CUADERNOS ARTE Y MECENAZGO

03

THE SPANISH ART MARKET IN 2014

Dra. Clare McAndrew
Arts Economics

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Clare McAndrew

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FOREWORD

Leopoldo Rodés
President of
the Fundación
Arte y Mecenazgo

Patronage of the arts as a sign of how society is involved in the development of culture is at the heart of what we do. This has been so ever since La Caixa first saw the need to promote art by building a platform that was to be complementary to its ongoing activity in the area of culture. We are aware that the art market can only be invigorated if society as a whole recognises what social value it has, and if it is capable of inspiring both people and institutions to get involved in its development. And of course, if it is included in the agenda of Government policy.

One of the objectives of the Fundación Arte y Mecenazgo is to promote research from an economic and cultural standpoint with the aim of generating a corpus of knowledge of reference. To this end several specialists collaborate with us, their analysis culminating in the Cuadernos Arte y Mecenazgo series of publications. Dr Clare McAndrew, an economist of international renown, is author of this particular study. The report paints a picture of the need for coordinated action to invigorate the art market as a domain for collecting. There are evident differences between a finance system for the creation and diffusion of art that harks back to decades past, and a new environment where private collectors and dealers in a developed market would be able to participate in the conservation, creation and diffusion of art, thus bringing benefit to society at large.

This picture of the art market in Spain would be incomplete without an analysis of the regulatory and tax framework in which it operates. I would like to thank Eva Lasunción, a lawyer specialising in the regulation and taxation of art, for her participation and constant collaboration in our project. Artists, collectors, dealers and auction houses are the key people in this business. For this reason, I would like to acknowledge the valuable work they carry out and express my sincere gratitude for their collaboration, which has been so indispensable, with this study.

We hope that this new publication will lead to greater involvement and understanding in the industry, as the conditions that sparked the birth of our foundation are still present and in need of great attention.

ACKNOWLEDGMENTS

Dr. Clare McAndrew
Arts Economics

This research on the Spanish art market has been made possible with the support of Fundación Arte y Mecenazgo. My gratitude and appreciation to Leopoldo Rodés, chairman of Fundación Arte y Mecenazgo, for commissioning the research and to their team lead by Mercedes Basso for their help in completing the report.

The information presented in this report is based on data gathered and analysed by Arts Economics from a number of different sources. Much of the insights presented in the report have been based on a series of interviews conducted with collectors, auctioneers and dealers in Madrid and Barcelona in 2014. My sincerest thanks to all of those participants who gave their time and invaluable insights into the Spanish art market during these interviews. I am very grateful also to each and every dealer and auction house that took part in the extensive surveys conducted during the research, without which, the report would not have been possible.

I am particularly grateful to Eva Lasunción Patus for her help in providing assistance and information on the tax and regulatory aspects of the Spanish art market.

KEY FINDINGS

- In 2013, the Spanish art market reached a total of €336 million in auction and dealer sales, up 3% year-on-year.

- In the ten-year period from 2003 to 2013, sales have grown 68% in value which, although substantial, is considerably less than the global growth in sales of art and antiques (at over 155%).

- Spain's global market share of art sales was just less than 1% and it was the sixth largest market in the EU accounting for a 2% share.

- The fine art market dominates art sales in Spain accounting for around 75% of its value in 2013. Within the fine art market, Post War and Contemporary art accounts for the largest share by value.

- In 2013, 72% of galleries in Spain dealt in Contemporary art, while Post War and Contemporary art accounted for one third of all fine art auction sales.

- Despite its growing importance, average auction prices for Post War and Contemporary art are still less than half of those achieved in the Old Master sector. In both sectors, prices in Spain are significantly lower than in the global market: with Spanish prices one third of those in the global Old Masters market and just 15% of prices in the Post War and Contemporay sector.

- The average prices at all fine art auctions in Spain in 2013 were less than one third of the EU average and only around 10% of those in the UK.

- In 2013, 99% of lots sold at auction were at a price of less than €50,000 (versus 93% worldwide). However, these lots accounted for the majority of value in Spain, with a share of 73% (versus just 17% of global sales). Similarly 95% of works sold by dealers were for less than €50,000 (versus 72% globally).

- Sales of Spanish artists' works dominate the market in Spain. In 2013, 68% of transactions at fine art auctions in Spain were sales of works by Spanish artists, and these works accounted for 74% of the value of the market. Despite this, only 3% of the value of Spanish artists' sales take place locally, with the highest priced works sold in London and New York.

- In 2013 there were about 3,075 businesses in the Spanish art market, including 125 auction houses and 2,950 galleries that regularly or occasionally sell art, antiques and related collectibles. The core art market consists of around 50 auction houses and 650 main dealers and galleries.

- Dealers and galleries have maintained a share of between 70% and 85% of the market over the last ten years, with 75% in 2013.

- For both dealers and auction houses, the majority of sales in 2013 were to private collectors, with a share of 77% and 87% respectively. For both sectors, more than 70% of sales were to Spanish buyers.

- Art fairs accounted for 35% of sales by Spanish dealers, up 2% on 2011, and fairly evenly split between international and domestic fairs. ARCO remains the most important international art fair in Spain, with 118,000 visitors in 2013.

- Online sales by dealers in Spain are lower than the global average, with a share of just 1% of total sales on average in 2013. However, they are an increasingly important part of the auction business, with an average share of 18% of total sales.

- Imports of art and antiques reached a ten-year low in 2013, reaching just €40.3 million, a drop of 29% year-on-year. There are a number of reasons for the continued decline in imports to Spain, but it is likely that the rise in import VAT during the period had a significantly negative influence.

- Spanish exports rose 12% year-on-year to reach €103.3 million, the third successive year of growth, making Spain a net exporter of art and antiques with a trade surplus of €63 million.

- The Spanish art market directly employed a conservatively estimated 10,100 people in 2013, while ancillary services supported directly by the trade supported a further 7,690 jobs. There is also a very conservatively estimated 41,650 individuals working in art fairs, art museums and as artists, all of which could not exist without the art market.

- The direct fiscal contribution of the art trade and its support services to the Spanish government in 2013 was €270 million. Policies that boost sales and collecting in the Spanish market have a direct and positive impact on this contribution.

- Art fairs and museums also make a very important impact on the economy. It is estimated that in 2013, ARCO generated in excess of €100 million in revenue in the Spanish economy in less than one week.

- The VAT system for art transactions is complex and different rates apply to different agents and transactions, which has caused much confusion both within the art trade and amongst collectors.

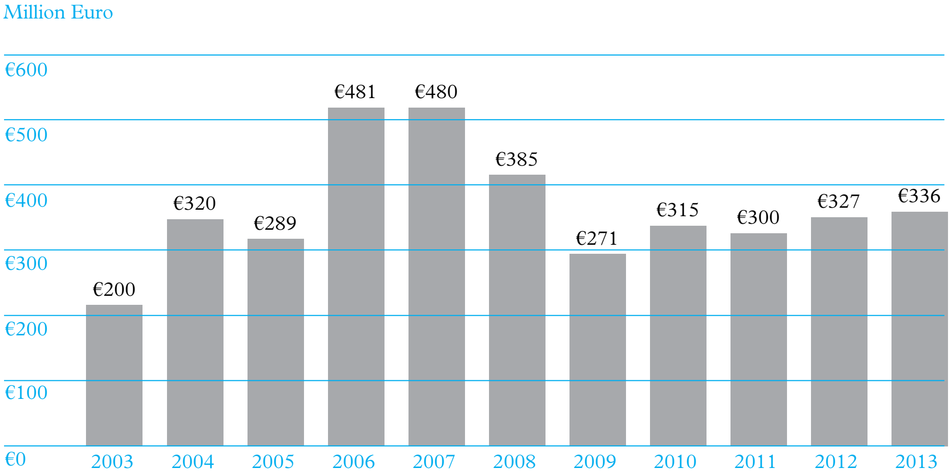
* Endnotes at the end of the report (page 95).

1 THE SPANISH ART MARKET

In 2013, the Spanish art market reached a total of €336 million in auction and dealer sales. Sales rose 3% year-on-year, the third successive year of low but positive growth, and the highest level of sales since 2008. The market remains less than 70% of the value of sales achieved in the peak years of 2006 and 2007 when sales reached over €480 million. Over the decade to 2013, sales have grown 68% which, although substantial, is considerably less than the global growth in sales of art and antiques (at over 155%). Also, while the global market has rebounded relatively well from the sharp decline in 2009 (advancing nearly 70% in value despite a major contraction in the Chinese market in 2012), Spain's recovery has only seen sales rise by 24% in the same period.

After a difficult year in 2012, with sales values falling by 12%, the auction sector rebounded in 2013 with sales growth of 4%. Dealers' sales were somewhat more sluggish year-on-year rising by 2%, however after two years of growth, the dealer sector has increased in value by 14% since 2009, and over 80% in the ten years since 2003.

FIGURE 1
Aggregate Sales of Art and Antiques in Spain 2003-2013



Source: © Arts Economics (2014)

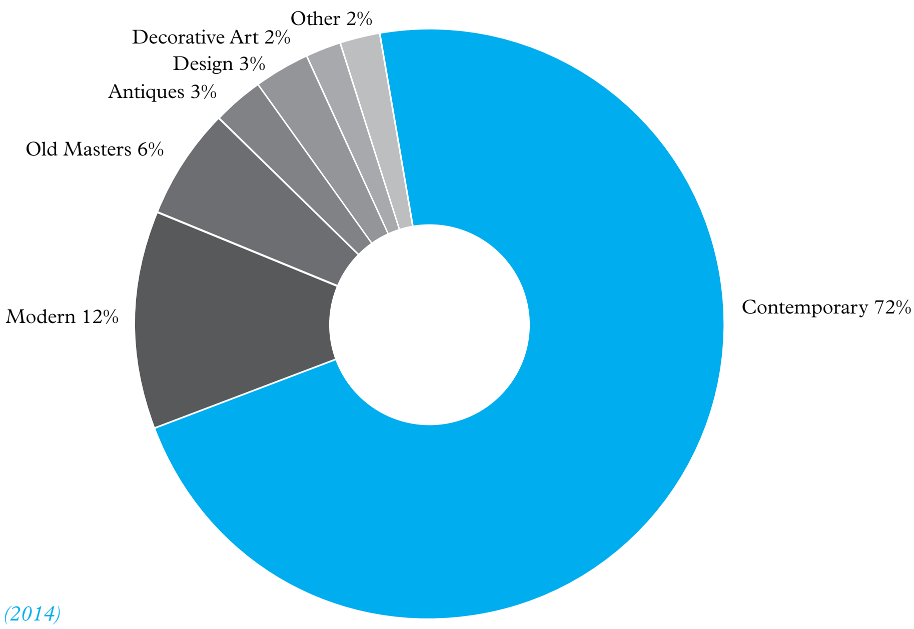
A slightly larger number of works sold in 2013 was partially responsible for the increase in sales. While the median number of works sold by dealers was unchanged, auction sales increased slightly (by 1%). It is estimated that in the wider market for all auctions and dealers selling art and antiques exclusively or as a part of their business, there were 325,875 works sold in 2013. The core art market consists of 50 auction houses and 650 main dealers and galleries. These businesses sold in the region of 85,680 works, up just 0.7% year-on-year.

"Contemporary art dominates in terms of both the number of dealers and total sales and has become one of the most important sectors of the auction market."

THE SPANISH FINE ART MARKET

The fine art sector in Spain (including paintings, works on paper, sculptures and new media) dominates the market, representing some 75% of total sales in 2013. In the auction sector, sales of antiques, decorative art and collectibles represented over 65% of the volume of lots sold, however many of these items are sold at lower prices. On aggregate, decorative art and antiques made up only around 40% of the sector's value. Fine art auction sales tend to be a lower volume of higher priced items, with the greatest values in higher end Old Master works and Modern and Contemporary paintings. In the dealer sector, with a few important exceptions, fine art also dominates, and around 90% of dealers sell fine art either alone or in combination with other decorative art. Within the fine art sector, Contemporary art is the most important both in terms of value and volume of sales. Based on a survey by Arts Economics of 650 Spanish dealers in 2014, Figure 2 shows that 72% were Contemporary dealers and 84% were Contemporary or Modern dealers.

FIGURE 2
Dealers by Sector in 2013



Source: © Arts Economics (2014)

FINE ART SECTORS

In the dealer sector, as noted above, Contemporary art dominates in terms of both the number of dealers and total sales. Post War and Contemporary art has also become one of the most important sectors of the auction market, both globally and in Spain. Looking at fine art auctions in Spain in 2013, Post War and Contemporary art accounted for 33% of the value of sales, up from 27% in 2011, making it the largest sector by value and with the highest volume of sales. While Modern art was the next largest sector globally, some of the older sectors of the fine art market were more important in Spain, with Impressionist and Post-Impressionist works accounting for 24% of sales while Old Masters had a share of 20% by value, double the global share in this sector.

TABLE 1

Market Share in Sectors[1] of the Spanish Fine Art Auction Market Versus Global Market in 2013

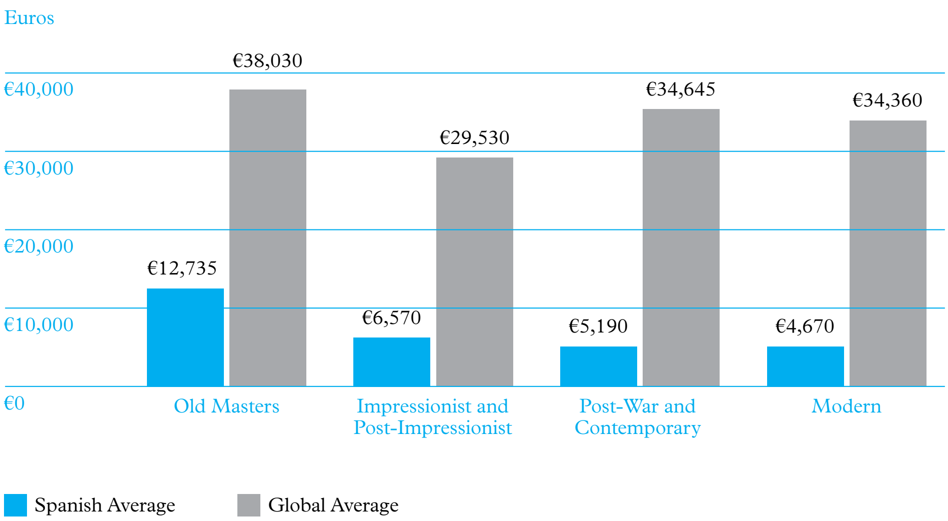
Sectors of the Fine Art Market	Value		Volume	
	Spain	Global	Spain	Global
Impressionist and Post-Impressionist *Artists born between 1821 and 1874*	24%	13%	22%	14%
Modern *Artists born between 1875 and 1910*	16%	29%	21%	28%
Old Masters *Artists born between 1250 and 1820, or works executed between 1275 and 1850*	20%	10%	9%	8%
Post-War and Contemporary *Artists born after 1910*	33%	46%	39%	44%
Others	7%	2%	9%	6%

Source: © Arts Economics (2014) with data from Artnet

The Old Master sector achieved the highest average prices in Spain, more than double those for Post War and Contemporary art, and is characterised by a much lower volume of higher priced works. The price differential between the sectors is much more marked than in the global market, where most of the record prices have been for Post War and Contemporary art, which has substantially increased averages in the sector. In all sectors, the trade in Spain generally takes place at much lower price levels than in international hubs such as New York and London. This is particularly marked in the more modern sectors (Modern and Post War and Contemporary art) where average prices globally are seven times those in Spain. In the Old Masters sector, the difference is less pronounced, with prices around one third of those achieved globally.

FIGURE 3

Average Price in Sectors of the Spanish Fine Art Auction Market Versus Global Market in 2013



Source: © Arts Economics (2014) with data from Artnet

It is interesting to compare the performance over time of the two contrasting sectors of Old Masters and Post War and Contemporary art. In both the Spanish and global art auction markets, the performance of Post War and Contemporary art has shown much greater volatility, with sales booming up to 2007 and then falling substantially in 2009. In the Spanish market, total sales in this sector contracted by 82% from 2007 through 2009 (and fell globally by 52%). However, in the recovery period since 2009, Spain's performance has diverged somewhat, and the market has not regained values anywhere close to those seen in 2007 and 2008, whereas global sales have far surpassed their previous boom levels. After a poor year in 2012, the sector rose 27% year-on-year in Spain reaching €6.1 million in attributable sales (just 0.1% of the €4.9 billion global auction sector).

Sales in the Old Master sector have been subject to less volatility, although Spanish sales also declined in 2009 by nearly 80% versus an uplift of 16% globally, which itself ran counter to the prevailing trend of decline in aggregate global sales. From the bottom of the market in 2009, however, sales in Spain recovered robustly, with annualised growth in excess of 200% to 2012, peaking at €6.4 million, its highest recorded level in a decade. Although sales declined year-on-year by a substantial 40% bringing the market back to €3.8 million, they are still at a higher level than any year prior to 2011. Sales in the global market on the other hand peaked in 2011 and have experienced two years of decline, largely due to declines experienced in Chinese Old Master auction sales.

Overall, the Post War and Contemporary sector increased in value by close to 250% in the ten years to 2013, versus nearly double that increase in the global market, whereas the Old Master sector's performance has been close to the global aggregate, with both increasing close to 110%.

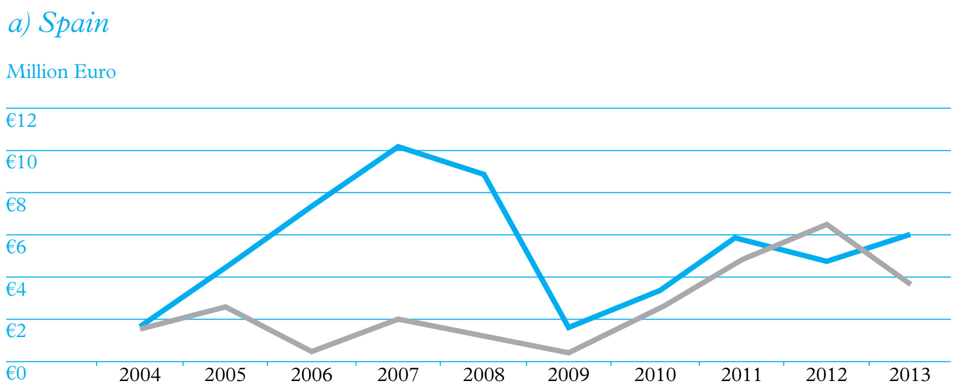
SALES BY SPANISH ARTISTS

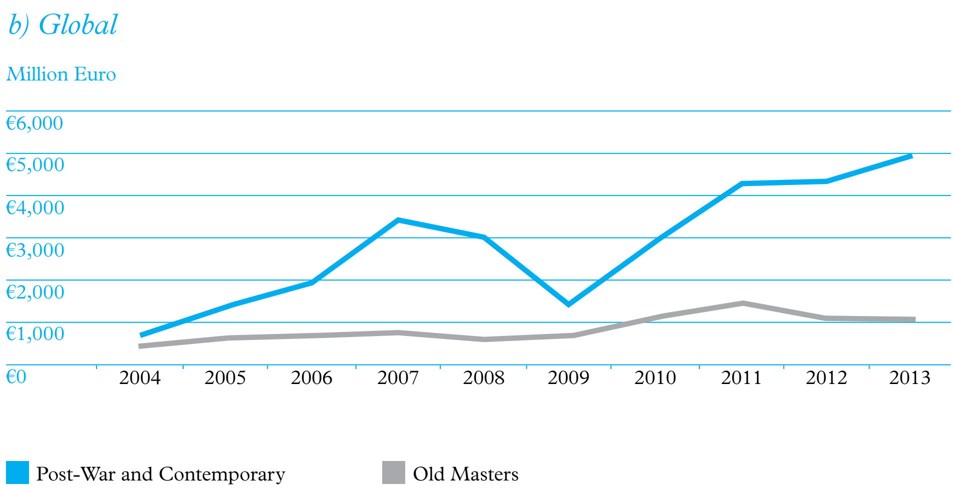
Most art markets around the world sell a high proportion of their own national artists, often with domestic buyers accounting for the majority of sales. Even in the most international hubs such as New York, around half of the sales that took place at fine art auctions in 2013 were sales of US artists' works, and these made up around 53% of the value of transactions with the remaining 47% from works by foreign artists. The dominance of national artists is even more pronounced in smaller markets such as Spain. In 2013, 68% of transactions, at fine art auctions in Spain were sales of works by Spanish artists, and these works accounted for 74% of the value of the market.

Similarly in the dealer sector, representation of Spanish artists dominates. The average number of artists represented by Contemporary dealers in 2013 was 13, although this ranged from one to 45. Around 20% of those surveyed only represented Spanish artists, and 3% only represented foreign artists. The average mix across all galleries was 69% Spanish artists and 31% foreign artists.

An artist's home market is also often the main centre for global sales of their work. Again, taking the US as an example, 80% of all of the transactions of works by US artists around the world took place in the US in 2013, and these US auctions accounted for 84% of the value of sales of US artists globally. The situation for

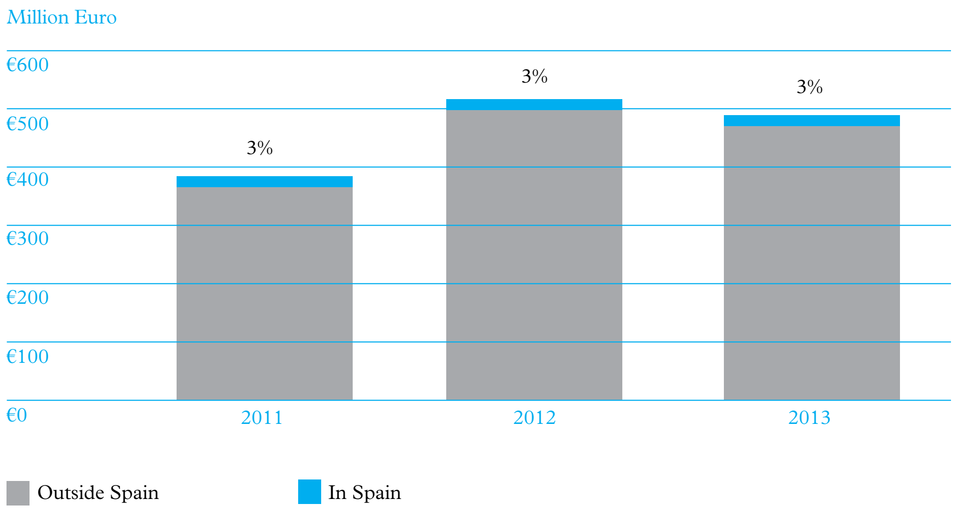
FIGURE 4
Post War and Contemporary Versus Old Master Sales at Auction





Source: © Arts Economics (2014) with data from Artnet

FIGURE 5
Sales of Spanish Artists at Auction

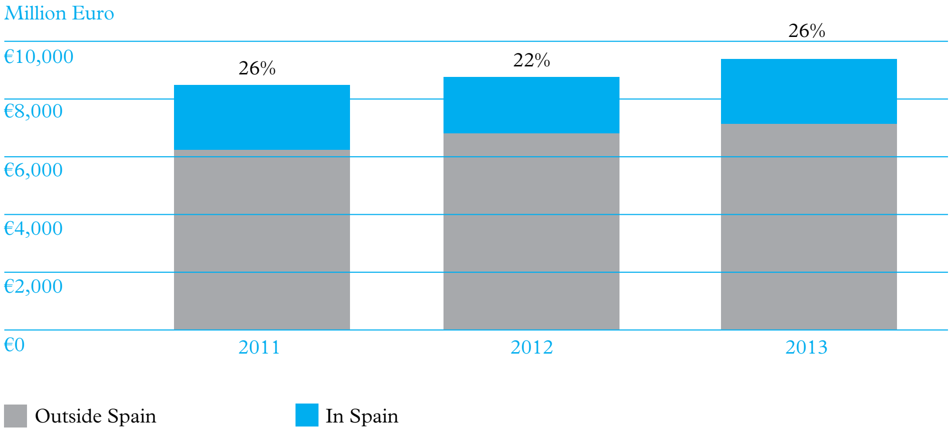


Source: © Arts Economics (2014) with data from Artnet

"The majority of the value and volume of auction sales of the work of Spanish artists remains consistently outside Spain, where the highest prices are also achieved."

Spanish artists is in marked contrast to this however, as the majority of the global value and volume of auction sales remains consistently outside Spain. In 2013, just 3% of the value of works by Spanish artists sold around the world was from sales in Spain and these accounted for only 26% of all transactions.

FIGURE 6
Sales of Spanish Artists at Auction (Number of Transactions)



Source: © Arts Economics (2014) with data from Artnet

Spanish artists have a small but significant presence in the global fine art market. In 2013, they accounted for 5% of the value of all international fine art sales at auction and 3% of transactions (both up 1% on 2011). However, the highest priced works are generally sold outside Spain. In 2013 the top five Spanish artists at auction in terms of aggregate sales (Pablo Picasso, Joan Miró, Juan Gris, Salvador Dalí and Eduardo Chillida) accounted for 87% of the value of sales by Spanish artists, and the top 20 accounted for 96%. These five artists also had the highest prices at auction during the year, all of which took place outside Spain. As seen in Table 2, only one of the top 20 highest prices by a Spanish artist at auction was achieved at a sale in Spain, with most occurring in London and New York. In the Picasso market for example, while many paintings sold for millions in global sales, the average price of all works sold in Spain in 2013 was around €3,500[2] (and the highest was less than €80,000). Total sales at auction by Picasso in Spain were less than 0.1% of the artist's global sales and over 70% of the works that came on to the auction market in Spain were bought in. For Miró, average prices were also around €3,500 in Spain (up to a total of just over €26,000) and accounting for only 0.2% of the value of the market for the artist's works at auction worldwide. Some of the more contemporary artists have a slightly larger share of value in Spain, although it remained much less than external sales in the global market (for example sales in Spain of works by Antoni Tàpies accounted for 7% of the total value of global sales for the artist).

TABLE 2
The Top 20 Highest Prices for Spanish Artists at International Auctions in 2013

Artist	DoB	Lot Title	Price	Location
Pablo Picasso	1881	Femme assise près d'une fenêtre	€33,725,118	London
Joan Miró	1893	Femme rêvant de l'évasion	€9,953,486	London
Juan Gris	1887	Guitare sur une table	€6,873,315	New York
Salvador Dalí	1904	La musique or l'orchestre rouge or les sept arts	€5,908,123	London
Eduardo Chillida	1924	Buscando la Luz IV (Looking for the Light IV)	€4,753,616	London
Joaquin Sorolla y Bastida	1863	Buscando mariscos, Playa de Valencia	€3,667,526	New York
Óscar Domínguez	1906	Machine à coudre électro-sexuelle	€2,491,445	London
Francisco de Goya	1746	Si yerra los tiras! (If you miss the mark!)	€1,734,412	London
Bartolomé Esteban Murillo	1618	Saint Joseph with the Christ Child	€860,687	London
José de Ribera	1588	A philosopher holding a mirror	€838,568	London
Julio González	1876	Tête couchée abstraite	€817,265	New York
Fernando Zóbel	1924	Hattecvm	€795,478	Hong Kong
Antoni Tàpies	1923	Gran ics gratada sobre gris	€769,335	London
Juan Muñoz	1953	Sculpture no. 1 (Louisiana original without small head)	€491,866	New York
María Blanchard	1881	Nature Morte Cubiste	€425,901	London
Juan van der Hamen y León	1596	Bodegón con cesta de fruta y plato con cerezas	€415,279	Madrid
Manolo Valdés	1942	Reina Mariana	€365,321	New York
Jaume Plensa	1955	Alegria I	€337,263	New York
Pedro Núñez de Villavicencio	1644	Argolla players	€328,380	London
Baltasar Lobo	1910	Jeune fille assise de face	€319,185	New York

Source: © Arts Economics (2014) with data from Artnet

TABLE 3
The Top 20 Grossing Spanish Artists (by Total Sales Revenue at Auction Internationally) in 2013

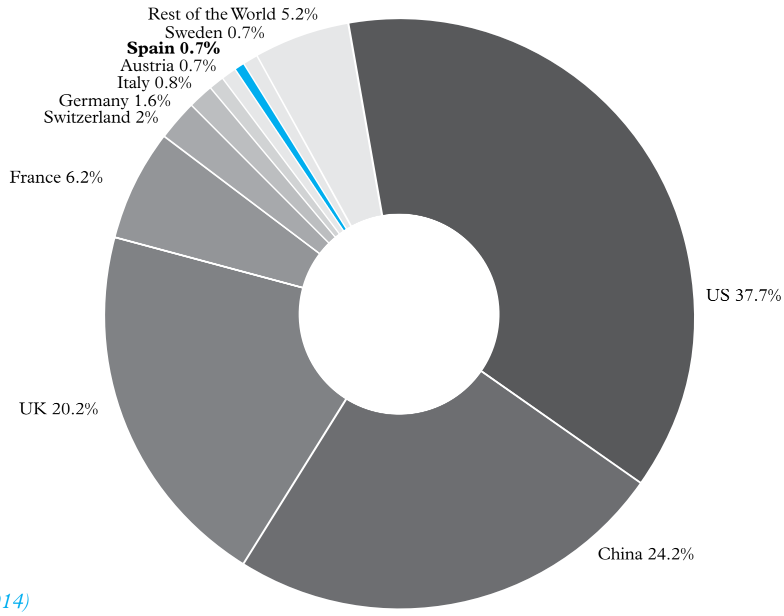
Artist	Total Sales	Artist	Total Sales
Pablo Picasso	€318,239,240	Óscar Domínguez	€3,029,960
Joan Miró	€66,599,242	José de Ribera	€2,293,765
Salvador Dalí	€22,919,215	Miquel Barceló	€1,834,173
Juan Gris	€14,185,056	Juan Muñoz	€1,163,075
Eduardo Chillida	€10,406,097	Antonio Saura	€1,084,481
Joaquín Sorolla y Bastida	€8,302,480	Bartolomé Esteban Murillo	€1,041,302
Francisco de Goya	€5,269,259	Baltasar Lobo	€1,016,185
Fernando Zóbel	€4,841,476	Joaquín Mir Trinxet	€1,002,801
Manolo Valdés	€4,552,138	Julio González	€941,147
Antoni Tàpies	€3,676,337	Juan van der Hamen y León	€820,834

Source: © Arts Economics (2014) with data from Artnet

SPAIN IN THE GLOBAL ART MARKET

In 2013, Spain held a share of just under 1% of global sales of art and antiques. Because of its relatively small size in the global context, this share has not changed dramatically over the last ten years, fluctuating by less than 0.5%. However, the share of the EU in global sales has declined considerably in recent years. In 2013, it accounted for 33% of global sales, a 2% contraction in share year-on-year and down 20 percentage points from its high of 53% in 2003. This is due to a number of factors, including the emergence of China as an important international market and the increasing share of highly priced works in the Contemporary and Modern sectors that are sold in the US rather than Europe.

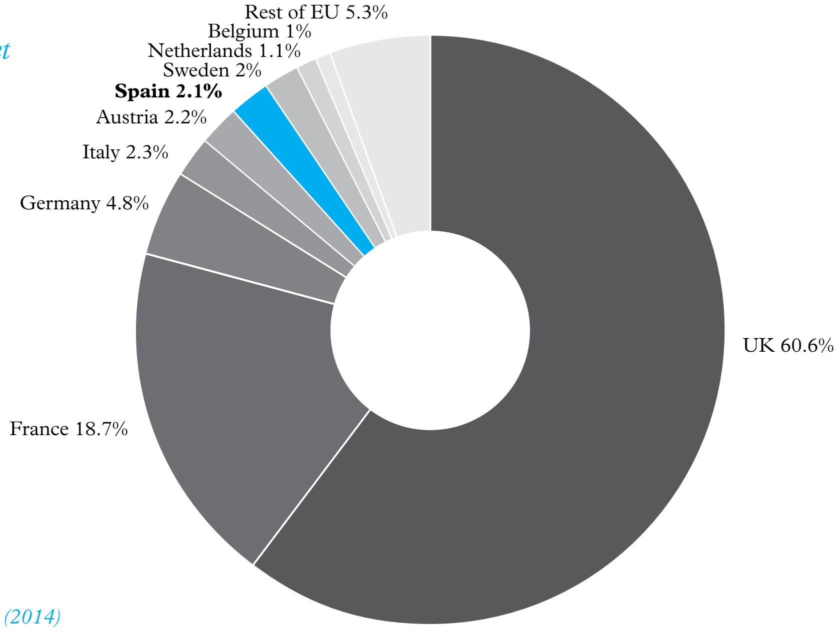
FIGURE 7
The Global Art Market Share by Value in 2013



Source: © Arts Economics (2014)

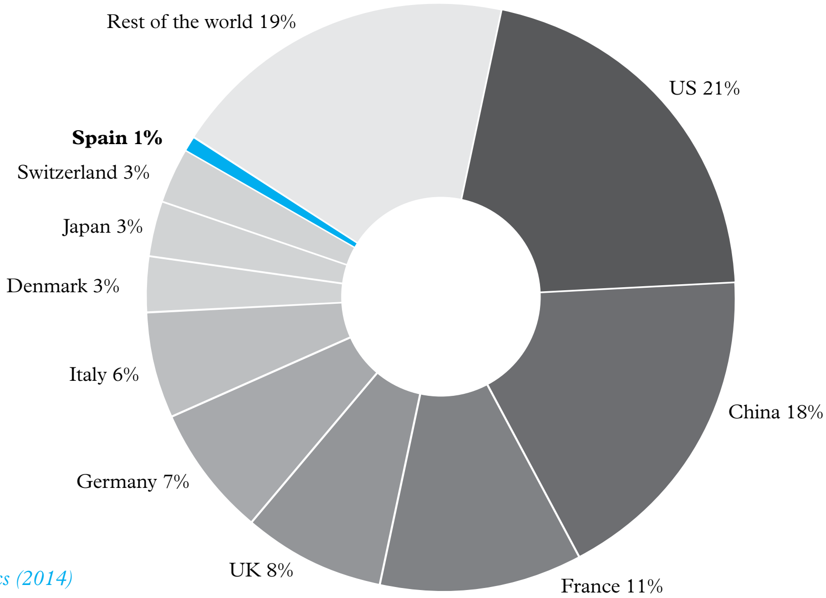
Spain was the sixth largest art market in the EU by value in 2013, with share of 2% of EU sales by value, up marginally on the share reported in 2011. It is the ninth largest in the EU in terms of the volume of sales at fine art auctions with a 2% share in 2013.

FIGURE 8
The EU Art Market Share by Value in 2013



Source: © Arts Economics (2014)

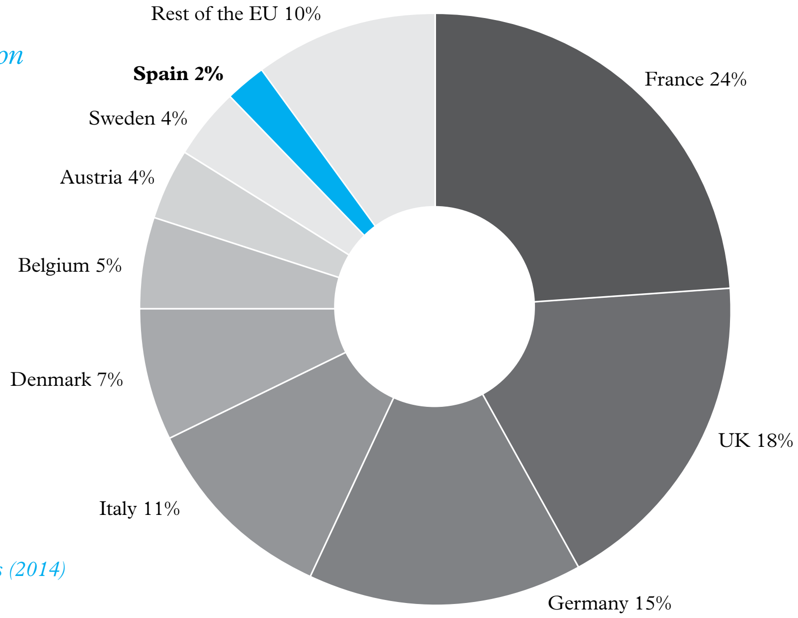
FIGURE 9
Global Fine Art Auction Market Share by Volume 2013



Source: © Arts Economics (2014) with data from Artnet

FIGURE 10

EU Fine Art Auction Market Share by Volume 2013

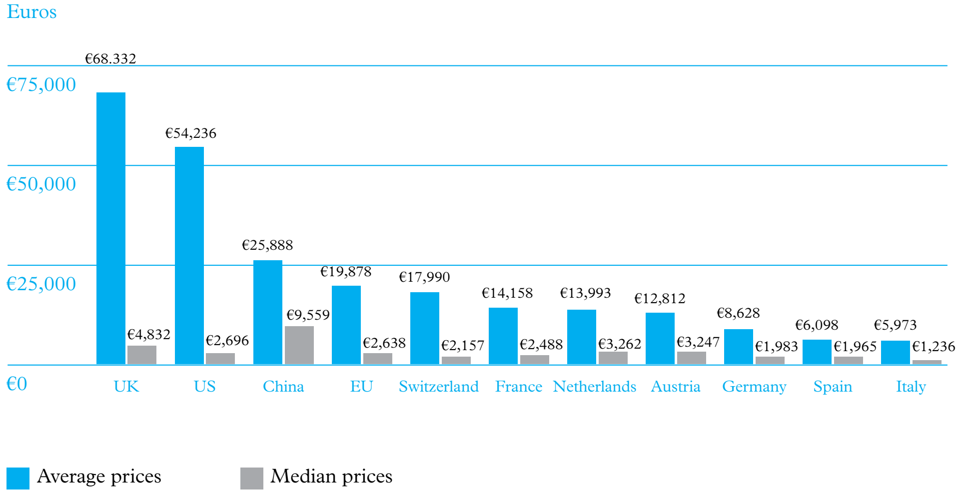


Source: © Arts Economics (2014) with data from Artnet

SPANISH ART PRICES

The average prices at fine art auctions in Spain in 2013 were less than one third of the EU average and only around 10% of those in the UK. Average prices at auction are often skewed upwards by a small number of very highly priced sales. To gauge trends in prices over time and between markets, the median price is a useful comparative measure. The median is a measure of central tendency that is used when distributions are skewed to get a better idea of where the middle of the market is. The median price is simply the price separating the higher and lower halves of the distribution of prices: if prices in the art market were arranged from lowest to highest, the median price is the middle price or centre point along the spectrum. In markets where there are more highly priced lots such as the UK and US median prices are only around 5% of the average.

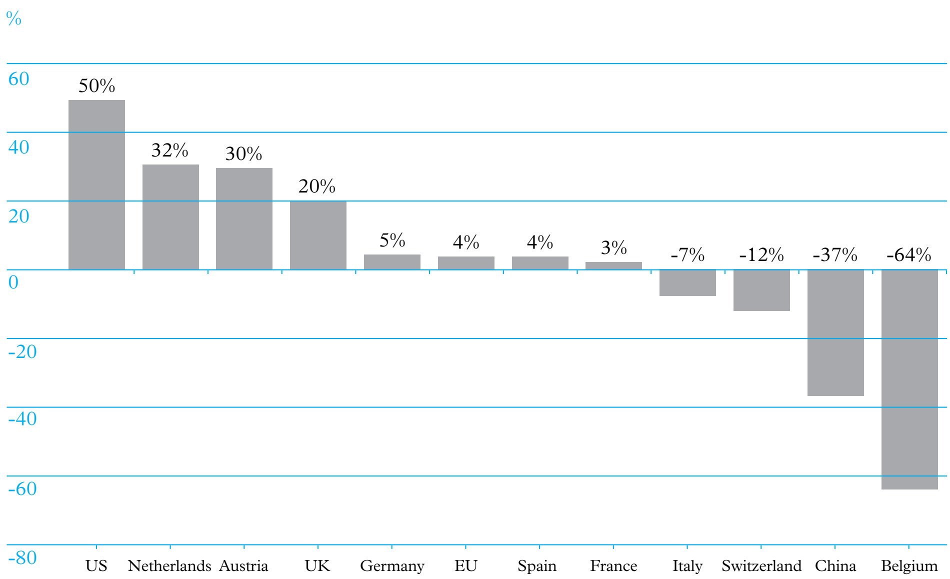
FIGURE 11
Average and Median Price at Fine Art Auctions in 2013



Source: © Arts Economics (2014) with data from Artnet

In Spain, although the average price is still significantly higher than the median, the difference is much less as there are fewer substantially higher lots sold, with the median price around one third of the average in 2013. Average prices fell by 13% year-on-year in Spain, and the average in the EU as a whole also declined by 7%. Looking at the two years since 2011, there has been mixed performance worldwide. Most of the major markets except China showed an uplift over the period, and Spain also showed positive growth with a 4% increase from €5,885 to just under €6,100.[3]

FIGURE 12
Change in Average Prices at Fine Art Auctions 2011 to 2013



Source: © Arts Economics (2014) with data from Artnet and AMMA

"The majority of sales in Spain, in both the auction and dealer sector, are transacted at a low price level of less than €3,000."

The dominance of transactions at the lower end of the market is a widespread feature of the global market. Worldwide in 2013, 93% of all sales at fine and decorative art auctions were transacted at prices of less than €50,000, despite only accounting for 17% of the value of the market. In the EU, 97% of all transactions were at prices of less than €50,000, although these accounted for only 46% of values. In Spain however, lower priced sales dominate both value and volumes, accounting for 99% of transactions but also the majority of value with a 73% share. The majority of sales in Spain (63%) are in fact in the much lower price bracket of less than €3,000 (versus 50% globally), and there were no Spanish fine art auction sales reported that were above €500,000 in 2013 (versus 1% globally).

The same phenomenon is apparent in the dealers' sector. Most works of art sold (95%) in 2013 were sold for less than €50,000, up 2% on the share in this category of prices in 2011 and versus 72% globally. The majority of sales (63%) were in the very lowest level of prices, less than €3,000, versus only 37% globally. None of the Spanish dealers polled reported making sales priced in excess of €200,000, versus 12% globally.

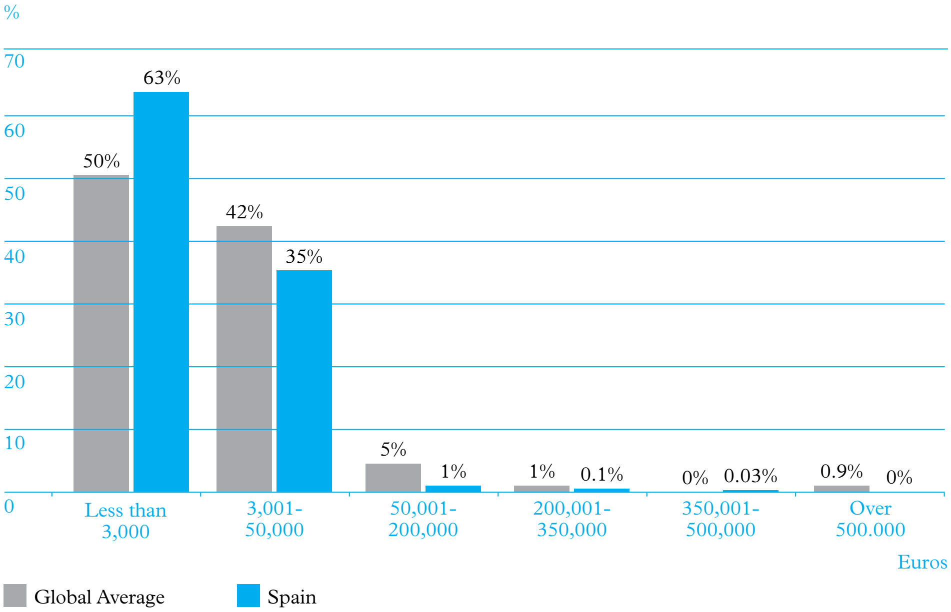
TABLE 4
Lots Sold by Price Level at Fine Art Auctions

	Number of Lots		Total Sales	
Country	Lots greater than €50,000	Lots less than €50,000	Value greater than €50,000	Value less than €50,000
Spain	1.4%	98.6%	27.2%	72.8%
Austria	4.7%	95.3%	50.5%	49.5%
Belgium	0.8%	99.2%	22.4%	77.6%
France	4.2%	95.8%	64.8%	35.2%
Germany	2.7%	97.3%	48.9%	51.1%
Italy	1.7%	98.3%	43.0%	57.0%
Netherlands	5.2%	94.8%	53.6%	46.4%
UK	13.1%	86.9%	89.7%	10.3%
EU	2.8%	97.2%	53.6%	46.4%
China	17.3%	82.7%	82.9%	17.1%
Switzerland	4.6%	95.4%	73.0%	27.0%
US	7.5%	92.5%	90.2%	9.8%
Rest of the world	7.5%	92.5%	82.2%	17.0%

Source: © Arts Economics (2014) with data from Artnet and AMMA

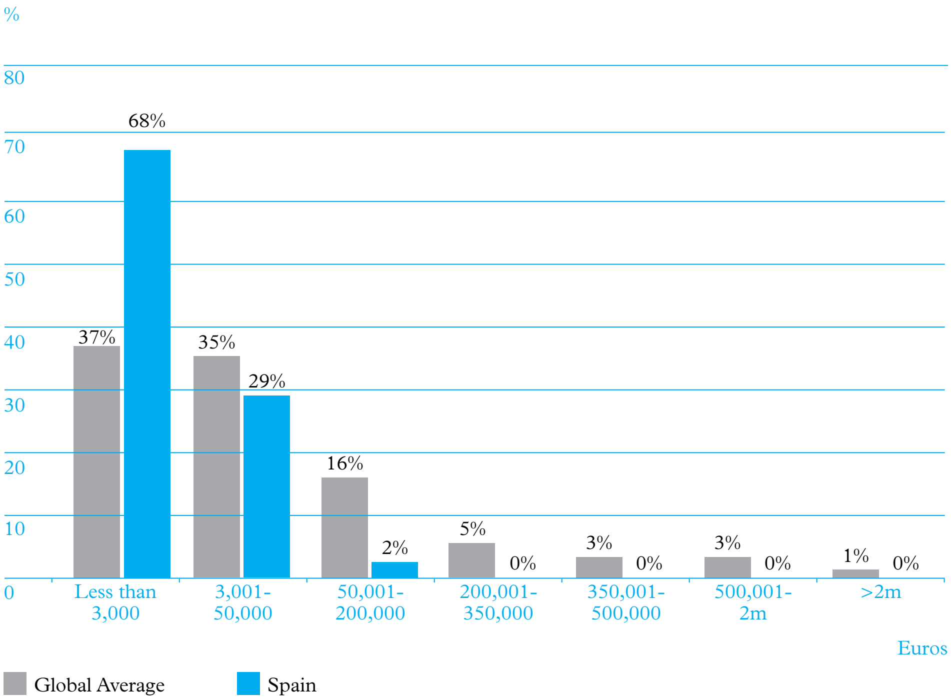
FIGURE 13
Lots Sold by Price Level in 2013

a) Spanish Fine Art Auctions versus Global Fine Art Auctions



Source: © Arts Economics (2014) with data from Artnet

b) Spanish Dealers Versus Global Dealers



Source: © Arts Economics (2014)

2 ART MARKET STRUCTURE

Art sales in Spain are divided into auction and dealer sales. The global share between these two sides of the market was estimated as 53% dealer and private sales versus 47% in 2013. In some of the more mature and established markets, the share of sales by dealers is often larger. In Spain, the dealer sector is considerably larger by value than auction sales, with a share of around 75% of the art and antiques market and close to 80% of the fine art market. The dealer share has fluctuated between 70% and 85% of the market over the last ten years.

THE AUCTION SECTOR

In 2013 there were estimated to be some 125 auction houses selling fine art, decorative art, antiques and collectibles. Within this group of companies there are around 50 auction houses with regular schedules of art sales based primarily in Madrid and Barcelona. Sales in the auction sector in Spain reached an estimated €80.4 million in 2013, up 4% year-on-year, including public auction and private sales by auction houses. Although 2012 was a difficult year for many auction businesses, sales picked up for many houses in 2013. Arts Economics conducted a survey of the core 50 auction houses in Spain in 2014. Most of those surveyed were optimistic about the year ahead: 29% of respondents expected their sales to remain stable on 2013 while 43% expected slightly higher sales in 2014.

In 2013, the top five houses (Ansorena, Balclis, Segre, Fernando Durán and Alcalá) accounted for close to half the value of the market. The core sector is structured into three main tiers based on turnover: around 40% generating sales of less than €500,000, another 50% with sales of between €500,000 and €5 million and 10% with sales over €5 million.

Auction houses in Spain generally sell across a variety of sectors, with the most popular being antiques, Contemporary art and Modern art, which were sold by close to 85% of auction houses surveyed. A majority also sell Old Masters and decorative art. Most houses are built around a schedule containing a high volume of sales of decorative art and antiques, and a lower volume of fine art sales, which average around 30% of transactions. Although jewellery and some other decorative pieces achieve very high prices, the fine art sector is generally where the highest sales prices are achieved, and it accounts for between around 50% to 65% of the value of sales for most houses, despite much lower transaction numbers. As noted above, in general across all sectors, 75% of the lots sold at auction are for less than €3,000.

Sales by public auction remained the main selling channel for auction companies in Spain, with an average of 76% of sales made through this channel (versus 80% for the top tier houses worldwide). Auction houses reported that they made approximately 18% of their sales online in 2013, up 5% on the share reported in 2011. Looking to the future, many auction houses felt that developing online sales was going to be one of their biggest challenges in the next few years, however all of those surveyed felt that the internet in general and online sales were having a positive effect on their businesses. It was regarded as a key growth area for sales, with 83% of respondents estimating that their online sales would increase (and the remainder forecasting that they would remain stable).

"Dealer sales increased 2% year-on-year to €256 million in 2013, with higher end dealers driving growth"

Private sales accounted for 8% of sales on average, but are considerably more important in certain houses. Apart from the nationally based houses, the larger houses of Christie's and Sotheby's for example have offices in Spain and use these for private selling in Spain and from Spanish vendors to private and public auction buyers in London and other international markets. Although private sales are an increasingly important channel for sales for some of the major auction houses worldwide, Spanish auction houses had mixed views regarding their importance for their businesses in future. Only one third of the auction houses surveyed felt their private sales would increase in the next five years, and 50% of respondents felt they would decrease.

Auction houses ranged widely regarding the number of clients they maintained in 2013 (with some reporting up to 2,000 buyers) with a median of 300. Just under one third of these were new clients that they had first done business with in 2013, while 40% were regular clients of the last five years. The remaining 28% were more regular clients who had been with the auction house for over five years. On average around 77% of sales made by auction houses in 2013 were to local Spanish buyers and 33% were to buyers from overseas. An auction expert noted:

"… We have seen a big drop in local market, but there has been a rise in foreign buyers counteracting that. For many Northern European and Russian buyers, the local fine and decorative art at auction here is very under-priced which helps boost sales. They are increasingly concerned about documentation and condition reports though. So, two or three years ago it was easier to sell locally but now we need more people to work on exporting and documentation for foreign buyers, which has added to the administrative complexity. Basically, the results are that we work harder but sell more…"

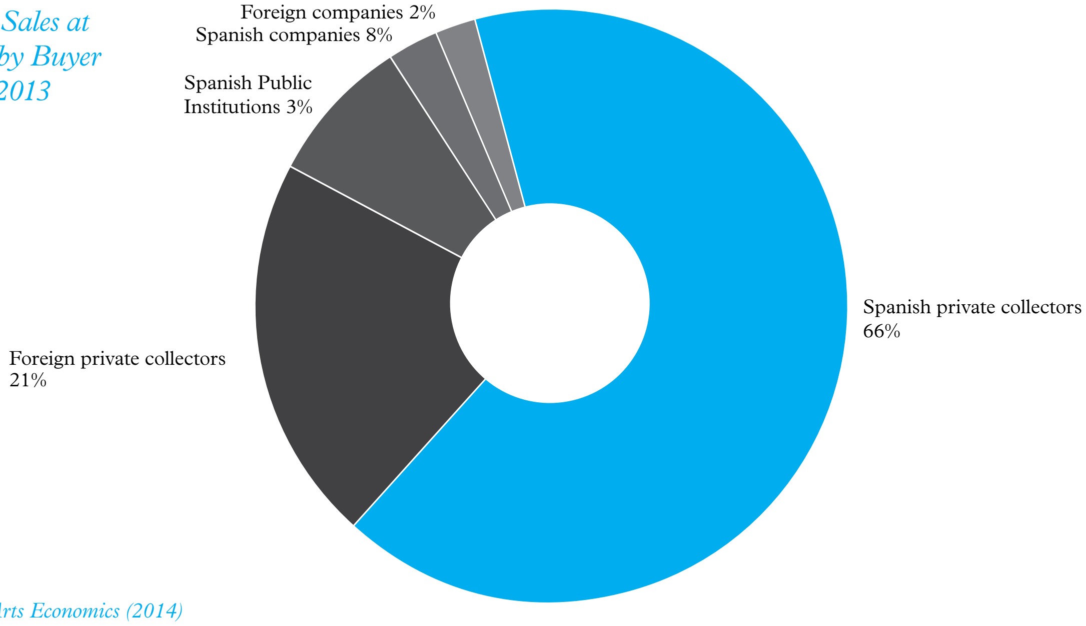
Most sales in 2013 were to private individuals (87%) with three quarters of these to buyers from Spain. Auction houses also reported that around 11% of their business came from Spanish institutional and corporate collectors. The most common foreign buyer nationalities reported by auction houses were European (most notably from France, Portugal the UK and Germany), American, South American or Swiss. Some auction houses noted that some foreign buyers were interested mainly in specific sectors, such as Russian buyers in the jewellery sector. International clients were seen as important by most auction houses, with 83% estimating that they would increase in future (versus only 33% reporting that sales to Spanish clients would increase). The challenge of becoming more international, in buying and selling, was cited by some auction houses as one of the main challenges they faced over the next five years.

THE DEALER SECTOR

In 2013, the dealer sector in Spain was estimated to have generated some €256 million in sales. After three years of poor performance from 2009 to 2011, the market rebounded somewhat in 2012, with sales increasing by 18%, however they grew just 2% year-on-year in 2013. It is interesting to note that while average dealer sales increased, this was influenced by some strong sales at the higher end of the market, while median sales reported by dealers surveyed actually dropped. This indicates some degree of mixed results in the market, with the higher end dealers performing

FIGURE 14

Share of Sales at Auction by Buyer Type in 2013



Source: © Arts Economics (2014)

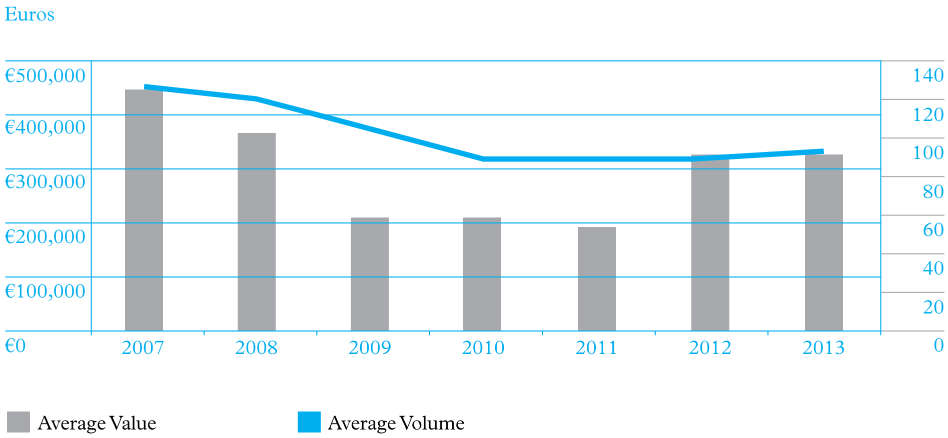
better, much as is the case in the global context over the last two years. A number of dealers commented that those galleries that had been solely reliant on local trade were continuing to struggle, while those with an international focus for sales, the right material and the best platforms were doing relatively well. Dealers' views were mixed regarding how sales would perform over 2014, although the majority were cautiously optimistic, with 47% estimating that they would remain stable, while 30% felt they would increase over the year.

While average values from 2011 through 2013 have increased by 74%, the average volume of sales has increased only 5%. In the dealer sector, according to polling in 2013, the median number of works sold by dealers was 30 works but this ranged widely between dealers (with some reporting up to 1,000 with an average of 94). This median volume was stable year-on-year, but has dropped 25% since 2011 and is half the level achieved in 2009, indicating that the increase in the value of sales is being driven to some degree by higher prices rather than simply more transactions.

The dealer sector in Spain is made up of over 2,950 listed businesses including galleries (roughly 40%), private dealers and antique shops. Including small unlisted businesses that sell art and antiques as part of their offering, the number of businesses is likely to be in excess of 4,000. Arts Economics surveyed the core dealers and galleries in the market in 2014, which represented just over 650 galleries across a number of sectors. These dealers are responsible for over 70% of sales in the market which reached an estimated €256 million in 2014. The majority of these businesses that were surveyed (40%) were based in Madrid and Barcelona.[4]

FIGURE 15

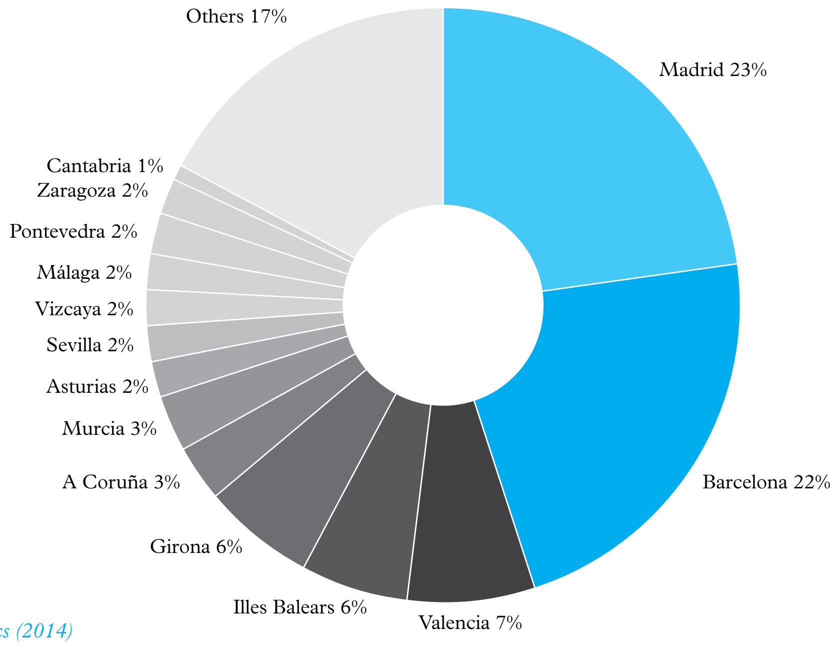
Average Value and Volume of Sales per Dealer



Source: © Arts Economics (2014)

FIGURE 16

Location of Core Dealer Businesses in Spain



Source: © Arts Economics (2014)

By far the largest sector represented by dealers in Spain was Contemporary art. Just over 70% of those businesses surveyed sold Contemporary art, 12% sold Modern, 6% Old Master works, and the remainder decorative art, antiques, design and others.

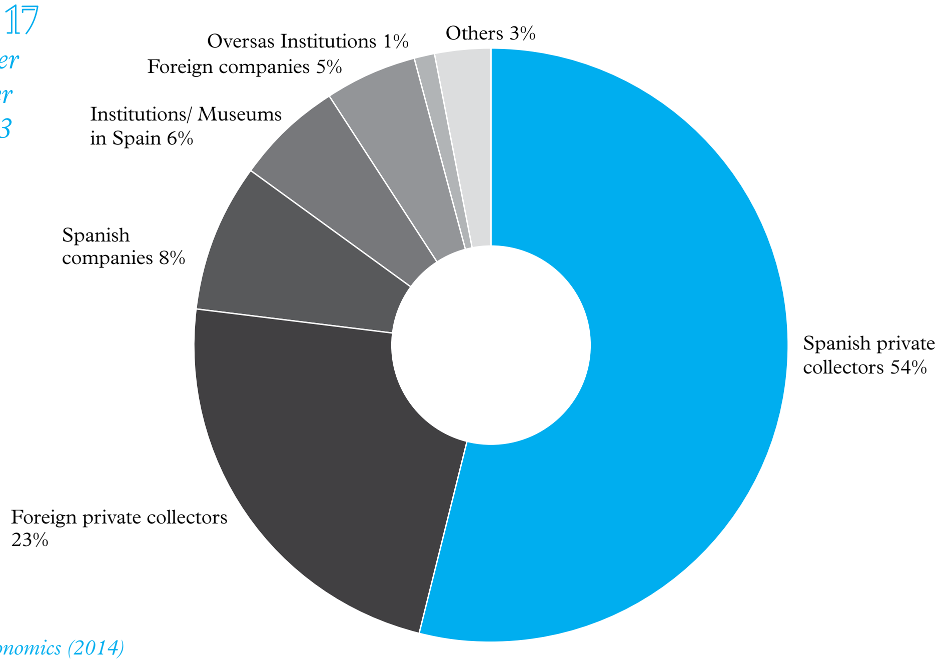
The average number of artists represented by Contemporary dealers in 2013 was 13, although this ranged from one to 45. Around 20% of those surveyed only represented Spanish artists, and 3% only represented foreign artists. The average mix across all galleries was 69% Spanish artists and 31% foreign artists.

In terms of buyers, the median number in 2013 was 21 clients (less than half the global median of 50) although this ranged widely from four to 500. Spanish galleries had more new clients than long-term ones compared to global averages. In

2013, dealers in Spain reported that 36% of their buyers had only started buying from the gallery during the year (versus the global average of 32%), while the highest proportion (41%) were clients of the last five years (which was also the largest buyer segment globally with 38%). Long-term clients of more than five years were the smallest segment at 24% (versus 30% globally).

Overall, around 70% of dealers' sales in 2013 were to local buyers in Spain and 30% to foreign collectors. This has not changed significantly since 2011 and is slightly more local trade than the global average of 65% local buyers for galleries in 2013. Like auction houses, the main clients of dealers in Spain were private collectors. Dealers reported that 77% of their sales went to private buyers (on par with the global average) with about two thirds of these from Spain. Spain had a relatively high level of corporate buying at 14%, twice the global share, and this included 5% of sales to companies outside of Spain. Public institutions and museums accounted for 7% of sales (versus 9% globally) and most of these were Spanish buyers.

FIGURE 17
Share of Dealer Sales by Buyer Group in 2013

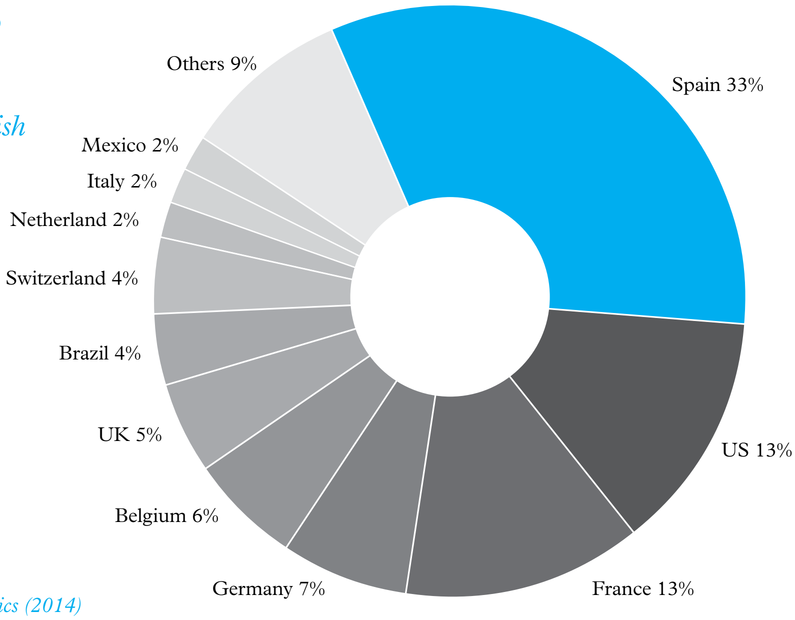


Source: © Arts Economics (2014)

In terms of buyer nationalities, unsurprisingly given the level of local sales, Spanish buyers rated highest at 33%, followed by US buyers at 13%. Other EU nationalities made up a further 39%, and buyers from South and Central Americans also accounted for 11%.

Dealers also reported that 70% of their sales took place within Spain and 30% took place abroad. While some galleries have become increasingly international regarding both the artists that they represent and in terms of their buyers, many cited internationalisation as one of the biggest challenges they faced over the next five years, both in terms of gaining an international presence and visibility and com-

FIGURE 18
Share of Buyer Nationalities in 2013 for Spanish Art Dealers



Source: © Arts Economics (2014)

peting with international galleries. Many felt that without significant improvement in demand and changes in legislation to improve the market in Spain, they were being forced to look to the global market for sales if they hoped to continue to operate. Although this was by far the view of the majority of those dealers interviewed and surveyed, some were cautious about what they perceived had become an overfocusing on building business outside Spain to the neglect of their home market, feeling it was bad for long-term prospects and also for the their core functions as a gallery. One dealer remarked:

"…I don't agree with the popular model that as a Spanish gallery you have to focus on selling abroad - it can be a complement to what you do, but not as your sole business model, or else you basically lose the essence of what a gallery is..."

Despite some mixed views, the overwhelming majority of dealers (83%) felt that their sales to international buyers would increase in future, with the remainder reporting that they would remain stable.

The most important channel for sales for dealers in Spain continues to be via their galleries with an estimated 58% of their total sales made there in 2013 (unchanged on 2011 and 8% larger than the global average). Nearly all dealers felt that this would remain an important venue for sales, with only 2% of dealers forecasting a decrease in the share of gallery sales in the next five years. Around half of the dealers surveyed thought that they would increase their participation in international art fairs over the next five years, with just 7% planning to reduce participation. Most dealers (72%) felt that their participation at domestic fairs would not change, with 9% planning to decrease participation and 19% planning to increase.

Art fairs accounted for 35% of sales, up 2% on 2011, fairly evenly split between international and domestic fairs. This is on par with global averages at

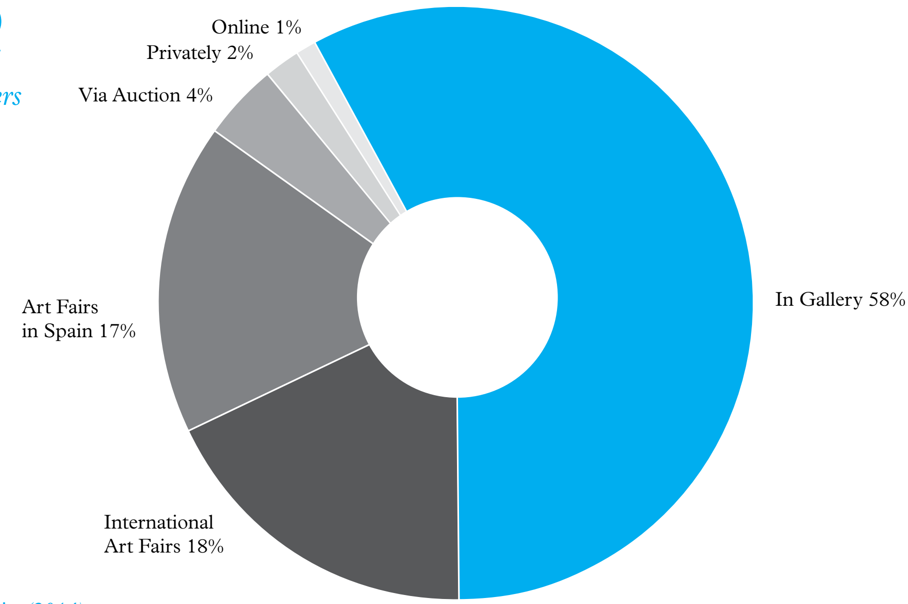
"Despite their growth globally, online sales only account for 1% of the value of sales in the dealer sector in 2013."

33%. The majority of dealers (61%) felt that the continued growth of art fairs was a positive influence on their businesses, however 39% disagreed, and 10% of them strongly disagreed. Some dealers felt that the gallery was the ideal venue for exhibition, however the fair had become a necessary part of staying in business:

" … The last two years have been tough and much of the sales we're doing are outside Spain and at art fairs. We still very much prefer the gallery - you can exhibit properly, and think about how and what you want people to see, whereas for a fair, you must always primarily think commercially as you have to cover the costs…"

Online sales dropped 4% from 2011 to an average of just 1% (which is 4% below the global average). This average included many dealers that reported no online sales, however those reporting at least some online sales still showed a relatively low average of 7% of sales via this channel, which is again around half of the global comparator. Of those that reported sales, on average only around 3% of their online sales were what could be seen as "pure e-commerce", that is, transacting online with no other contact with the gallery. Sales that were made via the internet went mainly to buyers that had already had some contact with the dealer or gallery, at 48% versus the global average of 28%, and there was significantly less to brand new buyers that had no previous contact with the gallery (40% of internet sales in Spain versus 62% globally). However, dealers were somewhat less positive about the effects of the online channel than auction houses. While the majority (65%) felt that the internet and online sales were having a positive effect on their business, a substantial 35% felt that they were not. Most dealers (57%) felt that online sales from their gallery would increase over the next five years, while the remainder thought they would remain stable.

FIGURE 19
Sales by Channel for Spanish Dealers in 2013



Source: © Arts Economics (2014)

"The most important channel for sales for Spanish dealers remains their galleries, but art fairs accounted for 35% of sales in 2013."

Dealers were asked to report their gross margins, which averaged 28% in 2013, up 1% year on year. These were somewhat lower than the global average of 35% for dealers but higher than auction houses in Spain at around 24% on average. Both are considerably lower than the gross profits of many luxury sectors, which have been reported up to 60% in recent years, or high end auction houses such as Sotheby's that provide a wide range of ancillary services with gross margins often in excess of 80%.[5]

ART FAIRS

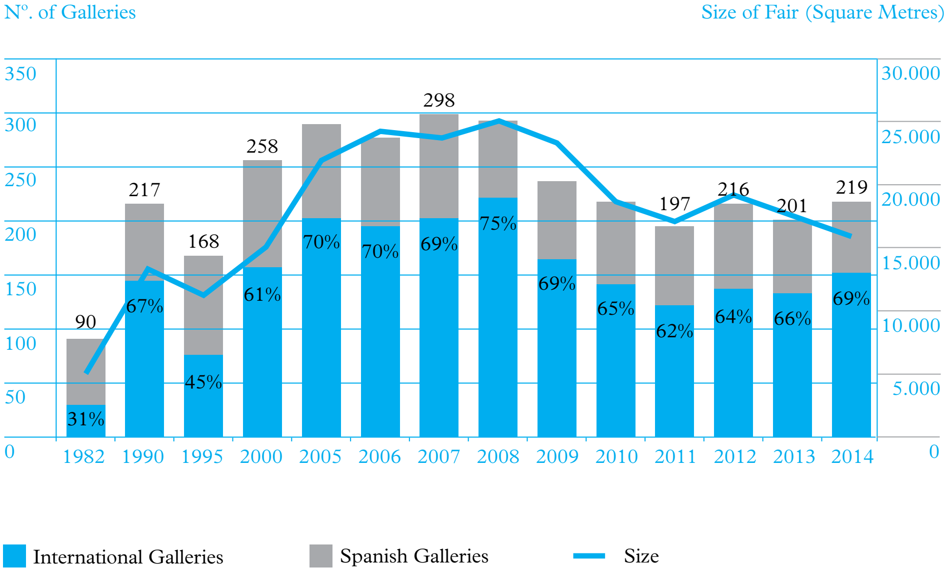
In an increasingly globalised market for art and antiques, one of the biggest trends in recent years has been the shift in the structure of the marketplace from being highly fragmented to centring on key international events for buyers and sellers of art. The biggest shift in recent history for dealers has been the growth of art fairs, which are now central to most dealers' business models and generated 33% of sales in the sector globally in 2013. Most dealers attend local, national and international fairs and the balance of sales in Spain as noted above is fairly evenly distributed between those made at national versus international fairs, combining to an aggregate of 35% of total sales. Although most fairs do not publish figures for sales by exhibitors, dealers in Spain reported that art fairs in Spain generated €43.5 million in sales in 2013. It is estimated that close to 60% of these come from sales at Arco.

There are around 70 established fairs in Spain in 2014 that are focused solely or in part on art, antiques, collectibles and design, excluding very small local fairs and markets, and all those fairs selling solely reproductions and works of interior design. Around 30 exclusively sell art and antiques, while the remainder sell art alongside other collectibles, design items or other culturally related goods and crafts.

The largest and one of the most important fairs in Spain is **Arco Madrid**, which held its 33rd edition in 2014. Arco focuses largely on contemporary works in different media and is a key international event for the Spanish art trade and a central point for sales and international exchanges for many Spanish art dealers. In 2014 there were 219 exhibiting galleries, including 68 Spanish galleries and 151 international exhibitors. The number of galleries peaked in 2007 at 298, more than tripling in number since its first edition, while the physical layout of the fair expanded to nearly four times its size to accommodate the growing number of exhibitors (from just 5,000 square metres to close to 24,000 square metres). Since then, the fair has reduced the number of exhibitors but maintained an international focus with nearly 70% international exhibitors. The fair also invites a significant number of foreign collectors, with over 500 special guests in 2014, including many from Germany, France, the UK, the US and South America.

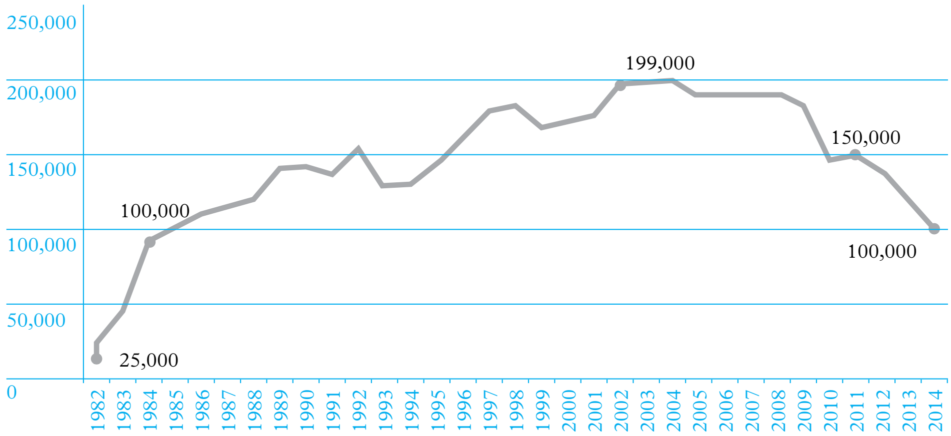
Arco is attended by art market professionals and international and Spanish collectors as well as a wider audience from the general public over five days each February. In 2013, the fair attracted a total of 118,000 local and international visitors. In 2014, visitors were estimated at 100,000, down 15% in number year-on-year although VIP guests increased by 8%. Although this is the lowest point for visitor numbers since 1985, ARCO remains one of the top fairs internationally for visitor traffic, surpassing events such as Art Basel (65,000 in 2014), Fiac (with an estimated 73,500) and Frieze London (with 60,000 in 2013).

FIGURE 20
Number of Galleries Exhibiting at ARCO and Size of the Fair



Source: © Arts Economics (2014) with data from Arco

FIGURE 21
Number of Visitors to ARCO 1982-2014



Source: © Arts Economics (2014) with data from Arco

Although ARCO is the largest fair in terms of sales, galleries and visitors numbers, there are a number of other smaller important fairs in Spain, that each attract between 10,000 and 20,000 visitors. Some of the key fairs that focus solely on art and include an international programme include:

Art Madrid: Art Madrid is a Contemporary fair in Madrid that has been running since 2006. In 2014, the fair attracted an estimated 20,000 visitors to 45 galleries exhibiting from Spain, Germany, Portugal and South America. The number of galleries exhibiting was up 12% (from 40) in 2013, but has fallen from a high of 80 galleries in 2009. However the number of visitors has steadily risen, increasing 11% year-on-year and up 67% from 2009 with just 12,000.

Art Santander: Art Santander is an international contemporary art fair which was launched in 1991 and takes place each year in Santander. In 2013, the fair hosted 42 galleries predominantly from Spain and other parts of Europe. The visitors numbers were estimated at 4,000, stable on 2012.

Estampa: Estampa started as a contemporary print fair in 1993 and has subsequently expanded to include drawings, works on paper and other multiples such as video art and books. There are between 60 to 70 exhibitors each year, most of which are Spanish. Most sales take place between the price levels of €1,000 to €15,000 and the fair draws about 20,000 visitors each year over four days.

FAIM Arte Independente: FAIM Arte Independente is an independent artists' fair where artists sell their works directly to collectors without gallery intermediation. FAIM held its 14th edition in 2014, exhibiting works by over 120 Spanish and international artists. The latest reported figures for visitor numbers were in 2012, when there was an estimated 25,000.

Feriarte: Feriarte is a non-contemporary fair in Spain, representing both art and antique dealers and covering furniture, works of art, antique jewellery and other collectibles. The fair is one of the longest running in Spain, starting in 1976 and in its 38th edition in November 2014. In 2013, the fair hosted 85 nearly exclusively Spanish exhibitors, around 60% of which were antiques dealers. The fair attracted 19,655 visitors, up 7% year-on-year and sold approximately 2,350 works, a rise of 15% despite 5% fewer galleries.

JustMad: Just Mad is an art fair for emerging contemporary art and held its fifth edition in 2014. The fair hosted 35 galleries (down from 65 in 2012) and the share of foreign galleries is around 30% to 40% each year. Visitors have ranged between 12,000 to 18,000 since the fair's inception.

Loop: Loop is a specialised international art fair held in Barcelona dedicated to video art. The fair commenced in 2003 and is one of the most important international events in this sector. There were more than 17,000 visitors and 50 exhibitors in 2014, as well as a programme of debates on subjects in the field and a large group of guest international collectors.

Summa: Summa started in 2013 with 64 galleries and exhibition spaces, half of which were foreign, including galleries from Europe, South America, China and Asia. In its first year, this Madrid-based fair attracted 10,000 visitors.

Swab: Swab had its first edition in 2007 in Barcelona, with 42 contemporary international and Spanish galleries attracting around 6,000 visitors. By 2013, the number of visitors had more than doubled and there were 64 galleries from 20 countries.

MUSEUMS

Spain hosts several world-renowned art museums. The latest statistics reported by Ministerio de Educación, Cultura y Deporte indicate that there were 1,529 museums in Spain at the end of 2012, including 126 contemporary art museums, 33 decorative arts museums, 227 dedicated to other fine art and 173 archaeological museums.

Although museums are beyond the remit of this study, it is important to note that some have been important buyers of art, and all have an important economic impact on the Spanish economy. In the decade to 2012, the number of visitors to museums in general in Spain increased by close to 40%, and at least 31% of the Spanish population reported visiting a museum each year. Within the art sector, general fine art museums had the most visitors (47% of visitors to art museums and 27% of all visitors), with contemporary art museums the second most popular (accounting for 35% of visitors to art museums).[6]

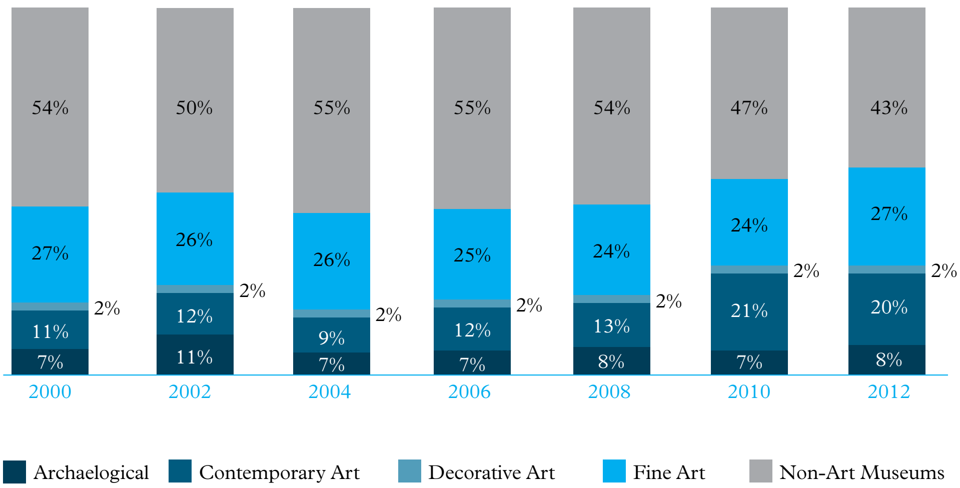
While the number of visitors has increased overall, the share of visitors to art museums has also grown in size and accounted for the majority of visitors in 2012 at 57%. The share of visitors to Contemporary art museums has shown the most growth, with visitor numbers more than doubling in ten years and their share of all museum visitors rising from 12% to 20% in 2012.

TABLE 5
Visitors to Spanish Museums by Category 2000-2012 (Millions)

	2000	2002	2004	2006	2008	2010	2012
Total Visitors	42.5	43.0	49.7	53.2	56.1	57.5	59.0
Archaeological	3.2	4.9	3.4	3.9	4.4	4.1	4.9
Contemporary Art	4.5	5.0	4.7	6.4	7.2	12.0	11.8
Decorative Art	0.7	0.8	0.9	0.9	0.9	1.0	0.9
Fine Art	11.3	11.0	13.2	13.1	13.6	13.5	15.8
Non-Art	22.8	21.4	27.6	29.0	30.0	26.8	25.6

Source: © Arts Economics (2014) with data from Ministerio de Educación, Cultura y Deporte

FIGURE 22
Share of Museum Visitors by Museum Type

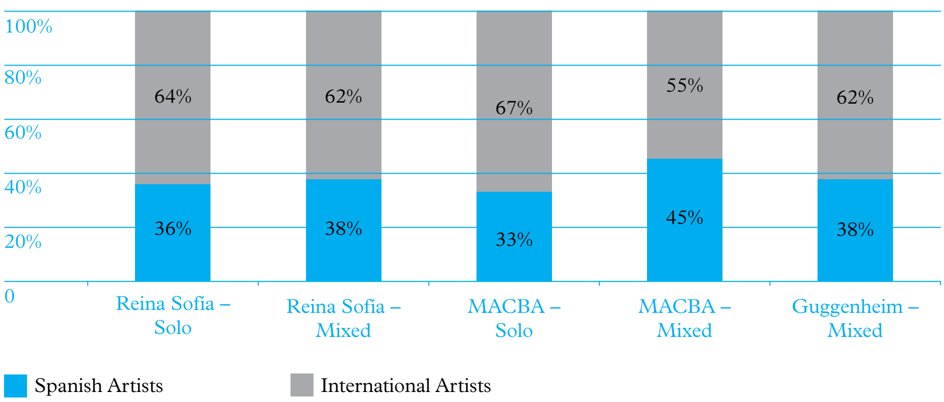


Source: © Arts Economics (2014) with data from Ministerio de Educación, Cultura y Deporte

"In 2013 the majority of exhibitions in Spanish contemporary museums featured international rather than Spanish artists."

Spanish art museums have a variety of exhibition programmes including both Spanish and international artists. In 2013 the majority of major solo shows in the main contemporary art museums such as the Reina Sofia and Macba were exhibitions of international artists. Also, aggregating all of those artists mentioned in major mixed shows, all of the main museums for Contemporary art in 2013 had a majority of international artists. The average share of Spanish artists in these exhibitions throughout the year ranged from 38% to 45%.

FIGURE 23
Share of Spanish versus International Artists in Museum Exhibitions 2013



Source: © Arts Economics (2014)

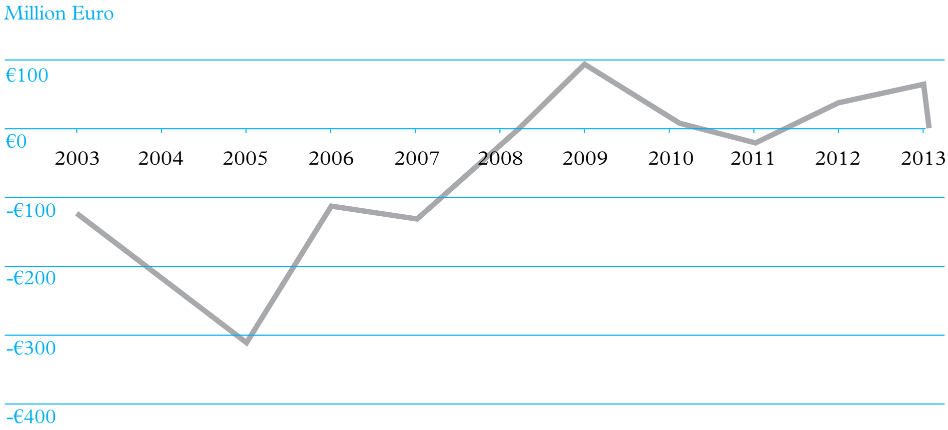
Some dealers feel that a key issue in the Spanish art market is that museums and dealers do not work together enough or offer enough mutual support of Spanish artists.[7] As noted by one dealer:

"Spanish museums and dealers don't reinforce each others work. Museums in Spain actually encourage young collectors to buy at international fairs and not to buy from local galleries, and provide no support to young artists. There are often Spanish artists that have exhibited internationally that will not be exhibited here. Galleries, who do the most work concerned with actual exhibition and promotion, get neither recognition or aid for supporting artists."

3 THE SPANISH CROSS-BORDER TRADE IN ART

In 2013, Spain was a net exporter of art and antiques with a trade surplus of €63 million. Net exports were positive in both 2012 and 2013 as imports declined to their lowest level in ten years, while exports maintained a steady pace of growth.

FIGURE 24
Spanish Net Exports of Art 2003 to 2013



Source: © Arts Economics (2014) with data from Eurostat

IMPORTS

Imports of art and antiques reached a ten-year low in 2013, reaching just €40.3 million, a drop of 29% year-on-year and losing more than half their value in the two years from 2011. From 2003 to 2005 there was a very rapid escalation in imports, reaching a peak of €362 million, but faltering there after as the market peaked. Import values have lost almost 90% of their value from 2005 to 2013. After a relatively strong year in 2012, imports across the EU as a whole fell in 2013, with values dropping by 16%. Spain accounted for just 1% of the value of the EU cross-border imports.

There are a number of possible reasons for the continued decline in imports to Spain. High import VAT combined with economic pressures lessening the demand for international art are likely to have had a negative effect. A contributory factor could also have been currency exchange rates, particularly with Spain's main trading partner: the US. The strength of the US dollar vis-a-vis Euro peaked at the end of July 2012, but had fallen by 11% by the end of 2013. (Spain's total imports also fell slightly by 2% year-on-year, while exports rose 4%.)

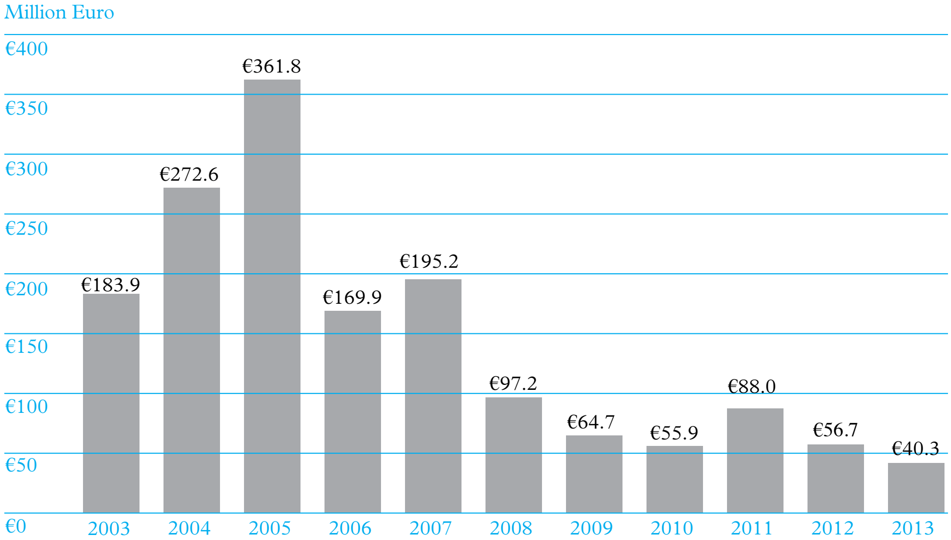
Import VAT on extra-EU imports was temporarily raised in 2012 from 8% to 21%, which is very likely to have contributed to the drop in imports from 2011 to 2013. This rate was reduced to 10% again in January 2014 and the changes do appear to have had a significant effect already in boosting imports. Provisional data for the first six months of 2014 indicate that imports have already registered €28.8 million, versus just €19.2 million in the same period of 2013, or a 50% increase. In 2014, over 60% of the value of imports are from outside the EU (where the import VAT applies), which is a greater share than in 2013, when extra-EU imports in the first six months only represented 45% of total values.

"The temporary rise in import VAT from 8% to 21% is likely to have contributed to the 29% year-on-year drop in imports in 2013."

The main source countries for imports to Spain are the largest art and antique markets worldwide, with the US, UK and France accounting for close to half of their value in 2013. China accounted for an 8% share, stable on 2011, but a substantial increase from the previous decade with a share of only around 1% in 2003. Latin American sources are notably absent from the top ten source countries in 2013, having had a stronger presence in 2011.

In 2013, intra-EU imports dominated extra-EU imports of art with a 59% share. This was the highest share of internal imports since 2003, and the balance is very likely to have been influenced by the increasing relative charges on extra-EU imports. While extra-EU trade accounted for the majority of the value of fine art imports (i.e. paintings and sculptures), intra-EU trade heavily dominated in all of the decorative art and antiques sectors, which pushed the average upwards.

FIGURE 25
Spanish Imports of Art 2003 to 2013



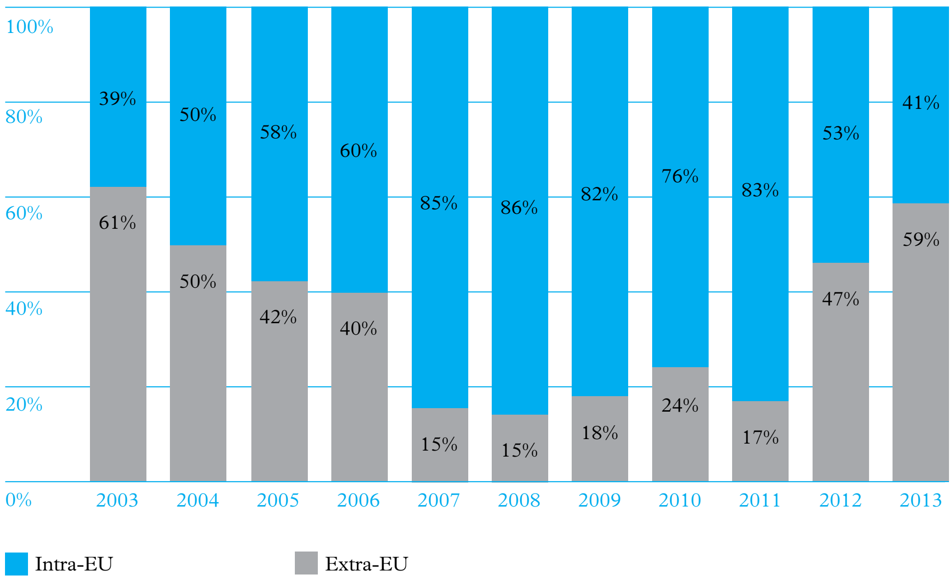
Source: © Arts Economics (2014) with data from Eurostat

TABLE 6
Source Countries for Art Imports 2003, 2011, 2013 (Share of the Value of Total Imports)

Source of Imports 2013	Share of Total	Source of Imports 2011	Share of Total	Source of Imports 2003	Share of Total
US	19%	US	41%	Netherlands	20%
France	15%	Brazil	10%	US	16%
UK	14%	Bahamas	9%	Switzerland	15%
Germany	13%	China	8%	France	14%
China	8%	Switzerland	8%	Belgium	7%
Switzerland	6%	UK	6%	Germany	6%
Poland	4%	Germany	4%	UK	4%
Netherlands	4%	Peru	3%	Italy	4%
Italy	3%	France	2%	Portugal	3%
Austria	2%	Belgium	1%	Argentina	2%
Others	12%	Others	8%	Others	9%

Source: © Arts Economics (2014) with data from Eurostat

FIGURE 26
Spanish Intra-EU versus Extra- EU Imports of Art 2003 to 2013



Source: © Arts Economics (2014) with data from Eurostat

TABLE 7
Share of Fine Art in Value of all Imports and Exports of Works of Art

Year	Imports	Exports
2003	31%	61%
2004	25%	53%
2005	41%	48%
2006	49%	76%
2007	88%	86%
2008	75%	93%
2009	73%	96%
2010	71%	87%
2011	76%	80%
2012	61%	82%
2013	46%	82%

Source: © Arts Economics (2014) with data from Eurostat

It is interesting to note also that the share of fine art (defined here as paintings and sculpture) in total imports declined significantly in 2013, falling to 46%, its lowest share since 2005. Paintings accounted for 34% of the value of total imports (versus 45% in 2012), and fell 46% in value year-on-year, while sculptures dropped over 80%. Antiques, on the other hand, rose by 16% in value. However, this is a much smaller category (accounting for only 11% of total imports of art and antiques).

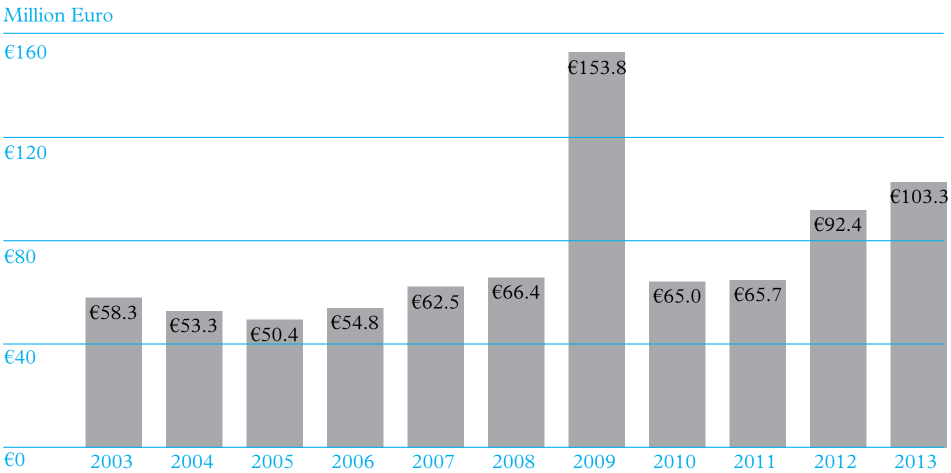
EXPORTS

Spanish exports rose 12% year-on-year to reach €103.3 million, the third successive year of growth. Although they still fell short of the peak of €154 million in 2009, they have increased by 57% since 2010. Spain accounted for less than 1% of total exports from the EU in 2013, and the region as a whole showed positive performance with exports increasing by a moderate 6% across the EU.

Provisional data for the first six months of 2014 indicate that exports have remained stable (increasing just 1% on the first six months of 2013 to €42 million). Just over 60% of exports in 2014 were from outside the EU versus a share of 65% in 2013.

The main destination countries for Spain's exports of art were again the major art markets in and outside of Europe, with the US maintaining a 35% share, up 2% on 2011 and 20% since 2003. Exports to the UK also increased substantially with their share of the total up 15%, while those to Brazil dropped 8%. The more global nature of cross-border trade is clear from Table 8, which shows that EU countries are much less dominant as partners for trade in recent years than in 2003.

FIGURE 27
Spanish Exports of Art 2003 to 2013



Source: © Arts Economics (2014) with data from Eurostat

TABLE 8
Destination Countries for Art Exports 2003, 2011 and 2013 (Share of the Value of Total Imports)

Export Destination 2013	Share of Total	Export Destination 2011	Share of Total	Export Destination 2003	Share of Total
US	35%	US	32%	Germany	17%
UK	23%	Switzerland	12%	Gibraltar	16%
Switzerland	12%	Brazil	10%	US	15%
France	8%	UK	8%	UK	14%
China	5%	France	8%	Switzerland	11%
Germany	3%	Singapore	5%	France	6%
Brazil	2%	Italy	4%	Italy	5%
Andorra	2%	Belgium	4%	Luxembourg	3%
Mexico	1%	China	3%	Portugal	2%
Belgium	1%	Canada	2%	Netherlands	2%
Others	8%	Others	12%	Others	9%

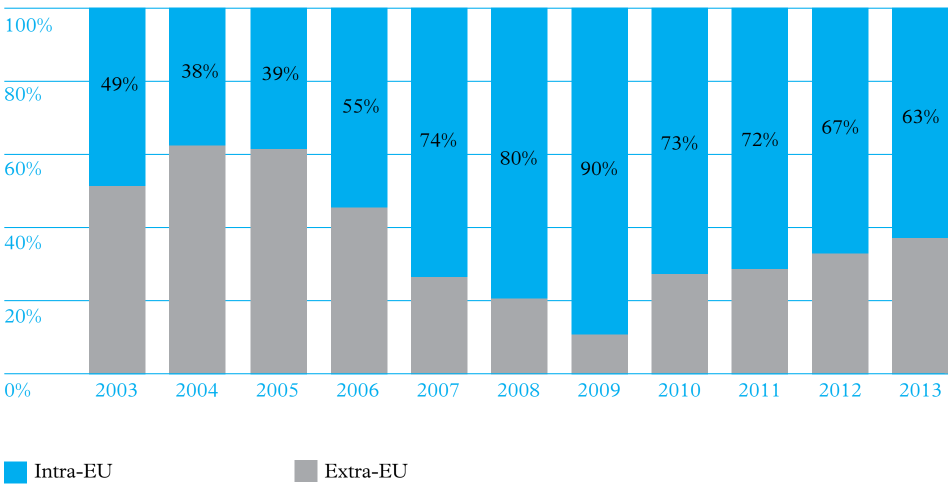
Source: © Arts Economics (2014) with data from Eurostat

In 2013, extra-EU exports dominated intra-EU exports of art, with a 63% share as they have since 2006. In the highest value sectors for exports such as paintings and sculpture, extra-EU trade has a significant majority (73% and 63% respectively), however for antiques, intra-trade is more valuable (with an 87% share in 2013).

As noted in Table 7, fine art continued to strongly dominate exports with a total share of 82% of imports, stable on 2012, and continuing the majority in this sector that has been in place over the last ten years. This is true for nearly all major art markets around the world, and reflects that fact that the price of fine artworks tends to be higher and they are more easily traded internationally across borders than decorative art and antiques. Exports of paintings (which account for just over half of total exports) grew 50% year-on-year.

It is worth noting that the exports and imports reported above are derived from Eurostat data. The Eurostat International Trade Database records trade

FIGURE 28
Spanish Intra-EU versus Extra- EU Exports of Art 2003 to 2013



Source: © Arts Economics (2012) with data from Eurostat

under the system of "special trade", as is the accepted practice with most international trade databases. Under this system, imports include all goods entering Spain, which means cleared through customs for home use, and exports include all goods leaving the free circulation area of a compiling country. However, under the strict definition, goods imported for inward processing (and re-exported) and goods which enter or leave a customs warehouse or other free-zone are not recorded since they would not have been cleared through customs for home use. While this is the most accurate system for comparing the values of imports and exports between nations, it underestimates the amount of art that moves around the world. "General trade" statistics on the other hand include all those goods entering or leaving Spain, including goods imported into a free zone or customs warehouse, regardless of whether the goods are intended for subsequent entry into home use or for re-export. This data would include temporary imports and exports for sale, movements of works of art in and out of the country to art fairs and for loans, exhibitions and other purpose. Including all cross-border movement of art out of Spain, the Historical Heritage Assets Classification, Valuation and Export Board, estimated that there was in excess of €2.7 billion in works of art exported in 2013. In contrast to the exports above, these outflows fell 19% year-on-year. Some 87% of their value were those sent abroad to foreign institutions on loan, and a further 6% were temporary exports with purchase options (3,941 works).

IMPORT AND EXPORT REGULATIONS

The cross-border trade in art is influenced by a variety of variables, including the distribution of wealth, the supply of art, and various historical, logistical and economic factors. The regulatory environment, specifically taxation, can also have a major influence on where the art trade is centred, and as an internationally traded, portable and mobile asset, the fiscal conditions applying to art in one country versus another can easily lead to a migration of the market. Analyses of global statistics on cross-border trade flows of art and antiques in recent years have shown the rapid increase in globalisation of the art market and that art continues to flow towards richer more open economies. It also shows clearly the importance of centres like London and New York as global entrepôts. Entrepôt trade is the import and export of goods without further processing via the countries it passes through. The art trade is dominated by trade through key hubs or entrepôts, which now include New York, London and more recently Hong Kong. The bulk of exports and imports are recorded in these centres, despite the fact that the eventual buyers of imported works may reside elsewhere. A successful entrepôt market enables a critical mass of works to be accumulated together for sale at any one time in order to provide an attraction for art collectors.

Most countries encourage trade as it adds to the value of a domestic economy and often due to interest in cultural exchange. The boom in the contemporary market over the last decade has undoubtedly been due in part to the fact that that there have been relatively few restrictions imposed on trade in this sector. However, nearly all markets maintain some restrictions on art belonging to the national patrimony, and many have charges on cross-border trade in certain goods, although these vary widely in their level and what they are applied to. Trade to and from the EU market is heavily regulated compared to the US and Hong Kong. Within the EU, there are also a variety of different systems and charges in place, which means that most often trade in art is channelled towards those states with the lowest payments due and least complex processing. Within the EU, this means in practice that most trade flows through the UK, which accounted for close to 60% of all extra-EU imports in 2013.

"While the process of obtaining an export licence had improved considerably, the key problem remaining is that the government retains the right to either not buy the work, or to buy it at a much lower price than would be available on the international market."

EXPORT REGULATION

As an exception to the free trade regime in the EU, the movement and trade in "national treasures" can be subject to restrictions by member states.[8] When the concept of a national treasure is interpreted as only applicable to a very narrow list of items that are essential to the national patrimony, these regulations do not interfere significantly with the art market. However, when applied to a wider group of works, it can cause delays and ultimately limit growth and development of the market, restricting it to domestic sales and lower prices.

The main regulations covering Spanish exports are the *Spanish Historical Heritage* Act of 1985 (SHHA) as well as the *Royal Decree 111/1986*. Works of art that have been declared of cultural interest (Bien de Interés Cultural) to the Spanish Government are maintained in a General Inventory managed by the *Subdirección General de Protección del Patrimonio Histórico* and the autonomous regions. Works from this inventory, along with any works over 100 years old, require express authorization from the State for export and can be restricted from export if they are deemed to belong to the Spanish artistic patrimony. These regulations apply to both dealers and auction sales (along with public institutions or private individuals that want to export cultural items).

Auction houses have to notify the government if they intend to sell any works of art that form part of the Spanish historical heritage, and in certain regions have to send them the auction catalogues two months prior to the sale[9]. The government must announce their interest in a work immediately after a sale, and within a period of two months, the government can use its pre-emptive rights to purchase the work at an agreed price or, where appropriate, the auction prices, within a period of two years. According to the Ministry, most purchases are made within two or three months of the auction. In some cases also, auction houses reported that their vendors are required to provide proof of ownership before 1985, and if this is not provided, the government may block the sale.

Once an export application is made for any works, the government has a three month period in which to order reports on the work from museum curators or other experts to decide if it is of interest. The heritage laws state that the application for export is considered as an irrevocable offer for sale to the State Administration, the price of which is the stated valuation by the potential exporter. If the State decides not to allow the work to be exported, it has a six month period in which to accept the offer of the sale, and if it does so, has a year from the date of acceptance before the payment has to be made. In other words, from the date of application for an export license, a seller that has been declined permission for export could wait to be paid by the State for 21 months. The Ministry reports that in practice they answer 90% of applications within 20 days and when they decide to buy an item it is "usually paid within four months". The government also has the option in Spain of completely blocking the sale indefinitely and with no payment or compensation to the owner.

In 2013 the Historical Heritage Assets Classification, Valuation and Export Board, denied the export of 69 works from Spain. From these, 11 were eventually allowed to be exported after a second exhaustive evaluation, 34 were purchased by the State (for a total cost of €3.3 million) and the remaining 24 were simply blocked without any purchase from the state or compensation for the vendor. The number of works blocked from export was more than double that of 2012, when just 28 works were blocked (with four of these eventually authorised, 17 purchased for a total of €900,000, and seven blocked but not purchased).

When asked about the effects of export restrictions, auction houses reported that in general problems only arise fairly infrequently for older, important and high value works. Some reported that they felt that there were less works being stopped in recent years and that delays in licencing had reduced significantly (from about four to six months two years ago to around two months currently). Some also reported that denials were low and that the Department was facilitating extensions for temporary exports.

Some dealers also noted that over the last few years the process of obtaining an export licence had improved considerably, particularly with more of the administrative tasks enabled online, which reduced the paperwork and delays involved. However, the key problem remaining for dealers in older sectors of the market is that when a work is blocked for export, the government retains the right to either not buy the work, limiting possible sales to the lower value local market, or to buy it at a much lower price than would be available on the international market. Using the data from the Historical Heritage Assets Classification, Valuation and Export Board, the average price of a work that was bought by the State in 2013 was around €97,000 in 2013 and €52,940 in 2012. Although the particulars and individual prices of each work are not known, this would appear to be a low average price for what must be considered the most important works of art in Spain's national heritage.[10]. As a point of comparison, the average price paid by the State for works blocked for export in the UK in 2012/2013 was £1.1 million (€1.4 million). Furthermore, the details of all of the works, their independent valuations and other detailed information is published in a freely available report by the Department of Culture, Media and Sport.[11]

While in markets such as the UK export licence must be granted if the State does not exercise it rights of acquisition within a given time frame, in Spain, the State has the right to prohibit export. It is an important feature of UK law that the right to deny an export licence is not absolute and can only be upheld if a bona fide offer is forthcoming from a state or public collection within the specified delay period, otherwise the licence must be granted. A concern in the setting up of any licensing system should be that it should not penalise owners and potential exporters by unfairly depressing prices by blocking access to international markets. The UK system ensures this, because when a licence is refused the owner must be guaranteed a public offer to purchase the work at a 'fair market price' or price obtainable on the open international market.[12] In Spain on the other hand, there is no attempt to match international market values, and for those works the government offers to buy, many dealers feel that they take advantage of the fact that they can essentially limit their sales to the domestic market and therefore offer a much lower price, often less than one third of what might have been achieved if it had been approved for export and sold abroad.

While there are a relatively small number of works of art blocked each year, a more widespread and problematic part of cross-border trade from Spain is export taxes. Spain is one of the few countries in the EU that applies a tax to exports of art. These taxes are paid only when works are exported outside the EU and also depend on the age of the work in question:

- When works are less than 50 years old, there is no tax due.
- When works are more than 100 years old, there is always a tax due.
- When works are between 50 and 100 years old, a tax is due if prices are higher than a certain level, depending on the art form (ranging from €15,000 for drawings and photographs to €150,000 for paintings).

The tax rate is applied on a sliding scale, that applies an increasing burden as the value of the work increases. For works up to €6,000 a rate of 5% is applicable; from €6,001 to €60,000 the rate is 10%; from €60,001 to €600,000, 20%; and €600,001 and above, 30%. As such a much higher rate is applicable on higher value works. For example, on a work valued at €10,000, a tax of €700 falls due, whereas, a levy of €233,700 would be due on a work of €1 million.

This tax can be highly problematic for dealers attending international art fairs, as works where the tax is applicable become very uncompetitive with regard to price compared to other international dealers. As one dealer explains:

"…When we go to fairs abroad, we have to choose works that don't have these cultural taxes accruing, otherwise we will be in a situation of inferiority with dealers from other counties. This really affects our image and reputation in the fairs. We can't take the works that we would like to (as all the other international galleries do), or if we take them we have to ask much more, so we will be completely uncompetitive on price…"

Some dealers also noted that to avoid the tax entirely, some galleries have created entities in countries such as the UK which they use for extra-EU trading at a much lower cost. While this can result in substantial savings for the dealers, it represents a significant net loss to the Spanish economy, as all VAT is paid in the UK instead of Spain.

As noted by one dealer:
"…The attitude to taxes such as this by some is to divert art trade. If a law is put in place, they'll find a way around it, and then the government gets nothing from it…"

Dealers in the modern and older sectors are obviously the most affected by this tax and have noted that it has been difficult to lobby against it, although it is clearly having a specifically detrimental effect on their businesses, as they are in the minority in Spain with most dealers selling contemporary art.

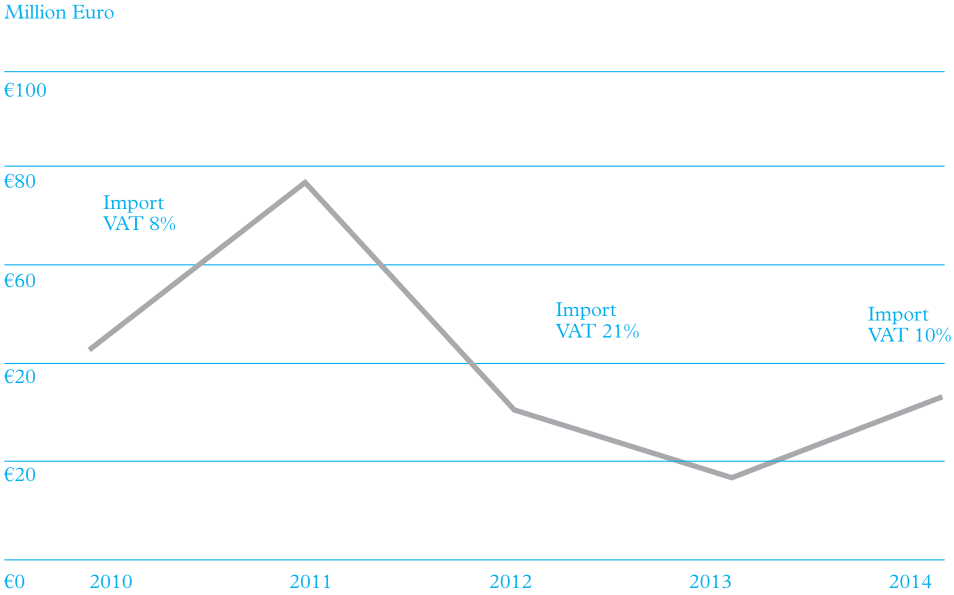
IMPORT REGULATION AND VAT

VAT is a tax on sales levied on the value added by each transaction. In the EU, the VAT system has become a concern to the art trade as it is not only levied on sales, but also on imports of art into the EU from outside the Single Market. Under the 7th VAT Directive (Council Directive 94/EC), imports of art coming from outside the European Union can be subject to a reduced VAT rate, paid by the importer on the price of the work. This reduced VAT rate on imports of art puts them in a preferential position to many other goods, but has created an uneven playing field for the art trade within the EU. The complex array of VAT rates that currently exist on both sales and imports provides opportunities for regulatory arbitrage, with collectors and vendors using the point of least cost. The logic is fairly simple that if you put a transaction charge in one location that does not exist elsewhere, with a highly mobile market such as art, transactions will move towards the most favourable fiscal nexus. For imports to the EU, the least cost market for VAT is the UK (at 5%), which maintains by far the highest share of extra-EU imports of art into the EU (at 60% by value in 2013). The highest rates of import VAT are found in Hungary, which applies a rate of 27%, followed by Denmark and Croatia each with a rate of 25%.

In Spain, extra-EU imports of art are currently subject to the reduced rate of VAT of 10%. Up until September 2012, imports from non-EU countries were subject to the reduced VAT rate of 8%. However, from September 2012 until January 2014, these imports of art were subject to the general rate of 21%, making Spain one of the most expensive places to import art in Europe. In January 2014 the government re-established the reduced rate although this had been raised to 10%. It is clear from the import data that the increase in the rate of VAT caused the value of imports to decline. Looking only at extra-EU imports of art, Figure 29 shows that imports were growing strongly until the end of 2011, however over the period from 2012 through to the end of 2013, they fell significantly, losing 80% of their value over the period. Annualising the initial data for the first six months of 2014 also indicates, as noted above, that the drop in the VAT rates appears to be having a positive effect.

The persistence of differences in rates of VAT on cross-border trade in the EU creates the incentive to arbitrage these rates, channelling sales through the most cost effective entry point. Increasing import VAT rates can therefore be detrimental to the public budget if trade is lost completely. There are other factors such as shipping charges and other fees that are also important in assessing the cost effectiveness of using alternative trade routes, however it appears that many art buyers will consider the net costs and benefits of using different entry points to the European Union.

FIGURE 29
Extra-EU Imports of Works of Art to Spain



Source: © Arts Economics (2014) with data from Eurostat

TABLE 9
Examples of Import VAT Due on Painting worth €1 million

Country	Import VAT Rate	Amount Due
Denmark	25%	€250,000
Ireland	13.5%	€135,000
Greece	13%	€130,000
Sweden	12%	€120,000
Austria	10%	€100,000
Italy	10%	€100,000
Spain	10%	€100,000
Germany	7%	€70,000
Belgium	6%	€60,000
Portugal	6%	€60,000
Netherlands	6%	€60,000
France	5.5%	€55,000
UK	5%	€50,000
US	0%	€0

Source: © Arts Economics (2014)

4 TAXATION AND REGULATION OF THE SPANISH ART MARKET [14]

In the Spanish art market, like most others, the tax treatment of transactions varies according to the different parties involved. The availability of deductions and the rates and types of taxes paid depend on whether you are a buyer or seller, however within these categories, many different possibilities are distinguished. For art buyers, a private collector making occasional purchases will be treated differently from a company decorating an office or a not-for-profit institution buying for a public collection. Sellers are also differentiated for tax purposes: dealers and auction houses are distinguished between the majority who work as agents or intermediaries versus those that buy and sell art on their own account. Artists selling their own works of art directly in the primary market are also given a different tax status, while museums, fairs and other institutions involved in the process of artistic creation and adding social value through art are also offered differential treatment.

Different regulations also apply to certain categories of art. While there are a range of tax incentives related to the acquisition and ownership of works of art considered a significant part of the Spanish national heritage, there are notably few connected to contemporary art.

VAT AND THE ART MARKET

Value Added Tax (VAT) is a tax on sales and it is levied on the value added by each transaction.

There are currently three rates of VAT in Spain, a standard rate (21%), a reduced rate (10%) and a super-reduced rate (4%). In Spain, for VAT purposes, first sales of works of art directly from artists have generally been given preferential treatment and are levied at the reduced rate, while subsequent transfers made by any professional intermediary are taxed at a standard rate. On August 2012, in a bid to raise finances, the Spanish government announced that all transfers of art would be subject to the highest rate of tax, which was raised from 18% to 21%. This regime lasted for 16 months until January 2014 when a new amendment was put into place, which essentially simply reinstated the system that was formerly in place before September 2012.

Since the start of 2014 therefore the following transactions have reverted to the reduced rate of VAT of 10%:

- Transfers of works of art made directly by an artist or their successors.
- Transfers of works of art by companies or professionals that are not commonly engaged in the sale of works of art (such as companies that have purchased a piece to decorate their offices, and subsequently sell the work)[15].
- All imports of art, antiques and collectibles[16].

Consequently, following the reform, while the rates for transactions carried out by artists, some private sellers and imports are now taxed at the lower rate of 10%, sales carried out by dealers, auction houses and other similar re-sellers continue to be taxed at the highest standard rate of 21%. As pointed out earlier, many dealers complained that this high rate of VAT continues to be problematic for their businesses, deterring sales. The different rates now in place in the primary market for first sales distinguishing artists versus galleries has also led to much confusion. The so-called

"The so-called reform has attracted much criticism from the art trade, who have pointed out that it did nothing to reform any of the problems in the old system and actually made their tax situation considerably worse."

reform has attracted much criticism from the art trade, who have pointed out that it did nothing to reform any of the problems in the old system and actually made their tax situation considerably worse, with taxes increasing 5 percentage points from 16% at the start of 2011 to 21% since September 2012.

From a strictly legal point of view, the Spanish government has not been able to broaden the scope of application of the reduced rate to sales made by gallery owners, as this was disallowed by the VAT Directive. The current Spanish regulations directly replicate the scenarios in other member states such as Belgium, Germany, France, Italy and the Netherlands, where the Directive allows Member States to opt for the reduced rate on certain transaction. Europe's leading market, the UK, only applies the reduced rate to imports, while a number of other States apply their standard rates to all transactions. Taxation differences in Europe therefore mainly centre on the different VAT rates[17].

Many dealers feel that the current application to artists only ignores the important role that they play in the artistic process. The allowance of the lower rate for artists implies in some ways that their creative activity has a special value and is more worthy of protection than a purely "commercial" activity, such as that of dealers. However, this is a highly simplified assumption that ignores the key role of dealers in the development of an artist's career. In the current art market, it is highly unlikely for an artist to reach a level of awareness and sales necessary to make a living without the support of the gallery. Apart from their support of the creation of art, galleries also play an important role in guiding and encouraging collectors, patrons and other buyers, ensuring a much greater level of understanding and information in the market place. A key issue in the debate on VAT and other regulations in the art market is that if their intention is to provide incentives to boost cultural consumption and protect or enrich a nation's artistic heritage, then levies and charges on sales of works of art should be reduced as far as possible, regardless of who the seller is. Ultimately, it is the collector, as the buyer, who pays the VAT, and from the collector's point of view, it makes little sense to be sanctioned in tax terms for buying from a local gallery owner rather than importing a work of art.

It must be taken into consideration that works of art pose a special problem compared with other goods to which VAT applies in that they are mainly sold in secondary markets and they are usually traded between former and future consumers (for example, private collectors, investors, dealers or museums) rather than between producers and final consumers. To take this into account, in the Seventh VAT Directive, the EU introduced special rules concerning the taxation of second-hand goods, objects of art and antiquity and collections. It established the system of taxing the profit margin made by auction houses and dealers (rather than the full price), or the difference between the selling price charged by the dealer for the good and the purchase price. This avoids double taxation and ensures that VAT is levied only on the real value added. The scheme is only available to taxable dealers and the rate of VAT charged is generally the standard rate applicable in the EU (which must be above 15% and is currently 21% in Spain).

As noted above, the margin scheme allows dealers and auction houses, under certain conditions[18], to pay VAT at 21% on their margin and not the total sale price, as is the general rule for VAT. However, VAT calculated in this way cannot be itemised on an invoice and, as such, cannot be deducted by the purchaser. The dealer that re-sells a piece and applies the regime may not deduct the VAT paid on the purchase. In these transactions therefore the dealer will pay VAT at 10% (for example to an artist), but this VAT may then not be deducted when calculating his net VAT. The dealer will then charge VAT at 21% on his profit margin (the difference between the price paid to the artist and the sales price.

Dealers and auction houses may freely decide between the general regime and the margin scheme in each transaction. From a practical point of view, although it would appear to be harmful to the buyer to not be able to deduct the VAT they pay, the margin scheme favours all those buyers who are not entitled to deduct VAT[19], as it applies to a lower taxable base (the profit margin and not the resale price) and reduces their final price. While there are some advantages to the scheme as it can make works of art slightly more affordable to the public, many dealers consider it entails a greater administrative burden due to the complex formal obligations it creates and additional financial cost. In fact, a dealer may not deduct the VAT paid in a purchase until he decides whether or not to resell it under the general regime or the margin scheme. Due to very limited access to financing in recent years, this clause has prevented the scheme being applied to many transactions in which it would have entailed savings for the buyer. Apart from these issues, many contemporary dealers were in fact unaware they were entitled to use the margin scheme and did not use it in practice.

The following example compares the taxation of a typical transaction with or without the scheme for a work priced at €1,000:

1. Dealer uses margin scheme
- Artists sell dealer work for €550 + 10% VAT (€55) = €605
- Dealer's price is €1,000
- Dealer charges 21% VAT on his margin (€395) which is €83
- Buyer's price is €1,083, although they cannot reclaim VAT
- Government gains a gross VAT revenue of €138 (€55 + €83)
- Dealer gross revenue is €395

2. Dealer does not use margin scheme
- Artists sell dealer work for €550 + 10% VAT (€55) = €605
- Dealer's price is €1,000
- Dealer charges 21% VAT on his sales price which is €210
- Buyer's price is €1,210
- Government's gross from this is €210
- Dealer gross revenue is €450 (€395 plus the recouped VAT of €55).

"The current VAT system with different rates on different transactions in the Spanish art market is complex and confusing while too high rates encourages "off-book" sales."

Most of the dealers interviewed felt that the system for VAT was complex and confusing, and some considered that there should be one "cultural VAT", the reduced rate, which would recognise that when a contemporary gallery sells a work of art in the primary market that this is in fact the first sale. Some galleries have sought to find alternative ways to carry out transactions, for example allowing artists to invoice collectors directly (and thus pay VAT at a lower rate) and acting simply as an intermediary for an agreed fee. In this case, using the above example, the buyer would pay €1,100 to the artist (€1,000 plus 10% VAT) and the artists would then pay the dealer directly based on an agreed commission.

Some dealers also noted that if VAT rates were too high and transactions too complex, there was a strong incentive to conduct sales "off the books". Although this may result in higher revenues and lower prices for buyers, it was regarded as a highly unfavourable practice by both dealers and collectors. As noted by one collector:

"…The main problem with the current VAT changes is that they are very hard to understand and confusing. What is sure however is that VAT at too high a level forces a black economy and the government gets nothing. When I started collecting in the early 1980s, it was impossible to buy anything legitimately. Now it has improved dramatically, and both parties want legitimate transactions – galleries want to conduct their business properly and collectors want all the appropriate documentation..."

Finally, dealers also complained that the VAT rates make them uncompetitive at art fairs vis-a-vis foreign galleries with low or no rates of similar sales taxes.

"…VAT continues to be a problem for our business in the Spanish fairs. If I have the same artist in ARCO as a US gallery, the client will buy from the foreign gallery, as it appears cheaper. Even if we are charging the same basic price, because the client will pay less VAT or no VAT- it will be cheaper to buy from a foreign gallery…"

OTHER TAXES ON THE ART TRADE

Profit Taxes

Galleries and auction houses, like all other businesses, are subject to profit taxes which are currently applied at the general rate of 30% (and 25% for the first €300,000 of profit if they are a small company). There are currently no particular provisions or incentives that improve their tax position over any other type of activity. For sole traders, annual profits are taxed under a progressive scale of personal income taxes. An issue that smaller dealers come across regularly with this system is that their sales are often irregular, with large revenues in some periods and none in others, which can create volatile tax obligations and cash flow issues. The proceeds from a sale are incorporated into the tax year's contribution basis, and can often trigger the highest rate of tax, regardless of whether that profit has directly or indirectly been the result of the work and investment of a number of years. There is currently no measure in place to mitigate the excess tax that may be due in certain tax years due to occasional, very profitable transactions being closed. This problem is not unique to the art trade, but is an issue for all sellers of slow-moving goods.

Anti-fraud and Money Laundering Regulations

In recent years, dealers and auction houses in Spain and throughout Europe have had to deal with an increasing administrative burden due to substantially increased anti-money laundering regulations applying to professional art and antique dealers. All Member States are obliged to follow minimum standards in this area set out in the *3rd EU Money Laundering Directive 2007* (due to be updated this year), and States can impose stricter criteria beyond this in their national laws. The 3rd Directive was implemented in Spain by the enactment of *Act 10/2010 on the Prevention of Money Laundering and Financing of Terrorism*. The European-wide regulations apply to high value goods dealers, that is, a person or business trading in goods where payments are made in cash in an amount of €15,000 or more, whether the transaction is executed in a single operation or in several operations which appear to be linked. Dealers accepting cash payments of over €15,000 have to register as high value dealers and there are a number of controls and restrictions on their businesses. There are strict limits on how much they can pay or be paid in cash for transactions of art and antiques, and collectors have been forced to use credit cards more in making purchases.

Dealers in Spain are also obliged under the regulations to identify their clients and retain proof of their identification for ten years. Dealers must also verify whether an individual holds more than 25% of the capital in an entity, and appropriately identify such an individual. It is also the duty of the dealer to inform the authorities of any potential anomaly in its dealings with clients, with failure to meet this obligation carrying considerable fines.

In November 2012, the law also extended to banning making or receiving cash payments of more than €2,500 for corporate or professional buyers and sellers (rising to €15,000 when the buyer is an individual with tax residence in Spain and not acting as a professional or business owner).

ART COLLECTING AND TAXATION

Art collectors in Spain have various points of interaction with the tax system related to their purchases and other activities in the art market. The main relevant taxes for collectors are summarised below.

a. Personal income tax

Art collectors have to pay VAT on transactions in the art market as outlined above. They are also liable to income taxes on any returns they receive from any use or exploitation of a work of art and any capital gains earned if it is sold.

With respect to returns from exploitation of works of art (for example, royalties from the use of images for publication), their classification for tax purposes differs if they are the actual creator of the work or a third party. In both cases however, the costs that they accrue in exploiting the work may be deducted from their profit, and only the net amount is included in the general contribution basis, which is subject to the regular progressive taxation scale. However, if a collector sells a work that gives rise to a gain or loss, this is not included in the general contribution basis, but in the savings basis, which is taxed by a scale currently ranging from 21% to

27%. The taxable gain or deductible loss is determined by the difference between the acquisition value of the work (including the cost of investment and improvements made and expenses and taxes related to the acquisition) and the sale value (adjusted for inherent expenses and taxes).

For any works of art purchased before 1994, the taxable capital gain can be reduced by 14.28% for every year (or part thereof) that it was owned before that date. (For property assets in comparison, the annual percentage is 11.11%.) In 2006, an amendment was introduced into law splitting the capital gain into two parts: the portion of the gain arising before January 2006 and the portion of the gain accruing after that date, with the reduction only applicable to the first portion (the capital gain generated before 2006). The government has announced that this complicated system for capital gains taxes will be abolished at the end of 2014.

In the Spanish tax system, the donation of a work of art as a gift also gives rise to a capital gain or loss that the donor has to include in their income tax declarations[20]. When making a gift, the donor has to declare the "real value" of the artwork and if that value is higher than the acquisition cost, technically there is a taxable capital gain for the donor for personal income tax purposes. The donation, in theory, always generates a loss in the donor, but that loss is not deductible for tax purposes. While gifts of cash are subject to gift tax, cash never gives rise to capital gains or losses, and as such will never have the same personal income tax liabilities for the donor. Moreover, the law also differentiates gifts from succession, which only accrue taxes for the heirs or legatees, versus other inter vivos gifts. Those are among the reasons why very few gifts are made in Spain that are not cash.

Spain applies one of the highest rates of capital gains taxes to art in the EU, which at its highest rate of 27% is the fifth highest in Europe in 2014. The position of collectors in Spain is therefore much less favourable compared to those in States that fully exonerate capital gains (such as the Netherlands) or those that apply significant reductions that may become exonerations depending on how long the work is held (such as Germany, France, Italy and the UK, among others). This could be an important contributory factor to the relatively low volume of works sold on the market each year.

Finally, there are certain income tax incentives available for collectors connected to specific expenses related to maintaining art works belonging to the Spanish national heritage or bringing them in to Spain from abroad. There is a tax credit of 15% of the following investments or expenses:

• The purchase of works of art belonging to the Spanish cultural heritage from outside Spain and imported back into Spain, provided they are declared to be of cultural interest or included in the General Inventory of Chattel Goods within one year of their import. The works must also remain in Spain and in the owner's possession for at least four years. The basis for the tax credit is the valuation made by the Historical Heritage Assets Classification, Valuation and Export Board.

"Spain applies one of the highest rates of capital gains taxes to art in the EU at 27% in 2014. The position of collectors therefore much less favourable compared to those in States that fully exonerate capital gains or apply significant reductions."

• Expenses and investments made for the preservation, repair, restoration, and exhibition of works of art that are declared to be of cultural interest under the State's and a relevant autonomous region's historical heritage regulations. These regulations vary, but generally contain provisions requiring access to the works of art, public visiting and exhibition.

• The restoration of buildings located in an area protected by Spanish cities or architectural, archaeological, natural or landscape collectives and the maintenance and repair of their roofs, facades and infrastructure. These include all assets in Spain declared as UNESCO World Heritage Sites.

The main criticism of this incentive, which is very seldom used, is that it is very limited in scope, as it may only be applied to assets that have been given the highest classification under historical heritage regulations. Also, although the nominal tax credit is 15%, these rules state that such percentage can only be applied to investments or expenses not exceeding 10% of the tax contribution basis, and any surplus from this limit cannot be carried forward to future years[21].

b. Corporate Income Tax

Although most collectors in Spain are private individuals, some purchase art works through a company. If the work is used in their business, they can reclaim the VAT paid on the purchase. All income and capital gains from the sale of a work are taxed at the general rate of 30% (and 25% on the first €300,000 for small companies). If the company decides to distribute dividends to any of their shareholders, the amount received must be included in the contribution basis of the personal income tax savings (at a grade of between 21% and 27%).

Until January 2014, a deduction for investments in assets of cultural interest (referred to in the section on personal income tax above) remained in force for corporate income tax. However, the amount of deduction was progressively reduced over recent years and abolished completely at the end of 2013. Therefore, there are currently no incentives in relation to corporate income tax for the acquisition or possession of works of art. Furthermore, tax amortisation of works of art belonging to a company's fixed assets cannot be carried out due to their lack of depreciation over time. This is in stark contrast to many other countries such as the US and France which grant substantial tax relief to companies which buy works of art to constitute corporate art collections. For example, article 238 bis AB of the French General Tax Code provides that companies can deduct, from their taxable turnover, the acquisition price of original art works produced by living artists, over a period of five years.

"Spain and France are the last EU states that maintained a wealth tax and incentives exists for certain forms of art."

c. Wealth Tax

The main area of incentives for art collecting in Spain relates to wealth tax, with most incentives closely linked to compliance with Historical Heritage regulations.

Wealth tax is a tax on the ownership of net equity, that is, the collection of economic goods and rights owned by an individual taxpayer at a point in time, deducting any liens and debts that reduce their value.

Spain and France are the last EU States that have maintained a wealth tax, and its application in Spain has been progressively narrowed over time. The main reasons for narrowing the tax (and abolishing it elsewhere in Europe) has been firstly that it amounts to double taxation, given that an individual's wealth is the accumulation of income, which has already been subject to income taxes (or inheritance and gift taxes); and secondly that it raises very little revenue in absolute terms and has been politically unpopular.

In keeping with the political mood in Europe at the time, the Spanish government abolished the tax in 2008, however with the economic crisis and ensuing strains on public finances, the tax was reinstated in 2011. The original reintroduction was planned as a short-term measure only for 2011 and 2012, however it was extended for the following two tax years. Also in the new system of distribution of powers between the State and the autonomous regions of Spain under Act 22/2009, once the reprieve was abolished by central government in 2011, each autonomous region could decide whether or not it would be applied in its territory. In Catalonia, for example, the re-establishment of the tax was passed for the period of 2011 to 2014, together with a slight tariff increase, while Madrid maintained the full 100% reprieve from the tax, and since 2012 remains the only region that does not levy wealth taxes.

For the purposes of wealth tax, all works of art or antiques must be recorded at their market value at the appropriate point in time. However, the Act does allow for certain exemptions for art, namely:

• Works of art in the possession and ownership of the artist.

• Works of art and antiques included in the General Inventory of Spanish Historical Heritage Chattels or in the Registry of Assets of Cultural Interest, or when they are considered to form part of the historical heritage of an autonomous region. All low value works of art (with individual valuations below set legal thresholds) are also exempt from calculating wealth levels for taxation. For the remainder to attain the exemption, they must be included in the General Inventory, which means collectors must take the necessary steps to get them registered. If they do not get them registered, they will have to pay wealth taxes on them.

• Works of art and antiques that have been assigned for at least three years to a non-profit museum or cultural institution for public exhibition, regardless of their value. This exemption is only applicable while the works of art are under the care of the institution.

Aside from the exemption for artists' own works (which is a similar type of exemption to those applying to family businesses), the exemptions of art from wealth tax is rationalised based on their fulfilling a social function and the measures taken by their owners to allow the public to enjoy them. The Historical Heritage Act establishes a very broad definition of which works can be included in the General Inventory and gain an exemption, including any work of art of historical interest, regardless of whether it is owned publicly or privately and its origin.

The Act establishes three main categories of assets for inclusion, offering each category a different level of protection: the maximum level of protection is granted to so-called Assets of Cultural Interest (ACI); the second level of protection covers works included in the General Inventory; and the third level includes all other assets with historical or artistic value or interest. As stated, each category has a different level of protection, which, in turn, gives rise to specific statutory duties imposed on their owners in relation to their preservation and maintenance. These duties include restrictions or even bans on export, inspections by relevant authorities or investigators, public visitation and exhibition, preservation and maintenance, and the duty to notify the authorities of any potential plans for the sale of the artwork so that the Administration may exercise its pro-active and retro-active rights of first refusal. Breach of these duties is against the law and punishable by fines of up to €600,000.

Because of the duties involved, the Historical Heritage Regulations stipulate that the works of art must be entered in the General Registry or Inventory, based on certain values that vary according to the medium and age of the work[22]. To compensate for the administrative burdens in complying with the regulations, the Act establishes the right to a series of tax benefits, including an exemption from wealth tax.

All works of art over a certain value must be reported to the cultural administration for inclusion in the General Inventory in order to gain the exemption. The regulation can therefore be seen to have a stimulating effect, as if a work is over a certain value and its owner wishes to enjoy any of the benefits of the wealth tax exemption, they must register the work. A problem for collectors is that many duly fulfil their duties and attempt to get them registered but are refused a listing by the Administration if they feel the art work is not relevant enough, preventing them from accessing the exemption. This creates some incentive for collectors to simply not report the works in their declarations at all.

In practice, to date the Administration has not paid much specific attention to the taxation of works of art with regard to wealth taxes. However, there are a number of issues that could cause potential conflicts in the future:

• In terms of the valuation of works of art for wealth tax purposes, there is no record so far of a large number of disputes. The Administration tends to accept the values given by the taxpayer, but in the case of any dispute, public information on transactions of similar works of art and values given in insurance policies are often taken as a reference (particularly as in the latter case, the valuations have already been accepted by the owner).

"Since the enactment of the state Historical Heritage Act, the autonomous regions have been granted their own exclusive powers in terms of protection of their own cultural heritage. This devolution of powers has created differences in regulations between regions and certain practical problems."

• The Spanish Historical Heritage Regulations were passed in 1986, and in many cases for a work to be included in the General Inventory, it needs to surpass by far the thresholds set for inclusion in the General Inventory since they are considerably out-dated and need to be extended.

• Since the enactment of the state Historical Heritage Act, the autonomous regions have been granted powers to declare certain assets as ACI or enter them in the General Inventory and all regions have exclusive powers in terms of protection of their own cultural heritage. Many regions have passed different cultural heritage laws creating different categories of protection than those found in the State Act. This devolution of powers has created certain practical problems, such as the differing criteria used by the regions when promoting the inclusion of assets in the General Inventory and the absence of rules to resolve potential conflicts between regions in the case of chattels, which are easily transportable from one to another.

• Finally, the Tax Administration has stated that works of art that are exempt under this regulation do not need to be included in wealth tax declarations. This means that the Administration has no information on these assets, particularly those that do not reach the threshold for inclusion in the General Inventory. Over time, the value of these works often rises, but their owners may be understandably reticent to include the new values in their tax declarations and pay the corresponding taxes or apply for their inclusion in the General Inventory. One of the reasons for this is that there is an anti-evasion rule in the Spanish tax system, whereby the discovery of assets that do not correspond with the taxpayer's declared equity or income in prior tax years, may be considered by the Administration to be undeclared income and liable for charges. It is fairly common for collectors not to save invoices for works of art over time, or for the works to have been passed down between generations. For this reason, if sufficiently backdated ownership cannot be proven, many taxpayers choose to not declare their ownership for tax or administrative purposes, for fear of being subject to the anti-evasion rule.

d. Inheritance and Gift tax

Works of art and antiques will generally form part of an individual's tax contribution basis for inheritance and gift taxes. However, there is specific legislation regarding works of art that form part of the Spanish and autonomous regions' historical heritage which are to either promote compliance with Historical Heritage Regulations or avoid the dispersion of family collections.

In accordance with State regulations, when passing on works of art and antiques as inheritance, the tax contribution basis of these assets is subject to a 95% discount on inheritance tax when the transfer is in favour of a spouse, descendants or adopted children. One of the requirements for this reduction to apply is that the assets meet the requirements to be exempt for wealth tax purposes, and that such requirements continue to be met by the heirs for a period of ten years after the succession. The application of the exemption is also subject to the works of art remaining in the heirs' possession for ten years following the death of the donor.

The same 95% reduction is applicable to gifts of the similarly classified works in favour of a spouse, descendent or adopted children. To maintain the gift tax exemption, the beneficiary must retain the gifted works of art and be entitled to an exemption from wealth taxes on them for ten years following the date of the gift[23]. State legislation also requires the donor is aged 65 years or more, permanently incapacitated, or has a great or absolute degree of disability - requirements that appear to make little sense. The requirements are in place as this law was included in legislation dealing with the transfer of family businesses and works of art at the same time and, in the latter case, fully replicated the requirements for gifts of family businesses. The fact that more than ten years later this error has not been corrected shows the very limited extent to which this provision has been used, mainly due to the donor's obligation to pay personal income tax on the capital gains arising on the transfer of the piece (as mentioned above).

e. Patronage and Taxes

Traditionally, incentives linked to the preservation, repair and restoration of cultural heritage assets were limited only to those actions carried out by their owners. However, given the important social function that these assets fulfil, and their owner's often scarce resources, the Administration has been forced to promote patronage from wider society in the preservation of cultural heritage through tax incentives. This idea of patronage for cultural heritage materialised for the first time in *Act 30/1994*, which specifically dealt with tax deductions for amounts donated to public or non-profit entities for the preservation, repair and restoration of assets forming part of the Spanish Historical Heritage (ACI or inventoried assets) or of cultural assets declared or registered by the autonomous regions.

The successor to this Act was *Act 49/2002 on the Taxation of Non Profit Entities and Tax Incentives for Patronage*, which remains in force. This Act does not specifically refer to gifts intended for the preservation, repair and restoration of Spanish historical heritage. The new gift system allows exemptions for donations in favour of entities that benefit from patronage[24] but does not specify what they should be used for. The Act therefore reduced the number of entities that were entitled to benefit from donations, but the type of actions that may be funded by deductible donations was extended, including any activities connected to the preservation, repair, restoration, exhibition or movement of these heritage works of art.

The current available deduction in personal income tax is 25% of the gift, which may be monetary or in kind (based on current market values). The basis of the deduction together with deductions for investments in Spanish historical heritage assets may not exceed 10% of the donor's taxable income. For instance, if your taxable income for a year is €50,000 and you make an eligible investment of €10,000, the tax credit would not be €1,500 (15% of the investment made), but only €750, because the eligible investment cannot be higher than 10% of the taxable income (€5,000, with €750 being 15% of this).[25] This clearly provides no incentives

"Although Act 49/2002 is an important step forward in the promotion of patronage, in recent years, particularly since the onset of the financial crisis and a significant reduction in public funding in the arts, calls for the need to reform this regulation have been widespread."

to donate higher amounts, as in this instance you will get the same tax benefit for donating €10,000, as you would have for donating €5,000. If gifts made are within certain priority patronage programmes, the deduction percentages can rise by up to 5%, but this still maintains a low ceiling on donations.

For "in kind" donations, the deduction is applicable to:
• Gifts of assets forming part of the Spanish historical heritage which are registered in the General Registry or General Inventory.

• Gifts of cultural assets of "guaranteed quality"[26] in favour of museums and other designated institutions.

• The free constitution of an in rem right of beneficial ownership on cultural assets in favour of a designated patronage institution.[27]

When the gift is a work of art, the capital gains arising from the gift are exempt from income tax (unlike the situation previously described for gifts between private individuals).

For gifts from corporate donors, the deduction is 35% of the amount donated or the book value of the donated work.[28] The deduction basis may not exceed 10% of the tax contribution basis for the given fiscal year, although the amounts that exceed this limit that cannot be deducted due to not reaching quota may be applied in tax periods for another ten years. The capital gains arising from the gift is however taxable.

Finally, some deductions are also available for expenses incurred by companies or individuals entering collaboration agreements with certain non-profit institutions for cultural or artistic activities. Amounts paid and expenses incurred under these agreements are deductible by the collaborating entity for corporate income tax purposes although they are considered exempt income in the beneficiary non-profit entity.

Although *Act 49/2002* is an important step forward in the regulation and promotion of patronage, in recent years, particularly since the onset of the financial crisis and a significant reduction in public funding in the arts, calls for the need to reform this regulation have been widespread. During the last legislature, Grupo Popular submitted a Draft Bill to increase deduction percentages for gifts to up to 70% for an individual and up to 60% for companies. Once in power, in May 2012, the Government led by the Partido Popular announced (and published) a document that described the key features of a new patronage bill, which apart from the increase in deduction percentages, also cited other modifications that had been sought by the art trade, such as the possibility of tax deduction through provision of free services or free assignments of works of art for exhibition, the introduction of greater incentives for multi-annual gifts, the recognition of the figure of unavailable endowment funds, and new measures to publicly recognise benefactors. It was announced that after the summer of 2012, the Draft Bill would be formally presented, but in reality there remains to be any new developments in this respect.

In view of state-level paralysis, certain interesting initiatives have been addressed at a regional level. The first tangible result of this is the *Regional Law on Cultural Patronage* and tax incentives in the Regional Community of Navarre, which was passed on 8 May 2014. The main new development introduced by this Law with respect to patronage is that incentives do not necessarily revolve around the existence of a non-profit institution. In Navarre, from January 1st, 2015, it will be possible to contribute funds directly to an artist for collaboration in the production of a work of art. In such cases, the Government of Navarre will perform a control function by granting a declaration of social interest for projects that meet certain requirements. The law also significantly increased tax incentives for gifts and contributions to patronage projects, which may reach up to 80% for personal income tax deductions and 50% for companies.

The Law also outlines ways to foster "micro-patronage", which is a phenomenon presented as key for the future sustainment of the sector. These include the development of an IT platform for its promotion and management, as well as staggered deduction rates for small donations, in order to make the initiative more accessible to the public. The Act has also importantly recognised the free assignment of works of art and service provisions (volunteering) as actions that may give rise to tax incentives.

TAXATION OF OTHER AGENTS IN THE ART MARKET

Museums and institutions

In general terms, most museums and institutions with cultural purposes are or belong to non-profit entities and are therefore subject to the special taxation regime of Act 49/2002. The Act exempts virtually all of their income from various different sources from taxation, as well as providing exemption from the Property Tax and the Tax on Increase of Value of Urban Lands.

There has been controversy in recent years with respect to VAT for museums and other non-profit entities that organise exhibitions in their own premises. The vague nature of the VAT Directive enabled it to be interpreted in such a way that a choice could be made between applying the exemption to operations or waiving it and thus paying VAT at exhibition entrances, and, more importantly, deducting or even requesting a rebate of VAT paid in maintenance charges, acquisitions of works of art and other expenses. Following lengthy debate and various resolutions from a number of bodies, the Luxembourg Court of Justice ruled that the exemption was not conditional on the prior recognition of the non-profit entity and, as such, did not depend on any decision by the taxpayer, but was applicable in all eventualities. Subsequently, the Spanish VAT Act was amended to accommodate the court's ruling, to the disappointment of the museum sector, which pointed out that this alleged advantage would only increase costs considerably.

Fairs

In general terms, fair organisers are considered to be non-profit entities, and as such, are subject to the tax rules set out above. They do not benefit from specific tax incentives, and neither do the exhibitors that participate in them. In recent years, ARCO and many of its Spanish exhibitors have lobbied to reduce VAT applicable to sales made in the fair, in order to make them more competitive compared to foreign galleries. However, the Government never acquiesced to their petitions.

Artists

Spanish tax rules for artists state that they must declare their incomes and expenses just like any other professional for personal income tax purposes. Accordingly, they must keep accounts of their activities, to allow their annual income to be determined (resulting from sale of their works, plus any other revenues such as copyright or artists' resale rights), as well as recording expenses and investments to calculate net income, which will be subject to the sliding tax scale. Income from the sale of their works is subject to a withholding tax (currently 21%) provided the buyer is a professional or business. Withholdings are an interim payment of personal income tax and, as such, a tax credit. If their amount exceeds the balance due at the end of the tax period, the taxpayer will be reimbursed the difference. In terms of international sales, it is often mandatory for the withholding to be made in the buyer's state. However, in this case, the withholding is considered a definitive tax and cannot be recovered if it exceeds the tax settlement in the artist's state of residence.

In general terms, the main claim made by artists in terms of their difficulties dealing with the tax system in Spain is that there is no way to alleviate the effects of the unstable nature of their income. Income averaging or income smoothing mechanisms exist in the UK, the Netherlands, Germany and other countries which allow artists to stabilise their economic situation by spreading income over several years for the purposes of taxation in recognition of the intermittent nature of artistic activity. Income smoothing is particularly beneficial to artists who often require a long period of time to produce a work, often with no income, which is then followed by a period with a higher income when a work is sold.

In looking at ways to improve artists' economic situation, one area of regulation that has come under significant criticism is Artists Resale Rights or ARR. While all artists are eligible for copyright royalties (in the case of visual artists for the use of their images), visual artists are entitled to an additional right in the EU for the resale of their works in the secondary market.

ARR or "droit de suite" is the right of visual artists (and their heirs) to receive a percentage of the revenue from the resale of their works in the art market by commercial dealers or auctioneers. The right therefore only applies to the modern and contemporary markets. On January 1st 2006, the *European Union Directive 2001/84EC* on resale rights for the benefit of the author of an original work was introduced throughout the EU, imposing a uniform system and introducing the right in some countries such as the UK, the Netherlands, Austria and Ireland for the first time, while obliging others to change their existing arrangements in order to conform with the terms of the Directive. The Directive is now applicable to all professional resales but does not apply to resales conducted privately between individuals, nor to non-profit organisations or museums. The Directive was extended on an EU-wide basis to include heirs and estates of deceased artists for 70 years after their death in January 2012.

"As with a number of other EU directives, this legislation was designed to be a step towards global implementation of ARR, however, now, an internal trade distortion within the EU art market has been replaced with an international one."

While the initial rationale for the Directive was to correct a possible trade distortion in the internal market caused by the absence of the levy in some member states, together with the varying ways in which it was administered, it has become clear since its introduction that the existence of ARR in the EU and not in other major art markets such as the US and China has put the European art market at a distinct competitive disadvantage in the high value sectors of Post War and Contemporary art.

As with a number of other EU directives, this legislation was designed to be a step towards global implementation of ARR, and Article 7 of the Directive commits the European Commission to negotiate an international agreement on the resale right. However, implementation in the near future in external markets is highly unlikely[29]; therefore, an internal trade distortion within the EU art market has been replaced with an international one.

The right was harmonised by the 2001 Directive and member states were given five years to implement the regulations into national law. Although the right had already been recognised under the Spanish *Intellectual Property Law of 1996* (Section 24), the Spanish government failed to meet the exceptionally long regulatory deadline to bring the regulations into line and was ruled to do so by the European Court of Justice in 2007. The right was implemented in the Kingdom of Spain through the Artists' Resale Act 3/2008. Act 3/2008 establishes, in accordance with the Directive, an upwards sliding scale to calculate the royalties payable, that is only due for works whose sale price exceeds €1,200, and is calculated according to the following percentages: 4% of the price up to €50,000; 3% of the sale price between €50,000.01 and €200,000; 1% of the price between €200,000.01 and €350,000, 0.50% of the price between €350,000.01 and €500,000; and 0.25% of the price in excess of €500,000. No royalties may exceed €12,500. This is an inalienable right of the artist and their heirs, and is mandatory for the reseller. It is a right that may only be passed on after death and ends 70 years after the death of the artist.[30]

The obligation for paying the royalty falls on the seller. To guarantee payment, dealers and auctioneers must give notice of the sale to the corresponding collecting society or, if appropriate, to the artist or their successors, within two months, providing all documentation necessary for the corresponding payment to be settled. In Spain, artists may choose to manage their own collection or commission VEGAP, the artists' collecting society.

The rationale behind ARR is that artists should participate in the increasing value of their art. It is argued that this increase in price is a result of their continued efforts as they build a reputation, and it is only fair to let them share the appreciation of their value particularly over time. However, the main criticism of this particular system is that in reality very few artists make sales on the secondary market. Furthermore, the small group of successful artists that do regularly make resales through dealers or auction houses, are already the most financially successful and least in need of aid. Rather than assisting emerging or mid-career artists, ARR acts as a bonus largely for wealthy artists. There is also some evidence that the right could potentially damage the primary market for new artists. If a potential buyer knows they

"Less than 1% of living artists in Spain had sales eligible for ARR in 2013."

have to pay the levy on the work and are not buying it outright (as the artist retains part ownership), they may simply reduce the underlying price they are prepared to pay. This shifts part of the risk concerning what the future sales price might be back to the emerging artist: at a time when they are starting out and likely to value their incomes the most, artists are asked to give up current income in the hope that they will receive greater future royalties. In practice, most artists will never earn royalties from ARR and the ones that do are generally already financially successful.

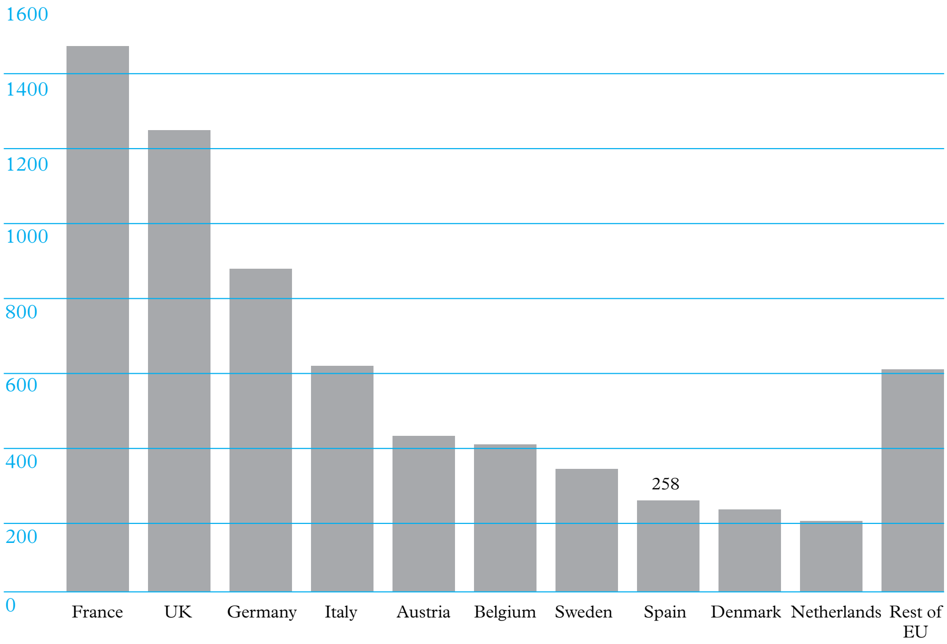
According to estimates from the latest *Eurostat Labour Force Survey*, there were in excess of 25,950 artists registered in Spain. This is likely to very considerably underestimate the number of artists in Spain however as many artists do not register artist as their first profession for the census or may not be reported that way. As a point of comparison, VEGAP, the national collecting agency for artists' rights, has 116,833 members on its books in 2014[31]. In the VEGAP 2012 Report, which is the most recent report available on its website, it is mentioned that the total amount distributed during the year as copyright, public broadcasting licences for audiovisual works, public exhibition of works and the resale right, amounted to €560,375. Based on their payments reported above, this implies that artists receive less than €5 each on average. However, in practice, it is likely that a very small share of artists receive the bulk of the payments. Studies in other countries such as the UK have shown that the top 10% of artists benefiting shared out 80% of the total ARR paid[32].

To get an idea of the part of the market that royalties potentially affect, it is useful to look at the market for eligible living artists in Spain and that of artists deceased within 70 years of 2013. Looking at the auction market, in the sector of the works of living artists of all nationalities in Spain, sales reached €5.7 million, 27% of all fine art auctions in 2013. The market for European living artists' works at auction reached €3.2 million, 15% of the total. The market for the works of artists deceased within 70 years of 2013 was considerably larger. Considering artists of all nationalities, this market represented one third of all fine art auction sales in 2013 by value. For European deceased artists (within 70 years), the market was worth an estimated €6.7 million, or a significant 32% of the fine art auction market in Spain.

In 2013 there were 258 living European artists that had auction sales in Spain in excess of €1,000, out of 6,684 in total in the EU. Using the very low estimate from the Labour Force Survey, this implies that not more than 1% of artists in Spain would have sales eligible for ARR at its lowest possible threshold of €1,000, and much less than 0.5% for the higher threshold of €3,000. There were around 350 European artists' who would have had heirs eligible to collect ARR (again at the lower €1,000 threshold), a larger number and larger value of sales. Combining heirs and living artists, artists with eligible sales still account for less than 1% of registered right holders at VEGAP. Although this data covers only auction sales, it is highly likely that the living artists that are selling at auction are similar to those who re-sell in the dealer sector. In other words, 99% of artists in Spain are likely to get nothing from ARR.

"ARR has come under severe criticism, particularly from economists, with a main case against the royalty being that the artist receives an entitlement to a share in the resale, even if a work is resold at a loss."

FIGURE 30
The Number of European Living Artists with Sales in Excess of €1,000



Source: © Arts Economics (2014) with data from Artnet

ARR has come under severe criticism, particularly from economists who have studied its effects and application. One of the main economic cases against the royalty is that the artist receives an entitlement to a share in the resale, even if a work is resold at a loss. The levy is applied to the sales price and not profits therefore the structure is unfavourable for collectors. In other words, a collector may make a loss on the sale and still have to pay the levy. The point to be considered here is that this collector also has to carry the risk that the artist may lose favour without any related compensation. ARR adds to the cost of selling a work as it is levied on the value of the work at the time of sale and not the potential profit (or loss) that the seller has made. So, apart from enduring an opportunity cost from tied-up capital in the investment over time, the seller is also forced to pay an additional tax regardless of whether or not they profit from the sale. The effect here is clearly damaging to investment in the art market, possibly making people invest less in art and more in other asset classes that do not attach similar levies.

It was the intention of the Directive to smooth out distortions of competition within the EU, but it did so with the added disadvantage of leaving all of the member states in an uncompetitive position vis-à-vis countries outside Europe that didn't have the legislation, such as the US, Switzerland and China. There is a clear incentive for a vendor to relocate a sale if the cost of moving a work of art from one country to another is less than the amount of the royalty payable. The danger for Europe unilaterally applying the Directive is that trade will be diverted to markets that do not apply the levy like the US, China and Switzerland.

Finally, the costs to administer the right can be high, with conservative estimates of around €200 per month[33] which can be an onerous burden for small businesses, which make up the majority of the art market in Spain. Dealers also complained of the so-called "cascade effect" of ARR, where each transaction through an auction house or dealer is liable for the levy at the full sales price. Unlike the system of VAT which enables a dealer to offset tax paid on purchase against tax paid on resale, the resale royalty is payable on the full sales price each time and takes no account of the profit margin. Often the art market involves a chain of transactions between a sale by private individuals and the eventual purchaser. A dealer who purchases an eligible work at auction pays the royalty on purchase and has to pay it again on resale. If he sells to another dealer, the royalty may effectively be paid three times on the same object. At 4% per transaction for sales priced less than €50,000, the ARR can add as much as 12% to sales and hence provides a disincentive for dealers to conduct sales within the EU.

The European Commission is due to review the scheme in 2015. It previously held consultations throughout the EU on ARR in 2011, and the conclusions were published in their *Report on the Implementation and Effect of the Resale Right Directive 2001/84/EC*.

The Commission found that European markets had come under significant pressures, particularly with respect to international competition, and had lost market share in the period since ARR was introduced. However, despite the correlation between the introduction of the levy and the loss of share, the Commission considered that it was difficult to show causality. While the report found no clear patterns that could conclusively link the decline in the European market specifically and solely with ARR, it noted that:

"In summary, sellers will rationally move to do business in those markets where the transaction will be most beneficial, and the resale right is one in a number of factors that play a role in the choice of sales location… there are clearly pressures on European art markets, in all price ranges, and for both the auction and dealer sectors, and it is recalled that the scope of the application of the resale right will be significantly expanded following the ending of the derogation for the works of deceased artists on 1 January 2012."

5 THE ECONOMIC IMPACT OF THE SPANISH ART MARKET

The Spanish art market makes a significant contribution to the national economy, both directly through expenditure, jobs and fiscal revenues, and indirectly through events, art fairs and the range of ancillary industries that support the trade. In 2013 there were an estimated 3,075 listed businesses directly operating in the art trade, supporting at least 10,100 jobs in galleries and auction houses. The art market also supports 7,690 jobs in directly linked ancillary support services, while there is a very conservatively estimated 41,650 individuals working in art fairs, art museums and as artists, all of which could not exist without the art market. The total number of jobs directly connected to the art market in Spain is therefore considerable.

AUCTION SECTOR EMPLOYMENT

In 2013, there were around 125 auction houses operating in Spain that sell art and antiques either regularly or occasionally, with a core of around 50 companies that concentrate exclusively on the sector. Nearly all businesses are classified as small businesses, based on turnover and employee numbers.[34] On average auction houses in Spain employed ten people, but this ranged from three to around 25. The estimated total of those employed in the auction sector is 1,250 in 2013. Most companies (88% of those surveyed) had kept employee numbers stable year-on-year, while 12% had increased numbers (most commonly by one person). Globally, while the top tier houses employ between 250 to over 2,000 people in 2013, the average number of employees in second tier houses was 26 people, indicating that most companies in Spain are relatively small by global standards.

The sector is somewhat male dominated, with 43% female employees on average (versus 49% in 2011). This is slightly lower than the average for the labour force in Spain in 2013[35] (at 46%, which is on par with the EU average in 2013) . It is substantially lower than the global averages in the auction sector in 2013, which showed a share of 63% female employees in top-tier houses and 56% in second tier houses. It is interesting to note that in the cultural industries generally in Spain there is a slight bias towards men, with an average female employment of 42%[36], whereas in most other European countries the participation of women in cultural industries is higher than that of the average workforce.

Most workers in the auction sector in Spain (79%) work fulltime, up from 73% in 2011 and slightly higher than the average in second-tier houses globally in 2013 at 74%. This is lower than the average across all industries in Spain in 2013 at 93%.

On average, 51% of those employed in the auction sector had university degrees, which is on par with levels found globally in second tier auction houses. This is considerably higher than the Spanish working age population as a whole (at 31% in 2013) and more than twice the EU average of 25%.

Around half of the employees in the auction sector had salaries ranging from €25,000 to €50,000, with the remainder reporting that they earned less than €25,000. The OECD estimates that the average wages in Spain in 2012 (their most current available data in 2014) was just over €26,900 while average annual earnings per worker as reported by the Insitituto Nacional de Estadistica were a little lower at €22,726. This would indicate that at least half of the workers at auction houses

"In 2013 there were an estimated 3,075 listed businesses directly operating in the art trade, supporting at least 10,100 jobs in galleries and auction houses."

in Spain earn around the same or less than the average labour force. However, the very high education levels in the sector would warrant higher than average wages. In Spain generally, adults with a tertiary education earn 40% more than those with an upper secondary or post-secondary non-tertiary education, who, in turn, earn 20% more than those with below upper secondary education.[37] Using OECD estimates therefore workers in the sector with third level degrees should earn between around €32,300 and €43,000. Given that around half reported earnings of between €25,000 to €50,000 and 51% had third level degrees, it appears that the higher education levels are being accounted for to some extent in the sector.

DEALER SECTOR EMPLOYMENT

Dealer businesses in Spain are nearly exclusively small businesses both in terms of turnover and the number of employees. In 2013, 15% of the 2,950 businesses were sole traders and 50% were either sole traders or partnerships of just two people. The average number employed in Spanish galleries was three, although this ranged from one to ten in those surveyed. The average of people has not changed since 2011, and is less than half the global average of seven in 2013. In total therefore, there were an estimated 8,850 people working in this sector in 2013. The majority of businesses (77%) had kept employee numbers stable over the last year, with 8% increasing staff and 16% reducing numbers employed (by between one and four people).

The sector is more balanced toward female labour participation than the auction sector in Spain, with 55% female employment in 2013, which was also 5% higher than the global average and 9% greater than the labour force in Spain. There was a higher share of people working part-time in the sector in 2013 at 28%, versus 25% in 2011 (and 25% globally for dealers in 2013). There are a number of reasons why individuals work part-time, including a lack of alternatives, study and family commitments, and other reasons. However in Spain, across all industries, the most common reason for this status in 2013 was the inability to find a full-time job equivalent. In the *European Labour Force Survey*, 63% of those working part-time stated this as their primary reason, the highest share next to Greece, and double the EU average of just 30%. Cultural industries generally tend to have a higher rate of part-time employment throughout the EU and non-standard patterns of work are commonplace in some sectors. While flexibility in employment can be beneficial to an industry, a high rate of part-time workers in the sector undoubtedly shows the financial stress that some small companies in the sector are under. When asked about some of the biggest challenges over the next few years, many dealers simply noted that staying open and keeping staff employed was one of the biggest on-going challenges for small businesses such as theirs in Spain.

Those working in the dealer sector have an exceptionally high level of qualifications, with 86% having a university degree in 2013 versus 72% in the global dealer sector. This is well over twice the average share of the general labour force in Spain and also significantly more than those in cultural industries, which averaged 63%. Despite high education levels, salaries in this sector are low, with 90% reporting that those employed in the gallery earned less than €25,000. As noted above, a tertiary qualification should on average boost average salaries to a minimum of over €32,300, which indicates that salaries in the dealer sector are much lower than is indicated by the level of educational qualifications in the sector.

OTHER EMPLOYMENT

Although this study focuses primarily on those engaged directly in the art trade (dealers and auction houses), there are a number of other important sources of employment supported directly by the art market. As mentioned above, there are in the region of 70 fairs in Spain connected to art, antiques and collectibles. Larger fairs such as ARCO have a small permanent staff of close to 15 people but share around 350 people employed at Ifema for various support roles such as human resources, finance, research, technicians, security and logistics. It is estimated that across all fairs in the sector, there are at least 525 people employed in jobs directly connected to art and antiques.

Similarly, museums also employ 13,880 people in Spain with 5,075 of those jobs in the art museums outlined above. It is worth noting that these jobs are balanced towards high female employment, with a 55% female employment rate in 2012. They also have a relatively high rate of part-time workers at 26%.

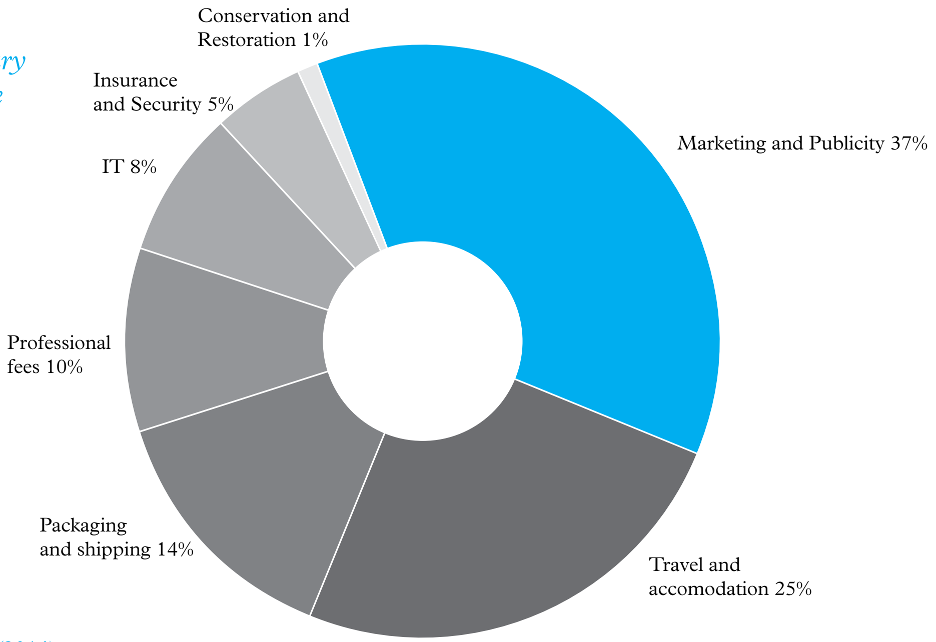
Including employment in art fairs and museums, along with the low estimate for artists of 25,950, there are a very conservatively estimated 31,550 individuals working in the visual arts market in Spain.

ANCILLARY

Besides jobs in the art trade in galleries and auction houses, the art market also creates and supports significant revenue and jobs through a number of ancillary industries and support services used by auctioneers, collectors and dealers. In 2013, it is estimated that the Spanish art trade spent €253 million in external support services related directly to their businesses. It is worth noting that many of these services are from highly specialised industries that have developed in niche areas specifically around the art market. Some have developed specialised services and products to meet the specific needs of buyer and sellers in the art trade from their industry (such as art insurance and art shipping), whereas others would not exist without the market such as conservation and restoration.

Using an estimate of the production value per employee in selected industries across Spain, it can be estimated that the ancillary spending by the art market supports at least 7,695 jobs directly linked to the art market.[38]

FIGURE 31
Spending on Ancillary and Support Service by the Spanish Art Trade



Source: © Arts Economics (2014)

FISCAL CONTRIBUTION

Another important way in which the art trade contributes to the Spanish economy is via the taxes and levies it pays directly to the Government on sales, incomes and profits. An estimate of the value of this contribution can be derived using some basic assumptions.

1. Corporation taxes: The standard rate of corporation tax in Spain is 30%. According to the survey evidence, the average profit rate for Spanish dealers in 2013 was 28% and 25% for auction houses. Applying this rate to both auction and dealer data, gives an estimated total tax take of €27.5 million in corporate taxes in 2013.

2. Income taxes: Using an average salary and applying the sliding scale of Spanish income taxes to this salary (which ranges from 0% to 40% up to €53,407 in 2013), gives an estimate of total income taxes for the art trade of €86.2 million.

3. VAT on Sales: This assumes that all auction houses and around 20% of dealers use the margin scheme for VAT (where the full rate is paid on the margin). Assuming all businesses are VAT registered, they can also claim VAT back from government on purchases. To produce a more reliable estimate, therefore net VAT to government should be gross VAT receipts less VAT repayable. In 2013, the sales VAT received by the government equated to around 60% of amount that was due based on total sales figures. To account for repaid VAT, the total for VAT used is 60% of gross receipts on sales from the art trade or €30.1 million.

4. Import VAT: Import VAT was applied to extra-EU imports only at the appropriate rates (including 8 months at 8% and 4 months at 21% in 2012), giving a total of €3.5 million in 2013. It is worth noting the drop in import VAT collected despite the higher rate of 21% being applied for the entire year.

5. Export Taxes: As a rough estimate of export taxes paid, the average rate of tax due on an eligible work of €100,000 exported from Spain to a non-EU destination (16%) was applied to all exports of antiques more than 100 years old and 40% of paintings exports.

The total fiscal contribution under these assumptions from the Spanish art trade in 2013 was therefore a conservatively estimated €149.4 million.

TABLE 10
Estimated Fiscal Contribution of the Spanish Art Trade (€ million)

	2010	2011	2012	2013
Corporation Taxes	€31.4	€29.8	€26.0	€27.5
Income Taxes	€64.0	€64,0	€86.2	€86.2
Net VAT	€29.6	€30.0	€29.3	€30.1
Import VAT (Extra EU Imports only)	€6.1	€6.9	€3.7	€3.5
Export Taxes	€2.4	€1.2	€1,6	€2.1
TOTAL	€133.5	€131.9	€146.9	€149.4

Source: © Arts Economics (2014)

Table 10 does not include the ancillary businesses which are directly supported by the art trade. The table below uses similar assumptions to those used above to derive an estimate of the fiscal contribution of the art trade and those businesses (or parts of businesses) it directly supports. In 2013 the fiscal contribution of the art trade and its support services amounted to a very conservatively estimated €270 million.

TABLE 11
Estimated Fiscal Contribution of the Spanish Art Trade and Support Services (€ million)

	Auction Houses / Dealers	Support Services	TOTAL
Corporation Taxes	€27.5	€22.8	€50.3
Income Taxes	€86.2	€65.6	€151.8
Net VAT	€30.1	€31.9	€62.0
Import VAT	€3.5	-	€3.5
Export Taxes	€2.1	-	€2.1
TOTAL	€149.4	€120.3	€269.7

Source: © Arts Economics (2014)

Both tables neglect art fairs, museums and artists in calculating the economic impact of the market. Although the sales levels of these agents are beyond the remit of this study, it is worth noting that based on the highly conservative estimates of numbers employed, income tax alone from the wider art sector would make a contribution of over €507 million.

When measuring the contribution of any industry, standard economic analysis takes account of "multiplier effects" of a change in sales or employment. To fully measure the economic impact of the Spanish art market, it must be factored in that when those employed in the market and ancillary industries spend their earnings in Spain, this also generates revenue and employment in a range of other industries throughout the country. This positive impact on the economy works via a "multiplier" effect. That is, when incomes and employment in the art market increase, a proportion of this increased income will be re-spent on other goods and services, many unrelated to the trade. So for every €1 of output from the art trade, more than €1 is generated in the economy.

The appropriate size of a multiplier depends on the extent of linkages between the event and its supply chain, and the greater the linkages, the larger the multiplier will be. Estimates of the size of the multiplier vary in input–output analysis studies averaging 1.5 for tourist events, but often much higher (two to three) for art specific events and industries. Although outside the scope of this study, accounting for the multiplier effects in the market would mean that the added value of the art market is actually far higher.

Finally, besides the sales, employment and fiscal contribution of the art trade, the existence and activities of the art market in Spain also creates many positive externalities or spill-over effects in the economy. One of the most obvious and valuable examples is the role of the market in promoting cultural tourism. Cultural tourism is one of the largest and fastest growing global tourism markets, and the importance of art, culture and creative industries in promoting Spain as a tourist destination has been widely recognised. Culture has been recognised at an EU level as one of the main driving forces for tourism, which is one of Europe's most successful industries representing more than 5% of the EU GDP, with about 1.8 million enterprises employing around 5 % of the total labour force (approximately 9.7 million jobs). When related sectors are taken into account, the estimated contribution of tourism to GDP creation is twice that high.

Spain was ranked fourth in the world by the World Economic Forum's (WEF) Travel and Tourism Competitive Index, up from eighth position in 2011. According to their research, Spain's main competitive edge comes directly from cultural resources:

"…Spain continues to lead in cultural resources, ranking 1st this year [2013] in this area because of its extremely numerous World Heritage sites (2nd) and its large number of international fairs and exhibitions (3rd)…"[39]

In 2013, there were 1.3 million people in Spain working in the food services and accommodation sector related to tourism, or around 8% of the employed population (up 6% on the same time the previous year).Tourism accounts for 10.9% of the Spanish GDP and generates 12% of jobs. The wider travel and tourism economy is credited with accounting for over 2.2 million jobs at the end of 2012 (13% of the total) and 15% of total Spanish GDP[40]. According to the latest figures

"Tourism accounts for 12% of Spanish jobs and 54% of international tourists are motivated to visit Spain by cultural activities."

on cultural tourism published by the Ministerio de Educación, Cultura y Deporte, 54% of individual international visitors to Spain (or some 31 million tourists) are primarily motivated by cultural activities to visit Spain, and their spending accounts for 60% of total tourist expenditure. Furthermore there were almost 12 million internal Spanish tourists (or around 25% of the population) whose main motivation for taking a trip was culture and the arts.

The growth of cultural tourism has stimulated the development of new cultural attractions and cultural tourism marketing strategies, as different nations compete for a share of this lucrative market. For example, it is estimated that the number of museums in Spain have increased by 100% over the past 20 years and employment within them increased 57% from 2000 to 2012. While this is partially due to the boom in construction over the period, many cities in Spain have also been specifically targeting cultural tourism as a major growth area. Apart from being a large sector of the market, cultural tourists have been shown in various research studies to travel more often and for longer durations and to spend significantly more than the average tourist. For example in the UK, visitors that reported activities related to visiting museums and galleries, spent six times as long in the UK and spent six times as much as those attending a sporting event.[41]

While the art market is a key component of several national attractions that draw visitors for cultural tourism, the economic generation that can be directly linked to the art market is visitors to art fairs in Spain. Apart from their importance to dealers, these events also generate a very substantial amount of economic activity in a relatively short period of time and make a significant contribution to the Spanish economy in terms of the employment, revenues generated internally and through related expenditure in different support and ancillary industries which supports indirect employment. They also have a substantially positive economic impact on the cities that host them by bringing a surge of affluent visitors over a number of days staying in top hotels and spending not only on fairs but also on restaurants, local transport and in other local retail and service outlets.

As noted above ARCO attracts over 100,000 visitors to Spain. In 2013, including sales at the fair and external spending by international tourists and local Spanish visitors in Madrid, the fair generated in excess of €100 million in revenue for the Spanish economy in less than one week. Assuming the other fairs make a similar contribution per visitor, the total contribution from art fairs could be in the region of €500 million. It is worth noting also that the number of art and antique fairs was conservatively estimated at 70, and according to the WEF, under ratings of cultural attractiveness, Spain scored the third highest (next to the US and Germany) for the number of international fairs and exhibitions which was reported as 472.

Finally, the arts and culture also play a crucial role in helping regions attract investment, creative talents and tourism. Culture has become an important soft location factor and a key factor for boosting local and regional attractiveness. Knowledge, skills and creativity have been identified for several years as essential elements that have given economies a competitive edge, and the cultural industries continue to play a leading role in the move towards a knowledge economy.

"The arts and culture play a crucial role in helping Spain attract investment, creative talents and tourism."

A strong artistic infrastructure attracts skilled workers to an economy, creating a "brain gain" effect, and making regions more attractive to businesses, with subsequent positive multiplier effects throughout the economy. Several studies have shown that arts and cultural industries foster innovation and growth in commercial creative industries and support the productivity of the labour force as a whole.[42]

6 OUTLOOK AND RECOMMENDATIONS

While the performance of the Spanish art market was marginally positive in 2013, the general consensus among many dealers and auction houses is that the local art market is still quite depressed and recovering very slowly. In order to survive through this period, many businesses looked towards sales in the international market, and for those with the appropriate material and platforms, this model was succeeding. However, for those solely reliant on Spanish buyers, business was reported as much more challenging.

Undoubtedly the slower speed of recovery in the market has been influenced by the country's wider economic performance. Spain's macroeconomic situation remains delicate and its competitive edge is hampered by high public debts, poor access to international finance, and rigid labour markets. The economy has been dogged with five years of double-dip recession and rampant unemployment, although the outlook has begun to slowly improve in 2014. After another year of recession in 2013, with GDP growth of -1.2%, growth in 2014 is expected to be low but positive (with the current IMF forecast at 0.9%), however the unemployment rate is still hovering at around 26%.

Despite the current economic challenges, the longer-term wealth fundamentals in Spain are by no means weak and Spain remains a high income region with a significant number of HNWIs. In 2013, there were 161,000 HNWIs with investable assets in excess of $1 million, up 12% year-on-year and close to 402,600 dollar millionaires[43]. Table 12 shows also that while Spain has a slightly lower fraction of its population in the highest wealth bracket (of over $1 million), it has a very significant share in the upper-level wealth range of over $100,000 and a smaller level in the lowest bracket of less than $10,000 than most other regions. Besides HNWIS, a strong upper middle-class such as this is regarded as a critical success factor in maintaining a healthy art market.

TABLE 12
National Wealth Distribution in 2013

	Under $10,000	$10,000-$100,000	$100,001-$1m	Over $1m
Spain	17.4%	52.4%	29.0%	1.1%
France	68.7%	22.9%	7.7%	0.7%
Germany	46.8%	26.9%	24.6%	1.8%
UK	21.7%	22.9%	50.8%	4.6%
US	29.0%	33.3%	35.1%	2.6%
Netherlands	18.0%	28.8%	50.0%	3.2%
Italy	30.7%	33.0%	30.7%	5.5%
Sweden	23.3%	30.9%	43.6%	2.2%
Rest of the World	20.0%	20.5%	56.5%	3.0%
Europe	15.6%	48.3%	29.2%	6.9%

Source: © Arts Economics (2014) with data from Credit Suisse

The distribution of income in Spain is also more balanced than many other countries. In the US for example, the top 1% of income earners earn close to 20% of the nation's income, whereas in Spain, this group accounts for around 8%. The top 10% earn less than one third of the nation's income versus close to half in the US and 40% in the UK.[44] As such, if it was measured solely in terms of wealth and incomes, Spain "deserves" a larger market than it has, and particularly more collectors.

In carrying out this research, dealers, auction houses, collectors and other experts were asked about the key issues and challenges they faced in the market over the next few years. Although these varied, there were a number of recurring themes, some which covered broader issues and others more specific.

KEY CHALLENGES FOR THE SPANISH ART MARKET

A Lack of Collecting and Education on Art

In the midst of tough economic conditions, many dealers reported that the biggest challenge of the next five years was simply "survival and staying open". Both dealers and auction houses reported that a serious issue for the Spanish art trade was trying to encourage domestic collecting and a perceived lack of interest in art by a large majority of Spanish society. While some had seen their more serious private collectors return to buying to some degree, many reported that there was no such rebound from public and institutional buyers or from the "occasional, middle class buyer who might have bought art on occasions or for seasonal gifts".

As summarised by one dealer:
"…There is no tradition of collecting art in Spain – people on the street don't come to galleries and we only have very few long-term collectors. Many people view art as elitist or even black market, and the high streets are full of clothes, football and merchandise, not galleries. Contemporary art was seen as highly extravagant until 40 years ago and has only become important socially since the early 2000s. During the boom, more income did generate more sales but much of the money even then from successful professionals and entrepreneurs went to finance, construction, and sports. Those that are interested in art buy in London and New York where there are more choices and items for sale. The crisis weakened the base of collectors that many of us built up and now largely just the elite can really afford to buy art, and many of these are not into Contemporary art…"

Some complained also that the media did little to encourage collecting and reinforced the elitist model of art collecting in Spain by only publishing top auction prices on international markets which would place the art market well out of most people's reach.

Linked to the lack of a tradition of collecting in Spain, is the lack of education on art in the Spanish curriculum. Many felt that the current education system in Spain only focused on historical art and did little to stimulate interest or promote the value of contemporary culture. A lack of education on art was the most common issue cited for the lack of a collecting culture in Spain by those interviewed in the art trade.

"Many feel that there is a lack of appreciation by government of art as culture and not simply a luxury market."

One gallery owner noted:
"…An issue in Spain (and elsewhere) is that the focus of education is on how to be a productive unit and not how to be a well rounded human being, therefore the arts and culture is not given a priority. Spain needs to accept art as culture and its importance for the country. We need to not only recognise the historical significance of art, but also realise that this did not stop at Velazquez and Goya…"

Lack of Government Appreciation of the Market
A very common theme reported in the research was the perceived disconnect between the art trade's and the government's understanding and appreciation of culture and the art market. This was seen as the root of many of the practical issues in regulations and a major reason for the lack of progress on the Patronage Law and other areas of incentives.

Some felt that in Spain, along with Italy and Greece, there was a very different perception of art than in some Anglo-Saxon cultures. In the latter art equates to culture and culture which is accepted as having a number of economic benefits, whereas in Spain, governments equated art as a luxury good, similar to buying a luxury car.

Most economists believe that a fully functioning competitive economy can be relied upon to satisfy consumer preferences optimally without intervention. In other words, if markets are working efficiently, they should be left alone by governments. The burden of proof in justifying government interference in the market therefore always lies in trying to show where the market, left to its own devices, fails to produce an optimal outcome. There are generally two principal grounds in economics to justify government intervention: market failures or equity concerns.

Market failures are where some imperfection in the market leads to an inefficient allocation of resources, which it is the task of government to correct. Examples of these failures related to the arts are "public goods" and "positive externalities" from the production, exhibition and existence of art. In economics, public goods are goods that are non-rival and non-exclusive in consumption. What this means is that, once produced, one person's consumption of the good does not interfere or detract from anyone else's, and it is generally not possible to exclude anyone from consumption. An externality is a cost or benefit from an economic transaction that third parties who are external to the transaction are forced to bear. They can be either positive or negative. In a competitive market, the result can be that too much or too little of the good may be produced and consumed from the point of view of society. The external benefits for society that works of important national art produce, for example, are the justification for having incentives for donations to artists or museums. So for example, a famous painting, despite the fact that you might not even look at it, can bring external benefits such as a feeling of national identity, can act as a means for a nation to gain international status and recognition. And related to international prestige is economic spill over benefits: art can act as an important magnet for tourists as noted above.

"A key challenge faced by the art trade is the need to remain competitive by gaining a greater presence in the international art market."

Although it can be argued that the national football team or car industry may provide more recognition to a wider international audience, in many cases art holds a special place in defining the origin and identity or spirit of a nation, while it could possibly not sustain itself (at levels that generate national prestige) commercially without some form of subsidy.

Equity concerns relate to the belief that the market leads to an unsatisfactory distribution of income. In other words, although the market may produce an efficient outcome, it may be believed to be inequitable, which is often a justification for various measures of redistributive taxation. This is the more moral or egalitarian argument, which would suggest, for example, that all citizens should at least have some access to art and culture, and therefore subsidies could be used to overcome barriers such as high prices, low incomes or geographical inaccessibility.

If art is classified as culture, then there is an important role for government and public support. However, because of a perception of the art trade as a luxury industry, the government has given the sector little priority and there has been little appreciation of the benefits that the market offers throughout the economy.

As explained by a dealer:
"… Public collections have had budgets radically cut (by 90% in some cases) and there is really no help from the law to encourage private collectors and companies. Any new law on patronage will not be approved as the government still sees art as a luxury good and therefore not a priority - they don't realise that there are thousands working in the market – dealers, electricians, cleaners and many others… and top collectors are also only one small segment. They do not understand what galleries do and how they sell and how this has significantly changed from the 1980s. In the boom times it was possible to buy works outright from artists whereas now we act as agents and produce works with artists and support their careers - we have to fund all this, until we can make some of it back on sales..."

Internationalising the Market

A key challenge that many in the art trade reported facing is the need to remain competitive by gaining a greater presence in the international art market. Many dealers reported that the economic crisis of recent years had forced them to re-invent themselves and try new things, particularly in reaching new audiences in the global market. Some felt that due to low levels of public and private collecting in Spain, they had been forced to internationalise to survive.

A key channel for internationalisation has been through art fairs, which remain a critical part of dealers' businesses in 2014. Dealers reported that despite their importance, a challenge that they continually faced was in finding profitable, cost-effective fairs and funding their presence at international fairs. Some reported having to concentrate on key smaller fairs as Spanish galleries did not always get good positions or sell well in big international fairs. As always, a key challenge remained in balancing the home market and giving sufficient attention to their gallery with attendance at fairs, particularly for small businesses with limited staff and budgets.

While some galleries received grants and aid from local and national governments to attend international fairs, others felt that the sector needed greater support in aiding the expansion of international galleries and promotion of artists. Greater incentives for participation in national and international art fairs would be desirable, as well as incentives for certain expenses and investments to promote works of art.

Some also felt that the collectors in Spain did little to support Spanish artists which made it more difficult for them to gain any international credibility.

"…Unlike in France and other countries, Spanish collectors don't feel any obligation to buy Contemporary art from Spain- we are ashamed to sell ourselves. Collectors say art is international and think it is old fashioned and cheap to support Spanish artists- unlike other countries. Curators don't feel responsible to support artists here and the government doesn't give artists any real support to increase their visibility..."

Some collectors noted that before the mid-1990s there was a strong local market, however collectors started to internationalize and many traditional galleries failed to expand their portfolios and have now lagged behind some of the younger, more internationally focused galleries. Some galleries feel that is part of a wider problem of inertia in the trade in some areas, with galleries that are not actively changing and adapting not surviving.

"…We have been hyperactive for the last two years- our choice was to keep crying about the poor situation in Spain and fall completely or do something to improve and survive. When no one else is doing anything, you started to stick out and get more media coverage. Our sales have benefited and are up 30% in the last two years…"

Credibility and Professionalism

Along with developing a greater international presence, many galleries and auction houses reported that a key issue remaining in Spain is the need to gain greater credibility and professionalism both domestically and in the global art market.

The Spanish art market is still relatively young, and there were reportedly no galleries in Madrid before 1939 and only one in Barcelona, therefore the system is relatively immature compared to other markets. While many feel that galleries have significantly improved their professionalism in terms of planning, communication and technologies, for the most part they remained personal businesses driven by collecting interests. While this had obvious advantages in that the business was being driven by passion and enthusiasm, the disadvantage for some was that they were less professional than some purely commercial businesses with low staff numbers, directors that were often too busy to focus on longer-term strategic goals, poor financing and offering inadequate support and post-purchase services.

As explained by one collector:

"…Galleries in Spain often have very minimalist structures - there are only one or two people, they have a limited selection, they are curatorially weak, and they have difficulties getting together with their colleagues to work on things. They offer great support to artists but do not always support collectors. I still know many galleries that are still closed on Saturdays or only have limited hours- how will they get working people in? It is obvious

"A major issue in the Spanish art market is a lack of collaboration, with a focus has been on individual survival rather than working together."

that they are really passionate about their work and don't act as companies- they don't analyse the sales numbers after a fair for example as they are just thinking about the content of the next show…"

Some galleries also noted specific issues that differed between auction houses and dealers. Some felt that auction houses offered significantly lower prices but with less professional services, expertise and obligations to their buyers. Dealers also reported the problem of fakes and forgeries in some Spanish auctions, but felt that there had been little action taken by the government or VEGAP so the market as a whole suffered and was seen as less professional.

Lack of Collaboration

One of the major issues identified in the Spanish art market was a lack of collaboration in the art trade. Both collectors and dealers reported that for many in the art trade, the focus has been on individual survival rather than working together to strengthen the art market and deal with common issues.

As noted by one collector:
"…Galleries here should really work together to strengthen internationally, rather than concentrating on surviving small individually. Integrating technologies, internationalising , creating exhibitions and pushing the administration for better regulations - these are all done better with one voice and with a solid customer base built together rather than just doing what's best for you in the short-term…"

While some galleries found the idea of collaboration difficult due to ideas about content and concepts ("…there are a limited number of really good galleries here. I want to collaborate more, but only when they are doing the right things. It's hard to agree on content…"), others saw it as a more pervasive issue in Spain, due in part to the regional breakdown of the country into autonomous regions. As the Spanish market is broken up into 17 autonomous regions, it was difficult to have a level playing field, as each region had different tax regulations, funding and policies for the sector. This meant that it was difficult to collaborate as there was a degree of perceived competitiveness and unfairness between regions and as such most of the gallery associations had been formed within these boundaries. Dealers were aware that a nation-wide and all inclusive organisation that represented the market as a whole would be more effective in lobbying government . They felt that this would not only facilitate the market having "one voice" but also be more powerful in coming up with market - driven solutions rather than leaving this to governments. To date however there had been little collaboration of this nature apart from on certain market- wide issues such as ARR.

"The mounting burden of regulation has been adding a substantial cost to the businesses of those in the Spanish art trade."

The issues were summarised by a dealer as follows:
"As Goya said, the national sin of Spain is envy: the market is broken down into many little kingdoms which never collaborate and there is very little spirit of team work, but instead a 'Kane and Abel' culture in the art market, where you will only be successful because you killed off your competitors. Spanish galleries need to work together to analyse what they have and take the best of it, as well as seeing what we are doing wrong. Collaboration does not mean everyone gets the same. From history of socialism, there is a view that we all deserve the same. This is not true- there should be equal access, but this doesn't mean equal outcomes. Only the best galleries should get grants- but this can all be done in a collaborative and fair way."

Regulatory and Tax Issues

When asked about the impact of regulations on their businesses, most companies in the trade felt that the mounting burden was adding a substantial cost to their business. Specifically, in the auction sector all auction houses responding to the survey felt that the regulatory burden had increased in recent years and most (83%) felt that it had imposed additional costs on their businesses. An even greater share of dealers felt that the burden had increased (90%) and 93% felt that more regulations had meant more costs for their businesses.

Considering tax regulations, the economic crisis which has had a profound impact on the Spanish economy has cast a spotlight on the inefficiency of the tax system in times of recession, characterised by very high nominal tax rates, but comparatively weak revenue raised. In fact, the EU was the first to propose a reform to transition the tax levy from direct taxation and social contributions to indirect taxation (VAT), and a simplification of the current system, removing part of the current incentives and, consequently, bringing effective levy rates closer to the nominal rates.

The current Government has taken on tax reform as a challenge. As a first measure it commissioned an Expert Committee to prepare a report to identify the changes required in regulations to reach the targets the Commission had set. Following this report, the Government will prepare its own Draft Bill to be passed through parliament. On 21 March 2014, the Report of the Expert Committee for the Reform of the Spanish Tax System was published, also known as the "Lagares Report" after the Public Revenue professor that chaired the Committee.

The result was not very encouraging for the art trade or collectors. The objective of the Report was to perform a comprehensive critical analysis of the tax system and essentially provide a wake-up call on the areas needing review. However, in reality, it showed an utter lack of sensitivity to artistic heritage and creation. Consequently, it proposed removing the few measures currently in force promoting the conservation and maintenance of historical artistic heritage, which have always fallen short but were maintained by successive governments, and to introduce simplified and uniform treatment for all taxpayers.

The Report also proposes removing the reprieve of Inheritance and Gift Tax – Impuesto sobre Sucesiones y Donaciones – described above, to foster compliance with historical heritage regulations and keep works of art within family collec-

“One of the key issues going forward for the Spanish market is how to improve tax incentives and find a system that supportsthe creation and the purchase of art and collecting.”

tions. It should be remembered that this reprieve has been developed and improved in its scope of application by many autonomous regions. It also ratifies the removal of the minimal deduction of Corporate Income Tax for the purchase of historical heritage assets abroad, and for investments and maintenance and restoration costs that were in force until 2013. Lastly, it proposes applying the general VAT rate to sales of all types of works of art.

On 6 August 2014 the Official Gazette of the General Courts – Boletín Oficial de las Cortes Generales – published the Draft Bills proposing to introduce the Reform of the Spanish Tax System. Fortunately, the Government distanced itself from the proposals of the Lagares Report with respect to a number of issues, including the majority of amendments affecting the art market. However, with the exception of a minor increase in deductions for patronage, no improvements were introduced despite the pressure exerted by the sector, but the current situation has also not deteriorated. Moreover, the art market and collecting may benefit from a general drop in tax rates included in the Draft Bill:

- It drops personal income general tax rates (with average reductions of 12.5%)
- It reduces taxation on savings, and as such, capital gains
- The corporate income tax rate will drop to 28% in 2015 and 25% in 2016

In the last 30 years a series of measures have been introduced into the Spanish tax system, principally to promote the declaration and control of cultural heritage at a State and regional level. However, there has been no policy aimed at improving either collecting generally or the art market. While the market struggled during the recent years of the economic crisis, the Government failed to use the opportunity to use tax reform to support the trade or at least correct the existing imperfections that were long recognised in the legal framework. Apart from some of the wider issues mentioned above, there are several practical areas that still need attention. Importantly these include: enabling market access for creators of art; strengthening exchanges; heightening legal security; and enabling public access to privately owned cultural heritage.

Measures to improve the tax position of artists are essential, such as the possibility of income smoothing as is allowed in the UK and several other markets. Under these schemes, the tax system will not exacerbate the irregular nature of their income, and will enable their works to enter the market more regularly, thus guaranteeing a minimum taxation for the State. Another interesting initiative would be granting non-resident artists the possibility of adhering to an attractive taxation system in Spain, such as the so-called “impatriats” system, currently applicable only to foreign researchers and senior managers that come to Spain with an employment contract. The ability of such a measure to attract foreign talent would be for the benefit of mutual enrichment with local artists.

One of the key issues identified by both the trade and collectors going forward for the Spanish market was in trying to improve tax incentives in the art market and finding a system that supports creation and the purchase of art and national collecting generally. While there have been some limited incentives in place, most apply to historical sectors and there is little to stimulate artistic creation and the market in general. Many feel that the existing incentives are very limited, both in terms of the extent of the deductions (when compared to the deductions - of between 60% to 100% - awarded to donations in markets such as France and the US) and in the means by which one can become a patron, a status that implies significant benefits both during the lifetime of the collector and for estate planning.

Even within the current system, more could be done to encourage collecting, with greater tax incentives for the purchase of cultural and historical heritage assets, and investments for their preservation and maintenance, in order to stimulate activity from owners of cultural assets, guaranteeing reasonable compensation for the limits and burdens of owning these kind of assets. To do so, there must be a considerable increase in the percentage and scope of application of the current deduction on personal income tax, which should also be emulated for corporate income tax. Additionally, corporate income tax should include the possibility of deduction for depreciation of works of art bought by companies as fixed assets (decoration) in five to ten years, as is the case in France, for example.

The high taxation on capital gains also dissuades many art owners from selling in the current climate. A measure such as exemption of the capital gain when the proceeds of the sale are re-invested in other works of art would certainly boost the market and result in improvements for many collections, which could be renewed and updated at a much reduced cost.

In the scope of Wealth Tax and Inheritance and Gift Tax regulations, which already provide a number of measures to guarantee particularly favourable treatment for works of art, a review would be necessary to ensure their effectiveness. In this regard, the values set out in the historical heritage regulations should be updated, as these are the thresholds that warrant notification to the Administration for recording in the General Inventory. If works of art are not recorded, they cannot benefit from exemption from Wealth Tax or the reduction of Inheritance and Wealth Tax. It would be advisable to significantly raise these thresholds to broaden the application of tax incentives and in order that the restriction of historical heritage regulations only affected truly relevant and significant pieces, so that the Administration may focus its efforts on the most important ones. On the other hand, by restricting the perimeter of works that can be inventoried, it is natural that the criteria of the various regions tend to have wider coverage when selecting them.

Also, it would be recommendable to review the requirements for reprieve of the Inheritance and Gift Tax and exclude the capital gains resulting from gifts of art from personal income tax, in order to enable private collections to be passed on from generation to generation, always in accordance with Historical Heritage regulations.

Patronage should be promoted with increased deduction percentages for gifts far in excess of those included in the draft reform, and to reach not only gifts made by private individuals, but also those made by entities and corporations that contribute a large volume of funds to beneficiary entities of Patronage.

"Policies that boost sales in the art market, such as lowering VAT, can have a very positive net impact on the fiscal budget."

Another measure that is essential to strengthen the market is the establishment of a mechanism to avoid legal insecurity, affecting all owners of cultural assets that are not in possession of evidentiary documents of their purchase. As has been explained above, the tax risk that the current system entails prevents many works of art from being declared, to the detriment not only of their owners but also all of society, insofar as owners do not exhibit or sell them. In nearby jurisdictions, such as France, there is a possibility in these scenarios of the taxpayer recording 50% of the sale value as a capital gain. In some cases, depending on the date and the value of the purchase, the taxpayer may choose between determining the capital gain under the aforementioned criteria and applying the general rule (determination of real gains). This measure, which has been successful for a number of years in France, could be applied in Spain under very similar terms. According to a study by the Art and Patronage Foundation, a measure such as this could boost transactions of works of art in Spain by approximately 25%, with the resulting increase in personal income tax revenue (on the capital gains), and in revenues from other taxes resulting from the transaction and subsequent sales of the same piece.

In terms of VAT, a reduction in taxation would favour institutional and private collecting on the one hand, whilst also increasing the number of transactions and thus making the sector more dynamic. The dual nature of rates currently existing must be reviewed, and the possibility of establishing an exemption for the second and subsequent sales of works of art must be considered, i.e. those subsequent to the sale by the artist himself, in order that each piece is not taxed more than once.

The trade data showed clearly that an increase in import VAT of 11 percentage points caused a decline in imports of 80% over two years, a testament to the fact that tax changes have real effects in the market.

Using a very simplified example, it is easy to show the potential benefits from tax measures used to stimulate the market. If for example the government dropped VAT on sales by 11% (from 21%), it is possible that this could stimulate both sales and employment in the art market. Taking a very simplified version of the market in which VAT is applied at 21% on sales prices, the fiscal impact of such a change in policy is analysed below. (These projections can test any changes in policy designed to boost sales in the market, with VAT being just one example.)

From all of these scenarios, it is clear that policies that boost sales in the art market can have a very positive impact on the fiscal budget, and one which outweighs revenue from other sources such as VAT. These tables are only considering the impact of sales of dealers and auction houses. Policies that boot sales by these agents will also lead them to increase their spending on ancillary and support services, which also produces a net gain. For example in the most pessimistic scenario (assuming spending in ancillary services rises by 30% but employment is stable), an additional €16.4 million would accrue to the government in tax revenue.

Taxation and regulations can have a major influence on the location of art markets, either through sales taxes or indirectly through the way in which buyers and sellers of art are themselves taxed. Art is mobile and the fiscal environment in one country by comparison with another can easily lead to a migration of the market.

TABLE 13
Effects on Government Tax Revenues from a Decrease in VAT from 21% to 10% (Million Euro)

a) OPTIMISTIC: Sales Rise 80% and Employment Rises 20%

	Original VAT	New VAT	Gain or Loss
Corporation Taxes	€27.5	€49.5	€22.0
Income Taxes	€86.2	€107.7	€21.5
Net VAT	€30.1	€36.3	€6.2
Import VAT	€3.5	€3.5	€0.0
Export Taxes	€2.1	€2.1	€0.0
TOTAL	€149.4	€199.1	€49.7

b) MODERATE: Sales Rise 40% and Employment Rises 10%

	Original VAT	New VAT	Gain or Loss
Corporation Taxes	€27.5	€41.3	€13.7
Income Taxes	€86.2	€103.4	€17.2
Net VAT	€30.1	€30.2	€0.1
Import VAT	€3.5	€3.5	€0.0
Export Taxes	€2.1	€2.1	€0.0
TOTAL	€149.4	€180.5	€31.1

c) MINIMUM: Sales Rise 30% and Employment Stable

	Original VAT	New VAT	Gain or Loss
Corporation Taxes	€27.5	€35.8	€8.2
Income Taxes	€86.2	€86.2	€0.0
Net VAT	€30.1	€26.2	- €3.9
Import VAT	€3.5	€3.5	€0.0
Export Taxes	€2.1	€2.1	€0.0
TOTAL	€149.4	€153.7	€4.3

Source: © Arts Economics (2014)

A striking example of this was provided by the French art market, which had been Europe's dominant market in the early part of the 20th century, but which ceded this position to the UK as a result of increased taxes introduced in the 1950s. When sales are lost, so are all of the important benefits that the market brings with it, both directly and indirectly throughout the economy, many of which have taken many years to build up. It is critical that policy makers in Spain consider both the important social and economic benefits of the art market, in order to help it to develop both domestically and as an important part of the global art community.

EPILOGUE
SPAIN, LEFT OUT OF THE ART PARTY

Miguel Ángel García Vega
A journalist specialising in contemporary art

Art is the image of a country reflected in the mirror of its culture. For years now the Spanish art market has been like Narcissus captivated by his own reflection. The numbers speak for themselves: they are hard, difficult, and at times ugly. To analyse the results published in *The Spanish art market in 2014* (Fundación Arte y Mecenazgo) is to add salt to the wound. Despite a slight improvement, the art market in Spain is in a similar situation to where it found itself at the beginning of the financial crisis. It continues to be a small market that is dragging its feet. Last year, turnover was 336 million euros, which is only nine million more than in 2012. These figures are out of step with current trends. Between July 2013 and the same month in 2014, sales of contemporary works of art by auction totalled 1.59 billion euros worldwide, the highest figure in history. And where were we? Where is the euphoria of London or New York? What happened to the optimism?

As hostages to a Spanish economy in the doldrums, that must conform to rates of growth in GNP that hardly reach 1% and unemployment at 24%, the market is suffering. All stakeholders in the industry are largely in the same boat. First and foremost, the artists themselves. The Brussels office of statistics Eurostat states that there are 25,950 creators of art in Spain. Whether this information is absolutely accurate is not the point, the question is another: How many manage to get by from their work? And how many earn a decent living? Insecurity and precariousness are scattered like a balm by a negligent god. Furthermore, the lack of a Law of Patronage and a “Cultural VAT” are keenly felt.

The second stakeholders that suffer are the dealers. Although they have made great strides in recent years in gaining an international presence, 70% of their sales are still made in the Spanish market. But how to sell to a private national collector, who buys significantly less, and who buys at the lower end of the price range? In Spain, 98.6% of lots are sold at less than 50,000 euros. So the dealers have needed to find their own way. Last year 68% of transactions were for national artists. The market is almost completely autonomous and inward-looking. And what does it see?

Abroad in the international auction houses, Spanish artists who command high prices are (in order) the well-known historic greats: Picasso, Miró, Juan Gris and Dalí. Dalí? This painter from the Ampurdà region of Catalonia has entered the list thanks to the "rediscovery" of his work by the Pompidou Centre in Paris and the vision of his work reflected in Museo Reina Sofía. This goes to show just how much a blockbuster exhibition affects the prices an artist can command. Besides this, there is the interesting phenomenon of Fernando Zóbel. The sales of his work can be explained by the appreciation gained among Asian collectors, while here they are consigned to relative oblivion.

It is of no consequence. The Spanish market has its own rhythm and sings to its own tunes. Few Spanish artists command notable prices or have a second-hand market, i.e., sell well at auction. Manolo Valdés, Miquel Barceló, Juan Muñoz along with Jaume Plensa form part of this moneyed elite. In a second grouping, according to sales at auction, would be Juan Uslé and Cristina Iglesias. But there are very few more. It is a situation that became more acute after the death of Antoni Tàpies in 2012. So what exactly is happening here? Why does the market turn its back on the vast majority of Spanish artists?

In art as in the market economy, everything is interconnected - even its own contradictions. Credit Suisse Bank states that the number of Spaniards with a net worth of over one million dollars (740,000 euros) sharply increased between the middle of 2013 and the first half of 2014. In fact the increase was 24%, meaning there are now 465,000 people who manage this amount of wealth, while Spain is in ninth place in the luxury goods market. If there are more wealthy people and “more luxury” then there really should be more interest in art collecting. However this axiom is false. Last year only 1% of sales of art and antiquities worldwide came from Spain. In comparison, France accounted for 6%. This chasm leads us to look at education for an explanation - to a lack of Humanities teaching in youth and adult education, which transcends into a lack of passion for collecting. To the error of considering art to be a luxury item. To the overwhelming idea in our day and age of merchandising all expression of thought. To oblivion.

It’s for this reason that this work by the Fundación Arte y Mecenazgo speaks to us of more than mere numbers. It paints a picture of a country and a Government that really should do more for an industry as vital as the art industry. Last year there were 3,075 businesses in the sector directly employing 10,000 people. To this can be added the Malthus effect of indirect employment. The report notes that, according to some very conservative calculations, some 41,650 individuals are employed in art fairs, museums, or as artists in “jobs that could not exist without the art market”. What is to be done about this feeling of abandon?

Unite. Above all, the art galleries. Despite proposals for entities to come together to form associations, such as Arte Madrid, the feeling that predominates is that of small tariff fiefdoms in which each isolated artistic space tries its luck on its own - without communication, mutual support or understanding. Initiatives for galleries and spaces in the same neighbourhoods to jointly open exhibitions (Apertura 2014) are a step in the right direction. But they are a drop in the ocean and genuine cohesion is needed. And the question should be posed whether so many art fairs are really necessary (Estampa, Art Madrid, Swab, JustMad, Summa, Feriarte, Loop, Arco Madrid). Are there really enough collectors for all these? What does the organisation sell: space (meaning floor space of the stand), or works of art? Have some of these become a real-estate operation rather than an artistic one? At times it seems so.

Many of these fairs are only viable if they can attract – as Arco Madrid has successfully done – the foreign collector. However, in order to do this substantial financial muscle is needed and an agenda that not all fairs have. Similarly, the gallery must take a good look at itself and pose itself the question of whether its programme really has the weight and personality to compete and attract the attention of national and international collectors. Because it is not easy to run a gallery in Spain. Nor live from art. Nor be an artist. The economy is not favourable, the education system is against it and the Government frowns upon it. What's left? A passion for collecting, a passion for culture, a passion for life. And the genuine belief that without the art market all of this would either be at worst impossible or at best more difficult.

APPENDIX: DATA SOURCES

The information presented in this report on the Spanish art market comes from a wide range of sources. All of the data is gathered and analysed directly by Arts Economics from dealers, auction houses, art fairs, collectors, art price databases, financial and economic databases, industry experts and others involved in the art trade and its ancillary services.

Some of the key data sources are listed here, and for any more specific information on data or methodology, please feel free to contact Dr. Clare McAndrew, clare@artseconomics.com.

Auction Data

Auction data used in this report comes from 3 main sources:

1. Artnet

Much of the fine art auction data in the report was sourced from Artnet, which is the most reliable, transparent and comprehensive global source for auction data in this sector. The Artnet Price Database has over 7 million auction results for fine art spanning over 30 years, including a total of over 1,400 auction houses and over 300,000 artists. All lots in the Artnet database must have a minimum estimate of $500 to be included, although their final sales price can be below this figure. For anonymous or not directly attributed works, the minimum estimate is $2,000.

2. Auction Houses Published Results

Arts Economics collected data on fine art, decorative art, and antiques and collectibles sales directly from all of the auction houses in Spain that published auction results online or in press releases in 2013.

3. Auction House Survey

Arts Economics distributed a survey to 50 auction houses with a response rate of approximately 20%. A series of supplementary in-person interviews were also conducted with auction houses in Madrid and Barcelona.

Dealer Data

To compile data on the dealer sector, Arts Economics conducted an anonymous online survey of approximately 653 dealers from Spain. Response rates totalled 18%. A series of supplementary in-person interviews were also conducted with dealers in Madrid and Barcelona, as well as several telephone interviews during 2014.

Trade Data

The main database used for international cross-border trade data was the Eurostat database. Eurostat is the statistical office of the European Union. Its international trade statistics track the value and quantity of goods traded between EU member states (intra-EU trade) and between member states and non-EU countries (extra-EU trade). Since customs formalities between member states were removed, data on intra-EU trade is collected via Intrastat. In the Intrastat system, data is collected directly from trade operators, which send a monthly declaration to the relevant national statistical administration. These statistical authorities also collect extra-EU trade statistics from the relevant customs authorities each month, although reporting to Eurostat varies between Member States with lags of one to 18 months.

Collector Data

Collector data was also compiled from interviews with a small sample of collectors in Madrid and Barcelona.

Other Sources

Data on art fairs was kindly supplied directly by several of the art fairs, and supplemented with published material.

Secondary Sources

The report uses a large number of secondary sources (that are cited in the report). Some key sources used for data in the report included:

- Ministerio de Educación, Cultura y Deporte (reports and published data)
- Historical Heritage Assets Classification, Valuation and Export Board.
- The IMF World Economic Outlook (Database)
- Credit Suisse Global Wealth Databook

Information on taxes and regulations was also kindly supplied by Eva Lasunción Patus, Lawyer and Expert in Art Market taxation and Collecting.

ENDNOTES

1. While for most artists categorization is based on date of birth, there are also a small number of artists included in different sectors based on their importance to a particular movement of art.

2. This includes all works of art including paintings, watercolors, drawings, ceramics, sculptures and prints.

3. It is worth noting that the data presented in Figures 11 and 12 is derived from the Artnet database of auction prices. This database only includes those lots with minimum estimates of $500 (or $2,000 for works without a qualified artists' name, for example "after, follower of, circle of, school of"). While the chart is comparing like with like between countries, for markets such as Spain that are very heavily dominated by lower priced sales, the averages may somewhat overstate the average and median of the entire market, meaning that the gap between prices in Spain and larger global markets is even more marked.

4. While in the wider market, including non-core smaller businesses, dealers and galleries are slightly more geographically spread, extensive research from a variety of directories and listings indicated that around 43% of art and antiques businesses are based in Madrid and Barcelona. It is worth noting that in terms of respondents to the survey, 58% of respondents came from these two cities.

5. For example see Investors Chronicle (2013) *Live the High Life with these Luxury Retailers*, at http://www.investorschronicle.co.uk.

6. Data from Ministerio de Educación, Cultura y Deporte (2013) Anuario De Estadísticas Culturales 2013

7. Data for the Macba excludes a single room solo show for a Spanish artist and an "associated show", neither of which were major solo shows. The Guggenheim had only one solo show in 2013, which was for a Spanish artist.

8. Article 36 EC of the *Treaty Establishing the European Community* provides a derogation from Articles 30-34, allowing member states to adopt or maintain prohibitions, restrictions or measures of equivalent effect on the import, export, or transit within the EU of national treasures having artistic, historic or archaeological value. Each member state can thus define their own national treasures and adopt any measures to restrict the free flow of art objects to whatever extent they deemed necessary in order to preserve the national patrimony.

9. In practice, the Ministry reported that auction houses send catalogues ten days or less prior to many sales.

10. The Ministry reported that the most expensive work they purchased in 2013 was €700,000.

11. See for example DCMS (2013) Export of Objects of Cultural Interest 2012/13. From www.artscouncil.org.uk . The Ministry also publish data on the works they buy but with a delay of over five years.

12. The 'fair price' is determined by relevant experts and the Committee but generally implies an appropriate auction price, including buyers premium or a dealer's commission, the relevant price of the private sale including the dealer's commission, or if it was not the subject of a transaction, valuation by independent valuer or expert advisor.

13. Drawings without colour, prints and photographs: more than €15,000; drawings with colour (for example, watercolours, gouache, pastel): more than €30,000; sculptures: more than €50, 000 and paintings: more than €150,000.

14. The information on the relevant Spanish taxation laws and regulations was kindly supplied by Eva Lasunción, Lawyer and Expert in Art Market taxation and Collecting.

15. It is a requirement for application of the reduced rate in these cases that the company or professional was entitled to deduct VAT paid in the purchase of the piece. Accordingly, the reduced rate would not apply if the company purchased the piece under the margin scheme or if they were subject to another kind of restriction in the deduction of amounts paid.

16. This is the only area in which the reduced rate also extends to antiques and collectibles, and to sales made by professional brokers.

17. It must be remembered that the Directive does not allow a specific levy to be introduced for transactions concerning works of art, but instead Member States are obliged to choose a standard rate and an optional "super-reduced" rate that may be applied to a limited range of goods and services.

18. Accordingly, since January 2014, the regime can apply (at the choice of the reseller) to works of art bought (i) from the artist or their successor (iii) from private individuals, (iii) from another reseller that in turn applied this regime, (iv) as works imported or bought from the Canary islands, Ceuta or Melilla, and (v) in resale of a work purchased from a company that did not deduct the VAT paid in the purchase.

19. For example private individuals generally cannot deduct VAT along with entities subject to the pro rata scheme (particularly banks and insurance companies) and institutions that do not perform business activities (foundations, associations, museums and some public bodies).

20. Gifts made to non-profit entities are an exception to this law as identified in the Patronage Act 49/2002, discussed below.

21. Since 2010 (Act 22/2009), autonomous regions have been authorised to govern deductions for non-business investments and revenue application in personal income tax regulations. Certain autonomous regions (which currently do not include Madrid or Catalonia) have made use of these powers to introduce deductions to foster the preservation, repair and diffusion of their cultural heritage. In Castile-Leon an additional deduction, aside from the state deduction, can be applied, of 15% on amounts invested in the restoration, rehabilitation and repair of real estate assets located in the autonomous region which are recorded in the General Registry of Assets of Cultural Interest. In November 2001, the Canary Islands approved a similar deduction of 10%. Taxpayers in Valencia can deduct 5% of amounts dedicated to the preservation, repair and restoration of assets belonging to Valencian Cultural Heritage that are recorded in its General Inventory.

22. According to the Spanish Historical Heritage Regulations, for the purposes of inclusion in the General Inventory of Chattels or for classification as an ACI, the Administration must be notified of ownership of works of art or antiques whose value exceeds:
• €90,151.82 for paintings or sculptures aged less than 100 years.
• €60,101.21 for paintings aged 100 or more years, or collections or groups or artistic and cultural works and antiques.
• €42,070.85 for sculptures, relief and low-relief, aged 100 or more years, as well as collections or drawings, engravings, books, documents, musical instruments and chattel.
• €30,050.61 for rugs, tapestries and historical fabrics.
• €18,030.36 for drawings, engravings, printed books or manuscripts and unitary document in any format.
• €9,015.18 for single item historical musical instruments, and for antique ceramics, porcelain and crystal.
• €6,010.12 for archaeological objects.
• €2,404.05 for ethnographic objects.

23. In accordance with Act 22/2009, autonomous regions can alter the terms of inheritance and gift tax with respect to reduction of the tax contribution basis. For example, many regions adhere to the 95% reduction but extend its scope to cover more assets belonging to the cultural heritage of any other region, and in some cases reducing the retention period to five years (for example in the Balearic Islands, Cantabria, Catalonia, and Madrid). Others have increased the percentage reduction, for example to 99% for the Balearic Islands and 97% in the Canary Islands. Some (such as Catalonia) extended the reduction to also apply to acquisitions after death by other connected parties such as ascendants or adoptive parents. In Valencia, there is a reduction for a range of assets provided they are assigned for exhibition by the Valencia Government and local museums and institutions. This reduction may vary from 25% to 95% according to how long the asset is assigned to the institution and does not require any family connection. In similar terms, the regulations of Castile-Leon provide a 99% exemption for certain works that are exhibited free of charge for ten years or more.

24. Article 16 of Act 49/2002 states that entities that benefit from patronage include foundations and associations declared to be for public usage, various state and regional institutions, public universities and other institutions as well as a list of specific institutions such as Museo Nacional de Arte de Cataluña, Museo Nacional del Prado and Museo Nacional Centro de Arte Reina Sofia.

25. Again autonomous regions have also taken on certain regulatory powers to govern their own deductions for gifts. For example, Madrid allows a 15% deduction for gifts to qualifying institutions, however they share the same 10% limit of the tax basis, which considerably reduces its applicability. Deduction rates vary significantly in other regions from 5% in Valencia to up to 30% in Murcia, and in certain cases the state and regional deductions are compatible while not in others and the limits applicable on the deduction basis are also governed in a disparate manner. In Catalonia, there is currently no approved deduction.

26. The "sufficient" quality of the work and its value for gift purposes must be certified by the Historical Heritage Assets Classification, Valuation and Export Board of the Ministry of Culture (or, if appropriate, the relevant officials in a given region). The deduction can be applied to gifts of contemporary works, however valuation issues have prevented this incentive from being used more frequently.

27. This figure allows works of art to be assigned, without losing ownership, obtaining a tax incentive and the resulting saving in preservation cost.

28. Doctrine has criticised gifts in kind made by companies, insofar as the deduction basis does not correspond to the market value of the donated work of art, but the book value in the accounts of the donating company. It is clear that this measure is unjust, insofar as it may give rise to different tax credits for gifts of equivalent assets, according to the date or cost of acquisition.

29. A bill proposing ARR in the US was raised in February 2014. It proposes ARR for large auction houses only and is believed to be unconstitutional in it current form. Although the Bill has raised some marginal support, it remains highly unlikely to be passed. ARR has effectively been taken off the short and medium term agenda for discussion in China. In Australia, where the right has been in place since 2009, there is currently a review underway which may abolish the royalty, as it has never been able to be self-funding, with the costs to administer the right greater than the payments to artists since its inception.

30. If it is not claimed by the artist or their successors, the royalties are given to the Fine Arts Fund.

31. VEGAP would not comment on how many of these were Spanish nor provide any other specific information on their membership.

32. See Froschauer, T. (2008) *The Impact of Artists Resale Rights on the Art Market in the United Kingdom*. Antiques Trade Gazette: London.

33. From the *Spanish Response to the European Commission's Consultation on the Resale Droit de Suite Directive*.

34. In Europe, a small business is defined by the European Commission as one with turnover of less than €10 million and less than 50 employees.

35. Statistics for the Spanish general labour force and EU come from the *European Labour Force Survey 2014*.

36. Statistics for Spanish cultural industries come from the 2013 Anuario De Estadísticas Culturales of the Ministerio de Educación, Cultura y Deporte and relate to their most recent available data, 2012.

37. OECD (2014) *Education at a Glance: Spain*. From oecd.org.

38. Figures for employment generation are derived from the production values across industries in Spain related to administration and support divided by the numbers employed in those industries.

39. World Economic Forum (2012) Travel and Tourism Competitiveness Report 2013. From wttc.org.

40. World Economic Forum, ibid.

41. Office of National Statistics (2014) International Passenger Survey. From statistics.gov.uk

42. See CEBR (2013) *The Contribution of the Arts and Culture to the National Economy*. London: Arts Council England.

43. HNWIs are defined as those having investable assets of US$1 million or more, excluding primary residence, collectibles, consumables, and consumer durables as measured by the Capgemini (2014) *World Wealth Report*. Dollar millionaires are those with net wealth greater than $1 million, with wealth defined as financial assets plus non-financial assets less debts. Non-financial assets include property, land and other physical assets in defining a HNWI. These statistics are from Credit Suisse (2013) *Global Wealth Databook 2013*.

44. Data from The *World Top Incomes Database 2013* maintained by the Paris School of Economics.

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