

TPP Vote Calendar

Obama Administration Hype About a TPP Vote in 2015 Does Not Comport with Fast Track Timelines

TPP proponents are eager for Congress to vote on a Trans-Pacific Partnership (TPP) deal in late 2015. But to do so, given Fast Track's statutorily-required timeframe of notice periods and pre-vote reports, TPP negotiations – and the TPP text itself – must be completed by the end of July. **If notice to Congress of intent to sign the TPP were sent by August 1, a final TPP vote could be held the last week Congress is in session in December.**

Assuming the quickest timeline conceivable under the Fast Track rules, and that somehow a required International Trade Commission (ITC) report on TPP impacts could be completed faster than has ever occurred for past pacts*, a TPP vote could take place about four and one half months after Congress is given notice of intent to sign a deal. Thus, negotiations must conclude at the July 28-31 TPP ministerial and a text must be ready for notice of intent to sign by August 1. That text must be publicly posted on August 31. This would allow for a vote the week of December 14. After that, Congress goes on recess and a vote would roll to 2016.

The political costs of an unpopular “yes” vote for the TPP will escalate if voting rolls into the 2016 presidential election year. Already Democratic and GOP presidential candidates have begun attacking the TPP and their public criticism is generating public attention on the pact's potential threats of job loss and more. A 2016 TPP vote also would increase the risk that voters could punish those who vote “yes” on the TPP during the November 2016 congressional election.

Minimum Timeframe: 4.5 Months between End of Negotiations and Votes in Congress

This *hypothetical timeline* assumes speedier turnaround at key points than has occurred for past trade deals, some ‘bending’ of the Fast Track timelines and no congressional meltdowns, objections or courtesies. This is the fastest timeline to a TPP vote under the Fast Track statute. (*Citations refer to provisions of [the 2015 Fast Track bill](#).*)

- **If a TPP “Deal” Is Announced July 31 at Latest “Final” TPP Ministerial...** Even if a final “deal” is announced, how could there be a final text? Several key chapters such as Intellectual Property and Investment still have contested textual provisions setting forth policy rules. Key market access issues (tariffs and tariff-rate-quotas) and rule of origin issues remain unresolved. And, not all schedules of exceptions and commitments are complete for chapters such as Investment, State Owned Enterprises, Services and Procurement. Thus, a final text would not be available to be initialed (locked with only legal scrubbing changes allowed going forward). Thus Congress could not be given notice of intent to sign a text, as no text exists. But for the moment, assume that there is a text and notice can be given...
- **If a text is done and notice is given to Congress by August 1 of intent to sign...** Assuming the shortest possible timeframe for concluding negotiations and that somehow a text materializes, despite [comments from TPP country ambassadors](#) about outstanding issues that cast doubt on such

a quick conclusion, a text would have to be initialed by August 1 and the 90-day notice given of intent to sign for President Obama to sign the deal on October 30.

- Minimum interval before signing: 90 calendar days. Fast Track requires the president to give Congress at least 90 days' notice before signing an agreement. (Sec. 106(a)(1)(A)) Also, at least 90 calendar days before signing the TPP, President Obama must provide the ITC with details of the agreement "as it exists at that time" and request the ITC to prepare an assessment of the probable economic effect of the agreement. (Sec. 105(c)(1)) The Obama administration has already requested the ITC to do its assessment even though it cannot provide final details. While the ITC refuses to answer whether it is fulfilling the administration's request to perform its assessment without a final TPP deal, *Inside U.S. Trade reports* that "informed sources" believe this to be the case.
- **If that text is made public on August 31...** The Fast Track statute requires public posting of a text 30 days after the 90-day notice of intent to sign. This means that there are only 30 days of "cheating" time when the Office of the U.S. Trade Representative (USTR) can claim that it has a final text and give notice, but not really have a text. And, fudging in this way would require denying Congress access for 30 days to the text for which notice of intent to sign was given. That is to say that a final text probably will need to be done before notice of intent to sign can be given.
 - Minimum interval before text must be publicly posted: 30 days after completion and notice of intent to sign. (Sec. 106(a)(1)(B)) Also, within 30 days after the president notifies Congress of his intent to sign the TPP the official trade advisory committees must report their views on the pending agreement to the president, Congress and USTR. (Sec. 105(b)(4))
- **If the TPP text is signed on October 30...** That would require the legal scrub of the final text taking only 90 days or less, which might be possible if the current disagreement about which language versions would be official text is resolved with only English and Spanish being counted. Legal experts have been working on the legal scrub of completed TPP chapters in English [amid negotiations](#) in effort to reduce the legal scrub time needed after the conclusion of negotiations. The legal scrub of U.S. trade agreements typically takes a few months. Given that work on the legal scrub has been ongoing, but also that there may be additional language in legal binding texts, it is unclear how much more time would be required after negotiations conclude. If a final scrubbed text were signed on October 30, that could start the 30-day countdown towards submitting implementing legislation.
 - Minimum interval before TPP implementing legislation could be submitted: 30 calendar days. Fast Track requires the president to wait at least 30 days after sending Congress the final signed legal text of the agreement to submit a pact's implementing legislation. Any time [after signing the TPP](#), the president may submit to Congress a "copy of the final legal text" and a draft statement of administrative action proposed to implement the agreement. (Sec. 106(a)(1)(D)) Thirty days after the president submits to Congress a copy of the final legal text of the TPP, he may submit to Congress an implementing bill for the agreement, an explanation of how the implementing bill would change U.S. laws to conform to the terms of the agreement, a final statement of administrative action proposed to implement the agreement, reports on projected environmental and employment impacts, a plan for implementing and enforcing the agreement, and other supporting information. (Sec. 106(a)(1)(E), Sec. 105(d)(1 and 2), and Sec. 105(e))
- **If the TPP implementing legislation were submitted on November 30...** That would require the ITC to finish its statutorily required report on the TPP's projected U.S. economic impacts in record

time. While it is not statutorily required, Congress has always waited for the ITC's report before considering a trade pact. Additionally, the Senate must also be in session on November 30, which the House is slated to be – as implementing legislation can only be submitted when both chambers are in session.

- **If Congress acted in half the time it took to vote on the least controversial existing U.S. trade deal...THEN, a final TPP vote could occur the last week before Congress' holiday recess – during the week of December 14, 2015.** This approximately two-week timeframe also happens to be the median interval between submission of a Free Trade Agreement's (FTA) implementing legislation and votes on such legislation. The range is from seven calendar days (for the Morocco FTA) to 85 days (for the Oman FTA). The median number of calendar days is 16 days if one considers all existing U.S. FTAs. It took 27 calendar days for implementing legislation for the Bahrain FTA – the least controversial existing U.S. FTA by number of “no” votes – to go from introduction (also in November) to passage in both houses of Congress under Fast Track. While it is technically possible that the TPP vote could take *less* time, it is more likely that the TPP vote would take *more* time, given that the pact is significantly more controversial. This would include, minimally, committee “un-mark-ups” of the implementing bill.
 - Maximum duration for congressional consideration of the TPP: Within 45 legislative days of the introduction of the TPP implementing legislation, the House Ways and Means Committee must report the bill or it is automatically discharged. (19 USC 2191(e)(1)) Within 15 legislative days of the TPP implementing bill leaving the House Ways and Means Committee, the full House must vote on the bill. (19 USC 2191(e)(1)) Within 15 legislative days of the House vote on the bill, the Senate Finance Committee must report the bill or it is automatically discharged. (19 USC 2191(e)(2)) Within 15 legislative days of the bill leaving the Senate Finance Committee, the full Senate must vote on the bill. (19 USC 2191(e)(2)) Any time after both houses of Congress pass the implementing bill, the president may sign the implementing legislation into law. At least 30 days before the TPP takes effect, the president must notify Congress that all other countries in the agreement have altered their domestic laws to conform to the terms of the pact to the satisfaction of the president. (Sec. 106(a)(1)(G))

***A note on the required ITC report:** Within 105 calendar days after the president signs the TPP, the ITC must submit to the president and Congress a report on the probable economic effects of the agreement. (Sec. 105(c)(2)) All recent U.S. FTAs have been voted on by Congress only after the ITC completed its report. In February 2015, USTR Michael Froman [asked the ITC to begin its assessment](#), though the text was still under negotiation, and to conclude the assessment by summer 2015. The previous ITC chairman Irving Williamson thought it would take at least five months to do a TPP assessment. It is unclear when the ITC will finish its assessment.