Madam Chair,

Thank you. The substantive prohibitions are the core of the future treaty. This is because in referring to “a legal instrument prohibiting nuclear weapons”, the UN General Assembly mandate under which we are negotiating requires us to do exactly that. Moreover, it is in so doing that the greatest progress over and above existing disarmament non-proliferation instruments can be achieved.

When looking for possible models for the prohibition clauses of the new treaty, at least two things have to be borne in mind. First, there is no treaty comparable to the BWC or CWC instituting a comprehensive prohibition of nuclear weapons. Partial or limited prohibitions applicable to nuclear weapons do exist, notably in the NPT for the non-nuclear-weapon States; and in other international treaties such as the CTBT; and the various treaties establishing nuclear-weapon-free zones. It is important that the new treaty not only underpins and supports these existing norms, but builds upon them. Second, apart from the BWC and CWC, the treaties outlawing anti-personnel mines and cluster munitions also provide examples of existing and demonstrably effective international law prohibiting specific indiscriminate and inhumane weapons.

Looking at these precedents and in line with international practice, Austria suggests prohibitions on the use, development, production, stockpiling and transfer of nuclear weapons. We further believe that the provision of assistance to these acts should also be unequivocally outlawed.

We are not persuaded of the added value that would result from including prohibitions on testing, which is already covered in detail in the CTBT, or a distinct prohibition on transit. Prohibiting transit would call for negotiations on difficult practical issues, such as the demarcation of maritime and air space. In any event, we consider that the granting of transit rights would fall within a prohibition on assistance. The prohibition on assistance would also apply to financing as well as to stationing of foreign nuclear weapons on one’s territory.
We do not believe that explicitly prohibiting the threat of use, the scope of which is subject to differing interpretation. There is already a general prohibition on the threat of use of (armed) force in the UN Charter. In incorporating a specific prohibition of the threat of use of nuclear weapons, we could be seen as calling into question the validity of that more general norm.

Thank you, Madam Chair.