Thank you, Mr. Chairman, Senator Lugar, members of

the committee.

It’s a pleasure to appear before you again to talk about North

Korea.

I’ve submitted a statement for the record which I would like to

be part of the record, and I wanted to focus my comments more on

some of the discussion that took place during Ambassador Bosworth’s

testimony, in particular some of the questions I think the

committee members were asking.

The first was that the committee members were asking how the

financial measures worked that were used in 2005 and there,

essentially what we did was the Treasury Department issued a

financial advisory—something called a section 311—to U.S. financial

institutions, to beware of doing business with a particular bank

in Macau that was thought to be holding North Korean accounts

that were dirty.

That was a very isolated action but it had the effect of causing

many other banks around the world and regulatory agencies to ask

why is the Treasury Department doing this? And when they understood

the reason for it, they then under their own initiative started

to either freeze North Korean accounts or ask that these accounts

not be held in their banks, such that you had a tremendous ripple

effect in the world that greatly impeded North Korea’s ability to do

business.

Now this isn’t the average North Korean because the average

North Korean does not have an ATM card that they can take

money out of the local Citibank. This affects largely the elite and

the leadership.

The second thing I would mention with regard to these financial

measures is that when the Bush administration did them, they

were largely a U.S. action where the United States was then going

to other countries and regulatory agencies in Europe and elsewhere

asking them to take certain actions.

The big difference now is that a U.N. Security Council resolution

that calls for the designation of certain entities for financial sanctions

makes this much more of a multilateral effort, and I think it

becomes much easier to gain cooperation among other countries,

regulatory agencies and banks.

The second point that I want to make, again addressing some of

the questions in the earlier session, is this whole question of the

inspections.

To me, although we don’t know everything about the U.N. Security

Council resolution, to me what’s most interesting is the effort,

the very strong effort by the administration and by the Perm-5 to

develop an inspection regime to counter the proliferation potentially

of weapons or fissile material by North Korea.

This is a very important step and institutionalizing some sort of

inspection regime would, I think, even have more value added on

account of proliferation side than the financial measures themselves.

You assume that the financial measures would be taken after the

nuclear tests, but to ramp up a strong inspection regime and

counterproliferation regime that the Chinese and Russians would

cooperate with would be a very useful thing for the world and for

United States security interests.

The big question of how North Korea reacts to these sorts of

things—I think clearly when the Bush administration undertook

some of these financial measures, many people argued it led to

North Korea’s first nuclear test and the question arises whether

these financial measures will then lead North Korea to their third

nuclear test, and I don’t think we know the answer to that.

We do know that they need to face consequences, as President

Obama said, for their actions and this appears to be the best way

to do it.

I would agree with the points that were made earlier about

China. I think China is very important on the pressure side to get

the North Koreans to return to the negotiating table. There are all

sorts of pressure that China can put on North Korea that are not

reported in public trade figures. There’s a wealth of interaction

that takes place between the militaries and the parties of these two

countries, between the leaders, individuals in both the militaries

and the parties, where they can do things and send very clear messages

that are effective in terms of persuading the North Koreans

to come back to the table, but at the same time don’t look like the

Chinese are kowtowing to the United States—because the Chinese

never want to be seen as kowtowing to the United States.

Finally, in the few seconds that I have left, while I was part of

an administration that took North Korea off the terrorism list, I do

think that the administration should seriously consider putting

them back on the terrorism list.

We’ve had ballistic missile tests, a second nuclear test, and then,

most recently, the taking of these two American women as detainees

in North Korea, and I think that we should do whatever we

can, the U.S. Congress, the administration, to get these two women

out of the country because no American should be imprisoned in

North Korea.

Senator Kerry, Senator Lugar, and distinguished members of the committee, it is

my distinct honor to appear before you again to discuss the topic of North Korea.

I offer my personal thoughts to you today based on my experience working this issue

for the White House as deputy head of delegation to the six-party talks, and based

on my research on the country as an author and academic.

The latest statements out of North Korea appear to be telegraphing their next set

of provocative moves. They have threatened everything from further ballistic missile

tests, another nuclear test, withdrawal from the armistice, and cyber warfare. They

demand that the U.N. ‘‘apologize’’ for its punitive statement against the April missile

launch. They have threatened to retaliate against any actions taken by the U.N.

Security Council in response to their May 2009 nuclear test. They refuse to return

to six-party talks. And in an unprecedented act, the North Koreans have sentenced

two American journalists, Euna Lee and Lisa Ling, to 12 years of hard labor and

reform. Should these two women be sent to labor camps in North Korea, they would

be the first civilian American nationals ever to suffer such a fate.

In the past, this litany of DPRK threatening actions was always understood as

a tactic to get the attention of the United States and to draw Washington into bilateral

talks. Indeed, this was often the argument that the Bush administration had

to contend with whenever the North undertook provocative actions. And quite

frankly, a very unhelpful dynamic developed in which the causes for North Korean

bad behavior were pinned on U.S. diplomatic inaction rather than on North Korean

intentions.

The Obama administration managed to correct this vicious cycle. It came into

office signaling its willingness to have high-level negotiations with Pyongyang

through Special Envoy Stephen Bosworth’s trips to the region. It has made clear to

six-party members its commitment to the talks and to moving forward with the September

2005 Joint Statement. Yet the North continues to threaten and refuses to

come to the table.

So what do they really want?

I think the North wants three things. First, the North wants agreements with the

United States that are ‘‘election-proof.’’ In other words, they want agreements that

will outlast a change of presidencies. From their perspective, they have been victimized

once before, when in 2000 Pyongyang’s leadership viewed themselves at the

threshold of a new relationship with the United States that dissipated quite rapidly

when the Bush administration took office. Arguably (and ironically), the Bush administration

ended its 8 years in office trying to make agreements that were permanent,

including the removal of the DPRK from the state sponsor of terrorism list.

I believe the administration is correct to consider list reimposition for North Korea

after the second nuclear test, but it is more complex to put a country back on the

terrorism list than to take them off it.

Second, the North wants arms control negotiations with the United States, not

‘‘denuclearization’’ negotiations. Their model is to turn the six-party talks into a

bilateral U.S.–DPRK nuclear arms reduction negotiation, in which the North is accorded

a status as a nuclear weapons state. The outcome of such negotiations, in

Pyongyang’s view, should be ‘‘mutual’’ nuclear arms reductions (i.e., not elimination

of DPRK nuclear weapons) and confidence-building measures. During six-party

talks, the North Korean negotiators periodically referred to the United States-Soviet

strategic arms control negotiations as their empirical referent. The ideal outcome of

this negotiation, in the North’s view moreover, is a situation like that of India. That

is, an agreement in which the North is willing to come back under International

Atomic Energy Agency safeguards and monitoring, but it is also assured of a civilian

nuclear energy element. Most important, they would want to control a portion of

their nuclear programs outside of international inspection, which in their eyes could

then serve as their nuclear deterrent. They would certainly want a great deal in

return for these ‘‘concessions’’ including energy assistance, economic development

assistance, normalized relations with the United States, and a peace treaty ending

the Korean war. But on the nuclear side of the equation, they want the rules of the

nonproliferation treaty regime essentially rewritten for them as they were done for

India.

Third, the North wants a special type of ‘‘regime security assurance’’ from the

United States. This stems from the fundamental reform dilemma that the DPRK

faces, which I wrote about in Foreign Affairs in 2002: It needs to open up to survive,

but the process of opening up leads to the regime’s demise. Thus, what Pyongyang

wants is an assurance from the United States that it will not allow the regime to

collapse during a reform process.

This is different from a negative security assurance. The negative security assurance

was given to North Korea in the 2005 Joint Statement when the United States

agreed ‘‘not to attack North Korea with nuclear or conventional weapons.’’ This

statement—astounding on its own merits—led the Russian delegation to pull aside

the North Koreans to tell them they believed that the United States was serious,

based on their own cold war experience when Moscow could not get such an assurance

from Washington. But this is not what the North wants. They want an assurance

that the United States will support and bolster the regime in Pyongyang as

the Kim Jong-il (or post-Kim Jong-il) regime goes through the dangerous and potentially

destabilizing effects of a reform process.

This type of regime assurance must be an even more prescient concern for the

North Korean leadership given Kim Jong-il’s deteriorating health condition. The

likely leadership transition to Kim Jong-un, the youngest of his three sons who

lacks any experience or revolutionary credentials, would be an inherently unstable

process in the best of times. The fluidity created by this process in combination with

the imperative for reform probably makes regime assurance an topline preoccupation.

The first of these North Korean desires is certainly plausible for the Obama administration

to do. If negotiations resume in the future, then North Korea’s desires

for ‘‘irreversible’’ steps by the United States would be met by our own desires for

irreversible steps on their nuclear and missile programs. The second and third, however,

are more problematic. An India-type deal for North Korea would create a crisis

of confidence in the alliance with Japan as well as with the Republic of Korea. Any

outcome that even hinted at U.S. tacit acceptance of a de facto residual nuclear

capability in the DPRK could potentially undercut the credibility of American ex-

tended deterrence to its allies. The secondary and tertiary consequences of self-help

action by Tokyo or Seoul would then have unhelpful ripple effects in the region. A

guarantee of U.S. support for a crumbling Kim Jong-il regime would run anathema

to every American value and human rights principles. Without any significant improvement

in human rights in the country, it is difficult to imagine any President

agreeing to proactively support the Kim family’s continued rule.

The recent presence of Deputy Secretary Steinberg and Special Envoy Bosworth

in the region is commendable. The period afforded by Pyongyang’s boycotting of the

talks is a good opportunity to demonstrate continued American political commitment

to the negotiations and to demonstrate squarely that a failure of the process

rests at the feet of Pyongyang and not at those of Washington.

Finally, the human rights abuses of North Korea have become even more clear

given North Korean treatment of the two American journalists. Pyongyang may be

trying to send a message with their harsh sentencing that they do not want world

media drawing attention to or encouraging the outflow of refugees from the country.

But Pyongyang has made their point with the sentencing and now needs to release

the women as a humanitarian gesture. The longer they hold them, the harder it will

be for Pyongyang to release them given the insulated leadership’s concerns about

not being seen as pressured by the outside world.

The administration and Congress must exhaust every avenue of diplomacy to see

to the release of these two women. If necessary, a high-level envoy should be sent

to negotiate their return. Given North Korean negotiating habits, this envoy may

have little transparency in advance whether his/her mission would be successful. An

envoy of sufficiently high level must try, nevertheless. No American should be subject

to imprisonment in North Korea.

Yes. Well,——

Right. Well, in terms of getting back to the table, I

think everybody wants to get back to the table. The only way we

get closer to anything resembling a freeze and a cap on the capabilities

is through negotiation. So as bad as that might seem at the

current moment, it’s something that we eventually have to get

back to.

You know, having been part of these negotiations for about 3

years, as our Deputy Head of Delegation, I can tell you, sir, that

I have very little confidence that the North Koreans are wanting

to give up all of their nuclear weapons.

I think they’re willing to give up some of them for all the things

that we’ve talked about, assistance, normalization, peace treaty,

but in the end, they’re not willing to give up all of them and that’s

a difficult thing for a negotiator to have to deal with as they go into

a negotiation. Yet you still have to have negotiations because you

want to maintain a cap, freeze, disable and be able to degrade their

programs.

On the question of the terrorism list, there are legal criteria for

being put on and taken off this list, but I think it’s also fair to say

that it is also—there are also political—there’s a political environment

in which discussion of putting a country on or taking them

off the list is quite relevant. And I think when North Korea was

taken off the list, there were criteria that justified their being

taken off the list, but there was also a broader framework in which

that was happening, in which many people expected the North

Koreans would live up to their end of the second phase of the sixparty

agreement, the verification protocol, and they did not.

Since then, as you know very well, they’ve done a nuclear test,

a second nuclear test, they’re threatening a third nuclear test, and

most recently, they’ve taken these two Americans and threatened

to throw them for 12 years into a labor camp. That’s not the right

political environment and so I would appeal both on legal grounds

as well as on the larger political grounds.

Well, I mean, the first point on that, Senator Lugar, is,

as you know well, I mean, for denuclearization, we need a negotiation.

If we don’t have a negotiation, we have to focus on counterproliferation

and I think what often gets missed in the media

discussion of the inspection regime is they focus on the high seas

interception where a comprehensive inspection regime—that would

just be one small piece.

The bigger areas would be the cooperation by the Chinese

and Russians at ports in terms of container cargo, in terms

of the practice of bunkering at third country ports as vessels that

may be carrying bad North Korea things need to stop on their way

to their final destination.

If all of these things become part of a U.N. Security Council resolution

and then, as Ambassador Bosworth said, there is an

enforcement or monitoring mechanism within the U.N. Security

Council of countries who are abiding by it, that would be a much

more effective way of trying to counter proliferation than if the

United States on its own, as we were doing during the Bush

administration, trying to go out individually and persuade countries

to do this.

That was a much harder route and I think this process would be

much more effective and would position the United States much

better.

Yes, Senator.

Well, I just—I feel as though, and this isn’t just the second

term of the Bush administration, we’ve been negotiating with

North Korea for some 16 years and Evans Revere and others have

been involved in this process during the Clinton administration.

There have been several high-level envoys that have gone to North

Korea. And yet this process still leads us only to the point where

we got at the end of the Bush administration of a freeze and then

the beginning of a process of disablement, in spite of the fact that

all the things the North has asked for have been put on the table:

peace treaty, normalization, economic and energy assistance, negative

security assurance in the 2005 joint statement which says that

the United States will not attack North Korea with nuclear and

conventional weapons.

So if security was driving their need for nuclear weapons, the

negative security assurance and everything that came with the

political and material incentives should at least offer them enough

of an incentive to push harder forward on the process, yet in our

negotiations they continued to falter when we got to the most crucial

moments.