BEFORE THE APPELLATE BODY OF THE WORLD TRADE ORGANIZATION

Russian Federation – Measures on the Importation of Live Pigs, Pork and Other Pig Products from the European Union

(WT/DS475
AB-2016-5)

Executive Summary of Third Participant Written Submission
of Australia

14 October 2016
Executive Summary – Article 6 of the SPS Agreement

1. Australia recalls the Panel’s finding in this dispute that Russia had not breached Article 6.2 because it recognized the concepts of pest- or disease-free areas and areas of low pest or disease prevalence in respect of African Swine Fever in its legislative framework.

2. In Australia’s view, the Appellate Body’s findings in India – Agricultural Products indicate that the obligation in Article 6.2 requires Members to do more than simply refer to or recognise such concepts in the abstract.

3. The Appellate Body clarified that the overarching obligation in Article 6.1 requires a Member to ensure that its SPS measures are adapted to regional SPS characteristics, and that the further paragraphs in Article 6 elaborate on the specific aspects of this obligation.2

4. In light of the Appellate Body’s findings, Australia considers that to fulfil the obligation in Article 6.2, it is not sufficient for a Member to merely have a declaratory recognition of the concept of regionalisation in its legislation. Rather, a Member must ensure that its SPS measures, as implemented, are adapted to regional SPS characteristics.

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1 Total word count (including footnotes) of executive summary = 246 words.
2 Appellate Body Report, India – Agricultural Products, para. 5.141.