

## Case C-367/89

### Criminal proceedings against Aimé Richardt and Les Accessoires Scientifiques SNC

(Reference for a preliminary ruling  
from the Cour de Cassation, Luxembourg)

(Free movement of goods — Community transit —  
Strategic material)

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#### Summary of the Judgment

*Free movement of goods — Community transit — Principle of the freedom of Community transit — Restrictive measures adopted on the basis of Article 36 of the Treaty — Permissibility — Transit of goods described as strategic material — Requirement for special authorization — Justification on public security grounds  
(EEC Treaty, Art. 36; Council Regulation No 222/77)*

The existence, as a consequence of the Customs Union, of a general principle of freedom of transit of goods within the Community does not, as Article 10 of Regulation No 222/77 affirms, have the effect of precluding the Member States from verifying the nature of goods in transit, pursuant to the Treaty, in particular Article

36. That article authorizes the Member States to impose restrictions on the transit of goods on grounds of public security, which covers both a Member State's internal security and its external security, of which the latter manifestly requires to be taken into consideration in the case of goods capable of being used for strategic purposes.

Accordingly, the aforementioned regulation does not preclude the legislation of a Member State from requiring, on external security grounds, that special authorization must be obtained for the transit through its territory of goods described as strategic material, irrespective of the Community

transit document issued by another Member State. However, the measures adopted by the Member State as a consequence of the failure to comply with that requirement must not be disproportionate to the objective pursued.

## REPORT FOR THE HEARING in Case C-367/89 \*

### **I — Facts and procedure before the national court**

1. It is apparent from the judgment making the reference that, by a contract entered into in 1984 with the Soviet central purchasing agency, Technopromimport, Moscow, Mr Richardt, chairman and managing director of Les Accessoires Scientifiques SNC, established in France (hereinafter referred to as 'LAS'), undertook to deliver to Technopromimport a fully equipped unit for the production of bubble memory circuits consisting of 27 machines, including in particular a Veeco ten-inch microetching machine, an ion-beam etching apparatus which had been sent to France from the United States of America. It is not apparent from the papers before the Court whether it was in free circulation or in transit.

2. After LAS had completed in France the necessary formalities for the goods to be exported, it obtained for three of the items an export licence and for the others, including the Veeco machine, an ordinary certificate of free exit, in accordance with the French legislation. Mr Richardt then engaged two Customs-approved forwarding agents to transport the goods to Moscow, but, owing to the cancellation of the Aeroflot flight on which they were to have been carried, the goods could not be loaded, as arranged, at Roissy. In accordance with the simplified procedure known as advance authentication of Community transit documents for the export of goods already cleared by customs, Air France then completed the T1 document provided for in Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit (Official Journal 1977 L 38, p. 1) so that the goods could be taken

\* Language of the case: French.