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Issues of the legal concept on the mechanism for controlling the proliferation of weapons of mass destruction and their financing

The scientific development of the problem of organizing activities to counter the financing of the proliferation of weapons of mass destruction in the Republic of Kazakhstan requires the development of a legal concept for a mechanism for controlling the proliferation of weapons of mass destruction and its financing, which will logically determine the countermeasures strategy, where the prevention of merging with international terrorism and extremism occupies a special place. The relevance of the article reflects the real need for the insurance of national security, for the society, and for the financial and political system of the state to prevent the emergence of a threat, to finance the proliferation of weapons of mass destruction and their merging with international terrorism and extremism, legal forces and means. Emphasizing relevance, especially in the current period of time when the world is under quarantine associated with the COVID-19 pandemic, we believe that it is necessary to dwell in more detail on the forms of terrorist attacks. Such a form of terrorist attack as biological terrorism encompasses the use of biological weapons, which can be an artificially created new form of life, as well as the deliberately concealed use and use of various biological agents and toxins, mutations of bacteria and viruses. It should be noted that in the course of scientific research, the author's contribution of each project participant to its implementation will be strictly formalized. All results obtained will be formalized and divided in accordance with the current civil legislation of the Republic of Kazakhstan in the field of intellectual property.

Keywords: legal concept, financing of weapons of mass destruction, identifying and suppressing the financing of terrorism, biological terrorism, chemical attacks, biological attacks, pathogens, effective measures to counter the financing of terrorism and WMD, terrorist financing risks and WMD, terrorist organizations and groups, terrorists, exploitation of natural resources, payment products and services.

Introduction

It should be noted that the Republic of Kazakhstan, as an anti-nuclear, adheres to a peaceful foreign policy, constantly pays attention to this global threat and pursues a systematic policy of counteraction. One of the results of the implementation of such a policy was the adoption by the Government of the Republic of Kazakhstan of the Decree on the approval of the «State Program to Combat Religious Extremism and Terrorism in the Republic of Kazakhstan for 2018 — 2022», practically carrying out the «red thread», the idea of the relevance of the subject of attention, namely terrorism and acts of terrorism.

The dominant goal of the application of biological terrorism comes down to one thing: harming human life, human, food, agricultural and environmental resources, including the genetic consequences of a biological attack, their complete or partial destruction, destruction of the gene pool and genetic structure.

In addition, like any form of terrorism, the act of biological terrorism is always aimed at creating controlled chaos and acts as a deterrent in order to achieve certain political goals, such as the threat of undermining the economy and invading the financial and economic system, both of an individual state and in the world scale, and as a result, the political manipulation of power, the constitutional system and the impact on them.

Historical analysis, traditionally shows that biological agents are the methods of biological terrorism, namely bacteria, viruses, fungi, protozoa — the causative agents of especially dangerous infections, as well as their genetic modification, up to the creation of a new biological life, which contributes to the emergence of epidemics, epizootics and pandemics (as an example, we can use the SINTIY bacterium, the Ebola virus, artificially created to absorb an oil spill by an American tanker in the Caribbean Gulf)

Currently, around the world there is a fairly extensive list of agents for use and application for biological terrorism.

There are a huge number of bacteria, viruses and toxins, their genetic modifications, which potentially and really serve as a weapon of biological terrorism.

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Plague, with an incubation period of one to eight days, with a mortality rate of 100 %, acute infectious disease of humans and animals transmitted by airborne droplets, its natural foci and reservoirs exist around the world, however, due to climatic features, they are absent on the Antarctic continents and Australia. Plague symptoms appear on the body of a sick person in the form of painful buboes (nodes — a medical term) with subsequent necrotization of organic material, while the immunity, designed to resist foreign intervention, on the contrary, begins to secrete a potent toxin that causes acute pulmonary failure, after which for eighteen hours the patient dies.

The method of infection is quite simple and convenient for terrorist purposes, namely, by spraying the compound in air, water and subject space. Moreover, in a natural reservoir, the focus of infection occurs through the bites of fleas and wild rodents.

Examples of viral diseases, the causative agents of which can now be used as agents of biological weapons, are smallpox and Ebola hemorrhagic fever.

It must be emphasized that, in comparison with nuclear weapons, as a fulfillment of a terrorist act, which is a theoretical and complex problem, chemical terrorism has the simplest manufacture and practical significance.

Currently, there are two forms of terrorist attacks aimed at mass destruction.

In the first case, terrorist organizations distribute toxic substances in the most numerous territories (for example, the provinces of Syria), in water supply and ventilation systems.

In the second case, a terrorist chemical attack has as its main target the spread of fear, blackmail and the potential and real threat of economic undermining (for example, a specific chemical is applied to a specific product, paper on correspondence, etc.)

The main essence of the project is the scientific justification and development of a legal concept to control the financing of the proliferation of weapons of mass destruction, as the main reason for illegal proliferation, which accordingly requires the development of a strategy to counter it and merge with terrorist and religious extremist activities.

The main objective of the project is to study the organization of activities to counter the financing of the proliferation of weapons of mass destruction in the Republic of Kazakhstan and to prevent its merging with international terrorism and extremism.

In accordance with the above, the development of a legal concept to control the financing of the proliferation of weapons of mass destruction requires a strategy to counter its merging with terrorist and religious extremist activities, and therefore the development of proposals in the current national legislation of the Republic of Kazakhstan in the field of countering the financing of the proliferation of weapons of mass destruction.

The implementation of the goals and objectives of the project involves the use of the following scientific methods and approaches.

The methodological basis of the study is the general scientific dialectic method.

In the process of legal analysis and assessment of counteraction to financing of weapons of mass destruction, identifying the causes and conditions that create a potential and real threat to their manufacture, use, transportation and storage, a set of factors inducing criminal actions in this area, a number of private scientific methods are also used, traditional for legal studies, formal-logical, comparative-legal, system-structural.

In this regard, the use of psychological and forensic methods in the study is quite effective and appropriate, given the presence of financial and economic elements, namely the definition of «financing the proliferation of weapons of mass destruction» in the criminal activity under consideration in the framework of identifying and detecting virtual traces in the financial monitoring system.

When conducting a survey of employees of judicial, law enforcement and other state bodies, the sociological research method will be used.

In addition, in order to complete and efficiently implement the project and carry out the research, there is a need for the active participation of members of the research group in various international seminars, forums and other events related to the problem of countering the financing of weapons of mass destruction, as well as the introduction of new educational disciplines in the educational process including the main points of the study.

Project participants commit themselves to strictly and steadily comply with the principles and requirements of scientific ethics, including through compliance with all standards of intellectual honesty.

It should be noted that in the course of scientific research, the author's contribution of each project participant to its implementation will be strictly formalized. All results obtained will be formalized and divided in accordance with the current civil legislation of the Republic of Kazakhstan in the field of intellectual property.

Results

- consideration of the issue of organizing activities to counter the financing of the proliferation of weapons of mass destruction at the present stage of development of society on the basis of a legal concept and a control mechanism in the field of financing the proliferation of weapons of mass destruction;
- analysis of the existing legal approaches to the consideration of the organization of activities to counter the financing of the proliferation of weapons of mass destruction in the Republic of Kazakhstan;
- disclosure of basic concepts and definitions in the field of countering the financing of the proliferation of weapons of mass destruction;
- research of theoretical positions on the controversial issues of the problem under study and justification of their own judgments on them;
- development of methodological recommendations on measures to counter the financing of the proliferation of weapons of mass destruction.

Discussions

The UN Security Council Resolution adopted on April 28, 2004, better known as the 1540 Committee, is a fundamental international document in the field of non-proliferation of weapons of mass destruction. The provisions of the 1540 Committee determined the further direction in this area, laying the foundation for fairly universal provisions and recommendations of the UN Security Council regarding the prohibition of financing the proliferation of weapons of mass destruction, which are being considered and have their effective mechanism to date, and also determine the means of delivery of weapons of mass destruction, which include missiles and other unmanned systems capable of delivering nuclear, biological and chemical weapons, specially designed for such use [1].

Weapons of mass destruction are nuclear, chemical and biological weapons, which have a destructive effect on humans, flora and fauna, causing damage to the ecological system, as it causes irreparable damage for subsequent generations of biological species over a large area.

At present, the Republic of Kazakhstan, a power that has abandoned various types of weapons of mass destruction, and openly demonstrates its national policy, as peaceful and aimed at preserving the threat of destruction of ecological and biological habitat.

It should be noted that the basis of the priority directions of the foreign policy of the Republic of Kazakhstan is the rejection of the use of nuclear, chemical and biological weapons.

Such an important political decision of Kazakhstan is based on the comprehensive strengthening of peace and international security, the development of international cooperation and legal assistance, and support in resolving military and other international conflicts (an example of this is the provision of a platform for international negotiations on the SAR).

This serves to realize the goal of preventing the financing and proliferation of weapons of mass destruction, the dynamic development of strengthening the regime for the destruction of nuclear, chemical and biological weapons on a global scale, as well as the development of a national concept to control the non-proliferation of weapons of mass destruction.

The Republic of Kazakhstan, following the national legal principles of refusing to finance the proliferation of weapons of mass destruction, demonstrates a stable political decision of the intra-national regime to counter the proliferation of weapons of mass destruction, which began with the decision of the Government of the Republic of Kazakhstan of August 29, 1991 to close the Semipalatinsk nuclear test site (SNTS).

The results of this political step were the implementation of the withdrawal of nuclear material from the territory of Kazakhstan, the placement of nuclear facilities of the Republic under IAEA safeguards, the creation of the National Nuclear Center of Kazakhstan, where observation and experiments in the field of atomic energy and radiobiology (NNC RK) are carried out.

It should be noted that there is a sufficiently developed nuclear infrastructure on the territory of the Republic of Kazakhstan, within which industrial production of natural uranium and uranium ore takes place, which has clear legislative regulation and is under the supervision and control of the relevant competent authorities.

In 1992, Kazakhstan embarked on the independent export of nuclear products, as well as their dual use, as well as the development of strict export control measures. The dominant principles of export control measures were:

- strict adherence to international obligations regarding the non-proliferation of weapons of mass destruction and other types of weapons;
- strict definition of priorities of political and legal interests in the implementation of export control;
- control of the export of nuclear materials and dual-use technologies at the state level;
- clarity, transparency and reliability of the export control system, including at the international level.

The formation of the export control system in the Republic of Kazakhstan was founded by the Resolution of the Cabinet of Ministers of the Republic of Kazakhstan in 1993, and was marked by the adoption of a legislative act on the export and import of nuclear materials, materials and dual-use technologies. This led to the fact that Kazakhstan is a member of the Union of Independent States (hereinafter CIS), one of the first to adopt in 1996 the Law of the Republic of Kazakhstan «On export control of weapons, military equipment and dual-use products.»

In addition, in 2002, the Republic of Kazakhstan entered the international association the Group of Nuclear Suppliers (hereinafter referred to as NSG). The NAP group, which includes 48 states, is designed to limit the risk of nuclear proliferation by establishing control over the export of key materials, equipment and technologies. Kazakhstan, as a member of the YaP Group, pursues its goal to intensify measures to combat terrorism, counter the proliferation of weapons of mass destruction, strengthen control over the use and movement of nuclear materials, as well as dual-use products.

The Republic of Kazakhstan, which controls the means of transit, movement and delivery of weapons of mass destruction, systematically participates in the development of the International Code of Conduct against the Proliferation of Ballistic Missiles, which was launched at an international conference in The Hague in November 2002, including the Global Initiative to Combat Acts of Nuclear Terrorism. This was reflected in the holding in 2010 in Astana of the next International Conference of the Global Initiative to Combat Acts of Nuclear Terrorism. Already in 2012, at the International Anti-Nuclear Conference, also held in Astana, the Abolish Testing Our Mission (ATOM) initiative was launched, the main idea of which is to organize an international campaign aimed at providing accessible information on the consequences and threats of nuclear tests for the entire world community.

As an initiative to strengthen the non-proliferation of weapons of mass destruction, and its financing at the 2010 Washington Summit, the Republic of Kazakhstan presented a package of proposals for the development of fundamentally new international acts of nuclear disarmament, namely treaties on the universal horizontal and vertical non-proliferation of nuclear weapons, on the prohibition of production fissile materials for military purposes, as well as under the auspices of the UN to conclude a new Global Treaty on the general and complete prohibition of nuclear weapons.

In this regard, in the Republic of Kazakhstan, as well as in other neighboring states of the former Soviet Union, it became necessary to develop a national concept on the mechanism for controlling the proliferation of weapons of mass destruction and its financing, as a legal phenomenon.

Thus, the development of a legal concept on the mechanism of control over the proliferation of weapons of mass destruction and their financing should be based on two main vectors:

- international mechanisms of control of ROMU and its financing;
- national mechanisms of control of the ROMU and its financing.

As noted earlier, international mechanisms to control the proliferation of weapons of mass destruction and their financing are based on international treaties and resolutions, including the UN Security Council, as well as the adopted FATF standards.

However, the second vector, namely national control mechanisms, is currently not developed and does not have its own national concept, as well as methodology, not only in Kazakhstan, but in the CIS countries.

In our opinion, the urgency of developing a national concept of mechanisms for controlling the proliferation of weapons of mass destruction and their financing is obvious. This is due, first of all, on the one hand, with the observance and implementation of international FATF standards in national legislation, and on the other hand, with the maintenance of political and legal traditions and principles of Kazakhstan, as a sovereign, legal, secular and democratic state, compliance with the current legislation in the sphere of national security, one of the main threats of which is the proliferation of weapons of mass destruction.

There is a need for a more detailed consideration of issues related to international mechanisms for preventing the proliferation of weapons of mass destruction, as this will allow conducting a legal analysis to develop its own concept in the area under consideration, where integration into national legislation and taking into account the latter will be a feature.

It should be noted that certain reasons in world geopolitics create problems associated with the effectiveness in international control over the proliferation of weapons of mass destruction and their financing.

First of all, we believe that the problem lies in the fact that the financial aspect makes it possible to quickly produce and transport WMD, that is, it determines a large material resource.

In addition, the financial aspect is relevant, as it acts in the interests of protecting the security of states from external interference.

In particular, the development of international norms for limiting nuclear weapons got its start in the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).

The NPT was developed and signed in 1968 by the UN Disarmament Committee, with the aim of limiting states possessing weapons of mass destruction (nuclear, chemical, biological), and thereby, to ensure effective international control over the fulfillment of treaty obligations by countries [2].

The states of the world that have voluntarily signed this treaty refuse to develop and create nuclear weapons, as well as to acquire them, and have assumed international obligations to use only the peaceful atom.

In accordance with the said treaty, a country having a nuclear weapon is a state that has produced nuclear weapons and also used them.

In this case, we are talking about restrictive measures to suppress the emergence and expansion of military conflict using the weapons of mass destruction in question, to allow various research in the field of chemistry, biology and physics in order to develop these sciences, as well as the so-called peaceful use of atomic energy.

It should be noted that India and Pakistan refused to sign the NPT, since, in the opinion of these countries, the international document under consideration defines only the rights for financially stable and developed countries with the status of nuclear powers.

In addition, Israel completely refused to comment on information about its own nuclear research, the Islamic Republic of Iran since 2004 appears to be a state that carries a potential threat to the development, production and use of nuclear weapons, North Korea is the treaty under consideration, and at the same time after the aggravation of the situation of relations with the IAEA withdrew its agreements and agreements.

The countries that have signed the NPT and have nuclear weapons and potential have undertaken to prohibit the transfer of nuclear weapons and devices to them, the sale, acquisition, production, as well as the transfer of control over weapons to states that do not have such and not to carry out provocative actions of using nuclear weapons, explosive devices, not to use it against states that do not have such weapons, except in a situation when they respond to a nuclear strike or an attack using conventional means committed in alliance with a nuclear state.

In this regard, there is an urgent need to develop a legal concept for controlling the proliferation of weapons of mass destruction at the national level. Emphasizing the relevance, especially at the present time, when the world is in quarantine conditions associated with the COVID-19 pandemic, we believe that it is necessary to dwell in more detail on the forms of terrorist attacks.

Such a form of terrorist attack as biological terrorism encompasses the use of biological weapons, which can be an artificially created new form of life, as well as deliberately concealed use and use of various biological agents and toxins, mutations of bacteria and viruses.

In addition, like any form of terrorism, an act of biological terrorism is always aimed at creating controlled chaos and acts as a deterrent in order to achieve certain political goals, such as the threat of undermining the economy and intrusion into the financial and economic system, both of an individual state and in the world. scale, and as a consequence, political manipulation of power, constitutional order and influence on them.

Historical analysis traditionally shows that biological agents act as methods of biological terrorism, namely bacteria, viruses, fungi, protozoa — causative agents of especially dangerous infections, as well as their genetic modification, up to the creation of a new biological life, which contributes to the emergence of epidemics, epizootics and pandemics (as an example, we can cite the bacterium «SINTIY», the «Ebola» virus, artificially created to absorb the oil spill by an American tanker in the Caribbean)

At the present time, all over the world there is a fairly extensive list of agents for use and application for the purposes of biological terrorism.

There is a huge number of bacteria, viruses and toxins, their genetic modifications, which potentially and actually serve as a weapon of biological terrorism.

Plague, with an incubation period of one to eight days, with a mortality rate of 100 %, an acute infectious disease of humans and animals, transmitted by airborne droplets, its natural foci and reservoirs exist all over the world, but due to climatic features are absent on the continents of Antarctica and Australia. Plague symptoms appear on the body of a sick person in the form of painful buboes (nodes is a medical term) with subsequent necrotization of organic material, while the immunity, designed to resist foreign interference, on the contrary, begins to release a potent toxin that causes acute pulmonary failure, as a result of which, within eighteen hours the patient dies.

The method of infection is quite simple and convenient for terrorist purposes, namely, by spraying the formulation in air, water and subject space. Moreover, in the natural reservoir, the focus of infection occurs through the bites of fleas and wild rodents.

Smallpox and Ebola haemorrhagic fever are examples of viral diseases that can currently be used as biological weapons.

It should be emphasized that, compared to nuclear weapons as the execution of a terrorist act, which is a theoretical and complex problem, chemical terrorism has the simplest manufacture and practical significance.

Currently, there are two forms of terrorist attacks aimed at mass destruction. In the first case, terrorist organizations will distribute toxic substances in the most numerous territories (for example, the province of Syria), in water supply and ventilation systems.

In the second case, a terrorist chemical attack has as its main target the spread of fear, blackmail and the potential and real threat of economic disruption (for example, a certain chemical is applied to a specific product, paper carriers on correspondence, etc.)

In this sense, the legal concept on the mechanism for controlling the proliferation of weapons of mass destruction should not be limited only to the regulation of legislative relations in this area, but also to include a separate aspect of a clause on countering their financing, which in turn complies with international standards in this specific area.

Traditionally, any concept is defined as a complex of views and fundamental ideas on any phenomenon, event, fact. Such a complex, in turn, forms an interconnected system and a certain way of interpreting them on the basis of a directive idea for their understanding and perception and awareness.

Thus, the legal concept on the mechanism for controlling the proliferation of weapons of mass destruction should contain issues related not only to the production, acquisition or sale of weapons of mass destruction, as defined in the national criminal legislation of the Republic of Kazakhstan, but also to its transportation through the territory of Kazakhstan) in transit, logistics), as well as control of the availability of raw materials and a base on the territory of our country [3].

Financing the proliferation of weapons of mass destruction creates a potential and real threat to the national security of the Republic of Kazakhstan, as well as the EAG countries. This is due to the commonality of borders with many neighboring countries, a common historical past, and the manifestation of extremely negative factors of destabilization of states and the conduct of aggressive wars, with the use of such weapons, both in the Middle East and in other territories in the international community and requires a separate direction of consideration in the proposed concept.

Conclusion

In this regard, there is an urgent need to develop a legal concept for the control of the proliferation of weapons of mass destruction at the national level, which should contain areas related to the production, acquisition or sale of weapons of mass destruction, with its transportation through the territory of Kazakhstan) transit, logistics), as well as control of the availability of raw materials and a base on the territory of our country and forms of countering the financing of weapons of mass destruction as a potential threat and new risks for their use for terrorist and extremist purposes.

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Л.К. Аренова, Г.Б. Султанбекова

Жаппай қырып-жою қарудың таралуын және оны қаржыландыру бақылау тетігі бойынша құқықтық тұжырымдама мәселелері

Зерттеліп отырған проблеманың өзектілігі Қазақстан Республикасында жаппай қырып-жою қаруын өндіруге, сатып алуға немесе өткізуге, оны Қазақстан аумағы арқылы транзитпен, логистикамен тасымалдауға байланысты бағыттарды, сондай-ақ еліміздің аумағында шикізат материалы мен базаның болуын бақылауды және жаппай қырып-жою қаруын террористік және экстремистік мақсаттарда пайдалану үшін ықтимал қатер және жаңа тәуекелдер ретінде қаржыландыруға қарсы іс-қимыл нысандарын қамтуға тиіс жаппай қырып-жою қаруын бақылаудың құқықтық тұжырымдамасын әзірлеу қажеттігінен туындайды. Қазақстан Республикасында жаппай қырып-жою қаруын таратуды бақылауға байланысты мәселелерді реттеудің бірыңғай, ұлттық стратегиясын құруы тиіс бағыттарды айқындау болып табылады. Осыған байланысты құқықтық тұжырымдамада өндіріс, сатып алу, өткізу, тасымалдау (транзит және логистика), сондай-ақ еліміздің аумағындағы шикізат базасы мәселелерін реттеу қамтылуға тиіс. Жаппай қырып-жою қаруын таратуды қаржыландыруға қарсы іс-қимыл мәселелерін зерттеудің жетекші тәсілі жүйелік-қызметтік тәсіл және қаралып отырған саладағы қолданыстағы ұлттық заңнаманы құқықтық талдау әдісі болып табылады. Зерттеу нәтижесінде Қазақстан қоғамындағы тыныс-тіршіліктің барлық салаларын құқықтық реттеу мәселелерін, оның ішінде эпидемиялар мен эпизоотияларға байланысты карантинді ұлттық деңгейде енгізу алгоритмдерін жаппай қырып-жою қаруын бақылау жөніндегі бірыңғай құқықтық тұжырымдама, халықаралық стандарттарға және Қазақстан Республикасы ұлттық заңнамасын ырықтандыру негізінде қол жеткізілді.

Кілт сөздер: жаппай қырып-жоятын қаруды қаржыландыру, терроризмді, биологиялық терроризмді, химиялық шабуылдарды, биологиялық шабуылдарды, қоздырғыштарды анықтау және жолын кесу, терроризм мен ЖҚҚ қаржыландыруға қарсы іс-қимылдың тиімді шаралары, терроризмді қаржыландыру тәуекелдері мен ЖҚҚ, террористік ұйымдар мен топтар, террористер, табиғи ресурстарды пайдалану, төлем өнімдері мен қызметтері.

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Вопросы правовой концепции по механизму контроля за распространением оружия массового уничтожения и его финансированию

Актуальность исследуемой проблемы обусловлена необходимостью разработки правовой концепции контроля за оружием массового уничтожения в Республике Казахстан, которая должна содержать направления, связанные с производством, приобретением или сбытом оружия массового уничтожения, с его транспортировкой через территорию Казахстана (транзитом, логистикой), а также контролем наличия сырьевого материала и базы на территории нашей страны и формы противодействия финансированию оружия массового уничтожения, как потенциальной угрозы и новых рисков для использования его в террористических и экстремистских целях. Цель статьи заключается в определении направлений, которые должны образовывать единую, национальную стратегию регулирования вопросов, связанных с контролем распространения оружия массового уничтожения в Республике Казахстан. В этой связи правовая концепция должна содержать регулирование вопросов производства, приобретения, сбыта, транспортировки (транзита и логистики), а также сырьевой базы на территории нашей страны. Ведущим подходом к исследованию вопросов противодействия финансированию распространения оружия массового уничтожения являются системно-деятельностный подход и метод правового анализа действующего национального законодательства в рассматриваемой сфере. В результате исследования определены вопросы правового регулирования всех сфер жизнедеятельности в казахстанском обществе, в том числе алгоритмов введения карантина в связи с эпидемиями и эпизоотиями на национальном уровне, на основании единой правовой концепции по контролю за оружием массо-

вого уничтожения, в соответствии с международными стандартами и либерализацией национального законодательства Республики Казахстан.

Ключевые слова: правовая концепция, финансирование оружия массового уничтожения, выявление и пресечение финансирования терроризма, биологический терроризм, химические атаки, биологические атаки, патогены, эффективные меры по противодействию финансированию терроризма и ОМУ, риски финансирования терроризма и ОМУ, террористические организации и группы, террористы, эксплуатация природных ресурсов, платежные продукты и услуги.

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