



The U.S. Constitution ...

- gives the *Congress* the authority “ ... to regulate commerce with foreign Nations ... ”
– Article I, Section 8
- gives the *President* the authority “ ... by and with the advice and consent of the Senate, to make Treaties, provided that two-thirds of the Senate concur.”
– Article II, Section 2

Regarding the role of the National Assembly in the ratification and implementation of FTAs, legal adjustments in the implementation of the current and upcoming FTAs, and, in particular, the TPP, it may be helpful to consider and compare the role of the U.S. Congress.

First of all, the U.S. Constitution gives the Congress the authority “ ... to regulate commerce with foreign Nations ... ” and gives the President the authority “ ... by and with the advice and consent of the Senate, to make Treaties, provided that two-thirds of the Senate concur.”

References:

U.S. Constitution, Article I, Section. 8. “The Congress shall have Power To lay and collect Taxes, Duties, ... To regulate Commerce with foreign Nations, ... ;”

http://www.archives.gov/exhibits/charters/constitution_transcript.html

U.S. Constitution, Article II, Section 2, the President “... shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur;”

http://www.archives.gov/exhibits/charters/constitution_transcript.html

Appendix A. Congressional Trade Agreements Authority Requested by and Granted to Presidents Since 1934

President	Requested Authority	Received Authority	Legislative Authority-Public Law	Negotiations Undertaken or Concluded (Date signifies conclusion)
Roosevelt	Yes	Yes	Reciprocal Trade Agreements Act (RTAA) of 1934 (P.L. 73-316). Renewed 1937, 1940, 1943, and 1945	Bilateral reciprocal tariff agreements with various countries
Truman	Yes	Yes	Trade Agreements Extension Act of 1948 (P.L. 80-792), renewed in 1949 and 1951	General Agreements on Tariffs and Trade (GATT) negotiations: Geneva Round (1947, founding); Ancey Round (1949); Torquay Round (1951)
Eisenhower	Yes	Yes	Trade Agreements Extension Act of 1953 (P.L. 83-215) Renewed in 1954, 1955, and 1958	GATT Negotiations: Geneva Round (1959); Dillon Round (1962)
Kennedy	Yes	Yes	Trade Expansion Act of 1962 (P.L. 87-794)	Kennedy Round
Johnson	Yes	Yes	Trade Expansion Act of 1962 (P.L. 87-794)	Kennedy Round (1967)
Nixon	Yes	No	Trade agreements authority lapsed from July 1, 1967, to January 3, 1975. Nixon resigned on August 9, 1974.	
Ford	No	Yes	Trade Act of 1974 (P.L. 93-618)	Tokyo Round
Carter	Yes	Yes	Trade Act of 1974 (P.L. 93-618)	Tokyo Round (1979)
Reagan	Yes	Yes	Trade Agreements Act of 1979 (P.L. 96-39), Trade and Tariff Act of 1984 (P.L. 98-573)	Uruguay Round; U.S.-Israel FTA (1985); U.S.-Canada FTA (1988)
Bush I	No	Yes	Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418)	Uruguay Round; North American Free Trade Agreement (1993)
Clinton	Yes	Yes	Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418), renewed 1993. Authority lapsed from April 15, 1994, to August 6, 2002	Uruguay Round (1994) Jordan (2001) (not considered under TPA)
Bush II	Yes	Yes	Trade Act of 2002 (P.L. 107-210)	World Trade Organization (WTO) Doha Round; FTAs with Chile (2003), Singapore (2003), Australia (2004), Morocco (2004), Dominican Republic-Central America (2005); Oman (2006), Peru (2007), Colombia (2011), Korea (2011), Panama (2011).
Obama	Yes	pending	Legislation introduced in the 113 th Congress.	Doha Round; Trans-Pacific Partnership (TPP); Trans-Atlantic Trade and Investment Partnership (T-TIP); Trade in Services Agreement (TISA)

However, since 1934, when Congress granted to President Franklin D. Roosevelt authority to negotiate “Reciprocal Trade Agreements,” Congress has shared its authority with the Executive Branch.

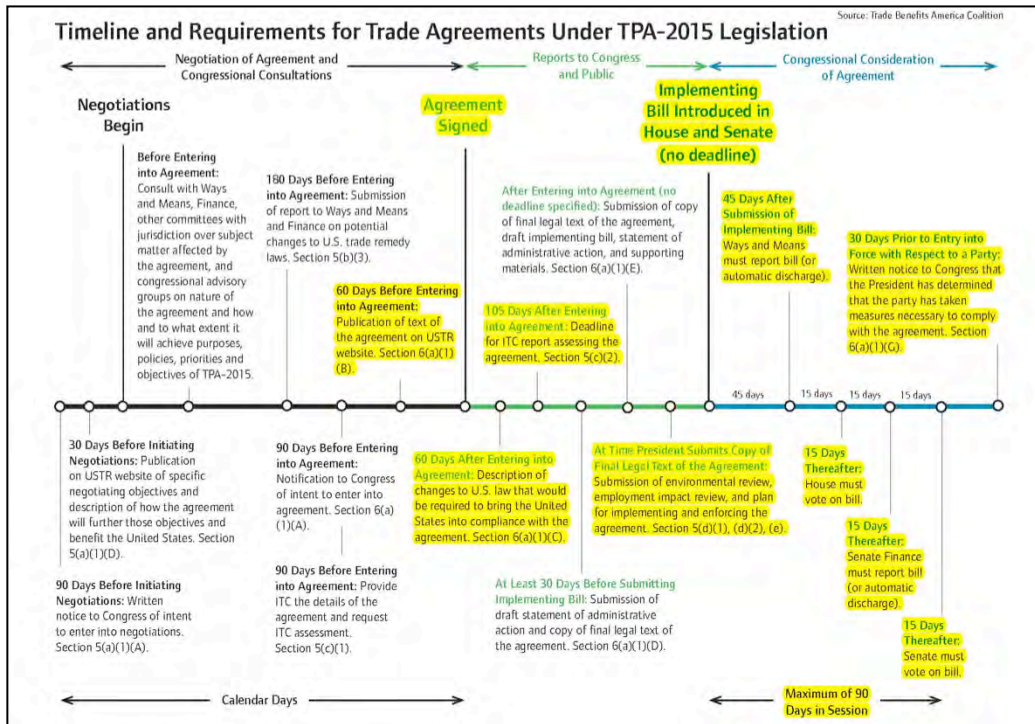
And for more than 30 years now, Congress has granted the President **Trade Promotion Authority (TPA)** / fast track authority, agreeing to consider trade agreement implementing legislation expeditiously (usually 90 days), to vote on it without amendment, and requiring only a simple majority, not a “two-thirds” majority for approval, provided that the President meets certain statutory negotiating objectives and consultation requirements, and the implementing bill contains the necessary and limited qualifying provisions.

TPA strikes a delicate balance by clarifying how Congress chooses to exercise its constitutional authority over a particular aspect of trade policy, while presumably giving the President additional negotiating leverage by effectively assuring U.S. trade partners that a final agreement will be given timely and unamended consideration by Congress.

TPA was introduced on Apr 16, 2015, approved by Congress, and signed into law by the President on Jun 29.

<http://www.amchamvietnam.com/30447597/trade-promotion-authority-legislation-introduced-in-u-s-congres/>

<http://www.amchamvietnam.com/30448375/tpp-tpe-including-taa-signed-into-law-on-mon-jun-29/>



According to the TPA, the timeline for Congressional approval of a trade agreement is shown in this slide.

Key dates on the timeline (for example).

Representative timeline			TPA Reference	
3-Jul	90	1-Oct	90 days before entering into agreement, inform International Trade Commission	5(c)(1)
2-Aug	60	1-Oct	60 days before agreement signed, publish on www.ustr.gov	6(a)(1)(B)
		1-Oct	Agreement signed (tentative) ... or Nov 18-19 at APEC Leaders Meeting Manila	
1-Oct	60	30-Nov	Report on description of changes in U.S. Law that would be required	6(a)(1)(C)
1-Oct	105	14-Jan	105 days after entering into agreement, ITC report assessing impact of the agreement	5(c)(2)
			30 days before submitting implementint bill, sdministrative action and final legal text	6(a)(1)(D)
			administrative action, final legal text, implementing bill, supporting materials	6(a)(1)(E)
			at time of submitting implementing bill, Environmental impact, employment impact, ir	5(1)(d)(1), (d)(2), (e)
		15-Jan	Implementing bill introduced in House and Senate	
15-Jan	45	1-Mar	House Ways & Means must report (or automatic discharge)	Sec 6
1-Mar	15	16-Mar	House must vote	Sec 6
16-Mar	15	31-Mar	Senate Finance Committee must report (or automatic discharge)	Sec 6
31-Mar	15	15-Apr	Senate must vote	Sec 6
15-Apr	30	15-May	30 days prior to entry into effect with respect to a party, President must give written notice to Congress that the Party has taken necessary measures to implement the agreement	Sec 6(a)(1)(G)
		15-May	Entry into effect with respect to Vietnam ???	