Federal Republic of Germany (ratification: 1961). A Government representative welcomed the chance to answer on behalf of his Government the questions raised in regard to Convention No. 111, and to once again discuss this important issue which concerned human rights and which was a central concern in the Constitution in his country. The theme of human rights had received special attention this year as it was the 40th anniversary of important human rights instruments and was the subject of the Director-General's report. In the case of individual human rights questions it was necessary to take account of its relationship to other human rights instruments. The discussion with the Committee offered the occasion to analyse again, through dialogue, the multiple aspects of this complex questions. His Government had always made it clear that it considered that co-operation and dialogue with the supervisory bodies on standards were the decisive elements of the entire supervisory procedure, and its participation in this dialogue was not merely a formality. The Government respected the high political and moral level of the considerations and evaluations of the supervisory bodies, including those of the Commissions of Inquiry. The purpose and aim of such a dialogue was justified by the fact that by continuing and enlarging exchange of views all arguments would be taken duly into consideration. The Government was ready to participate in the necessary comprehensive dialogue but wondered whether the base required for such a full discussion existed already this year, mainly for the following three reasons: in the first place the Committee of Experts' report deals principally with the Governments' report which covers at the request of the Committee of Experts, the period ending 30 June 1987. However, it was only on 23 May 1987 that the Governing Body took note of the report of the Commission of Inquiry under article 26 of the ILO Constitution. The Government was therefore only given the opportunity to report on a period of five weeks. Secondly, the Commission of Inquiry did not fix a deadline according to article 28 of the Constitution and thus decided not to impose a deadline on the Government for the implementation of measures. It recommended, inter alia, that the Government supply detailed information in its annual reports on all the developments which had taken place, and the Government would fulfill its obligations to report. Thirdly the questions before the Committee were not only vitally important to his country, but were also of an extremely complex nature, which could be seen in the different evaluations made in the framework of the supervisory machinery. A first representation in 1979 did not lead to a negative evaluation of the legal situation. After a second representation, in 1985, the Governing Body, within the scope of its own competence, also was unable to establish that his country had infringed the Convention, but due to the complexity of the problem, it referred the question to a Commission of Inquiry. This Inquiry, carried out by three eminent international experts, failed to yield an unanimous result. Two of the experts considered that the practice at the federal level and in certain Länder was not in complete conformity with the Convention. The third expert stated that he was unable to accept these observations, conclusions and recommendations, as he felt that the Commission should have examined whether the measures adopted in the Federal Republic of Germany had been taken in order to protect basic human rights. His objection therefore fundamentally brought into question the basic findings of the other members of the Commission. In view of these fundamental contradictions it was not possible to conclude the dialogue by formally referring to the fact that there was majority opinion. The fundamental issues in question should also be discussed extensively in this Committee.

The Government hoped that a dialogue, based on detailed annual reports as the Commission of Inquiry had recommended, could be pursued in the future. Future reports would cover a longer period and offer the opportunity to discuss again all of the issues in order that this Committee would be fully conversant with the arguments of the Government and the manner in which the Government appreciates and respects the arguments of the supervisory bodies.

The Workers' member of the Federal Republic of Germany recalled that the Government had already had to reply to the present Committee on the application of the Convention; in 1981, 1982 and 1983, national practice in the application of provisions to examine observance of the duty of faithfulness to the free democratic basic order had been the subject of dialogue. The discussions on this questions were suspended while the issue was being examined under the representation procedure according to article 24 of the Constitution, and subsequently by a Commission of Inquiry set up under article 26 of the Constitution. The results of this in-depth inquiry were presented in February 1987. The Commisssion concluded that in several respects, measures taken to implement the duty of faithfulness to a free democratic basic order in regard to employment in the public services were not within limits authorised in Article 1, paragraph 2, of the Convention, which referred to inherent requirements of a particular job. Furthermore, the report noted that in all the cases examined there had been discrimination on the basis of political opinion and none involved anti-constitutional acts, let alone activities prejudicial to the security of the State.

The German Trade Union Confederation (DGB), following the publication of the report, asked the Federal Government as well as the Länder governments to bring their administrative practices into conformity with the provisions of the Convention, and it called on policy makers to amend national legislation, where necessary, if its application did not comply with the requirements noted by the Commission of Inquiry. At the same time, it emphasised that mere membership of a political party alleged to pursue aims hostile to the Constitution did not warrant general doubts about faithfulness to the Constitution. Likewise mere activities or candidacy for such a party could not, on its own, be considered as a violation of duties which it would justify exclusion from the public service. In order that disciplinary measures could be taken, it must be a necessary prerequisible to prove that the person concerned had engaged in activities which were concretely directed against a free democratic basic order. Political activity by public service employees should not be protected if violent or unconstitutional methods were used or advocated. This comment was communicated to the Federal Government in May 1987. In regard to the possibility of having a discussion at the present time, he believed that the report of the Commission of Inquiry, on which the report of the Committee of Experts had been based, provided an adequate basis for the discussion as it was the most complete and thorough documentation on these difficult problems. It had to be acknowledge that the Government had always supported the work of the Commission of Inquiry and had not only accepted the procedure but had also arranged contacts with all concerned. The DGB as well as its member unions of teachers and of persons employed in the postal service had had an oppotunity to express their point of views. The DGB did not doubt that the Government had a legitimate interest to protect itself against activities turned directly against state security; these activities fell anyhow within the exclusion provided for in Article 4 of the Convention. However, the issue of security had never been concerned in the cases examined by the Commission of Inquiry.

The DGB was, however, concerned about the absence of action by the Federal Government, certain Länder, as well as subordinate authorities to heed the conclusions from the report and to remove those restrictions from employment which did not comply with the provisions of the Convention. In its report for the period 1 July 1986 to 30 June 1987, the Government reconfirmed its legal position without showing an intention to draw consequences from the report of the Commission of Inquiry. On the contrary, it had once again tried to demean the binding nature of the recommendations by referring to the minority position taken by one member of the Commission. The Government representative had done this again today. The DGB recognised that a fundamental change in practice could not be implemented rapidly in all cases, but it noted that in certain Länder where the parliamentary majority and governmental responsibility were held by other parties than at the federal level, practice did conform to the Convention, and following recent elections in one Land, the former opposition had, on assuming governmental responsibility immediately introduced changes to modify the practices which had been followed up to that date.

The DGB thus looked for a practice which was in conformity with the Convention to be extended to other Länder and to the Federal Government as well. It was up to the Government to indicate that it recognised its obligation to change administrative practice and to show up a way towards the adoption of rules which take account of the recommendations of the Comission of Inquiry. If according to the Government, that would require legislative amendments, these should be introduced. The Government could not hide behing the interpretation of present statutes by independent courts. This was not to place to explain the positions of the different constitutional bodies in the country, but legislation as applied by the courts must be in conformity with the Convention which, following ratification, forms part of the law in force in the country. However, it was precisely the decision by the Labour Court of Oldenburg that had been referred to by the Committee of Experts in a positive sense which was quashed by a superior Court, and the Federal Administrative Court maintained its previous practice which denied the obligations noted in the report of the Commission of Inquiry. A considerable number of concrete cases were actually before the courts, but unfortunately developments should no tendency towards improvement. Moreover, if persons concerned had not gone before the Federal Constitutional Court it was because this Court had refused to consider similar complaints over the last years, as had been pointed out by the Commission of Inbquiry in paragraph 456 of the report.

However, the Government representative might explain why the Government had no gone before the International Court of Justice in accordance with acticle 29 of the ILO Constitution, under which a government which did not accept the recommendations of the Commission of Inquiry could submit its case to the Court. Furthermore, the subject-matter of Convention No. 111 had not been considered in the decision of the European Court of Human Rights to which the Government had referred.

As the Committee of Experts noted in their conclusions, the Government had not taken any measures towards the amendment of existing legislation or current practices and it had stated the view that it was not bound by the recommendations of the Commission of Inquiry either in international law or in domestic law. A similar position had been taken by certain Länder governments. He stressed that a clear indication was expected now from the Federal Government that it recognised the conclusions and recommendations of the Commission of Inquiry as binding. It was for the Government to apply these recommendations and to change national practice. These recommendations could be applied in different ways but if the choice of means belonged to the Government, it was the result which counted, and the Commission had the right to expect that the Government would indicate basically a direction chosen which would show its willingness to overcome the existing difficulties. In the general debate on the Convention, the spokesman for the Employers' members stated that it was a principle of enlightened humanism that discrimination based on political opinion would not be tolerated. The trade unions would welcome that an administrative practice which had damaged the reputation of the country would finally be ended. In his report the Director-General had asked the member States to show a willingness within a common effort to respect the obligations which they had freely undertaken. This should also be valid for the elimination of discrimination in employment and occupation in the Federal Republic of Germany.

The Workers' members stated that they treated the problems raised by the application of Convention No. 111 by the Federal Republic of Germany with great seriousness and grave concern. Unfortunately violations of human rights did occur in democratic countries even where there was a will to protect them well. This question had been discussed in this Committee since 1981. Discussion was suspended in 1983 while the issue was first examined under the representation procedure and then by a Commission of Inquiry under article 26 of the Constitution. The Commission of Inquiry, which presented its detailed and complete report in February 1987, concluded that Convention No. 111 had not been fully complied with. It was unfortunate to have to note that as new cases had occurred after the adoption of the Commission's conclusions, the Convention was still not being complied with, and the problem remained. There existed notable differences in the manner in which the legislation was implemented in regard to the duty of faithfulnessw to a free democratic order imposed on public servants and applicants to public service. The Commission of Inquiry had concluded that actual practice in certain Länder and by certain federal authorities amounted to exclusions from the public service which could not be justified either by the inherent requirement of a particular job (Article 1, paragraph 2, of the Convention) or on the basis of activities prejudicial to the security of the State (Article 4). Although the Government had referred to the minority opinion expressed by one member of the Commission, the fact remained that all the supervisory bodies which had examined the case, and this comprised the Committee of Experts, the Conference Committee when it examined the case previously, the Governing Body Committee and the Commission of Inquiry, had consistently reached the same conclusion on the matter.

The Workers' members recalled that the Government had nfirmed its support for the supervisory machinery of the ILO d its wish to co-operate. However, it did not accept the conclu-ons of the Commission of Inquiry. If it disagreed with the nclusions it could have submitted the matter to the International ourt of Justice in accordance with the Constitution, but it has cided not to avail itself of that possibility. The position of the overnment was not satisfactory. A State which claims to be a ate ruled by law should either use the avenue of appeal open to or should accept and implement the conclusions of the Commis-on of Inquiry. There was no other choice. A Government which ly participated in the supervisory procedures as a formality and hich ignored the outcome undermined these procedures. For eclarations of support to ILO supervisory procedures to have real gnificance, they must include willingness to take account of nclusions adopted. The Workers' members expected solutions om the Government; these were diverse but the Government ould propose appropriate legislation to the Federal Parliament. hat the problem was complex because of the federal structure of e country was acknowledged, but this complexity did not reduce rinciples to nothing. It was, after all, the federal State that had tified the Convention and it must therefore take responsibility. could not content itself with vague promises of information. It as necessary that information be given on intentions, on steps to e followed, on the means by which the objective was to be hieved and on a time-table, and the Workers' members, who ere extremely concerned by this issue, wanted to see concrete sults in the near future.

The Workers' members were in complete agreement with what ad been very clearly stated by the Committee of Experts in this egard in paragraph 7*(g)* of their observations. The Workers' embers joined in the hope expressed by the Committee of Experts that the Government should re-examine the situation as a hole with representatives from the workers' organisations in-olved and, taking account of the Convention and the remarks ade by the Commission of Inquiry in its report, should adopt ppropriate measures to eliminate the remaining difficulties in the pplication of the Convention. They stressed the importance of iscussion for democracy in general, for the application of the Convention, and for equal opportunity.

The Employers' members recalled that no principle was more mportant than non-discrimination and certainly with respect to olitical opinion. On the other side a State must be able to count n the loyalty of its own employees. This was an important and ifficult case. For the first time in the ILO's history a commission f inquiry had not been unanimous in its decision. The case had a ong history beginning in the mid-1970s and it had been discussed egularly in the Committee in 1981, 1982 and 1983, and the issue oncerning the requirement of all public employees to abide by a uty of faithfulness to a free and democratic society had resisted esolution over a long time. This was a positive example of how he ILO's supervisory machinery should work; while at this time he difficult problem had not been solved, the Government had o-operated at all stages by providing information and consenting o a commission of inquiry on its soil. The Employers' members oted that the Commission of Inquiry recommended thath the xisting measures relating to the duty of faithfulness be re-exam-ned by the Federal Republic and they took it from the statement f the Government representative that it was the Government's ntention to do so, although in the English translation they did not hear him say that, so they asked the Government representative to make clear that, in the context of annual reports, the Government intended to do so. The issue in this case really related to the broad brush the Government had applied to public service applicants and employees without following, as the Commission of Inquiry had criticised, the principle of proportionality found in national law and practice. From the employer perspective, the issue came down to the proper balance of the first paragraph of Article 1 of the Convention, dealing with the principle of non-discrimination on the basis of amongst other things, political opinion, and the second paragraph, which made room for distinctions and exclusions based on the inherent requirements of a particular job. In her statement to the Conference, Mrs. Aquino had referred to the benefits and liabilities of free and democratic societies and the problem of spaces created when there was freedom for good and evil, and the question here seemed to be the amount of space provided in free societies for evil. These were complicated issues; the Employers' members had looked at the entire record of the case in some detail, and while it had been repeated that the Committee's task was not to make fine judicial decisions, they considered that in view of the split of the Commission of Inquiry and the decisions of the European Court of Human Rights, there was room for disagreement on the result in this case. Moreover there was a question relating to the uniformity of application of all human rights instruments including Convention No. 111. The Employers' members knew in particular the Government's unique historical and geographical position and they also noted that applicants for employment who were denied that employment and officials who were disciplined or discharged were provided with extensive due process rights including the resort to the courts, as shown in the Commission of Inquiry report. Article 2 of the Convention provided for a number of alternative methods of implementing its requirements, one of which was through the courts, and this was also recognised in paragraph 558 of the Commission of Inquiry report. Reference had been made to court decisions which were applying current legislation in a way that protected employee rights, so legislation was not the only way to approach the case. Moreover the highest court in the Federal Republic had not considered an application on the cases involved. The Employers' members were encouraged that the Government had agreed to provide detailed reports for consideration by the Committee of Experts in the future, and they hoped that measures for implementing the Convention would indeed sincerely be re-examined and that this would lead to solutions to the problem in the near future through appropriate action, in consultation with employers' as well as workers' organisations.

The representative of the World Federation of Trade Unions reminded the Conference of the representation his organisation had made in 1984 and the recommendations of the Commission of Inquiry which had invited the Government to take the necessary measures to implement this Convention. These recommendations which were binding had been reconfirmed by the Committee of Experts in its report. His organisation fully supported the observations made by the Committee of Experts and asked the Government to take appropriate action. They noted, as had the Committee of Experts, that over the past year since the Commission of Inquiry had presented its report, the Government had made no step in the direction of the changements required, and the continued practice of "work bans" was confirmed by developments in individual cases over the last few months, notably those concerning official H. Bastian and the teachers M. Schachtschneider, U. Foltz, U. Lepa, R. Schön and Mrs. I. Schachtschneider, and many others. The latest case concerned Mr. K. O. Eckartsberg, an English and sports teacher and active trade unionist, whose case had already been mentioned in the report of the Commission of Inquiry and who had been banned for life from the public service in May 1988 by the Hanover Administrative Tribunal which refused to consider comprehensive evidence of the professional and democratic commitment of the accused. His organisation supported the requested made by the Committee of Experts and the DGB that the recommendations made by the Commission of Inquiry be applied without delay.

The representative ot the International Federation of Free Teachers' Unions stressed the importance of the report of the Commission of Inquiry for the whole field of education, since most of the individual cases examined concerned teachers or applicants for teachers' posts. Moreover, that report contained in paragraphs 566 *et seq.* very important indications concerning the political rights of teachers, drawn from the UNESCO/ILO Recommendation concerning the Status of Teachers, adopted in 1966. This Recommendation indicated, in particular, "that the participation of teachers in social and public life should be encouraged in the interests of the teachers' personal development, of the educational service, and of society as a whole" and that "teachers should be free to exercise all civic rights generally enjoyed by citizens and should be eligible for public office". His organisation welcomed the results and the detailed and well informed reasoning of the report of the Committee of Inquiry, and stressed the importance of the procedure provided for in article 26 of the Constitution and the legal force of the recommendations. It expressed its great concern that the Government had not yet taken the necessary measures to implement these recommendations; this had to be taken as contempt for international legal standards. Dismissals continued and had been confirmed by the courts without regard to the recommendations of the Commission. Although the generally negative situation regarding recruitement of teachers tended to hide the dimension of the problem, new cases, for instance in Baden-Württemberg, showed that the authorities had not abandoned their position of principle, which consisted of excluding from employment those people who for example stood as candidates for certain legal political parties. His organisation called upon the Government to put into practice, as quickly as possible, the recommendations of the Commission of Inquiry.

The Workers' member of Norway stated that the Government of the Federal Republic of Germany, by opposing the conclusions of the Commission of Inquiry, had behaved flagrantly in contradiction to the Constitution of the ILO and the basic rules on which the ILO supervisory machinery was based. This fundamental lack of respect for the ILO supervisory bodies represented a serious attack on the very authority and integrity of the ILO as a tripartite organisation established by States. The Committee of Experts had in an independent, objective and impartial manner clarified in its

report the issues on which the Federal Republic of Germany had not acted in accordance with the law, by neglecting the ILO legal system for supervision and by not complying with Convention No. 111. The Government had expressed its agreement with a member of the Commission of Inquiry who represented a minority opinion, thus showing that Germany was not willing to co-operate with ILO supervisory bodies in accordance with the ILO Constitution. It was not accepted in any civilised legal system that the respondent who had been found failing was entitled to escape from legally-binding conclusions drawn up by a juridical organ in a majority decision by holding to the minority which had expressed the views of the respondent. The Government by flagrantly neglecting the ILO legal system on grounds of political convenience, joined others who had previously sought to undermine the present Committee's confidence in the ILO supervisory bodies and its respect for opinions on legal questions given by these bodies. In a statement made in July 1987 to the Federal Diet the Government stated that the recommendations of the Commission of Inquiry had no binding force either in international law or in domestic law. The Committee of Experts refuted that view, in stating in its report that while a Government retained considerable freedom in choosing the means of ensuring compliance with a ratified Convention, this did not diminish its obligations under article 19 of the ILO Constitution, to make the provisions of the Convention effective. By these comments the Committee of Experts expressed the opinion that the conclusions drawn by the Commission of Inquiry are based on the provisions of the Convention No. 111 which must be implemented in the domestic law of the Federal Republic of Germany. This could not be questioned by the Federal Republic of Germany by any other means than by the procedure established in article 29 of the Constitution, by requesting an interpretation from the International Court of Justice, and as long as the Government had not done so, it had to act in accordance with the conclusions of the Commission of Inquiry. Given the negative consequences of the Government's attitude for the legal status of civil servants in the Federal Republic of Germany, and for the whole supervisory machinery of the ILO, he proposed that the Committee should discuss next year whether the case of the Federal Republic of Germany should be mentioned in a special paragraph.

The Workers' member of the Byelorussian SSR noted with satisfaction the readiness of the Government to co-operate with the Committee but he felt that the explanations which had been given were entirely unsatisfactory. The administrative practice of the country did not comply with the Convention, violated fundamental human rights and did not correspond to the standards of modern civilised society. He agreed with the statements of the Workers' members from the Federal Republic of Germany and other countries who had spoken before him, and hoped that the Government was ready not only to participate in a dialogue but also to take the necessary measures which would eliminate the discrepancies pointed out in this Committee, and that it would explain concretely what measures it intended to take in the near future to bring administrative practice into conformity with the Convention.

The Workers' member of Spain welcomed the scope of Convention No. 111 which was larger than that of the International Covenant on Civil and Political Rights. Convention No. 111 protected even those who expressed political ideas or opinions which were in contradiction with the constitutional legal order. An applicant or official should therefore benefit from this protection unless he occupied a post of a highly confidential nature which was an exception in all political systems.

The Worker' member of the Federal Republic of Germany, referring to the statement by the Employers' spokesman that persons concerned could seek legal redress, noted that the persons concerned had indeed turned to independent courts but, in many instances, they had lost their cases. The principle of independent courts was important for the German trade unions, but a formal legal question should not cover an unlawful practice, and the legislation, as applied by the courts, should comply with the Convention. As the Labour Court of Oldenburg had noted in a decision quoted by the Committee of Experts in its observation, national legislation and even the national Constitution of the country should, as far as possible, be interpreted in a manner which would ensure respect of obligations under international law. Having considered the provisions of Convention No. 111 and the conclusions of the commission of inquiry, the court examined the case in the light of inherent requirements of the particular job and made a decision in favour of the complainant. It must be stressed that this decision was quashed by the Land Labour Court. Also, the Federal Administrative Tribunal has not changed its earlier case law.

The Workers' member of the United Kingdom had had no intention of joining in the debate because the case had been expressed admirably both by the Workers' member of the Federal Republic of Germany and the spokesman of the Workers' members, but elements were emerging in the discussion which concerned and indeed provoked him. This particular case was not going to be solved by fudging, by talking about geography, by talking about spaces in which freedom can operate, or other equivocations. The Committee was dealing with hard facts and it had to deal with the situations as revealed by the Committee of Experts. Of course the issue was complex. Issues always seemed to be complex when a government did not want to implement a Convention. There were difficulties sometimes because governments were unable to make legislative changes because the legislature would not allow them to do so. That could be understood, but it could not be condoned by the Committee. Employers' and Workers' members were not to make excuses for governments, nor did it help in the work of the Committee if some criticised other governments but did not join in when their own government was being criticised. In some countries ther was a requirement to respect a democratic society before getting a public service job; in other countries, there were particular cadre requirements before getting a public service job; in yet others one must not be a Baha'i or a freemason if one wanted a job. These were all difficulties the Committee had to deal with and it was not to deal gently with one case and lash out in another. Gentlemanly behaviour by a Government representative was no substitute for action, nor could governments be congratulated merely because they turned up to the Committee. What was important was in fact observing the Convention, listening to the Committee of Experts, having a dialogue with the present Committee. Of course this dialogue would have to be continued by the Committee in this most difficult case, but it should be conducted with a measure of honesty. He agreed with the Workers' member of Norway in recognising the difficulties in accepting on this occasion that the case was not yet going to be solved as could be seen from the statements made. But as the workers had had to remind many governments before, there had to be an end to the discussion at some stage or other, and a solution had to be found, and the Committee was rapidly approaching that position in this case.

The Government representative of the Federal Republic of Germany stated that it followed from the discussion that none of the speakers had questioned that the Federal Republic of Germany was a free democratic and social constitutional State. This State provided every citizen the right to go before court and, where constitutional issued were involved, to seek redress from the Federal Constitutional Court. As he had indicated in his introductory statement, there was indeed a fundamental question concerning the Constitution involved here. Precisely because the Federal Republic of Germany was a State under the rule of law, citizens should defend their rights. The Constitution of the Federal Republic of Germany contained an anti-discrimination provision which applied to free political opinion as well, the scope of which was equivalent to the legal protection given in Convention No. 111. Why have the individuals concerned not exercised their democratic rights and gone before the Federal Constitutional Court, which last happened in 1975. It has been said that the parties of which they were members were not outlawed. This was merely an expression of the liberal political system in the country.

The fact that the parties of which the officials concerned were members were not pronounced unconstitutional could not be turned round and used as an argument to say that they were not being liberal. Parties could stand for elections and it was up to the voters to decide. This party privilege, i.e. that parties could freely stand for elections unless they are outlawed, could not be invoked by an individual civil servant because he was not a party. The majority opinion of the Commission of Inquiry stated that on the whole the laws of the Federal Republic of Germany were in order but that there were shortcomings in practice. Even if practice was not uniform it should be asked who was responsible for ensuring legal unity in practice. This was within the competence of the Constitutional court of the Federal Republic and had not been done yet in all the cases mentioned by the previous speakers.

It has been claimed that the Government has not complied with procedures or conclusions or that it has only adopted a formal position. However, the Government has taken actively part in the procedures and it did believe in the moral force of the supervisory system, including the recommendations of a Commission of Inquiry. With regard to the quality of these recommendations, no one had claimed that the recommendations of a Commission of Inquiry under article 26 had the same effect as court rulings. In the discussion at the 1984 International Labour Conference, when the entire supervisory machinery was discussed, the Office stated in concluding the discussion that none of the supervisory bodies of the ILO were tribunals. This should not be interpreted as an attempt to devalue the recommendations and conclusions which had an important moral force.

The Government held a great deal of respect for them in the same way that it had a great deal of respect for the findings of the

majorty of the Commission of Inquiry in its report. It also respected, however, the minority view within the Commission and believed that dialogue should be continued when a supervisory body such as this one was unable to reach agreement in the Inquiry concerning the Federal Republic. The Government would continue the dialogue, abiding by the procedures, and it would provide all the necessary information so that an appropriate conclusion could be reached on the substance of the case which the Government felt was not yet possible at this stage.

The Workers' members noted that their previous statements would be reflected in the report and in the conclusions. They recalled the great importance of the problem, not only within the Federal Republic of Germany, but also because of its possible repercussions at the level of the European Communities. If case law was not yet well established because the higher courts had not yet had to give an opinion, this should be done quickly. However, besides the legislation and case law there were other methods which could permit results to be reached in the application of the Convention. The Committee of Experts had referred there to in its report in stating that it was necessary to try to find a solution with all the parties concerned, if not at the legal legislative level at least in practice to reach compliance with the Convention. The Workers' members hoped that this would take place soon. The Government had a moral obligation. Dialogue would be resumed in the present Committee next year.

The Employers' members stated their agreement with the Workers' members.

The Committee took note of the detailed information supplied by the Government representative and of the extensive discussion that took place. The Committee noted that the Government referred to its desire to support the ILO procedures of supervision and to promote the dialogue with the supervisory bodies. The Committee noted, however, with regret, that the Government maitained its position of disagreement with the conclusions of the Commission of Inquiry. The Committee shared the views expressed by the Committee of Experts that the Government's position did not affect the validity of the conclusion of the Commission of Inquiry. While welcoming the opportunity to resume the dialogue with the Government, it associated itself with the hope expressed by the Committee of Experts that the Government would review the situation in consultation with the workers' organisations concerned and the employers' organisations and would adopt appropriate measures to overcome the existing difficulties, having due regard to the recommendations of the Commission of Inquiry, to the comments of the supervisory bodies of the ILO and to the dialogue within the Conference Committee.