general export restrictions will also mean that they cannot buy the highly regarded contemporary art produced in America and elsewhere. As the European art world is interested in having access to this art, it may be possible to establish a treaty setting out minimum conditions for maintaining the functioning of the international art market as a whole.

References


