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5 on 45:

On the new immigration executive order

Tuesday, March 7, 2017

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PITA: You're listening to 5 on 45 from the Brookings Podcast Network: analysis and commentary from Brookings experts on today's news regarding the Trump administration.

BRANDT: I'm Jessica Brandt, an associate fellow in the Foreign Policy program here at Brookings. President Trump signed a revised travel ban yesterday, about six weeks after his initial plan triggered chaos in airports and a fierce battle in the courts. The new executive order puts in place a 90-day freeze on issuing new visas to citizens of now six majority-Muslim countries, and it reinstates a temporary blanket ban on all refugees.

What about it is noteworthy? First, the new order eliminates some of the original measure's most contentious provisions. That's part of an effort to circumvent the fierce legal and political opposition that surrounded the original travel ban's rollout. The new measure does away with a provision that would have prioritized persecuted religious minorities for refugee resettlement. That was widely interpreted as a means of preferencing non-Muslims. It also reverses an indefinite ban on the resettlement of Syrian refugees. The 120 day halt to the refugee program stands, but it will now apply equally to citizens of all countries. Refugees previously granted status are exempt from the new measure, including those from any country whose travel the State Department has already scheduled. Green card holders and foreign nationals with valid visas are also going to be exempt.

Second, it's important to note that in spite of these changes, a number of the measure's most troubling elements stand. That includes what was arguably the original order's most sweeping component: a steep across-the-board cut in the number of

refugee admissions the United States will allow in FY17. Under the measure, that number would be slashed by more than half: from 110,000, which was the target set by the Obama administration, to 50,000. The new measure also keeps alive a provision that would give state and local officials greater involvement in the process of resettling refugees in their jurisdictions. At best, that could politicize what has already been a fairly contentious project. At worst, some advocates fear that it could be used by governors to complicate refugee arrivals. We all remember what happened in late 2015, when 31 governors said Syrian refugees were not welcome to resettle in their states. Mike Pence, who was then the governor of Indiana, attempted to block the disbursement of federal funds for that goal. The courts stopped him, based partly on the notion that authority over matters of foreign policy lies with the executive. But it seems that state and local officials who want to make their jurisdictions less welcoming wouldn't have to act against the executive to do that, and the new order seems to give them more leeway in that regard.

So what does that all mean? I think a number of troubling things. First, the sweeping cut to refugee admissions sends a powerful message to countries around the world that the United States will not lead a global coalition for resettlement. That threatens to weaken the international refugee system which is, and I think this is important to remember, designed to meet the needs of refugees as well as the international community. The system rests on the notion of responsibility-sharing, the idea that countries everywhere, not just those where refugees first arrive, will play their part. The new measure undermines this notion, and therefore the system, at precisely a time when it's most needed. It also sends a powerful signal to our allies across the

Atlantic, who have taken in a substantial number of refugees over the past few years from Syria and elsewhere. It's not a message of solidarity. Europe has long been among our most reliable security partners, and their cooperation is critical on some of the most important challenges we face, countering terrorism and managing Russia chief among them. Also important is what the measure foreshadows. It seems unlikely that the administration intends to pair this policy with an increase in humanitarian assistance to frontline states in Syria's neighborhood – states like Jordan and Lebanon. But supporting these frontline states is essential to stability in an already-fragile region. Last but not least, the measure and the bitter rhetoric that surrounded it seems to make it easier for extremist organizations to paint the U.S. as bigoted and unwelcoming. That's a portrayal we want to counter.

A question I've heard often over the past two days is, is this the Muslim ban? Strictly speaking, no. The six targeted countries are not the most populous Muslim-majority countries, and Muslims residing elsewhere will not be affected by the new law. However, it's very important to remember that those who are affected by the measure are overwhelmingly Muslim. During the campaign, President Trump called for "a total and complete shutdown of Muslims" entering the United States, and when the first executive order was released, Rudy Giuliani, who's now his adviser, said that the president wanted a Muslim ban and asked that he assemble a commission to show him the right way to do it legally. That's hard to ignore. Finally, President Trump says that this measure is designed to enable his administration to "figure out what's going on" with regard to vetting standards. But in the approximately six weeks since the initial

order was signed, there seems to be scant evidence that vetting standards have been reviewed or new ones implemented.

The measure will go into effect on March 16<sup>th</sup>. Legal experts say the new order may be harder to challenge in court, but some advocates are already on record saying they intend to do just that.

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