

# Pure art

**PREVENTIVE CRIMINAL ANALYSIS OF  
THE DUTCH ART AND ANTIQUES TRADE**

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## **FOREWORD**

The Dutch Ministry of Justice has commissioned a preventive analysis of the art and antiques trade in the Netherlands within the context of the Organised Crime Prevention Programme. The purpose of this analysis is to assess the vulnerability of the sector to infiltration by organised crime.

The Ministry has asked INTRAVAL, bureau for research and consultancy, to assess the vulnerabilities of the trade. The study was conducted by the researchers/senior researchers H. Naayer, J. Snippe and R. van der Stoep, assisted by E. de Bie, M. Hoorn and M. Boendermaker. Their work was supervised by B. Bieleman. The section of the study concerning enforcement was carried out in consultation with H. Winter and I. Middelkamp of Pro Facto/RuG.

We would like to thank the members of the supervisory committee, chaired by A. Scholte (Ministry of Education, Culture and Science) for their critical and positive contribution to the study and to this report. The other members of the supervisory committee were: M. van Heese (Ministry of Education, Culture and Science); P. Hustinx (TEFAF); H. Jansen (Police Academy); J. Lely (Ministry of Justice); D. Lokin (Dutch Museum Association); R. Meppelink (Loyens Loeff); and J. Molthoff (Customs Information Centre). Consultants were: S. Gimbrère (Ministry of Education, Culture and Science); J. Glimmerveen (Ministry of Finance); A. van der Kuijl and C. van der Laan (both Ministry of Justice).

We are grateful to J. Molthoff and H. Boon of the Customs Information Centre and C. Diependaal of the Tax and Customs Administration for their help in obtaining data. We would also like to thank A. van Dijken of the National Police Service Agency (KLPD) and G. de Wit of the Public Prosecution Service for performing the analyses. Special thanks are due to the State Inspectorate for Cultural Heritage, and in particular to M. van Heese, for assisting with the study and furnishing numerous sources of information. Finally, we wish to thank all the respondents for their input. Without their help, this study would not have been possible.

On behalf of INTRAVAL,

B. Bieleman  
R. van der Stoep

Groningen-Rotterdam  
September 2007

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# 1. INTRODUCTION

Government urgently needs to protect itself more effectively against the risk that criminal activity will be facilitated in certain sectors of the economy. That is precisely why the Organised Crime Prevention Programme (PPGC) has performed preventive analyses and conducted investigations in a number of economic sectors and trades. Ample evidence has been produced both in the Netherlands and abroad that a preventive approach can be effective against crime. The PGC Programme, which commenced in 1998 with the approval of the Ministry of Justice's Executive Board, runs two types of projects: those exploring the extent to which a particular sector is vulnerable to criminal influences (preventive criminal analysis) and experimental or innovative projects (for example investigating whether artificial networks can be used to fight organised crime, in particular financial and economic crime). The analyses focus on economic sectors and sub-sectors that are assumed – based on publications and investigations – to be vulnerable to infiltration by the organised criminal world. The football, health care, transport and cannabis sectors have already been analysed, and an analysis of the charity sector was recently completed (Van der Stoep et al., in print).

Preventive criminal analysis concerns not only those sectors already subject to criminal influence, but also those with certain features suggesting they are vulnerable to crime. The analyses that have already been conducted reveal that a lack of transparency and supervision make a sector susceptible to organised crime, for example the cannabis sector (Snippe et al., 2004). In addition, financially weak commercial enterprises are vulnerable to infiltration by criminals or criminal organisations. One example is small-scale transport companies (KPMG 2000).

Until now, there has been no wide-ranging investigation of the possible involvement of organised crime in the art trade. However, various publications have appeared in the Netherlands concerning the illegal art trade. One of these is the report "Illicit traffic in cultural goods in the Netherlands" (Ministries of Finance and Education, Culture and Science, 2004), published for the Illegal Trade conference held from 8 to 10 November 2004 within the context of the Dutch Presidency of the European Union. The reason for the study was the growing concern in the Netherlands (as well as in other European Union member states and in the European Parliament) about illicit trafficking in cultural goods, a

source of irreparable damage, in particular to economically disadvantaged countries. The report attempted to explain the nature, scale and role of the illegal trade in cultural goods, and served as a starting point for discussion. The present study can be viewed as a follow-up to the results of this report and the conference conclusions.

## 1.1 Aim and research questions

The aim of the study is twofold. On the one hand, it is an analysis of the art and antiques trade. In other words, it aims to identify vulnerable areas and risks that could facilitate the infiltration of the sector by organised crime.<sup>1</sup> On the other hand, it is an analysis of current enforcement practices, in other words the legal, strategic and tactical measures used to combat the illicit art trade.<sup>2</sup>

### Research questions

The aims set out above suggest that the study can be divided into two sections: a. a survey of the sector and an analysis of its vulnerability to criminal infiltration; and b. a study of relevant monitoring and enforcement measures and their effectiveness. The following questions have been formulated for these two sections:

#### A. *Survey and analysis*

1. How is the trade organised (structure, sub-trades, number of firms and employees by category and trade/sub-trade)? What is the financial significance of the art sector (turnover, assets, contribution to GNP and other key figures)?
2. What firms are active in the sector and what networks (including cross-border networks) are they involved in? What is the status of umbrella organisations, consultants, informal investors, public and private art funds and shareholders? To what extent do mutual relationships, conflicts of interest, competition and foreign influences play a role?

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<sup>1</sup> According to Fijnaut research group, one can refer to organised crime when groups primarily concerned with illegal gains commit systematic criminal offences with serious consequences for society and are relatively effective at covering up these offences (Parliamentary Enquiry into Criminal Investigation, 1996).

<sup>2</sup> It is also possible to discuss the results of the analysis with the sector in order to identify points of departure for introducing preventive measures. These efforts should go to improving the sectors' ability to defend themselves against organised crime and to promote their integrity.

3. What areas of the sector are vulnerable to infiltration by organised crime and its financing (theft, illicit trafficking, forgery)? To what extent has the trade already been infiltrated?
4. To what extent is the illicit art trade used to launder criminal gains or to finance terrorist activities? How efficiently can the sector be used for money-laundering purposes and as a source of financing?
5. How can the sector protect itself (more effectively) against organised crime by taking preventive measures?

*B. Monitoring and enforcement*

1. What legal measures are currently available to combat the import/smuggling of illegally imported and/or exported cultural goods, and how effective are they?
2. How effective are the government's monitoring and enforcement efforts in the sector, given the risks revealed by the analysis?
3. What barriers do art thieves or receivers encounter that prevent their success in the art sector?
4. How do criminal organisations interact with the community and social environment?

## **1.2 Research plan**

The study consisted mainly of a survey of the art trade. It covered both the legal and illegal trade in art and antiques. It also explored monitoring and enforcement in the trade. Besides these areas, the study furthermore analysed the trade itself, the role of organised crime and enforcement practices. The analyses were based as much as possible on hard figures and factual information. The hard data were then considered in combination with “softer” intelligence, drawn from interviews and the literature.

As described in section 1.1, the study breaks down into two parts. In the following, we describe the research methods used in each part and the sources consulted. Matrix 1.1 lists the various sources and the role the data derived from those sources has played in answering the research questions. The usefulness of the source material obtained is explained in the section thereafter.

Matrix 1.1 Research methods related to research questions

research method	research question (see page 2 and 3)										
	A1	A2	A3	A4	A5	A6	B1	B2	B3	B4	
Literature review	o	o	o	o	o	o	x	o	o	o	
Interviews with representatives of the trade	o	x	o	o	x	o	o	o	o	x	
Interviews with other experts	o	x	o	o	x	o	o	o	o	x	
Interviews with representatives of monitoring and enforcement organisations	-	-	o	o	o	x	x	x	x	o	
Fieldwork, chance conversations	-	o	o	o	o	-	o	o	o	o	
Survey and analysis of Internet and newspapers	o	-	-	-	-	-	-	-	o	-	
Analysis of general data from public sources (chamber of commerce, Statistics Netherlands, etc.)	x	o	-	-	-	-	-	-	-	o	
Analysis of data from institutional registers (Tax and Customs Administration, JustID, etc.)	o	o	x	x	-	-	o	o	o	o	

x = primary method; o = secondary method; - = not applicable.

## A. Survey and analysis

The survey and analysis breaks down into three parts: a literature review; interviews and fieldwork; and an analysis of data taken from other sources (registers, Internet). The boundaries of the research area subject to actual “analysis” were determined on the basis of the literature review and lengthy interviews with key informants. An impression of the Dutch art and antiques trade was next obtained based on databases and interviews with individuals involved in various branches of the trade.

### *Literature review*

The study began with a literature review, which covered various scholarly/scientific and other publications, policy memorandums, open source publications (including on the Internet) and other relevant documents concerning the art and antiques trade and crime. The review included “grey literature” (newspapers, Internet, dissertations and so forth). The purpose of the review was to find information on how the art and antiques trade is organised, the applicable legislation and regulations, and the susceptibility of the trade to crime. The review also covered information on combating crime in the trade and the problems encountered in doing so.

### *Interviews and fieldwork*

The study involved lengthy interviews with key informants who have a thorough knowledge of the art and antiques trade (or specific areas of the trade). Interviews were also conducted with art and antiques dealers who, as a group, offer an accurate reflection of the trade in the Netherlands. A total of 36 interviews were conducted with 38 individuals. Table 1.1 lists the various categories of key informants.

Table 1.1 List of key informants, survey and analysis section

<b>Category</b>	<b>No. of key informants</b>
Antiques trade (antiquities)	4
Antiques trade (other)	4
Archaeology	1
Trade representative and umbrella organisations	3
Experienced experts	2
Galleries	2
Journalism	1
Art and antiques fairs	1
Art dealers (contemporary)	2
Art dealers (pre-modern art)	4
Museums	5
Allied trades (insurers etc.)	4
Security agencies	5
Science and scholarship	3
<b>Total<sup>1</sup></b>	<b>41</b>

<sup>1</sup> Three of the respondents fall into two categories.

The interviews with representatives of the trade focused on the nature and scale of the art and antiques trade, the organisational structure of the trade, the vulnerabilities with respect to organised crime, and the measures, preventive or otherwise, that art dealers can take. The interviews also covered financial information. The interviews with the other experts, for example those representing the scientific community and the museum sector, concerned the import of protected cultural goods, cooperation with public authorities and codes of conduct (for example at museums). The vulnerability of the sector was also discussed in these interviews. The informants were asked about the availability of registered data. Annex 1 shows the full list of interview items used in most of the interviews.

#### - Fieldwork

The researchers attended a number of auctions and fairs for the survey and analysis part of the study. For example, they attended the PAN art fair in Amsterdam in November 2006, where they spoke briefly to approximately 15 dealers, visitors and individuals representing the allied trades. The researchers also attended TEFAF in Maastricht for two days

in March 2007. Once again, they spoke to various dealers (seven), as well as buyers and other interested parties (insurance and investment advisers, art fund representatives). The researchers also attended three auctions and approximately ten art dealerships.

#### *Data analysis*

In addition to the literature review, a series of exploratory and in-depth analyses were carried out based on various databases and other sources. The analyses produced the most complete picture possible of the nature and scale of the art and antiques trade in the Netherlands. In addition to obtaining various key data, the researchers also studied that part of the art and antiques trade that is Internet-based.

The analysis furthermore included information obtained in the interviews with the key informants.

In order to obtain permission to collect and use data from the registers maintained by Customs and the Tax and Customs Administration, the client (the Ministry of Justice) and the Ministry of Finance drew up an agreement; however, this agreement did not become effective until May 2007. It was therefore not possible to consult the Customs and Tax and Customs Administration's registers as thoroughly as had been intended.

#### - Key figures

In order to produce an accurate description of the trade, the researchers scanned various sources, including those provided by Statistics Netherlands (CBS), the Chamber of Commerce (KvK), the Tax and Customs Administration and the annual reports and publications of organisations in the sector. The Chamber of Commerce's trade register provides information on individual companies. All companies operating in the Netherlands must be listed in the trade register of the Chambers of Commerce. The trade register provides information on the number of companies per trade, sector and region. The Tax and Customs Administration uses a different trade classification system than Statistics Netherlands and the Chamber of Commerce. General tax data in the Tax and Customs Administration's system were used to obtain a general impression of the financial affairs and interests in the various sub-trades.

The smart@data application, which the National Prosecutor's Office has used since early 2007, makes it possible to subject data from public sources – in this case the Chamber of Commerce trade register – to closer analysis. This software can perform statistical analyses on large quantities of data while exploring relationships at multiple levels. Using smart@data, the researchers obtained information on the owners and managing directors of firms operating in the art and antiques trade. They

then took samples from this population (both random and based on pre-determined criteria) and asked the Justice Information Service (JustID) to report any criminal antecedents of these natural persons. It then became clear to what extent individuals active in the art and antiques trade had been guilty of relevant criminal acts in the past. The researchers also checked to what extent any owners and managing directors had been registered by the Financial Intelligence Unit (FIU-Nederland) as having been involved in unusual or suspect transactions. The same procedure was followed for the commercial enterprises involved.

#### - Internet

The Internet is an increasingly good source of information about the legal and illegal art and antiques trade. In order to determine the scale of the Internet-based art trade, the researchers scanned a number of nationwide auction sites, such as eBay and Marktplaats. The researchers scanned the art and antiques categories of four of these sites for two separate one-week periods, noted the addresses and phone numbers of the companies and individuals active on these sites, and consulted the websites to which they referred. In addition, they also interviewed an auction site administrator.

In addition to auction sites, the researchers used Internet search engines to determine the number of Dutch companies and individuals active in art dealing and presenting themselves in that capacity on the World Wide Web. They also monitored various forums and newsgroups in which art and antiques are discussed and that give dealers an opportunity to publicise their business. Studying these various channels made it possible to construct an overall picture of the nature and scale of the Internet-based art and antiques trade.

### **B. Monitoring and enforcement**

The section of the study focusing on monitoring and enforcement (measures, efforts and effectiveness) consists of three parts: a literature review, interviews and an analysis of registers.

#### *Literature review*

The literature review made it possible to assess government monitoring and enforcement measures and, where possible, their effectiveness, as well as the associated risks (corruption, undesirable conflicts of interest and so on).

### *Interviews*

The literature review was supplemented by findings obtained in interviews with experts. The interviews concentrated mainly in the effectiveness/ineffectiveness of legal measures related to the import/smuggling of illegally imported and/or exported cultural goods and the problems encountered in this regard by enforcement officers and investigators. A total of 13 interviews were held with 17 experts (Table 1.2); these were legal experts specialising in the criminal law as it relates to cultural goods, and officials working for various monitoring and investigation services. The customs officials were queried in particular about their monitoring efforts, the associated risk analyses, the risk profiles used and the results of their monitoring efforts.

The interviews with officials from the investigation services (FIOD-ECD, regional crime investigation units, National Police Service Agency, Public Prosecution Service) covered the investigations and the risks associated with monitoring and enforcement (corruption, conflicts of interest). Another topic of discussion was the estimated scale of the “dark number”, i.e. the number of unreported/unknown crimes, and what barriers can be erected to prevent art thieves or receivers from operating successfully in the illicit cultural goods market. A distinction was made here according to the nature of the cultural good and the social environment in which the criminal operates.

Additional questions about the Dutch art and antiques trade were also submitted to a number of current and former officials from international and foreign crime investigation services (Scotland Yard, Europol, Interpol). These questions specifically concerned the role of the Netherlands within the international art crime scene.

Table 1.2 List of key informants, monitoring and enforcement section

<b>Category</b>	<b>No. of key informants</b>
Dutch Tax and Customs Administration	1
Customs	3
State Inspectorate for Cultural Heritage	2
Experienced experts	1
Crime investigation services (national and international)	6
Private services	2
Science and scholarship	2
<b>Total</b>	<b>17</b>



### *Registers*

During the interviews, the researchers also enquired as to the availability of registers that may provide information on monitoring and enforcement activities. They inspected archive material and a number of files held by Customs (West) and the State Inspectorate for Cultural Heritage. These files concerned cases in which Customs held cultural goods imported into the Netherlands in order to determine whether they were protected cultural objects.

The State Inspectorate for Cultural Heritage is the most obvious adviser in such matters. The files produced information on the nature of the shipment, the country of origin and the addressee or party concerned in the Netherlands. Most of the cases also reported what steps had been taken with respect to both the objects concerned and the person or persons involved.

Based on the State Inspectorate's files, it should be possible to determine which cases led to prosecution and to analyse the results of criminal proceedings commenced by the Public Prosecution Service. The intention was thus to peruse the relevant criminal records. Officials at the public prosecutor's offices in Rotterdam and Haarlem (where the records were held) agreed to cooperate. The public prosecutor in Rotterdam reported that the files requested had already been destroyed because they concerned relatively minor cases that took place between 1995 and 1999. An official from the public prosecutor's office in Haarlem reported that the office search engine was unable to trace any of the cases based on the information provided (names of suspects, date of report, Customs file number). Normally, the name of the suspect should have produced a hit. In the end, these circumstances meant that despite all efforts to the contrary, it was not possible to analyse criminal records concerning the illegal import of cultural goods.

The Customs Information Centre (DIC) enters data into the Customs Fraud Prevention System (DFB) on declarations of consignments that are not in conformity. An official from the DIC assisted the researchers in searching the DFB for declarations involving persons in the sector who have relevant known criminal antecedents. The researchers also examined the extent to which these persons appear in Customs and Tax and Customs Administration registers in connection with art and antiques.

The databases compiled by FIU-Nederland concerning unusual transactions (reported to the Unusual Transactions Disclosure Office or MOT) make it possible to determine how many reports have been filed by "dealers in highly valuable objects", a category that includes art and

antiques dealers. The data reveal trends in the number of reports filed in recent years by art and antiques dealers and in the number of transactions that FIU-Nederland considered “suspect”.

The Art Loss Register (ALR), a private international organisation that offers registration, search and recovery services for art, antiques and collectibles, provided general quantitative data, including the number of objects registered and the number of current cases in which the Netherlands and/or the Dutch art and antiques trade is involved. The researchers obtained more detailed information on these quantitative data from the ALR staff.

### **1.3 Accountability**

The researchers have attempted to consult the broadest possible range of sources of hard quantitative data on the art and antiques trade in the Netherlands. They have done so by consulting organisations active in the art and antiques trade and in investigation and enforcement. They have also used general, open-source information on companies, trades and sectors. This section will look more closely at the various sources of data. We will attempt to identify as precisely as possible what conclusions can be drawn from these data.

#### **Information about the trade**

Data provided by Statistics Netherlands, the Tax and Customs Administration and the Chamber of Commerce allow us to draw conclusions about the types of firms operating in the Dutch art and antiques trade, along with a rough picture of the sums of money circulating in the trade. The data have made clear just how many commercial enterprises in the Netherlands are active in the art and antiques trade, how they are divided among the various trade register sub-categories, and what their approximate total and average turnover is.

The breakdown into categories – Statistics Netherlands, the Tax and Customs Administration and the Chamber of Commerce each has its own classification system – provides a general outline, but is not clear-cut enough to offer a precise overview of the art and antiques trade. There is no information available on foreign companies.

#### **Information about individual companies**

The Chamber of Commerce trade register makes information available at company level about owners and/or managing directors and corporate group relationships. It is also possible to request financial information on organisations that are subject to a disclosure requirement.

Requesting information on individual companies is both labour-intensive and expensive. It was not possible within the remit of this study to construct an overall picture of the art and antiques trade in this fashion. However, by using the smart@data application, the researchers were able to collect information about the owners and managing directors in a number of sub-sectors of the art and antiques trade. With the exception of a few companies about which information was requested to verify data obtained from other sources, the researchers did not collect financial information at company level. Any conclusions reached in this regard are based on data obtained at trade and sector level.

### **Information about owners and managing directors**

The Chamber of Commerce trade register reports the names of the owners or managing directors of all companies, foundations and associations listed. Using the smart@data application, it was possible to obtain a complete list of these names in seven trade register categories. The name, date of birth and place of birth are available for the relevant natural persons. The researchers took a number of samples from the list of owners and managing directors, consisting of a random sample and a sample based on pre-determined criteria. The Justice Information Service (JustID) investigated whether the natural persons in these datasets had any criminal antecedents. That produced information on the extent to which owners and managing directors of companies operating in the art and antiques trade had been prosecuted for criminal acts and the nature and seriousness of the offences they had committed. In addition, FIU-Nederland and the National Police Service Agency provided information on the involvement of owners and managing directors in unusual and suspect monetary transactions. This made it possible to interpret information on the involvement in criminal acts of individuals operating in the art and antiques sector. The Customs and Tax and Customs Administration registration systems contain information about the economic activities of individuals and about the involvement of persons in import and export customs declarations that are not in conformity. Such information provides some idea of how persons with relevant criminal antecedents operate in the sector.

The datasets cover a fairly large percentage of the total population of owners and managing directors. Given the time required at JustID to process these data, the researchers decided not to check out all owners and managing directors. Some organisations fall into categories in which the majority of companies are not active in the art and antiques trade.

The researchers did not run a background check on any individuals involved in these organisations. It should also be noted that the Chamber

of Commerce trade register is not entirely up to date. There is therefore a reasonable chance that some of the natural persons included in the sample are not actively involved in a company operating in the art and antiques trade. Conversely, of course, non-registered persons would not be included in the sample. With respect to the unusual and suspect transactions, consent was restricted to general information. In other words, the researchers were unable to determine *which* persons FIU-Nederland had linked to these transactions.

### **Information about lost or stolen art and antiquities**

General information on art objects and antiquities can be found in fair and auction house catalogues as well as other sources. Such information provides a general picture of the current preferences of the market and the related prices. The Art Loss Register provides data on lost and stolen objects and forgeries. Besides this international register, there are also small-scale private initiatives in the Netherlands that promote the registration of stolen art objects, for example the Foundation for Ecclesiastical Art and Artefacts in the Netherlands [*Stichting Kerkelijk Kunstbezit Nederland*, SKKN] and the list provided on the website *gestolenkunst.nl*. Using the Art Loss Register, the researchers were able to obtain a general impression of the preferences of art thieves, although not specifically for the Dutch situation. Specifically Dutch information is provided by SKKN and *Gestolenkunst.nl*; however, both registers are too limited to draw conclusions about the nature and scale of art theft at national level.

The Dutch authorities have not maintained a register of lost or stolen art objects and antiquities since 2001. That means that it was impossible for the researchers to obtain accurate information on the number and types of missing objects. The Art Loss Register is a private commercial initiative in which objects of major financial (or other) value are overrepresented.

### **Information about the import of cultural goods**

Customs and the State Inspectorate for Cultural Heritage have information on the import/export of protected cultural goods. On the one hand, they have data on permits obtained for the temporary or permanent import/export of protected cultural goods (specifically Dutch cultural goods). On the other, they have created files of information about the illegal import and transit of protected cultural goods.<sup>3</sup> These document the objects concerned, the origin and destination of the objects, the person/persons involved and where and when they were

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<sup>3</sup> These may concern the import/transit of cultural goods in postal consignments, by sea or road or by air (in carry-on or checked baggage).

detained, and by whom (Tijhuis 2006). Additionally, the files report whether the State Inspectorate believes the objects should be returned to the country of origin. In a number of cases, the Public Prosecution Service has also created a criminal record with information on the legal proceedings related to the case. The researchers used the criminal records to determine whether criminal proceedings had taken place, the suspect's motives, and – where relevant – the sanctions imposed on the suspect/suspects and the reasons for the judgement rendered. The combined files of Customs, the State Inspectorate and the Public Prosecution Service offer an impression of enforcement practices with respect to the illegal import/export of protected cultural goods.

What we must bear in mind is that the available data cannot be used to estimate how many protected cultural goods are imported into the Netherlands. There is no systematic monitoring of consignments and baggage entering the Netherlands. In addition, special expertise is required to identify protected cultural goods. The cases described in the files are therefore not representative of the total import of cultural goods. It became clear in the course of the study just how difficult it is to trace the relevant criminal records at the Public Prosecution Service. These unanticipated complications prevented the researchers from using substantive information from criminal cases. This report therefore cannot draw any conclusions about criminal steps taken against persons suspected of the illegal import of protected cultural goods.

### **Sources of data**

Matrix 1.2 lists the various organisations that supplied data for analysis purposes. For each organisation, the matrix indicates the subject of the data (natural persons, legal entities or objects). It then states whether the population concerned is general or specific. In this context, “specific” means that the data are limited to a clearly defined (and often restricted) group of persons or objects. The same distinction is made for the type of information contained in the files: the matrix indicates whether the data was general in nature (concerning a population or segment of a population) or specific (concerning persons or objects). Finally, the matrix indicates whether the particular organisation's data also covers actual or possible criminal activity.

Matrix 1.2 Sources of data

Source	Natural persons	Legal entities	Objects	Population	Type of information	Criminal activity
Art Loss Register	No	No	Yes	Specific	General/specific	Yes
Tax and Customs Administration (regulatory)	No	Yes	No	General	General	No
Statistics Netherlands	No	Yes	No	General	General	No
Customs Info. Centre	Yes	Yes	No	Specific	Specific	No
Customs (West)	Yes	Yes	Yes	Specific	Specific	Yes
State Inspectorate for Cultural Heritage	Yes	Yes	Yes	Specific	Specific	Yes
Financial Intelligence Unit	Yes	Yes	No	Specific	General	Yes
Justice Info. Service	Yes	No	No	Specific	Specific	Yes
Chamber of Commerce	Yes	Yes	No	General	Specific	No
National Public Prosecutor's Office (smart@data)	Yes	Yes	No	General/specific	General/specific	No
Public Prosecution Service <sup>4</sup>	Yes	Yes	Yes	Specific	Specific	Yes

## 1.4 Guide to this publication

The following chapter discusses the results of the survey of the art and antiques trade. Part of that discussion focuses on defining and demarcating the part of the sector to be studied. This chapter also looks at how the sector is organised and its size (in financial terms). Chapter 3 identifies the vulnerabilities of the art trade and the risk of abuse. It also explores the nature of crime in the sector. Chapter 4 looks in particular at the international illegal trade in protected cultural goods (specifically, ethnographic and archaeological objects). Chapter 5 discusses monitoring and enforcement in the sector. Chapter 6 examines the results of the analysis of data taken from various registers. Finally, Chapter 7 presents a summary and the conclusions of the preventive criminal analysis.

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<sup>4</sup> Despite the researchers' repeated efforts, the data requested could not be supplied.

## 2. SURVEY

This chapter looks at the nature and scale of the art and antiques trade in The Netherlands. We begin by defining the sector more precisely for analysis purposes, as no objective demarcation of the sector is available. We then go on to discuss the way the sector is organised. The third section discusses the various forms that the art and antiques trade takes in the Netherlands, in particular the relevant activities and relationships between the various parties active in the sector.

### 2.1 Demarcation

The trade in cultural goods has been an important cultural, economic, social and political phenomenon for many centuries. Its importance is related to the significance that society attributes to culture and cultural heritage. In addition, the objects traded in the art and antiques world tend to be highly exclusive in nature. Because that exclusiveness is combined (at times) with high prices, there is a very large barrier to entering the market and, consequently, a broad geographical playing field. It was therefore necessary to provide a context for this study along two dimensions: the national contribution to a phenomenon that is, by definition, international in nature; and a classification of the trade into various art forms.

#### **International nature of the trade**

The globalisation of economic relations and the free movement of goods within the EU since 1992 have facilitated the transport of art and antiques, amongst other things. Almost without exception, the major art dealers operate in the international marketplace and most even ply their trade worldwide. Dealers from countries around the world exhibit at art fairs, and the major auction houses are international organisations with branches in many different countries. In order to analyse the art trade in the Netherlands, we must determine which activities can be attributed to the Dutch art trade and which cannot, given the international nature of the sector. As described in the Introduction, the study focuses mainly on analysing the art trade in the Netherlands, partly in view of the nature and scope of previous investigations conducted by the Organised Crime Prevention Programme (PPGC). The underlying question is what criteria can and should be used to make such a distinction so that the results provide an accurate picture of the risks and vulnerabilities of the Dutch art trade.

To avoid any delays in the study, the researchers decided to emphasise the art and antiques trade in the Netherlands as practised by Dutch natural persons and legal entities. This is in keeping with the national bias of the PPGC. Nevertheless, the international dimension cannot be ignored if the intention is to obtain an accurate picture of the art and antiques sector in the Netherlands. For that reason, some parts of the study do cover international trade activities, international treaties and international crime. However, virtually all of the quantitative data analyses refer to the situation in the Netherlands.

The quantitative analyses focus on the activities of persons and companies (legal entities) dealing in art and antiques in the Netherlands and for the most part registered with the Chamber of Commerce. This makes it possible to analyse the extent to which Dutch companies (and, potentially, foundations and associations) in this sector are vulnerable to organised crime.

The study also takes the jurisdiction of the Dutch criminal investigation and enforcement services into account. Most of these organisations restrict themselves to the trade in cultural goods to, from and within the Netherlands. International and foreign organisations are only discussed indirectly. The research results reveal the extent to which organised crime has penetrated the art and antiques trade in the Netherlands, and the degree to which illegal forms of trade in the Netherlands are or could be tracked down and prevented.

One aspect of monitoring and investigation that merits closer attention is the growing supply of and demand for art and antiques from non-Western cultures. There is much discussion in Dutch and foreign publications of the difficulties involved in protecting such national cultural goods against illicit import and trafficking (Watson 1997, Brodie 2000, Van Beurden 2001, 2003, Tjihuis 2006a). The suspicion is that the trade in ethnographic and archaeological art objects is frequently illegal in nature (theft of original art objects regarded as cultural goods), but also that forgeries and fraud are widespread. We also cannot rule out that the financial gains acquired through the trade in art and antique forgeries are used to finance terrorist activities.

### **Categories**

We have defined the art and antiques trade more closely by applying an existing classification system. European legislation governing the protection of cultural goods<sup>1</sup> lists fourteen categories of protected objects subject to import and export permits. These are required when an

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<sup>1</sup> Council Regulation (EEC) 3911/92.



object is imported into or exported out of the EU. The categories are based on the type of art object. A general description of the fourteen categories is given below:

1. Antiquities, more than 100 years old (no threshold value);
2. Parts of historical or religious monuments, more than 100 years old (no threshold value);
3. Paintings, more than 50 years old (threshold value: € 150,000);
- 3a. Watercolours and pastel drawings, more than 50 years old (threshold value: € 30,000);
4. Mosaics and drawings, more than 50 years old (threshold value: € 15,000);
5. Original engravings, prints, silk-screens, more than 50 years old (threshold value: € 15,000);
6. Original statues or sculpture, more than 50 years old (threshold value: € 50,000);
7. Photographic prints, films, negatives, more than 50 years old (threshold value: € 15,000);
8. Incunabula and manuscripts, more than 50 years old (no threshold value);
9. Books, more than 100 years old (threshold value: € 50,000);
10. Printed geographical maps, more than 200 years old (threshold value: € 15,000);
11. Archives and archive sections, more than 50 years old (no threshold value);
12. Flora, fauna, minerals of ethnographic or paleontological value (threshold value: € 50,000);
13. Transport vehicles, more than 75 years old (threshold value: € 50,000);
14. Other antiquities (threshold value: € 50,000).

This classification system is particularly important with respect to international trade (outside the EU). Customs checks whether objects in these categories have an import or export permit. In some categories, the permits are required only if the objects exceed a certain value. Given the time available and the purpose of the analysis, the researchers concentrated on several categories of which it may be assumed that they are more vulnerable than others to interference by organised criminals. Based on the information provided by Customs and on the recommendations of experts, the researchers chose to concentrate on categories 1, 3, and 3a, as well as parts of categories 12 and 14; in category 12, they concentrated on objects of ethnographic and paleontological interest,

while in category 14 their focus was on timepieces and religious objects. The researchers also looked explicitly at the trade in modern art, much of which is less than 50 years old and therefore not included on the list

above.<sup>2</sup> Trade is very brisk in the chosen categories and the objects concerned may be worth huge sums of money.

## 2.2 Organisation and structure

This section considers the elements that make up the art and antiques trade in the Netherlands. We first consider the number of companies within the various trade register categories and review the total turnover they generate. We then describe the art and antiques trade playing field and look at the sellers, the buyers and the intermediaries. We next go on to list and describe the umbrella and trade representative organisations. Finally, we look briefly at the allied trades: other types of organisations that are closely involved in the art trade.

### Trade register

There is no central register that lists the various forms of art dealing as such. The most important database for information about the art trade is the Chamber of Commerce trade register. All companies operating in the Netherlands are listed in this trade register and assigned a BIK<sup>3</sup> code indicating their trade category. A scan of the trade register shows that organisations active in the art trade may be listed under a broad range of different BIK codes.<sup>4</sup>

Table 2.1 shows how many companies are active in art dealing according to the Chamber of Commerce registration system: a total of almost 6,500 companies, associations and foundations. The largest categories are shops selling art objects (1,657), shops selling antiques – not furniture – (1,299), museums (1,299) and art galleries and exhibition spaces (1,001). Two categories (distributive trade in other specific goods, n.l.e. and other auctions) also include companies unrelated to the art trade. These are relatively few in number, however. Almost half (approximately 3,150) of the organisations are located in three provinces (Noord- Holland, Zuid-Holland and Utrecht).

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<sup>2</sup> Analogous to the chosen categories, most the works concerned are paintings, watercolours and pastel drawings. The terms “modern” and “contemporary” art are used interchangeably in the rest of this report.

<sup>3</sup> In Dutch, BIK stands for Chambers of Commerce company classification [*bedrijfsindeling Kamers van Koophandel*].

<sup>4</sup> The researchers also requested key figures on the sector from Statistics Netherlands, which uses the standard business classification system [*standaard bedrijfs indeling*, SBI]. This is somewhat more nuanced than the Chamber of Commerce classification system. However, Statline (Statistics Netherlands’ online database) uses the same source data as the Chamber of Commerce, classified by BIK code.

Table 2.1 Data from Chamber of Commerce trade register (in numbers)

Trade	BIK code	Total (update 3-10-06)	Companies	Associations	Foundations	Located in NH, ZH and Utrecht	Bankruptcies/suspension of payments*
Distributive trade in other specific goods, n.l.e. <sup>1</sup>	511807	436	436	0	0	181	2
Shops selling timepieces	524832	109	109	0	0	62	0
Shops selling art objects	524841	1,657	1,642	0	15	863	0
Shops selling prints	524842	53	53	0	0	28	0
Shops selling antiques (no furniture)	525011	1,299	1,299	0	0	647	0
Shops selling antique furniture	525012	483	483	0	0	199	0
Antiques auctions	748742	45	42	1	2	26	0
Other auctions <sup>2</sup>	748743	102	95	0	7	42	0
Art galleries and exhibition space	92521	1,001	674	25	302	501	1
Museums	92522	1,299	99	87	1,108	613	1

Legend: n.l.e.: not listed elsewhere.

\* Viewed over the period 1 October 2005 to 30 September 2006.

<sup>1</sup> Consisting of: instruments; souvenirs; prints, etchings, engravings; paintings; music boxes; antiquities; advertising material; jewellery; electronic musical instruments; lithographs; automatons (entertainment, etc.); musical instruments; hobby items; bathing pools; sun blinds; plates (illustrations, prints etc.); complimentary gifts.

<sup>2</sup> Consisting of: auctions of machinery; Internet auctions; auctioneers; automobile auctions; art auctions.

### Tax and Customs Administration

The classification system used by the Tax and Customs Administration differs from the one used by the Chamber of Commerce. In order to use data from the Tax and Customs Administration's registers, the researchers reviewed a selection of categories tailored to the Chamber of Commerce classification system. The following eight categories were included and indicate the boundaries of the art and antiques trade: wholesale antiquities; wholesale paintings; retail antiques; retail paintings; estate auctions; antiques auctions; auctions n.l.e.; and art galleries. The number of organisations registered in these categories is 4,937. Table 2.2 lists the legal forms found in the selection.

Table 2.2 Classification of art and antiques trade by legal form

Legal form	number	percentage
Private limited companies	78	1.6
Foundations	142	2.9
Associations	13	0.3
General partnerships	153	3.1
Sole traders / other	4,551	92.2
<b>Total</b>	<b>4,937</b>	<b>100.0</b>

Most of the companies by far in the art and antiques trade are sole traders (even if we include other legal forms that have not been classified). There are very few private limited companies.

### Turnover

Various different sources offer the same picture of the international marketplace for cultural goods with respect to, for example, the countries with the largest turnover and the segments of that market that are most important (DGRR preliminary memorandum 2006). In terms of turnover in the art trade, the key countries are the United States, the United Kingdom and France.

Data provided by the Tax and Customs Administration allow us to make a rough estimate of the turnover in the Dutch art and antiques trade. Turnover tax statements reveal that the “antiques” segment had a total turnover of EUR 491 million in 2005. The segment “art library” had a turnover of EUR 76 million in that same year. The segment “auctions” had an annual turnover of EUR 19 million, specifically with respect to antiques auctions. If we add all these together, we arrive at a total of EUR 586 million. This is an approximate of the sector’s total turnover, as the various segments are not a precise reflection of the complete Dutch art and antiques market. What has remained unclear is what percentage of the total amount in turnover is accounted for by the major auction houses, each of which has a turnover in excess of the EUR 19 million mentioned. If their turnovers were to be added, total turnover would then increase to approximately EUR 700 million.

The Tax and Customs Administration assigns companies a particular figure as a tax indicator: the total amount that that company pays in taxes on an annual basis. While the indicator is related to the company’s turnover, it is not a direct relationship. Of the 4,937 organisations categorised as belonging to the art and antiques trade, the average tax indicator comes to EUR 20,781. The total tax indicator for the sector is EUR 102.6 million. The researchers looked at how the total tax indicator amount is distributed amongst the almost 5,000 organisations. It turned out that 1,367 organisations (27.7%) are not liable to pay tax: their tax

indicator is EUR 0. Of the more than 3,500 organisations with a tax indicator of more than zero euros, the average sum comes to EUR 28,747. Ten percent of the art and antiques organisations assigned the highest tax indicator account for more than 78% of the total tax indicator amount. Half of the art and antiques organisations liable to pay tax have a tax indicator of less than EUR 3,930.

The tax indicators of the organisations in the eight categories listed confirm the picture that emerges by adding up the turnover amounts generated by the various segments. The tax indicator is the sum of wage tax, turnover tax and other corporate taxes. In general, a company's turnover will be a multiple of this indicator. As the total tax indicator of the Dutch art and antiques trade is EUR 100 million, turnover will be a minimum of several hundreds of millions of euros. Based on the foregoing calculations and the demarcation of the sector, we may assume that the Dutch art and antiques trade records an annual turnover of between 500 to 750 million euros.

#### *Estimates*

The researchers found publications that cite very different turnover figures than the foregoing EUR 586 million. The differences are related to the way in which other organisations determine the boundaries of the trade. For example, TEFAF estimates that the turnover generated in the Netherlands in 2001 was more than EUR 29 million, excluding the major auction houses (TEFAF 2002). In 2002-2003, the total turnover is estimated to have been EUR 22 million, placing the Netherlands seventh in the world rankings (Ministries of Education, Culture and Science and Finances 2004). The trade in modern and contemporary art was thought to surpass all the others. Kusun & Company (2005) have estimated that this particular segment of the Dutch market accounted for EUR 10.9 million (2001), EUR 8.9 million (2002), and EUR 11.5 million (2003) in sales.

In 2006, Christie's and Sotheby's recorded turnovers of EUR 65.5 million and EUR 61 million respectively. The preliminary memorandum for this study assumes that the auction houses thus account for 45% of the turnover in the sector. While these figures are in the public domain, the art trade itself is relatively guarded. According to several respondents, the art trade is not very transparent.

Many of them believe that it is impossible to obtain a precise picture of the turnover in the trade.

### **The art trade playing field**

The respondents identified roughly the following relevant parties in the art and antiques trade: dealers; galleries; auction houses; auction rooms; private parties; corporate (companies with their own collections); museum; and intermediaries.<sup>5</sup>

The trade in art and antiques can be divided into a supply side and a demand side, with various links in-between that play a role in transactions. The supply side consists of dealers, galleries and private parties that sell art and antiques. The demand side consists of dealers (once again), museums and companies and private parties that purchase art and antiques for their own collections. Auction houses and auction rooms are the main links in-between, but dealers and intermediaries may also act as middlemen. There are basically no differences between the physical trade and trading on the Internet. The same parties may act as clients, suppliers or links.

#### *Supply*

Dealers are the key parties on the supply side. They sell to other dealers, to private parties, to companies and to museums. Many top dealers prefer to sell directly to clients instead of via an auction. Art and antiques fairs offer dealers major opportunities for transacting business. Private parties also regularly offer objects for sale on the market. Private parties tend to sell major pieces directly to dealers or via auction. Galleries are the main sales outlet for contemporary art. Galleries purchase objects directly from the artist – if he/she is still alive – or sell objects on behalf of the artist or his/her next of kin. The galleries main clientele consists of private parties and companies.<sup>6</sup>

Data from the Chamber of Commerce shows that there are more than 3,000 retail businesses in the art and antique trade, in addition to approximately 1,000 galleries and exhibition spaces.

#### *Demand*

Dealers are also active on the demand side; after all, they aim to have a consistently attractive collection of objects for sale. Private parties and companies play a key role on the demand side. Private demand has a direct effect on the market and prices. Museums are also active on the demand side. Objects are sold via dealers, auction houses or directly to

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<sup>5</sup> This list does not include enforcement agencies; although they do play a role in the sector, they do not take an active part in the trade itself.

<sup>6</sup> Museums also dispose of objects on occasion. Sometimes they initially attempt to sell them directly to another museum. In the remaining instances, they tend to use the same channels as private parties.

other museums. Museums have a somewhat unusual position, because in a considerable number of cases they do not acquire art and antiques at market value. That is because the seller has an interest in the object being displayed in the museum. It is not unusual for museums to acquire objects as gifts (bequests).

The buyer's side of the Dutch market for art and antiques is dominated by a small number of large collectors. This group consists of several large companies and organisations and a handful of private collectors. The companies include a large number of major banks. The Provinces also have sizeable collections. The influence these parties exert on the trade is relatively strong because they purchase important, expensive works of art.

### *Links*

Auctions account for much of the trade in art and antiques. Auction houses and auction rooms play a prominent intermediate role. The special properties of art and antiques as commodities – virtually unique objects with enormous individual value – make them highly suitable for sale by auction. By selling objects through an auction house, the sellers are attempting to ensure themselves of a favourable selling price. Private parties and dealers who present objects for auction may agree with the auction house on a minimum selling price. The auction house bears full responsibility for the sale: the vendor and the buyer have no contact with one another. Dealers may also play an intermediate role in trading, for example if private parties give them valuable objects on consignment. The object then remains the property of the private party while the dealer offers it for sale on the market. If the object is sold, the dealer then receives a commission (a percentage of the sale). Another party that can be mentioned here are consultants, experts who assist private parties and companies in purchasing art and antiques. They do not themselves engage in any trading, but they do influence the transactions concluded.

The interviewees active in the art trade say that they make little or no use of third-party mediation and consulting services (intermediaries). Only a few interviewees reported making use of such services in exceptional cases. The interviewees said that the role of the intermediaries is growing because the number of wealthy buyers with relatively little expertise is increasing. Intermediaries or consultants are then called in to assess the condition (physical and otherwise) of the object and its provenance. According to several interviewees, the group that tends to make use of intermediaries is mainly interested in modern art. Mediation and consultancy services are therefore most common in this sub-sector. The respondents reported that there are five professional consultants active in the upper segment of the pre-modern art market.

### Trade representative and umbrella organisations

Table 2.3 lists the trade representative and umbrella organisations active in the Dutch art and antiques sector. The full name of each of these organisations is reported, along with general background information and the position they occupy in the sector.

In addition to the Dutch organisations listed, there are many different international trade representative and umbrella organisations active in particular specialist sectors. Among them are the International Association of Dealers in Ancient Arts (IADAA) and the Association of Applied Paleontological Sciences (AAPS). The affiliates of the latter include dealers, collectors, scientists and museums committed to upholding ethical trade rules.

All the organisations mentioned have their own admission requirements, rules and regulations and codes of conduct. Section 3.3 looks at this in more detail. Members who infringe the rules may be expelled, but it became clear from the interviews that this seldom happens, if ever.

Table 2.3 List of trade representative and umbrella organisations in the Dutch art and antiques sector

Trade representative/ umbrella organisation	Background	Particulars
VHOK (Association of Fine Art Dealers in the Netherlands)	Founded in 1911 and the oldest association of art dealers in the Netherlands.	The association is affiliated with the Confédération Internationale des Négociants en Oeuvres d'Art C.I.N.O.A., an international organisation of fine art dealers.
VNAG (Association of Dutch Antique Dealers)	Founded in 1968 as a trade representative organisation for the art and antiques trade.	Cooperates with the LAPADA (largest British association of art and antiques dealers). The two associations intend to combine and continue in future under the name Association of Art and Antique Dealers (AAAD).
NGA (Netherlands Gallery Association)	Founded in June 2003, the product of a merger between the Netherlands Association of Gallery Owners (NVG) and the Dutch Gallery Alliance (Gbn).	Has approximately 200 members amongst art galleries in the Netherlands.
Federatie TMV (Federation of Valuers/Appraisers, Brokers and Auctioneers in Movable Property)	The Federation has more than 300 members and was founded in 1951.	Prior name: Netherlands Organisation of brokers, auctioneers and valuers/appraisers of movable property and machinery.



Table 2.3 List of trade representative and umbrella organisations in the Dutch art and antiques sector (*sequence*)

Trade representative/ umbrella organisation	Background	Particulars
NedArt Foundation	NedArt was founded in 1998. It is a platform for Dutch organisations that are involved, at least in part, in the fine and/or applied arts.	Participants: Federatie TMV; NVva; NGA; VHOK; VNAG; Dutch Restorers Association.
NVvA (Dutch Association of Antiquarian Booksellers)	Founded in 1935 in order to promote the bona fide trade in old books and prints.	Co-founder of the International League of Antiquarian Booksellers (ILAB), which has affiliated associations of antiquarian booksellers from 22 countries.
Dutch Restorers' Association	Founded on 1 July 2005. Alliance of curators and restorers and the broader group of non-restorers and organisations involved in this field.	Result of a merger between four Dutch associations for art conservation and restoration: VeRes (Dutch Restorers' Association); VAR (Association of Restorers of Paper, Books and Photographic Material); TRON (Dutch Textile Restorers Alliance); and IIC-Nederland (International Institute for Conservation of Historic and Artistic Works, Dutch division).

### Allied trades

In addition to the art trade itself and the umbrella organisations, there is also a very mixed group of organisations associated with the art world that influence the trade in art and antiques. They are described briefly below.

#### *Insurance companies*

As the objects involved in the art and antiques trade tend to be highly valuable, insurance companies also have a role to play. Art and antiques insurance is a speciality in the insurance industry and largely an international affair. The only insurer with a separate branch in the Netherlands is AON Artscope. AXA Art also plays a role in the Dutch art insurance market.

### *Art transport*

As explained earlier, the art and antiques trade is international in nature. That means that art is regularly transported across national borders. There are four large transport firms active in this field in the Netherlands: Art Handling, Gerlach, Kortmann and Van Kralingen. In addition to packing, insurance and transport, they also often arrange the necessary export and import permits. The client's invoice must be submitted with the export permit application. The export formalities also require the following: a photograph of the object; submission of an application to the Central Licensing Office for Import and Export (CDIU) in Groningen; and submission of an application to Laser if the object involved contains ivory or tortoiseshell. There are generally more restrictions on the international transport of pre-modern art than on modern art.

Compared with other EU member states, for example the United Kingdom, France and Italy, it is relatively easy for dealers and transport firms to export art and antiques from the Netherlands. In certain instances, there are fewer formalities associated with export from the Netherlands than from other countries, respondents claim, and it is also cheaper. Amsterdam Airport Schiphol is also well equipped to handle special shipments, for example very large paintings or antique furniture. That has made Schiphol a popular European export airport for art and antiques, according to one of the interviewees.

### *Associations and funds*

In addition to the parties described above, there are various associations active in the Netherlands that do not themselves deal in art but that support museums and collections in acquiring works of art of cultural and historical interest. One of these is the Rembrandt Association. There are also various capital funds that support the acquisition or retention of works of art.

The allied trades also include many foundations and associations of "friends of the museum" in the Netherlands. Foundations are sometimes also founded for the sole purpose of purchasing (or retaining) a particular painting. They raise funds in order to make the purchase of the work possible. After achieving their aim, they disband.

## 2.3 Trade practices

This section considers how the art and antiques trade functions in the Netherlands. We begin by looking in more detail at the commercial enterprises, auction houses and art and antiques fairs active in the sector. We then consider the way in which transactions come about, and go on to discuss competition and cooperation in the sector. Finally, we look at the role of the Internet and newspaper advertisements in the art and antiques trade.

### Commercial enterprises

The art and antiques trade can be divided into the trade in pre-modern art and the trade in modern art. Pre-modern art also includes antiques. This sub-sector appears to consist of three segments: a narrow upper segment, a middle segment and a broad lower segment.

This breakdown is influenced by the objects traded and their quality. Membership of one or more umbrella organisations also plays a role in the breakdown, which is one that many respondents affirm. More specifically, the trade in art and antiques can be broken down into the following:

- the upper segment consists of a group of approximately 80 dealers in pre-modern art. These art and antiques dealers are, without exception, affiliated with the VHOK (Association of Fine Art Dealers in the Netherlands);
- the middle segment consists of a group of approximately 100 antiques dealers. Most of them are members of the VNAG (Association of Dutch Antique Dealers);
- a broad lower segment of (“self-appointed”) antiques and bric-a-brac dealers. Most of these are not affiliated with any of the aforementioned umbrella or trade representative organisations.

More or less separate from the three segments described above are the gallery owners and the dealers in modern art. These dealers tend to be affiliated with the Netherlands Gallery Association (NGA). The breakdown into three segments is less strict in this segment.

In addition to the distinction between pre-modern art and modern art, commercial enterprises can also be divided up according to the nature of the commodity traded. On the one hand, they deal in art/fine art, mainly paintings. Areas of specialisation are 17th-century art (Old Masters), 19th-century art and modern art. On the other hand, there is the antiques trade. Here the dividing lines are more diffuse, according to the respondents. They draw a distinction between the trade in furniture,

Asiatic art, timepieces, archaeological objects and artefacts, religious art (including icons), gold, silver and jewellery.

Interviews with dealers show that they attach great value to what they claim is the current breakdown of the sector. This breakdown means there is very little direct trade between dealers in different segments or sub-sectors. Top dealers, who consider themselves members of the upper segment, all claim that there are only a very limited number of dealers in their own (quality) category. They frequently mention participation in the major art and antiques fairs as a criterion. The relevant dealers tend to focus mainly on the international marketplace.

### **Auction houses**

The range of objects that auction houses put up for auction in the Netherlands is highly diverse. All movable property in the categories described above change hands. Catalogues are printed to accompany auctions, and these are often also available for inspection on the Internet. Pre-auction viewings are held so that the objects to be put up for sale can be inspected in person. The two major international auction houses, Sotheby's and Christie's, have branches in the Netherlands. Between them they account for 40% to 45% of the Dutch art and antiques market (Ministries of Education, Culture and Science and Finance 2004). There are also about a dozen medium-sized auction houses in the Netherlands, and about another 30 national and regional auction houses. In 2003, the Dutch auction houses generated a total turnover of EUR 105 million (Ministries of Education, Culture and Science and Finance 2004).

Sotheby's and Christie's dominate the art and antiques auction market worldwide, and are the key parties in this market in the Netherlands as well. The Dutch branches of Christie's and Sotheby's are about the same size.

Nor do they differ much in specialities, except that Christie's also auctions wine as well as art and antiques. The sale by auction of old (Dutch) masters plays a prominent role for both auction houses. They also auction Asiatic art, timepieces, silver and jewels. The auction houses keep the objects that they themselves own to a minimum, although they sometimes do acquire objects that are to be auctioned. Each of the auction houses holds about 40 auctions each year. Sotheby's Dutch branch had a turnover of approximately EUR 65 million<sup>7</sup> in 2006; Christie's was approximately EUR 61 million. It was reported that in the first four months of 2007, Sotheby's auction revenues were already 41%

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<sup>7</sup> Sotheby's auction houses have a worldwide turnover of approximately EUR 5.5 billion.

higher than in the same period of the previous year ([www.depers.nl](http://www.depers.nl)). Both auction houses are members of the Federatie TMV.

Until 2006, the art and antiques trade and the auction industry were two strictly separate worlds. Dealers did not organise auctions, and auction houses did not involve themselves in other forms of trading, for example at art fairs. This changed in 2006 when Sotheby's acquired a major share in Noortman, a Dutch art dealership.<sup>8</sup> Opinions in the art world are divided on this issue. Critics question whether the new organisation will not ultimately face a conflict of interests.<sup>9</sup>

For some time now, a purchase made at auction has been regarded as a standard consumer purchase. That gives purchasers certain guarantees; for example if an art or antique purchased at auction does not live up to its description (it turns out later to be a forgery, for instance), the object can be returned, and the customer gets his or her money back.

### **Fairs**

There are number of renowned art and antiques fairs at which dealers can exhibit their collections. In most cases, visitors pay an admission fee. Visitors may include leading collectors and a few museums.

The main fairs in the Netherlands are TEFAF (Maastricht) and PAN (Amsterdam). Both fairs are international events. Dealers from around Europe (PAN), and beyond (TEFAF) exhibit their collections here. The following fairs are also held in the Netherlands: Antiekbeurs ('s-Hertogenbosch), KunstRAI, Antiqui-beurs, Gooi&Eemland ArtFair, Erik Leeuw Antiekbeurzen, The Fine Art Fair, Art Rotterdam, Art Fair Autotron, Holland Art Fair and Van Zwol Beurzen. These events mainly attract Dutch visitors.

### *TEFAF*

*The European Fine Art Fair* (TEFAF) is the largest international art fair to take place in the Netherlands. The fair is held annually in Maastricht for a ten-day period. In 2007, more than 200 international art and antiques dealers exhibited at the fair, 37 of which were Dutch. Approximately 71,000 collectors, curators and art lovers visited the fair in 2007.

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<sup>8</sup> Although Noortman is a Dutch art dealer, the take-over was primarily important at global level and has no special significance for the Dutch sector.

<sup>9</sup> Following on from this, the art world is currently debating the extent to which auction houses can and should be allowed to exhibit at important fairs under the name of an art dealer (Art Newspaper, November 2006).

According to the respondents, TEFAF Maastricht is the leading European forum for the Dutch art trade (the upper segment) and Dutch and foreign buyers.

#### *PAN Amsterdam*

PAN (Pictura Antiquairs Nationaal) is held every year in November at the RAI exhibition centre in Amsterdam. More than 150 dealers present parts of their collections at the fair. Most of the dealers are Dutch, although a small number of British, French and Belgian dealers also take part. Unlike at TEFAF, relatively new galleries also exhibit at PAN. PAN is organised by the TEFAF organisers. The fair drew approximately 35,000 visitors in 2006.

It is important to the organisers of art and antiques fairs that the objects exhibited are authentic and have well-documented evidence of provenance. Before the fair opens, all objects are therefore vetted by a committee consisting of a team of experts. The fair organisers are responsible for assembling the vetting committees. If objects do not meet the criteria, they are withdrawn from the fair. There are occasional disagreements about objects at fairs, something that can lead to much consternation and media attention.

#### *Antiques and curios markets*

Alongside more or less well-known art fairs, there are also many smaller and regional fairs and occasional exhibitions. One gets dozens of hits on the Internet for such events, but there is no complete list. There is also a large number of occasional antiques and curios markets where objects are offered for sale for an “affordable” price. These events take place in livestock markets and sports facilities around the country and vary as to their size and duration. The large antiques and curios markets may last a number of days. Visitors are required to pay a low admission fee. Dealers can hire a stand for a low price. Art, antiques and curios can also be found at some of the large-scale collectors’ fairs, where a wide variety of different objects are exhibited.

#### **Channels and transactions**

As explained earlier, sales in the Dutch art and antiques trade are transacted between dealers, galleries, private parties, companies and museums. The trade channels used to effect those transactions are fairs and auction houses (both national and international), the seller’s own shop and the Internet. A number of interviewees said that they also sold objects at special, self-organised sales exhibitions or in-house exhibitions for invitees.

Fairs and auction houses have come to play a key role in the purchase and sale of art and antiques in the Netherlands. According to the majority of interviewees, they are currently the most important sales channels for art and antiques. They sell the most significant and interesting items and are also the most important channels in terms of turnover. Shop sales, on the other hand, are declining and scarcely play a role anymore in the upper segment of the art and antiques trade, with a lone exception. Oftentimes, clients can only visit such shops by appointment.

The Internet is rapidly becoming more important as a trade channel, but plays only a minor role for the upper segment of the art and antiques trade in the Netherlands, according to the respondents. The Internet is mainly regarded as a digital signboard or digital catalogue, enabling buyers and sellers to obtain information on what is currently being offered for sale. The rise of the Internet has had a significant effect on smaller dealers in niche markets who used to purchase objects upon the instructions of their clients. Now clients can look around themselves to see what is available.

Many auction houses now have online catalogues. Interested parties can submit bids either in writing or by telephone. It is also possible to see what dealers elsewhere in the world have to offer and to conclude a purchase with them. That has put pressure on the smaller dealers and intermediaries.

### **Mutual ties and relationships**

The Dutch market for art and antiques is extremely heterogeneous. There are many larger and smaller niches in the trade, each of which has its own trading circles. The boundaries of the niches are defined by the nature of the commodity involved, as described above.

Almost all those involved in the Dutch market for art and antiques describe it as a “small world”. Many of them refer to it as “cliquish”. They are well acquainted with the various niche markets and trade circuits. Dealers know one another and are usually well informed about one another’s business transactions. They see one another regularly at fairs both in the Netherlands and abroad. The majority of dealers indicate that they have a relatively stable set of clients and have firm relationships with them.

Although the niche markets and trading circles are clear and the dealers know one another well, the companies active in the trade tend to be entirely separate entities. There are virtually no chains and the individual companies generally have a very small number of employees. Many of

the companies were founded dozens of years ago and have never changed hands.

The nature of the commodity means that competition can never be fierce. The majority of dealers say that the competition in the Dutch market is weak. The main competition in the upper segment is international in nature. A number of interviewees did refer to stiff competition between auction houses, especially when exceptional items come up for sale. The auction houses compete on the commission they charge sellers, guaranteed proceeds of a sale, and marketing (for example the placement of an item in a catalogue and how much space is devoted to it).

A number of the dealers interviewed claimed that mutual agreements are never made on prices and other matters. What several respondents said did happen was for various dealers to agree to purchase an expensive painting as a group, as they would not be able to finance it individually. After the painting is then sold, the profits are divided between them. None of the interviewees found this objectionable. Dealers also claimed to be very selective when it came to choosing their “partners”.

The art dealers said that clients had a better knowledge of the market than in the past, as information is more easily available now. They are also more aware of risks, as demonstrated by their requiring guarantees of the provenance of objects.

### **International perspective**

As explained above, the art trade is an international phenomenon almost by definition. Virtually without exception, the interviewees stated that the Dutch art and antiques trade operates internationally to an important extent. The national and international trade involves large sums of money and provides employment for many people. A study by TEFAF (the largest international art fair in the Netherlands) showed that the European art market’s total turnover in 2001 came to EUR 12 billion (approximately 45% of the total world market).

In Europe, 28,600 organisations are involved in the art trade and employ 73,600 people. In 1999, the total value of art and antiques imported into Europe came to EUR 1.53 billion in all, while exports were valued at EUR 1.81 billion (Eurostat 2000).<sup>10</sup>

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<sup>10</sup> Belgian newspaper *De Standaard* (14 October 2002) reported that worldwide sales before 11 September 2001 came to EUR 2.92 billion, but had shrunk to EUR 2.56 billion since then. The market is supposed to be improving now thanks to more favourable economic prospects.



The dealers indicate that the international dimension is usually determined by the nature of the objects concerned. Asiatic art and French impressionists tend to be traded on the international market more often than antique furniture from the Netherlands or old Dutch masters.

Top items are generally sold by the large auction houses in New York, London and Hong Kong and by major art dealers in New York and London.<sup>11</sup> The sums of money transacted by these organisations are many times higher than the amounts paid for art and antiques on the Dutch market. The Dutch market does not play a large role in the international art and antiques trade and is described by interviewees as “provincial”. The international dimension is most evident, relatively speaking, in the upper segment of the trade. When these dealers buy or sell important objects, they usually do so abroad. They indicate that they purchase at auction, from dealers and from private collectors.

A trend noted by several of the dealers interviewed is the growing importance of exports. Increasingly, works of art and antiques are being returned to their countries of origin. The favourable economic conditions in Indonesia, Russia, India and China are creating a new class of wealthy clients who prefer to purchase art and antiques belonging to their national heritage.

The rise of the *nouveau riche* in these countries is leading to an imbalance in the market, according to some respondents. Competing buyers can drive prices up well beyond the customary market value because ownership of a work becomes a matter of principle and price comes to play a subordinate role. One example given was a painting offered for sale by a Dutch museum. The estimated sale price was EUR 1,200, but the piece was ultimately sold for EUR 3.3 million. Prices can become inflated in this way, so that objects are priced out of the market for museums.

## 2.4 Internet-based art trade

The Internet is playing a growing role in both the legal and illegal art and antiques trade. First of all, the Internet serves as a communication channel for swapping information about objects, something that has considerably increased opportunities to trade in art and antiques in the past few years. In addition to the technical advantages, buyers and sellers who trade on the Internet also enjoy a large measure of discretion

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<sup>11</sup> Top items are often available for viewing at the Dutch branches of the major auction houses before being auctioned in London or New York.

and anonymity. The dealers interviewed agreed that the sale of art objects via the Internet was becoming increasingly important. Many dealers have regular clients, and say that these clients are making growing use of online catalogues and online auctions.

#### *Auction sites*

Much of the trade in art and antiques can be found on auction sites. In order to determine the nature and scale of the Internet-based art trade, the researchers scanned four nation-wide auction sites: eBay (Netherlands), Marktplaats, Speurders and 2dehands. They then generated various tables based on the classification systems used by these sites.

For two one-week periods (November 2006 and March 2007), the researchers scanned the art and antiques categories on the websites Marktplaats, eBay Netherlands, Speurders and 2dehands on a daily basis, noted the addresses and phone numbers of companies and individuals active on these sites, and followed links referred to on the sites. This gave them an overall picture of the number of sellers, the number of objects for sale, and the number of companies and individuals offering the same objects for sale under different names/company names.

Table 2.4 shows the objects for sale on the auction sites by category. The scan showed that more than 200,000 advertisements had been placed. These are not unique objects. Dealers place the same object on different auction sites in order to improve the chance of a sale. It is difficult to determine just how large this overlap is. In addition, multiple objects may be offered for sale in a single advertisement.

The scan shows that there are many unique sellers (individuals) offering objects on these four websites. They are generally offering one to five objects from their private collection. As sellers place multiple advertisements and are sometimes active on multiple sites, the total number of sellers is estimated to be between 10,000 and 20,000. It should be noted that the turnover rate is very high.

Most of the dealers place one or a few one-off advertisements; once the object has been sold, they do not return (at least not to the art and antiques section).

Most of the advertisements are offering objects for prices under EUR 500 or subject to a relatively low starting bid (EUR 5 to 50). It is very difficult to see how the categories are divided up into price classes. A minimum price often does not apply. The objects are often offered for sale for the “first reasonable bid” or for a “price to be agreed”.

Table 2.4 No. of advertisements on auction sites (10 November 2006)

Category	Marktplaats	eBay	Speurders	2de-hands	Total
<b>ANTIQUES</b>					
Antiquities	-	334	-	-	334
Books	5,757	331	-	58	6,146
Ceramics and earthenware	1,747	441	-	727	2,915
Porcelain / Enamel	11,128	281	-	278	11,687
Glass	-	2,081	-	23	2,104
Crockery	16,358	-	-	138	16,496
Pots, vases and decorative plates	15,064	31	-	172	15,267
Utensils	6,696	117	630	999	8,442
Curios	13,342	-	-	40	13,382
Furniture	16,104	127	3,237	1.153	20,261
Clocks and timepieces	6,842	45	645	368	7,900
Jewellery and worked gold and silver	2,869	94	-	187	3,150
Religion	3,444	39	368	533	4,384
Other antique	36,022	105	3,580	841	40,548
<i>Total antique</i>	<i>135,373</i>	<i>4,026</i>	<i>8,460</i>	<i>5.517</i>	<i>153,376</i>
<b>ART</b>					
Statuary and woodcarvings	5,838	78	1,080	226	7,222
Etchings, engravings and screen prints	5,925	-	-	131	6,055
Drawings and photographs	1,927	287	1,249	134	3,597
Ethnic art	-	186	-	-	186
Paintings	17,407	638	3,789	1.402	23,236
Other art	6,488	58	1,163	131	7,840
<i>Total art</i>	<i>37,584</i>	<i>1,247</i>	<i>7,281</i>	<i>2.024</i>	<i>48,136</i>
<b>Total</b>	<b>172,957</b>	<b>5,273</b>	<b>15,741</b>	<b>7,541</b>	<b>201,512</b>

Approximately one fifth of the sellers were found to be offering five or more art and antique objects for sale. A number of sellers were offering 100 items or more. Although the number of objects indicates that the trade is reasonably well organised (professional), only a small percentage of the advertisements refer to a mainstream company. For these dealers, auction sites merely supplement sales in their own shops

or on their own website.<sup>12</sup> The majority of the remaining “major” dealers probably have a large private collection that they offer via the Internet because it is a low-threshold channel. This is art dealing without the benefit of an official company.<sup>13</sup> It is still unclear whether these dealers are registered with the Chamber of Commerce and the Tax and Customs Administration and whether they pay value-added tax.

The researchers did not encounter any objects during the course of the scan that were being offered for sale under more than one name. Similar objects were, however, being sold on different sites by different sellers, and the accompanying photograph was frequently similar or even identical. The objects concerned mainly consist of lithographs, screen prints and similar items of which there may be many copies, as well as items of crockery (antiques) and statuary of which there are multiple copies in circulation. Given the relatively low prices for which they are being sold, these items are probably mass-produced.

#### *Second scan*

The researchers scanned the auction sites a second time on March 2007 in a number of specific categories. They also attempted to reduce the sometimes enormous number of hits to a few specific categories of object. To do this, they used a number of search terms. The results of the second scan are given in Table 2.5.

The second scan shows a decline in the number of paintings being sold on the sites by 2,600. The decline was particularly significant on Speurders and 2ehands, although the numbers had in fact increased on Marktplaats. The implication is that the Internet-based market can fluctuate considerably. The second scan also showed that it is very difficult to compare the art and antiques classification systems on the different auction sites. For example, it is not possible to search on Marktplaats for “pre-1900 paintings”. In March 2007, a total of at least 166 paintings dating from before 1900 were being offered for sale. Because the category “sculpture” produced a very large number of hits, the researchers divided it into bronze sculpture and wooden sculpture. Using these search terms reduced the number of hits considerably.

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<sup>12</sup> Table 2.4 includes companies with their own websites that were found on an auction site.

<sup>13</sup> It would have been very time-consuming to try to determine the precise number of “major” dealers on the websites that do not have their own companies. Given the available capacity, such a check did not take place.

Table 2.5 Additional scan of auction site advertisements (14 March 2007)

Category	Markt- plaats	eBay	Speurders	2dehands	Total
<b>ANTIQUES</b>					
Antiquities	134	314	-	-	448
Artefacts	248	10	5	21	284
Religion	4,519	47	453	532	5,551
- of which statues of saints	1952	17	144	160	2,274
- of which crucifixes/rosaries	432	2	-	65	499
- of which icons	19	-	2	7	28
<b>ART</b>					
Total sculpture:	6,670	54	233	105	7,062
- of which bronze	672	8	25	13	718
- of which wood	962	4	7	6	979
Ethnic art	4	70	4	2	180
Paintings	19,760	239	422	242	20,663
- of which pre-1900	-	5	131	30	166

The second scan also made clear that the category antiquities and archaeological objects had been added to the Marktplaats website. These categories are not broken down any further, however, whereas they are on eBay. The latter site classifies objects in this category by period (Stone Age, Bronze and Iron Age, Roman Era, Celtic, Middle Ages) and by country (Egypt, Greece, China, Japan). The researchers also screened the sites for artefacts (stone, mineral, precious metal). These are offered for sale on Marktplaats. In addition, three of the four sites also had an ethnic art category, although the total number of ethnic art objects was limited.

Marktplaats and eBay Nederland staff indicate that they have very little idea of the scale of the art trade transacted on their sites.<sup>14</sup> In view of privacy legislation, no records are maintained. The only record is the classification system on the site, which is updated automatically when advertisements are added or removed. The websites play only a facilitatory role in the trade. They provide a service that everyone can use, subject to the (self-formulated and enforced) policy rules and user terms and conditions (ethical standards, language, pricing and, in the case of eBay, commission rights), regardless of the seller's intention in offering the objects for sale.

<sup>14</sup> The increasingly important role of eBay in the art and antiques trade has been demonstrated by the recent sale of a rare painting by Simon Vouet. The seller placed the painting with various auction houses, but it was on eBay that the highest bid was placed. eBay says that it intends working more closely with smaller auction houses in future (*Art Newspaper*, November 2006).

Nevertheless, the rules set by Marktplaats, for example, are fairly strict. The site maintains a register of forbidden and suspect objects, for example. Items appearing on the register may not be traded on Marktplaats. The site also prohibits the sale of fake, forged or stolen objects (including art objects). However, it is up to the advertiser to verify the authenticity of the relevant object. In most cases, such advertisements are removed by means of content screening (an automatic facility).

In addition, eBay and Marktplaats users can alert the sites to stolen or fake goods being traded there. According to the staff, such reports are taken very seriously. If more than one complaint is received about the same advertiser, the site takes steps to ban that participant. The sites advise victims to report crimes and to have the police contact the site moderators. They then pass on any information they have about the advertiser in question to the police. Marktplaats says that it always cooperates with the police in investigations of this kind, including in the art and antiques category. This Dutch site has adopted an “anonymous tip” facility from similar auction sites in France, where illegal art trafficking on the Internet is thought to be more common. Until now, however, Marktplaats has not received any online tips or other indications that illegal, forged or stolen art and antiques are being traded in the Netherlands via the site.

eBay in the UK recently joined forces with the British Museum (Art Newspaper, November 2006), with a specialist museum team scanning eBay advertisements every day. If the team comes across any stolen or suspect objects, it calls in the site moderators and the police.

#### *Commercial web pages*

Besides the auction sites, the researchers also used an Internet search engine to track down commercial pages. During their scan, they came across a very large number of Dutch galleries, art shops, antiques dealers and auction houses that have their own websites. In most cases, the sites provided online catalogues showing what the commercial enterprise had to offer. Very often the collections consisted of modern art (less than 50 years old), but there were also a few companies specialising in ethnic art. The researchers also found a relatively large number of smaller antiques and curios dealers who showcase themselves on the Internet. A few professional dealers also offer their wares on auction sites, where they provide a link to their own web page. The researchers scanned a number of commercial web pages with respect to art and antiques for two two-week periods (November 2006 and March 2007). Table 2.6 lists the art and antique dealerships that they found with their own web page. As the Internet is constantly changing and the scan period was

relatively short, the list cannot be considered complete. It should also be emphasised that these are companies dealing in various different categories of art and antiques. The list does not include contemporary artists who sell their work via the Internet (see below).

Table 2.6 No. of companies and private dealers found with their own web page

	No.
Via search engine	145
Via auction sites	19
Via fieldwork (fairs, art dealers)	11
<b>Total</b>	<b>175</b>

### *Newsgroups and forums*

The researchers scanned approximately 40 newsgroups<sup>15</sup> devoted to art and antiques for a one-week period. The purpose was to determine the extent to which sellers of art and antiques promote themselves on such newsgroups. During the scan, there was no trading in art and antiques on any of the public or restricted newsgroups.

The researchers also scanned several Internet forums<sup>16</sup> for a week for transaction-related messages. Table 2.7 lists the number of messages on five forums.

Table 2.7 Sellers on forums (January to November 2006)

Forum	No. of objects	Total no. of messages	No. of discussions	No. transaction-related
www.kunstwereld.nl	1	34	31	3
www.ebay.nl (bulletin boards)*	29	89	51	38
www.antica.nl (guest register)	1	31	15	16
kunst.startkabel.nl/forum	6	76	76	0
forum.pastelart.nl (art and kitsch)	4	475	430	45

\* art, antiques excluding book sales and purchases

Some of the forum users enquire about the origin and value of objects. In some cases, they also ask whether anyone is interested in purchasing an item. Professional dealers also use the forums to advertise their commercial web pages.

<sup>15</sup> Newsgroups are Internet-based facilities where visitors may enquire about topics of interest, in some cases only after being accepted as a member.

<sup>16</sup> Forums are interactive Internet-based facilities where visitors swap messages about topics of interest.

### *Other*

The Internet is not only a place for third parties to buy and sell works of art; artists themselves also offer new works for sale via a range of different websites. One popular sales method among contemporary artists and collectors of contemporary art are the e-galleries, virtual art galleries to which artists can upload images of their work and offer them for sale.<sup>17</sup>

On the HNKF (Dutch Art Forum for Visual Artists), artists share stories about buying and selling art on the Internet. More than 40 topics and 10,000 messages concerned the sale of work on the Internet. There are also references to artists' exhibition and sales outlets. Artists can also present their portfolios on various other sites. Many of the artists concerned are recent art school graduates (painters and sculptors). The portfolios usually give a recommended sales price. Many of the portfolio sites have a forum page for matching buyers and sellers.

According to key informants, the Internet has become an increasingly important mediation channel for the sale of contemporary art. Before, the main sales channels for this sector were intermediaries (private dealers, galleries, art libraries); now, artists increasingly attempt to sell their work on their own (on the Internet) or in collectives.

This way they can avoid paying a commission and other charges on sales. This trend is likely to reduce the role of the intermediary in the sale of contemporary art.<sup>18</sup>

### **Newspapers**

While assessing the Internet-based art trade, the researchers also explored the extent to which art and antiques are offered for sale in newspapers (classified ads). For a one-week period, they scanned the art and antiques classifieds in a number of daily newspapers (trading

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<sup>17</sup> At the time of the investigation, Exto, the best-known Dutch e-gallery, listed approximately 16,000 galleries displaying/selling more than 77,000 works of art.

<sup>18</sup> Statistics Netherlands' website has a summary of a somewhat dated study on mediation in the contemporary art market. In 1996, at the start of the digital revolution, the Netherlands was thought to have more than 500 organisations mediating in the sale of contemporary art (CBS 1996). The organisations differed considerably as to revenues: from 0 to several millions a year. In 1996, they sold a total of NLG 100 million (more than EUR 45 million) worth of art work, with two fifths being paid directly to the artists concerned and the rest going to the intermediaries. Their earnings consisted of commissions on sales and proceeds from the sale of works that they had previously purchased from artists.



companies, fairs, auctions, personals). Table 2.8 lists the categories of advertisement found in the various newspapers.

Table 2.8 Results of newspaper analysis

Newspaper	Total no. of ads	No. with hyperlink	No. of unique dealers/sellers	No. of companies	No. of private sellers
Telegraaf	36	18	12	4	9
Volkskrant <sup>19</sup>	15	9	6	4	2
Trouw	19	12	13	10	3
Dagblad van het Noorden	19	11	8	5	3

Many companies refer to a web address where visitors may view their collection. Private parties advertise unique objects, for example antique furniture. The number of sales-related advertisements is small. Newspapers are evidently not (or no longer) viewed as a suitable advertising medium, probably owing to the rise of Internet auction sites.<sup>20</sup>

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<sup>19</sup> Some of these advertisements can also be found in *Trouw* and *NRC*. A “3in1” deal allows advertisers to place ads in three national newspapers simultaneously for a special price.

<sup>20</sup> That is not true only of the art and antiques trade.



### 3. VULNERABILITY AND CRIME

This chapter discusses the vulnerability of the art and antiques trade in the Netherlands and the types of crime that could be committed in the sector. The first section looks briefly at opinions in the media and the literature on the art trade and crime. The second section assesses the extent to which the sector is vulnerable to crime (whether organised or not). Section 3 deals with the most common types of crime found in the art trade. The final section describes the preventive measures taken in the art and antiques trade to protect itself against crime. This chapter does not look specifically at the trade in cultural goods (legal and illegal); that is the topic of Chapter 4.

#### 3.1 Background

The media and the literature frequently associate the art and antiques trade with crime. A good example is a plot line of the most popular TV soap in the Netherlands, which has the bad guy making a fortune with a questionable trade in paintings. In 2000, journalist Henk Schutten published *Kunstmafia* [Art Mafia], a book that describes an entire landscape of suspect and illegal activities in the art world. Another famous source is Michel van Rijn, a former art criminal who went straight and now fights crime in the international art trade, and who regularly publishes incriminating information about art dealers and collectors.

The public can easily get the impression that the art and antiques trade and crime are completely intertwined. The various reports about forgeries, smuggling of heritage objects and art theft certainly contribute to this impression. Bona fide art dealers sometimes complain about the tarnished image of their trade, which they feel is far off the mark. They believe that ignorance is at the heart of current opinion about the way the art and antiques trade operates.

Nevertheless, key informants indicate that crime does occur in the sector. The cases reported by Schutten (2000) and Van Rijn (2006) are not imaginary, and in some instances art criminals have been prosecuted, tried and sentenced for serious crimes. The question is whether the public is justified in linking the art trade permanently with crime.

## 3.2 Vulnerability and risks

Any analysis of the risk and vulnerabilities must begin with a precise definition of these terms. This section therefore presents a number of detailed definitions.

### Definitions

The security and crime studies sector offers various different definitions of the term “risk”. Despite these differences, Kortekaas (2005) believes that risk consists of three components.

The first is that a risk is “something” undesirable. Some studies refer to a threat, others to a danger, a scenario, an (unfavourable) event, a situation, a process or a cluster of events. These concepts are summarised in the term “threat”. The second component of a risk is the likelihood or chance that it will occur. Ericsson and Haggerty (1997) describe this as the “best estimate probability”. The underlying question is: how likely is it that the threat will actually occur? The third component is the impact of the threat. Synonyms for this are: influence on interests, damage, consequences of loss, and negative effects. Undesirable effects is the term that we use in this study. Based on this tripartite division, we can define the term risk as follows: *A risk is the combination of the likelihood that a threat will occur and the undesirable effects of that occurrence.*

In addition to risks, criminal investigators often use the term “risk factor”. A risk factor affects the likelihood that a threat will occur. It influences how and to what extent the risk will occur. The degree to which certain risk factors must be taken into account depends on the purpose of the analysis, the level of abstraction, and the knowledge and information available (Kortekaas 2005). The extent to which risk factors can be identified depends on the extent to which we have knowledge and information about the risk. Some threats are easy to identify based on the risk factors, whereas others – for example a terrorist attack – are not.

Another common term is “risk indicator”. A risk indicator is an operationalisation of a risk factor. Risk factors are not quantifiable, whereas risk indicators are (Frei and Ruloff 1989). A risk indicator can function as a warning that a threat may occur – comparable to a warning lamp on the dashboard of a car.

Finally, criminal investigators also refer to “risk profiles” or “risk models”. Such models act as selection mechanisms for identifying high-risk perpetrators, situations, goods, and so on. A risk profile is the sum

of all risk factors. Such profiles may be used as selection tools in order to label a particular segment of a population (for example high-risk youths in a particular city). A risk only acquires meaning when it is placed in a particular context. It is therefore important to identify the context before a risk analysis takes place.

### *Vulnerability*

In order to perform a risk analysis of the art and antiques trade with a view to early crime prevention, it is important to understand what undesirable events are possible in the trade and the likelihood of such events occurring. Opportunity theory plays a major role in any such analysis. This theory focuses on the opportunity for committing criminal or illegal acts (Cohen and Felson 1993), whereas risk analyses look at perpetrators or victims. Cohen and Felson focus on the routine activity of everyday life. In their view, social trends bring about the changes in crime patterns. Criminals key into changes in society.

Cohen and Felson identify three elements in this process: motivated offenders, suitable targets, and the absence of capable guardians (social and/or public control). The risk of infiltration by organised crime always lies in one or more of these dimensions. Every successful crime requires the convergence of all three of these elements. That convergence is also determined by other opportunity factors such as time and place. Based on opportunity theory, Kortekaas (2005) refers to the opportunity factors described above as risk factors.

In this study, we refer to the convergence of the three elements as “vulnerability”, using the following definition: *Vulnerability is the extent to which offenders are able to abuse a suitable target in the absence of supervision.*

### **Characteristics of the sector**

In order to determine whether and to what extent the art and antiques trade in the Netherlands is vulnerable to infiltration by organised crime, we must look more closely at the general characteristics of the sector. Where useful, we describe how these characteristics influence the sector’s vulnerability.

#### *Nature of the objects*

The art and antiques market is defined by the nature of the objects traded, which in many cases are rare or unique and irreplaceable. That means that the market mechanism operates differently than in many other commercial sectors. Prices fluctuate more dramatically, even though there is not always a basis for comparison. The price of an object depends on the market demand, which is influenced by trends and the

individual preferences of important buyers. The unpredictable nature of the pricing makes the art and antiques trade a highly suitable arena for financial crime, especially money laundering. Many of the interviewees indicated that objects have been known to rise or fall sharply in value between two transactions without this leading to suspicion. Several of the informants say they can imagine that in one of the transactions in such cases, part of the payment has been kept off the books, for example by it being made in cash or by using accounts held in Switzerland or the Cayman Islands.

Another consequence of the unique nature of the objects being traded is that they cannot immediately be converted into liquid assets. In other words, the number of potential buyers is often limited, and there is a relatively good chance that a buyer will know the object in question. That is particularly the case in the fine arts. Liquidity is an advantage in the criminal world, given the large market and small chance of being caught. Parties wishing to operate successfully in the art and antiques market must have expert knowledge of the commodity itself and be familiar with other market parties. This takes time and effort and may therefore be a barrier to criminals who wish to penetrate the art and antiques trade.

The liquidity of an object also depends on how easy it is to transport. Art and antiques also include antique chests and cupboards, massive stone sculptures and very large paintings. The size and weight of such objects make theft and smuggling perilous undertakings. The smaller and lighter the objects, the more vulnerable they are to these categories of crime.

The value of individual objects affects their vulnerability. Generally speaking, the organised crime world concentrates on generating substantial financial gains as simply and easily as possible. We cannot, however, assume that there is a proportional relationship between the value of the objects and their vulnerability. This must be viewed in relation to their liquidity: it would be impossible for a criminal to actually sell on any top-flight object that he had stolen. But as the value of the object declines, so does its fame, making illicit trafficking more feasible (generally speaking).

There are many known examples of art forgeries, mainly contemporary art. It is not easy, and sometimes virtually impossible, to establish the authenticity of the works. Given the estimated number of forged works of art in circulation, organised criminals are likely to be attracted to such trade.

Art forgeries can play a role in various different categories of crime. The difficulty of distinguishing authentic from fake means that the trade in contemporary fine arts is vulnerable.

### *Provenance*

The number of cultural goods, and in particular antiquities, in existence worldwide is unknown because a certain percentage still falls outside the context of commerce and society. New discoveries lead to new objects being traded on the market. There are no restrictions as to which persons or organisations are permitted to sell these new objects in the market, and so they enter the market fairly randomly. Some of the informants pointed out that this is what happens with Dutch artefacts. The provenance of these objects is not verified. The lack of transparency contributes to the vulnerability of the trade in antiquities. On the other hand, Dutch artefacts generally do not command astronomical sums.

The provenance of some works of art may also be open to speculation. Some works of pre-modern art have been around for centuries and have had many different owners. It is not always possible to determine whether the work was always passed on to its new owner through the proper channels. This is a particularly sensitive question when it comes to works of art stolen during periods of war, especially the Second World War, and then kept or sold on by the unlawful owner. Various international treaties allow for the lawful owner or his/her surviving relatives to claim such objects. To avoid uncertainty about a work of art's provenance, dealers in pre-modern art exercise great caution and attach great importance to registration and documentation. Such meticulousness contributes to the resilience of the art and antiques trade.

The provenance of cultural goods is a general point of concern in the art and antiques trade, in particular at international level. Various treaties, such as the UNESCO and UNIDROIT conventions, offer guidelines for the return of national cultural goods to their country of origin. The special rules pertaining to ownership of cultural goods add an element of uncertainty to the trade. The result is less transparency and more vulnerability. The trade in cultural goods is discussed in more detail in Chapter 4.

### *Organisation of the sector*

As described above, the Dutch art and antiques sector consists of various niche markets, each with a limited number of market parties. Virtually all of the dealers have been active in the same niche market for a long time and are well acquainted with their fellow dealers at home and abroad. They seldom do business with dealers outside their own familiar circle. The small scale of the Dutch niche markets has resulted in

stringent social control and a large measure of internal transparency. That reduces its vulnerability to organised crime.<sup>1</sup>

Much of the trade in fact takes place outside the restricted world of the art dealers. Large auctions and fairs are the epicentre of the Dutch art and antiques trade. Objects sold there are vetted by specialists, who examine whether an object is authentic, is in an acceptable condition, and has a satisfactory provenance. Both the auctions and the fairs call in external experts for this purpose.

Objects sold at fairs and auctions are exhibited to a large audience, some of whom are competent in the field. The official vetting by experts and unofficial check by the public makes it very unlikely that a forged or stolen work of art will be sold at one of these events.

Dealers can check up on stolen art objects by consulting special art theft registers. Some of the interviewees indicated, however, that none of the registers is complete, well-organised or easily accessible. Not all Dutch dealers have access to the Art Loss Register. It is not useful for their purposes and a subscription is not cost-effective (owing to the high fees charged). The attitude of dealers, which may or may not be related to the quality of the information available, means that internal protection against theft and receipt of stolen goods is less than ideal.

Switzerland plays an important role in the international art and antiques trade. Many Dutch dealers attend Swiss fairs and auctions. In addition, the resale right – a tax arrangement common in other European countries favouring the artist or his/her surviving relatives – does not apply there. That means that transactions concluded in Switzerland are less expensive than elsewhere. In interviews, dealers mentioned that several of their colleagues had opened up branches in Switzerland. Switzerland and its bank secrecy make it a risk factor for financial crime.

### **Criminal risks**

The researchers asked representatives of the sector and investigation and enforcement officials how they assessed the Dutch art and antiques trade's exposure to criminal risk.

In general, the interviewees from the sector believe that there is little risk of crime in the Dutch art and antiques trade. Most of the investigators and enforcement officials also said that organised art crime

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<sup>1</sup> In theory – although no evidence has been found – the restricted nature of the niche markets could also have the opposite effect of making criminal activity possible.



is rare. The reason, they said, is that the circle of art dealers, buyers and sellers is simply too small. They all know one another and are quick to pick up on anything suspicious. Art dealers and auction houses also prefer not to receive payment in cash, making the art trade uninteresting for money launderers. The Disclosure of Unusual Transactions (Financial Services) Act [*Wet Melding Ongebruikelijke Transacties*] has played an important role in this respect.

According to some of the investigators, top dealers and auction houses distance themselves from everything that has a suspect background. Various respondents in the sector confirmed this. Indeed, these dealers and auction houses refuse to participate in any way in suspicious transactions. They themselves investigate objects that they believe have a suspect provenance. According to the informants, they do so not only to protect their own reputations, but also because it is good for business and therefore for their turnover.

Some of the investigators and enforcement officials interviewed believe that there *must* be crime in the sector, given the enormous amounts of money involved. The impenetrable pricing system makes the art and antiques trade an interesting sector for criminals, with the benefits outweighing the risks. As long as that continues being the case, there will be no eradicating art crime. The interviewees making these claims did not have empirical evidence of large-scale criminal activity in the art world.

Some investigators indicated that, on occasion, the top dealers and auction houses sold objects whose provenance was not entirely above-board. Several of the international investigators mentioned the role of the Netherlands as the “gateway to Europe” and the relatively low priority that Dutch investigators give to art crime as factors making the art and antiques sector vulnerable to organised crime. These respondents are convinced that the Netherlands plays a key role in the international networks that deal in stolen art and antiques. This opinion was shared by a Dutch respondent, but one who is not involved in the field. The interviewees see links between the art and antiques trade and drugs trafficking. The findings of these interviews were shown to various other respondents, most of them involved in investigative work. All of them said they knew of no evidence to support these ideas. None of the interviewees in the sector indicated any knowledge of large-scale criminal networks. The question is whether these positive opinions in fact reflect the reality.

The two risks mentioned most frequently by the interviewees were theft and forgery. Most of the interviewees admitted that they had themselves been victims of theft. They had had items stolen during break-ins in their business or home, or during fairs, exhibitions or in-house shows. The majority of the respondents regularly came across forged or partly forged objects. The forgeries are not restricted to paintings but also include bronze statuary and glasswork. Pirated castings of this kind are difficult to distinguish from authentic ones. Some of the interviewees from the sector said that buyers of modern art stood a greater chance of purchasing a forgery. It was easy to mimic authenticity when the work of art was relatively new.

The risks are not the same in every sub-sector, according to various dealers and other parties. Theft can happen everywhere, although the risk was somewhat smaller in the case of exclusive objects. These are usually well documented and, once stolen, difficult to sell on. In addition, the more exclusive the object, the more heavily it is protected.

Dealers believe their own expertise is their most important weapon against crime. The reputations of the top dealers prevent them from being offered forged or stolen objects, since there is a very good chance of detection. Those wishing to sell stolen or forged objects prefer to offer them to smaller dealers or regional auction houses, according to the interviewees.

### **3.3 Prevention**

The extent to which the Dutch art and antiques trade is vulnerable to infiltration by organised crime depends in part on the preventive steps the trade takes to protect itself against crime. This section outlines the ways in which the sector protects itself. We will consider current practices, the “self-cleansing” ability of the trade, and the use of databases of stolen and missing art objects. The section concludes with a few general comments about crime prevention in the sector.

#### **Current practices**

Museums, dealers and auction houses are naturally careful to safeguard their costly assets against theft. Churches and historic monuments, however, are much less secure.

Theft prevention in the art and antiques trade consists in part of registration and documentation. That does not, of course, prevent simple thieves from striking. Well kept records will, however, ensure objects are soon found to be missing and make it possible to report the theft to crime investigation organisations and registers for stolen art objects.

Since the major FIOD campaign accompanying the introduction of the Euro, the sector has been well aware of the need to proceed cautiously when payments are made in cash. It is general knowledge that cash payments of EUR 15,000 or more must be reported to the Unusual Transactions Disclosure Office (MOT). According to dealers and auctioneers, large cash payments are rare. Most indicate that the days of cash payments have passed as far as their business is concerned. The market leaders in the auction industry do not accept cash payments in excess of EUR 7,500. The researchers themselves observed that smaller auction houses regularly accept small cash payments for art and antiques.

Measures taken to prevent crime in the art and antiques trade focus on the moment of purchase. A dealer who purchases an object wants to be absolutely sure that he is not doing anything that could lead to the object being confiscated and to his reputation being harmed. International treaties such as the UNIDROIT Convention emphasise the responsibility of the buyer, who must be able to show that he acted in good faith. If a dealer buys an object from another dealer or private party, he must satisfy himself that the following requirements have been met:

- the object has not been exported without permission from its country of origin after the effective date of the treaties;
- the object is not listed in a register of stolen art objects;
- the object does not have a tainted, war-related past.

For each foregoing criteria, it is important to have a meticulous record of the object's provenance. If any uncertainty exists on that score, the buyer runs the risk of having to surrender the object later. It is therefore in the dealer's interest to ensure that he obtains sound information. It is also in his interest to rule out any question as to the object's authenticity and to ensure that the object's condition is in line with the sale price.

If the sale is transacted via a fair or auction, the responsibility lies with the organisers. They are obliged to check the provenance of objects offered for sale to the public and to ensure that none of the objects are being sold unlawfully. Both dealers and organisers call on internal and external experts for assistance in these matters. Nevertheless, objects are occasionally included in catalogues that turn out to be stolen or

unlawfully traded. These are unpleasant incidents for auctions and fairs, settled as quickly and with as little fuss as possible. Several of the dealers interviewed said they questioned whether the checks carried out on the vendor were in fact sufficient.

### **“Self-cleansing” ability**

Various parties emphasised that the “self-cleansing” ability of the Dutch art and antiques trade protects it against criminal abuses. What they mean by “self-cleansing” is that the established dealers will see off any fraudulent ones themselves because they will refuse to do business with them.

Self-regulation – the mechanism underlying the self-cleansing ability – requires the parties in the sector or market to agree on common standards and a level of organisation that facilitates regular communication.

In addition, there must be a means of correcting those who ignore the standards and to exclude them if they do so repeatedly. A good example of a sector that is largely self-regulating is the fundraising sector (charity). The most important fundraising organisations submit their financial documents to a regulatory body voluntarily; if they meet the commonly agreed criteria, that body then issues them with a quality mark. The quality mark is required for numerous fundraising activities, for example door-to-door collections (Van der Stoep et al. in print). The aim is twofold in the case of fundraising organisations: to set conditions for the methods used by established parties,<sup>2</sup> and to encourage new parties to adhere to generally accepted standards. In this way, the sector’s self-imposed rules become the norm. Those rules have the backing of the vast majority, who believe that they will protect the sector from harm.

### *Art and antiques trade*

The self-cleansing ability or self-regulation in the art and antiques world operates at two levels. First, there is implicit self-regulation; neither documented or imposed, it is related to the basic principles and attitudes of some of the dealers. In addition to implicit self-regulation, there is also explicit self-regulation, consisting of institutions and processes developed by the sector to play a monitoring role.

The mechanism of implicit self-regulation operates mainly within the upper segment of the trade. The fact that the Dutch art and antiques

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<sup>2</sup> The main reason being that it is in the interests of all the parties in the sector to comply with self-imposed conditions.

market is divided into a number of niche markets, each with a small number of dealers, favours this form of self-regulation because almost nothing that happens in the niche escapes the attention of the established dealers. This was confirmed in interviews with dealers. Many of them indicated that their niche market was fairly to highly restricted and that very little if any business is transacted with dealers who are insufficiently familiar or regarded as inadequately qualified.

In the case of implicit self-regulation, the restricted nature of the market is combined with collectively held standards. After all, no agreements are documented. That means that mechanism can be influenced by the individual standards of established dealers. Some of the dealers believe that implicit self-regulation is sufficient guarantee of the self-cleansing ability of the trade.

Explicit self-regulation is effected in various different ways in the art and antiques trade. Like the fundraising sector in the example given above, parties in the art and antiques sector believe that this improves the way the sector operates and its image.

The various umbrella organisations are an important component of self-regulation. They make the collective standards explicit and ensure that the dealers communicate with one another. The leading umbrella organisation, the VHOK (Association of Fine Art Dealers in the Netherlands) has a set of general terms and conditions that members must abide by in their work. It also has a code of conduct that stipulates the behaviour that members must display both vis-à-vis one another and in general (Website VHOK 2006). VHOK membership also makes it possible for members to keep one another informed about new and existing rules and regulations and any crime threats. The Association's website provides the means of communication.

Vetting takes place prior to a fair or auction. For the large fairs, this is done by panels of experts (which include dealers), who assess the objects presented at the fair on their quality and authenticity. That means that the dealers on the panel, who must be accredited valuers/appraisers, are responsible for assessing objects presented by competitors. The sensitivity of this situation was noted in various interviews. But the interviewees added that if a dealer-appraiser were to produce dubious assessments, he would immediately face the critique of the other dealers and valuers. Respondents from the trade think it unlikely for one of their colleagues to issue consistently dubious assessments.

There are both implicit and explicit aspects of self-regulation in the art and antiques trade. The interviewees emphasised that self-regulation

plays the biggest role in the upper segment. The middle and lower segments of the trade are less well known and not as dependent on reputation. These segments of the trade are also not as well organised. Some of the interviewees suggested that self-regulation plays a role in protecting the market via the established dealers.

### *Museums*

Museums and other cultural and heritage institutions may face issues in their transactions that are not regulated by law. That is why ethical codes or guidelines have been drawn up in many different countries. The oldest codes date from the early 1900s. The Dutch museum world produced its first Code in 1991, when a decision was taken to translate the Code of Professional Ethics drawn up in 1986 by the International Council of Museums (ICOM) into Dutch. The Dutch version (*Gedraglijn voor de Museale Beroepsethiek*) was promoted by the Dutch Museum Association (NMV) as the official guideline and standard for museum transactions, a map to navigate by in ethical questions and a self-regulatory instrument. Simultaneously, the Dutch Museum Association, ICOM-NL, the Netherlands Museum Advisors Foundation, the Netherlands Federation of Friends of Museums and the National Museum Pass Foundation inaugurated the Museum Code of Conduct Committee (often known as the Ethics Committee).

The ICOM adopted a new code of ethics for museums in 2004. The Dutch translation was finalised in 2006 and adopted in early 2007 by the Dutch Museum Association (NMV). The Code articulates the obligations pertaining to provenance and due diligence. Prior to acquiring an object, everything possible must be done to establish that the object or specimen offered for sale, on loan, as a legacy or for exchange was not acquired illegally (by theft, through a receiver). Due diligence also serves to guarantee that the entire provenance of the item, since its discovery or creation, has been verified. In the past few years, the various categories of museum have developed their own variations on the general code of ethics. For example, the Netherlands Ethnographic Collection Foundation (SVCN) has a separate ethical code backed by all its members.

### **Knowledge databases**

The uncertain origins of works of art has led various institutions to build registers and databases storing data on stolen, missing or illegally confiscated objects. These registers and databases are consulted by art and antiques dealers and by private collectors to assess a potential purchase before it takes place. The most important registers are international.

The registers can be divided into two categories, based on their contents: registers that list objects missing as a result of theft, and registers with data on art theft in times of war. There are government-owned registers and privately owned registers.

### *Art Loss Register*

The leading private register of stolen art and antiques is the Art Loss Register (ALR), based in the United Kingdom. The ALR opened a branch in Amsterdam in 2006, its fourth (the others are based in London, New York and Cologne). ALR shareholders include the major auction houses, insurance companies and umbrella organisations. Use of the register is not free of charge; anyone wishing to use it must become a member.

The ALR database lists a total of 180,000 lost or stolen objects. Since November 2006, it has been possible to register objects known to be fakes or forgeries as well. The ALR database lets potential buyers see whether a work has been registered as lost, stolen, or fake.

The Dutch National Criminal Intelligence Service (CRI) was disbanded in 2002 and with it its database of stolen artworks.<sup>3</sup> The Art Loss Register took over the database and merged it with its own register. The database listed approximately 7,000 stolen items at that time. In the years thereafter, the number of registered objects increased sharply. There are now approximately 12,000 objects registered belonging officially to Dutch owners.

Dealers in the Netherlands tend to consult the register close to and during major fairs such as PAN and TEFAF. The number of searches in the ALR registers by and on behalf of Dutch dealers is around 10,000 annually. Christie's and Sotheby's also check the entire catalogue of each of their auctions against the register. The smaller Dutch auction houses are less consistent. According to informants, there is evidence that Christie's and Sotheby's auction fewer objects with problematical origins. The logical result is that such objects will be offered to the smaller auction houses.<sup>4</sup>

The searches requested by Dutch dealers tend to concern paintings and drawings (70%); the remaining 30% is distributed across a broad range

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<sup>3</sup> The name was the KANS database.

<sup>4</sup> The ALR is currently attempting to raise awareness of this among local and national auction houses. By checking their catalogues, the ALR ascertains whether these auction houses have good reason to extend their duty of care and due diligence measures.

of categories.<sup>5</sup> For the auction houses that are members of the ALR, the breakdown is about 50% for paintings and 50% for other objects. Auction houses usually check the entire contents of an auction, whereas in most cases dealers will only check one object. The searches often reveal “contaminated” objects, which are then subjected to closer investigation. Chapter 6, which discusses criminal activity, looks in greater depth at the ALR’s information.

### *Interpol*

Part of Interpol’s website is devoted to art and antiques theft. It has a substantial register of recent thefts, found objects and objects whose owners have not claimed them. Interpol also issues a digital register on DVD. It is particularly interested in war areas. It maintains separate registers of lost art and antique treasures from Iraq and Afghanistan. The Interpol division concerned with international art crime is located in France.

Interpol has figures on the total number of missing objects for a number of countries, divided into object categories. There is no information on the number of lost or stolen objects in the Netherlands, unfortunately. The register shows that 27,795 objects are missing in Italy, more than 10,000 of which are in the category “miscellaneous”.<sup>6</sup> Almost 5,500 items of furniture and 5,000 paintings have also disappeared in Italy. The website reports that after Italy, France has the most lost objects. There are also no figures on France. Switzerland and Russia are each missing more than 3,000 objects and therefore count as the main victims after Italy. The missing objects in Russia are paintings and icons, while in Switzerland the losses concern more than 2,500 timepieces.

### *ICOM*

The International Council of Museums (ICOM) has compiled lists of categories of cultural goods that circumstances have put at risk of being stolen or destroyed or that are already lost. These *listes rouges* classify the art objects by region, so that customs officials and others will be aware of them. The ICOM website has a red list of objects in Latin America, Africa and Iraq ([www.icom.com](http://www.icom.com)).

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<sup>5</sup> The categories are: antiquities, architectural objects, weaponry and armaments, automatons, barometers, books and manuscripts, bronze, ceramics, vintage automobiles, clocks and watches, coins and medals, collector’s items, toys, dolls and teddy bears, garden statuary, jewels, lamps, scientific instruments, musical instruments, scale model items, carpets and tapestry, sculpture, silver, furniture and postage stamps.

<sup>6</sup> These objects do not belong to the following categories: paintings and icons; statuary and sculptures; vases and glassware; furniture; religious artefacts; timepieces; and books.



### *Second World War*

There are various databases set up specifically for cultural goods that changed owners or went missing during the Nazi regime (1933-1945). Chief among these is the Central Registry of Information on Looted Cultural Property, or Looted Art. An Oxford University website, it indicates what is missing by country and where more information can be found. The German organisation for lost cultural goods, *Koordinierungsstelle für Kulturgutverluste*, has also set up a website with information on cultural goods that were lost, moved or stolen between 1933 and 1945. The website is an intermediary between persons or organisations that have lost objects and persons or organisations that have those objects in their possession.

In the Netherlands, the Restitution Committee began in January 2002 to investigate and assess individual claims for cultural goods that disappeared during the Second World War. The committee, whose members are legal specialists, historians and art historians, advise the Minister of Education, Culture and Science on the claims as independent experts. The claims concern works of art that owners have lost involuntarily as the result of circumstances related directly to the Nazi regime. The investigations and the recommendations of the Restitution Committee are published on its website. Between 2002 and 2006, the committee received 56 claims. It advised on 33 requests for restitution in that period. By May 2007, those figures had grown to 78 claims, with advice being issued on 40.

The advice concerned more than 600 cultural goods in the Netherlands' state collection, ranging from invaluable utensils to 17<sup>th</sup>-century Dutch paintings. Most of the works of art for which restitution was requested are currently part of the national collection.

## **3.4 Crime categories**

Until now, there has been no wide-ranging investigation into the possible involvement of organised crime in the art trade. There are various categories of crime that can affect the art and antiques trade. The categories are: theft and handling of stolen goods, artnapping, forgery, imitation and fraud, and money laundering (in connection with narcotics). These categories can also be related to other types of crime. This section looks in detail at these topics. It is also possible for protected cultural goods to be sold illegally. That is the topic of Chapter 4.

### **Theft and handling stolen goods**

Stealing art objects from museums, commercial enterprises and fairs and handling such stolen objects is a category of crime that attracts media attention and is becoming better documented, internationally speaking, for example through the Art Loss Register (see section 3.3). The risk mentioned most frequently by the interviewees were theft and/or handling stolen goods and being offered forged or fake objects. Most of the interviewees admitted that they had themselves been victims of theft. They had had items stolen during break-ins in their business or home, or during fairs, exhibitions or in-house shows.

According to some of the interviewees, the risk of theft has increased somewhat in recent years because the Dutch police force has disbanded its art theft units owing to budget cuts. The police have therefore lost a great deal of knowledge in this field. Reports of art theft are no longer listed in a central police register but must be submitted to the regional forces. Things have become rather confusing as a result. Victims are also less inclined to report thefts now.

### *Kidnapping of art objects*

The respondents repeatedly mentioned art kidnapping, i.e. the theft of a work for the sole purpose of holding it for ransom, to be paid by the insurer. This is sometimes referred to as “artnapping”. Artnapping is an interesting proposition for criminals, because at the end of the transaction they have a sum of money in their possession, rather than a work of art that is highly identifiable and hard to sell. Insurers are more inclined to pay the ransom money than to pay out the insurance claim because the ransom is lower. At the same time, the insurers have an interest in keeping the transaction quiet. Their reasons are twofold. First of all, letting news of the situation slip out could lead to an increase in the number of artnappings, once criminals hear how willing insurers are to negotiate. If artnapping succeeds, more criminals will be inclined to try it. That means that the insurers will have to pay out more ransoms and to finance that, they will raise their insurance premiums. At the same time, more owners of art objects will decide not to insure their works. The thieves are naturally only interested in insured objects. By not insuring these items, the owners figure they run a smaller risk of their being kidnapped. Our respondents did not think that any insurance company would be willing to admit to or explain this practice.

But they are nevertheless convinced that it happens. They claim that art objects found in rubbish containers and discovered “coincidentally” during police raids can be ascribed to ransom negotiations and in some cases to ransom payments by insurers.

### **Forgery, falsification and fraud**

Besides illicit trafficking in stolen art objects, there is also a large-scale trade in fake objects. These are fake sculptures, masks and utensils, forged paintings and prints, and fake furniture and antiques. The Internet plays an important role in the distribution of such goods, as it does in sales of illegal books, CDs and DVDs. The certificates of authenticity and so forth are often fraudulent.

In the ethnography niche, it is suspected that criminal organisations in the countries of origin place fake objects on the European market on a relatively large scale. The Netherlands does not have a large market for ethnographic art, however. Some of the respondents commented that such practices did indeed exist, but that the Netherlands was mainly a transit country. The market for ethnographic objects is many times larger in Belgium (especially Brussels) and France. In Brussels, where there are a number of dealers in pre-Columbian and African art, there are supposedly several forgeries a year.<sup>7</sup>

Our key informants see absolutely no evidence that the trade in ethnographic art, whether authentic or fake, is used to finance terrorist activities. The risk of forgery is greatest in the modern art sector, according to several of the interviewees. Good forgeries of old masters and 19<sup>th</sup>-century paintings are much harder to produce. The majority of the respondents regularly came across forged or partly forged objects. The forgeries are not restricted to paintings but also include bronze statuary, said the respondents. It is difficult to tell such forgeries apart from the genuine article.

It regularly happens that dealers who have come across a good forgery attempt to arrange an authenticity certificate for the object. The interviewees indicated that there are dealers who have fake works of art appraised on a fairly regular basis. It is assumed that some of them are in fact not aware that the work of art is a fake, but that others are deliberately attempting to obtain a certificate from the appraiser.

One of the key informants said he knew of private parties who have attempted to use forged paintings as collateral for a bank loan. The parties used certificates of authenticity that had been obtained in a dubious manner. Insurers are also occasionally victims of fake works of art that are put forward as authentic. A fake work of art is then insured for the value of the original, only to be lost in a fire. The scale of insurance fraud of this kind in the Netherlands is not known.

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<sup>7</sup> Our key informants mentioned three specific examples.

In *Sotheby's: The Inside Story*, journalist Peter Watson (1997) describes the “dark practices” at London’s Sotheby’s in the mid-1980s. The book describes how the auction house committed fraud with fake invoices and for many years auctioned antiquities without, or with false, certificates of authenticity and provenance. Watson also claims that the auction house was involved in smuggling a painting so that it could be sold at a higher price in London.

In the past, art and antiques dealers have made illegal price arrangements at auction. A number of the interviewees from the sector quoted the example of “the ring”: an agreement between all the dealers interested in a particular object that only one of them would actually bid on it. Afterwards, a second, illegal auction was then held during which the object was sold for the actual – and much higher – market value. The difference between the two amounts was then divided between the participating dealers. Rings of this kind no longer operate. Auction houses are aware of the risk, and the number of bidders at most auctions is higher, making price agreements difficult.

### **Money laundering**

Another potential category of crime in the art and antiques sector is the purchase of objects in order to launder criminal gains, earned, for example, by selling narcotics. Money laundering involves concealing and converting money earned by criminal means into funds that can be absorbed into the legal economy (Verrest and Scheepmaker 2000). According to Unger (2006), the Netherlands is a transit country for crime. Dutch expertise in financial services and the country’s advantageous location make the Netherlands an ideal place to use existing legal facilities and networks for criminal purposes.<sup>8</sup> Unger believes that there are three phases in money laundering that are also possible in the art trade:

- pre-wash cycle: preparing illegal proceeds to be deposited into a bank account, aided by payments or currency exchanges;
- main cycle: getting the money into standard circulation, for example by founding a legal entity and using falsified documents;
- rinse cycle: using the money to purchase movable or immovable property.

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<sup>8</sup> Although Unger does not discuss money laundering in the art trade, she identifies the following negative effects of money laundering: direct losses owing to crime related to money laundering; changes in investments; artificially high prices; unfair competition; regular enterprises getting mixed up with criminal organisations; money earned by crime attracting more crime.

In one interview, a key informant pointed out that a number of Dutch dealers regularly sold objects to persons in the United States and followed up the transaction after a period of time with a reciprocal transaction. There was no reasonable explanation for the multiple selling and repurchasing of a certain object. In some cases, the same object had risen considerably in value in between the two transactions. The interviewee, whose profession means he works at the heart of the sector, does not rule out that this construction was set up for money-laundering purposes.<sup>9</sup> He claimed that such transactions took place several times a year.

#### *Laundering drugs money*

Illegal drugs smuggling and the illicit trafficking in art and antiques are two categories of crime that appear to have little in common. Nevertheless, in recent years the media in particular have increasingly claimed a connection between the two. Schutten (2000), for example, reports on that connection in his book *Kunstmafia* [Art Mafia].<sup>10</sup>

It was thought that hash dealers had also been involved in illegal art transactions. Rich art dealers can invest in the art trade in order to launder criminal gains, but the opposite is also possible: criminals trade in drugs in order to finance their transactions in the art world.

In general, three different connections between illegal drugs trafficking and the art trade are theoretically possible (Tijhuis and Soudijn 2004). First of all, valuable works of art can be used as collateral or a means of payment in major drugs deals. Secondly, drugs and art objects can be moved from source to market together. Finally, stolen works of art may play a role in laundering money earned through drugs trafficking. Tijhuis and Soudijn (2004) used case studies from the Netherlands and abroad to investigate the reality down on the ground. They found very few examples to support these three theories. They therefore conclude that there is little evidence for the assumed relationships and question why there is so much interest in connecting the two types of crime. Like Tijhuis and Soudijn, we did not find any evidence of a relationship between the two markets. Several respondents did comment that if money were laundered in the art trade, it is very likely to have been earned in drugs trafficking. They were not able to produce specific examples, however.

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<sup>9</sup> The investigators asked to inspect the registers in which this construction might be visible. Permission was refused.

<sup>10</sup> Schutten bases this assumption on articles in various papers and magazines and conversations with a number of people, including a member of staff at the Museum Security Network and an employee of the Police Force's Art and Antiques Theft Department.

### **Relationship with other categories of crime**

Claims are made in the international literature that art shops, antique shops and art galleries may be used as a front for other criminal activities, for example the sale of soft and hard drugs, prostitution and the illegal sale of goods other than art objects (Watson 1997, Schutten 2000). Although some informants admit that these are potential categories of crime, they cannot give any specific examples.<sup>11</sup>

The respondents see little or no evidence that the Dutch art trade is used to finance crime or terrorist activities. The Unusual Transactions Disclosure Office (MOT), which registers unusual or suspicious transactions that may be related to the financing of criminal or terrorist activities, is discussed in Chapters 5 and 6.

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<sup>11</sup> The Art Loss Register sees a clear link in the international market between art crime and other types of crime. One example that it cites is the war in the Balkans, when proceeds from the sale of stolen art were used to purchase weapons; stolen art was also traded for weapons. Even though the war is over, the subsidising of illegal practices has seemingly continued. The Art Loss Register also cites examples showing that stolen art is used to finance the smuggle in tobacco, drugs and human lives and the trade in fake products (for example fake Viagra). It also claims that art is stolen abroad in order to blackmail the owner or cheat the insurance company. The role played by the Netherlands in all this is also not clear to the ALR.

## 4. CULTURAL GOODS

This chapter discusses an area in which the art and antiques trade is particularly vulnerable: the legal and illegal trade in protected cultural goods. The first section surveys the international trade in cultural goods, emphasising the trade in objects of ethnographic or archaeological significance. The second section looks at the situation in the Netherlands and covers both the market and crime/crime-fighting.

### 4.1 The international market

One important and emotionally charged segment of the national/international art and antiques sector is the trade in what are referred to as “cultural goods”. The trade in cultural goods (or cultural objects) may lead to the loss or destruction of the source country’s cultural heritage. We define cultural heritage as: every object or concept that may be assumed to be of aesthetic, historic, scientific or spiritual value in its country of origin (SVCN Code of Ethics). The objects/art objects covered by that definition differ from one country to the next. Very often they are ethnographic and archaeological objects, but they may also include more recent works of art, antiques and utensils.<sup>1</sup>

The trade in cultural goods is divided into specialities by world region. The various niche markets have their own trade chains within Europe. The market for African art, for example, appears to be concentrated in Paris and Brussels. One well-known import and transit route for such cultural goods is Italy-Switzerland-the Netherlands-Brussels. The goods (including those of dubious origin) often enter Europe via Italy.<sup>2</sup>

The trade in ethnographic objects is an important segment in the legal/illegal trade in cultural goods. What distinguishes ethnographic

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<sup>1</sup> In the Netherlands, for example, 240 separate objects and 23 collections have been designated as cultural objects. These include paintings, religious artefacts, but also hurdy-gurdys and utensils. These objects have been protected since 1984 under the Cultural Heritage Preservation Act [*Wet tot behoud van cultuurbezit*, WBC] (Erfgoedinspectie 2006).

<sup>2</sup> Italy, for example, launched an investigation into the illegal trade in archaeological treasures in January 2007 and turned up no less than 35 suspects. The same group of dealers is also thought to operate in Switzerland, Germany, the UK and the USA. So far the investigation has intercepted 2,000 archaeological finds (e.g. vases, coins and statuary) (*Volkskrant* 18-01-2007).

objects from other art is their uniqueness. The objects involved are movable property that has played or still plays a role in a particular ethnic community or in its history. Many ethnographic objects are unregistered. It is also difficult to determine their age, or when they became a commodity – in other words, when they were taken out of their original context. It is furthermore hard to say whether the object has any commercial history at all. Very often, the objects were taken from their source country by Western Europeans centuries ago, for example during the colonial era. Some important collections were assembled by West European missionaries active until the mid-20<sup>th</sup> century; when they returned home, they took many African and South American objects back with them, either because they had a passion for collecting or for educational purposes.

Africa and Southeast Asia have always been the primary sources for the mainstream trade in ethnographic objects. Objects from Oceania have also become tremendously popular on the world market in recent years. These include tattooed Maori heads from New Zealand and Aboriginal art from Australia. Quality African art remains popular, and old catalogues from and about the African continent also command a great deal of money.<sup>3</sup>

European cultural goods have increased in popularity in the past ten years. Many monasteries, churches and castles in France have been robbed of their art treasures, in particular works of craftsmanship such as bronze candleholders and timepieces (see Berkhout and Wevers 2005). Based on a literature review and interviews with key informants, Table 4.1 summarises the legal/illegal trade in popular cultural objects, broken down by region.

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<sup>3</sup> Although many African and Asiatic objects were transported to Europe before the two world wars.



Table 4.1 The trade in cultural goods, by region

Region	Popular countries	Popular objects	Method of illegal trade
East Asia	China Indonesia Thailand Nepal India	Bronze statuary Sandstone Earthenware Wooden and other furniture Material related to the Dutch East Indies (VOC) trading company (Indonesia) Buddhist art Hindu art	Widespread corruption (customs and army). Large-scale trade primarily via Hong Kong and Singapore. Extensive smuggling and illegal export via luggage (all around the world)
Africa	Congo Ghana Mali Nigeria Ivory Coast	Masks Wooden carvings Crockery Nok figures (Nigeria)	Widespread corruption and use of false export permits. Extensive trade in fake statuary. Organised smuggling, especially from archaeological excavations. Trade primarily via large ports (Durban, Nairobi, Dakar, Abidjan), less via airports. Primary European destinations are Belgium (Brussels) and France.
Middle East	Oman Egypt Afghanistan Iraq	Archaeological (religious) material Antique jewellery Clay tablets	Political stability stimulates illegal trade at intervals. Objects sometimes traded via Westerners who work or have worked in the oil industry.
Oceania	New Zealand Australia	Maori heads Wooden carvings	Increasingly popular in Western Europe. Impoverishment among native inhabitants partly responsible for trade.
South America	Ecuador Peru Colombia	Pre-Columbian art Moche and Incan objects Religious artefacts from Spanish and Portuguese colonial churches.	Here again, corrupt local government and customs are the biggest factors. In addition, objects are frequently stolen from archaeological excavations and museums. Small objects are often transported unnoticed in carry-on luggage.
Central America	Mexico	Pre-Columbian art Maya- and Aztec objects	
Eastern Europe	Russia Romania former Yugoslavia	Icons Silverwork Books and atlases Religious art	The level of corruption has declined in recent years. More effort is being made to protect cultural goods. Large-scale trading in icons appears to be getting more difficult. Smaller items often smuggled in carry-on luggage.

Table 4.1 The trade in cultural goods, by region (sequence)

Region	Popular countries	Popular objects	Method of illegal trade
Western Europe	France Italy Spain	Medieval objects (religious) Books and catalogues Timepieces	According to key informants, churches and castles (defunct, unused) are increasingly being plundered. Southern France and Italy have a particular problem with rapacious tourists. Objects are sometimes traded in the mainstream market, with their origins being faked.

### Illegal trade in cultural goods

According to the interviewees, it is highly likely that ethnographic and archaeological cultural objects are currently being exported and imported illegally. There have been many different publications about art theft and the illegal trade in cultural goods (see e.g. Watson and Todeschini 2006, Korsell et al. 2005, Van Beurden 2001 and 2003, Corbey 2001, Schutten 2000, Brodie 2000 and 2001, Sjouke 1999, Van Rappard-Boon 1997, Jouanny 1996, Leyten 1995, Gimbrère 1995). It can generally be said that there is an unlawful stream of cultural goods flowing from the south (poor) to the north (rich).

Van Beurden (2003) claims that the art trade, private collectors and museum directors across Europe play a crucial role in the disappearance of art and cultural treasures from the southern hemisphere. Dealers, museums and private parties are such passionate collectors that they frequently neglect to check the origins of an object. In many cases, they do not even ask for the permits required by law.

Several key informants claimed that the disappearance of art and cultural treasures can be attributed, at least in part, to illegal export from the source country. There is little awareness of cultural heritage in these countries, and the crime investigation services there do not have cultural objects at the top of their list of priorities. There are therefore major lapses in enforcement and inspections at the national borders. These problems have made Africa, Southeast Asia and South America the most vulnerable regions. In addition, corruption is a very important factor. The cooperation of customs officials and army officers in the country of origin plays a major role in many cases of illegal export of cultural goods to the West.

The illegal trade in ethnographics and archaeological items can take place in three ways, according to key informants. The first is via large-

scale, well-organised gangs or networks that steal objects from excavations and public places in such countries as Nigeria and Egypt (but also Latin and South America) and then sell them in the West. Some of these organised gangs have mafia-like structures.

The second way is ad hoc, for example when individuals deliberately take a small number of objects with them from a source to a destination country. They are often tourists who either collect themselves or take along objects for friends. According to the informants, they are usually not organised into a particular structure.

The third way is halfway between the first two. These are professional criminals who operate independently. They often focus on one or a limited number of source countries, have specialist information about the local market and the museum/archaeological world in the source country, and work with a steady set of contact persons (corrupt museum staff, customs officials, and so on). In some cases, these criminals are thought to be working for European collectors or intermediaries.

## **4.2 The Dutch market**

In addition to private collectors, ethnographic museums also play a major role in the trade in ethnographic objects (leaving aside whether or not the objects concerned are protected cultural goods). The Netherlands has eight large ethnographic museums. It also has a number of smaller museums that exhibit ethnographic art. All these museums are members of the Netherlands Ethnographic Collection Foundation (SVCN).

According to key informants, there are only a small number of established dealers in ethnographics and archaeological objects in the Netherlands. Estimates vary from five to fifteen per specialisation, spread throughout the Netherlands. There are few if any overlaps with other areas of the art and antiques trade in the Netherlands. A number of respondents stated that it required a highly refined taste to appreciate such objects. There are hence more connoisseurs in this market than in other segments of the art trade.

A few of the interviewees active in the sector said that the Netherlands played only a very minor role in the international market for ethnic objects. Dealers in African and Oriental objects tend to be located in Belgium (Brussels, Antwerp) and France. Due to the limited interest (and therefore sales market), Dutch auction houses rarely organise ethnographics auctions. Ethnographic fairs were fairly common in the Netherlands, however, and gave the majority of Dutch dealers and

collectors an opportunity to meet. The distinction between collectors and dealers is very subtle in ethnographics: to some extent, it is the collections that give the objects their meaning. A total of approximately 100 persons are active at the ethnographics fairs. They and many foreign dealers in ethnographics also exhibit at well-known fairs such as PAN and TEFAF.<sup>4</sup>

#### *Nature and scale of illegal trade*

Although the illegal trade in cultural goods has been the subject of various international investigations, very little is known about the scale of the trade in the Netherlands. However, many police services and other organisations in the EU suspect that the Netherlands plays a role in the import and transit (storage and distribution) of cultural goods. In addition, it is thought that the illegal trade in cultural goods is mixed up with drugs trafficking. This suspicion is based primarily on the assumption that many non-Western cultural goods reach the Netherlands in containers shipped to the Port of Rotterdam; it is also based on objects that Dutch Customs has happened to discover at Amsterdam Airport Schiphol. It is also said to be easier for international criminals to ship/sell cultural goods via the Netherlands owing to the low-key legislation and low priority given to such criminal acts by the Dutch investigation services (see e.g. Stille 2005).

One of the few descriptions of the Dutch situation is the dissertation by Tjihuis (2006a), who studied the link between the Dutch art trade and organised crime and provides quantitative information in his thesis. Lacking sources that could provide him with detailed information, Tjihuis employed an eclectic working method and gained important input specifically from the files of the State Inspectorate for Cultural Heritage, in those days known as Cultural Property Inspectorate (IC).

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<sup>4</sup> One famous case involving an investigation of ethnographic objects concerned five Nigerian Nok figures offered for sale at the 2000 TEFAF by a Belgian dealer. The ensuing court case was extremely complex and involved four different legal systems: the Dutch system because the figures had been offered for sale in the Netherlands; the Nigerian system because the figures were part of Nigeria's cultural heritage; the Togolese system because the dealer claimed to have purchased the figures in Togo; and the Belgian system because it was the dealer's country of origin. In the ruling issued by the District Court in Maastricht, the Togolese legal system was applied. Nigeria had not produced sufficient evidence that the figures were state property. They were finally returned to the Belgian dealer; the Nigerian government decided against appealing the decision (which could have resulted in the Belgian dealer being sentenced for handling stolen goods; see Leyten, 2004, for a detailed description).

The State Inspectorate had 135 files covering the 1995-2003 period; 130 of these concerned suspected cases of illegal import, export or transit. The files were created when standard Customs inspections uncovered art and antique objects whose origins or destination were unclear or about which officials suspected intentional illegal trade or fraudulent transport documents. Ultimately, Tjihuis studied 105 files on cases of actual/suspected illegal import. In half of these cases, the objects involved came from Asia (specifically Thailand and China) and in a fourth from Africa (Ghana and South Africa). Of the 105 cases, 41 involved serious illegal practices; in other words, the cultural goods involved were protected in their source country *and* they had been imported illegally according to international legislation.

Tjihuis reached a number of conclusions after studying the files concerning the actual/suspected import of cultural goods. Except for a few rare cases, he found no evidence of a link between the illegal art trade and drugs trafficking, as is so often assumed. The same applied to theft ordered by collectors and the use of stolen artwork to launder money gained in drugs trafficking. What did appear to have a major impact on the illegal art and antiquities trade was war/civil war in the source countries.

Tjihuis links the illegal art trade to a model of interfaces between legal and illegal actors in the transnational crime arena.<sup>5</sup> Although the model is extremely complex, a number of features are worth mentioning here:

- “One category of interface that is quite common in the art trade is not provided for in the typology of transnational crime. It is the interface between ‘internal’ thieves and their environment. Internal thieves are individuals who have special access to museums, private collections, libraries, excavations and other places where art and antiquities are clustered. This new category of interface is known as the ‘facilitating interface’.”
- “The transformation from illegal to legal in the illegal art and antiquities trade can be understood by applying the ‘lock model’. The transformation of stolen antiquities is usually less complex because antiquities generally do not have an individual owner and often cannot be traced back to a particular source country with any certainty. The various source and market countries differ enormously in terms of their legislation, investigation efforts and degree to which art and antiquities are registered. Thanks to these differences, many stolen objects will

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<sup>5</sup> It is beyond the remit of this report to explain Tjihuis’ model of transnational crime and its various typologies and interfaces here.

ultimately find their way back to the legitimate trade. The latter is one of the main reasons why thefts continue to occur and why the illegal trade persists.”

The researchers talked to several respondents (representing the trade, museums, investigators) about the nature and scale of the illegal trade in cultural goods in the Netherlands. One important point to consider, in their view, is that many dealers – but in particular the investigation services – are unfamiliar with the rules that apply in the Netherlands for the import and export of cultural goods. For many, the dividing line between legal and illegal is simply not clear. It is therefore very easy for those who wish to abuse the law to do so without drawing attention to themselves. Several respondents felt that the opportunity for illegal trading to/from the Netherlands had increased in recent years because the illegal art trade was no longer a priority for the Dutch police/Customs. The fear is that the investigation services have lost a great deal of knowledge in this field.

The respondents claimed that the worldwide trade in cultural goods had grown enormously in the past twenty years. In their opinion, however, to the extent that there was any illegal trade in cultural goods in the Netherlands at all, it was pursued by low-profile criminals. They thought it unlikely that the Netherlands had any large-scale, organised illegal trade in ethnographic or archaeological objects. There were two reasons for their believing this. First of all, the Netherlands does not play a role of any note in the international trade in ethnographics and archaeological objects. Secondly, the internal market is much too small, both in absolute (number of objects traded) and financial terms. There are only a small number of connoisseurs.

Several informants claimed that the Netherlands does play a role as a transit country in the illegal trade. Objects plundered from archaeological sites in Iraq, Afghanistan, India, China and other countries are said to be shipped via the Netherlands for logistical reasons. These objects are then shipped by road or air to British, French and American destinations.

### **Ethnographic museums**

In the world of ethnographic museums, curators and organisers of exhibitions combining various museum and private collections frequently come across objects that may have entered the Netherlands illegally. It is therefore absolutely vital to investigate the provenance of an object thoroughly upon purchase or loan.

Museums may also find themselves dealing with crime in the case of gifts; criminals gain a tax advantage this way and at the same time are able to legitimise objects.<sup>6</sup> Giving a cultural object to a museum on loan can also be an advantage for individuals with dubious motives. By being included in an exhibition, an object “acquires” provenance, making it easier to sell legitimately later on.

When a crime is discovered, museums generally call in Interpol, as most of their objects are or have been acquired abroad. Interpol recently launched a project called *Object ID*. Its purpose is to ensure that cultural objects are properly registered in their country of origin. In other cases, the museum may call in the State Inspectorate for Cultural Heritage or Customs, usually if the case goes no further than doubts and suspicions. Ethnographic museums report ten to twelve suspect cases a year to the State Inspectorate.

The SVCN Ethics Committee compiles catalogues of the collections held by Dutch ethnographic museums. The affiliated museums are obliged to provide an annual list of the objects they have acquired and disposed of in the course of the year. In the case of worrisome conduct, the museums will be asked to explain their actions. Beyond expulsion, however, the committee cannot impose many real sanctions.

Dutch ethnographic museums also subscribe to the code of ethics published by the Dutch Museum Association (NMV). The code – which dates from 1991 and was amended in 2007 – includes rules concerning the acquisition of collections. The following was recently added to the code: “Museums must do their utmost to ensure that the object they are acquiring has not been exported illegally”. This statement shows that the museum world now thinks differently about art theft and plundering, and that the trade in looted goods is roundly condemned.<sup>7</sup>

The Code of Ethics Committee (ECC) – not to be confused with the SVCN’s Ethics Committee – advises the NMV on ethical matters. The committee may decide to investigate matters further at its own discretion or at the request of a party within or outside the association. Once again, however, this committee too cannot impose any sanctions beyond expulsion. Rulings by the ECC are published, leading to a process of “naming and shaming”. A number of key informants felt the code was

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<sup>6</sup> That this is a plausible route was demonstrated recently in the United States, where very strict legislation was adopted concerning gifts to museums.

<sup>7</sup> This has also led many museums to question whether they acted carefully enough in the past. Some Dutch museums now draw explicit attention to the topic of the illegal trade in cultural goods, for example by displaying objects that have a “tainted” commercial history but whose original owner cannot be traced.

unclear as to who bears final responsibility for the acquisition of illegal cultural goods. They believe that the code's provisions are too vague on that point.

### **Monitoring**

The State Inspectorate for Cultural Heritage, Collections Department, monitors the preservation and management of cultural heritage, not only in the Netherlands (Cultural Heritage Preservation Act [*Wet tot behoud van cultuurbezit*]), but also in the other member states of the European Union. Thanks to the elimination of Europe's internal borders, protected cultural goods can be transported from one country to another without being noticed. The Inspectorate works closely with the Tax and Customs Administration/Customs in this respect. The two authorities share one administrative system for dealing with export permits for cultural goods. Both organisations also monitor exports of cultural goods in cross-border traffic. Their cooperation was confirmed in 2000 in the form of a framework agreement.

The European Union introduced legislation protecting the national cultural heritage in 1993. The purpose of the legislation is to prevent the loss of cultural goods. There are two laws: European Council Regulation (EEC) 3911/92 of 9 December 1992 on the export of cultural goods and European Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects removed from a territory of a Member State. Whoever wishes to export objects in excess of a particular value and age outside the European Union (EU), either temporarily or permanently, requires a permit. Such permits may be refused when the objects concerned are cultural goods considered to be part of a member state's legally protected cultural heritage. Chapter 5 will look more closely at this legislation.

Carry-on luggage and air mail shipments to destinations beyond the external borders of the EU are inspected for the import/export of cultural goods.

Such inspections can then be carried out at the port or airport of arrival or upon departure for abroad. In the latter case, the inspection is related to Customs's duty to prevent certain goods from entering/leaving the Netherlands/the EU.

### *Customs*

Customs at Schiphol Airport has one expert who specialises in the import/transit of protected cultural goods and the relevant legislation. This official is the first point of contact for many customs officers who have found suspect objects in a passenger's baggage/carry-on luggage



and is asked to advise an average of ten times a week. In most cases, there is nothing suspect about the objects concerned (in other words: nothing not covered by the Customs Regulation or not provided for in international treaties). Approximately ten times per year, the question turns out to be more complex, however. The State Inspectorate for Cultural Heritage is then called in; it, in turn, orders experts to study the objects being held by Customs. If they turn out to be protected cultural objects, they are confiscated and a report is filed against the carrier.

In addition to illegal import/transit, goods may also be exported illegally from the Netherlands. Basically, anyone submitting an export declaration for a cultural object subject to permit could commit an offence. The export of cultural goods takes place throughout the year in connection with exhibitions (museums, arts foundations, private owners and art dealers). The auction houses tend to export such objects in the spring and autumn (Customs Information Centre 2002).

Customs comes across the following categories of crime related to the export of cultural goods:

- export of a cultural good subject to permit without a permit;
- permanent export of a cultural good that may not, by definition, be exported permanently.

If one of the two categories applies, then the declaration is either incorrect or missing or the conduct of the declaring party is calculated. If the declaration is incorrect, it is usually because the value reported is too low, keeping the object below the value threshold set in the Customs Regulation. It also happens that the goods concerned are incorrectly described. In addition, the objects may be reported as being of a more recent date than they actually are, or the logos of respected institutes (museums, universities) may be abused.

If the declaration is missing, that generally means that a permit has not been applied for. Declarations are sometimes not submitted in the following situations: cultural goods among household effects that are being moved abroad; transport in carry-on luggage; transport by parcel post; transport in a private aircraft; exchange of goods for temporary export; and concealment.

Calculated conduct means taking advantage of a situation at Customs, with or without a declaration; for example, submitting a declaration at a time when Customs is understaffed, or submitting a declaration to a Customs post that is inexperienced in dealing with cultural goods.

The respondents estimated the scale of the illegal export of Dutch cultural goods via ports and airports as minimal. In the vast majority of cases, an application for an export permit is submitted to the State Inspectorate. Interviews with customs officials revealed that few irregularities are observed at Schiphol Airport.

It is, however, possible that the unlawful export of cultural goods takes place via other border crossings.

### **Future**

Key informants anticipate that organised crime related to protected cultural objects will increase. The reasons given were the large amount of money that can be earned, the – as yet – small chance of being caught, the relatively mild sentences, and the recent enlargement of the EU.<sup>8</sup>

According to a number of respondents, the enlargement may have implications for the cultural heritage of the new member states. Not only will the number of cultural objects increase and be enriched thanks to cultural diversity and the exchange of ideas, but the safety of cultural objects will be placed at risk. Many cultural objects in the new member states and in non-EU countries in Europe are not registered. Despite huge investments in the security of their eastern borders, inspections at the external borders of these new member states are often inadequate.

In order to tackle the illegal import and transit of cultural goods in Europe more effectively, most of the respondents thought that a central registration system was vital. Mentioned explicitly in this connection was the option of joining existing national and international databases such as the ICOM, the Art Loss Register and so on. Despite the growing media and government attention, many of the informants thought that the problem was largely being ignored in both the source countries and among the Dutch investigation and intelligence services. The result was that monitoring and supervision were inadequate. In addition, it was clear that even existing organisations set up to preserve the cultural heritage have neither the capacity nor the opportunity to consistently and vigilantly “put the brakes” on the illegal trade.

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<sup>8</sup> This concerns ten countries in Central and Eastern Europe, Cyprus and Malta. The recent accession of Bulgaria and Romania to the EU is specifically expected to lead to an increase in the illegal import/export of cultural goods.

## 5. ENFORCEMENT

This chapter discusses law enforcement in the art and antiques trade. The first section reviews the relevant international, European and Dutch legislation. Section two looks at the legal measures involved. The chapter closes with a description of current enforcement practices, including a discussion of the various organisations involved and their activities.

### 5.1 International and Dutch legislation

There are rules and regulations pertaining to art and antiques at international (conventions and treaties), European and national (Dutch) level. The aim of these rules is to prevent and combat the trade in stolen goods and to protect national cultural objects. In the following we look at the relevant international treaties and conventions, European legislation, and Dutch laws and regulations, in that order.

#### **International law**

The *UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict*<sup>1</sup> was concluded in 1954. This treaty is better known as the Hague Convention. Concluded on 14 May 1954, it and its accompanying Protocol concern the protection of both immovable and movable cultural property in the event of armed conflict. The Protocol specifically concerns movable property; its aim is to prevent cultural goods from being exported from an occupied region during periods of armed conflict, and to ensure the return of any such goods that have been exported.

Dating from 1972, the *UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage*<sup>2</sup> also concerns cultural property (at least in part), but does not provide directly for the protection of such property against illegal trade or its return to the country of origin. That is why it will be disregarded here. In addition, the Netherlands and the Flemish Community of Belgium have concluded a bilateral treaty governing their mutual cooperation in view of their common language and culture. This treaty will also be disregarded in here.

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<sup>1</sup> *Treaty Series of the Kingdom of the Netherlands 1955*, 147.

<sup>2</sup> *Treaty Series of the Kingdom of the Netherlands 1973*, 155.

### *1970 UNESCO Convention*

The *UNESCO Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property*<sup>3</sup> (hereafter: the 1970 UNESCO Convention) was concluded in Paris in 1970. It was founded on the notion that cultural property constitutes one of the basic elements of civilisation and that every state has a moral obligation to respect its own cultural heritage and that of all nations. The protection of cultural heritage can only be effective if organised among states working in close cooperation. This convention provides the signatory states with means of preventing the illicit import and export of cultural property, and obligates them to protect such property. The convention applies to objects covered by the term “cultural property”. For the purposes of the convention, “cultural property” means property that has been specifically designated by a state as being of importance for archaeology, prehistory, literature, art or science.

In addition, the property must belong to one of the categories listed in Article 1 of the convention. These include rare collections of flora and fauna, the products of archaeological excavations (clandestine or regular), paintings, and so forth.

The convention imposes certain obligations on the signatory states. For example, every state must set up one or more national services whose tasks include contributing to the formation of draft laws and regulations in this field, maintaining a list of protected property, and seeing that publicity is given to the disappearance of any items of cultural property.<sup>4</sup> They must also introduce an appropriate certificate specifying that the export of the cultural property in question is authorised, and prohibit the export of cultural property from their territory unless accompanied by such a certificate.<sup>5</sup> Other obligations include preventing museums from acquiring cultural property that has been illegally exported, and, at the request of another state, returning objects illegally imported.<sup>6</sup> Right now, 110 states are party to the convention. The Netherlands has not ratified the convention yet, but does intend to do so.<sup>7</sup>

### *Malta Convention*

In 1992, the Council of Europe adopted the *Convention on the Protection of the Archaeological Heritage of Europe*, usually referred to as the Malta Convention or the Valletta Treaty. According to Article 1(1)

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<sup>3</sup> *Treaty Series of the Kingdom of the Netherlands 1972*, 50, *Treaty Series of the Kingdom of the Netherlands 1983*, 66.

<sup>4</sup> 1970 UNESCO Convention, Article 5.

<sup>5</sup> 1970 UNESCO Convention, Article 6.

<sup>6</sup> 1970 UNESCO Convention, Article 7.

<sup>7</sup> *Parliamentary Documents II*, 2003/04, 29 314, no. 8.

of the convention, its purpose is to protect the archaeological heritage as a source of European collective memory and as an instrument for historical and scientific study. Movable objects are also considered part of the archaeological heritage.

The parties to this convention undertake to institute a legal system for the protection of the archaeological heritage. The system is to include an inventory of the state's cultural heritage and the prevention of any illicit excavation by applying procedures for authorisation and supervision. Another obligation is to inform the competent authorities in the state of origin of any offer suspected of coming either from illicit excavations or unlawfully from official excavations. This article also obliges each party to ensure that museums do not acquire elements of the archaeological heritage suspected of coming from uncontrolled finds or illicit excavations or unlawfully from official excavations. The Netherlands signed the convention in 1992 and ratified it in 1998 by means of special legislation. The basic principles of the convention have been transmuted in the Archaeological Conservation Act [*Wet Archeologische Monumentenzorg*], which entered into effect in February 2007.

#### *UNIDROIT Convention*

UNIDROIT (*International Institute for the Unification of Private Law*) is an intergovernmental organisation asked by UNESCO to study the international protection of cultural objects (Gimbrère 1997). The study led to the *UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects* (hereafter: UNIDROIT Convention), concluded in Rome in 1995. The convention contains rules governing the return of cultural objects that have been stolen or exported illicitly.

The convention defines cultural objects as those which are of importance for archaeology, prehistory, history, literature, art or science and belong to one of the categories listed in its Annex. Some examples of categories are: articles of furniture more than one hundred years old and old musical instruments, postage stamps, manuscripts and coins. The convention provides for such matters as time limitations and fair and reasonable compensation for returned objects. The Netherlands signed the treaty in 1996 but has not yet ratified it. A letter from the Government to the Lower House of the Dutch Parliament reveals that the aim is no longer to ratify the UNIDROIT Convention but rather the 1970 UNESCO Convention.<sup>8</sup>

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<sup>8</sup> *Parliamentary Documents II*, 2003/04, 29 314, no. 8.

### **European legislation**

The European Council adopted *Regulation 3911/92/EEC* so as to ensure that exports of cultural goods are subject to uniform controls at the Community's external borders. The regulation applies to cultural goods, meaning all goods listed in the Annex to the regulation. The regulation requires an export licence for the export of goods outside the customs territory of the Community, and provides for supplementary rules concerning that licence. In addition to this regulation, the Council also adopted *Directive 93/7/EEC*, which provides for the return of cultural objects unlawfully removed from the territory of a member state. The directive lays down rules and procedures for such return.

The war in Iraq has led to the disappearance of an especially large number of cultural objects. Restrictions have therefore been placed on any trade in Iraqi cultural goods. The purpose of these restrictions is to facilitate the safe return of cultural objects to Iraq. That is provided for by European Council Regulation 1210/2003 of 7 July 2003 concerning specific restrictions on economic and financial relations with Iraq.

### **Dutch legislation**

Dutch legislation provides various rules and provisions pertaining to cultural goods and relevant to art and antiques-related crime. The associated private law provisions can be found primarily in intellectual property law, copyright law and resale law. These rules protect the titleholders and not the work itself. In addition, there are also various civil law provisions concerning cultural property. *Book 3, Article 86a of the Dutch Civil Code [Burgerlijk Wetboek, BW]* states that the transfer of ownership of a cultural object covered by Directive 93/7/EEC or the *Cultural Heritage Preservation Act [Wet tot behoud van Cultuurbezit, WBC]* from an unauthorised seller to a bona fide buyer cannot be regarded as a valid transfer of ownership.

The concept of acquisitive prescription [*verkrijgende verjaring*] is also important, as laid down in *Article 3:105 of the Dutch Civil Code*. Civil law makes a distinction between the owner of an object and its possessor. Someone who steals an art object or acquires it in bad faith (*mala fide*) may well be its possessor, but not its owner. Under civil law, the *mala fide* possessor – the thief – may nevertheless acquire ownership of the object at a certain point in time pursuant to the notion of acquisitive prescription. The point at which the *mala fide* possessor acquires ownership of the object coincides with the point at which the original owner's legal title to the object lapses (is prescribed). The original owner's title lapses after twenty years, as provided for in *Article 3:306 of the Dutch Civil Code*. The reasoning behind this combination of provisions is that legal certainty is required in public transactions.

Previously, even though the titleholder's claim to an object had lapsed, the possessor of the object never became its official owner.

As a result, after the title had lapsed, it was no longer possible to enter into any lawful transactions involving the object. To prevent this and to ensure that the object's legal status would, in due course, come to match its actual status, the notion of acquisitive prescription was introduced. These provisions basically apply for all goods; however, for goods regarded as cultural objects within the meaning of Directive 93/7/EEC or as protected objects pursuant to the *Cultural Heritage Preservation Act*, Articles 3:310a and 3:310b of the *Dutch Civil Code* provide for longer prescriptive periods (30 or 75 years).

Title 13 of the Dutch Code of Civil Procedure [*Wetboek van Burgerlijke Rechtsvordering*] has five provisions interpreting Directive 93/7/EEC. The relevant articles provide for the way in which a claim must be submitted, the documents that must accompany a summons, the powers of the central authority designated in the directive, and the costs and determination of ownership after the object is returned.

It is in public law that we find the most important rules concerning the protection of cultural goods. The Cultural Heritage Preservation Act describes which objects are designated as protected objects. The details are given in the Preservation of Cultural Heritage Decree [*Besluit Behoud Cultuurbezit*], which lays down rules about placing objects on the list of protected goods. Pursuant to the Act, protected objects may not be auctioned, disposed of, encumbered, leased, given on long-term loan or, in the partition of an estate or division of community property, be assigned to a non-resident of the Netherlands without such intention being reported to the inspector.<sup>9</sup> In addition, the Act prohibits the export of certain categories of objects outside the territory of the European Union. The inspector, officials appointed for this purpose by Ministerial decree, and customs officers of the Tax and Customs Administration are charged with enforcing the provisions of the Act. The Cultural Heritage Preservation Act gives the officials charged with enforcement a number of special powers.

European Council Regulation 1210/2003 concerning specific restrictions on economic and financial relations with Iraq has been implemented in the Netherlands in the *Iraq Sanctions 2004 II* [*Sanctieregeling Irak 2004 II*]. The trade restrictions do not apply to objects exported from Iraq

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<sup>9</sup> The "inspector" being the State Inspectorate for Cultural Heritage [*Erfgoedinspectie*], previously the Cultural Property Inspectorate [*Inspectie Cultuurbezit*].

prior to 6 August 1990. Objects returned to Iraqi institutions constitute another exception.

In addition to rules of law directly intended to protect cultural property and art and antiques, there are other such rules assigning powers to investigate art and antiques-related crime. These rules are discussed in the following section.

### **Effectiveness of legislation and regulations**

In order to assess the effectiveness of enforcement, we should begin by surveying the specific aims of the relevant enforcement measures. Official documents relating to the legislation discussed above do not make reference to any intended enforcement results, either in qualitative or quantitative terms. A framework agreement concluded between the ministries involved lists and assigns the enforcement duties and powers, but the only targets mentioned are procedural ones. There is no list of priorities given (in terms of subject matter).

Interviews with various informants revealed that they do not regard the legislation as entirely water-tight. The two most important conventions in this field – the 1970 UNESCO Convention and the UNIDROIT Convention – have not been ratified by the Netherlands.

A ratification procedure is under way for the first convention. The Government does not intend to ratify the UNIDROIT Convention, arguing that its scope is too broad, that it does not protect bona fide third parties as possessors, and that ratification may put a considerable amount of pressure on the judiciary. In addition, very few countries have actually ratified the UNIDROIT Convention.

Our informants indicate that crime in this area is a cross-border affair and that it would be well for the Netherlands to hurry up and ratify the 1970 UNESCO Convention at the very least; some also believe that the UNIDROIT Convention should also be ratified. They do not believe it is necessary to offer third parties a large measure of protection in this area. Most of the respondents representing the trade are familiar with the UNESCO Convention rules. Many dealers are confused about the state of affairs concerning the UNIDROIT Convention. A few art dealers were able to provide the name of the convention, but could tell nothing more about it. Most also did not know that the Netherlands had signed the convention in 1996 but has not ratified it.

Most of the respondents representing the trade see the need for legislation and regulations in the art and antiques trade. Some, however, feel that matters are overly regulated. Most of the respondents believe



that the UNESCO Convention is a good treaty. The interviewees were clearly less positive about the UNIDROIT Convention. Many specifically said that it would be impossible to reverse the burden of proof, as the Convention prescribes. If this provision were to be strictly applied, noted some of the respondents, fairs and even exhibitions abroad would be virtually impossible.

Various staff members interviewed sent mixed signals with respect to the effectiveness of European legislation. One informant referred to “symbolic legislation”. His biggest complaint about the directive is that it was only effective between *states*. A private individual can only recover cultural property stolen from him if the state of which he is a citizen is prepared to request the property’s return. Evidence for the directive’s ineffectiveness can also be found in the limited number of times it has been invoked. Some respondents representing the trade indicated that the rules applying in certain sub-sectors and certain countries did not match up logically. For example, in Italy and Spain fossils are classified under the fine arts, with all the relevant restrictions on their trade, whereas that is not the case in other countries.

In terms of Dutch law, none of the interviewees saw much point in the notion of acquisitive prescription. Works of art are unique objects and are not only of financial value, but also of art-historical, archaeological and/or emotional value. To the lawful owner, a work of art is irreplaceable because it is a unique object. If a lost object is found again after many years, it should be returned to the original owner. An additional factor is that people tend to hang on to works of art for a relatively long period of time and the work generally retains its value for many years. These properties, combined with the notion of acquisitive prescription, make art into potentially interesting booty. After all, the *mala fide* possessor – the thief or receiver – is not required to do anything other than be patient. He can hide the work of art away for twenty or thirty years and then claim ownership. The notion of acquisitive prescription is therefore a bonus for art thieves – or, as one of the interviewees put it, it turns stolen art into a single-premium insurance policy.

## 5.2 Legal measures

The Dutch investigation and enforcement authorities are accorded various powers that enable them to carry out their duties properly. This section discusses various national rules and provisions that play an important role in battling art and antiques-crime. We cover the *Disclosure of Unusual Transactions (Financial Services) Act* [*Wet MOT*], the *Customs Act* [*Douanewet*] and the *Economic Offences Act* [*Wet op de Economische Delicten, WED*].

### **Disclosure of Unusual Transactions (Financial Services) Act (*Wet MOT*)**

The Disclosure of Unusual Transactions (Financial Services) Act [*Wet Melding Ongebruikelijke Transacties (Wet MOT)*] was enacted to prevent money laundering. The Act obliges service providers to report unusual financial transactions to the Unusual Transactions Disclosure Office [MOT]. The financial services covered by the Act are limited. Insofar as relevant here, the term “services” in the Act refers to “the sale within or from the Netherlands of vehicles, vessels, art objects, antiquities, gems, precious metals, jewellery, jewels or other objects of major value to be designated pursuant to a general administrative order [*algemene maatregel van bestuur*], as well as mediation in such sales”. In order to determine whether a transaction is unusual, various indicators are provided by general administrative order (pursuant to Article 8 of the Act). Dealers in valuable objects (including art objects) are obliged to report a transaction to the Unusual Transactions Disclosure Office if:<sup>10</sup>

- they report a transaction to the police or the courts in connection with money laundering;
- they conclude or mediate in a transaction in which an art object is sold and paid for entirely or partly in cash, with the cash amount paid being EUR 15,000 or more;
- they conclude or mediate in a transaction of which there is reason to assume that it may be connected with money laundering or the financing of terrorist activities.

The Disclosure Office may ask the dealers for additional information. Pursuant to Article 19 of the Act, the person reporting the transaction and other individuals who supply the Disclosure Office with information or who receive information from the Disclosure Office are obliged to maintain secrecy. The Act protects the person reporting an unusual transaction from being the subject of an investigation based on that

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<sup>10</sup> Ministry of Finance, *Vereenvoudiging indicatoren Wet Melding Ongebruikelijke Transacties*, [www.minfin.nl/mot](http://www.minfin.nl/mot).

report. The person reporting is also not liable for any damage suffered by third parties as a result. Institutions or persons who do not comply with the obligation to report unusual transactions, with the request to supply the Disclosure Office with additional information, or with the obligation to maintain secrecy may be instructed to develop internal procedures and controls and to train their staff accordingly. The Minister of Finance may also impose a penalty or administrative fine if these provisions are infringed. *Article 5:32* of the *Administrative Law Act [Algemeen Wet Bestuursrecht]* applies in such cases.

### **Customs Act [*Douanewet*]**

The provisions of the Customs Act [*Douanewet*] apply to import and export duties. The Act imposes various obligations on those who run a business in the Netherlands. These include keeping proper administrative records and making their company's financial accounts available for inspection. It is up to the inspector to check compliance with the statutory provisions.

In order to do so, the inspector is granted broad powers. For example, the inspector is authorised to inspect certain building areas, vehicles and the goods they contain, to enter homes without the inhabitant's permission, to take samples, and to conduct bodily searches. In addition, the inspector may call in the police and the military constabulary and is empowered to use violence in specific instances. Finally, the inspector is authorised to attach and sequester certain goods. Section 6 of the Customs Act covers the criminal law provisions. The longest prison sentence that can be imposed is six years; the largest fine that is permitted is a "fifth category" fine or no more than the undercharged duties imposed at import, whichever amount is higher. In addition to the Customs Act, customs officials also refer to the Economic Offences Act [*Wet op de Economische Delicten, WED*] and the Cultural Heritage Preservation Act [*Wet tot behoud van Cultuurbezit, WBC*].

### **Economic Offences Act**

The Economic Offences Act makes the infringement of provisions in other laws punishable offences. Of relevance in this connection is that the infringement of specific provisions in the Import and Export Act, the Cultural Heritage Preservation Act<sup>11</sup> and the Disclosure of Unusual Transactions (Financial Services) Act<sup>12</sup> are designated as economic

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<sup>11</sup> Pursuant to Article 1(2) of the Economic Offences Act, this concerns Articles 7, 8, 9, 14a and 14b of the Cultural Heritage Preservation Act.

<sup>12</sup> Pursuant to Article 1(2) of the Economic Offences Act, this concerns Articles 9, 10(2), 19, and – insofar as criminal acts are concerned – the provisions of Article 11 of the Disclosure of Unusual Transactions (Financial Services) Act.

offences. *Article 5 of the Economic Offences Act* states that offences are considered infringements unless committed deliberately. A deliberate act or omission is a crime. The penalty for crimes covered by *Articles 1(1) and 1a(1) of the Act* is a prison sentence of at least six years, community service, or a “fifth category” fine. If the offences are regarded as infringements, the penalty is imprisonment for a maximum of one year, community service, or a “fourth category” fine. Crimes not covered under *Articles 1(1) and 1a(1) of the Act* are subject to a prison sentence of no more than two years, community service or a “fourth category” fine. If an infringement has been committed, the penalty is imprisonment for a maximum of six months, community service, or a “fourth category” fine. The Act provides for an increase in the fine if the value of the goods involved in the offence exceeds a quarter of the maximum pecuniary fine.

In addition, the Act provides for a number of additional penalties and measures. *Article 8(1)* allows for all measures set out in Title IIA of the first book of the Dutch Criminal Code to be imposed as well. Title IV of the Act includes various provisional measures that can be taken against the suspect. Title III is entitled “...About the Investigation” and sets out the powers of the investigators. *Article 17(1)* identifies the officials empowered to investigate economic offences. These are the officials listed in *Article 141 of the Code of Criminal Procedure [Wetboek van Strafvordering]* (public prosecutors, police officials and, in certain cases, officers and NCOs of the Royal Military Constabulary and other military personnel), other officials to be designated by the Minister, and customs officials. These investigators have a considerable number of powers, including the authority to attach goods, request documents, enter any location, take samples and search vehicles. The provisions of the Code of Criminal Procedure also apply to investigations of economic offences, insofar as this Act or the rules referred to in *Articles 1 and 1a* do not deviate from those provisions.

### **Case law, casuistry, sanctions**

A study of the case law reveals that the courts have handed down only a small number of relevant decisions. Some of these decisions involved “normal” cases of theft or handling stolen goods, with the loot consisting partly of art or antique objects.

In two of the cases, art and/or antiques dealers were prosecuted for not maintaining a register of unusual transactions. The sentences were three and two months imprisonment respectively and, in both cases, a EUR 5,000 fine.

In one case, the suspect was a museum curator accused of removing old prints, books and paintings from the museum where he was employed in order to sell them to friends and shop owners. He was also suspected of having cut or ripped out pages of rare old books. The court found the suspect guilty and sentenced him to thirty months in prison, with a suspended sentence of eight months and a two-year probationary period. It also barred him from practising the profession of curator for six years.<sup>13</sup>

Another case involving a museum employee led to a great flap in the local media. In this case, the individual involved was a museum director who, by virtue of his position, knew what private parties owned which art and antique objects. He passed on the names and addresses of these people to several burglars, who proceeded to steal the art and antiques as well as other items. The museum director acted as the receiver (“fence”). The court found him guilty and sentenced him to three years in prison, with a suspended sentence of one year and a two-year probationary period. He was also required to pay one of the victims EUR 10,195 in damages.<sup>14</sup>

Based on the case law, the two cases described above appear to be mere incidents, with no evidence of organised crime. The researchers did not uncover any criminal proceedings against large, well-organised gangs. That does not mean that Dutch citizens have not been involved in art and antiques-related crime. The informants we interviewed referred numerous times to Dutch involvement in art and antiques theft abroad, in particular with respect to objects stolen from churches. Such thefts were thought to involve well-organised gangs of thieves. Articles published in *NRC Handelsblad*, a prestigious national newspaper, appear to support these allegations.<sup>15</sup> Dutch citizens who acted as receivers in France for objects stolen by gangs have been sentenced to several years’ imprisonment.

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<sup>13</sup> District Court of The Hague, 16 December 2003, public prosecutor’s office no. 09/900634-03, cause-list no. 0006.

<sup>14</sup> District Court of Leeuwarden, 22 July 2004, public prosecutor’s office no. 17/080055-04.

<sup>15</sup> K. Berkhout & J. Wevers, “Hoe Nederlanders Frankrijk leegroven”, *NRC* 14 October 2005.

## **Problems**

The interviewees appeared to be generally satisfied with the available investigation measures. They did not see any major problems in that respect. In particular, the Disclosure of Unusual Transactions (Financial Services) Act [*Wet MOT*] is regarded as an important tool for tracing money laundering practices. Our interviewees also suspect that the Act helps prevent money laundering, as major cash transactions must be reported.

One of our interviewees, a police official, indicated that he sometimes felt the police should have more extensive powers of attachment. According to him, it is not possible now to attach an object temporarily in order to determine its origins. Attaching the object prevents it from disappearing while it is being investigated. Customs, however, does have the option of attaching an object.

## **5.3 Enforcement practice**

There are a number of organisations that have the authority and the means to investigate art crime. They are: the police force, the Public Prosecution Service, Customs, FIOD-ECD, Europol and Interpol. We also consider international collaboration in this section.

### **Police force**

Between 1982 and 2001, the police force ran a unit specialising in art and antiques. This “art and antiques desk” was disbanded in 2001 and its tasks were transferred to one of the National Police Service Agency’s focus areas. The art and antiques desk’s duties are now covered by the domestic burglary area (handling stolen goods). According to the state secretary, the purpose of this transfer is “to emphasise the priorities set by the authorities with a view to reserving capacity and to act on these priorities via a project-based approach”.<sup>16</sup> By moving the subject of art and antiques to one of the Agency’s focus areas, the state secretary believes that it will be embedded within the Agency and that a balance will be created in the organisation between broad deployment and specialisation.

According to the interviewees, however, things are not working out quite the way the state secretary had imagined. The police force pays little or no attention to art and antiques-related crime. The Agency only

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<sup>16</sup> Letter dated 18 February 2002 by the State Secretary of Education, Culture and Science answering questions submitted by MPs Dittrich and Scheltema-De Nie.

tracks down art criminals on an incidental basis or by chance. The police do not see tracing art-related crime as a priority. There are many different reasons for this. For example, art crime is a victimless offence. At a time when the public is demanding more safety at home and on the streets, the authorities will not make art crime a priority. Police capacity and resources are being used in other fields. In addition, it takes specialist knowledge to investigate art-related crime, and that knowledge is largely lacking in the force and within the Agency. The little specialist knowledge that the police did possess virtually disappeared when the Agency's art and antiques desk was disbanded. At the same time, the regional forces lost a central point of contact for art-related crime. That means that when a regional force suspects that an art-related crime has been committed, it has virtually no easy way of calling in specialist expertise.

The art and antiques desk maintained a central database – known as the “KANS” database – of stolen art and antique objects. The disbandment of the unit also led to the shutting down of the database. Thefts are no longer registered separately but are added to the main police register. If a stolen object turns up in another province, there is a good chance that the relevant force will not recognise it and that it will therefore not be returned to its rightful owner. Both the Agency and the State Inspectorate for Cultural Heritage have recently become interested in reviving the national database. The state secretary has asked the State Inspectorate to work with the Agency on developing a new system, as the KANS database is now obsolete. Cases in France (OCBC) and Italy would provide important input. The existing EDISON registration system, a multi-lingual system that also records other categories of offences, may be a possibility. The advantage of this system is that the development costs are limited and that the Dutch police force is familiar with it. One problem is the lack of knowledge required to use it; two persons who used to work with the system are no longer employed by the Agency.

Other questions are: what objects should be registered (only stolen art or all important insured art) and who has the specialist knowledge to enter all the cases and objects into the system.

According to the Board of Chief Commissioners (2001, 2003), systematically introducing crime-inhibiting factors into social and economic processes can improve the efficiency of investigation and prosecution. Crime/recidivism can be prevented in this way. By employing a strategy of “Prevention”, the police aim to focus on the decision-making (motivation) and search (circumstances) phases of potential offenders. The assumption is that preventive measures will

produce good results. Problems are tackled not only by means of the criminal law, but also by deploying administrative (enforcement) measures. “Prevention” requires the involvement of parties other than the police. At the moment, however, this approach is not being used to prevent art theft and the illegal import/export of cultural goods.

In the present circumstances, the police are freeing up scarcely any time, manpower or resources to investigate art-related crime,<sup>17</sup> nor are there the necessary facilities, such as a central registration system or a contact person within the Agency. Finally, the police do not have sufficient knowledge of art and antiques. If they were to involve themselves more in art-related crime, then – in the view of the interviewees – it would be very important for them to do so in a way that guarantees the continuity of investigation. Stolen art objects sometimes only turn up on the market many years later. In order to identify these objects as stolen, the police must be persistent and never lose sight of the market and the sector.

### **State Inspectorate for Cultural Heritage**

The State Inspectorate for Cultural Heritage was founded on 1 November 2005, the result of a merger between four national government inspectorates (archaeology, archives, cultural heritage and historic buildings and monuments). The history of the State Inspectorate is reflected in its present organisational structure. At the moment, it is divided into four sectors: Archaeology, Archives, Collections and Historic Buildings and Monuments. The Inspectorate is part of the Ministry of Education, Culture and Science and its task is to monitor compliance with the rules governing the preservation, management and treatment of the Dutch heritage. The Collections sector is important within the context of this report. This sector monitors the preservation and management of the Dutch cultural heritage. It is responsible for monitoring the implementation of Regulation 3911/92/EEC and Directive 93/7/EEC, and cooperates with the Tax and Customs Administration/Customs within that context. If necessary, it can also ask the National Police Service Agency for assistance.

It is not entirely clear, even now, just how much capacity the State Inspectorate has available for performing the tasks entrusted to it. A capacity of 0.2 FTE per task is assumed. The State Inspectorate’s employees are trained in the management and preservation of museum collections. The Inspectorate also participates in activities run by the VIDE, the professional association for regulatory, inspection, enforcement and appraisal officials.

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<sup>17</sup> The police have, however, recently set up a national art theft work group; this group has not (yet) cooperated with other parties, as would be appropriate within the “Prevention” policy.



## **Customs**

Customs checks whether imported or exported objects comply with the relevant rules and regulations. There are a number of possible situations, for example:

cultural objects imported from non-EU regions, cultural objects imported from EU regions, exports of cultural objects that may not leave the country at all, or exports of cultural objects for which an export permit is required.

Objects from South America, Asia or Africa, for example, may enter the Netherlands without having a valid export permit issued in the country of origin. Customs notes that the objects are entering the country but can do nothing about it. The Netherlands does not prohibit the import of objects that have left another country illegally. If the case involves handling stolen goods, Customs then has a reason to conduct an investigation. Now that the Government intends implementing 1970 UNESCO Convention in national legislation, that will change. Customs will then be able to attach and return cultural objects that were taken out of another country illegally.

Customs must check whether objects intended for export may in fact be exported. Property designated as a cultural object may not leave the Netherlands at all. The elimination of internal borders in the European Union has made it more difficult to control the export of goods. It has become harder for Customs to investigate whether objects that may not be exported from the Netherlands in fact actually remain in the country. That is because the internal territory of the European Union has become larger. The number of countries has grown considerably, and with it the number of cultural objects and art and antiques that may not be exported.

All customs officials should have lists of objects protected in the various countries of the EU. In each inspection they carry out, they must ensure that the objects concerned do not appear on one of these lists. This is very difficult to do in actual practice, not only because the number of protected objects has increased, but also because customs officials are not knowledgeable enough to recognise such objects and assess their value.

It is also difficult to check whether exported objects are accompanied by a proper export permit. Customs must check whether the data and the value given on the export permit match the object intended for export, but the object is often sealed in a package. That alone makes it difficult to determine whether it is in fact the object described on the permit. It is

hard enough even when the object is not packaged, because assessing the value of cultural goods and art and antiques requires specialist knowledge that is in short supply at Customs.<sup>18</sup>

### **FIOD-ECD**

FIOD-ECD does not investigate art-related crime to any great extent. The teams that currently do so are the money laundering team and the intellectual property team. FIOD-ECD used to have its own in-house art expert, who was called in mainly to appraise objects, particularly important work in inheritance questions.

FIOD-ECD monitored the “major value dealers”<sup>19</sup> until 1 January 2007, when this work was taken over by Customs and the Tax and Customs Administration. The reason for the transfer was that the Tax and Customs Administration had decided to separate the tasks of monitoring and investigation. FIOD-ECD staff were transferred to Customs and the Tax and Customs Administration, where they continued their monitoring duties. During the conversion from the guilder to the euro, the Tax and Customs Administration visited businesses in various sectors, including forty art and antiques dealers, on the assumption that the conversion could have led to an increase in money laundering. The conversion offered an ideal opportunity to convert illegal cash guilders into legal euros. The Tax inspectors did not find evidence that cash was being laundered at that point in time. What they did find was records of payments made from countries known to be tax paradises. It is possible that money is being laundered in this way, but there was no follow-up investigation, mainly because until now, FIOD-ECD has not been willing to free up capacity for such an investigation. Investigating and combating art-related crime are not a priority for FIOD-ECD.

With respect to intellectual property, FIOD-ECD usually considers whether the offence concerned should in fact be investigated by FIOD-ECD; in its view, copyright law can also be enforced with reasonable efficiency via the civil courts. Because it is unclear who is responsible for prosecution, who should launch the investigation, and when a crime can be regarded as a civil offence, the civil law is often regarded as the most efficient channel for dealing with this category of crime.

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<sup>18</sup> Chapter 97 of the Customs Manual [*Handboek Douane*] concerns art objects, objects for collections and antiquities. Any object belonging to this category is not subject to import duties. Objects are often falsely reported to be art and antiques specifically in order to avoid import duties.

<sup>19</sup> The dealers identified in the Disclosure of Unusual Transactions (Financial Services) Act as dealers in valuable objects. These include art and antiques dealers.

But whether enforcement under the civil law is really a suitable method remains open to question. Copyright law only protects works of art temporarily, as the copyright in a work lapses after seventy years.<sup>20</sup> Many art objects are older than seventy years and are therefore no longer protected by copyright. In other words, copyright law offers only limited opportunity for enforcement. We are unaware of any decisions rendered by the civil courts awarding copyright protection to a third party. In the case of forgeries of old masters sold as the genuine article, for example, the charge is fraud. Under the civil law, the sale would be undone based on non-conformity or error. It is difficult to protect the maker or a third party via the civil courts because the copyright in the work has often lapsed and the forger or seller has disappeared.

FIOD-ECD has no idea of the scale of art and antiques-related crime. That is because it lacks the necessary information. Data on possible art and antiques-related crime is filed with the police, either in reports made to them or via their hotline. These data are not passed on to FIOD-ECD, however.

All in all, until now FIOD-ECD has not involved itself specifically in investigating art-related crime. It leaves the enforcement of copyright and intellectual property rights to the civil law. Customs and the Tax and Customs Administration have recently taken over FIOD-ECD's monitoring tasks. It does not regard combating art and antiques-related crime as a priority.

Even if other investigation partners make combating this category of crime a priority, that does not mean that FIOD-ECD will also do so. FIOD-ECD has its own method of reasoning and is not necessarily influenced by the priorities of other investigation services.

### **Interpol and Europol**

Interpol and Europol play a role in investigating and combating international art crime. Interpol facilitates cooperation between police forces worldwide and does not have its own investigation programme. Its activities are intended to support the national police organisations. It accords a special place to art and antiques-related crime. It is clear from publications and the register of missing art objects on its website that Interpol is involved in combating art crime. One of its main objectives is to make information on crime available. Unlike other categories of data, for example on stolen vehicles, information about stolen art can be accessed by the public via the Interpol website, so that parties other than police organisations can make use of this information.

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<sup>20</sup> Article 37 of the 1912 Copyright Act.

Europol has a different structure than Interpol. It is not an alliance of police organisations, but an enforcement agency headed by the European Council. Europol combats organised crime involving two or more EU member states. It bases its work on a set of priorities that, until recently, also included international art crime. However, the priorities have now shifted to human trafficking, drugs trafficking and counter-terrorism. It became clear in interviews that a decision has therefore been taken to reduce the capacity set aside to combat art and antiques-related crime.

### **International cooperation**

International cooperation between police forces is part of a system of mutual legal assistance in criminal matters. In many instances, cooperation consists of information-sharing without court intervention. In the EU, the Schengen Implementation Agreement and the EU legal aid agreement provide the main legal basis for international police cooperation. The main point of contact in the Netherlands for international mutual assistance in criminal matters is the International Legal Assistance Division in Criminal Matters [*Afdeling Internationale Rechtshulp in Strafzaken*, AIRS], which is part of the Ministry of Justice's Directorate for Legal and Operational Affairs.

A request for legal assistance is an official request by one country asking the authorities in another country to assist in a police investigation. The assistance can range from wire-tapping to arresting and questioning suspects. Investigative activities may only be carried out abroad if a request for legal assistance has been made.

One of the tasks of the National International Legal Assistance Centre [*Landelijk Internationaal Rechtshulpcentrum*, LIRC] is to see that requests for legal assistance originating with and addressed to the national and functional Public Prosecutor's Offices are dealt with. The Centre also functions as an international point of contact for parties abroad. Since 2001, it has worked with the LURIS computer system (LURIS = National Uniform Registration System for International Legal Assistance in Criminal Matters). The system keeps track of all requests for legal assistance. The main rule in the EU is that the local authorities may submit requests for legal assistance to one another directly without having to go through a central authority. Outside the EU, on the other hand, requests for legal assistance always go through the Ministry of Justice, with the International Legal Assistance Division in Criminal Matters (AIRS) as the point of contact.

The Public Prosecution Service is responsible for deciding whether or not to launch an investigation. It is unclear how requests for legal assistance from abroad are routed in art theft cases.

Parties abroad often do not know where to turn with their questions and requests for legal assistance in matters in which the Netherlands has invested heavily in recent years, for example the production and distribution of synthetic drugs (Neve et al. 2007). It is not always clear to them who the competent authority is in the Netherlands when it comes to legal assistance, and what role the relevant organisations play.

The lack of organisation and low priority given to such matters means that the Dutch have been unable to get cooperation with foreign and international investigation services off the ground. Other countries have made the investigation of art and antiques-related crime a priority and have even set up special investigation units for this purpose. Frequently cited examples are the *Comando Carabinieri per la Tutela del Patrimonio Culturale*, part of the Italian *Carabinieri* and the French police's *Office Central de lutte contre le trafic des Biens Culturels* (OCBC).

Both of these organisations have the manpower and resources to properly investigate art-related crime. They both have good track records and specialists at their disposal. The *Carabinieri* has a particularly large database of stolen cultural objects. Both organisations use publicity to achieve their targets and familiarise the general public with their work.

They also make efforts to work with the investigation authorities in countries in which cultural objects are discovered. As the Netherlands does not have a point of contact and does not conduct investigations, their cooperation with the Dutch is either very difficult or non-existent. Because European legislation requires the Netherlands to cooperate in the return of cultural objects to their country of origin, irritations sometimes arise. At times, when the investigation services are unable to make any headway, the Netherlands is put under political pressure to cooperate. One of our interviewees said that the international political pressure was itself a good reason to invest more seriously in the investigation of art and antiques-related crime. After all, the Netherlands has committed itself to cooperating in the return of lost cultural goods. In order to maintain satisfactory international relations, it should lend proper assistance when it receives such requests. The key idea is "reciprocity". The Netherlands should therefore carry out a proper investigation and designate an organisation to act as a point of contact.



## 6. REGISTERS

This chapter looks at the data contained in the registers of the Chamber of Commerce, the Justice Information Service, the Tax and Customs Administration, the Financial Intelligence Unit (FIU-Nederland) and the Art Loss Register, which the researchers used to obtain information on the art and antiques trade in the Netherlands. The first section describes the features of the art trade based on the Chamber of Commerce trade register, which contains data on all commercial enterprises, foundations and associations in the Netherlands registered with the Chamber. The second section discusses sector-wide data provided by the Tax and Customs Administration. In the third section, we use Chamber of Commerce data and information from the Justice Documentation System of the Justice Information Service (JustID) to analyse the antecedents of the owners and managing directors of commercial enterprises and other organisations operating in the art and antiques trade. The fourth section looks at the data on unusual transactions collected by FIU-Nederland, and concerns the financial conduct of persons with criminal antecedents. Section 5 looks at the relationship between crime and the Dutch art and antiques trade based on data from the Art Loss Register.

### 6.1 Chamber of Commerce

The Chamber of Commerce trade register contains data on all organisations in the Netherlands registered as commercial enterprises, foundations and associations. The Chamber of Commerce has its own sector classification system, which involves assigning organisations a code (BIK code). The coding system operates at multiple levels of detail. At the lowest (most basic) level, the codes consist of two numbers; at the most detailed level, they have six. Not every sector has six-figure codes.

The names of the owners/managing directors are reported for every organisation listed in the trade register.<sup>1</sup> Provided that changes are reported to the Chamber of Commerce correctly and in good time, it is possible to find out which persons own a share of a company or have a

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<sup>1</sup> Previous studies (FEC 2004) have shown that the trade register is not as up to date as it could be. We may therefore assume that some of the data used in the analysis is not entirely current.

seat on the management board of a foundation or association. The date on which they commenced in that capacity is also reported. The trade register also reports the extent to which they are authorised to represent the organisation in financial transactions.

Chapter 2 presented a table of the BIK codes assigned to the majority of organisations active in the art and antiques trade. The table is repeated below in slightly altered form.

Table 6.1 Data from Chamber of Commerce trade register (in numbers)

Sector	BIK code	Total*	Compa-nies	Associa-tions	Founda-tions
Distributive trade in other specific goods, n.l.e.	511807	436	436	0	0
Shops selling timepieces	524832	109	109	0	0
Shops selling art objects	524841	1,657	1,642	0	15
Shops selling prints	524842	53	53	0	0
Shops selling antiques (no furniture)	525011	1,299	1,299	0	0
Shops selling antique furniture	525012	483	483	0	0
Antiques auctions	748742	45	42	1	2
Other auctions	748743	102	95	0	7
Art galleries and exhibition space	92521	1,001	674	25	302
Museums	92522	1,299	99	87	1,108
<b>Total</b>		<b>6,484</b>	<b>4,932</b>	<b>113</b>	<b>1,434</b>

\* (update 3-10-06)

The National Public Prosecutor's Office has a virtually complete and up-to-date copy of the Chamber of Commerce trade register.<sup>2</sup> The smart@data application, developed by Radventure, makes it possible to manipulate the trade register data in various ways. The software can clarify the connections between natural and legal persons or between various legal entities. It can also reveal more indirect links, for example organisations that have the same registered office or correspondence address.

The researchers used smart@data to analyse information on organisations listed with the Chamber of Commerce under the BIK codes given above.

They analysed data on a total of 6,484 organisations (4,932 commercial enterprises, 1,434 foundations and 113 associations; see Table 6.1). The researchers then obtained a database with the names and addresses of all the organisations listed under the selected BIK codes. They also

<sup>2</sup> Until recently, the database used by the National Public Prosecutor's Office did not include "corporate group relationships", which were only added in late May 2007. The database is updated regularly.



obtained the names and birthdates of the more than 16,000 natural persons listed in the trade register as owners, managing directors or stakeholders of these organisations.

The researchers then studied the list of organisations more closely in order to understand the type of organisation listed under each BIK code. As they expected, several of the categories had only a very small number of relevant organisations. That was the case for “Shops selling timepieces”, “Other auctions”, “Museums”, and “Distributive trade in other specific goods, n.l.e.”. Virtually all the shops selling timepieces are jewellers i.e. watchmakers that chiefly sell timepieces other than antiques. The museums category has a very wide range of different museums. Most do not exhibit art or antiques and are therefore not active in the art and antiques trade. More than half of the “other auctions” are involved in art and antiques; the remainder specialise in other objects. The most obscure category is “Distributive trade in other specific goods”, which covers such a wide variety of different commercial enterprises that those related to art and antiques play only a marginal role.

Based on this information, the researchers decided that the organisations in the categories “Museums”, “Distributive trade in other specific goods” and “Shops selling timepieces” would not be included in the analysis of owners and managing directors.

They pared down their selection within the “Other auctions” category by checking whether the separate organisations are in fact active in the art and antiques trade. With respect to the random sample of managing directors/owners (described in greater detail below), the aim was to avoid contaminating the population, i.e. including persons linked to the organisation but not active in the art and antiques trade or listing persons more than once because they are involved in more than one organisation. The remaining categories have a total of more than 4,500 organisations with almost 6,300 owners/managing directors.

The researchers examined these owners/managing directors on a number of general characteristics. The average age of an owner/managing director in the art and antiques trade is 52.8. 12% have reached retirement age (66 years or older). The vast majority were born in the Netherlands (90.3%). The remainder were born in approximately eighty other countries, with Germany being the most common country of birth (1.3%), followed by the Dutch East Indies (0.7%), Indonesia (0.6%), the United Kingdom (0.6%) and Surinam (0.5%). A breakdown into sectors did not reveal any huge differences in country of birth, as the numbers are much too small.

Table 6.2 shows how many organisations in the art and antiques trade list the individuals concerned as owners/managing directors. 86% of these persons are listed with a single organisation, and 13% are owners/managing directors of two organisations.

Table 6.2 Number of organisations in which owners/managing directors are active

Number of organisations	n	%
1	5,383	85.6
2	785	12.5
3	93	1.5
4	22	0.3
5-8	7	0.1
total	6,290	100

## 6.2 Tax and Customs Administration

The Tax and Customs Administration registers contain data on the economic activities of natural persons and legal entities. They can also provide information on the economic relationships between natural persons and legal entities, for example based on personal undertakings or address details.

As a result of the new division of responsibilities between it and FIOD-ECD, the Tax and Customs Administration also has a database with tax information on all “major value dealers”. This covers data on more than 30,000 organisations classified by sector according to the Tax and Customs Administration coding system. All organisations (commercial enterprises, foundations and associations) that develop economic activities in the Netherlands are registered with the Tax and Customs Administration under a four-figure code. As is the case with the Chamber of Commerce trade register, there is no cluster of codes exclusively designating the art and antiques sector. Table 6.3 shows the categories assumed to relate primarily to organisations in the art and antiques trade.

The total number of organisations listed in Table 6.3 is somewhat larger than the number of organisations taken from the Chamber of Commerce trade register for analysis purposes (4,500). The minor discrepancy between the two (approx. 8%) supports our assumption that the organisations listed in the two registers are largely the same.

Table 6.3 Relevant sector codes from Tax and Customs Administration and number of organisation

Sector code	Description	Number
6214	Wholesale antiques	160
6215	Wholesale paintings	111
6592	Retail antiques	1,846
6593	Retail paintings	1,654
8716	Estate auctions	22
8717	Antiques auctions	22
8719	Auctions n.l.e.	62
9545	Art galleries	997
<b>Total<sup>3</sup></b>		<b>4,874</b>

Chapter 2 contains information from the Tax and Customs Administration on the breakdown of organisations in the art and antiques trade by legal form and overall turnover in the sector. The key data is repeated below in Tables 6.4 and 6.5.

Table 6.4 Classification of art and antiques trade by legal form

Legal form	number	percentage
Private limited companies	78	1.6
Foundations	142	2.9
Associations	13	0.3
General partnerships	153	3.1
Sole traders / other	4,551	92.2
<b>Total</b>	<b>4,937</b>	<b>100.0</b>

Source: Tax and Customs Administration, Central Holland

Table 6.5 Tax data on organisations in Table 6.3 categories

	number / euro	percentage
Total number of organisations	4,937	100%
Organisations with tax position > 0	3,570	72%
Total tax position in euros*	102,598,498	100%
Tax position largest 10% in euros*	80,274,937	78%
Average tax position in euros*	3,930	N/A

\* Based on the 3,570 organisations with a tax position of more than 0 euros.  
Source: Tax and Customs Administration, Central Holland

<sup>3</sup> The number reported in Chapter 2 (4,937), where we used the same categories, differs somewhat from the total given here. That is because we consulted the Tax and Customs Administration register at two different points in time.

### 6.3 Justice system data

The Justice Documentation System (JDS) is an important source of information on offenders. It is managed by the Justice Information Service (JustID). The JDS keeps track of suspects and the crimes they are suspected of committing, based on criminal proceedings. It maintains a register of individuals prosecuted by the Public Prosecution Service and information on how criminal cases have been concluded, for example with an irrevocable sentence or in a dismissal. It also contains information on cases that have not yet been concluded, for example those being considered by a court of appeal. Only individuals who have been prosecuted at some point by the Public Prosecution Service are listed in the JDS.

The researchers asked JustID for permission to look up the criminal records of persons registered as owners/managing directors for an organisation active in the art and antiques trade. Those records specifically concerned the crimes they were suspected of having committed, whether or not they were found guilty of those crimes, and the relevant sentences. The sentences are important because they give some indication of the seriousness of the crime committed.

#### Random samples

JustID is not able to compare and refine the data automatically in the way that smart@data is able to do with the Chamber of Commerce data. Based on a cost-efficiency analysis, it was therefore decided to ask for two selections of natural persons from the JDS. JustID first looked up the criminal antecedents of 1,000 randomly selected natural persons taken from the Chamber of Commerce trade register. After information had been received on these persons, 448 natural persons were selected from this group and their data sent to JustID.

Table 6.6 shows the number of persons in the two datasets. There were a total of 1,338 unique persons in the datasets; 890 of these only appeared in the first set only and 338 only in the second. 110 persons appeared in both datasets, bringing the overlap between the selections to 7% of the total number of persons. The results are explained below:

Table 6.6 Overlap between random sample 1 and sample 2

	n
Only in dataset 1	890
Only in dataset 2	338
In datasets 1 and 2	110
<b>Total</b>	<b>1,338</b>

### *Results of random sample*

The initial selection concerned a random sample drawn from all unique persons registered with the Chamber of Commerce as owners/managing directors of an organisation in the art and antiques trade. Of the 1,000 owners/managing directors in the art and antiques trade investigated by JustID, 218 appeared in the JDS. Of these 218 persons, 33 were involved only in criminal cases that were dismissed. Of the remaining 185 owners/managing directors involved, 92 (50%) were involved only in traffic violations.<sup>4</sup>

After applying the above selection criteria, it turned out that 907 owners/managing directors (91%) in the random sample analysed by JustID had not been found guilty of an offence, except for traffic violations (see Table 6.5). 9% had committed a relevant offence. It furthermore transpired that 7% of the persons in the random sample (66 persons) had committed a single offence, 2% (15 persons) had committed two offences, and 1% (12 persons) three or more offences. These 93 persons with criminal antecedents were responsible for a total of 112 different criminal offences.

Table 6.7 shows that 6% to 13% of the persons employed in each sector have committed multiple offences. In the antiques auctions sector, 40% of the persons in the random sample have committed a single offence. Only a small number of persons in the random sample are in fact active in this sector, however. Further statistical data analysis shows that there are no significant differences between the various sectors.

Table 6.7 No. of owners/managing directors of organisations in the art and antiques trade by sector and number of offences (excluding traffic violations)

No. of offences	Art galleries and exhibition spaces		Shops selling art objects		Shops selling prints		Shops selling antiques (no furniture)	
	n	%	n	%	n	%	n	%
0	310	93	249	90	17	94	231	90
1	18	5	21	8	-	0	17	7
2	4	1	3	1	-	0	5	2
3-5	2	1	1	0	1	6	4	2
6-8	-	0	2	1	-	0	-	0
<b>Totaal</b>	<b>334</b>	<b>100</b>	<b>276</b>	<b>100</b>	<b>18</b>	<b>100</b>	<b>257</b>	<b>100</b>

<sup>4</sup> Traffic violations include all infringements and offences leading to prosecution. Such violations do not include such things as illegal parking, double parking, driving through a red light and so forth.

Table 6.7 No. of owners/managing directors of organisations in the art and antiques trade by sector and number of offences (excluding traffic violations) (sequence)

No. of offences	Shops selling antique furniture		Antiques auctions		Other auctions		Total	
	n	%	n	%	n	%	n	%
0	93	88	3	60	4	100	907	91
1	8	8	2	40	-	0	66	7
2	3	3	-	0	-	0	15	2
3-5	2	2	-	0	-	0	10	1
6-8	-	0	-	0	-	0	2	0
<b>Totaal</b>	<b>106</b>	<b>100</b>	<b>5</b>	<b>100</b>	<b>4</b>	<b>100</b>	<b>1000</b>	<b>100</b>

Table 6.8 shows the breakdown of offences committed by persons in the various sectors by category of offence. As some persons have committed more than a single offence, the percentages in the table do not all add up to 100%. More than a fourth of the persons with criminal antecedents (27%) have committed an environmental offence. These include dumping rubbish illegally, contaminating surface waters and infringing the Flora and Fauna Act (endangered species of exotic plants and animals). Other common offences are violent crime (16%), crime against property (15%) and “other economic offences” (13%).

Some of the offences (committed by 16% of the persons with criminal antecedents) are not specified further, except that they are identified as crimes under the Criminal Code. A fifth (22%) of the persons involved were prosecuted for offences in the “other” category. These include violations of the Assay Act [*Waarborgwet*] and making a false statement under oath. When it comes to differences between the various sectors, the “art galleries and exhibition spaces” sector has a relatively large number of environmental offences (46%). There are no other striking differences between the sectors when it comes to the various categories of offences.

Table 6.8 No. of persons who have committed at least one offence per BIK code, broken down by category of offence (*multiple offences possible*)

	Art galleries and exhibition spaces		Shops selling art objects		Shops selling prints		Shops selling antiques (no furniture)		Shops selling antique furniture		Antiques auctions		Other auctions		Total	
	n=24		n=27		n=1		n=26		n=13		n=2		n=0		n=93	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%
Violence	3	13	6	22	-	0	4	15	2	15	-	0	-	0	15	16
Property	4	17	4	15	1	100	3	12	1	8	1	50	-	0	14	15
Destruction	-	0	3	11	-	0	2	8	-	0	-	0	-	0	5	5
Opium	1	4	5	19	-	0	2	8	2	15	-	0	-	0	10	11
Food & drugs	1	4	-	0	-	0	1	4	-	0	-	0	-	0	2	2
Environment	1	46	4	15	-	0	8	31	1	8	1	50	-	0	25	27
Weapons	-	0	1	4	-	0	1	4	2	15	-	0	-	0	4	4
Handling stolen goods	1	4	-	0	-	0	1	4	-	0	-	0	-	0	2	2
Criminal Code <sup>1</sup>	3	13	4	15	-	0	6	23	1	8	-	0	-	0	14	15
Ec. Offences <sup>2</sup>	3	13	3	11	-	0	2	8	4	31	-	0	-	0	12	13
Other	1	4	5	19	1	100	7	27	6	46	-	0	-	0	20	22

<sup>1</sup> Criminal Code: offences described in the Criminal Code.

<sup>2</sup> Ec. Offences: offences belonging to the category "other economic offences".

The researchers considered the seriousness of the offences, based on information on the sentences provided by JustID. They also looked at how recently the offences were committed. They began by selecting the persons with criminal antecedents in the random sample. The selection was based on offences that may be relevant within the art and antiques sector: handling stolen goods, embezzlement, theft, various categories of fraud, infringement of the Flora and Fauna Act and forgery. In addition, the researchers included individuals who had been sent to prison or given some other serious sentence. The most serious sentences related to offences under the Opium Act [*Opiumwet*]. Four persons in the selection had been prosecuted for such offences in the past four years, some of them more than once. In addition to a large fine, one offender was ordered to perform community service for a period of several months. Several people were also sentenced to community service and imprisonment for forgery, fraud and deception. Most of these offences were committed more than ten years ago. One person in the sample was ordered to perform community service and serve a four-month prison sentence in 2006.

Of the two cases involving handling stolen goods, one offence was committed in the past ten years; the guilty party was ordered to pay a fine. One person was found guilty of theft in the past ten years, and was likewise ordered to pay a fine. One person was found guilty of forgery, and another of falsifying trademarks. These offences were committed in 1999 and 2000 respectively. The individual found guilty of falsifying trademarks was ordered to serve time in prison; the sentence for “forgery” was restricted to surrender of the goods. Three persons violated the Flora and Fauna Act and its predecessor, the Endangered Exotic Animals Act, between 1998 and 2004. Two were ordered to pay a fine; the third, who has been accused of two offences, is still in court. Finally, one person was sentenced to several weeks in prison for importing prohibited goods. The offence was committed in 1994. The other offences committed by persons in the random sample may be regarded as less serious in nature and of lesser interest.

#### *Results of second selection*

After analysing the results of the random sample, the researchers selected a second group of natural persons based on a number of criteria and requested their criminal antecedents from JustID. The researchers used the following selective criteria: art dealers who advertise themselves on the Internet; Dutch art dealers who exhibit at major international fairs; and art dealers in a specific geographical area. The first category includes all art dealers found on the Internet within the context of the survey (described in Chapter 2). The second category consists of all Dutch art dealers who exhibited at PAN (2006) and/or TEFAF (2007). The third category is made up of all art and antiques dealers in the Amsterdam “Spiegelkwartier”, the largest cluster of art and antiques dealers in the Netherlands.

The main reason for investigating dealers who advertise on the Internet is that the Internet affords a certain degree of anonymity and obscurity. If it should turn out that an above-average number of dealers who sell goods online have criminal antecedents, that would indicate vulnerability to crime in the sector. The dealers who exhibited at PAN (2006) and TEFAF (2007) offer a good reflection of the upper segment of the trade, according to interviewees. By having JustID investigate this particular group, it becomes clear to what extent dealers in that segment have been prosecuted for offences. The “Spiegelkwartier”,<sup>5</sup> a neighbourhood in Amsterdam’s city centre, is home to the largest concentration of art and antiques dealers in the Netherlands. The neighbourhood was mentioned in various interviews in connection with possible dubious (trade) practices.

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<sup>5</sup> We restricted our investigation to postal code area 1018.



As shown in Table 6.6, the second selection consists of 448 persons. Table 6.9 shows the breakdown of these individuals into four categories (Internet, PAN, TEFAF and Spiegelkwartier). As 41 of the 448 persons can be found in two different categories, the numbers in Tables 6.9 add up to 489 rather than 448.

Table 6.9 Number of persons in selection 2, by category

	Number of persons
Internet	109
PAN	68
TEFAF	37
Spiegelkwartier	275
<b>Total</b>	<b>489*</b>

\*41 of the 448 persons appear in two different categories

Of the 448 persons in the second selection, 102 are listed in the JDS. Of these 102 persons, 32 were involved only in traffic violations. Of the 70 remaining persons, 17 were involved only in cases that were dismissed. If we leave out the cases that were dismissed and the traffic violations, we find that 53 of the 448 persons (12%) have committed one or more offences. This percentage is slightly higher than the percentage of persons in random sample 1 who committed at least one offence (9%).

Table 6.10 lists the number of offences per person, broken down by the category in which that person is active (by and large). There is a higher percentage of persons who have not committed offences in the TEFAF category than in the other categories, i.e. 92%. The lowest percentage of persons who have not committed offences is in the PAN category (87%), relatively speaking. The percentage of persons who have committed a single offence varies from 8% (Internet and TEFAF) to 12% (PAN). None of the individuals in the second selection had committed more than five offences.

Table 6.10 Number of persons in selection 2, by category and number of offences committed (excluding traffic violations)

No. of offences	Internet		PAN		TEFAF		Spiegelkwartier	
	n	%	n	%	n	%	n	%
0	96	88	59	87	34	92	244	89
1	9	8	8	12	3	8	25	9
2	1	1	1	2	-	0	5	2
3-5	3	3	-	0	-	0	1	0
<b>Totaal</b>	<b>109</b>	<b>100</b>	<b>68</b>	<b>100</b>	<b>37</b>	<b>100</b>	<b>275</b>	<b>100</b>

Table 6.11 shows the breakdown into categories of offences committed by perpetrators of one or more offences. As some persons have committed more than a single offence, the percentages in the table do not all add up to 100%. In the Internet category, thirteen persons have committed one or more offences. A third (31%) of this group was found guilty of a crime against property, and a fourth (23%) of possessing or dealing in weapons. In the PAN category, four of the nine persons (44%) who had committed one or more offences had been found guilty of handling stolen goods, whereas a third (33%) had committed an environmental offence. In the TEFAF category, three persons committed offences, one of which was a crime against property and the other two environmental offences. Of the 31 persons in the Spiegelkwartier category guilty of one or more offences, 13 (42%) were guilty of environmental offences. Four of the 31 (13%) were convicted of a violent crime and another four of handling stolen goods. Given the small numbers, it is difficult to compare the various categories with respect to the category of offence.

Table 6.11 Persons in selection 2 who have committed at least one offence, by category and category of offence (*multiple offences possible*)

	Internet		PAN		TEFAF		Spiegelkwartier	
	n=13		n=9		n=3		n=31	
	n	%	n	%	n	%	n	%
Violence	2	15	-	0	-	0	4	13
Property	4	31	1	11	1	33	3	10
Destruction	1	8	-	0	-	0	2	6
Opium	1	8	-	0	-	0	-	0
Food & drugs	-	0	-	0	-	0	-	0
Environment	2	16	3	33	2	66	13	42
Weapons	3	23	-	0	-	0	-	0
Handling stolen goods	1	8	4	44	-	0	4	13
Criminal Code <sup>1</sup>	1	8	-	0	-	0	3	10
Ec. Offences <sup>2</sup>	1	8	-	0	-	0	1	3
Other	3	23	1	11	-	0	6	19

<sup>1</sup> Criminal Code: Offences as described in the Dutch Criminal Code.

<sup>2</sup> Ec. offences: offences belonging to the category "other economic offences".

The researchers considered the nature of the offences, their seriousness and how recently they were committed, based on information provided by JustID. One of the convictions for handling stolen goods was pronounced in the past ten years. The offender was ordered to pay a fine. Six persons had at one time or another been convicted of theft, which belongs to the category "property offences". Almost all of the convictions date from more than ten years ago. In most cases, the

sentence was a fine; none of sentences involved community service or imprisonment. Two persons were ordered to pay large fines for joint burglary in 2000, and six received sentences in connection with fraud, embezzlement or forgery. Two of the five cases were recent (past ten years). In one case, the sentence was community service. In 1993, one person in the selection was ordered to pay a large fine in connection with tax fraud.

Many of the environmental offences committed by individuals working in the Spiegelkwartier were infringements of the Environmental Protection Act [*Wet Milieubeheer*], for example not complying with municipal waste bye-laws and engaging in prohibited acts involving environmentally hazardous materials/waste materials. All these offences were committed in the past ten years. Most of the guilty parties were ordered to pay a fine. One case involved a violation of the Flora and Fauna Act: trading in animals or plants listed as endangered species.

## **6.4 Unusual transactions**

One of the few practical sources that the researchers found for investigating the potential financing of criminal or terrorist activities is the Disclosure of Unusual Transactions register or (using its Dutch acronym) MOT register. As of 28 December 2001, all commercial cash transactions in excess of EUR 15,000 must be reported to the Unusual Transactions Disclosure Office. Table 6.12 below shows the number of unusual transactions disclosed (and registered) by the art trade itself since 2002, as well as the number of suspect transactions in this sector reported by FIU-Nederland.

The relatively large number of disclosures by the antiques trade itself in 2005 can be attributed to one individual who reported 59 of the 63 disclosures for that year. Most of these 59 transactions took place in 2003 and 2004; the antiques dealer concerned began to disclose them only in February 2005 and reported transactions retroactively at that time from previous years. A total of five transactions were classified as “suspect” within a period of almost five years. One of the suspect cases involves “smurfing”: depositing or withdrawing a sum of money that is deliberately lower than the disclosure threshold so as to avoid disclosure.<sup>6</sup> There are no known cases that can be linked specifically

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<sup>6</sup> The authorities took note of this private dealer because he had made multiple bank deposits on a single day. Other case descriptions involving unusual or suspect cases in the art world had to do with the following: owners of commercial enterprises who withdrew large sums of money from their accounts

with the financing of terrorist or criminal activities, either in the Netherlands or abroad.

Table 6.12 No. of disclosed unusual transactions registered in the MOT register, 2002 - Sept. 2006

	Antique trade		Art trade		Totaal	
	Unusual	Suspect	Unusual	Suspect	Unusual	Suspect
2002	1	0	22	0	23	0
2003	16	0	13	0	29	0
2004	15	0	15	3	30	3
2005	63	1	7	1	70	2
2006 (t/m sept)	16	0	1	0	17	0
<b>Totaal</b>	<b>111</b>	<b>1</b>	<b>58</b>	<b>4</b>	<b>169</b>	<b>5</b>

Source: *Jaaroverzicht Meldpunt Ongebruikelijke Transacties* / FIU-Nederland

#### *Involvement of art and antiques trade*

FIU-Nederland, a division of the National Police Service Agency, manages the MOT database.<sup>7</sup> An FIU-Nederland employee used the SQL-plus program to perform a number of calculations with a selection of 93 business owners/managing directors active in the Dutch art trade. These are individuals who have criminal antecedents (drawn from the first random sample described in section 6.3).<sup>8</sup> Together they run a total of 95 businesses (legal entities). Table 6.13 show the results of this extra analysis.

Table 6.13 Number of persons registered by FIU-Nederland in connection with an unusual or suspect transaction (2006)

	Legal entities (N=95)		Natural persons (N=93)	
	n	%	n	%
Unusual transaction	9	9	59	63
Suspect transaction	0	-	5	5

(sometimes as much as five such sums) in order to purchase an object; owners who withdrew cash in order to purchase other goods, for example an automobile; unusually large currency exchanges; an appraiser employed by an auction house who makes up fictitious buyers and sellers in order to disadvantage the auction house; and major transactions that should have been reported to the Unusual Transactions Disclosure Office but were not.

<sup>7</sup> The MOT database contains all disclosures of unusual transactions registered by FIU-Nederland (previously the Unusual Transactions Disclosure office).

<sup>8</sup> The personal names and names of companies were made available to FIU-Nederland for analysis purposes. After analysis, the name and address details were destroyed.

Nine businesses were registered in connection with unusual transactions in 2006. Of the 93 entrepreneurs involved, 59 persons were registered in 2006 (63%). None of the unusual transactions engaged in by legal entities were classified as suspect. Five of the 59 entrepreneurs (natural persons) were ultimately thought to have been involved in suspect transactions. The persons in the selection were involved in unusual transactions much more frequently than the businesses of which they are owners/managing directors. 5% of these unusual transactions were regarded as suspect by FIU-Nederland.

This information does not indicate why these natural persons were involved in such a relatively large number of unusual transactions, nor does it explain the discrepancy between that number and the number of disclosures involving with the related legal entities.

## **6.5 Art Loss Register**

The Art Loss Register (ALR) is the name of both a private organisation and the worldwide database of lost and stolen art and antiques that it manages. The ALR opened a branch in Amsterdam in 2006.

### *Reports*

The ALR receives approximately fifty reports of lost or stolen objects a year from the Netherlands. Each report concerns an average of five objects. These include reports by Interpol and Europol involving the Netherlands. Other sources are art dealers, insurance companies, national and local police forces, museums, galleries, department stores, private parties, churches and companies with corporate art collections. Items reported as lost or stolen are registered within 24 hours of the report being made.

Since the Dutch Criminal Intelligence Service (CRI) and its database of lost and stolen art were disbanded, the number of reports made by the Dutch police to the Art Loss Register has fallen considerably. The year the CRI database ceased to exist (2002), the Art Loss Register received 80% more reports from the police than in 2005 (thirty versus six). According to ALR employees, it would be naive to think that fewer art objects have been stolen since then. What is more plausible is that the police force is less aware of the possibility of registering lost or stolen art and that any priority it once gave to investigating art crime has largely dwindled away.<sup>9</sup>

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<sup>9</sup> Since opening its Amsterdam branch, the ALR has waged a major campaign aiming to draw the attention of the police, insurance companies, private parties,

Approximately half of the objects registered as lost or stolen are paintings. The other half are a mixture of objects from the other categories. This breakdown is comparable to worldwide registration.<sup>10</sup>

### *Cases*

After an object is registered as lost or stolen (either by a third party or by the ALR itself), the ALR will begin an active search for the object if it considers that there is enough evidence to investigate the circumstances. The ALR is currently working on more than one hundred cases involving the Netherlands or Dutch dealers. These cases can be broken down into: those concerning lost or stolen art in the Netherlands; cases abroad that involve the Dutch art sector; and cases in which the Netherlands is thought to be the transit country (Table 6.14).

Table 6.14 Information about the Dutch art and antiques sector in the Art Loss Register

	No.
Dutch cases	22
Foreign cases involving Dutch dealers	20-30
Cases in which the Netherlands is the transit country	60

Source: Art Loss Register, May 2007

The ALR was working on 22 cases in early May 2007 involving a direct link with the Dutch art trade. The cases can be divided into four categories: “Holocaust cases” or historical claims, i.e. objects stolen from a Dutch citizen or from the Netherlands; cases related to Dutch fairs; cases related to inspections of Dutch auction catalogues (including international auctions); and cases related to investigations by the Dutch police. The police usually call in the ALR when they come across objects whose owner cannot be traced immediately.

In most of the 22 cases, the relevant objects had once belonged to the Netherlands or a Dutch citizen. That is certainly so with respect to the historical claims. Cases arising from investigations of local auctions houses and national and regional fairs in the Netherlands also largely concern objects that had once belonged to the Netherlands or a Dutch citizens. A small percentage of the objects came from abroad. Most of the 22 cases concern theft; a few cases involve fraud, mainly insurance fraud. Cases of

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museums and other organisations to its service. The campaign led to an increase in the number of reports in 2006, with the ALR receiving twenty from the police alone.

<sup>10</sup> Analysis of the entire Art Loss Register reveals that the most common objects listed are paintings (47%), jewels (11%), timepieces (8%), sculpture (6%), ceramics (8%) and silverwork (5%). In the experience of the ALR, comparable percentages apply for the Netherlands.

fraud only reach the ALR when the object concerned is found to be registered in the ALR database as lost or stolen, or during the investigation following such a discovery.

The ALR was investigating a total of twenty to thirty cases in May 2007 involving objects abroad or in foreign hands that were linked to the Dutch market. For example, the object may have been offered to a Dutch dealer or sold at a Dutch auction or fair. Objects with problematic origins were relatively more frequent at the international auction houses with branches in the Netherlands or at fairs held in the Netherlands.

In approximately sixty of the foreign cases involving the ALR, the Netherlands played a role as a transit country. In forty of these sixty cases, the dealer or buyer involved had neglected to perform a due diligence; in other words, the object was transported via the Netherlands but the dealer or buyer could not demonstrate that it could be traded legally and that it did not have problematic origins. In other words, its provenance was not clear. Dutch law does not require a due diligence to be performed, but a buyer who is able to demonstrate that he or she has done so at the time of purchase will have stronger evidence if the object concerned has a problematic provenance.

## **6.6 Other registers**

The Foundation for Ecclesiastical Art and Artefacts in the Netherlands (SKKN) and the website [www.gestolenkunst.nl](http://www.gestolenkunst.nl) also maintain registers of lost and stolen art and antique objects. These are public registers that can be consulted on the Internet. The SKKN register contains objects stolen from ecclesiastical buildings since 1999 and lists a total of 66 separate objects. In a few cases, a single registration consists of a collection of objects (for example 310 silver spoons). The website [www.gestolenkunst.nl](http://www.gestolenkunst.nl) is a private initiative. It lists 98 cases, most of them dating from no earlier than 2001. The cases often involve multiple objects, with several hundreds of objects being listed in all. A small percentage of these objects have now been found. The researchers did not discover any overlap between the two websites. However, it is possible that an object listed on one of these sites is also listed as lost or stolen in the ALR.





## 7. CONCLUSIONS

The Organised Crime Prevention Programme (PPGC), which commenced in 1998 with the approval of the Ministry of Justice's Executive Board, runs projects exploring the extent to which a particular sector is vulnerable to criminal influences – a tool known as preventive criminal analysis. The analyses focus on economic sectors and sub-sectors that are assumed – based on publications and investigations – to be vulnerable to infiltration by the organised criminal world.

### 7.1 Research design

Bureau for research and consultancy INTRAVAL carried out a preventive analysis of the art trade between November 2006 and July 2007. The study consists of a survey of the sector and an analysis of its vulnerability to criminal infiltration, as well as a study of the relevant enforcement measures. The boundaries of the research area subject to actual “analysis” were determined on the basis of a literature review and lengthy interviews with key informants. An impression of the Dutch art and antiques trade was next obtained based on databases and interviews with individuals involved in the sector. A total of 36 interviews were conducted with 38 persons about the sector in general and for purposes of the analysis. In addition, 13 interviews were conducted with 17 individuals about enforcement options and efforts. The researchers also attended a number of auctions and fairs, for example PAN in Amsterdam and TEFAF in Maastricht, where they spoke to dealers, visitors and individuals representing the allied trades. In order to produce an accurate description of the trade, the researchers scanned various sources, including those provided by Statistics Netherlands (CBS) and the Chamber of Commerce (KvK), as well as the annual reports and publications of organisations in the sector.

The Chamber of Commerce trade register provided information on the number of companies per trade, sector and region. The Tax and Customs Administration provided data on turnover in the sector. FIU-Nederland supplied information on the sector's involvement in unusual transactions. The Justice Information Service (JustID) looked up the criminal antecedents of persons listed as owners/managing directors of organisations in the sector. The researchers used the smart@data application (District Court of Rotterdam) to obtain the names of the

owners/managing directors. They consulted the Customs Information Centre<sup>1</sup> about import and export violations.

Although the researchers acknowledge that the international dimension plays an important role in the art and antiques trade, they decided to concentrate on the trade in the Netherlands as practised by Dutch natural persons and legal entities. Although they did consider international relationships and connections, their quantitative analyses were restricted to the Netherlands. This is in keeping with the national bias of the PPGC.

The researchers also decided to focus on the categories art and antiques<sup>2</sup>, which the experts have indicated are the most vulnerable to crime.

Below we list the most important findings of the study, divided into the topics: survey of the sector; analysis of the sector; study of enforcement measures. Each section opens with the questions underlying the research activities and answered by the findings.

## 7.2 Survey

This section answers questions concerning the nature and size of the art and antiques trade in the Netherlands. The relevant research questions are:

- *How is the trade organised (structure, sub-trades, number of firms and employees by category and trade/sub-trade)? What is the financial significance of the art sector (turnover, assets, contribution to GNP and other key figures)?*
- *What firms are active in the sector and what networks (including cross-border networks) are they involved in?*
- *What is the status of umbrella organisations, consultants, informal investors, public and private art funds and shareholders? To what extent do mutual relationships, conflicts of interest, competition and foreign influences play a role?*

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<sup>1</sup> We were able to make use of Customs/Tax and Customs Administration data thanks to an agreement concluded between the Ministry of Justice and the Ministry of Finance.

<sup>2</sup> Regulation 3911/92/EEC identifies 15 categories of protected cultural goods. A list is provided in Chapter 2. The analysis focuses on the trade in paintings, antique artefacts, ethnographics and other antiquities.

### **Profile of the art and antiques trade**

We can divide the participants in the art and antiques trade into roughly three categories: buyers, sellers and intermediaries. Dealers can be active in each of these three capacities. The supply side also includes galleries and private parties. In addition to dealers, the demand side consists chiefly of private parties, museums, companies and organisations. The intermediaries are often auction houses and auction rooms, but Internet auctions are also becoming increasingly popular.

#### *Niches and circles*

The Dutch art and antiques trade is extremely heterogeneous. There are many larger and smaller niches in the trade, each of which has its own trading circles. The boundaries of the niches are defined by the nature of the commodity involved. The trade is also divided into segments; in other words, more or less separate segments have developed based on quality or reputation. This segmentation is more refined in pre-modern art and antiques than in contemporary art. The contemporary art market is almost entirely separate from the trade in pre-modern art and has its own trading circles.

Most niche markets and trading circles are dominated by a small number of participants. Everyone in the trade is familiar with all the various niche markets. Owing to their small size and internal transparency, the niche markets develop their own subcultures. The nature of the commodity means that competition can never be fierce.

The companies active in the trade generally tend to be entirely separate entities. There are virtually no chains and the individual companies generally have only a very small number of employees.

Many of the companies were founded dozens of years ago and have never changed hands. The two major auction houses, Christie's and Sotheby's, are exceptions to this rule: both are branches of worldwide organisations and have dozens of employees.

#### *Scope*

As in the case of the dealers, smaller auction houses operate mainly at regional or national level, whereas large auction houses are active internationally.

Many art and antiques dealers are active in the international market. The more prestigious a dealer and the more exclusive the objects he trades in, the more international his network. Insurers and transport companies also operate mainly in the international market. The art and antiques fairs TEFAF and PAN have worldwide reputations and draw visitors from around the world.

An unknown but probably limited number of individuals work as professional consultants in the art and antiques sector. These consultants assist private buyers and collectors. The sector questions this consultancy work because the advice is not provided openly. A potential conflict of interests cannot be ruled out. More research is required in order to understand how consultants or intermediaries influence the sector and what activities they actually perform.

#### *Trade representative organisations*

There is no general trade representative organisation for the art and antiques sector. There are various umbrella organisations uniting particular categories of dealers (or auction houses or museums). Compared with other sectors, the umbrella organisations play only a minor role. This may be due to the restricted size of the niche markets and the autonomy of the individual dealers/companies active in the sector.

#### **Key figures**

Data provided by the Tax and Customs Administration and the Chamber of Commerce show that there are between 4,000 and 6,500 organisations operating in the Dutch art and antiques sector. The Dutch art trade plays a role of some financial significance, although a small number of organisations are responsible for a major share of the sector's turnover. Based on information from the Tax and Customs Administration, the art trade's annual turnover is presumed to be between EUR 500 and 700 million.

### **7.3 Analysis**

This section answers questions concerning the infiltration of crime, whether or not organised in nature, in the Dutch art and antiques trade.

The research questions are:

- *What areas of the sector are vulnerable to infiltration by organised crime and its financing (theft, illicit trafficking, forgery)? To what extent has the trade already been infiltrated?*
- *To what extent is the illicit art trade used to launder criminal gains or to finance terrorist activities? How efficiently can the sector be used for money-laundering purposes and as a source of financing?*
- *How can the sector protect itself (more effectively) against organised crime by taking preventive measures?*

The worldwide art and antiques trade is vulnerable to crime for various reasons. Although many examples of theft, plunder, forgery and smuggling can be found in the international literature,<sup>3</sup> the emphasis in this study is on the Dutch art and antiques trade. For that reason, the vulnerability of the worldwide trade is only considered where it is relevant for the Dutch art and antiques trade.

The vulnerability of the Dutch art and antiques trade is discussed in greater detail below. The discussion is divided into three sub-topics. We begin by looking at three general features of the art and antiques trade. We then consider three features of the Dutch art and antiques trade. Where possible, we describe the first (general) set of features within the context of the Dutch market.

### **General art and antiques trade**

In general, the following features of the art and antiques trade make it vulnerable to crime:

- the large financial value of the individual objects;
- the sharp fluctuation in their market prices;
- the sensitivity concerning the provenance of art and antique objects.

#### *Valuable objects*

Objects of major value are, by definition, appealing to criminals. The top items in virtually every category of cultural good represent a major financial value. The objects also have an intangible value that cannot be expressed in monetary terms.

Nevertheless, it is an object's financial value that usually makes it susceptible to crime. Fraud (perpetrated by means of forgery and theft) is not unknown in the art and antiques trade. Many objects are easy to transport and hide because of their small size, making them attractive to thieves. Various objects traded in the art and antiques market are also reasonably easy to fake.

The international Art Loss Register lists approximately 180,000 lost or stolen art and antique objects. The largest category is paintings (47%). The security for many objects is limited, as interviews with museum representatives revealed. Numerous objects have been stolen from churches and public parks in recent years; most of these objects were not subject to any form of security.

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<sup>3</sup> See, for example, Tjihuis (2006), Van Beurden (2001), Brodie (2000) and Leyten (1995).

Thieves and receivers have a better chance of succeeding if buyers in the legal market are unlikely to recognise stolen objects as such. Every once in a while a top item is stolen and held for ransom, rather than it being sold on. Criminals stand a better chance of selling forgeries when buyers do not have the expertise to establish the authenticity of the object. Forgeries are relatively more common in modern and contemporary art than in the other categories.

Data provided by JustID shows that the number of owners/managing directors of commercial enterprises and organisations in the sector who have been prosecuted for crimes against property (such as theft) is not especially large. The same is true for the percentage of owners/managing directors sentenced in connection with offences under the Economic Offences Act (WED). The relevant owners/managing directors in specific categories of the sector do not differ significantly from those in the overall population.

#### *Fluctuating market prices*

The art and antiques trade is an excellent example of a sector in which the market is unpredictable, mainly owing to the capriciousness of buyers.<sup>4</sup> It is difficult to determine market prices objectively, and that means that prices can fluctuate wildly without rousing suspicion.

In interviews, representatives of the sector mentioned several examples in which the sale prices of art and antique objects were manipulated. It is assumed that manipulating the market value of objects makes money laundering possible. Criminals may also manipulate the value of objects to facilitate other types of misappropriation, for example tax evasion and fraud.

A random sample taken from the JustID registers shows that only a relatively small percentage of owners/managing directors in the sector have ever been prosecuted in connection with misappropriation of funds, fraud or a related offence.

FIU-Nederland's Unusual Transactions Disclosure Office does not receive many reports from art and antiques dealers: only a few dozen a year. A few of these were labelled "suspect" in recent years, but this represents only a very small share of the total number of suspect transactions in the Netherlands. At the same time, however, FIU-Nederland data show that of the owners/managing directors with criminal antecedents, more than half had been reported to the Unusual

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<sup>4</sup> A rapid increase in the demand for artwork by a particular artist or school may lead to more forgeries and sales of forgeries, for example on the Internet.

Transactions Disclosure Office in 2006 in connection with an unusual transaction. In only a small percentage of these cases was the transaction suspect.

Only a small number of cases is thought to have involved money laundering. Whether this assumption is correct cannot be determined conclusively. Given the limited level of enforcement within the art trade, we cannot rule out the possibility that the incidence of fraud and money laundering is much higher.

#### *Provenance issues*

International conventions and codes of conduct upheld by umbrella organisations describe the circumstances in which various categories of art and antiques may be sold. It is, however, difficult to objectively assess the risk that an object has been stolen or exported illegally, leaving it open to multiple interpretations. That is one area in which the trade is highly vulnerable.

The literature review and interviews have revealed that protected cultural objects are illegally imported into the European Union on both a structural and an incidental basis. In the first instance, objects are imported by criminal networks for the Western market; in the second, tourists take small quantities of objects with them from abroad. Those involved comment that the illicit Dutch market for ethnographic and archaeological objects is relatively uninteresting for criminals. Files and archive material provided by Customs and the State Inspectorate for Cultural Heritage do not indicate that cultural goods are imported directly into the Netherlands illegally on a large or ongoing scale.<sup>5</sup>

Although concern is growing at international level about the care taken with respect to the origins of cultural objects, the Netherlands has yet to set strict rules for establishing a proper provenance.

The new ICOM Code for museums does not lay down any mandatory rules and it is generally assumed that the trade imposes even fewer restrictions on itself in actual practice. There are, as yet, no practical codes of ethics for art dealers that could help combat crime.

In addition to illegally imported cultural goods, there is also the trade in stolen art and antiques. There are various databases (worldwide) of lost or stolen art and antiques; the Art Loss Register is the best known of

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<sup>5</sup> Readers should bear in mind that these files mainly cover items that Customs “happened” to have come across, as customs officers do not check specifically for art and antique objects.

these. Many dealers do not, however, check such registers regularly to see which objects are listed as lost or stolen. That is why stolen art and antiques sometimes crop up in the legal market. A relatively rapid succession of sales and purchases can obscure the tracks of the original receiver and thief. Such a series of transactions may therefore indicate criminal infiltration.

A random sample drawn from the JustID registers shows that only a small number of persons active in the art and antiques trade have been convicted of handling stolen goods, certainly in recent years.

### **The sector in the Netherlands**

The following features make the Dutch art and antiques trade vulnerable to crime:

- limited external regulation;
- lack of adequate registers;
- international trade activities.

Before discussing these features, the following should be noted: few of our findings support the theory that the Dutch art and antiques sector has been infiltrated by crime/organised crime. The Dutch art and antiques trade clearly does not have the right profile to attract the kind of criminal who wishes to make a quick pile of money easily.

#### *Limited external regulation*

There is very little legislation applying specifically to the art and antiques trade. For the most part, the trade and its business practices are regulated mainly by the parties in the sector. Although self-regulation helps maintain standards and hence to prevent crime, it also has an inherent vulnerability. The small clusters of individuals and companies that share common standards may easily grow into subcultures that tolerate infringements of the law or of sector-wide codes of conduct. That risk is particularly great when the sector or subsector shares a common interest. Moreover, an external regulator usually has access to more enforcement tools and sanctions than the sector does.

Most dealers and representatives of auction houses believe that the sector in which they are active takes satisfactory crime-prevention measures. That is not an opinion shared by all those interviewed, however. The incidents raised in various interviews make clear that the sector is not entirely successful at staving off crime.



### *Lack of registers*

The Netherlands is much less interested in registering lost and stolen art and antiques than many other European countries. A fairly large percentage of Dutch art and antiques dealers never or hardly ever consult existing international registers of lost and stolen art (Art Loss Register, Interpol register, the ICOM's Red List). Because they do not know what objects have been lost or stolen, many dealers are oblivious to the stolen objects circulating in the market and therefore cannot take action.

A number of private initiatives have been launched in the Netherlands in recent years promoting the registration and publicising of stolen art objects. These initiatives are relatively limited in scope, however. The Art Loss Register recently opened a branch in Amsterdam, leading, in part, to a rise in the number of lost and stolen objects registered in the Netherlands. There is no ongoing attempt to link this information to police data, however, and that often makes registration ineffective.

### *International trade activities*

The Netherlands is frequently cited in the literature as a transit country for criminals. It is thought that it also plays that role in art and antiques-related crime. The interviews conducted in this study and the register data investigated have not demonstrated that the Netherlands features more prominently as a transit country with respect to art and antiques than it does in other sectors. There are, however, a number of factors that stimulate the cross-border movement of valuable objects to and from the Netherlands.

The EU guarantees the free movement of goods within its territory. European dealers may import or export from any EU member state. As Amsterdam Airport Schiphol is popular with shipping companies that handle art and antiques, many imports and exports are ultimately transhipped via the Netherlands. It is difficult to reconcile the enforcement of international conventions and national legislation within the EU with the free movement of goods. Legislation often emphasises the national dimension, whereas there are no checks at the national borders within the territory of the Union.

Large quantities of valuable art objects are transported to the Netherlands for TEFAF and other art fairs, and countless transactions are concluded within the borders of the Netherlands during such events. They are subject to strict supervision, but the volume of activity nevertheless increases the risk of incident.

Switzerland has different legislation than other European countries, making it an attractive place for European art dealers. It is assumed, for

example by our interviewees, that criminals regularly invest their illegal earnings in art and antiques in Switzerland. In that event, frequent trading with or via Switzerland would make the Dutch art and antiques trade more vulnerable to crime.

### **Criminal activity**

This section considers the relationship between criminals in the art and antiques trade and their environment. The following research questions apply:

- *What barriers do art thieves or receivers encounter that prevent their success in the art sector?*
- *How do criminal organisations interact with the community and social environment?*

The art and antiques trade has a number of features that may prevent criminals from making a lot of money easily. The main features are:

- the fact that top art and antique items are difficult to sell;
- the restricted nature of the established trade and the strict admission requirements;
- the fact that valuable objects are heavily guarded;
- the presence of documentation and registers of lost or stolen objects.<sup>6</sup>

Various parties interviewed had reservations concerning the security, documentation and registration of objects. Although the level of security is often better for art and antique objects than for other valuable commodities, and such objects are also more likely to be registered, these are aspects that could do with improvement in various cases. In particular, the lack of security and the failure to register protected cultural goods in Africa and Latin America gives criminals the opportunity to steal and sell them.

A skilful criminal will have an easier time earning money in other sectors. Specifically, the restrictions on the trade in stolen art will deter many potential criminals. But that is otherwise if a criminal intends to “ransom” an object or hold on to it for a lengthy period of time.

Criminals who sell or wish to sell or smuggle art and antiques must be active in the legal market. In many cases, they will therefore require accomplices operating in the sector. In the case of the illegal cross-border trade in cultural goods, the accomplices may be museums or art

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<sup>6</sup> This is true of the “top” items, but less so of other objects.

dealers. It is also possible for customs or other officials to be bribed, or for dealers (even well-known ones) to be put under considerable pressure.

It is almost impossible to reach any general conclusions about the relationship between criminals and the art and antiques trade. What we can say is that various categories of objects are vulnerable to crime owing to the limited amount of protection afforded them and their relatively high sale value. The more objects are registered and the smaller the geographical playing field (or market), the less likely it is that criminals will succeed. For that reason, the Dutch trade in art and antiques is less vulnerable than the international market. Registration and enforcement, however, are not so effective that they will crush any art crime that does occur.

## 7.4 Enforcement

The research questions below concern the methods used to combat crime in the art and antiques trade. The questions refer to the legal measures used and the work of the investigation organisations.

- *What legal measures are currently available to combat the import/smuggling of illegally imported and/or exported cultural goods, and how effective are they?*
- *How effective are the government's monitoring and enforcement efforts in the sector, given the risks revealed by the analysis?*

### Legislation and regulations

There are rules and regulations concerning art and antiques at international (conventions), European and national (Dutch) level. The aim of these rules is to prevent and combat the trade in stolen goods and to protect national cultural objects. Interviews with various informants have revealed that they do not regard the legislation as entirely water-tight. The two most important conventions in this field - the 1970 UNESCO Convention and the UNIDROIT Convention - have not been ratified by the Netherlands. A ratification procedure is under way for the first convention, something that various respondents applaud.

In addition to international legislation, the Dutch investigation and enforcement authorities have various powers that enable them to carry out their duties properly. These are powers assigned to them under the Disclosure of Unusual Transactions (Financial Services) Act [*Wet MOT*], the Customs Act [*Douanewet*] and the Economic Offences Act

[*Wet op de Economische Delicten*, WED]. The interviews revealed that enforcement officials are generally pleased with the effectiveness of the available investigation measures. The Disclosure of Unusual Transactions (Financial Services) Act is regarded as an important tool for tracing money laundering practices. The art world does not report many unusual transactions, but a relatively large number of persons active in the sector appear in the FIU-Nederland databases in connection with unusual transactions.

### **Effectiveness**

Framework agreements between ministries and the national police policy do not set any specific enforcement targets. The only targets mentioned are procedural ones. It is therefore impossible to assess the effectiveness of enforcement against quantifiable targets.

Only moderate efforts are made to investigate art and antiques-related crime in the Netherlands and to enforce the law in this area. At the moment, art objects and criminals are tracked down and prosecuted by chance or because an individual officer has made a special effort to do so. There is no structural effort to investigate such crime, and “Prevention” and other such strategies are not applied with respect to art crime. There are many reasons for this, but across the board, the interviewees said the lack of priority was the primary reason. Because the investigation and enforcement organisations have turned their focus elsewhere, little is done to combat art and antiques-related crime. Indeed, such crime is also a low priority at international level. The Europol division specialising in art and antiques cases was recently disbanded.

The investigation of art and antiques-related crime is now divided up among a large number of organisations. Each of these has the authority and has been given the task of combating this category of crime. Since the National Police Service Agency closed down its art and antiques desk in 2001, there has been no main point of contact and referral. Dealers and other parties in the sector would be more prepared to report suspected crime if they had a single point of contact. At the moment, their willingness to file such reports is varied.

Another factor is that art and antiques is a speciality. Insofar as any expertise is still available since the art and antiques desk was abandoned, it is fragmented and divided up among various organisations. Proper investigation of art and antiques-related crime requires investigators to be well trained and entirely at home in this subject.

There is an information backlog of several years when it comes to registering stolen art and antiques, following the closure of the National Police Service Agency's database in 2001. The object data were taken over by the Art Loss Register at that point, but they are not used by the police or the justice system. There is hence no complete register of all lost and stolen art and antique objects in the Netherlands (or at least not any more). That makes it difficult to exchange information with other countries.

In the vast majority of the 500 cases in which Customs found what it presumed were cultural goods, the objects turned out to be fakes or did not have a problematic provenance. The State Inspectorate for Cultural Heritage is called in between ten and twenty times a year. In such cases, objects are held and an attempt is made to return them to their rightful owner. In a very small number of cases, Customs and the State Inspectorate ask enforcement officials to investigate the individuals involved in the illegal import of protected cultural goods. According to the Public Prosecution Service, these individuals are seldom prosecuted. The researchers were unable to determine the reasons for this.<sup>7</sup>

## **7.5 Final remarks**

Art and antiques are unique commodities. What makes them different from all other commercial objects is the intangible value that they can or do represent. The extent to which an object is assigned such a value is chiefly a subjective matter. A work of art may mean much more and be much more valuable to one person or people than to another. Nevertheless, art and antiques are also traded in a market – a worldwide market no less – and they are therefore subject to the law of supply and demand and, consequently, have a market value. At times the price of an object can rise precipitously precisely because there are buyers prepared to spend a great deal of money to own a meaningful object. Like other markets in which large sums of money circulate, the trade in art and antiques attracts criminals. Because such criminals can make a considerable profit – often at the expense of honest art aficionados – and, more importantly, because irreplaceable objects can fall into the wrong hands, society will benefit enormously by protecting the art and antiques trade against crime.

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<sup>7</sup> A number of the criminal records requested from the Public Prosecution Service turned out to have been destroyed.

Considered on its own merits, the Dutch art and antiques trade is not highly vulnerable to infiltration by organised crime. The sector's structure and the expertise needed to remain active in the market prevent criminals from easily making a profit. At the same time, art criminals run a relatively small chance of being caught. Enforcement organisations have other priorities, and the necessary capacity and expertise are therefore lacking. Although it is unlikely that the Dutch art and antiques trade is being used for large-scale money laundering operations, art thieves, forgers and importers of protected cultural goods often avoid punishment. There is no basis for arriving at a comprehensive approach – one that includes proper registers and a network of experts.

The low priority generally given to art and antiques-related offences also made it difficult to carry out this study. Data that would have been extremely valuable to the research were unavailable or incomplete. It also took enormous effort to get some of the organisations to cooperate. As a result, some questions remain unanswered and should be investigated in a follow-up study. The findings of this study can provide a point of departure for investigating the topics below:

- the number of protected cultural goods exported from/imported into the Netherlands and the European Union and the nature of such goods;
- the degree to which the Netherlands (and other EU countries) are used as transit countries for protected cultural goods;
- the number of lost and stolen art and antique objects in the Netherlands and the nature of those objects, including details of their disappearance;
- how effectively individuals suspected of illegally importing, exporting and trading in protected cultural goods are prosecuted in the criminal courts;
- the links between individuals suspected of large-scale financial/economic crime and the international/national art and antiques trade.

Finally, we wish to comment on the relatively minor role that national legislation plays in regulating the art and antiques trade. Both the trade itself and the key conventions are global in orientation. The differences in legislation and enforcement mean that the national governments lag behind.

## BIBLIOGRAPHY

- Askerud, P., E. Clément (1997)  
Preventing the Illicit Traffic in Cultural Property. A resource handbook for the implementation of the 1970 UNESCO CONVENTION. UNESCO, Paris.
- Beurden, J. van (2001)  
Goden, graven en grenzen. Over kunstroof uit Afrika, Azië en Latijns-Amerika. KIT Publishers, Amsterdam.
- Beurden, J. van (2002)  
Meest gestelde vragen over het UNIDROIT Verdrag. [www.josvanbeurden.nl](http://www.josvanbeurden.nl).
- Beurden, J. van (2003)  
Internationale regelgeving m.b.t. cultuurbehoud. Africa Asia Desk, Utrecht.
- Blondeau, T. (2003)  
Gezocht: meesterwerk, in: Mare ([www.leidenuniv.nl/mare](http://www.leidenuniv.nl/mare)).
- Boot, A.W.A., A.M. ten Wolde (1997)  
Witwassen in de kunsthandel, in: Justitiële verkenningen 23 (1), pp. 32-40, Quint, Gouda.
- Bouwman, W. (1995)  
The international art market, in: Leyten, H., *Illicit Traffic in Cultural Property, Museums against Pillage*, Amsterdam.
- Brodie, N. (2000)  
Stealing history. The illicit trade in cultural material. McDonald Institute for archeological research, Cambridge.
- Brodie, N., J. Doole, C. Renfrew (2001)  
Trade in illicit antiquities: the destruction of the world's cultural heritage. Oxbow, Oxford.
- Brouwer, N., C. Zijderveld (2003)  
De markt voor beeldende kunst en de financiële positie van beeldend kunstenaars 2001. Ministerie van OCW, Amsterdam.
- Cohen, L.E., M. Felson (1993)  
Social Change and Crime Rate Trends: A Routine Activity Approach, in: *American Sociological Review* 44, pp. 588-608.
- Corbey, R. (2000)  
Tribal Art Traffic. A Chronicle of Taste, Trade and Desire in Colonial and Post-Colonial Times. KIT Publishers, Amsterdam.
- Department for Culture, Media and Sport (2000)  
Ministerial advisory panel on illicit trade. Department for Culture, Media and Sport, London.
- Douane Informatiecentrum (without date a)  
CULRA eindversie (further information is lacking).

- Douane Informatiecentrum (without date b)  
De aard en omvang van de (illegale) handel in cultuurgoederen (further information is lacking).
- Douane Informatiecentrum (2002)  
Risicoanalyse cultuurgoederen (further information is lacking).
- Duyne, P.C. van (1999)  
Verdacht en doorgemeld. Een statistisch overzicht van drie jaar verdachte geldhandelingen. DCRI, Zoetermeer.
- Ellis, R. (1995)  
The Antiquities Trade: a police perspective, in: Tubb, K.W., Antiquities, Trade or Betrayed, Legal, Ethical and Conservation Issues, London.
- Ericson, R.V., K.D. Haggerty (1997)  
Policing the risk society. Clarendon Press, Oxford.
- Fase, M.M.G. (2000)  
Beleggen in kunst: een samenspel van geldelijke rendement en psychisch inkomen. De Nederlandsche Bank NV, Amsterdam.
- Frei, D., D. Ruloff (1989)  
Handbook of Foreign Policy Analysis. Methods for practical application in foreign policy planning, strategic planning and business risk assessment. Martinus Nijhof Publishers, Dordrecht.
- Gimbrère, S.M. (1995)  
Illicit traffic in cultural property and national and international law, in: Leyten, H., Illicit Traffic in Cultural Property, Museums against Pillage, Amsterdam.
- Gimbrère, S.M. (1997)  
Het Unidroit-verdrag. Over de internationale bescherming van cultuurgoederen, in: Justitiële verkenningen 23 (1), pp. 8-17, Quint, Gouda.
- Gubbels, T. (1999)  
Passie of professie. Galeriers en kunsthandel in Nederland. Uniepers, Abcoude.
- Gubbels, T., I. Janssen (2001)  
Kunst te Koop! Artistieke innovatie en commercie in het Nederlandse galeriebestel. Boekmanstudies/Mondriaan Stichting, Amsterdam.
- Heese, M.M.C. van (in press)  
Recent developments in the Netherlands after the conference Illegal Trade.
- ICOM (2001)  
Looting in Europe. One hundred missing objects. ICOM, Paris.
- Jouanny, J.P. (1995)  
Illicit Traffic of Cultural Property, in: ICOM, Illicit Traffic of Cultural Property in Africa, ICOM, Paris.



- Kleemans, E.R., M.E.I Brienens, H.G. van de Bunt (2002)  
Georganiseerde criminaliteit in Nederland. Tweede rapportage op basis van de WODC monitor. WODC / Ministerie van Justitie, The Hague.
- Korsell, L., G. Hedlund, S. Elwér, D. Vesterhav, A. Heber (2006)  
Cultural Heritage Crime - the Nordic Dimension. Report 2006:2. The Swedish National Council for Crime Prevention, Information and Publication, Stockholm.
- Kortekaas, J. (2005)  
Risikoanalyse georganiseerde criminaliteit. Uitwerking instrumentarium en toepassing op de ICT-ontwikkelingen. Elsevier Overheid, The Hague.
- KPMG Forensic accounting (2000)  
Proefproject doorlichting transportsector. Een verkenning in het kader van het Programma Preventie Georganiseerde Criminaliteit (PPGC). KPMG, Amstelveen.
- Leyten, H. (1995)  
Illicit traffic and the collections of Western museums of ethnography, in: H. Leyten, *Illicit Traffic in Cultural Property, Museums against Pillage*, Amsterdam.
- Leyten, H. (1995)  
International cooperation in the fight against illicit traffic, in: H. Leyten, *Illicit Traffic in Cultural Property, Museums against Pillage*, Amsterdam.
- Leyten, J. (2004)  
Nok beelden op de TEFAF 2000. Ongepubliceerde scriptie. Universiteit van Amsterdam, Amsterdam.
- Ministeries van Financiën en OCW (2004)  
Illicit traffic in cultural goods in the Netherlands. Research report. Ministeries van Financiën en OCW, The Hague.
- Neve, R.J.M., M.M.J. van Ooyen-Houben, J. Snippe, B. Bieleman (2007)  
Samenspannen tegen XTC. Eindevaluatie van de XTC-nota. WODC, The Hague.
- Parlementaire Enquête Opsporing (1996)  
Inzake opsporing. Eindrapport onderzoeksgroep Fijnaut, Tweede Kamer 1995-1996, 24072, nr. 16.
- Raad van Hoofdcommissarissen (2001)  
Misdad laat zich tegenhouden. Advies over bestrijding en opsporing van criminaliteit. Raad van hoofdcommissarissen, Projectgroep Opsporing, Amsterdam.
- Raad van Hoofdcommissarissen (2003)  
Tegenhouden troef. Een nadere verkenning van Tegenhouden als alternatieve strategie van misdadbestrijding. Raad van Hoofdcommissarissen, Projectgroep Opsporing, Amsterdam.

- Radcliffe, J. (2000)  
Attitudes to art crime. The Romantic versus the Realist, in: Trace Magazine, The Art Loss Register, London.
- Rappard-Boon, Ch.E. van, J.E.P. Leistra (1997)  
Kunst in den vreemde, Internationale verdragen ter bescherming van nationaal cultureel erfgoed, in: Justitiële verkenningen 23 (1), pp. 18-31, Quint, Gouda.
- Rottenberg, H. (1999)  
Meesters, marodeurs: de lotgevallen van de collectie Chardzjiëv. Mets, Amsterdam.
- Schutten, H. (2000)  
Kunstmaffia. Moord, diefstal, oprichting en witwaspraktijken in de kunstwereld. Meulenhoff, Amsterdam.
- Sibidé, S. (1995)  
Fighting pillage: national efforts and international cooperation, in: H. Leyten, Illicit Traffic in Cultural Property, Museums against Pillage, Amsterdam.
- Sjouke, P.S. (1999)  
Het behoud van cultuuroederen, twee werelden, twee visies. Ars Aequi Libri, Nijmegen.
- Snippe, J., B. Bieleman, H. Naayer, C. Ogier (2004)  
Preventieve doorlichting cannabissector c.a. St. INTRAVAl, Groningen-Rotterdam.
- Stille, V. (2006)  
Dutch chauvinism? Do Dutch national law and rules assist in the protection of cultural objects against theft and illicit trade, in: Art Loss Review 195, pp. 12-13.
- Stille, V. (2006)  
Het beschermen van cultuuroederen tegen diefstal en illegale handel in Nederland. Ongepubliceerde doctoraalscriptie. KCM Beeldende kunst, Groningen.
- Stoep, R. van der, J. Snippe, B. Bieleman (2007)  
Goed bedoeld. Preventieve doorlichting goede doelen-sector. St. INTRAVAl, Groningen-Rotterdam.
- TEFAF (2000)  
The European Art Market 2000. Market Tracking International Ltd, London.
- TEFAF (2002)  
Der Europäische kunstmarkt im jahr 2002. TEFAF, Helvoirt.
- TEFAF (2003)  
VAT and the European Art Market. TEFAF, Helvoirt.
- TEFAF (2004)  
Art market matters. TEFAF, Helvoirt.

- TEFAF (2005)  
The modern and contemporary art market. A study by Kusin & Compagny. TEFAF, Helvoirt.
- Tijhuis, A.J.G. (2006a)  
Transnational crime and the interface between legal and illegal actors, the case of illicit art and antiquities trade. NSCR, Leiden.
- Tijhuis, A.J.G. (2006b)  
Smokkel van cultuurogoederen, in: *Agora* 22 (3), pp. 19-21.
- Tubb, K.W. (1995)  
Antiquities, Trade or Betrayed, Legal, Ethical and Conservation Issues. Archetype Publications, London.
- Unger, B. (2006)  
De omvang van en het effect van het witwassen, in: *Justitiële verkenningen* 32 (2), Boom Juridische Uitgevers, The Hague.
- Vlies, I.C. van der (2005)  
De kunst en het recht. Over algemene publiekrechtelijke regels met betrekking tot kunst. Boom Juridische Uitgevers, The Hague.
- Watson, P. (1997)  
De zaak Sotheby's: kunstmokkel, prijsopdrijving, verdachte handel & andere praktijken. Met in de hoofdrol de Nederlander Roeland K., kunstexpert te Milaan. Kosmos-Z&K, Utrecht.
- Watson, P., C. Todeschini (2006)  
The Medici conspiracy. The illicit journey of looted antiquities from Italy's Tomb Raiders to the world's greatest Museums. Public affairs, London.

### **Periodicals and newspapers**

Algemeen Dagblad  
Art Newspaper  
De Morgen  
De Standaard  
De Volkskrant  
Het Financieele Dagblad  
Het Parool  
International Harald Tribute  
Kunst & Antiek Journaal  
Leeuwarder Courant  
National Post  
NRC Handelsblad  
Trace Magazine  
The Art Loss Review

### **Websites**

[www.2dehands.nl](http://www.2dehands.nl)  
[www.artloss.com](http://www.artloss.com)

[www.artnet.nl](http://www.artnet.nl)  
[www.cnac-gp.fr/musee](http://www.cnac-gp.fr/musee)  
[www.ebay.nl](http://www.ebay.nl)  
[www.erfgoedinspectie.nl](http://www.erfgoedinspectie.nl)  
[www.europol.com](http://www.europol.com)  
[www.exto.nl](http://www.exto.nl)  
[www.fatf-gafi.org](http://www.fatf-gafi.org)  
[www.gestolenkunst.nl](http://www.gestolenkunst.nl)  
[www.icom.org](http://www.icom.org)  
[www.ifar.org](http://www.ifar.org)  
[www.interpol.com/workofart/](http://www.interpol.com/workofart/)  
[www.josvanbeurden.nl](http://www.josvanbeurden.nl)  
[www.kunsthandel.nl](http://www.kunsthandel.nl)  
[www.leidsewetenschappers.leidenuniv.nl](http://www.leidsewetenschappers.leidenuniv.nl)  
[www.lootedart.com](http://www.lootedart.com)  
[www.lostart.de](http://www.lostart.de)  
[www.marktplaats.nl](http://www.marktplaats.nl)  
[www.michelvanrijn.nl](http://www.michelvanrijn.nl)  
[www.minfin.nl/mot](http://www.minfin.nl/mot)  
[www.museum-security.org](http://www.museum-security.org)  
[www.netkwesties.nl](http://www.netkwesties.nl)  
[www.pan-amsterdam.nl](http://www.pan-amsterdam.nl)  
[www.restitutiecommissie.nl](http://www.restitutiecommissie.nl)  
[www.speurders.nl](http://www.speurders.nl)  
[www.tefaf.com](http://www.tefaf.com)  
[www.unimaas.nl](http://www.unimaas.nl)

### **Video material**

Barend en van Dorp television show (2002)

Interview with Michel van Rijn. RTL4, Hilversum.

Conference on fighting illicit traffic in cultural goods within the European Union (2004)

Interview with Michel van Rijn. Ministry of Education, Culture and Science, The Hague.

Hot Art (2003)

Three-part documentary series. Discovery Channel.

Zembla television show (2003)

Art criminals: the theft of artworks in the Netherlands, inspired by recent major art thefts from the Van Gogh Museum, the Frans Hals Museum, the Rijksmuseum and the Museon. Vara, Hilversum.

Zembla television show (2006)

“Witwassen doe je zo.” [An easy guide to money laundering] Vara, Hilversum.

## LIST OF ABBREVIATIONS AND ACRONYMS

AAAD	Association of Art and Antique Dealers
AAPS	Association of Applied Paleontological Sciences
ALR	Art Loss Register
BIK	Chamber of Commerce company classification [ <i>Bedrijfsindeling Kamers van Koophandel</i> ]
GNP	Gross National Product
BW	Dutch Civil Code [ <i>Burgerlijk Wetboek</i> ]
CBS	Statistics Netherlands [ <i>Centraal Bureau voor de Statistiek</i> ]
CDIU	Central Licensing Office for Import and Export [ <i>Centrale Dienst voor In- en Uitvoer</i> ]
CINOA	<i>Confédération Internationale des Négociants en Oeuvres d'Art</i>
CJD	Central Legal Documentation [ <i>Centrale Justitiële Documentatie</i> ]
DIC	Customs Information Centre [ <i>Douane Informatiecentrum</i> ]
DFB	Customs Anti-Fraud Activities [ <i>Douane Fraude Bestrijding</i> ]
EU	European Union
FIOD-ECD	Fiscal Intelligence Department-Economic Surveillance Department [ <i>Fiscale inlichtingen en opsporingsdienst-Economische controledienst</i> ]
FIU	Financial Intelligence Unit
FTMV	Federation of Valuers/Appraisers, Brokers and Auctioneers in Movable Property [ <i>Federatie Taxateurs, Makelaars en Veilinghouders in roerende goederen</i> ]
GbN	Dutch Gallery Alliance [ <i>Galeriebond Nederland</i> ]
HNKF	Dutch Artists Forum [ <i>Het Nederlands Kunstenaars Forum</i> ]
IADAA	International Association of Dealers in Ancient Arts
KvK	Chamber of Commerce [ <i>Kamer van Koophandel</i> ]
KLPD	National Police Service Agency [ <i>Korps Landelijke Politiediensten</i> ]
MOT	Unusual Transactions Disclosure Office [ <i>Meldpunt ongebruikelijke transacties</i> ]

NEI	Netherlands Economic Institute [ <i>Nederlands economisch instituut</i> ]
NGA	National Gallery Association [ <i>Nederlandse Galerie Associatie</i> ]
NVG	Netherlands Association of Gallery Owners [ <i>Nederlandse Vereniging van Galeriehouders</i> ]
NVM	Netherlands Museums Association [ <i>Nederlandse Vereniging voor Musea</i> ]
OCBC	<i>Office Central de lutte contre le trafic des Biens Culturels</i>
OCW	Education, Culture and Science [ <i>Onderwijs, cultuur en wetenschap</i> ]
OM	Public Prosecution Service [ <i>Openbaar Ministerie</i> ]
PAN	Pictura Antiquairs Nationaal
PPGC	Organised Crime Prevention Programme [ <i>Programma preventie georganiseerde criminaliteit</i> ]
SBI	Standards Company Classification System [ <i>Standaard Bedrijfsindeling</i> ]
SVCN	Netherlands Ethnographic Collection Foundation [ <i>Stichting Volkenkundige Collectie Nederland</i> ]
TEFAF	The European Fine Art Foundation
TMV	Appraisers, brokers and auctioneers
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNIDROIT	International Institute for the Unification of Private Law
VHOK	Association of Fine Art Dealers in the Netherlands [ <i>Vereniging Handelaren Oude Kunst</i> ]
VNAG	Association of Dutch Antique Dealers [ <i>Vereniging Nederlands Antiquairs Genootschap</i> ]
WBC	Cultural Heritage Preservation Act [ <i>Wet tot behoud van Cultuurbezit</i> ]
WED	Economic Offences Act [ <i>Wet op de Economische Delicten</i> ]

# ANNEX INTERVIEW ITEMS

This annex presents the lists of topics consulted during the interviews conducted as part of the preventive analysis of the Dutch art and antiques trade. The first list was used in interviews with representatives of the sector and the second in interviews with enforcement officials.

## Items for interviews with representatives of the sector

### Introduction

INTRAVAL, a Dutch firm of researchers and consultants, has been asked by the Ministry of Justice to analyse the art and antiques trade in the Netherlands. The aim is to obtain a complete picture of the sector and any vulnerability it might have with respect to organised crime. We would like to cover the topics below in interviews with experts and other interested parties. Not all the topics listed may be relevant; those that are not will be omitted in the interview. All information will be treated and processed confidentially. The report will not identify any individuals by name.

- 1. Background** (in brief)
  - Name, position, personal history
  
- 2. Company (or organisation)** (*if respondent works in the art trade*) (in brief)
  - Profile: company history, company particulars, activities, field of operation
  - Practice: trading partners, transactions, trading stock, financing
  - Context: network, umbrella organisation, international
  
- 3a. Sector (general)**
  - Comparable companies
  - Breakdown, demarcation
  - Important parties, influence
  
- 3b. Art and antiques trade**
  - Financial: total turnover, transaction size
  - International: share of total, sub-sectors, important source and destination countries
  - Organisation: communication channels, intermediaries, cooperation, competition, cartels

#### **4. Vulnerability**

- Legislation and regulations: important acts, supervision, sanctions
- Effectiveness: rules and enforcement
- Vulnerability: sub-sectors, factors, attitude towards UNIDROIT

#### **5. Criminal activity**

- Victimisation: has been the victim of crime, type of crime, report
- Confronted with crime in some other way, type of crime, source of information
- Criminals: potential for abuse, types of crime
- Offences: occurrence of different types of crime

#### **6. Prevention**

- Experience: striking, unusual, suspect cases
- Reporting: why file a report, expectations, self-cleansing ability of sector
- Protection: by sector, government, measures taken in own organisation

#### **7. Registers**

- Registers: names of registers used, information, management, perusal possible
- Own register: type of data, perusal possible

#### **8. Conclusion**

- Additional remarks, documents, contact persons

**Thank you for taking part.**

## **Items for interviews with enforcement officials**

### **Introduction**

INTRAVAL, a Dutch firm of researchers and consultants, has been asked by the Ministry of Justice to analyse the art and antiques trade in the Netherlands. The aim is to obtain a complete picture of the sector and any vulnerability it might have with respect to organised crime. We would like to cover the topics below in interviews with experts and other interested parties. Not all the topics listed may be relevant; those that are not will be omitted in the interview. All information will be treated and processed confidentially. The report will not identify any individuals by name.



- 1. Background (in brief)**
  - Name, position, personal history
- 2. Organisation**
  - Organisational model
  - Activities, field of operation, tasks and authority
  - Knowledge, training
- 3. Cooperation**
  - Other investigation organisations
  - Cooperation partners, division of roles and hierarchy
  - Type of arrangements and coordination, how arrangements are put into practice
  - Success and failure factors
- 4. Art and antiques sector and crime**
  - Size of sector: turnover, number of companies, share of international trade
  - Type of registration systems, management, content
  - Criminal activity: scale, types of offence, organised crime
- 5. Legal measures**
  - Legislation and regulations: international, European, national
  - Compliance: monitoring and investigation, scope of authority
  - Practice: are regulations adequate, gaps, abuses
  - Sanctions: types of sanction, penalty, prosecution, adjudication, deterrence
- 6. Prevention**
  - Protection by the sector: self-cleansing ability, sector's own options
  - Protection by officials: corruption, conflicts of interest, prevention
- 7. Conclusion**
  - Additional remarks, documents, contact persons

**Thank you for taking part.**





# Pure art

Several publications suggest that the art and antiques trade is vulnerable to infiltration by organised crime. For this reason the Dutch Ministry of Justice has commissioned a preventive analysis of the art and antiques trade in the Netherlands within the context of the Programme of Action to combat Organised Crime.

The study was carried out by INTRAVAL, bureau for research and consultancy, and consisted of a survey of the sector and an analysis of its vulnerability to criminal infiltrations, as well as a study of the relevant enforcement measures. Applied methods were literature review, interviews with key informants and individuals involved in the sector, analysis of several (public) databases, visits of auctions and fairs, and a scan of the internet.

This book pays attention to the composition and extent of this sector, and in particular to the vulnerable aspect of the Dutch art and antiques trade. A description is given in which way the organisation of the sector and the functioning of the enforcement have influence on the risk that the sector is misused for committing crime.

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