(iii) being in breach of a contractual or any other duty to limit the use of the trade secret, with an intention to gain unfair profit or to cause damage to the trade secret holder; and

(c) the acquisition, use or disclosure of a trade secret whenever carried out by a person who, at the time of the acquisition, use or disclosure, knew or ought, under the circumstances, to have known[1] that the trade secret had been obtained directly or indirectly from another person who was disclosing the trade secret in a manner referred to in subparagraph (b), including when a person induced another person to carry out the actions referred to in subparagraph (b).

4. Nothing in this Sub-Section shall require a Party to consider any of the following conduct as contrary to honest commercial practices or subject those conducts to the measures, procedures, and remedies referred to in Sub-Section 3 of Section C:

(a) independent discovery or creation by a person of the relevant information;

(b) reverse engineering of a product by a person who is lawfully in possession of it and who is free from any legally valid duty to limit the acquisition of the relevant information;

(c) acquisition, use or disclosure of information required or allowed by its relevant laws and regulations;

(d) use by employees of their experience and skills honestly acquired in the normal course of their employment; or

(e) disclosure of information in the exercise of the right to freedom of expression and information.

[1] For the purposes of this Article, a Party may interpret "ought to have known" as "was grossly negligent in failing to know".

ARTICLE 14.42

Treatment of test data in marketing approval procedure

1. Each Party shall, in accordance with its relevant laws and regulations, prevent applicants for marketing approval for pharmaceutical products[1] which utilise new active pharmaceutical ingredients from relying on or referring to undisclosed test or other data submitted to its competent authority by the first applicant for a certain period of time counted from the date of approval of that application. As of the date of entry into force of this Agreement, such period of time is stipulated as being no less than six years by the relevant laws and regulations of each Party.

2. If a Party requires as a condition for approving the marketing of agricultural chemical products[2] which utilise new chemical entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, that Party shall ensure that, in accordance with its relevant laws and regulations, applicants for marketing approval are either:

(a) prevented from relying on or referring to such data submitted to its competent authority by the first applicant for a period of at least 10 years counted from the date of approval of that application; or

(b) generally required to submit a full set of test data, even in cases where there was a prior application for the same product, for a period of at least 10 years, counted from the date of approval of a prior application.

[1] For the United Kingdom, "pharmaceutical products" refers in this Article to medicinal products as defined in Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products.

[2] For the United Kingdom, "agricultural chemical products" refers in this Article to plant protection products as defined in Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products.