Section 316: ENACTMENT OF EXEMPTIONS

A. A member state shall enact entity-based, use-based and product-based exemptions in accordance with the provisions of this section and shall utilize common definitions in accordance with the provisions of Section 327 and Library of Definitions in Appendix C of this Agreement.

B. (1) A member state may enact a product-based exemption without restriction if Part II of the Library of Definitions does not have a definition for such product.
(2) A member state may enact a product-based exemption for a product if Part II of the Library of Definitions has a definition for such product and the member state utilizes in the exemption the product definition in a manner consistent with Part II of the Library of Definitions and Section 327 of this Agreement.
(3) A member state may enact a product-based exemption exempting all items included within a definition in Part II of the Library of Definitions but shall not exempt specific items included within the product definition unless the product definition sets out an exclusion for such item.

C. (1) A member state may enact an entity-based or a use-based exemption for a product without restriction if Part II of the Library of Definitions does not have a definition for such product.
(2) A member state may enact an entity-based or a use-based exemption for a product if Part II of the Library of Definitions has a definition for such product and the member state utilizes in the exemption the product definition in a manner consistent with Part II of the Library of Definitions and Section 327 of this Agreement.
(3) A member state may enact an entity-based exemption for an item if Part II of the Library of Definitions does not have a definition for such item but has a definition for a product that includes such item.
(4) A member state may not enact a use-based exemption for an item which effectively constitutes a product-based exemption if Part II of the Library of Definitions has a definition for a product that includes such item.
(5) A member state may enact a use-based exemption for an item if Part II of the Library of Definitions has a definition for a product that includes such item, if not prohibited in Subsection (C) (4) of this section and if consistent with the definition in Part II of the Library of Definitions.

For purposes of complying with the requirements in this section, the inclusion of a product within the definition of tangible personal property is disregarded.

Compiler’s note: On October 1, 2005 all of Section 316 was repealed and replaced with the current language. The following language was repealed:

A member state may enact a product-based exemption without restriction if the Agreement does not have a definition for the product or for a term that includes the product. If the Agreement has a definition for the product or for a term that includes the product, a member state may exempt all items included within the definition but shall not exempt only part of the items included within the definition unless the Agreement sets out the exemption for part of the items as an acceptable variation.

A member state may enact an entity-based or a use-based exemption without restriction if the Agreement does not have a definition for the product whose use or purchase by a specific entity is exempt or for a term that includes the product. If the Agreement has a definition for the product whose use or specific purchase is exempt, a member state may enact an entity-based or a use-based exemption that applies to that product as long as the exemption utilizes the Agreement definition of the product. If the Agreement does not have a definition for the product whose use or specific purchase is exempt but has a definition for a term that includes the product, a member state may enact an entity-based or a use-based exemption for the product without restriction.

For purposes of complying with the requirements in this section, the inclusion of a product within the definition of tangible personal property is disregarded.

The following was the section prior to January 1, 2008.

A. A member state may enact a product-based exemption without restriction if the Agreement does not have a definition for the product or for a term that includes the product. If the Agreement has a definition for the product or for a term that includes the product, a member state may exempt all items included within the definition but shall not exempt only part of the items included within the definition unless the Agreement sets out the exemption for part of the items as an acceptable variation.

B. A member state may enact an entity-based or a use-based exemption without restriction if the Agreement does not have a definition for the product whose use or purchase by a specific entity is exempt or for a term that includes the product. If the Agreement has a definition for the product whose use or specific purchase is exempt, a member state may enact an entity-based or a use-based exemption that applies to that product as long as the exemption utilizes the Agreement
definition of the product. If the Agreement does not have a definition for the product whose use or specific purchase is exempt but has a definition for a term that includes the product, a member state may enact an entity-based or a use-based exemption for the product without restriction.

C. For purposes of complying with the requirements in this section, the inclusion of a product within the definition of tangible personal property is disregarded.