that the rules of the exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[11]

Securities market participants will soon face a critical test of their automated systems with the upcoming Year 2000; and the Commission believes that the support of the self-regulatory organizations is necessary to minimize the risks resulting from the century date change. Currently, the Phlx is entitled to receive, upon request, only the Year 2000 testing reports of its members and member organizations. Under the Exchange's proposal, the Phlx has authority to require members and member organizations to submit additional information regarding their Year 2000 readiness. The Commission believes that this information will assist the Phlx in evaluating its members' Year 2000 readiness. With more complete information, the Commission believes that the Phlx will be better able to monitor its members and member organizations to ensure their compliance with federal securities laws and the Exchange's rules. Therefore, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) of the Act.

The Commission also believes that the Phlx's proposed rule change should help reduce the risks posed to investors and the securities markets by broker-dealers that have not adequately prepared their computer systems for the century date change. The Commission finds that the Phlx's proposed rule change should facilitate transactions in securities and protect investors and the public interest and is therefore consistent with Section 6(b)(5) of the Act.

The Commission finds good cause for approving the proposal prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Accelerated approval will permit the Exchange to obtain reports, documents, and other information related to the Year 2000 immediately, allowing the maximum amount of time possible to identify, assess, and remediate Year 2000 problems. Accordingly, the Commission believes that good cause exists, consistent with Section 6(b)(5) and Section 19(b)(2) of the Act, to grant accelerated approval to the proposal.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–99–31 and should be submitted by [insert date 21 days from date of publication].

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–Phlx–99–31) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–27888 Filed 10–25–99; 8:45 am]

BILLING CODE 8010–01–M

[11] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Senior Executive Service: Performance Review Board; Membership

AGENCY: Social Security Administration.

ACTION: Notice of Senior Executive Service Performance Review Board Membership.

Title 5, U.S. Code, Section 4314(c) (4) of the Civil Service Reform Act of 1978, Public Law 95–454, requires that the appointment of Performance Review Board members be published in the **Federal Register**.

The following persons will serve on the Performance Review Board which oversees the evaluation of performance appraisals of Senior Executive Service members of the Social Security Administration:

Andria Childs
Eli N. Donkar
Glennalee K. Donnelly
Keith J. Fontenot
Philip A. Gambino
Diane B. Garro
Richard J. Gonzalez
Charlotte A. Hardnett
W. Burnell Hurt
Carmen M. Keller
Carolyn J. Shearin-Jones
Miguel A. Torrado
Judy Ziolkowski

Dated: September 23, 1999.

Paul D. Barnes,

Deputy Commissioner for Human Resources.

[FR Doc. 99–27844 Filed 10–25–99; 8:45 am]

BILLING CODE 4190–29–P

SOCIAL SECURITY ADMINISTRATION

[Social Security Acquiescence Ruling 99-4 (11)]

Bloodsworth v. Heckler; Judicial Review of an Appeals Council Dismissal of a Request for Review of an Administrative Law Judge Decision—Titles II and XVI of the Social Security Act

AGENCY: Social Security Administration.

ACTION: Notice of Revised Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(2), the Commissioner of Social Security gives notice of a revision to Social Security Acquiescence Ruling 92-4(11) by issuing Social Security Acquiescence Ruling 99-4 (11).

EFFECTIVE DATE: October 26, 1999.

FOR FURTHER INFORMATION CONTACT: Wanda D. Mason, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 966-5044.

SUPPLEMENTARY INFORMATION: We are rescinding Social Security Acquiescence Ruling 92-4(11) and publishing this revised Acquiescence Ruling in accordance with 20 CFR 402.35(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Act or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

On April 8, 1992, we published Acquiescence Ruling 92-4(11) in the **Federal Register** (57 FR 11961) to reflect the holding in *Bloodsworth* v. *Heckler*, 703 F.2d 1233 (11th Cir. 1983). The Acquiescence Ruling applied to Appeals Council dismissals of requests for review of Administrative Law Judge (ALJ) decisions. The Court of Appeals for the Eleventh Circuit held that an Appeals Council dismissal of a request for review of an ALJ decision for reasons of untimeliness is a ''final decision of the Secretary made after a hearing'' within the meaning of section 205(g) of the Social Security Act and, therefore, subject to judicial review.

The Ruling's section entitled ''Statement As To How *Bloodsworth* Differs From Social Security Policy'' included a parenthetical statement that an ''Appeals Council grant of request or denial of request for review of an ALJ decision is judicially reviewable.'' That statement is incorrect and is inconsistent with the regulations that it purports to explain, 20 CFR 404.955, 416.1455 and 422.210. The parenthetical statement also is inconsistent with the regulations at 20 CFR 404.981 and 416.1481. Moreover, it was not the issue addressed by the Acquiescence Ruling and was not the subject of the Eleventh Circuit's decision.

For purposes of clarity and consistency with our regulations, we are rescinding AR 92-4 (11) and revising the Acquiescence Ruling by deleting this parenthetical statement. We also have made several minor editorial and technical changes to update and clarify the Ruling. These revisions are technical corrections only and do not involve any substantive changes to the *Bloodsworth* Acquiescence Ruling. Some minor language changes are also being made for improved readability.

We will apply the holding of the Court of Appeals' decision as explained in this revised Social Security Acquiescence Ruling to Appeals Council dismissals of requests for review of ALJ decisions for claimants who reside within the states in the Eleventh Circuit at the time of the Appeals Council's dismissal of the request for review. This revised Social Security Acquiescence Ruling will apply to all Appeals Council dismissals of ALJ decisions made on or after October 26, 1999, except if relief and/or review has been granted pursuant to the previously issued Acquiescence Ruling 92-4 (11) which was published on April 8, 1992. If we made a determination or decision on your application for benefits between April 25, 1983, the date of the Court of Appeals' decision, and October 26, 1999, the effective date of this revised Social Security Acquiescence Ruling, you may request application of this Social Security Acquiescence Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b)(2) or 416.1485(b)(2), that application of the Acquiescence Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect, as provided in 20 CFR 404.985(e), or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c) or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved. We will also explain why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security - Disability Insurance; 96.002 Social Security - Retirement Insurance; 96.004 Social Security - Survivor's Insurance; 96.003 - Special Benefits for Persons Aged 72 and Over; 96.006 - Supplemental Security Income.)

Dated: September 2, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

Acquiescence Ruling 99-4 (11)

Bloodsworth v. *Heckler*, 703 F.2d 1233 (11th Cir. 1983)—Judicial Review of an Appeals Council Dismissal of a Request for Review of an Administrative Law Judge Decision—Titles II and XVI of the Social Security Act.

Issue: Whether a dismissal by the Appeals Council of a request for review of an ALJ decision is a ''final decision'' which is judicially reviewable.

Statute/Regulation/Ruling Citation: Sections 205(g) and (h) and 1631(c)(3) of the Social Security Act (42 U.S.C. sections 405(g) and (h) and 1383(c)(3)); 20 CFR 404.955, 404.967, 404.968, 404.971, 404.972, 404.981, 404.982, 416.1455, 416.1467, 416.1468, 416.1471, 416.1472, 416.1481, 416.1482 and 422.210.

Circuit: Eleventh (Alabama, Florida, Georgia).

Bloodsworth v. *Heckler*, 703 F.2d 1233 (11th Cir. 1983)

Applicability of Ruling: This Ruling applies only to the Appeals Council dismissals of requests for review of ALJ decisions.

Description of Case: In 1979, Mr. Jack Bloodsworth, the claimant in this case, filed applications for a period of disability, disability insurance benefits, and supplemental security income payments. The applications were denied initially, on reconsideration, and by an ALJ after a hearing. The claimant missed the 60-day time limit for filing his request for review of the ALJ's decision to the Appeals Council because it was filed approximately two weeks after the deadline. Therefore, the Appeals Council dismissed the request for review on the basis of untimeliness without good cause.

The claimant then filed a complaint in Federal district court, alleging that denial of the extension of time to file was not supported by substantial evidence. The district court rejected the Social Security Administration's (SSA) argument that it lacked jurisdiction, reviewed the Appeals Council's denial of an extension of time, and remanded the case for consideration of the merits of the claim. [1] On remand, the Appeals Council restated its position that the claimant's request for review was untimely filed, but considered the claim on the merits as ordered, and denied the claimant's request for review. The district court affirmed the decision and the claimant appealed. On appeal, SSA again argued that the district court lacked jurisdiction.[2]

Holding: The Eleventh Circuit held that an Appeals Council dismissal of a request for review of an ALJ decision for reasons of untimeliness is a ''final decision of the Secretary made after a hearing'' within the meaning of section 205(g) of the Social Security Act[3] and, therefore, subject to judicial review.

[1] Under the Social Security Independence and Program Improvements Act of 1994, Pub.L.No. 103-296, effective March 31, 1995, Social Security Administration (SSA) became an independent Agency in the Executive Branch of the United States Government and was provided ultimate responsibility for administering the Social Security and Supplemental Security Income programs under titles II and XVI of the Act. Prior to March 31, 1995, the Secretary of Health and Human Services had such responsibility.

[2] The Government argued that the district court lacked subject matter jurisdiction under sections 205(g) and (h) of the Social Security Act (42 U.S.C. section 405(g) and (h)) because the plaintiff failed to meet the ''final decision'' and ''made after a hearing'' requirements of these sections. The Government contended that: (1) Dismissal of a request for review on the basis of untimeliness without ''good cause'' is not a ''final decision'' for it does not constitute a determination on the merits; and (2) it is not ''made after a hearing'' because no hearing is granted solely and specifically on the request for review itself.

[3] Section 205(g) of the Social Security Act (42 U.S.C. section 405(g)) currently provides in pertinent part that ''[a]ny individual, after any final decision of the Commissioner of Social Security made after a hearing to which he was a party,* * * may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Commissioner of Social Security may allow.'' At the time of the decision in *Bloodsworth*, however, the statute referred to a ''final decision of the Secretary.''

Regarding the right to judicial review, the Eleventh Circuit stated that neither the statute nor the regulations make any distinction between Appeals Council dismissals and ''determinations on the merits.'' The court found that both actions are equally final and that both trigger a right to review by the district court. The court interpreted 20 CFR 404.972 and 404.981[4] to provide that ''an Appeals Council review determination, on whatever grounds, is perceived as the appropriately 'final decision' from which to take an appeal to the district court under section 405(g).''

Statement as to How Bloodsworth Differs From SSA's Interpretation of the Regulations

The Eleventh Circuit held that an Appeals Council dismissal of a request for review of an ALJ decision is a ''final decision of the Secretary made after a hearing'' (now a ''final decision of the Commissioner of Social Security'') within the meaning of section 205(g) of the Social Security Act and, therefore, subject to judicial review.[5]

Contrary to the holding of the court in *Bloodsworth*, SSA policy is that the regulations make a clear distinction in regard to rights of judicial review between dismissals and determinations on the merits by the Appeals Council. The Appeals Council may take three types of action following an ALJ decision:

(1) It may grant a request for review;

(2) it may deny a request for review; or

(3) it may dismiss a request for review. The dismissal of a request for review of an ALJ decision is binding and not subject to further review. 20 CFR 404.972, 416.1472. *See also* 20 CFR 404.955, 416.1455, 422.210. The Appeals Council will dismiss a request for review if it is untimely filed and the time for filing has not been extended.[6] The Appeals Council may also dismiss a request for review for other prescribed reasons. 20 CFR 404.971, 416.1471.

SSA's position, based on the above-cited regulations, is that an Appeals Council dismissal is not a ''final decision of the Commissioner of Social Security made after a hearing.'' Therefore, such a dismissal is not judicially reviewable under section 205(g) of the Social Security Act (42 U.S.C. 405(g)).

Explanation of How SSA Will Apply The Bloodsworth Decision Within the Circuit

This Ruling applies only to cases involving claimants who reside in Alabama, Florida, or Georgia at the time of the Appeals Council dismissal of the request for review.

Notices sent by the Appeals Council which dismiss requests for review of ALJ decisions will advise claimants in these states of their right to request judicial review.

[FR Doc. 99–27843 Filed 10–25–99; 8:45 am]

BILLING CODE 4191–02–F

[4] 20 CFR 404.981 and 416.1481 state, in pertinent part, that ''[t]he Appeals Council's decision, or the decision of the administrative law judge if the request for review is denied, is binding unless you or another party file an action in Federal district court, or the decision is revised.''

[5] As the Supreme Court has noted, the term ''final decision'' is not defined in the Social Security Act, but the Act gives authority to the agency to prescribe its meaning by regulation. *Weinberger* v. *Salfi*, 422 U.S. 749, 766 (1975).

[6] The Appeals Council, upon good cause shown, may extend the time for filing a request for review of an ALJ decision. 20 CFR 404.968(b), 416.1468(b).

DEPARTMENT OF STATE

[Public Notice 3140]

Culturally Significant Objects Imported for Exhibition Determinations: ''Body Art: Marks of Identity''

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority of October 19, 1999, I hereby determine that the objects to be included in the exhibit, ''Body Art: Marks of Identity,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the American Museum of Natural History, New York, New York, from on or about November 16, 1999 to on or about May 29, 2000, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is Room 700, United States Department of State, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: October 20, 1999.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, United States Department of State.

[FR Doc. 99–27954 Filed 10–25–99; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D–165]

WTO Dispute Settlement Proceeding Regarding Import Measures on Certain Products From the European Communities

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice of the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (''WTO''), by the European Communities, to examine the U.S. announcement of 3 March 1999 that liquidation would be withheld on imports from the EC of a list of products together valued at $520 million. In this dispute, the European Communities alleges that this action was inconsistent with obligations of the United States under the Dispute Settlement Understanding and the General Agreement on Tariffs and Trade 1994. The USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted by November 15, 1999, to be assured of timely consideration by the USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Sandy McKinzy, Litigation Assistant, Office of Monitoring and Enforcement, Room 122, Attn: Dispute on Import Measures on Certain Products from the European Communities, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Bruce R. Hirsh, Associate General Counsel, at (202) 395–3582, or William L. Busis, Associate General Counsel, at 395–3150

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) 19 U.S.C. 3537(b)(1)), the USTR is providing