

UK AND EU SHOULD HAVE SIGNED A PRE-NUP: BREXIT TERROR IN THE ART MARKET



*"We know problems can only be solved together.*

*So to do this is a dreadful act.*

*Art reflects our national consciousness,*

*but now we've just dug a big hole."*

by Anish Kapoor<sup>1</sup>

Illustration by Graham Roumieu/Dutch Uncle

The art world has always been somewhat rebellious by not being interested in keeping up with the statistics usually so relevant to other industries. It is also quite fragmented, where collectors and dealers withhold copious amounts of information or apply make-up to the truth behind a canvas or sculpture. Prices jumble around and art aficionados are left with a pretty but mysterious picture of what goes on behind the exhibits. And with Brexit creeping up on Great Britain, there seems to be an even bigger shift occurring. Art law specialists all around the world believe that an exit from the EU could have a widespread impact on the art market, including museum and arts funding, the future of the auctions sales, possible changes to export licenses and to import VAT. But, does the key players of the art world should be worried or celebrating Brexit?

Shortly after the June 23th referendum's result became clear—in which British citizens decided they want to leave the EU—the pound began plummeting, dropping to lows against the dollar not seen since the days of Margaret Thatcher. The finance sector is also on edge, with Barclays and RBS seeing roughly 20% declines in their respective share prices just 72 hours later after the decision

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<sup>1</sup> Hartogs, Jessica. "Art Market on Edge after Brexit Vote." *CNBC*. N.p., 28 June 2016. Web. 08 July 2016. <http://www.cnbc.com/2016/06/28/art-market-on-edge-after-brexit-vote.html>



was announced, causing the two banks' stock to briefly suspend trading. And ratings agency S&P downgraded the U.K.'s credit from its AAA status.

In 1920, the famous economist John Maynard Keynes tried to benefit from what he considered an obvious fundamental position: the Dollar's undervaluing in relation to the Deutsche Mark. After gambling away all his previous profits, causing him to ask for a loan to cover his debt, Keynes coined his famous phrase: "The market can stay irrational longer than you can stay solvent." These fundamentals have not changed at all; hence, the financial asset's current price is highly stretched under almost every measure. Generally, we have returned to a damaging dynamic of intervention and manipulation of the Central Banks, which will only result in the development of a bubble that eventually will burst.

At these unstable moments, investing in art can shield the investor against collective panic which affects the currency and stock market of England. Given the illiquid nature of art as an asset class, it becomes a good hedge against these dramatic fluctuations. The low correlation of art was also accurately demonstrated before, during the 2008 recession, when art indexes only dropped 4.5%, while the S&P Index dropped approximately 37.5%. Subsequently, in 2010, the All Art Index grew to 22.6% and 0.2% in 2011, compared with the stock market's 9.1%.

It seems that once again, art is acting as a hedge against the macroeconomic uncertainty. This effect was appreciable during the recent auction results with a positive outcome on the art market during this London's auction week. Fears over Brexit's effect on the art market have largely been allayed this season. Nevertheless, the total sales of over £230 million among London's biggest auction houses for Contemporary, Post-War, Impressionist and Modern auctions have banished the art market's insecurities. But more than anything else, it proved that the international art market can thrive in London despite Brexit and whatever is going on in Westminster. The auction's season culminated with Christie's 250th anniversary sale, *Defining British Art* in which the modern and contemporary play a dominant role. This sale was the most valuable sale of the whole summer season with an estimate of £97.5 to £140



Wolfgang Tillman's installation, *Between Bridges*, at the opening of Photo London, 2016.

million, and a total fetch of £99,479,500. These positive results confirms there is an increasing appreciation about the uncorrelated benefits of art as an asset, and more and more people wanted to take advantage of it. The surprisingly low Bi-rates of 8% to 15% during the evening auctions evidenced that art as an asset can be benefited from currency arbitration. The British pound's weakened state may account for the healthy amount of phone bidding from outside of Europe, with collectors looking to take advantage of their foreign currency's comparative strength against the pound.

But not everything is hunky dory: Sotheby's and Christie's had a reason to worry. It seems that the overriding issue in the art market is the lack of supply for good pieces, which is another way of saying that collectors have no good reason to exchange works of art for cash. It was clearly a tough season for consignments, and it is a strange moment in the European economy, with Brexit looming, among other bellwether events. Sellers held back, and as a result, there were not many works to get excited about. "The market is hungry for good works, but they are hard to find right now."<sup>2</sup> But why this is happening?

The art market behaves, in some respects, very differently to traditional assets. An economic recession usually leads to measures that seek to stabilize falling demand and prices, such as lowering interest rates to facilitate and increase volumes of consumption. In the stock market, prices are naturally adjusted downwards until demand is matched. However, and besides what we can read from general statistics -which are very useful in giving us a fair overall reading of the art market as a whole- we can certainly pinpoint many specific examples of artworks that over-perform practically under any



Michael Tierney

circumstances. In a recessionary atmosphere it is not unusual to see the availability of art, as opposed to the demand for art, be weakened. The potential sellers and consignors of consecrated fine art tend to, under such circumstances, hold on to their possessions for fear of not being able to place them at good prices, when the opposite has been shown to happen. A recession leads to a contraction in the (uppermost) art market supply and thus to the preservation of values.

<sup>2</sup> Mancker, Marion. "Christie's Emphasizes Curated Sales Over Category, Imp-Mod Suffers." *Art Market Monitor*. N.p., 27 June 2016. Web. 08 July 2016. <http://www.artmarketmonitor.com/2016/06/23/christies-emphasizes-curated-sales-over-category-imp-mod-suffers/>

Therefore, it becomes harder for intermediaries to find pieces for sale. This is particularly true in the “A+” segment, where the appetite of buyers remains close to constant, thus making top quality works very solid and liquid assets. This particular effect was noticeable in the last London’s auctions: “The vote’s impact on exchange rates and global financial markets has sellers hesitating and some buyers holding out for bargains,” Katya Kazakina reported to Bloomberg.<sup>3</sup> Helena Newman, Sotheby’s global co-head of Impressionist and Modern art suggests that uncertainty is less relevant than the internal dynamic of the art market, where owners of very valuable works of art have little need nor incentive to sell because the weakest asset in today’s global economic environment is cash of any kind.<sup>4</sup> Unable to fulfill the continuously increasing demand, the escalation of art index evidences the investors’ enhancement with the intrinsic advantages of art as a tangible asset.

Art galleries are mostly worried that if Britain leaves, there will be a negative impact on the sales and buying process as well – additional taxes would distort otherwise competitive prices, and the bureaucracy of being a non-EU country would increase the time frames between sale and delivery. It would be detrimental to see creative endeavors and opportunities bent backwards by something as trivial as shipping and customs logistics. For example, Agnieszka Prendota, creative director at Edinburgh-based Arusha Gallery, is concerned about the impact that leaving the EU will have on her business. “I think it will have a tremendous impact on the art market, the lead times and costs of importing works to and from non-EU countries can be detrimental to many exhibition plans, artists opportunities, and gallery growth,” she explains, adding that any changes will likely hit the smaller galleries and businesses the most. “I would hate for creative ideas and opportunities to be curbed by something as mundane as shipping logistics,” she lamented.<sup>5</sup> VAT import duty can be a headache for many UK art dealers, galleries and auction houses. For example, EU import VAT would affect Frieze, Masterpiece and other London art fairs which, in part, rely on buyers from Continental Europe.



Bob and Roberta Smith

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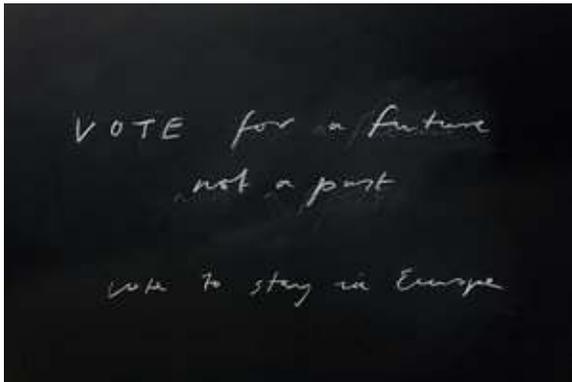
<sup>3</sup> Kazakina, Katya. "Brexit Looms Over Art Market With London Auctions Set to Decline." *Bloomberg.com*. Bloomberg, 20 June 2016. Web. 08 July 2016. <http://www.bloomberg.com/news/articles/2016-06-20/brexit-looms-over-art-market-with-london-auctions-set-to-decline>

<sup>4</sup> *Ibid*

<sup>5</sup> Chesters, Laura. "How Would Brexit Affect the British Art Market?" *Artnet News*. N.p., 02 June 2016. Web. 08 July 2016. <https://news.artnet.com/market/brexit-impact-british-art-market-508574>

Given that no country has left the E.U. before, much confusion remains around the complex process of actually disentangling the United Kingdom from the EU's nexus of rules and regulations. It is clear from the above that while critics point to the administrative burdens of EU regulation and their negative impact on the art market; it is unclear whether and how these might change when Britain leaves the EU. Commentators speculate that it could take as long as two years to leave the EU and up to ten years to renegotiate all the deals necessary to trade with Europe, which means years of uncertainty, impacting on the market. In a poll in response to the question "What impact do you think a potential Brexit would have for the UK art market?," among UK members of PAIAM (Professional Advisors to International Art Market), conducted in June, 8.86% indicated that they thought it would have a positive impact, 32.91% neutral, and 58.23% negative.<sup>6</sup>

While market observers run to consult an abacus or ouija board in the aftermath of Brexit, many in the artistic community are simply shocked by the referendum result, which speaks to a broad disconnect between artists and the British population writ-large. As far as artists are concerned, the majority spoke in favor of remaining in the EU. Almost 300 of them were an active part of the "Britain Stronger in Europe" campaign, citing funding as one of the key reasons. The leading UK artist Tacita Dean, who has been based in Berlin for the past 15 years, says that the UK voting to leave the Europe



Tacita Dean

Union (EU fills her "with cold dread."<sup>7</sup> Brexit could make London as an art center "provincial once more", she fears.<sup>8</sup> Dean is making a work that is partly inspired by the prospect of Brexit and has a Shakespearean dimension. Dean is among 282 cultural figures who in mid May signed an open letter warning that if Britain were to leave the EU, it would become an "outsider shouting from the wings."<sup>9</sup>

<sup>6</sup> Forrest, Nicholas. "BREXIT: The Art Market Responds." *Blouin Art Info*. N.p., 24 June 2016. Web. 8 July 2016. [http://uk.blouinartinfo.com/news/story/1437421/brexit-the-art-market-](http://uk.blouinartinfo.com/news/story/1437421/brexit-the-art-market)

<sup>7</sup> Harris, Garreth. "Artists Speak out as the Battle Rages over Brexit." *The Art Newspaper*. N.p., 29 May 2016. Web. 08 July 2016. <http://theartnewspaper.com/news/artist-speak-out-as-the-battle-rages-over-brexit/>

<sup>8</sup> *Ibid*

<sup>9</sup> *Ibid*



There is more than you might think at stake for arts and culture in this referendum, and there is certainly a debate about how the cultural sector will lose or gain from Brexit. For example, the museum's fear of losing the European Creative Funding of €7 million into UK events such as theatre, festivals and the arts in 2015.<sup>10</sup> According to Alistair Brown, The Museums Association's policy officer declared: "While most funding comes from domestic sources, large chunks of research and project funding come from the EU, along with regional development funds which support cultural regeneration in deprived areas."<sup>11</sup> Stephen Deuchar, Art Fund director warned about risks of leaving the EU: "At a time when the fate of the majority of museums and galleries is already quite precarious, leaving the EU could spell the further loss of what has been a crucial funding stream, especially those which are dedicated to developing regional areas."<sup>12</sup> Tougher controls on visitors and immigration may make it more difficult for foreign artists to visit or work in Britain. A fall in incoming tourism would impact negatively on museums, such as the Tate Modern, which has just opened its huge extension.<sup>13</sup> So there is a lot to lose. What might be gained for arts and culture remains to be seen.



Eva Rothschild

Would alternative endowment be found from the savings Britain will make on its EU subscription? Or would that money be spent elsewhere, leaving the arts and culture sector worse off? Munira Mirza, the former deputy mayor of London for culture and education, like her former boss, Boris Johnson, supports Brexit. Writing on The Artists Information Company's website, she says that the UK culture sector will benefit from increased funding, even though the country will lose vital EU grants. "Britain is a massive net contributor to the EU budget—£350m every week—of which only around half is returned through grants and the rebate (and only a tiny fraction of that for cultural projects). To put this figure in context, Arts Council England's budget for the entire year is

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<sup>10</sup> Brown, Alistair. "Museums Must Engage in the Brexit Debate – Whether They like It or Not." *Apollo Magazine*. N.p., 07 May 2016. Web. 08 July 2016. <http://www.apollo-magazine.com/museums-must-engage-in-the-brexit-debate-whether-they-like-it-or-not/>

<sup>11</sup> "What Would Brexit Mean for UK Museums?" *Apollo Magazine*. N.p., 25 Feb. 2016. Web. 08 July 2016. <http://www.apollo-magazine.com/what-would-brexit-mean-for-uk-museums/>

<sup>12</sup> "Art Fund Voices Concern over Possible 'Brexit' - Apollo Magazine." *Apollo Magazine*. N.p., 20 June 2016. Web. 08 July 2016. <http://www.apollo-magazine.com/art-fund-voices-concern-over-possible-brexit/>

<sup>13</sup> Bailey, Martin. "Brexit: Dismay and Concern after Historic Decision to Leave EU." *The Art Newspaper*. N.p., 24 June 2016. Web. 08 July 2016. [http://theartnewspaper.com/news/news/brexit-vote-dismay-and-concern-after-historic-vote-to-leave-eu/?utm\\_source=weekly\\_june24\\_2016&utm\\_medium=email&utm\\_campaign=email\\_weekly](http://theartnewspaper.com/news/news/brexit-vote-dismay-and-concern-after-historic-vote-to-leave-eu/?utm_source=weekly_june24_2016&utm_medium=email&utm_campaign=email_weekly)

approximately £600m,” Mirza writes.<sup>14</sup> Furthermore, Viscountess Bridgeman, founder of fine art image library Bridgeman Images, says: “By paying into the EU nearly £20 billion per annum, we pay into the EU twice as much as we get back, and we have been net contributors for over 40 years – a total of over £508 billion!”<sup>15</sup>

All summed up, how will the outcome of the referendum affect an art collector? There are a few things: uncertainty regarding the regulations, with no clear path that UK will take afterwards; possible higher traveling costs; but also possible increase of demand for art auctions in the UK compared to the rest of the EU, which means that prices of artworks could be inflated.

Ultimately, it is the final arrangement between the U.K. and the E.U. that will have an enduring impact on the market. And no one, least of all those who led the charge for Leave, seem able to articulate what form exactly this relationship will look like. One thing is clear though, even if the impact of Brexit on the art world is minimum, the UK’s art market is the third largest in the world. The UK



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trade dominates the art market in the EU, amounting to some 65 per cent of its total turnover.<sup>16</sup> More than 7,800 British art and antique businesses have a 65 percent share of the European Union’s art and antiques market. <sup>17</sup>Thousands upon thousands of British art retailers cover more than half of the EU’s art and antiques market. Even when Britons chose to leave, changes would not happen overnight, and the yearly £8 billion of art works bought and sold would not drop at once. The cultural sector is now so cosmopolitan that there is a strong commitment to internationalism and links with Europe, a sentiment which is strengthened by the fact that art has crossed borders for centuries.

**By Giovana Edid and Javier Lumbreras**

<sup>14</sup> Harris, Garreth. "Artists Speak out as the Battle Rages over Brexit." *The Art Newspaper*. N.p., 29 May 2016. Web. 08 July 2016.<http://theartnewspaper.com/news/artist-speak-out-as-the-battle-rages-over-brexite/>

<sup>15</sup> Chesters, Laura. "How Would Brexit Affect the British Art Market?" *Artnet News*. N.p., 02 June 2016. Web. 08 July 2016.<https://news.artnet.com/market/brexit-impact-british-art-market-508574>

<sup>16</sup> Partridge, Frank. "Would Brexit Destabilise the Art Market? - Apollo Magazine." *Apollo Magazine*. N.p., 31 May 2016. Web. 08 July 2016. <https://www.apollo-magazine.com/would-brexit-destabilise-the-art-market/>

<sup>17</sup> Chesters, Laura. "How Would Brexit Affect the British Art Market?" *Artnet News*. N.p., 02 June 2016. Web. 08 July 2016. <https://news.artnet.com/market/brexit-impact-british-art-market-508574>



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