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SCHEDULES

SCHEDULE 4

SECOND PROTOCOL

CHAPTER 3

ENHANCED PROTECTION

Article 10 Enhanced protection

- Article 10 Cultural property may be placed under enhanced protection provided that it meets the following three conditions:
- (a) it is cultural heritage of the greatest importance for humanity;
 - (b) it is protected by adequate domestic legal and administrative measures recognising its exceptional cultural and historic value and ensuring the highest level of protection;
 - (c) it is not used for military purposes or to shield military sites and a declaration has been made by the Party which has control over the cultural property, confirming that it will not be so used.

Article 11 The granting of enhanced protection

- Article 11 (1) Each Party should submit to the Committee a list of cultural property for which it intends to request the granting of enhanced protection.
- (2) The Party which has jurisdiction or control over the cultural property may request that it be included in the List to be established in accordance with Article 27 subparagraph 1(b). This request shall include all necessary information related to the criteria mentioned in Article 10. The Committee may invite a Party to request that cultural property be included in the List.
 - (3) Other Parties, the International Committee of the Blue Shield and other non-governmental organisations with relevant expertise may recommend specific cultural property to the Committee. In such cases, the Committee may decide to invite a Party to request inclusion of that cultural property in the List.
 - (4) Neither the request for inclusion of cultural property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State, nor its inclusion, shall in any way prejudice the rights of the parties to the dispute.
 - (5) Upon receipt of a request for inclusion in the List, the Committee shall inform all Parties of the request. Parties may submit representations regarding such a request to the Committee within sixty days. These representations shall be made only on the basis of the criteria mentioned in Article 10. They shall be specific and related to facts. The Committee shall consider the representations, providing the Party requesting inclusion with a reasonable opportunity to respond before taking

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the decision. When such representations are before the Committee, decisions for inclusion in the List shall be taken, notwithstanding Article 26, by a majority of four-fifths of its members present and voting.

- (6) In deciding upon a request, the Committee should ask the advice of governmental and non-governmental organisations, as well as of individual experts.
- (7) A decision to grant or deny enhanced protection may only be made on the basis of the criteria mentioned in Article 10.
- (8) In exceptional cases, when the Committee has concluded that the Party requesting inclusion of cultural property in the List cannot fulfil the criteria of Article 10 sub-paragraph (b), the Committee may decide to grant enhanced protection, provided that the requesting Party submits a request for international assistance under Article 32.
- (9) Upon the outbreak of hostilities, a Party to the conflict may request, on an emergency basis, enhanced protection of cultural property under its jurisdiction or control by communicating this request to the Committee. The Committee shall transmit this request immediately to all Parties to the conflict. In such cases the Committee will consider representations from the Parties concerned on an expedited basis. The decision to grant provisional enhanced protection shall be taken as soon as possible and, notwithstanding Article 26, by a majority of four-fifths of its members present and voting. Provisional enhanced protection may be granted by the Committee pending the outcome of the regular procedure for the granting of enhanced protection, provided that the provisions of Article 10 sub-paragraphs (a) and (c) are met.
- (10) Enhanced protection shall be granted to cultural property by the Committee from the moment of its entry in the List.
- (11) The Director-General shall, without delay, send to the Secretary-General of the United Nations and to all Parties notification of any decision of the Committee to include cultural property on the List.

Article 12 Immunity of cultural property under enhanced protection

Article 12 The Parties to a conflict shall ensure the immunity of cultural property under enhanced protection by refraining from making such property the object of attack or from any use of the property or its immediate surroundings in support of military action.

Article 13 Loss of enhanced protection

Article 13 (1) Cultural property under enhanced protection shall only lose such protection:

- (a) if such protection is suspended or cancelled in accordance with Article 14; or
- (b) if, and for as long as, the property has, by its use, become a military objective.

(2) In the circumstances of sub-paragraph 1(b), such property may only be the object of attack if:

- (a) the attack is the only feasible means of terminating the use of the property referred to in sub-paragraph 1(b);
- (b) all feasible precautions are taken in the choice of means and methods of attack, with a view to terminating such use and avoiding, or in any event minimising, damage to the cultural property;

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- (c) unless circumstances do not permit, due to requirements of immediate self-defence:
 - (i) the attack is ordered at the highest operational level of command;
 - (ii) effective advance warning is issued to the opposing forces requiring the termination of the use referred to in sub-paragraph 1(b); and
 - (iii) reasonable time is given to the opposing forces to redress the situation.

Article 14 Suspension and cancellation of enhanced protection

- Article 14 (1) Where cultural property no longer meets any one of the criteria in Article 10 of this Protocol, the Committee may suspend its enhanced protection status or cancel that status by removing that cultural property from the List.
- (2) In the case of a serious violation of Article 12 in relation to cultural property under enhanced protection arising from its use in support of military action, the Committee may suspend its enhanced protection status. Where such violations are continuous, the Committee may exceptionally cancel the enhanced protection status by removing the cultural property from the List.
 - (3) The Director-General shall, without delay, send to the Secretary-General of the United Nations and to all Parties to this Protocol notification of any decision of the Committee to suspend or cancel the enhanced protection of cultural property.
 - (4) Before taking such a decision, the Committee shall afford an opportunity to the Parties to make their views known.