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Taxing the Canvas Mexico and the US – Transfer and Taxation of Art For Discussion purposes only

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- Art trade between Mexico and the US
- Tax and legal matters
- Commercial matters

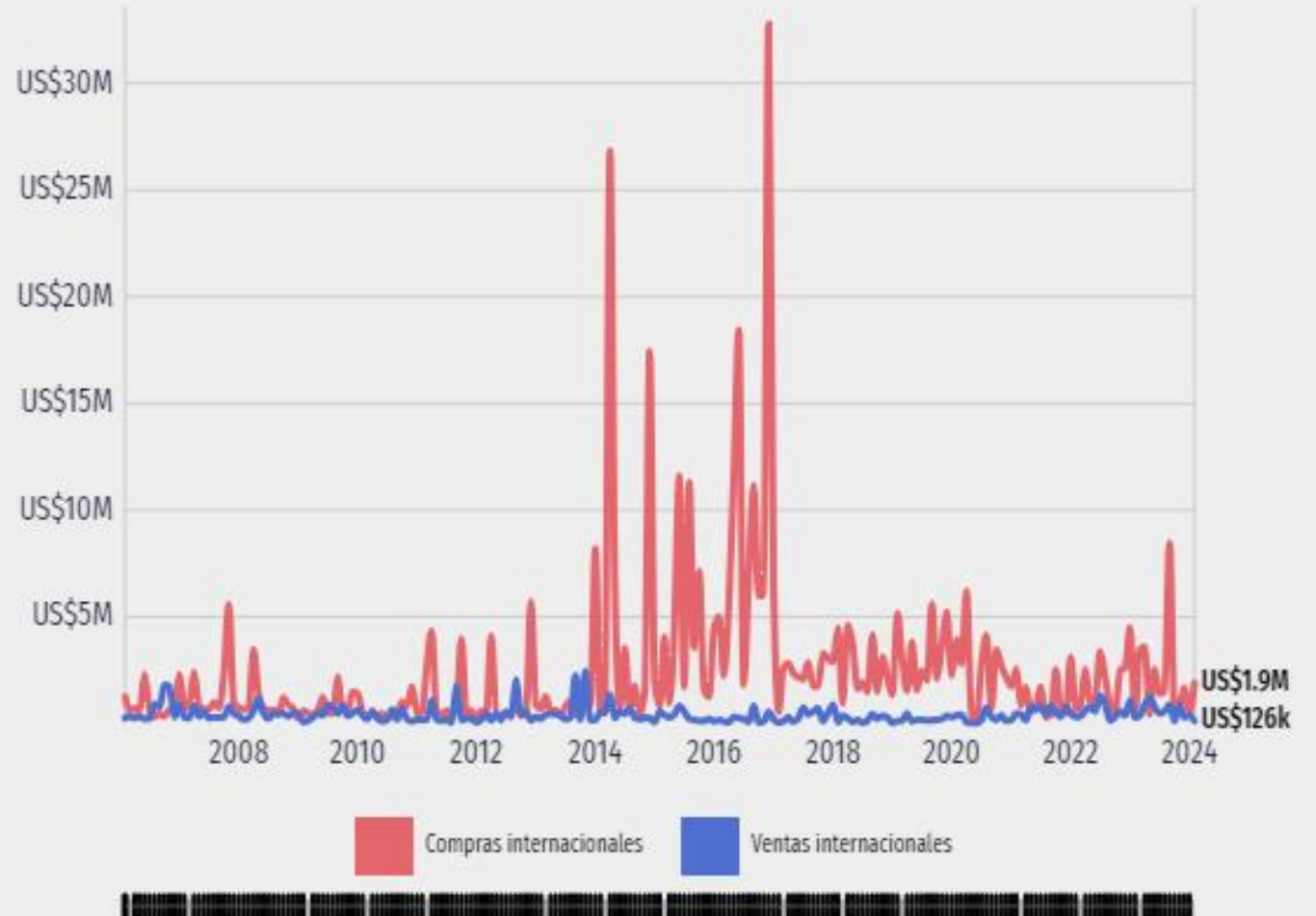
- US biggest trader on the international Art market
 - 42% based on the most recent UBS Art Basel 2024 report (<https://theartmarket.artbasel.com/global-market>)
 - Followed by China with 19% and UK with 17% market shares
 - Full market size roughly USD 65 Billion
- Mexico currently the top US trading partner
 - Over 900 USB billion trade
- Notwithstanding this scenario, the Mexican **official/reported** art trade between MX and the US for 2023 was merely 32.4 USDm
 - **Why?**

Art Trade Mexico

MX as a net importer

(<https://www.economia.gob.mx/data/mexico/es/profile/product/arts-and-antiques>)

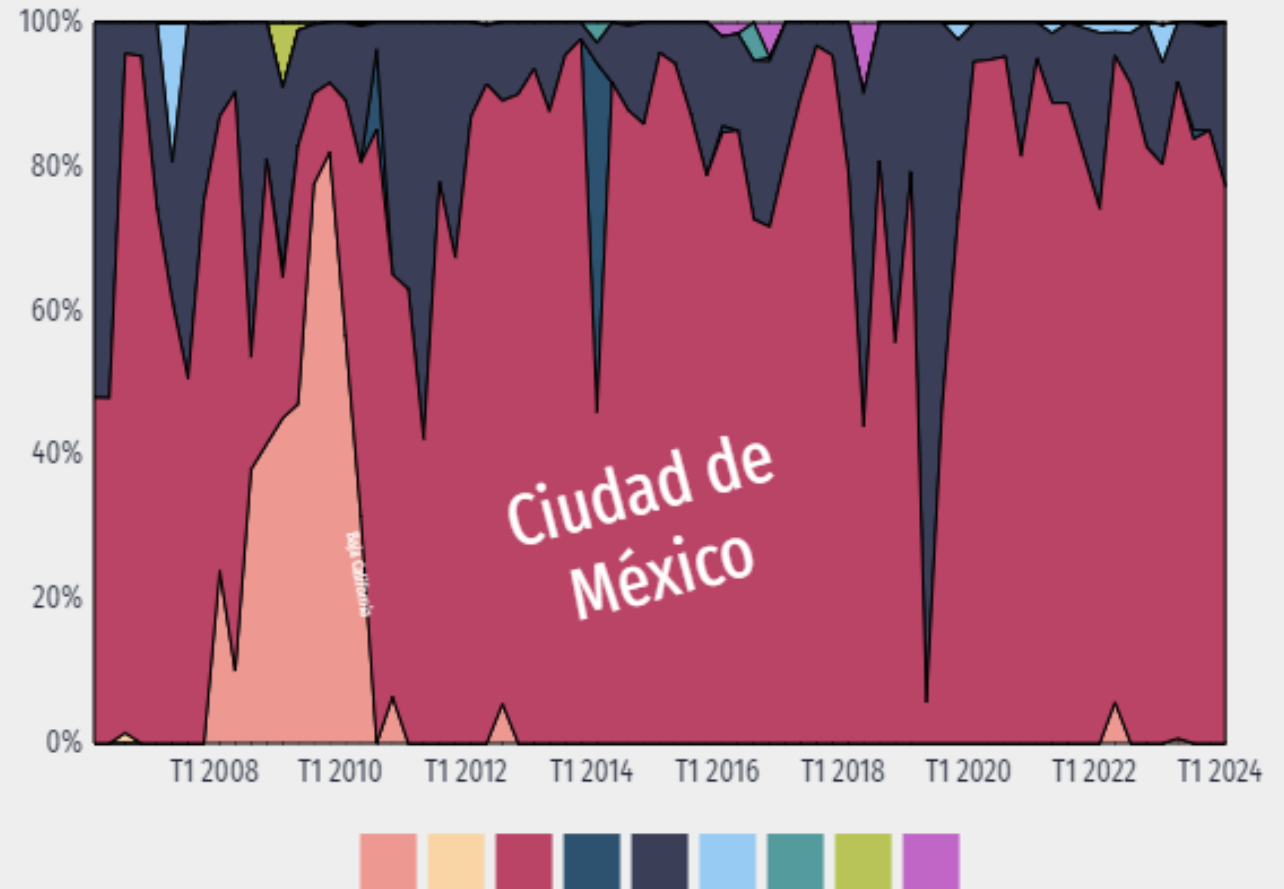
Comercio internacional neto de Arte y Antigüedades
Flujo mensual, según datos de Cinta de Aduanas



Market Concentration within
Mexic City (cfr Zona Maco)

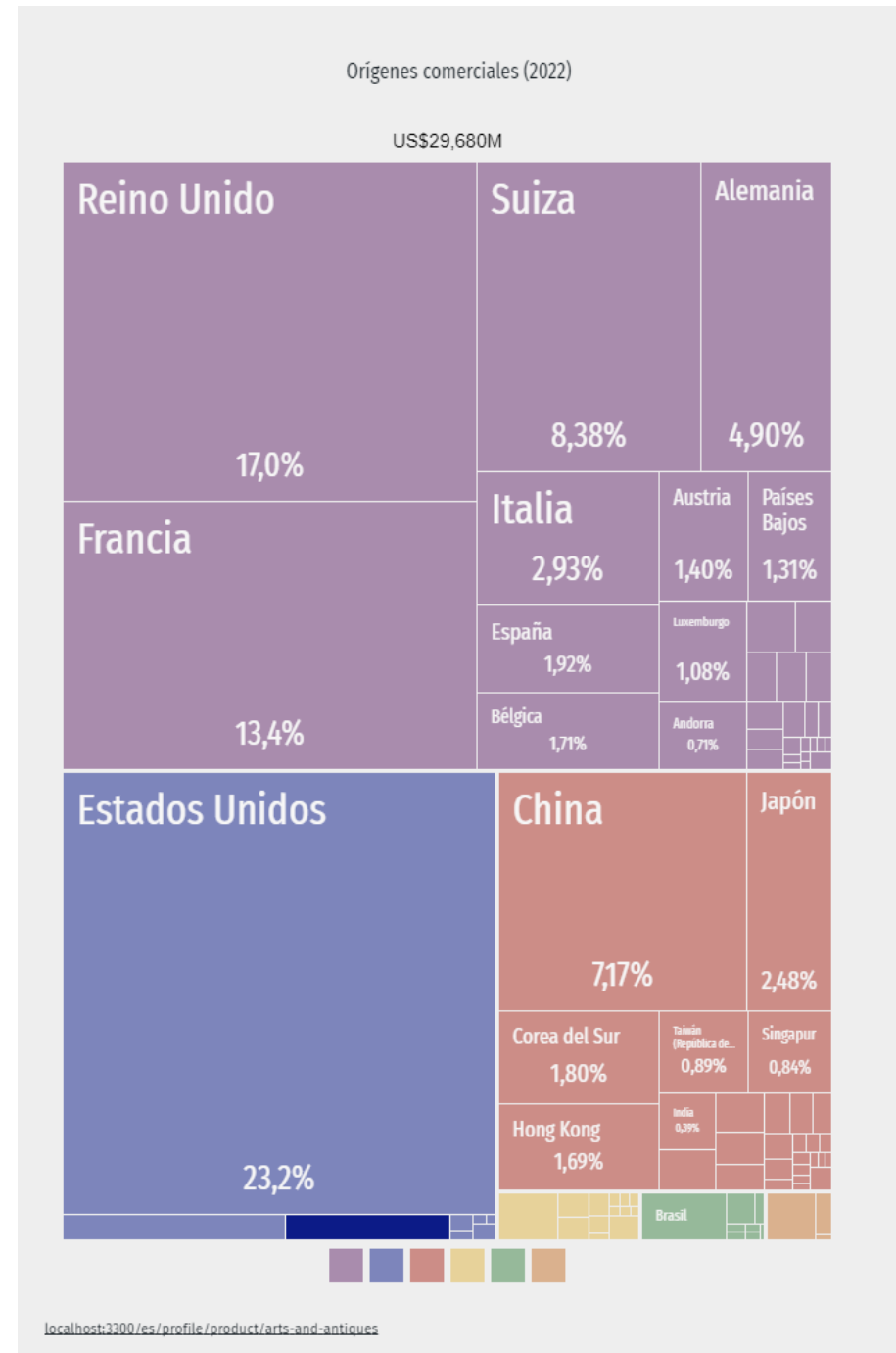
<https://www.economia.gob.mx/d/atamexico/es/profile/product/arts-and-antiques>

Evolución de la concentración de mercado trimestral de Arte y Antigüedades



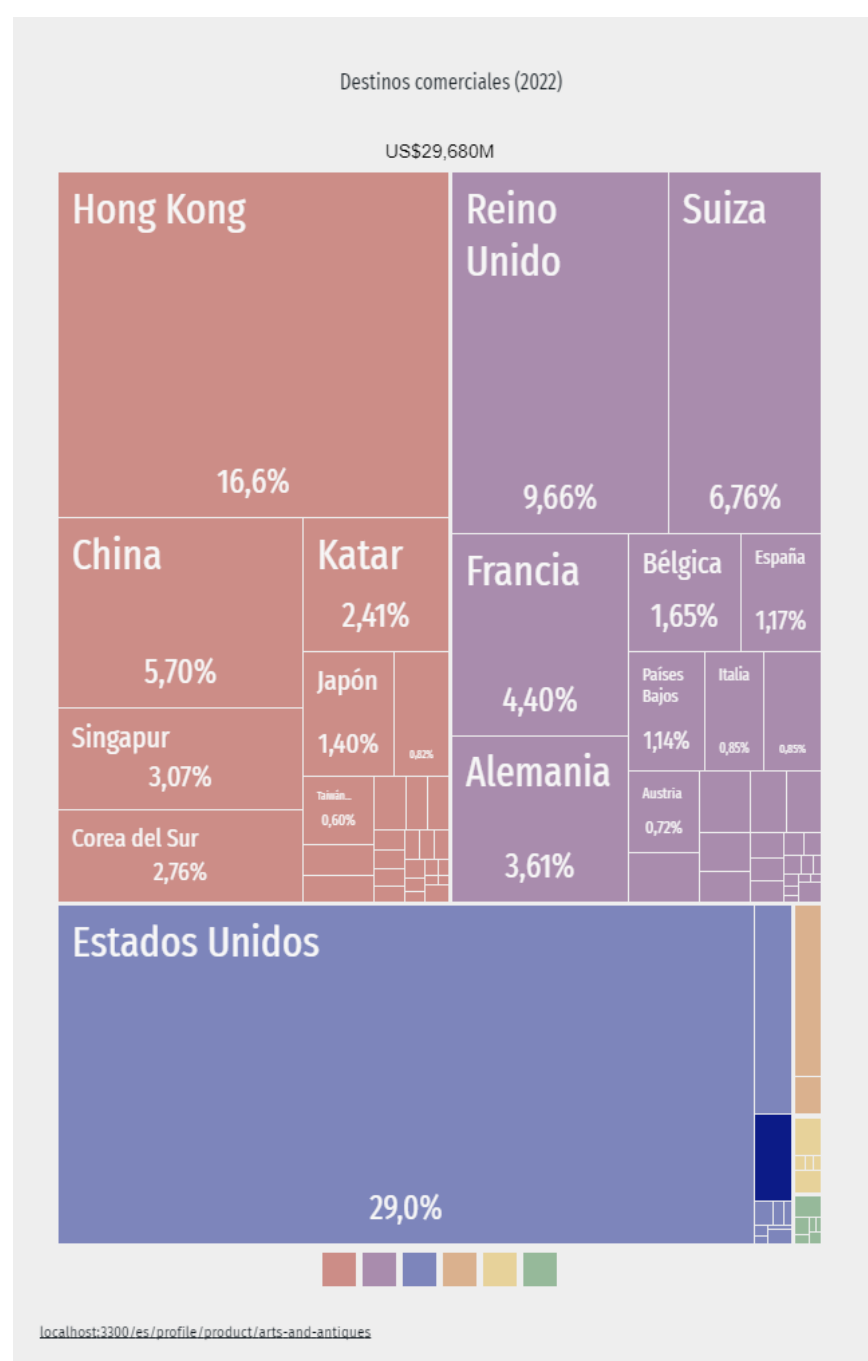
Commercial Origin on Mexican Art Imports (US 23.2%)

<https://www.economia.gob.mx/datamexico/es/profile/product/arts-and-antiques>



Commercial Destination on Mexican Art Exports (US 29%)

<https://www.economia.gob.mx/d/atamexico/es/profile/product/arts-and-antiques>



#1. Diego Rivera, *The Rivals*, 1931,
Oil on canvas. **Sold for \$9,762,500**
on May 9, 2018 at Christie's, New
York.



#2. Frida Kahlo, *Dos Desnudos en el Bosque*, 1939, oil on metal. **Sold for \$8,005,000** on May 12, 2016 at Christie's, New York.



#3. Diego Rivera, Retrato de Columba Domínguez de Fernández, 1950, oil on canvas. **Sold for \$7,445,250** on May 13, 2021 at Sotheby's, New York.



- Mexican Art is highly valued overseas; and
- Highly undervalued/ underexploited locally
- Source: ArtTactic's Latin American Market Analysis Report (2016-2019).

Auction Sales by Artist's Country of Origin 2019 vs. 2018
Sotheby's, Christie's, Phillips Auctions

Country	SALES VOLUME (USD)			LOTS SOLD		
	2019	2018	% Change	2019	2018	% Change
Mexico	\$22,595,413	\$29,543,030	-24%	91	84	8%
Colombia	\$18,381,128	\$16,254,391	13%	94	68	38%
Venezuela	\$5,265,797	\$6,683,835	-21%	39	35	11%
Cuba	\$5,112,731	\$7,233,000	-29%	58	69	-16%
Uruguay	\$3,267,150	\$1,813,745	80%	9	15	-40%
Brazil	\$2,208,187	\$4,641,983	-52%	39	36	8%
Chile	\$1,777,419	\$2,243,549	-21%	23	32	-28%
Argentina	\$1,775,526	\$1,344,452	32%	34	31	10%
Peru	\$1,086,142	\$1,858,000	-42%	30	27	11%
Costa Rica	\$698,000	\$403,500	73%	5	10	-50%
Guatemala	\$325,000	\$453,416	-28%	5	5	0%
Puerto Rico	\$289,000	\$415,632	-30%	7	12	-42%
Nicaragua	\$100,000	\$238,000	-58%	2	4	-50%
Ecuador	\$78,000	\$508,500	-85%	2	7	-71%
Bolivia	\$56,000	\$148,000	-62%	2	4	-50%

- Insufficient Cultural budget (Ramo 48). Currently 0.19% of GDP. The UN recommends at least 1%.
- Not enough Tax breaks or incentives.
 - Major cuts on philanthropic activities in Mexico (*Donatarias autorizadas*)
 - Strict AML rules applicable to auction houses and art traders in general
 - Enhanced KYC and strict penalties for under reporting
- Art patrons prefer to conduct these business overseas
 - Risk Perception

- Profits from Art sales are generally taxed at the highest income tax rate (30% for corporations and up to 35% for individuals), except for:
 - A special regime (*artes plásticas y antigüedades*) available under a 1994 decree for individual traders to pay a one-time Income tax at 8% on the market value of the sale
 - *Fideicomisos* (Mexican trusts) with cultural activities, subject to certain conditions
 - Some renowned artists (*artistas plásticos*) may pay their tax by donating art pieces to the Government
- VAT is triggered at 16% on imports (Import – export)
 - Exports taxed at 0%
 - Some imports are exempt (Art 25 V and VI VATL)

- Certain Trade Restrictions (Cultural Property Legislation)
 - Newly 2022 enacted law on Cultural Patrimony – Indigenous and AfroMexican communities (Ley Federal de Protección del Patrimonio Cultural de los Pueblos y Comunidades Indígenas y Afromexicanas)
 - Appropriation rules (Zara, Frida Kahlo, etc)
 - Federal Law on Monuments and Archeological, Artistic and Historical Zones (1972)
 - Certain prohibitions to exports of “Historical” or “Artistic” monuments (unless specifically approved by the Government) INBA and INAH.
 - Works by nine artists have been so categorized: Jose Maria Velasco, Jose Clemente Orozco, Gerardo Murillo Coronado, David Alfaro Siqueiros, Saturnino Herran, Maria Izquierdo, Remedios Varo Uranga, and of course, Frida Kahlo Calderon and Diego Rivera.
 - Work from these artists can only be exported on a temporary basis for which a bond must be placed in Mexico

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