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IN FOCUS

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TPP-Trade Promotion Authority (TPA) Timeline

The Trans-Pacific Partnership (TPP) free trade agreement (FTA) may be considered during the 114th Congress. If so, it can be considered under rules and procedures set forth in the Bipartisan Comprehensive Trade Priorities Act (P.L. 114-26), commonly known as trade promotion authority (TPA). The timeline for this consideration is the subject of this *In Focus*. Dates of specific action are in parentheses.

The Trans-Pacific Partnership

The TPP is a potential "comprehensive and high-standard" free trade agreement (FTA) among 12 countries, including the United States, which aims to liberalize trade and investment, and to establish rules and disciplines over many aspects of international commerce among the TPP members. The TPP negotiations cover a range of trade topics and include 30 separate sections or "chapters." The 11 other countries participating in the TPP are Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. TPP trade ministers, meeting in Atlanta between September 30 and October 5, reached agreement to conclude the six-year old negotiations. On November 5, President Obama gave Congress the required 90-day notification that he intends to sign the agreement and released the text. If implemented, the TPP would be the largest regional FTA ever negotiated by the United States in terms of member countries and encompassed trade flows, comprising over 1/3 U.S. trade. The TPP includes new or expanded commitments on issues such as data flows, discriminatory regulatory barriers, state-owned enterprises, and global value chains. In addition, TPP partners envision a "living" agreement that could incorporate new members and address new trade issues in the future.

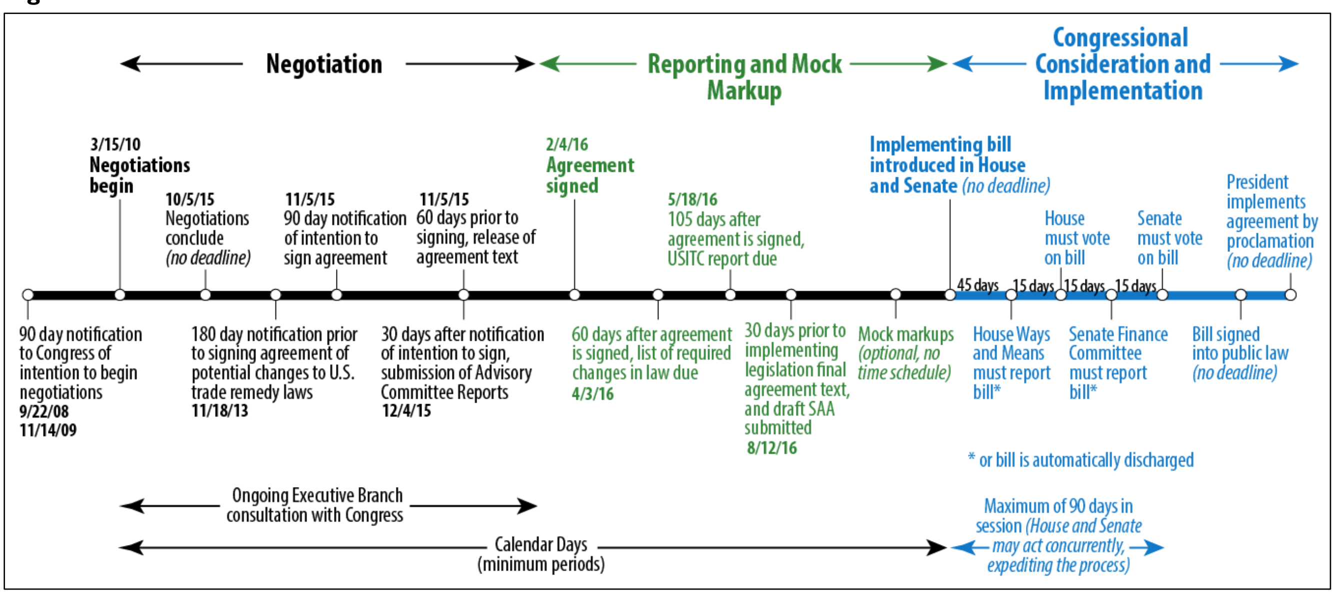
Trade Promotion Authority

TPA, previously known as "fast track," is the time-limited authority through which Congress has, for specific periods of years, set trade negotiating objectives, established notification and consultation requirements, and enabled implementing bills for reciprocal trade agreements to be considered under expedited procedures if they meet certain statutory requirements. The current version of TPA was enacted into law on June 29, 2015.

Timeline

The notification, consultation, and consideration provisions in TPA set out a timeframe for the congressional deliberation on the agreement. Some of these provisions are new to this year's TPA, while many have appeared in previous versions of TPA or have occurred in practice without legislative directive. Congressional interaction with the executive over a potential trade agreement is divided into three periods: negotiation; reporting; and congressional consideration. The negotiating and reporting periods before congressional consideration are counted in calendar days; during the congressional consideration period, which begins after the introduction of implementing legislation, deadlines are in session days.

Figure 1. TPA Timeline



Note: Dates reflect the day action was taken.

Negotiations

The first period of the timeline incorporates the time from the beginning of negotiations to the signing of a trade agreement. In the case of the TPP, the negotiations have been ongoing for several years, and the Presidential 90-day notification to Congress that negotiations would start occurred in stages as various countries joined the process.

Conclusion of Negotiations

From the point the negotiations conclude, the President must:

- provide 90-day notice of intent to sign the agreement (November 5, 2015);
- submit advisory committee reports 30 days after the above notification (December 4, 2015), and;
- release a draft agreement text 60 days prior to signing the agreement (November 5, 2015).

The 90-day notification period provides a minimum amount of time between conclusion of negotiations and the act of signature; however, the agreement can be signed at any time after that period. U.S. Trade Representative Michael Froman signed the agreement for the United States on February 4, 2016 in New Zealand.

Reporting Requirements

TPA does not mandate a maximum time from signing the agreement to the introduction of implementing legislation. In practice, this period has varied from several months to years. After the President signs, however, and at least 30 days before he sends Congress an implementing bill, he must submit to Congress the final text of the agreement and a draft statement of administrative action needed for its implementation (August 12, 2016). Two other reporting requirements were fulfilled in the spring of 2016.

- A U.S. International Trade Commission (ITC) report analyzing the economic effects of the agreement that must be submitted within 105 days of signing the agreement. (May 18, 2016) The administration must have provided the ITC with details on the agreement "as it exists" 90 days prior to signing.
- A report identifying any required changes in U.S. law must be submitted within 60 days following signing of the agreement. (April 3, 2016)

In practice, the committees of jurisdiction (House Ways and Means, Senate Finance) each hold what is known as a "mock mark-up" during this period. Under TPA, the committees formally cannot markup implementing legislation after it is introduced, thus this mechanism is designed to provide feedback to the administration on the legislation in its draft form prior to introduction.

Implementing Legislation

Implementing legislation must be introduced "on a day on which both Houses of Congress are in session" after the above requirements have been met. (Implementing legislation is often introduced months or even years after the agreements are entered into.) Once it is introduced, the procedures of Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) apply. As much as 90 days is allowed for congressional consideration, but in practice action may take place much quicker. As a revenue bill, the implementing bill must be enacted under the House bill number, although the Senate can proceed with its own (identical) legislation as long as final passage is of the House bill. The Act provides these deadlines:

- The committees of jurisdiction in each chamber must report the legislation within 45 session days or be automatically discharged. A bill can be reported adversely or without recommendation. The Senate Finance Committee, however, may report the House bill until 15 days after receiving it, if later.
- If implementing legislation is received from the House, the Senate Finance committee may have the longer of 15 days if it considers the legislation from the House, or 45 days if the House acts expeditiously, to a maximum of 75 days from introduction.
- Each chamber then has 15 days to consider the legislation after its committee has reported or been discharged.
- Thus, the final vote in the House must occur within 60 days of introduction. If the House takes the full 60 days, the final vote in the Senate may not be required until as many as 90 days after introduction.

For more information, please see, CRS Report R43491, *Trade Promotion Authority (TPA): Frequently Asked Questions*, by Ian F. Fergusson and Richard S. Beth, and CRS In Focus IF10000, *TPP: An Overview*, by Brock R. Williams and Ian F. Fergusson.

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