STATEMENT OF ELI HAAS, PRESIDENT, DIAMOND DEALERS CLUB

(For the hearing on Africa's Diamonds: Precious, Perilous Too? By the Subcommittee on Africa, Committee on International Relations, U.S. House of Representatives, May 9, 2000)

On behalf of the Diamond Dealers Club we welcome this opportunity to present this statement on ''Africa's Diamonds: Precious, Perilous Too?''

The Diamond Dealers Club is a trade association of close to 2,000 diamond dealers, brokers and manufacturers. Conceived in 1931, we have since our beginning been located in New York City. Our members come from more than 30 different countries and import the overwhelming percentage of diamonds that enter the United States. Pursuant to our By-Laws, we early recognized that a key goal of our organization is ''to cooperate with governmental agencies.'' This statement is presented with that goal in mind.

The tragic consequences of the use of diamonds to finance civil wars in Africa, particularly Angola, have in recent months received considerable public and private attention both in the United States and worldwide. The focus of the articles, discussions and meetings on this subject is that diamonds have been used by rebels to pay for weapons in Angola, Sierra Leone and Congo, weapons that have led to the deaths and amputations of limbs of tens of thousands of innocent victims of these conflicts.

Two years ago the United Nations Security Council adopted a resolution that prohibited the purchase of diamonds from UNITA forces in Angola. Endorsed by the United States, these sanctions prohibit nations from the ''direct or indirect import from Angola'' to their territory of all diamonds that are not controlled through certificates provided by Angola's recognized government.

The resolution's basic objective was that without funds generated by such sales the rebel forces led by Jonas Savimbi would no longer be able to continue the campaign of terror and rebellion against Angola's government. Since then, the UN Security Council Committee on Angola, chaired by Canadian Ambassador Robert Fowler, issued a report in March 2000 which found that the UN sanctions are frequently violated.

According to the UN report, UNITA's military activities are sustained by its ''ability to sell rough diamonds for cash and to exchange rough diamonds for weapons.'' The investigation of UNITA'S diamond sales led by the former Swedish ambassador to Angola implicated the presidents of Togo and Burkina Faso as involved in the illegal trading operations with Mr. Savimbi's forces. It also concluded that Bulgarians were shipping arms to UNITA and that the Antwerp diamond industry played a role in the illegal trade.

Several months before the March report, Ohio Congressman Tony Hall, a person long devoted to human rights causes and combating world hunger, introduced in the U.S. House of Representatives the ''Consumer Access to a Responsible Accounting of Trade Act (CARAT)'' a bill mandating that any diamond ''sold in the United States'' that retails for more than $100 be accompanied by a certificate stating the name of the country in which the diamond was mined. According to the Congressman this would encourage consumers to ''participate in a global human rights campaign'' thus removing the financial support for some of Africa's civil wars.

We feel that Congressman Hall's bill has the worthwhile purpose of protecting innocent people caught in brutal internal conflicts. Each of us has seen photos of the frightened victims of these conflicts, victims who may have been killed or had limbs amputated simply because they were in the path of maniacal, well-armed thugs (often teenagers). All of us deplore these acts of terrorism.

Unfortunately for the innocent victims of these ongoing conflicts, the Hall proposal, however well-intentioned, would neither lead to the successful implementation of the UN sanctions nor end the ongoing civil wars and the concomitant deaths of innocent civilians. Rather, it would harm the diamond industry worldwide and have serious negative implications for stable and developing countries in southern Africa.

Even if enacted and implemented, the Congressman's proposal would have but negligible impact on the UN sanctions. Diamonds are fungible and tens of millions of them are mined annually. No organization in existence today is qualified to certify that a stone sold in Rwanda was not mined in Angola, two nations which share a porous border several hundred miles long. Furthermore, rampant corruption and fraud easily leads to the fraudulent certification of stones from rebel areas—something which Ambassador Fowler's report documents.

Moreover, mandating that certificates accompany all diamonds ''retailing'' for more than $100 would mean that tens of millions of certificates would have to be issued annually. The record keeping for this task would be monumental and costly and would inevitably harm the retail jewelry industry which is dominated by small businesses. It is also important to understand that De Beers, the company that sells most of the world's rough diamonds reported that it no longer purchases any from conflict areas. In March it announced that it would henceforth provide written guarantees that its diamonds do not originate with African rebels.

While there is some discussion of the development of a technology to come up with identifying marks or fingerprints to determine particular countries of origin of diamonds, no such technology is currently available. Indeed, even those involved in this research and development report that at best success is years away. Furthermore, even if country of origin was determinable, it would still not indicate whether a diamond comes from mines in government-held territory or from rebel-held mines.

In fact the proposed legislation would penalize and have a harmful impact on legitimate and responsible African producers of diamonds such as Botswana, Namibia and South Africa. In these countries diamonds provide the engine for economic growth and account for a substantial percentage of the gross domestic product. Diamond production has been so successful for Botswana that it now has one of the most rapidly growing economies in the world.

In South Africa, former President Nelson Mandela has expressed concern that his nation's vital diamond industry is not damaged by ''an international campaign.'' Surely, the U.S. Congress does not wish to retard economic development in friendly developing countries because it is fueled by diamonds. In fact, this ''unintended consequence'' would follow from this legislation.

The American diamond and jewelry industry is united in both its abhorrence of terrorism in the Congo, Sierra Leone and Angola and in support of the UN sanctions regarding the latter. To successfully keep conflict diamonds out of the world diamond market we believe the problem must be attacked at the source. We feel that the efforts of the international community should be concentrated on the small number of firms and individuals who are actively engaged in helping illicit diamonds enter the mainstream of the legitimate diamond commerce. The international community has already achieved significant positive results with its efforts to cast light on firms, individuals and countries involved in trading with the rebel forces. While the portability of diamonds means that some stones from conflict areas will continue to enter the world economy, a greater international effort can reduce this to a minimum.

Members of the organized diamond community, including the close to 2000 member Diamond Dealers Club in the United States, strongly oppose the sale of diamonds that do not comply with the UN resolution. Indeed, in July 1999, months before the current media attention, the DDC's Board of Directors went on record in support of the UN sanctions prohibiting our members from trading in diamonds which do not comply with the position taken by the UN and the U.S. government.

While the above is important in preventing the sale of unlicensed diamonds, to be truly effective we believe it is necessary to initiate a proactive approach, one that will encourage stability, accountability and transparency. More specifically, we must establish a direct relationship between African diamond mining nations and the American diamond cutting industry. This means that the American diamond industry should be able to deal directly on a business-to-business basis with African diamond producing nations to purchase stones that have been licensed for export by legitimate governments. In doing so we would pay the world market price, a price which is substantially above the payments received for diamonds that are now being used to contribute to the internal conflicts.

One other major advantage of this proposal is that the transparency and accountability which is the hallmark of the American industry's style of operation surely would lead to a decline in corruption and other illegal activities. This would result in fewer stones sold through either ''leakage'' or other unauthorized sources as well as reduce the corruption that is often associated with diamond commerce in several producing nations.

The benefit to African diamond producing nations is clear. With U.S. government involvement, the American diamond industry would also benefit since the establishment of a direct pipeline would play a significant role in overcoming the current shortage of rough diamonds. In turn, this would revitalize our cutting and polishing industry.

Ultimately, we believe that our proposal represents a win-win situation for the American diamond industry and the diamond producing nations of Africa. Instead of diamonds being used to finance internal conflicts and the death and destruction of innocent civilians, they would become—as is already the case in the other African nations—a major opportunity for gainful employment for tens of thousands of people and a major source for economic development in the diamond producing nations of Africa. At the same time, diamonds would strengthen the American industry, thereby providing new opportunities for employment, and tax revenues.

TRIBUTE TO THE DEL VALLE FAMILY

HON. JOSE E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 2000

Mr. SERRANO. Mr. Speaker, today I pay tribute to the ''The Puerto Rican Family of the

Millennium,'' the Del Valle Family. Telesforo del Valle, Sr., Rafaela Leon del Valle and Telesforo del Valle, Jr., were honored on Wednesday, June 7 by the National Puerto Rican Day Parade of New York, GALOS Corp. of New York and Puerto Rico and Manhattan Valley Senior Center.

Telesforo del Valle, Sr., was born in Aguadilla, Puerto Rico, in 1908. He moved to Brooklyn before moving to ''El Barrio'' in Manhattan. He was a guitarist and a composer and in 1932 he became a member of a musical group called ''Trio del Valle''. In 1941, while studying law, he joined the National Guard and Civil Defense. In 1945 he made history as the first Puerto Rican elected Councilman at Large in the City of New York. He was also the first Hispanic candidate to form his own political party. In 1948 he became the first Hispanic from New York to run for the United States Congress.

Mr. Speaker, in 1958 Telesforo, Sr., and his wife Rafaela Leon del Valle, who was born in the town of Guarbo, Puerto Rico, formed an organization known as ''Loyal Citizens Congress of America, Inc.''. They established offices in Manhattan, Brooklyn and the Bronx. They organized the first military troop of Hispanic cadets in New York and New Jersey to prevent and combat juvenile delinquency. A major goal of the organization was to provide guidance to workers and to intervene in labor disputes.

Loyal Citizens Congress of America had over a thousand members who were knowledgeable on the political and electoral systems. With their support, Telesforo, Sr., was appointed by New York Governor Nelson Rockefeller to be his campaign director in the Hispanic communities of New York State. Rockefeller won the Latino vote by 85 percent. It was the first time the Republican Party ever won in East Harlem.

In 1985, Mr. And Mrs. Del Valle were recognized with the ''Valores Humanos'' award. Mrs. Del Valle was honored by the newspaper ''El Diario'' of New York as the most prominent feminist in the State of New York. Their son, Telesforo del Valle, Jr., Esquire, is a criminalist who has followed in their footsteps and whose career and achievements are great sources of pride for them.

Mr. Speaker, I ask my colleagues to join me in paying tribute to the ''The Puerto Rican Family of the Millennium,'' the Del Valle Family.

NEW TRIAL FOR GARY GRAHAM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 2000

Mr. TOWNS. Mr. Speaker, I rise today to raise an issue of great importance to society's guarantee of due process and fairness to all of our citizens. As you all know we are less then two days away from executing a potentially innocent man, Gary Graham. There is a great weight of evidence, still unheard by a Texas court, that could establish his innocence. The evidence that he had an inadequate lawyer is so overwhelming that to put this man to death, without consideration of the evidence that could exonerate him, would be a travesty of justice.

Last week, 34 of my colleagues in the Congressional Black Caucus sent a letter to the Texas Governor, appealing to him to grant Mr. Graham a conditional pardon and the right to a new trial. Mr. Speaker, I insert a copy of this letter into the RECORD at this point. Were the relief we requested granted, Mr. Speaker, the Texas Court would be able to consider this important evidence that could exonerate Mr. Graham.

In a new trial, Mr. Graham's counsel would be able to effectively challenge the only evidence that was used to convict Mr. Graham—the testimony of a single witness. With the assistance of effective counsel, the court would hear that the witness initially failed to identify Mr. Graham at a photo spread the night before she picked him out of a lineup of four people. The Court would also hear that the .22 caliber gun found on Mr. Graham at the time of his arrest was determined by the Police Crime Lab not to be the weapon used in the murder. Further, the Court would hear from four other eyewitnesses mentioned in the police report who said that Mr. Graham was not the shooter.

In addition to this evidence available in the first trial that defense counsel failed to present, the Court would also benefit from ''new'' evidence obtained after the first trial concluded. The court would need to hear this evidence, consisting of statements from at least six eyewitnesses to the incident who affirmed under oath that Mr. Graham did not commit the crime for which he may soon pay the ultimate price. Because prior Texas court rules give persons convicted of a crime only 30 days after their trial to present ''new'' evidence, these exonerating testimonies could not be presented to the Appellate Court for consideration.

Mr. Graham may not be innocent, but as we stand here today we know that he has not been proven guilty beyond a reasonable doubt. We are talking about a man's life, one that cannot be brought back once we have taken it away. If we execute this man without a fair trial it will be an obvious contradiction to everything this country stands for and a dark day in our history.

Mr. Speaker, we have a choice today: we either hold strong to our principles and show that we are truly a nation of justice, or we allow a man to die in the face of strong evidence of his innocence. I urge my colleagues to join me in support of justice, to show that a human life can never take a back seat to politics. In two days we will show that we are truly the greatest country of all time, or we will put our heads down in shame in the realization that a great country, a just country, and a truly democratic country does not yet exist.

CONGRESS OF THE UNITED STATES,
Washington, DC, June 13, 2000.

Hon. GEORGE W. BUSH,
Governor, the State of Texas,
Office of the Governor.

Re Request for Stay of Execution, Grant of Clemency for Shaka Sankofa, formerly known as Gary Graham

DEAR MR. GOVERNOR: As you are aware, time is quickly running out before the June 22, 2000, scheduled execution of Gary Graham, also known as Shaka Sankofa. Based upon our understanding of the facts and merits of the case, as well as the ineffective counsel Mr. Sankofa received at trial, we believe that it would be a severe miscarriage of justice for his execution to proceed. Therefore, we are writing to request that you grant an immediate stay of Mr. Sankofa's execution, as your predecessor, Governor Ann Richards, did in 1993.

We feel strongly that it is altogether appropriate for you to grant the stay of execution for Mr. Sankofa to give your office and the Texas Board of Pardons and Paroles time to approve Mr. Sankofa's clemency petition. As is clear from reviewing the history of this case, which is set forth in detail in Mr. Sankofa's clemency petition, Mr. Sankofa received grossly ineffective counsel at his two-day capital trial. Throughout the recent history of Texas capital cases, there is perhaps no situation like this, where a young man is sentenced to die based entirely upon the testimony of one witness—with absolutely no corroborating evidence. We must not ignore the fact that officers investigating the shooting never recovered any physical evidence or corroborating witness testimony linking Mr. Sankofa to the shooting.

Whether Mr. Sankofa received ineffective assistance of counsel is hardly a dispute. Mr. Sankofa's trial lawyer failed to use any of the key witnesses who were available at the trial to rebut the testimony of the prosecution's only witness—indeed, their only evidence—to tie him to the crime. A reasonably competent attorney would have called witnesses, like Ronald Hubbard, who would have directly rebutted the prosecution's evidence by testifying that Mr. Sankofa did not resemble the gunman. Had Mr. Hubbard's testimony been received into evidence, the jury or a later appeals court would have had a factual basis, at the very least, to determine that Mr. Sankofa should not be executed.

Furthermore, at trial, Mr. Sankofa's attorney did not even seek to impeach the testimony of the prosecution's lone witness, Bernadine Skillern. Mr. Sankofa's lawyer was negligent in not pointing out to the trier of fact that Ms. Skillern failed to positively identify Mr. Sankofa in a photo array shown to her the night before she finally identified him in a lineup with four different men in the lineup. Mr. Sankofa's lawyer did not introduce a police report saying that Ms. Skillern focused on Mr. Sankofa's photo but declined to positively identify him, saying the shooter had a darker complexion. A competent attorney would have used this information to establish a foundation for impeaching Ms. Skillern's testimony—the only evidence of any kind linking Mr. Sankofa to the murder.

In fact, a reasonably competent attorney would have realized that Mr. Hubbard's testimony alone would have seriously undermined a finding that the prosecution met its burden to present clear and convincing evidence establishing guilt beyond a shadow of a doubt with the scant evidence it offered. Clearly, directly conflicting witness testimony raises a legally significant doubt about a person's guilt. Mr. Sankofa's counsel's failure to offer this evidence is inexcusable neglect. As the clemency petition shows, there are many other instances of ineffective assistance of counsel, which do not need to be set forth again here. The pattern of negligence of Mr. Sankofa's trial lawyer is well established, and Mr. Sankofa should not pay with his life for his attorney's many mistakes.

Unfortunately, simply failing to call important witnesses to testify at trial was not the end of Mr. Sankofa's lawyer's negligence. Because prior Texas court rules gave persons convicted of a crime only 30 days after their trial to present ''new'' evidence, Mr. Sankofa's subsequent counsel, retained in the mid-1990s, were not permitted to offer exonerating testimony to appellate courts. Specifically, these attorneys obtained statement from at least six witnesses to the incident who affirmed under oath that Mr.