

## Case T-3/89

**Atochem SA**

v

**Commission of the European Communities**

(Competition — Concepts of agreement and concerted practice —  
Collective responsibility)

Opinion of Judge Vesterdorf, acting as Advocate General delivered on 10 July 1991 .....	II - 1179
Judgment of the Court of First Instance (First Chamber), 24 October 1991.....	II - 1180

### Summary of the Judgment

- 1. Competition — Cartels — Concerted practice — Proof of the infringement — Burden of proof  
(EEC Treaty, Art. 85(1))*
- 2. Competition — Cartels — Agreements between undertakings and concerted practices — Concept — Common purpose as to the conduct to be adopted on the market  
(EEC Treaty, Art. 85(1))*
- 3. Acts of the institutions — Stating of reasons — Obligation — Scope — Decision to apply the competition rules  
(EEC Treaty, Art. 190)*

1. When the Commission has gathered sufficiently detailed and concordant evidence to substantiate the view that the conduct of a number of undertakings can only be explained by the existence of an agreement or a concerted practice, it is for the undertakings concerned to prove that a satisfactory explanation may be given for their conduct which does not involve such an infringement of the obligations imposed on them by Article 85(1) of the Treaty.
2. Periodic meetings of producers during which emerge common purposes concerning price initiatives, measures designed to facilitate the implementation of price initiatives and sales volume targets constitute an agreement and a concerted practice prohibited by Article 85(1) of the Treaty.
3. Although under Article 190 of the EEC Treaty the Commission is obliged to state the reasons on which its decisions are based, mentioning the factual and legal elements which provide the legal basis for the measure and the considerations which have led it to adopt its decision, it is not required, in the case of a decision applying the competition rules, to discuss all the issues of fact and of law raised by every party during the administrative proceedings.