18. The Committee examined 6 cases in paragraphs 19 to 65 concerning the follow-up given to its recommendations and concluded its examination with respect to 2 cases: Case No. 2844 (Japan) and 3106 (Panama).

Case No. 2844 (Japan)

19. The Committee last examined this case at its October 2015 meeting [see 376th Report, paras 52–61]. On that occasion, the Committee requested the Government to keep it informed of the decision of the Supreme Court on the company appeal of the order of remedies made by the Tokyo Metropolitan Labour Relations Commission (LRC) and the finding that the Enterprise Turnaround Initiative Corporation (ETIC) interfered in the management of the Japan Airlines Flight Crew Union (JFU) and the Japan Airlines Cabin Crew Union (CCU) during negotiations in November 2010. As to the legality of the redundancy, while duly noting that the Supreme Court had held that the redundancy of 146 workers (cabin attendants and flight crews) was lawful and valid, the Committee expressed its expectation that the company would remain open to discussing with the trade unions in the framework of the new recruitment campaign so that views concerning the rehiring of workers following termination for economic reasons would be taken into account. The Committee also requested the Government to respond to concerns raised by the complainant as to Government statements to the Diet on this case in March–April 2015 and a decision of the Tokyo High Court on unfair labour practices of Japan Airlines International (hereinafter, the company).

20. In a communication dated 30 January 2017, the JFU and the CCU indicate that in October 2016 they submitted, along with the Japan Airlines Captain Association (JCA), unified demands to the company and met with the latter for the settlement of the dismissal issue. They allege however that the company claimed it difficult for the discussions to lead to negotiations towards the resolution of the issues and failed to make any counter proposal in this regard. The JFU and the CCU consider that the company intentionally misinterpreted their demands for reinstatement and distorted them as though they were asking that all the dismissed be reinstated. In relation to the appeal lodged by the company concerning the order of remedies of the Tokyo Metropolitan LRC, the complainants inform that on 23 September 2016 the Supreme Court upheld the decision of the Tokyo High Court which had rejected the company's claim. The complainants regret that the company only retained that the legal obligation from the Supreme Court sentence was to post a letter of apology at workplaces,

which was effectively done. The company also added that its interference with the strike authorization processes was a completely separate issue from the implementation of dismissal, and these two events were not directly related to each other. The complainants also regret that despite the fact the Supreme Court held that the controversial remarks deceived, intimidated and threatened the unions and workers and that by making inadequate remarks, the company did not make efforts to avoid dismissal, the company is still adamant that the legitimacy of the dismissal was affirmed in a separate litigation, and consequently the company was not in a position to do anything more than posting a letter of apology as required by the Supreme Court's ruling. In their concluding remarks, the complainants recall that the Government had expressed its view that it takes the same stance as the ILO on this case, and request for assistance for making proposals to the company and the unions to launch the negotiations with a view to resolving the case.

21. In a communication dated 9 February 2017, the Government, in reply to concerns raised about a government statement before the Diet, reiterated that it supports the autonomous labour management consultation and consequently finds inappropriate to actively intervene in labour relations in such a way as to mediate between employers and trade unions to assist in setting up consultations. In this regard, the Government once again recalls that the refusal of collective bargaining by employers without due reasons is prohibited as an unfair labour practice in the Labour Union Act (section 7). If aggrieved by any unfair labour practice imposed by an employer, a trade union may file a complaint with the LRC. In the present case, the Government indicates that the re-employment of workers dismissed due to economic reasons claimed by the unions, could be a collective bargaining issue, and refusal of collective bargaining by employers without due reasons shall be prohibited as an unfair labour practice. The parties should decide on the issues for consultation and the manner in which to proceed. In case of any disagreement over claims, the unions could file a complaint with the LRC, which is in charge of taking fair and neutral action.

22. In relation to the decision of the Tokyo High Court affirming the order of remedies of the Tokyo Metropolitan LRC, the Government confirms that the Supreme Court dismissed the appeal from the company against the Tokyo High Court decision in a decision of 23 September 2016 which became final but expresses the view that this lawsuit is quite a separate issue from the lawsuits for the purpose of confirming the existence of legally binding contracts between dismissed workers and the company. The Government further indicates that, in accordance with the remedial order of the TMLRC, the company delivered a letter of apology on 29 September 2016 expressly stating that the remarks on 16 November were found to be

unfair labour practice, and that the company would be mindful not to repeat such conduct again. The company further posted a copy of the letter in places easily viewable by its employees from 30 September 2016 to 9 October 2016. On 13 October 2016, the company reported to the Tokyo Metropolitan LRC on the issuance of the letter of apology.

23. The Government also transmits the views of the company on the pending issues. The company recalled that, in relation to the dismissal issue, the Supreme Court reached a final decision in February 2015 where it considered the dismissal lawful and valid. The Company however maintained discussions with the JFU, the CCU and other trade unions and there had been full and frank discussion in this regard, including in October 2016 when the JFU and the CCU changed their demands. In this regard, the company provided details on the various meetings held and the issues addressed. With regard to the litigation over the relief order issued by the Tokyo Metropolitan LRC, the company indicated that, following the Supreme Court ruling of September 2016 upholding the LRC's order, it took follow-up action accordingly and issued a letter of apology, posted it in the workplaces and reported back to the LRC. In the company's view, there is no other obligation and no link to the dismissal case.

24. The Committee takes due note of the information provided. With regard to the order of remedies of the Tokyo Metropolitan Labour Relations Commission, the Committee notes that on 23 September 2016 the Supreme Court upheld the Tokyo High Court decision and that the company took immediate follow-up action accordingly by issuing a letter of apology to the JFU and the CCU, posting the letter in the workplaces and reporting back to the LRC on October 2016.

25. With respect to the lawsuit filed by workers to request confirmation of the existence of legally binding contracts between themselves and the company, the Committee had previously noted that the Supreme Court ruled in final decisions dated 4 and 5 February 2015 that the redundancy was lawful and valid. The Committee notes from information provided both by the Government and the complainant organizations that the company and the trade unions held a number of negotiation and consultation meetings on the settlement of the dismissal issue during the period under consideration. The Committee notes, from the data provided by the company, that between February 2015 and November 2016, it met with the CCU and the JFU 32 and 34 times, respectively. The Committee further notes the complainant organizations allegations that, along with the Japan Airlines Captain Association (JCA), they introduced in October 2016 unified demands to the company but that, despite the regular meetings held, the company made it clear that it would be difficult for the discussions to lead

to negotiations towards the resolution of the issues. The Committee once again underlines the importance of maintaining a meaningful dialogue between the company and the trade unions and trusts that they will maintain full and frank discussion to try to come to a conclusion. The Committee understands that the complainant organizations may take the matter to the Tokyo Metropolitan LRC if they consider that their claim for the re-employment of workers constitutes a collective bargaining issue upon which there has been a refusal to bargain in accordance with the law. In light of the above information, the Committee will not pursue its examination of this case.