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Are You Ready to Buy Cuban Cigars Legally?

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GARY KORB

Are You Ready to Buy Cuban Cigars Legally?

(OR, HOW CLOSE ARE WE REALLY TO TRADING WITH CUBA?)

Article by Gary Korb

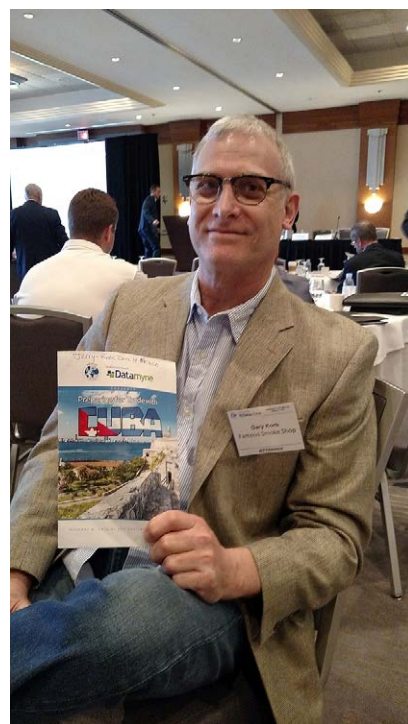
Cuba Photography by Hope Dooner

Introduction

On October 9th, 2015 I attended a conference in Miami titled, "[Preparing for Trade with Cuba.](#)" sponsored by [Datamyne](#), a leading provider of international trade intelligence, and [NEXCO](#), a group of export management companies who serve the needs of international professional exporters, importers and service providers. The reason for the conference was to help familiarize companies with the new trade regulations issued on January 16, 2015 by the U.S. Treasury and Commerce Departments, which now allow U.S. businesses to trade commercially with Cuba.

Companies in attendance who have already launched commercial ventures inside Cuba provided speakers to explain the current realities of doing business there and how to deal with the regulations in preparing for what has been called "the U.S. entrepreneur's next, best commercial frontier."

So, what was I doing there? [For the record, Famous Smoke Shop is not planning on opening a satellite cigar store](#) in Havana. However, since U.S. trade restrictions with Cuba were eased with regard to the ongoing embargo, I've had a number of cigar smokers ask me with gleeful [anticipation when Famous was going to start allowing customers to buy Cuban cigars](#). I could tell they were hoping I would say something like, "Next month," or "Next year," but such is not the case. My primary reason for attending the conference was to learn about the process of doing business with Cuba, and from what I took away, you're going to have to be a little more patient before you see "buy Cuban cigars today" advertised in future Famous emails. Sorry if I've disappointed you already, but the process is complicated. Let's not forget that the United States and Cuba have not had a simpatico relationship for more than 50 years.



By the time I left the conference, my head was spinning. I'd heard just about every pro and con from the nine speakers, and although many Cubans have a deep affection for America, Cuba is still a

Communist regime run by a vast centralized government. If you want to do business there, you're going to have to go through the top brass, both in the U.S. and Cuba, because Cuba prefers to work government to government, not government to private sector.

~ G.K.



Let's start with some facts

- Cuba has a population of 11+ million people: 64% (white); 26.6% (mulatto); 9.4% (black)
- Cuban industries are broken down as follows: 21% Agricultural; 14% Industrial; 64% Services
- 20% of Cuba's population lives in Havana
- 90% of Cubans have purchasing power
- 71% of Cuba's population is between 15 and 65 years old
- Cuba has a 99.7% literacy rate
- 80% of the people have a secondary education (Cuba has 47 universities)
- One-tenth of Cuba's population own their own businesses
- Unemployment is roughly 2.7%
- The average monthly wage in Cuba is 584 CUP (Cuban pesos). That translates to around \$24 U.S.

- Cuban Americans send \$2 billion back to Cuba annually.

Welcome to the Third World

One thing Americans should keep in mind is that in many ways Cuba is still a Third World country. As I've experienced on past trips to Nicaragua and Honduras, there are often periods where the electricity will go out, in some cases, for hours at a time; but in Cuba, the electricity is *strategically* shut off at various times during the day.



As for some of the infrastructure in and around Cuba, José Martí airport is state-of-the-art, while the Port of Mariel is an ideal location for importing & exporting shipments from all over the U.S. Gulf Coast. The highways are in very good condition, but the rail system is old and in bad disrepair. Train cars break down often, and in some instances can be out of service for days.

Here in the U.S. we take the internet for granted. Only 4% of Cuban homes have internet service, which is severely restricted, and more often “down” than operational. (50% of homes are expected to have internet by 2020.) Additionally, only 15% of the population have cell phones but, not surprisingly, the phones have no internet service. If you have relatives in Cuba you can send them cell phones, but they

must be sent “unblocked.” If the phone is blocked there is a \$135 (U.S.) “unblocking fee.” If you want to get on the internet, you must buy an internet card. Until recently, the cost of an internet card was prohibitive to most people, so the government lowered the price, but here’s the rub: they don’t produce enough cards to cover everyone who has internet service, so these cheaper cards are bought-up by scalpers who sell them at a premium. Moreover, the lines to buy internet cards are so long that some people will pay someone to stand in line for them. This practice has actually created a job market for those who want to be “stand-ins.”



Cuba also has a very limited number of government-sponsored WI-FI “hot spots.” In Havana these hot spots can produce crowds of up to 500 people or more, and it’s not unusual to see people crying because they have not seen or spoken to their children and other relatives outside of Cuba for years.

The Business of Doing Business with Cuba

American businesses seeking trade with Cuba should start with some excellent resources. The most

widely sourced business organization in the United States is the U.S.-Cuba Trade and Economic Council (CubaTrade.org). There you'll find the most up-to-date information on important topics such as [restrictions upon Cuba's use of the U.S. dollar in international transactions](#), and [what the Cuban government has agreed to and not agreed to](#) with regard to trade.



Prior to setting-up any trade relationship with Cuba, business owners should retain an attorney who understands the complexities of the legal process, as pointed-out in this article on [hiring an attorney](#). Without a qualified attorney, you could be subject to fines; or worse, you may get so wrapped up in red tape and additional legal fees, you'll be even further away from getting your business off the ground, or fail to get it started at all. One additional caveat: According to speaker, Peter Quinter, Chair of Customs and Intl. Trade Law Group at Gray-Robinson in Miami, by hiring a *Cuban* lawyer, you are technically hiring "an enemy" of the U.S. because the overwhelming majority of lawyers in Cuba are "cooperatives" of the regime.

Anyone starting a business or already in business knows they need a good bank to work with. In Cuba, all of the banks are owned and regulated by the State. Although Canada and Venezuela have [established banks in Cuba, at this time, only one U.S. bank, Stonegate](#), is operating there to help U.S. businesses set up accounts. On the other hand, since Cuba does not yet have "favored nation" status, Cuban banks cannot open branches in the U.S.

But the most crucial resource for anyone planning on [doing business in Cuba is the Office of Foreign Assets Control \(OFAC\)](#), an arm of the U.S. Treasury Department. The bureau "*administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted*

foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States.”



OFAC has issued general licenses within the 12 categories of authorized travel for many travel related transactions to, from, or within Cuba that previously required a specific license (i.e., an application and a case-by-case determination). Even though the current administration has removed Cuba from its list as a state sponsor of terrorism, the regs with regard to assets transactions are far too numerous to include here. My advice is to familiarize yourself with [31 CFR Part 515 Cuban Assets Control Regulations](#), which cover everything from banking, to exports, to mail and telecommunications, travel, family visits, journalistic activities, educational activities, religious activities, public performances, remittances, and on, and on, and on. For a complete list, see this [FAQ published by the U.S. Treasury Dept.](#)

Another law U.S. businesses should be fully aware of is the “Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996,” or [Helms-Burton Act](#), which was passed to strengthen and continue the United States embargo against Cuba. Suffice it to say, that if you try trading with Cuba by going around the regs, you are subject to a \$1 million fine, 10 years in a federal prison, or both. Additionally, if you travel to Cuba for business, you are required to fill out an OFAC questionnaire. You’ll need a lawyer to help you fill it out, and failure to do so can result in a \$20,000 – \$50,000 civil penalty.

The Cuban Side of the Equation

Fortunately, Cubans are among the most resourceful people on earth. So, let's say you're a Cuban citizen and you want to start your own business, which may or may not involve trading with the U.S. According to speaker, Ted Henken, author and professor at Baruch College in New York City, Raul Castro is, *allegedly*, no longer a fan of egalitarianism. He believes hard work should be rewarded based on the quality of the work. But Raul's reforms, which comprise an updating of their socialist political model, may not be sufficient enough to change things quickly. Because of the prevailing political ideology in Cuba, the government doesn't talk about "entrepreneurs," or *emprendedoras*. Basically, you're on your own and classified as a *cuentapropista*, or an "on your ownist." Licenses given to Cuba's so-called "private sector" have grown in recent years and there is now a small but well-organized group of *cuentapropistas*. Today, there are 201 occupations for which Cubans may obtain a license. At this time, approximately 100,000 people have licenses and they're working mostly in the hospitality and service sector. Why? Because you can become a bathroom attendant, a landscaper, a taxi driver, or a circus clown, but not a lawyer. Since Cuban taxi drivers often make more money than Cuban lawyers, don't be surprised if the cabbie driving you all over Havana is also a lawyer, a doctor or some other professional, by trade.



Prof. Henken submits that the State sees entrepreneurs as "islands," isolated from the rest and abandoned to their own fate, and recalls an old Cuban axiom: "*El ojo del amo, engorda el caballo*," "The eye of the owner fattens the horse." This new "challenge" by the Castro regime and the U.S. Administration has raised expectations, but Cubans are skeptical: "*Hemos visto esta película antes*." ("We've seen this movie before.")

Can we all get along?

So, we have two distinct groups of nationals who want to do business, and standing in the way are their respective governments. One of the reasons is, there are still a number of issues parties on both sides want to settle before things can begin moving forward. For example, Cuba's Foreign Minister is "demanding" that the U.S. do the following:

- Pay \$1.1 trillion in reparations to Cuba
- Give back Guantanamo Bay
- Repeal all sanctions
- Stop Radio Martí

On the other hand, you have businesses that once thrived in Cuba who want their own reparations. An eye-opening, April 2014 *Boston Globe* article titled, "[Cuba, you owe us \\$7 billion](#)" cites the following:

"What's often forgotten...is that the embargo was actually triggered by something concrete: an enormous pile of American assets that Castro seized in the process of nationalizing the Cuban economy. Some of these assets were the vacation homes and bank accounts of wealthy individuals. But the lion's share of the confiscated property—originally valued at \$1.8 billion, which at 6 percent simple interest translates to nearly \$7 billion today—was sugar factories, mines, oil refineries, and other business operations belonging to American corporations, among them the Coca-Cola Co., Exxon, and the First National Bank of Boston."



What has Cuba done to show they're serious about working with Americans? According to speaker, John Kavulich, President of the U.S.-Cuba Trade and Economic Council, there is a lot less in Cuba than we think there is. Obama's desire to *visit* Havana is greater than Havana's wanting to work with us, and American hopes are growing faster than Cuba is growing.

Because American intentions are not yet fully trusted, establishing a trade relationship with the U.S. comes with extreme caution. When Cuba considers countries who are interested in doing business with them, the history of their relationship is of the utmost importance. Moreover, the Cuban embassy is overwhelmed with rich American businessmen wanting to do business in Cuba. Mr. Kavulich also asserts, Obama's goals intend to tear apart the political fabric in Cuba. [The President's] message is essentially: "Be/do what you want, not what you're told." That said, so far Cuba has:

- Increased health care product exports by 400%
- Re-opened embassies both in the U.S. & Cuba respectively
- Seen a substantial 39% increase in U.S. tourism



In 2016 Cuba will authorize the use of credit cards, and allow cruises into the harbor. Verizon has been given the go-ahead for wireless services; CNN, which has been broadcasting from Cuba since 1997, will be able to expand their reportage (but there's no word from Castro on *what* they can report). Cisco will be able to provide routers for internet service, and social media restrictions will be lessened but, here again, there is a trust issue with regard to whether equipment manufactured by these U.S. companies will be "compromised;" in other words, they believe the hardware could allow Cuban citizens more access than currently permitted.

Looking Ahead

Despite all of the challenges between the U.S. and Cuba, optimism is high. Raul Castro is expected to step down at the end of 2018, and his successor will most likely be Miguel Mario Diaz-Canel Bermudez, who has been the First Vice President of the Council of the State of Cuba since 2013. Bermudez is an engineer, by trade and known to be "business-friendly." According to speaker Judy Kruger, Sr. Vice President of Intl. Sales for [PRA Global](#), with FDI (Foreign Direct Investment) reforms, \$2.5 billion per

year in direct foreign investment is expected to reach Cuba, and tax break incentives are being offered to U.S. companies. Since many Cubans are natural entrepreneurs, they're eager to do business with American companies. They're also eager for better pay, and because the need for improving infrastructure is so vital, right now logistics and construction opportunities are wide open in Cuba. Ms. Kruger also stressed that Cuban purchasing power is unknown as is the likelihood of making money. Her advice is that businesses should embrace the culture; don't look for the quick buck or try to take advantage of the people.

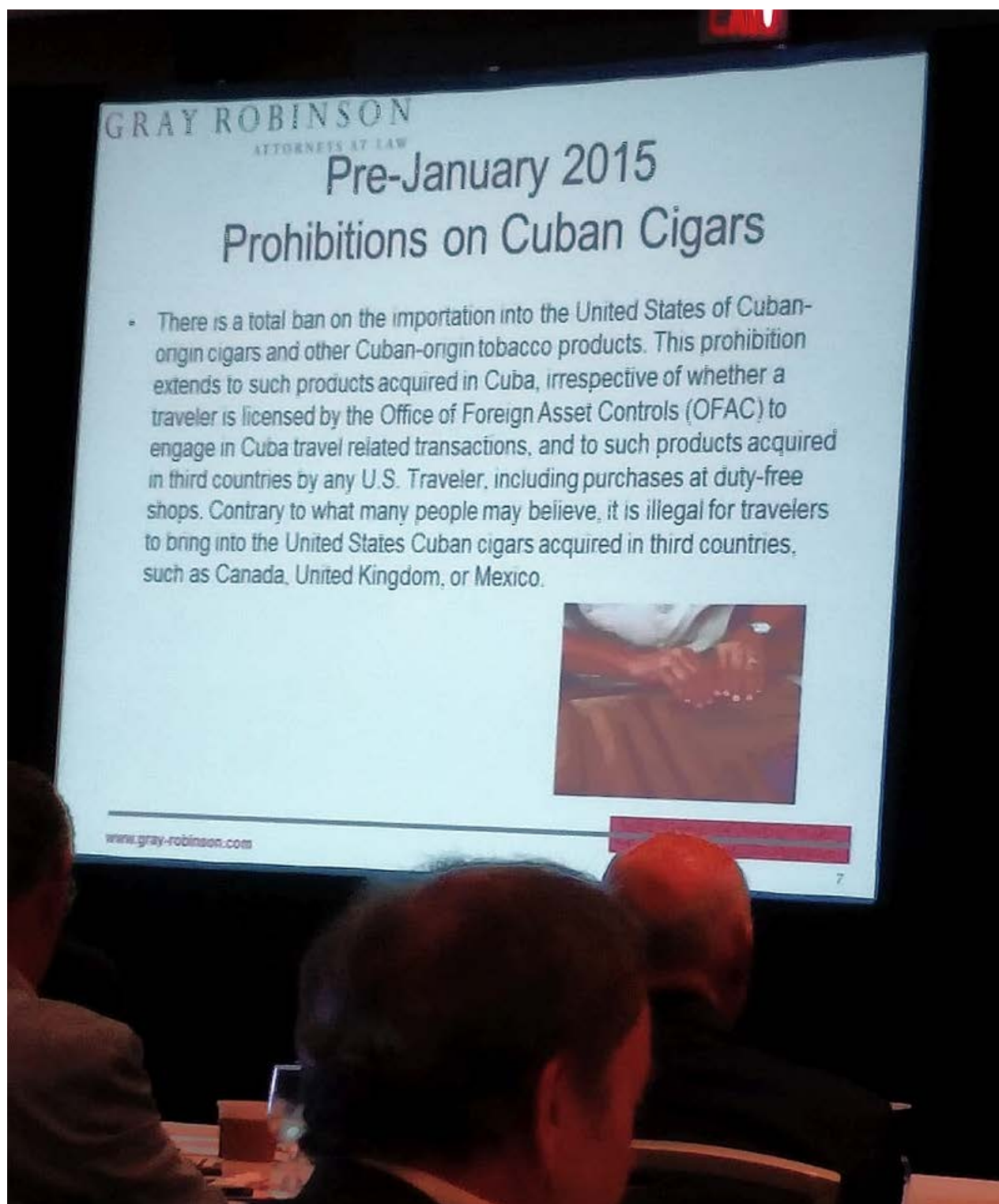


Cuba prefers to work with other nations who have centralized governments like their own. To date,

Cuba's most important trading partner has been Venezuela, from whom they received oil and other financial support until Hugo Chávez died in March of 2013. Cuba, also prefers to work on lines of credit, and if my notes are correct, they have virtually tapped Venezuela out of cash. Moreover, the Vietnamese have been exporting rice to Cuba with a two year term to pay them back. China is also a trading partner, but what they've done so far with Cuba has been done more to annoy the U.S. than anything else. In addition to providing financing, it is expected that China will also provide arms and other military equipment for Cuba's armed forces. So the question arises: Will the United States be Cuba's next "mark?"

According to Mr. Kavulich's remarks, everyone thinks they know what Cuba wants, but Cuba isn't buying. On the one hand, the U.S. says that if Cuba wants something from us, they must show they want it badly enough. There's no room for Raul or anyone else related to Fidel when Castro is finally gone. To be clear, Cuba doesn't like consultants (a.k.a. lawyers) as "go-betweens." All negotiations go through the foreign ministry or central government, and despite some small trade groups alluded to above that have been set up, the government of Cuba is the ONLY trade commission. Right now, the regime is overwhelmed by businessmen looking to develop there. Meetings between U.S. businessmen and govt. officials are often rejected or given to a lower status official, and Cuba is "having fun" with this; in other words, in many Cuban officials' minds there *is* payback.

During one Q&A session, a questioner, who was also a lobbyist, suggested that the United States should think more about how our trade relationship benefits us, not Cuba. We shouldn't forget that no matter how much we may like the Cuban people, and vice-versa, Cuba is a very strictly controlled regime, and one with a sizeable ego, too. As I noted above, there is less there for us right now than we think. Be sober when thinking about Cuba. The government does not like us, and to complicate matters even further, they are far from ready to remove the yoke around their people's necks. Even though they have purchased over \$5.2 billion in food supplies from the U.S., we should not get a false sense of security.



Another fact worth noting is that Cuba does not have “favored nation” status with the United States government. If/when that ever changes, higher rates of import duty taxes can be expected. For example, if you buy Cuban cigars outside the U.S., they’re taxed at the other countries’ 3%; in America, they’d carry a 20% tax. [Speaking of cigars, U.S. Customs is still confiscating and charging U.S. visitors](#) who try to bring back Cuban cigars and other goods, even when going through Mexico and Canada, so here’s the deal:

\$100 worth of Cuban cigars is permitted only when they are brought back to the United States directly,

non-stop, from Cuba. If you are returning to the U.S. through Mexico or another country, the cigars will be confiscated and you will be fined.

So, smoke 'em if you got 'em, but if you buy Cuban cigars – bring 'em back at your own peril.

In Conclusion: Random Notes & Anecdotes

There is a saying, “*El invento Cubano*,” which means, “Cuban inventiveness,” and it is this “inventiveness” that encompasses human life. The Cubans are some of the most resourceful people on earth. The fact that they’ve been able to keep so many pre-1959 cars running alone speaks volumes. If you’ve seen the recent cable TV series, [*Cuban Chrome*](#), which aired this past summer on the Discovery Channel, there is perhaps no better example of *el invento Cubano*.



Looking at the bigger picture, repairing cars is only a small example of how Cubans survived the revolution to this point. And speaking of television, there is another expression that probably applies to those who live in other countries under similar dictatorial conditions: “*Todo esta prohibido, pero vale todo*,” “Everything is prohibited, but anything goes.” Cuba has television, but only a fraction have

satellite TV. Those who do have to hide their satellite dishes in water tanks and other places that may appear invisible to the authorities. And what about all those TV's? During the presentation given by Ed Wegel, President and CEO of [Eastern Airlines Group, Inc.](#), which is now flying charters to Cuba, he stated that although José Martí Airport can accommodate wide body planes, they have limited U.S. aircraft to smaller planes like 737's, and no more than 160 passengers, but "there's no limit to the number of 60-inch TV's we can get in the cargo hold of the planes." (By the way, if you *are* planning a charter flight to Cuba, there is a \$230 Cuban tax on your ticket.)

Another speaker, Patricia Vila, Sr. Account Executive for [The Conroy Martinez Group](#), a marketing & public relations firm, was the manager for CNN's Havana news bureau during the 1990's. Today she advises American companies on what to expect when operating commercially inside Cuba, and she had some very interesting facts:

- Most Cubans are well read and extremely brand savvy.
- 97% of Cubans want relations with U.S. They have always wanted the embargo lifted and are quite aware that change is coming.
- The housing situation in Cuba is dire. Americans may not legally purchase houses and apartments in Cuba unless they are directly related to the seller.
- The Cuban government knows EVERYTHING the people do. If you think they don't, you're naive. Among other things, they know what the people are watching on TV and browsing the internet for.
- The U.S. Embassy posts content via social media channels, which has made sites like Twitter and Facebook effective in motivating Cuban voices. While Ms. Vila was with CNN, they guarded much of their information by attending "mixers," because their Cuban sources didn't want to speak by phone.

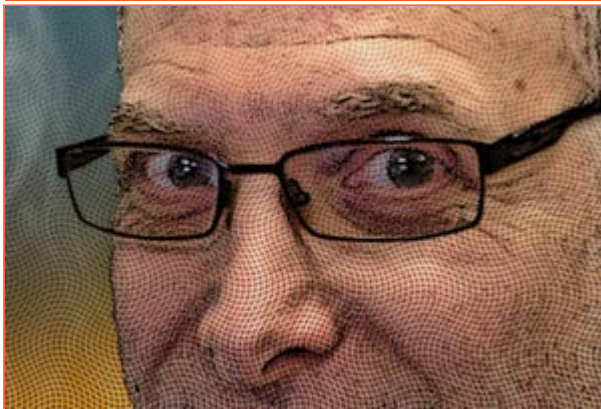
When Ms. Vila was working at CNN the Havana bureau phone bill alone was roughly \$5,000-\$6,000 a month. One of her responsibilities was to fly to CNN headquarters in Atlanta on a regular basis where she would be given a backpack stuffed with \$50,000 in cash that she would carry on the plane back to Cuba with her to pay the bills.



One of the talking points that stood out is that the Cuban Revolution is and always has been a BRAND. Pictures and billboards of Castro and Che Guevara keep the advertising of the revolution brand alive. And with the Cuban economy as it is and the pace at which the business climate is changing, keeping the “La Revolución” going is the biggest challenge to those who continue to advance it.

Finally, future business partners with Cuba should keep in mind that things are changing almost daily with regard to regulations and permissions. If you would like to “experience” the conference for yourself, you can [link to each speaker’s presentation here](#), and I *strongly* recommend you read the Bloomberg.com article, [“Want To Do Business In Cuba? Prepare to Partner With The General.”](#)

GARY KORB



EXECUTIVE EDITOR AT
CIGARADVISOR.COM

Gary Korb has been writing and editing content for CigarAdvisor.com since its debut in 2008. An avid cigar smoker for over 30 years, during the past 12 years he has worked on the marketing side of the premium cigar business as a Sr. Copywriter, blogger, and cigar reviewer. A graduate of the Newhouse School of Public Communications at Syracuse University, prior to his career in the cigar business, Gary worked in the music and video industry as a marketer and a publicist.