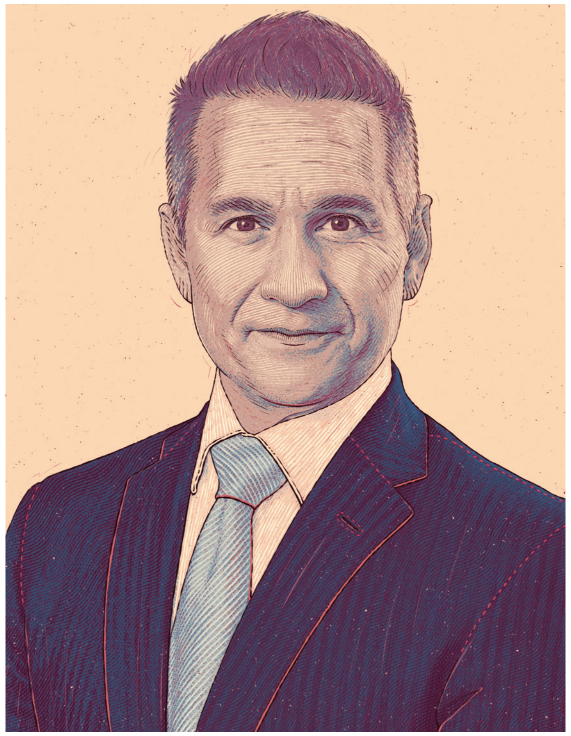

SCOTT LINCICOME

Last Word: Happy Days Are Here Again (for Trade Lawyers and Lobbyists)

By Scott Lincicome

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When news of Donald Trump's election victory first broke, one of my first thoughts was to go long on Washington, DC, steakhouses. That's where I, then an international trade lawyer, spent much of Trump's first term (and some of my clients' money) strategizing with lobbyists about tariffs—or, more accurately, how we could legally avoid them. With Trump back in the White House and already doubling down on tariffs this time around, I imagine the steakhouses will once again be busy—*very busy*.

The tight linkage between tariffs and "the swamp" is certainly nothing new or unique to the Trump era. As economic historian Phil Magness reminds us in a recent Cato essay, when Congress periodically set tariff rates in the 19th century, the "sheer extravagance of public corruption around tariff schedule revisions" pushed many to seek replacing what was then the nation's primary revenue source with a less corrupt income tax. That move, however, didn't just mean bigger government; it actually made America's tariff problem *worse*. No longer checked by a need to raise revenue (and thus keep imports flowing), US tariff bills became solely about protectionism—and the well-connected American businessmen trying to win it. Thus, Magness notes, the notorious Smoot–Hawley Tariff Act didn't just harm the economy; it "became a legislative free-for-all of corruption."

After that debacle, and thanks in part to new US trade agreements, Congress spent much of the 20th century delegating its tariff powers to the executive branch and locking in low tariff rates by law. Constitutional questions aside, this new system worked reasonably well: For more than 70 years, the US economy grew, global trade wars ceased, and—save the occasional free trade agreement or targeted presidential action—Washington tariff lobbying waned.

Then came Tariff Man.

> "With Trump threatening bigger, broader tariffs in 2025, we should expect avoidance, compliance, and lobbying—which has its own economic costs, by the way—to increase accordingly."

Trump imposed or threatened to impose big new tariffs during his first term, prompting a flurry of activity by governments and companies trying to avoid them, either by securing an upfront exemption or a temporary exclusion after the tariffs were imposed. In both cases, this meant armies of lawyers, lobbyists, accountants, and other consultants were needed to figure out the new system, how to game it, and which people in government could help you win the Trump tariff game. Hundreds of thousands of tariff exclusion requests have been filed, and trade lobbying expenditures have skyrocketed. It was a bona fide Beltway jobs program.

It was also sketchy as hell. Several government watchdogs characterized the tariff exclusion system as opaque, subjective, poorly administered, and giving off the appearance of impropriety. One recent study went even further, finding that corporate exemptions from Trump-era tariffs were significantly more likely to be approved if the applicant had contributed to Republican candidates or hired a lobbyist who worked for the Trump administration. Contributors to Democrats had no such luck.

So much for draining the swamp.

With Trump threatening bigger, broader tariffs in 2025, we should expect avoidance, compliance, and lobbying—which has its own economic costs, by the way—to increase accordingly. Indeed, the games have already begun. The *Wall Street Journal* reported in January, for example, that the "American Petroleum Institute . . . has been in touch with Trump transition officials to ask that their industry gets an exemption if across-the-board tariffs are implemented." Detroit automakers and other industry groups are also asking, as are foreign diplomats. No wonder, then, that one DC trade lawyer giddily told the *Financial Times* in December that, thanks to Trump's many tariff threats, her firm is "getting a lot of new clients, a lot of new people approaching us," and eyeing an international expansion. Other firms are staffing up as well. "I said to my colleagues," the lawyer added, "we're bringing sexy back to trade." Cringe (as the kids say) aside, that means bigger fees for them and eventually bigger pains for the rest of us.

Unless we own stock in a steakhouse or two, I mean. ✦

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