
Dietrich Andre Loeber

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DIETRICH ANDRÉ LOEBER*

I. INTRODUCTION

History shows that we have to wait for the collapse of a Soviet treaty partner to learn more about Soviet treaty practice. Only then do we gain access to those agreements concluded by the Soviet Union which are carefully shielded from the outside world. The fall of the (non-Soviet) government of Georgia, in 1921, is an early example;¹ the surrender of Germany in 1945 a later one;² and the latest is the disintegration of the Socialist government in Grenada, in 1983.³

Although many countries presumably conclude secret agreements, the Soviet Union prides itself in engaging in open diplomacy only. This claim is based on the Soviet Decree of Peace, issued by the young Soviet Republic and signed by Lenin one day after the October Revolution in 1917. The Decree of Peace provides that “[t]he Government abolishes secret diplomacy and on its part expresses the firm intention to carry on all negotiations absolutely openly before all the people.”⁴ As the case of Grenada shows, the Soviet Union did not live up to its

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* Professor of Law, Dean, Faculty of Law, University of Kiel, Kiel, Germany.

1. After the fall of the non-Soviet Government of Georgia, the Soviet Union published the text of a secret supplement to the Peace Treaty of 1920, between the RSFSR and Georgia. 3 Sbornik DeistvuiushchiKH Dogovorov RSFSR 295 (1922), English translation in 1 Soviet Treaty Series 46 (L. Shapiro ed. 1950). See also infra note 64 and accompanying text.


commitment.

The purpose of this article is to provide some insight into Soviet treaty practice, using three secret Soviet-Grenadian military agreements as a case study. These agreements were concluded between 1980 and 1982, during the short-lived regime of the left-wing government of Grenada, established in 1979 and headed by Maurice Bishop.

In view of the mushrooming literature on Grenada and the United States mission of 1983, there is no need for an extensive history of this Caribbean island, discovered by Columbus in 1498 and now inhabited by some 111,000 people. Grenada won independence from Great Britain in 1974, and in 1979 it established diplomatic relations with the Soviet Union. Shortly thereafter a network of bilateral treaties with the Soviet Union developed. Two of them were published: a commercial agreement of 1980 and an agreement on cultural cooperation dated 1982. The first one was supplemented by a Protocol of 1980 on the sale of Soviet equipment on credit, at an interest rate of four percent. During a visit to Moscow in 1982, Premier Maurice Bishop signed an agreement on economic and technological cooperation, a protocol on the delivery of goods for 1983-1987, and a consular convention. Although these agreements were reported in the press, the three secret treaties discussed here were not mentioned in any open publications until their texts were released in the United States in 1983.

In addition to the state-to-state agreements, the ruling parties of


8. 2 Sobranie postanovlenii SSSR No. 10, item 22 (1983).


the two countries also entered into treaty-type relations. In an Agreement of 1982, the parties declared their intention to cooperate "at all levels" and in various fields, including consultations on the world revolutionary process, the promotion of inter-state relations and the training of party and government cadres.\textsuperscript{11} The document, signed for the Communist Party of the Soviet Union (CPSU) by Boris N. Ponomarev\textsuperscript{12} and for the New Joint Endeavor for Welfare, Education, and Liberation (JEWEL) Movement by Kenrick Radix\textsuperscript{13}, was to be supplemented periodically by "concrete plans." A plan agreed upon in the Fall of 1982 provided for the construction of headquarters for the New JEWEL Movement (NJM) in St. George's, the capital of Grenada. The CPSU agreed to bear the costs while the Communist Party of Cuba was to supply the materials.\textsuperscript{14} Work had not yet begun when the NJM disintegrated in 1983. Another part of the plan envisaged scholarships for "15 NJM comrades" to attend the CPSU Party School. A program administered by the CPSU included visits to the Soviet Union based on annual quotas in man/month units. The New JEWEL Movement was invited to send to the Soviet Union five participants for "rest and recreation" and "familiarization."\textsuperscript{15}

II. THE FORM AND SUBSTANCE OF THE MILITARY AID AGREEMENTS

A. Format of the Agreements

The agreements can be listed briefly in chronological order:

(i) The first agreement was concluded in Havana on October 27, 1980 [1980 Agreement]. It consists of 7 articles to which a "[l]ist of special materiel . . . " (sic) is appended.\textsuperscript{16}


12. Boris Nikolaevich Ponomarev is Secretary of the CPSU Central Committee and, since 1954, chief of its International Department.


15. \textit{See id.} Doc. 21-3; Docs. 26-7, 26-8. \textit{See also id.} Doc. 29-2 and Minutes of the NJM Politburo of Sept. 15, 1982, as summarized in a memo by Hazel-Ann dated Oct. 4, 1982. A copy of this memo is on file with the United States Department of State, Washington D.C.

16. \textit{Id.} Doc. 13. It is conceivable that the Soviet representative had arrived in Havana.
(ii) Three months later a Protocol of February 9, 1981 was signed in Havana [1981 Protocol]. The Protocol has only 3 articles, but it is supplemented by a list of eighty-four items of special equipment.\footnote{Id. Doc. 15. On October 6, 1981, prior to the signing of the 1981 Protocol, Marshall Nikolai V. Ogarkov, who was then the Chief of the General Staff and First Deputy Minister of Defense of the Soviet Union, arrived in Havana with a "high-ranking military delegation." Pravada, Feb. 9, 1981; Granma, Feb. 15, 1981. Perhaps an official in Ogarkov's delegation acted as the Soviet representative in signing the 1981 Protocol with Grenada.}

(iii) The third agreement was concluded one and a half years later, on July 27, 1982, in Moscow [1982 Agreement]. It is the most comprehensive of the three treaties, consisting of eight articles and two annexes. The first annex lists fifty-six items of equipment to be delivered to the Grenadian army, while the second annex provides for the supply of forty-seven items of equipment to the Grenadian Ministry of the Interior.\footnote{Id. Doc. 14. The 1982 Agreement was signed in Moscow at the time Premier Maurice Bishop concluded the open economic agreement. See supra note 10 and accompanying text.}

All three agreements are drafted in both English and Russian, each text being equally valid; and although they conform to the usual format of international agreements, each is marked "Top secret." The agreements are preceded by an almost identical preamble and are closed by a sentence indicating the place and the date they were executed. The final language (that is "For and on behalf of the Government of . . . ") is signed by one representative for each of the contracting parties, but the representatives are not identified by name or position.

The 1982 Agreement was to be executed on the basis of "contracts" (art. 6). One such contract, marked "secret," was concluded four months later in Moscow [1982 Contract].\footnote{Contract No. 84/2100602 (Nov. 26, 1982) [hereinafter 1982 Contract] entered into by the USSR State Committee for Foreign Economic Relations and the Grenadian Ministry of Defense, is on file with the United States Department of State.}

**B. Release of the Texts**

The texts of the three agreements, together with other captured documents, were released to the public by the United States State Department in 1983. One year later, a selection of the captured documents was published by both the United States State Department and the Department of Defense. Although the author is unable to verify the authenticity of the documents, there is no doubt as to their genuineness.
The Soviet Union failed to react to the publication, by the United States Government, of the secret Soviet-Grenadian agreements. In the flood of Soviet publications condemning the 1983 U.S. mission in Grenada, the documents captured by the U.S. forces were passed over in silence. P.P. Iakovlev, in 1984, mentioned "allegedly 'secret documents' which fell into the hands of the U.S.A. and which were published by the U.S. government." However, Iakovlev explained that they dealt with "agreements between the government of Cuba and Grenada," thus creating the impression that none of the captured documents related to the Soviet Union.20

C. Substance of the Agreements

Without analyzing in detail the agreements and describing, for instance, the individual items to be shipped to Grenada, the obligations undertaken by the Soviet Union can be grouped into four categories: (i) delivery of equipment for military use and for use by the Ministry of Interior; (ii) training of Grenadian military personnel in the Soviet Union; (iii) sending of Soviet specialists to Grenada; and (iv) keeping the agreements secret.

i. Arms Transfer

The military equipment to be sent to Grenada consisted of a wide range of items:

- Armaments—from anti-aircraft mounts and military guns to armored personnel carriers and armored reconnaissance vehicles;
- Small arms—from rifles and pistols to grenade launchers and anti-tank guns;
- Ammunition—cartridges, grenades and mines;
- Uniforms and equipment—from undershirts, belts and boots to blankets, pots and binoculars;
- Vehicles—jeeps, trucks and ambulances;
- Communication equipment, such as radio stations and telephone sets;
- Logistic material—from camp tents and camouflage nets to a mobile kitchen, including messes and a bakery plant;
- Engineering equipment—from mine detectors and excavators to bulldozers and a power station.

The equipment for use by the Ministry of the Interior included

"special instrumentation," such as "Pobedit-M," "Moshka-MX," "Ny-lon-ZU"—apparently equipment needed for counter-intelligence and surveillance purposes. The Soviet Union also agreed to supply signalling systems, infrared viewers, videotapes, tape recorders and photo cameras.

The value of deliveries for military and civilian use is fixed in the three agreements at a total of 19.4 million rubles, but all deliveries were to be "free of charge." The time of delivery was scheduled for 1980-1981 (1980 Agreement), 1981-1983 (1981 Protocol) and 1982-1985 (1982 Agreement). The place of delivery was to be a port in Cuba. The equipment was to be delivered by the Soviet Union by sea.

Grenada assumed the obligation not to sell or transfer the equipment to third parties without the consent of the Soviet Union. Grenada also undertook not to permit the equipment's use by a third party. Apparently the Soviet Union was content with a promise and did not insist on a mechanism to ensure the ban, by demanding an "end-use certificate" from Grenada or other means to guarantee the end-use requirement.

The Soviet Union seems to have performed its part of the agreements. Most of the deliveries, due in 1983, had already been supplied by April 1983, as Grenadian officials were told in Moscow.21

ii. Military Training of Foreign Nationals

The Soviet Union undertook to render technical assistance by receiving Grenadian servicemen for training in the USSR. The purpose of the training was to teach the Grenadians how to use the Soviet equipment. The costs were to be borne by the Soviet Union and included: "training, upkeep, meals in Soviet military educational establishments," and round trip travel from Grenada to the USSR. The servicemen, however, were "deputed" for training "without their families." The "detailed terms" of receiving the Grenadians were to be stipulated by contract.

iii. Sending Military Specialists Abroad

Under the 1982 Agreement, the Soviet Union agreed to send Soviet specialists to Grenada. Although the detailed terms again were to be stipulated in contracts, the basic rules defining the status and the privileges of the specialists were specified in the 1982 Agreement itself, and, consequently, they were not negotiable. The Soviet specialists were to enjoy immunity from taxes and duties, and they were to be

21. GRENADA DOCUMENTS, supra note 3, Docs. 24-3, 30-4.
provided free medical service, "comfortable, furnished living accommodations," including municipal utilities and transportation facilities at no cost. In addition, they were to be ensured "meals at reasonable prices at the places of their residence." All other expenses, including travel to and from the USSR, were to be borne by the Soviet Union. The secret 1982 Contract was concluded with execution of the 1982 Agreement. The contract listed seven categories of specialists to be deputed from the USSR to Grenada, each for fifteen days. Grenada in turn was obliged to provide the Soviet Union with lists indicating "suitably furnished living accommodations . . . equipped with air-conditioners." Such arrangement can be compared with earlier Soviet practices.\(^{22}\) At the time of the United States invasion of Grenada in 1983, forty nine Soviet specialists were on the island.\(^{23}\)

The issue of the status of Soviet technicians in Grenada arose also in connection with a "satellite dish station" to be financed by the Soviet Union.\(^{24}\) Although this project was viewed by the Soviet side as "the centerpiece of the July 1982 agreements," it was not signed by Grenada for almost a year; a fact which the Grenadian ambassador to Moscow deplored. In a confidential report of July 1983, the Grenadian ambassador noted that the question of how to house, transport and pay Soviet technicians was still "negotiable," whereas the other items were fixed.\(^{25}\) The delay may perhaps have been an indication of the difficulties the Grenadian government experienced with respect to privileges sought by the Soviets for specialists in Grenada.

iv. Secrecy Clause

Both governments pledged to keep secret not only the "terms of the deliveries," but also "all . . . information connected with the implementation" of the agreements. Although the secrecy clause does not expressly refer to the training of Grenadian servicemen in the Soviet Union or the sending of Soviet specialists to Grenada, one may assume that these parts of the agreements were to be treated confidentially because they constituted "information connected with the implementation" of the agreements.

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23. COMMUNIST YEARBOOK 1984, supra note 9, at 128.
24. Letter from General Hudson Austin to the USSR Ministry of Communications (Feb. 17, 1982) (on file with the United States Department of State). See id.
25. GRENADA DOCUMENTS, supra note 3, Doc. 26-3.
III. INTERNATIONAL LAW ASPECTS

The substance of these three, self-executing military agreements raises several issues under international law, including the question of whether the agreements have lost their force since the collapse of the NJM government, in 1983.

A. Arms Transfer

The UN Charter prohibits the use or threat of force. It also provides for measures in case of a threat to peace. In view of these rules, which are an expression of general principles of international law, the question is whether arms transfers are in conformity with international law. Arms transfers are in conformity because the above principles outlaw the use of arms for aggressive purposes, but they do not restrict the transfer of arms generally. Attempts to regulate or restrict the international traffic in arms in multilateral or bilateral treaties have not yielded any concrete results to date. There have been cases in international practice, however, when states have protested the sale of arms to countries considered by them to be hostile. The Chinese protest of British arms sales to Taiwan provides an example.

The right to transfer arms, however, is affected by the neutrality principle. Neutrality forbids any military support of a belligerent power. The shipment of arms to a state at war amounts to such support and constitutes a violation of the international law of neutrality, as embodied in the Hague Conventions of 1907. The Soviet Union formally declared, in 1955, that she was bound by these Conventions.

The Soviet-Grenadian military agreements do not address the obligations to Grenada in the event that Grenada becomes involved in a war. In view of the binding character of the law of neutrality, there was no need to repeat its principles in the agreements. Nevertheless, the obligations of the parties must be judged in light of the law of neutrality. Considering the unstable political situation in the Caribbean Basin and Central America, and the militant posture of the New JEWEL Movement in Grenada, on the one hand, and the Soviet arms delivery schedule extending over a period of six years (1980-1985), on the other

27. U.N. Charter arts. 39, 41, 42.
hand, the potential impact of the law of neutrality on the agreements is not merely of academic importance.

B. Military Training of Foreign Nationals

The military training of foreign nationals is not prohibited under international law. Such training, however, can constitute a violation if the military personnel are trained for the purpose of a violent overthrow of another government or for conducting military operations against another state. Such activities are frequently termed subversive or terrorist, and are prohibited by the rule of non-intervention. In addition, these activities often constitute a violation of the duty to refrain from the use or threat of force.

Generally states engaged in the training of foreign personnel are careful to demonstrate that such activity is in compliance with international law. These states try to avoid any appearance of impropriety by explicitly stating that their dealings relate to lawful purposes. The Friendship Agreement between the Soviet Union and the United Arab Republic (UAR) of 1971 serves as an illustration. The Agreement provides "for assistance in the training of UAR military personnel and in mastering the armaments and equipment supplied to the UAR." The Agreement declares that the assistance is given in order that the UAR might eliminate "the consequences of aggression," a clear reference to the Israeli-Egyptian War of 1967. Furthermore, the assistance is intended to increase the ability of the UAR "to stand up to aggression in general." The wording used indicates that the parties were careful to stay within the limits, imposed by international law, which outlaw aggression but permit self-defense.

The Soviet-Grenadian agreements do not contain any reference to external threats to or outside aggression of Grenada. The agreements merely speak of a desire to promote strengthening the independence of Grenada. It is also significant that the Soviet-Grenadian agreements were marked top secret, whereas the Soviet-UAR Agreement was published.

32. See 10 INTERNATIONAL LEGAL MATERIALS 836-38 (1971) [hereinafter I.L.M.].
C. Sending Military Specialists Abroad

Sending military specialists abroad is a common element in programs for military assistance to Third World countries. Because the practice is permitted under international law, it is used frequently by states, including the Soviet Union. The limitations imposed by international law are derived, as in the case of the military training of foreign nationals, from the prohibition of intervention and from the duty to refrain from the use or threat of force.

D. Secrecy Clause

United Nations member states have agreed to register their international agreements with the United Nations Secretariat, who then publishes them. This rule, now embodied in article 102 of the United Nations Charter and confirmed in article 80 of the Vienna Convention, has its historical roots in article 18 of the League of Nations Covenant. The Soviet Union takes credit for the rule in the Covenant, claiming that the institution of the registration requirement owes its origin to the Soviet Government's renunciation of secret diplomacy, a policy proclaimed one day after the October Revolution in 1917.

Although the League of Nations rule decreed that no international agreement is binding unless it is registered, the United Nation's Charter is more cautious. It merely stipulates that no treaty partner may invoke an international agreement before a United Nation's organ unless the agreement is registered. Failure to live up to the duty of registering an agreement, however, does not affect its validity under international law. There is no generally recognized rule of international law that imposes an obligation on partners of international agreements to publish those agreements. The fact that the three Soviet-Grenadian

35. See supra note 30.
38. League of Nations Covenant, art. 18.
40. For Soviet literature on the duty to publish international agreements, see A. Talalayev, MEZHDUNARODNYE DOGOVORY V SOVREMENNOM MIRE 98 (1973); A. Talalayev, ZAKON O MEZHDUNARODNYKH DOGOVORAKH SSSR NA SLUZHEBE MIRA 60-61 (1979).
military agreements are secret, therefore, does not make them invalid under international law. It is another question whether the national law of the USSR imposes a duty to publish the agreements.

E. Termination of Agreements

The disintegration of the People's Revolutionary Government of Grenada in October, 1983 raises the question of the continuing legal validity of the three agreements. To date, neither of the contracting parties has publicly withdrawn from the agreements or has given notice of their termination. The events of October, 1983 in Grenada, however, have fundamentally changed the circumstances upon which the three agreements were based. Consequently, it can be argued that the agreements have lost their legal force, even without a formal notification by either or both of the contracting parties.

This conclusion follows from the clausula rebus sic stantibus doctrine, a generally recognized principle of international law, which has been incorporated into the Vienna Convention through the Law of Treaties of 1969.\textsuperscript{41} The Vienna Convention is seen as a codification of existing international law and not as an instrument creating new international law. Although the Soviet Union did not ratify the Vienna Convention, the Soviets are, nevertheless, bound by those elements of the Convention which constitute general international law.

F. Conclusion

It can be stated in conclusion that the three agreements under discussion are valid under international law. The fact that they were secret or that their substance dealt with military assistance does not affect their validity. Doubts as to their conformity with international law, stem from the objectives which the agreements are to serve. Only if one of the objectives is the commission of aggressive acts, would the agreements violate international law.

IV. Soviet Law Aspects

Soviet treaty-making power is regulated by statute. Such legislation, however, does not reveal which agencies are charged with drafting and implementing military assistance agreements. Significantly, the Soviet-Grenadian agreements shed light on the internal aspects of Soviet treaty-making practice as well as on some legal techniques in the execution of international agreements.

\textsuperscript{41} Vienna Convention, \textit{supra} note 37.
A. Soviet Agencies Administering Agreements of Military Assistance

The formulae concluding the three agreements refer solely to the "Government" of each of the contracting partners, but do not indicate which agency, in fact, is acting for the government. Moreover, the signatures of the Soviet representatives on two agreements are illegible and do not permit identification. The signature of the Soviet representative on the third agreement reads "M. Sergeichik." It appears that in 1982, when this agreement was signed, Mikhail Alekseyevich Sergeichik was the First Deputy Chairman of the USSR State Committee for Foreign Economic Relations (known under the Russian abbreviation GKES). One year later, M. Sergeichik received an official of the Grenadian Embassy in Moscow for talks on the implementation of the agreements. In the Grenadian minutes of the meeting, Sergeichik is identified as a Colonel General and as the First Deputy Chairman of GKES. There can be little doubt that the signer of the 1982 Agreement and the GKES official are one and the same person. The Soviet Grenadian agreements, therefore, reveal that Soviet military assistance to Third World countries is administered by GKES.

Ordinarily, such conduct is reflected in the enabling statute of the agency. The statute of GKES, however, has not been published. A few excerpts of its 1958 statute appeared in a Soviet bulletin which is not available through commercial channels. According to the excerpts, GKES is authorized to present proposals to the Soviet government for the delivery of equipment to developing countries. It also has the right to provide industrial-technical training for specialists from developing countries and to dispatch Soviet specialists for rendering techni-

42. The United States Department of State has not been able to identify the names and positions of the Soviet representatives. Letter from the United States Department of State to Dietrich André Loeber (Nov. 26, 1984).
44. Grenada Documents, supra note 3, Doc. 30-3.
46. Id.
cal assistance abroad.\textsuperscript{47} The text, however, gives no hint that the powers of GKES include military assistance. A Soviet author describing the functions of GKES in 1983 does not provide such information either.\textsuperscript{48}

Grenadian internal documents, captured by United States troops in Grenada in 1983, throw some light on the work of GKES. Particularly revealing are the memoranda of Grenadian Minister-Counsellor in Moscow, Bernard Bourne, summarizing the above-mentioned meeting with representatives of GKES,\textsuperscript{49} and a letter discussing a meeting with Marshall N.V. Ogarkov,\textsuperscript{50} then Chief of the Soviet General Staff in Moscow. These documents allow some glimpses into the division of competence between GKES and other Soviet agencies, and the procedures these agencies followed.

1. Administrative Competence

Military aid in the form of providing armaments is the responsibility of GKES. Two of its departments are involved in military projects: The Main Technical Department (in Russian, \textit{Glavnoe tekhnicheskoe upravlenie} or GTU) and the Main Engineering Department (in Russian, \textit{Glavnoe inzhenernoe upravlenie} or GIU). Although neither department's name suggests its true function, it is the Engineering Department that seems primarily responsible for projects of a military nature.\textsuperscript{61} The Engineering Department's Deputy Chief, who took part in the meeting with the Grenadian diplomats at GKES, has the rank of Rear Admiral. One of his subordinates, a section chief, is listed as a Colonel.

The GKES shares its competence with the USSR Ministry of Foreign Trade, which handles transport and delivery of fuel, spare parts and food in connection with any military project. The ministry thus provides those services and products that are part of its regular activities in the civilian sector.

The USSR Ministry of Defense is apparently only involved in the military policy implications of aid arrangements, leaving the procurement side to GKES and the commercial side to the Soviet Foreign Trade Ministry. In one instance, however, the Ministry of Defense is

\textsuperscript{47} Id.
\textsuperscript{48} Id. Doc. 24-1.
\textsuperscript{49} Grenada Documents, supra note 3, Docs. 30-2; 30-4.
\textsuperscript{50} Id. Docs. 30-3, 30-4, 30-5.
\textsuperscript{51} Id. Doc. 24-1.
said to have delivered spare parts to Genada directly.\textsuperscript{52} This, perhaps, was done to cut through some red tape in a case of urgent need.

2. Administrative Procedures

Prime Minister Bishop made a request for military and civilian equipment in a letter to Chairman Tikhonov, of the Soviet Council of Ministers, in July, 1982.\textsuperscript{53} The steps taken by Grenada to follow up on this request help elucidate Soviet bureaucratic procedures in the area of military aid programs.

Bishop's request for aid drew no response for seven months. When the Grenadian Embassy in Moscow finally made inquiries, it was told by Marshall Ogarkov that the request of the Prime Minister "was under consideration" by the competent bodies, that is by GKES and the USSR Ministry of Foreign Trade. Ogarkov added, however, that the USSR Ministry of Defense would also "exercise some control on the solution." Six weeks later, the Grenadian Embassy in Moscow used the opportunity of a meeting with the GKES officials to present copies of request letters the Embassy had recently sent to the Ministry of Defense, hoping to speed up the decision-making process.\textsuperscript{54}

The Grenadians apparently found it difficult to overcome the usual bureaucratic hurdles and gain access to decision-making bodies. Two chance remarks in a Grenadian report illustrate this frustration. A Grenadian diplomat thanked GKES for arranging a meeting "at short notice," indicating that he regarded it as a favor. Later in the conversation, he requested GKES to arrange a meeting with the USSR Ministry of Foreign Trade, probably assuming that a telephone call from GKES would be more effective than his own effort.\textsuperscript{55} After the Soviet authorities finally granted some of the Grenadian requests in April, 1983, they suggested signing the contract in Moscow rather than in St. George's.\textsuperscript{56} Subsequent events, however, prevented a realization of the proposal.

B. Execution of International Agreements by Contract

The 1982 Agreement was supplemented by a "Contract." The format of the document is similar to contracts used by Soviet foreign trade organizations, and suggests a transaction of a civil law character. Contract No. 84/2100602 identifies the parties as "supplier" and "cus-
tomer" and records their "legal addresses." In substance, the contract stipulates obligations of the parties of a civil law character, as well as of an administrative law character. For instance, the customer not only shall provide living accommodations and pay for the transportation of material within the territory of Grenada but shall also guarantee the safety of the Soviet specialists in Grenada. These obligations are also binding under international law. Classified as "[s]ecret," the contract is a complex legal document which does not easily fit into textbook categories of Soviet law.

C. Publication of International Agreements

The demand for open diplomacy, proclaimed in the Decree of Peace of 1917, has its history in the writings of Lenin. Lenin castigated the Provisional Government of Russia in 1917 for refusing to publish the secret treaties concluded by the Imperial Russian Government. Lenin named in particular the "predatory" treaties of Russia with England and France, which were entered into with the aim of conquering Constantinople, and taking Armenia from Turkey and Galicia from Austria. Lenin also demanded the publication of a 1915 treaty between Russia and Italy which required the Allied powers to turn over South Tyrol to Italy. One day after coming to power in 1917, Lenin reminded the Second All-Russian Congress of Soviets that the "secret treaties must be published." Two months later, Lenin repeated his demand in an appeal to the Constituent Assembly. Within a few years, the Soviet government did, indeed, publish the secret treaties that Lenin had named and other documents as well.

At the same time, however, the Soviet government began its own practice of withholding certain agreements from publication. One early example is a supplement to the 1920 Peace Treaty with the non-Soviet government of Georgia. In the supplement, the Georgian Government, under Soviet pressure, agreed to give the Georgian Communist Party full freedom of action without the threat of "judicial or administrative

57. 1982 Contract, supra note 19, art. 3.
58. Id. art. 4.
59. Id. art. 5.
60. 24 LENIN, SOBRANIE SOCHINENII 337 (1955); 25 LENIN, SOBRANIE SOCHINENII 209 (1955); 35 LENIN, SOBRANIE SOCHINENII 251 (1955).
61. 26 LENIN, SOBRANIE SOCHINENII 223 (1955).
62. Id. at 386.
63. See, e.g., RAZDEl AZIATSKOI TURTSI (1924); KONSTANTINOPOL' I PROLYVY (vols. 1 & 2, 1925-1926); TSARSKAIA ROSSIA V MIROVOI VOINE (1925). The first two of these documents were published by the People's Commissariat of Foreign Affairs, and the third by the Central Archives of the USSR.
repression.” Less than a year later, the Georgian Government was overthrown by the very Communist Party to which it had accorded immunity in the secretly negotiated agreement.64

An infamous example is the Secret Protocol to the Soviet-German Treaty of Non-Aggression of 1939, which divided Eastern Europe into Soviet and German spheres of influence.65 The consequences of this Secret Protocol to this day continue to shape the political structure of Europe. Further examples have been copiously documented by Triska and Slusser in their in-depth study of Soviet treaty policy.66

Presently, article 25 of the Law on the Procedure for the Conclusion, Execution and Denunciation of International Treaties provides for publication of treaties concluded by the Soviet Government “upon recommendation of the USSR Ministry of Foreign Affairs.”67 Treaties of an “interdepartmental character,” on the other hand, are published if and when the agency on whose initiative the treaty was concluded so decides.68 The government, therefore, is not limited by law, and may, at its discretion, decide whether or not to publish a given treaty. Thus, little is left of the principle proclaimed by Lenin in his Decree of Peace almost seventy years ago.

V. FEATURES OF THE AGREEMENTS

To place the agreements in a broader perspective, attention will now be focused on some of the characteristics of the agreements which

64. See supra note 1; see also Slusser & Triska, Professor Krylov and Soviet Treaties, 51 AM. J. INT’L L. 766, 767 (1957); cf. Triska & Slusser, supra note 39, at 374.
65. See supra note 2.
66. Triska & Slusser, supra note 39.
raise far-reaching questions. Without going into the political framework of the agreements, which is broad and complex, three law-related features are selected for discussion.

\[ \text{A. Lack of Reciprocity} \]

The Soviet Union agreed to deliver, free of charge, arms and equipment valued at nearly twenty million rubles. The Soviet Government also agreed to bear the cost of training Grenadian servicemen in the Soviet Union and of flying Soviet specialists to Grenada. The equipment was to be delivered and the services rendered "at the request of the Government of Grenada." This is explicitly stated in the Preambles and repeated in some of the substantive provisions of the agreements. Apparently, the Soviet Government thought it essential to go on record as a donor in its relations with Grenada. The agreements, therefore, can be categorized as military aid rather than as commercial transactions.

The Government of Grenada however, did undertake certain obligations with respect to receiving Soviet specialists in Grenadian territory. As noted previously, Grenada was obligated: to exempt the Soviet specialists from taxation; to provide them with free medical services, "comfortable furnished living accommodations," and free transportation facilities; and to ensure "meals at reasonable prices." The language used in the agreements reveals a concern on the part of the Soviet leadership that its specialists be treated in accordance with their social status in a country which, in the Soviet view, might otherwise not be willing or able to meet the standards of its guests. Cuba, on the other hand, in its secret Protocol on Military Cooperation with Grenada, refrained from including provisions of a discriminatory nature. The Cubans, for instance, did not insist on "comfortable living accommodations" for their specialists.

Nonetheless, according to internal reports from the Grenadian


Embassy in Moscow to party and government leaders in St. George's, Grenada recognized its weak bargaining position vis-à-vis the Soviet Union, and, therefore, was willing to grant the Soviet specialists the privileged status sought by the Soviets.\textsuperscript{71}

\section*{B. Quid Pro Quo?}

Rarely does any power provide free military aid to another state without expecting something in return.\textsuperscript{72} In this case, the Soviet Union undertook to increase Grenada's military capabilities beyond its reasonable security needs. The Soviet motives for such an action cannot be documented, but it stands to reason that the Soviet Union visualized the agreements as a means to promote its political and strategic interests in not only the Caribbean basin, but also in the Western Hemisphere as well. The Soviet Union apparently viewed Grenada as an ally capable of furthering Soviet objectives in the region. Grenada, under the NJM regime, had demonstrated its willingness to play such a role—perhaps using Cuba as a model.

Also, the Soviet Union may have intended to make Grenada a center of Soviet military presence in the area at some future date. In such a case, the Soviet Union could secure access to naval and air facilities in the Caribbean basin and, thus, project her power into the region.\textsuperscript{73}

\section*{C. Secrecy}

The agreements do not indicate why they were classified "top secret." The obligations undertaken by the contracting parties, including the supply of arms, the military training of foreign nationals and the dispatch of military advisors, are not contrary to international law. Nonetheless, two reasons suggest why these agreements were withheld from the public. These reasons are suggested in internal documents of the Soviet Union and Grenada.

First, a Soviet regulation listing subjects banned from open publication includes "[i]nformation on . . . free aid granted to other govern-

\textsuperscript{71}See \textit{supra} notes 53-56 and accompanying text.


ments." Such information, if divulged, would demonstrate a lack of reciprocity which, as shown above, is one of the features that characterizes the Soviet-Grenadian agreements. Soviet leaders consider it politically expedient to withhold data on aid given free of charge to other countries because such aid is paid for by the labor of the population.

A second reason which might explain the secrecy of the agreements is linked to foreign policy considerations. Discussing ways and means to enhance Grenada's role in the eyes of Soviet leaders, W. Richard Jacobs, the Grenadian Ambassador to Moscow observed in July, 1983, in a personal letter to Maurice Bishop, that "[t]o the extent that we can take credit for bringing any other country into the progressive fold, our prestige and influence would be greatly enhanced [sic]."

Surinam was mentioned by the Ambassador as "the most likely candidate for special attention . . . . " If the Ambassador was correct in his assessment, and if his remark reflected the thinking of the contracting parties at the time of the negotiations, the draftsmen had every reason to hide the agreements from the outside world because any use of the military capabilities provided under the agreements for aggressive purposes would constitute a violation of international law.

VI. POSTSCRIPT

In view of the turbulent events which followed the collapse of the New JEWEL Movement in Grenada in 1983, it is intriguing to review the fate of the dramatis personae who signed the three agreements discussed in this article.

The 1980 Agreement was signed on behalf of Grenada by General Hudson Austin, then the Minister of Defense and a member of the NJM Politburo. In 1983, he not only accused Prime Minister Maurice Bishop of "right opportunism," but he also demoted and ultimately confined Bishop. Liberated by loyal supporters, Bishop was killed in a clash with Grenadian armed forces using armored carriers supplied by the Soviet Union. After the United States incursion into Grenada in 1983, Austin and others were charged with the murder of Maurice Bishop and his supporters. Following a trial, Austin was sentenced to death.

The 1981 Protocol bears the signature of Major Basil H. Gahagan,

74. V. CHALIDZE, LITERATURNYE DELA KGB 152-55 (1976). The regulation was issued for internal use only.
75. GRENA DA DOCUMENTS, supra note 3, Doc. 26-6; Introduction, 6.
then the Deputy to the Chief of Staff of the People's Revolutionary Army of Grenada. Subsequently, he was criticized for a "negative and pessimistic attitude towards the work" and, apparently, was removed from his position. He did join the Revolutionary Military Council, however, which ruled Grenada for six days after Bishop was killed in 1983.78

The 1982 Agreement was signed by Lieutenant Colonel Liam James as a representative of Grenada. James had been a student in the Soviet Union and later became Minister of the Interior in Grenada and Chief of Police and Intelligence Operations. A member of the NJM Politburo, he figured prominently in the coup that overthrew Maurice Bishop in 1983. Like Austin, he was sentenced to death in 1986.79

The only person who signed the agreements on behalf of the Soviet Union and who could be identified by name was Colonel General Mikhail Alekseevich Sergeichik. At the time he signed the 1982 Agreement, he was First Deputy Chairman of GKES.80 Two years later, at the age of 75, he was promoted to a ministerial position when he was appointed Chairman of GKES. Thus, for Sergeichik, in contrast to his Grenadian colleagues in the New JEWEL Movement, the secret Soviet-Grenadian military agreements have turned out to be a stepping stone in his career.81 In November, 1985, however, he was replaced by Konstantin Katushev, who was then fifty eight years of age. He shares this fate with other officials who under the new regime, have to yield their positions to younger leaders.82

78. 3 COMMUNIST AFFAIRS 290, 295-96 (1984).
79. Id., Faerron, Dramatis Personae, CARRIBBEAN REV., July 1983, at 12; Diederich, Interviewing George Louison, CARRIBBEAN REV., July 1983, at 17, 18; see also Interview with George Louison, Intercontinental Press, Apr. 16, 1984, at 208-10.