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**MAKING A DIFFERENCE? *EUROPEAN UNION'S RESPONSE  
TO CONFLICT AND MASS ATROCITIES IN THE DEMOCRATIC  
REPUBLIC OF CONGO (1994-2009)***

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**MAKING A DIFFERENCE? *EUROPEAN UNION'S RESPONSE  
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REPUBLIC OF CONGO (1994-2009)***

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2013

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***Making a Difference? European Union's Response to Conflict and Mass Atrocities in the Democratic Republic of Congo (1994-2009)***

**Key words:** CFSP; ESDP; Foreign Policy; European Union; DR Congo; Zaire; Great Lakes Region; Congo wars; mass atrocities; R2P.

**Abstract**

This dissertation scrutinises two related claims that were particularly heightened in 2009 as the European Union (EU) was celebrating the first tenth anniversary of its European Security and Defence Policy (ESDP), the implementing arm of its Common Foreign and Security Policy (CFSP). First, the two policy frameworks allegedly embodied sufficient added value for bettering EU intervention for human protection purposes in third places. Second, the ESDP supposedly enabled the EU to make a difference in its response to two bloody wars that broke out in the Democratic Republic of Congo (DR Congo) successively in 1996 and 1998. This thesis argues that the alleged added value and difference have been overstated at best. While various studies have taken a similar position, they have important shortcomings for at least four reasons: lack of a comprehensive account of the CFSP motives, capacities, and response; exclusive focus on civil and military operations; focus on the post-Second Congo War period; and a lack of conceptual clarity regarding two key terms – ‘conflict resolution’ and ‘peacebuilding’. This thesis goes beyond generalisation and undertakes a forensic examination of the CFSP statements, decisions, and actions precisely through the lens of Conflict Resolution (CR): a specific subject area of study with its own normative, theoretical, and practical advantages and shortcomings; and with a more comprehensive and indeed seminal conceptualisation of *peacebuilding*. The outcome is a far more nuanced assessment of failure and success of the EU's peace endeavours in this context than can be obtained through a broad-brush approach to analysis.

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## List of Abbreviations

|                     |  |
|---------------------|--|
| ABP                 | Agency-based Perspective   |
| ACP                 | African, Caribbean and Pacific   |
| AFDL                | Alliance des Forces Démocratiques pour la Libération du Congo(-Zaire) (French) / Alliance of Democratic Forces for the Liberation of Congo(-Zaire) |
| AFP                 | Agence France Presse   |
| AI                  | Amnesty International  |
| AMIS                | African Union Mission in Sudan   |
| ARTEMIS [operation] | EU military operation in DR Congo (2003)   |
| ASADHO-Katanga      | Association Africaine de Droit de l'Homme (French) /African Association for Human Rights – Katanga (DR Congo)                                      |
| BHN                 | Basic Human Needs  |
| BHNT                | Basic Human Needs Theory   |
| CA                  | Conversational Analysis  |
| CAR                 | Central African Republic   |
| CDR                 | Coalition for the Defence of the Republic  |
| CENADEP             | Centre d'Appui au Développement et la Participation Populaire (French) / Support Centre for Development and Popular Participation                  |
| CFSP                | Common Foreign and Security Policy   |
| CG-PNC              | Commissariat Général de la Police Nationale Congolaise (French) / General Commissariat of the Congolese Police (CG-PNC)                            |

|                   |   |
|-------------------|---|
| CIVCOM            | Committee for Civilian Crisis Management  |
| CM                | Conflict Management   |
| CNP               | Congolese National Police   |
| COREPER           | Comité de Représentants Permanents / Committee of Permanent Representatives                             |
| CP                | Conflict Prevention / Common Position   |
| CPCC              | Canadian Peacebuilding Co-ordinating Committee  |
| CPs               | Common Positions  |
| CR                | Conflict Resolution   |
| CS                | Common Strategy   |
| CSDP              | Common Security and Defence Policy  |
| CSR [in DR Congo] | Comité de Suivi de la Réforme de la Police (French) / Police Reform Monitoring Committee [in DRC Congo] |
| CSs               | Common Strategies   |
| CTBT              | Comprehensive Test Ban Treaty   |
| CWC               | Chemical Weapons Convention   |
| DA                | Discourse Analysis  |
| DA                | Discourse Analysis  |
| DDR               | Disarmament, Demobilisation, and Reintegration  |
| DDRRR             | Disarmament, Demobilisation, Repatriation, Reintegration and Resettlement                               |
| DG                | Directorate-General   |
| DG RELEX          | Direction Générale pour les Relations Extérieures / Directorate-General for External Relations          |

|                  |   |
|------------------|---|
| DGs              | Directorates-General  |
| DP               | Deep Prevention   |
| DRC / DR Congo   | Democratic Republic of (the) Congo  |
| EAS              | External Action Service   |
| EC               | European Community  |
| EC's             | European Communities  |
| ECHO             | European Commission's Directorate General for Humanitarian Aid and Civil Protection |
| ECJ              | European Court of Justice   |
| ECOFIN (Council) | Economic and Financial Affairs Council  |
| ECOWAS           | Economic Community of West African States   |
| EDA              | European Defence Agency   |
| EDF              | European Development Fund   |
| EEAS             | European External Action Service  |
| EEC              | European Economic Community   |
| EFP              | European Foreign Policy   |
| EP               | European Parliament   |
| EPC              | European Political Cooperation  |
| ESDP             | European Security and Defence Policy  |
| ESS              | European Security Strategy  |
| EU               | European Union  |
| EUFOR            | European Union (EU) Force   |



|                  |  |
|------------------|--|
| EUFOR RD Congo   | European Union military operation in support of the United Nations Organisation Mission in the Democratic Republic of the Congo (MONUC) during the election process [2006] |
| EUISS            | European Union's Institute for Security Studies  |
| EUMC             | European Union Military Committee  |
| EUMS             | European Union Military Staff  |
| EUPM             | European Union Police Mission  |
| EUPOL            | European Union (EU) Police (Mission)   |
| EUPOL 'Kinshasa' | European Union (EU) Police Mission in Kinshasa (in DR Congo)   |
| EUPOL RD Congo   | European Union (EU) Police Mission in DR Congo   |
| EUSE             | European Union (EU)'s Special Envoy  |
| EUSEC            | European Union (EU) Security (Sector Reform Mission)   |
| EUSEC RD Congo   | European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of Congo.  |
| EUSR             | EU Special Representative  |
| EWP              | Early Warning and Prevention   |
| FAC              | Foreign Affairs Council  |
| FARDC            | Forces Armées de la République Démocratique du Congo (French) / Armed Forces of the DR Congo   |
| FCW              | First Congo War  |
| FHQ              | Force Headquarters   |

|          |  |
|----------|--|
| FPA      | Foreign Policy Analysis  |
| GAC      | General Affairs Council  |
| GAERC    | General Affairs and External Relations Council   |
| GAERN    | Groupe d'Appui aux Exploitants des Ressources Naturelles (French) / Support Group for Natural Resources Exploitation |
| GIA      | Global and Inclusive Agreement   |
| GSC      | General Secretariat of the Council   |
| HIV/AIDS | Human Immunodeficiency Virus Infection / Acquired Immunodeficiency Syndrome  |
| HR       | High Representative  |
| HRW      | Human Rights Watch   |
| IAP      | Interpretative Actor Perspective   |
| IBL      | Institutionalization Before Liberalization   |
| ICC      | International Criminal Court (ICC)   |
| ICG      | International Crisis Group   |
| ICISS    | International Commission on Intervention and State Sovereignty   |
| IDPs     | Internally Displaced Persons   |
| IEMF     | Interim Emergency Multinational Force  |
| IFOR     | Implementation Force   |
| IGC(s)   | Intergovernmental Conference(s)  |
| IG-PNC   | Inspection Générale de la Police Nationale Congolaise (French) /General Inspection of the Congolese Police           |

|        |   |
|--------|---|
| IMF    | International Monetary Fund   |
| IPEP   | International Panel of Eminent Personalities  |
| IPU    | Integrated Police Unit  |
| IRC    | International Rescue Committee  |
| ISC    | Independent State of Congo  |
| ISC(s) | International Social Conflict(s)  |
| JA(s)  | Joint Action(s)   |
| JHA    | Justice and Home Affairs  |
| JMC    | Joint Military Commission   |
| LIs    | Legal Instruments   |
| LP     | Light Prevention  |
| MCP    | Manifest Conflict Process   |
| MLC    | Mouvement pour la Liberation du Congo (French) /<br>Movement for Liberation of Congo  |
| MNF    | Multinational Force   |
| MONUC  | Mission de l'Organisation de Nations Unies en<br>République Démocratique du Congo (French)/<br>United Nations (UN) Mission in Democratic Republic<br>of Congo |
| MRND   | Mouvement Républicain National pour la Démocratie<br>et le Développement (French) / National Republican<br>Movement for Democracy and Development             |
| MSF    | Médecins Sans Frontières  |
| NATO   | North Atlantic Treaty Organization  |
| NDS    | Nouvelle Dynamique Syndicale (French) / New<br>Dynamics Trade Union   |

|         |   |
|---------|---|
| NGOs    | Non-Governmental Organisations  |
| NiZA    | Nederlands Instituut Zuidelijk Afrika (Dutch) /<br>Netherlands Institute for Southern Africa                                  |
| NLIs    | Non-Legal Instruments   |
| NMRT(s) | Non-Marxist Radical Thought(s)  |
| NSFPs   | Negative Self-Fulfilling Prophecies   |
| OAU     | Organisation of African Unity   |
| OCEAN   | Organisation Concertée des Ecologistes et Amis de<br>la Nature (French) / Organization of Ecologists and<br>Friends of Nature |
| OCT(s)  | Overseas Countries and Territories  |
| OHCHR   | Office of the High Commissioner for Human Rights  |
| OHQ     | Operational Headquarters  |
| OJ      | Official Journal of the European Union  |
| ONUC    | Opération des Nations Unies au Congo (French) /<br>United Nations Operation in Congo  |
| ONUMOZ  | United Nations Operation in Mozambique  |
| OSCE    | Organisation for Security and Cooperation in Europe   |
| PCPB    | Post-Conflict Peacebuilding   |
| PCSPB   | Post-Conflict Settlement Peacebuilding  |
| PHR     | Physicians for Human Rights   |
| PJCC    | Police and Judicial Co-operation in Criminal Matters  |
| PL      | Parti Libéral (French) / Liberal Party  |
| PPC     | Pearson Peacekeeping Center   |

|            |   |
|------------|---|
| PPEWU      | Policy Planning and Early Warning Unit  |
| PRGF       | Poverty Reduction and Growth Facility   |
| PSC        | Political and Security Committee  |
| PSCs       | Protracted Social Conflicts   |
| QMV        | Qualified Majority Voting   |
| QR         | Qualitative Research  |
| RAID       | Rights and Accountability in Development  |
| RCD        | Rassemblement Congolais pour la Démocratie<br>(French) / Congolese Rally for Democracy  |
| RCD-ML     | Rassemblement Congolais pour la Démocratie–<br>Mouvement de Libération (French) /Congolese Rally<br>for Democracy–Liberation Movement |
| RPA        | Rwandan Patriotic Army  |
| RPF        | Rwandese Patriotic Front  |
| RtoP / R2P | Responsibility to Protect   |
| SCW        | Second Congo War  |
| SFOR       | Stabilisation Force   |
| SG         | Secretary-General   |
| SIP        | Social-institutional Perspective  |
| SP         | Structural Perspective  |
| SR         | Special Representative  |
| SSA        | Sub-Saharan Africa  |
| SSR        | Security Sector Reform  |
| TEC        | Treaty establishing the European Community  |

|          |   |
|----------|---|
| TEU      | Treaty on European Union  |
| ToA      | Treaty of Amsterdam   |
| ToL      | Treaty of Lisbon  |
| ToM      | Treaty of Maastricht  |
| ToN      | Treaty of Nice  |
| UDC      | Union des Démocrates Chrétiens (French) /<br>Christian Democrats Union    |
| UK       | United Kingdom  |
| UN       | United Nations  |
| UN DPKO  | United Nations Department of Peacekeeping<br>Operations                   |
| UN SG    | UN Secretary-General  |
| UNAMID   | United Nations-African Union Mission in Darfur                            |
| UNAMIR   | United Nations Assistance Mission for Rwanda                              |
| UNCHR    | United Nations Commission for Human Rights                                |
| UNDP     | United Nations Development Programme                                      |
| UNECOSOC | United Nations Economic and Social Council                                |
| UNESCAP  | United Nations Economic and Social Commission for<br>Asia and the Pacific |
| UNHCHR   | United Nations High Commissioner for Human<br>Rights                      |
| UNHCR    | United Nations High Commission(er) for Refugees                           |
| UNICEF   | United Nations Children's Fund  |
| UNPOL    | United Nations (UN) Police (mission)                                      |
| UNPROFOR | UN Protection Force   |

|          |  |
|----------|--|
| UNSC     | United Nations Security Council                  |
| UNSCR(s) | United Nations Security Council Resolution(s)    |
| USA      | United States of America                         |
| USCIA    | United States (US) Central Intelligence Agency   |
| USCR     | US Committee for Refugees                        |
| WB       | World Bank                                       |
| WEU      | Western European Union                           |
| WG(s)    | Working Group(s)                                 |
| WMD      | Weapon(s) of Mass Destruction                    |
| ZCSC     | Zairian Contingent for the Security of the Camps |

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## CHAPTER ONE: INTRODUCTION

The aim of the EU foreign policy is to replace the law of force with the force of law. (Solana 2009a: 4).

The author of the opening quote is Mr. Javier Solana, once Secretary General of the North Atlantic Treaty Organisation (NATO, 1995-1999) and, for the purpose of this research, the first High Representative for the **Common Foreign and Security Policy (CFSP)** of the **European Union (EU)** from 1999 until 2009. By “EU foreign policy”, he meant the CFSP that was introduced under the Treaty on the European Union (TEU). In the declaration on the entry of the TEU into force on 1 November 1993, the European Council, the highest political body of the EU, stated that the aim of the CFSP was “to enable the Union to speak with a single voice and to act effectively in the service of its interests and those of the international community in general.” (European Parliament 2002; added underlining). Article 11(1) of the TEU (Title V) outlined the specific objectives of the CFSP as being the following:

- To safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter;
- To strengthen the security of the Union in all ways;
- To preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders;
- To promote international co-operation; and
- To develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.

Though the 1993-TEU version was amended twice in 1997 and 2001 (I offer details in the section “History and development of the CFSP and ESDP: 1993-2009” of the fourth chapter of this thesis), these objectives were not substantially changed until the entry into force of the Treaty of Lisbon (ToL) on the 1<sup>st</sup> of December 2009: the end-date of the period under review (see the section “Research Timeline” of this chapter for more details). Hence, unless otherwise specified, ‘Treaty on European Union’ or ‘TEU’ hereinafter

refers to the consolidated version of 2002, following the amendments agreed by the European Summit on 26 February 2001 in Nice (France). At the time of the entry into force of the Treaty of Lisbon, Solana recalled that the EU needed “a foreign policy which [was] *common* and elements of security which [were] linked to ESDP” (added underlining) in order to actually “be an important player” in a more and more globalised world that constantly challenged EU’s “values and interests” (Solana 2009b). He indicated that the noted challenges manifested themselves in the form of “abuse of human rights, flows of migrants escaping conflict and failed states, disputes over natural resources, or terrorism.” For EU leaders, most of these challenges were generated beyond EU’s borders and an EU foreign policy was needed because no country in Europe could cope with them on its own (Solana 2009a: 4). For France,

Compared to the EPC, the CFSP was a significant step forward on at least three points: first, it cover[d] all areas of foreign and security policy, including ‘the eventual framing of a common defence policy’; secondly, it require[d] Member States to ‘ensure that their national policies [were] consistent with common positions’; and finally, it create[d] a new legal instrument, Joint Action, which allow[d] the EU’s financial resources to be mobilised. (Representation of France to the EU 2008: 6).

The first High Representative for the CFSP made the opening statement of this dissertation when the EU was celebrating the first 10<sup>th</sup> anniversary of the **European Security and Defence Policy (ESDP)**. The European Council formally established the ESDP at its meeting in Helsinki (Finland) on 10-11 December 1999 and upgraded it to **Common Security and Defence Policy (CSDP)** under the Treaty of Lisbon in 2009. In accordance with Treaty provisions (TEU, Title V, art. 17), the ESDP was incepted as the operational backbone of the CFSP in order “to develop the capacity of the EU for autonomous action backed up by credible military forces, the means to decide to use them, and a readiness to do so, in order to respond to international crises” when and where NATO [North Atlantic Treaty Organisation] as a whole would not be involved. In the words of Solana, the decisions taken at Helsinki, also known as **Helsinki Commitments**, reflected a “new international morality” that warranted humanitarian intervention for human protection purposes:

Too often in the past, whether in Bosnia, in the Great Lakes, or in Kosovo, the European Union seemed unable to protect and enhance the values that are at the core of European integration. And too often, the generous humanitarian relief financed by the EU throughout the world has been looked at as an alibi, as a collective feel-good factor for political inaction. [...] The commitments taken in Helsinki will ensure that this is no longer the case. And that the EU can develop a common foreign policy which is credible and respected as such - in primis, by our own citizens, by the people. (Solana 2000: 6).

Concretely, the European Council meeting in Helsinki in December 1999 agreed five main milestones. First, they committed themselves to cooperate voluntarily in EU-led operations and be able by 2003 to deploy within 60 days and sustain for at least one-year military forces of up to 50,000-60,000 persons capable of the full range of Petersberg tasks: *humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking*. Second, they agreed to establish new political and military bodies and structures within the Council to enable the EU to ensure the necessary political guidance and strategic direction to such operations, while respecting the single institutional framework. Third, they undertook to develop modalities for full consultation, cooperation and transparency between the EU and NATO, taking into account the needs of all EU Member States. Fourth, they agreed to define appropriate arrangements that would allow, while respecting the Union's decision-making autonomy, non-EU European NATO members and other interested States to contribute to EU military crisis management. Fifth and finally, Member States committed themselves to establish a non-military crisis management mechanism that would allow to coordinate and make more effective the various civilian means and resources, in parallel with the military ones, at the disposal of the EU and its Member States.

From then onwards, the EU rapidly developed military and civilian capacities and capabilities to the extent that two years later only (2001), the ESDP was declared operational. In 2003, the EU adopted its first Security Strategy: “A Secure Europe in a Better World. *European Security Strategy* (ESS) (Council of the European Union (Council) (2003b). By means of that Strategy, the Union aimed to reaffirm its “common determination to face its responsibility for guaranteeing a secure Europe in a better world” and further strengthen its capacity “to better deal with the threats and global challenges and realise the opportunities facing [it].” (European Council 2003c: 22, para. 85). In the

course of that same year, the Union conducted its first field operations under the ESDP, including the military operation **Artemis** in the DR Congo. By 2007, the EU had at its disposal 15-battle groups whose tasks on the ground included the aforementioned *Petersberg tasks* and those outlined in the ESS such as **disarmament, counter terrorism, security sector reform, and support to third parties**. At the same time, the Union counted on over 1.6 million EU civilian personnel who were reportedly specialised “in the **four priority areas** of civilian action [...]: **police; strengthening the rule of law; strengthening civilian administration and civil protection.**” (Council 2009c: 2).

## Success Stories

At the time of the celebration of the 10<sup>th</sup> anniversary of the ESDP, the EU had undertaken, through the ESDP, over twenty civil-military operations around the world in response to violent crises and conflicts. EU authorities made a very positive evaluation of these achievements in these terms:

We can be justly proud of our success. Who could have foreseen, in 1999, that in the course of the next ten years we would deploy 22 civilian and military operations, spanning three continents? Since the Franco-British Summit at St Malo and the Cologne and Helsinki European Councils, when the ESDP was born, the development of our crisis-management capacity has made the EU a global provider of security. [...] Ten years ago, ESDP was an aspiration; now it is a reality on the ground, with crisis-management operations making a real difference to people's lives across the world. We have demonstrated repeatedly that we can respond rapidly to a crisis and operate in the most inhospitable of terrains. Through the ESDP, the European Union is making an effective contribution to international peace and security. Until a decade ago, EU foreign policy consisted of making declarations. Since then, we have been steadily building up our capacity to take action in crisis zones in order to help people. (Solana 2009c: 8).

That same year, the European Union Institute for Security Studies (EUISS) published a multi-authored volume on the same topic with the following conclusion:

Ten years after its formal launch in June 1999, ESDP has established itself as a key component of the EU's external projection and international profile. It has provided *tangible added value* through many of the 20-plus military and civilian operations deployed in the last six years. It has channelled and fostered cooperation between EU Member States in the sensitive domains of security and defence. It has helped generate an original, comprehensive strategic approach to crisis management, and it has set in place some of the tools to implement it. *ESDP is a success story*, not least when one considers that it was born and developed in turbulent times, and at a time of profound change for the EU itself. (Grevi et al. 2009: 403; added emphasis).

One of the reported testaments of that success story is the allegedly decisive contribution of the ESDP to the EU response to two wars that broke out in the Democratic Republic of Congo (DR Congo) successfully in 1996 and 1998. The DR Congo lies at the heart of the Africa's Great Lakes Region where precisely in 1994 the international community failed to prevent and halt genocide in neighbouring Rwanda. On the eve of the abovementioned celebration, a former Special Adviser for Africa to the CFSP High Representative (2005-2009), Mr. Belliard, was asked about the contribution to peace and security in Africa that the ESDP had made so far. His response was the following:

In Africa, I am convinced that the European Union has helped make a difference [...]. The most complete example, I believe, is the Democratic Republic of Congo (DRC). The European Union has committed itself there in a stubborn manner: two military operations, one in Ituri (Bunia), the other in Kinshasa enabled, each time at the request of the United Nations, to put the peace process on track. This work was complemented by the launch of two missions (EUSEC, EUPOL), the objective of which is to contribute to reform the security forces (Army, police). This work has not been in vain. With limited resources: military operations were limited in time and in their size (nothing to compare to what the EU has done in the Balkans), the two missions EUSEC and EUPOL are not costly at all, the EU has helped stabilize a vast country, ravaged by conflict. (Belliard 2009: 54-55).

Belliard went on to offer an overview of other operations and missions (in Darfur, Chad, Central African Republic, and Somalia) that in his view had enabled the EU to make a difference in general:

DRC, Darfur, Somalia: the EU intervenes in the most dangerous places in Africa, the only places where, actually, people are still fighting each other. It never intervenes lightly, and, upon arrival, makes a difference. *The European Union - it must be said - makes a difference in Africa. The balance of the European Union in Africa is positive* and this is why we must continue to mobilize ourselves for this continent, which is so close to us. (Belliard 2009: 55; added emphasis).

Two years to the celebration, I interviewed a senior diplomat at the CFSP who too underscored the contribution of the ESDP to the EU response to violent conflicts in Africa, in general, and in the DR Congo, in particular. When I pointed out that some critics could not see the real difference between the CFSP and its predecessor European Political Cooperation (EPC) because the CFSP, like the EPC, had resorted more to non-legally binding instruments, in particular Declarations, he strongly rejected such comparison:

Forget Statements, Declarations [...]. I don't think it's a good indicator for CFSP all you mention there. Of course Declarations are very important, but it's a very small

part. Look at what is happening in the field. Look at what is happening in Africa. On two occasions Europe has sent troops to Congo to be sure the process remains on the track. Can you imagine? For the EU 4 or 5 years ago, this was not conceivable that we would send troops to Congo. Half of the Member States do hardly know where Congo is and certainly don't know where Ituri is. But in 2003 the EU, all Member States decided: "Yes, it's good to send troops to Ituri", and they were looking where [on the map] it was. Two years or three years later, we said again: "It's good to send troops to Kinshasa because we have to preserve the electoral process." In the meantime, we have spent five hundreds millions dollars to finance the elections in Congo. And this was financed 80% by the EU, Community, and Member States. That is where the EU Policy is. That's the test for the EU Policy [...] We have been, for the Great Lakes [Region of Africa], almost 80% financing the electoral process, government, it's the EU. And on two occasions we sent troops, now we have 70 military and policemen on the spot, we have two security sector reforms there, military and police; we're trying to support the reform of the Congolese security services: army and police. So, that's where you see whether we are useful and really giving an added value. Another example is Sudan. Of course, our support has been again financial support that is largely coming from the EU, Member States, and Commission altogether. We are very active in the peace process there. (Head of Unit at the Council of the EU 2007, interview, 3 October).

Another EU's senior official underlined that, actually, the Union had carried out more missions in Africa than in any other part of the world during that first decade of the ESDP (Head of Unit at the European Commission 2008, interview, 20 May). Likewise, two Swedish representatives to the EU told me that, "on the whole really, there ha[d] been a lot of focus in terms of EDSP instruments in Africa." (Anonymous 2008, interview, 19 May). They reminded me that the first mission of the EU outside Europe had been in Africa, precisely in the DR Congo (operation **Artemis**). In total, the EU undertook five ESDP missions in that country between 2003 and 2009.

Apart from EU officials and Member States diplomats, various academics too have sustained in varying degrees this narrative of success (Dobbins et al. 2008; Clément 2009; Helly 2009; Major 2009; Rodt 2009; Vircoulon 2009; Martin 2010). For instance, in 2008 about ten researchers at the non-profit research organisation RAND Corporation concluded their investigation into *Europe's role in nation-building from the Balkans to the Congo* as follows:

In the late 1990s, the DRC [Democratic Republic of Congo] was in an anarchic, Hobbesian state of war. The challenges to nation-building were great. Yet by 2006, the DRC held democratic elections and appeared, albeit tentatively, on course toward greater stability. The case of the DRC is also important for understanding Europe's developing nation-building capacities. The country has been a major focus for Europe and a proving ground for an evolving European policy. The EU has conducted two military missions under the ESDP in the DRC and has spent more on statebuilding there than anywhere else outside Europe. Europe's experience in the DRC has, in turn, had a major influence on the evolution of the ESDP, encouraging the development of EU battle groups and the introduction of



new financing mechanisms while pointing up some of the problems inherent in coordinating nation-building within the EU itself. (Dobbins et al. 2008: 133).

## Statement of the problem

As it transpires from the foregoing, EU authorities and some academics sustain that the CFSP and its operational spine ESDP have an in-built added value that has enabled the Union to improve its response to violent conflicts in third places like the DR Congo. The inception of the CFSP was positively received because it allegedly entailed the long awaited “common stance” and “joint action” by Member States in all areas of foreign and security policy of their Union (Tonra 2000; Habermas and Derrida 2003; Reynolds 2004; Wong 2005). For EU authorities and some scholars, the ESDP was a success because it provided the EU with the reportedly long missing operational means for strengthening its world status and adequately dealing with violent conflicts (Stavridis 2001; Petiteville 2003). ***This dissertation argues that the allegedly in-built added value of the CFSP and ESDP and the difference they have reportedly enabled the Union to make in its response to the two Congo Wars are at best overplayed.*** First, the EU Member States purposely made the CFSP inherently intermittent and much less common than claimed and desired. By Treaty provisions (TEU, Title V, arts. 11, 12, 14, 16, 17), the CFSP could wield real supranational competences only and when Member States would so decide. Indeed, ‘Common foreign policy’ is different from ‘single foreign policy’ that usually pertains to individual sovereign nation-states. This means that in practice, there could be a ‘common foreign policy’ and the means required to implement it, only when and where EU Member States would so decide through constant dialogue and discussions. Under such a condition, reaching a common foreign policy could result in an endless and painstaking process and an end in itself than a permanently granted starting point; especially as important decisions and actions under the CFSP required unanimity of all involved. In this regard, the reaction of the CFSP to the 1994-genocide in Rwanda is a case in point. As Samyn (1997: 1) recalls,

The Rwandan crisis clearly revealed the difficulties involved in developing a common position and a joint action. Some Member States [of the EU] (Belgium, namely) pushed for the withdrawal of the operation of the United Nations (UN) rather than requiring an adjustment of the mandate of UNAMIR [United Nations Assistance Mission in Rwanda] jointly or to engage in a joint action within the

Western European Union (WEU) to change the dramatic course of events. The French unilateral action, Operation Turquoise, received a UN mandate, but was never discussed in the context of the CFSP. This failure of the EU to establish sufficient preventive action is the most surprising having regard to the position of some Member States: Britain, France, Belgium, and Germany were very involved in the Great Lakes region both historically and recently during the period before the Arusha Accords. France and other Member States have, unequivocally, pursued their national interests at the expense of a common EU approach.

Second, and most importantly, “common stance”, “joint action”, and operational capacities do not necessarily entail better decisions and actions in favour of the victims of violent conflicts, unless such decisions and actions *are tailored to the needs* of the announced beneficiaries. Such decisions and actions must also be *timely, sufficient, multi-levelled, and multi-functional* not only after the formal end of armed confrontation, but also before the outbreak of violence and during its escalation, as Conflict Resolution (CR) prescribes. In view of the ambiguity over the issue-areas of the CFSP and the limitation of the scope of the ESDP to some aspects of *crisis management* (the aforementioned Petersburg Tasks), their potential for enabling solutions that are need-tailored, timely, sufficient, multi-level, and multi-functional in violent conflict situations was inherently limited. Third, under the TEU provisions, ESDP field operations required prior authorisation of the United Nations (UN) and or by the authorities of the target country. As the foregoing quote from Samyn (1997) indicates, the UN Security Council, two members (France and United Kingdom) of whom were EU Member States, denied such authorisation to the commander of its peacekeeping troops in Rwanda at the height of the 1994 genocide in that country because of the opposition of some of its members. Fourth, the CFSP was and remains inherently Eurocentric and self-interested because its stated primary purpose was and still is “to safeguard the common values, fundamental interests, and independence of the Union”. Arguably, less often than not could those values and interests coincide with those of third countries and regions in desperate need of assistance under the CFSP. In this sense, it might be regarded, unsurprisingly, as part of the project of *Liberal Peacebuilding*. Fifth, the difference allegedly made in the DR Congo is at best overvalued in view of the reality on the ground. Indeed, the CFSP response to the human suffering in that country was insufficient and often came too late. In 2009, precisely when the EU authorities and some academics were underscoring that

success, the “flow of internally displaced persons (IDPs) [...] had reached half a million in North Kivu, and almost as many (419,000) in South Kivu.” (Lemarchand 2012: 226). As Lemarchand poignantly points out, the acronym IDPs is

emblematic of many such aseptic renderings of human tragedies, which tend to obscure their magnitude and downplay their cruelty. The searing experience of displacement and dislocation, the destruction of homes and property, the fear and despair etched on people’s faces, their seemingly endless march to nowhere, such as are the grim realities encapsulated in “IDP”. There are many variations on this theme — such as the use of the neutral term “closure” to refer to the systematic destruction of refugee camps, in 1996-97, the indiscriminate shootings of civilians, their flight into the forest, and the ensuing manhunt. The result, invariably, is to conceal the unsettling realities of war in eastern Congo. (2012: 226).

Moreover, “According to the International Rescue Committee (IRC) the death toll in the DRC [DR Congo] between 1998 and 2008 was estimated at nearly 5.4 million.” (Lemarchand 2012: 213). According to the same humanitarian organisation, 3.3 million of these victims perished between 1998 and 2003 (Gegout 2005: 447). Lemarchand (2012: 213) notes that although the 5.4 million figure was later “revised downward, it is probably a fairly conservative estimate if one adds the human losses in Rwanda and Burundi since 1993”. In 2007, the national mortality rate in the DR Congo was almost 60% higher than the average for Sub-Saharan Africa (International Rescue Committee 2007). In August 2010, the United Nations High Commissioner for Human Rights (UNHCHR) published a mapping report, known as ‘UN Mapping Report 2010’, in which it documented the commission of mass atrocity crimes in the DR Congo between March 1993 and June 2003 because of the violent conflicts that befell that country in the course of that period. The authors of the report indicated that some of those crimes “could be classified as crimes of genocide [...] if they were proven before a competent court” (Office of the High Commissioner for Human Rights (OHCHR) 2010: 281, para. 515).

**While other studies have already challenged the claimed added value of the CFSP and ESDP and the difference they have reportedly enabled the EU to make in the DR Congo, they present important shortcomings that this dissertation undertakes to remedy.** Regarding the alleged unique value embodied in the CFSP and ESDP, various analysts in fact find it exaggerated at best and counterproductive at worst. For some, the CFSP is indeed less common than alleged because of its **intergovernmental**

decision-making principle by which Member States individually or collectively resort to it only when they cannot achieve their foreign policy objectives on their own or in coalition. It is therefore misleading to speak of “common policy” (Wessel 1999; Knodt and Princen 2003; Wagner 2003; Mahncke 2004). Others see the CFSP as a process of either **Europeanisation** of national foreign policies (Allen 1998; Tonra 2000; Reynolds 2005) or **policy convergence** by which decisions and actions at the national level and initiatives at the EU level continuously outsource each other (Wong 2005). For her part, Hazel Smith unreservedly advances that the EU can and does in fact have a foreign policy like that of a sovereign nation-state because in practice it behaves as a sovereign actor on the international scene (Smith H. 2002). In this respect, she equates the European Council with a central government of a sovereign nation-state like the United States of America (USA). As I establish in detail in the chapter on the strengths and weaknesses of the CFSP, this research sides more with the policy convergence view and refutes the position of Hazel Smith. I show that having a central, supreme authority is indispensable for effective policymaking, and that the European Council does not compare to such authority for the foreign and security policy of the EU. On the other hand, the most interesting debate on the ESDP and its military component in particular opposes two groups of analysts. On the one hand, there are those who hold that the ESDP came quite late but precisely when the EU most needed it in order to be able, at last, to perform as true force for a global common good (Stavridis 2001; Petiteville 2003). On the other, we have academics who contend that its inception rather meant the death of such a force (Smith K. 2000, 2005). In the chapter on the potential and shortcomings of and CFSP, I argue at length that the former fail to demonstrate whether the EU failed to perform as a true force for a global common good in the cases they cite (Former Yugoslavia, Rwanda, Congo, Sierra Leone, Nigeria, Iraq, Serbia, Sudan) because its non-military assets were insufficient or inadequate. Nor do they establish whether international actors with military capabilities performed more and better in those same cases. Likewise, academics for whom the introduction of the ESDP meant the death of the EU as a true force for a global common good fail to validate whether the European Communities (EC’s), first, and the

EU, second, did actually perform at all or did perform more and better as a real 'global good Samaritan' (Brysk 2009) before the inception of the ESDP. Arguably, Development Aid – the oldest, classic, and most known non-military instrument of the EC's/EU assistance to third world countries – failed to yield the expected results in most of the 79 countries integrating the African, Caribbean and Pacific (ACP) group (David 2000; Babarinde and Faber 2004). In many of them, particularly in Sub-Saharan Africa (SSA), development aid partly caused or exacerbated violent conflicts (Adedeji 1999). As I further develop, the main shortcoming in the debate on the relevance and potential of the CFSP and its operational spine ESDP is that the focus on **common stance**, **centrality** of decision making, **joint action**, **autonomous operational means** obscures the imperative to establish normative, theoretical, political, and practical conditions under which the two can enable the EU to be what Aggestam (2008: 1) terms "a 'power for good' and a 'peacebuilder' in the world." In humanitarian terms, common stance, centrality of policy and decision-making, and autonomous operational means, particularly military ones, do not inherently entail more and better behaviour in international politics. Nor does their absence or insufficiency necessarily entail the opposite. *This dissertation attempts to show that a Conflict Resolution approach has more advantages for establishing such conditions and evaluating their fulfilment.* Concerning the claimed difference that the CFSP / ESDP enabled the EU to make in the war-afflicted DR Congo, various studies, too, consider such difference at best partial and at worst inexistent because, as I argue, the reportedly decisive response was often inadequate, insufficient, and too late. *Unlike much of the literature on the theme and case study, this thesis sustains that various determinants, instead of a single one, altogether underpinned these shortcomings.* They include the primacy of self-interests and values of the EU (Eurocentrism) and or its Member States (Gegout 2005; Froitzheim, Söderbaum, and Taylor 2011); the lack of clear benchmarks and solid experience in hard foreign and security matters (Ajello and Richard 2000); and the diktat of global culture (Paris 2003) or the politics of frames that makes local conflict resolution appear irrelevant and illegitimate (Autesserre 2009). They also include the subsidiary role of the CFSP; the non-exclusive competence status of the CFSP and its

voting unanimity principle; the conceptual and legal insulation, from the start, of the CFSP as a standalone pillar from the rest of EU external policies; the Somalia syndrome; the guilt complex from the Rwandan genocide. Overall, the literature on the CFSP and ESDP and their response to the two Congo Wars present various shortcomings that this research attempts to address. First, no study has offered a comprehensive account of the CFSP decisions and actions regarding the DR Congo throughout the period prior to the 'success celebration' date (2009). Some of the studies have treated the CFSP/ESDP performance in that country in the wider context of the external policies of the EU and its Member States (Youngs 2004; Froitzheim, Söderbaum, and Taylor 2011); while others have focused on one or a few undertakings, in particular ESDP field operations (Bagayoko 2004; Gegout 2005; Ajello 2010; Martin 2010; Rodt 2011a, 2011b). Others analyses have indirectly addressed the response of the EU to violent conflicts in the DR Congo in the context of international peace efforts in that country and the whole Africa's Great Lakes Region (Vircoulon 2005; Daley 2006; Autesserre 2009; Lemarchand 2012). Certainly, the broad scope of these studies has permitted to uncover and validate various reasons of the failure or limited success of peace efforts in the region, such as the endemic coordination and coherence problems within EU's own different external policies (Froitzheim, Söderbaum, and Taylor 2011) and among all international actors involved in that country and region (Youngs 2004; Lemarchand 2012). Yet, without a full and systematic account of the specific decisions and actions undertaken under the CFSP, it is hardly possible to fully discern and fairly assess the claimed difference that the CFSP enabled the EU to make in the RD Congo.

Second, the omission of non-operational decisions and actions and or the excessive focus on ESDP civil and military operations can make one wrongly believe that the CFSP and the ESDP are two separate frameworks independent of each other. For instance, in her 17-page analysis of the causes and consequences of *Operation Artemis*, it is in a footnote on the 9<sup>th</sup> page that Gegout (2005: 435) mentions for the first and sole time that ARTEMIS was an ESDP operation. Throughout the article, she reports on various undertakings pertaining to the CFSP, including ARTEMIS. However, she namely mentions the CFSP only once almost at the end of her article (on

the 15<sup>th</sup> page) and only in reference to its support to a police mission inadequately labelled: “The EU’s CFSP policy also supported a police mission in Kinshasa. An ESDP Joint Action (EUPOL) provided for the monitoring of and advice for trained UPI officers.” (Gegout 2005: 441). This thesis has it clear that by Treaty provisions, the CFSP is the legal and political umbrella for the ESDP, its integral and operational component, and that any ESDP achievements are inherently CFSP achievements. When in 2008 the EU updated its Security Strategy, it indeed clearly recalled that the ESDP was “an integral part of the Common Foreign and Security Policy” (Council of the European Union (Council) 2008e: 2). The omission of non-operational decisions and actions and or the focus on ESDP field operations can also make one erroneously believe that such operations constitute the sole undertakings of the CFSP, or that they are its sole variables worthy of any serious scrutiny. Besides, most of those non-operational decisions and actions uncounted for in most studies are indispensable for capturing and fairly assessing the essence, potential, and limits of the CFSP. Otherwise, how could one verify the claim of EU authorities that the CFSP, unlike its predecessor European Political Cooperation framework, does not mostly consist of good intention statements, for instance? Third, most if not all analyses of the CFSP-based response to war in the DR Congo focus, nearly exclusively, on the Second Congo War, which wrongly suggests that there was either not any CFSP-born reaction to the First Congo War or that any such reaction is not worth considering. Fourth, most studies on the CFSP-based response to the Second Congo War focus on the period after the formal end of armed conflict (2002). This can lead one to erroneously believe that the EU did nothing under the CFSP before and during all-out war, or that any CFSP response during these two other stages of the war is not worth considering for an overall evaluation of the alleged difference that the CFSP enabled the EU to make in the DR Congo. **This dissertation accounts for as many CFSP decisions and actions as possible of each stage of the two wars, using the Conflict Resolution approach.** Fifth, some studies, much like this dissertation, varyingly attribute the failure of ‘international peacebuilding’ in that country and whole region mainly to the non-application or marginal application of a ‘conflict resolution’ approach. Nevertheless, they

have some shortcomings that this research sets out to address. For examples, I consider only four works. In 2004, Richard noted that the “the *scale* of conflict-resolution efforts undertaken by the EU ha[d] remained minimal relative to the magnitude of the problems that beset the Great Lakes region.” He pointed out that the “EU’s prioritisation of ‘local ownership’, economic reform and infrastructural reconstruction” had “inappropriately tempered the depth of engagement with Africa’s underlying *political* imbalances.” (Youngs 2004: 305-06). In his view, “The kinds of initiatives apparently conceived and presented as being aimed at the political roots of conflict in fact betray[ed] an elitist orientation in the types of political dynamics judged pertinent to conflict resolution.” He established that the EU had been promoting and supporting structures of governance that did not reflect the “broader values of the inter-ethnic pluralism” and that “the political, economic, diplomatic and military elements of conflict resolution policies ha[d] not yet been harnessed into systematically more comprehensive or structural approaches.” (Youngs 2004: 320). Five years later, precisely when the EU was celebrating the first decade of its ESDP, Autesserre argued that “international peacebuilders” had been failing in the DR Congo because a specific “postconflict peacebuilding frame” that excludes “local conflict resolution” shaped their intervention. The frame in question is made of key elements: (i) the labelling of the DR Congo situation during the transition from war to peace and democracy (2003-2006) a “postconflict situation”; (ii) the firm belief that violence is innately part of the Congolese life even in peacetime; (iii) the confinement of international intervention to the national and international realms; and (iv) the consideration of elections (ideally multiparty elections), “as opposed to local conflict resolution, as a workable, appropriate, and effective tool for state- and peacebuilding” (Autesserre 2009: 249). She concluded as follows:

During the Congolese transition from war to peace and democracy, the postconflict peacebuilding frame shaped the international understanding of violence and intervention in a way that overlooked the decisive role of local agendas in sustaining violence. This frame made certain strategies (such as national and regional negotiations or election organizations) appear as legitimate and appropriate, and others (notably local conflict resolution) seem irrelevant and illegitimate. Thus, this frame proscribed international action on local violence. It channelled constraints and interests toward elections and away from local peacebuilding and ultimately doomed the international peacebuilding efforts. (Autesserre 2009: 275).



For Daley, true peace in the Great Lakes of Africa has been ill-fated by the use and imposition of “universalistic conflict resolution models” that prescribe a standard formula of ceasefires, negotiated transitional power-sharing among the elite, multi-party elections, and economic reconstruction at the national level to the detriment of a more inclusive, participatory, emancipatory approach to peace by and for all the people in the region. She holds that this standard formula, often referred to as the ‘*one size fits all*’ solution, reflects the Western view of warfare and genocide in Africa as “barbaric and atavistic—a regression of Africans to pre-modern tribal societies” and emblematic of “state failure or collapse, linked to the greed or grievances of the political elite and their associated social groups.” Daley contends that these conflict resolution models “assume that the full imposition of liberal democracy and neoliberal economic reform offers the best chances for peace” and thus fail to identify and address the roots causes of conflicts and the complexity of politics in Africa (Daley 2006: 304).

Unlike the three preceding academics, Lemarchand (2012) does not use the ‘magic’ term *conflict resolution*. However, throughout his analysis of peacebuilding in the Great Lakes Region of Africa, he clearly suggests that the limited success at best and failure of peacebuilding at worst there was due to partial or inadequate application of a Conflict Resolution approach. In fact, his list of the causes of such little positive impact or failure include the following: (i) the intractability of the conflict; (ii) the exclusion of local issues such as land access and ownership in eastern DR Congo; (iii) the confinement of remedies to the domestic realm and the exclusion of interstate threats to peace; (iv) discordinated and competing agendas among international peacebuilders (IPBs); (v) the use of a top-down approach; and (vi) the prevalence of a short-term perspective. In the case of the DR Congo, he argues that too early multiparty elections seriously jeopardised the chances for building a strong and durable state, which is the precondition for lasting democratisation (Lemarchand 2012: 228):

In the absence of a professional army, Kabila's strategy has been to recruit former rebels, thus paving the way for further human rights abuses and defections. Similarly, the exigencies of creating a modicum of trust within the government have given rise to a clientelistic system that bears all the trademarks of the Mobutist era. And just as under Mobutu ethno-regional ties provided the glue that held the

system together, so also under Kabila, whose closest advisers are from his home province, Katanga. This is hardly the most propitious scenario for peacebuilding.

The main shortcoming of these four works is that it is not clear whether their authors directly and implicitly use the term '(local) conflict resolution' generically, or as a specific subject area of study with its own normative, theoretical, and practical advantages and shortcomings; as well as its own, indeed seminal and more comprehensive conceptualisation of *peacebuilding* (PB) that by default includes *statebuilding*. A first order reading of their works suggests that they have used or implied *conflict resolution* in a generic sense; as efforts aimed at resolving disputes, disagreements, tensions, and confrontations, including armed ones. It seems to be in this same way that Autesserre (2009) and Lemarchand (2012) have used the term *peacebuilding*, that is, endeavours aimed at ensuring long lasting peace in violent conflict-afflicted societies regardless of the conflict stage (*prevention, management, post-conflict peacebuilding*) and its particularities. Such generic definition might underpin for instance the recurrent use by Autesserre of both *local conflict resolution* and *local peacebuilding* (Autesserre 2009: 273) or *statebuilding* alongside *peacebuilding* (Autesserre 2009: 249) without clarifying whether and how they relate to each other. However, the authors' analyses and prescriptions for remedying the shortcomings they have identified bear most, if not all, of the hallmarks of Conflict Resolution as a specific subject area of study primarily concerned with holistic and systematic understanding and successful non-violent handling of violent human and social behaviours. Certainly, a theoretical or conceptual clarification of **(local) conflict resolution** and **peacebuilding** was necessary to help the reader avoid unintended misattribution concerning the authors' own use of those terms and the criteria against which they have evaluated their implementation, and to draw one's own conclusion. As Curtis (2012) underscores, *peacebuilding* (PB) is not a fixed idea, concept or practice, but rather a set of ideas, concepts and practices constantly mediated by and between local, national, regional, and international actors. *Peacebuilding* is "a political context involving questions of authority, legitimacy, equality, and knowledge". A "single, all-encompassing definition" of what it stands for is simply "elusive" and anyone who wants to help PB achieve its intended results must first be aware of this reality (Curtis 2012: 24). Arguably, so are

other equally unfixed concepts - like *peace*, *conflict*, *conflict resolution*, *conflict prevention*, *conflict provention*, and *conflict/crisis management* - that are constantly used in reference to efforts to build a world free from violence. Yet, the more elusive a single, all-encompassing definition of a term is, the more efforts one should make to get closer to a theoretically grounded one. In reference to the definition of *peacebuilding* in *An Agenda for Peace* by former UN Secretary General Boutros Ghali (1992), Francis (2012: 4-5) indeed asks: "But what type of peacebuilding are we talking about? In fact, peacebuilding for whom, by whom and for what purposes?" He justifies his question by rightly claiming, like Curtis, that "there is a lack of consensus on the definition, approaches and practice of peacebuilding." (Francis 2012: 5). I take up the task of getting closer to a theoretically grounded definition of these key concepts in the chapter on the theoretical framework of this dissertation. I show that a Conflict Resolution approach, with its own limitations, offers a better alternative for capturing as holistically as possible the substance of these concepts and for establishing criteria for the evaluation of decisions and actions designed for their translation into concrete norms, policies, and actions. Another shortcoming that this thesis attempts to address is the disproportionate emphasis on the direct causes to the detriment of the deep causes of little positive impact or failure of efforts to restore lasting peace in the DR Congo. This is particularly the case of five of the six causes identified by Lemarchand (2012: 228) and which I have just listed above. Why actually did international peacebuilders confine the remedies to the domestic realm and exclude interstate threats to peace? Why did they use a top-down approach or exclude local issues such as land access and ownership in eastern DR Congo? Why did they use a short-term perspective?

## **Research Purpose, Questions, and Activities**

*The aim of this research is to show that the claimed added value of the CFSP and ESDP for enabling the EU to become a force for a global common good and the alleged difference the two policy frameworks enabled the EU to make in its response to the two Congo Wars are overstated at best. Its original contribution resides in the clarification and use of the Conflict*

Resolution approach, which is better suited for addressing the shortcomings I have just highlighted. Indeed, for eventual long lasting success of peace efforts, the approach allows and requires, in essence, a comprehensive understanding of violent human and social manifestations, on the one hand. On the other, the CR approach enables and requires a timely, context-sensitive, victims' needs-tailored, sufficient, multi-level, and multi-dimensional response to them not only after the formal termination of violence but also before its outbreak and during its escalation (Burton 1984, 2001; Sandole 1993, 1998; Miall et al. 1999). Specific objectives are the following:

- To highlight the normative, theoretical, analytical, and practical advantages and limitations of the Conflict Resolution approach to human and social violence;
- To progress knowledge and understanding of the strengths and shortcomings the CFSP and ESDP for the protection of human rights and fundamental freedoms outside Europe;
- To offer a more comprehensive, systematic, and critical account of the CFSP/ESDP decisions and actions regarding the two Congo Wars and a systematic assessment of them; and
- To progress knowledge and critical understanding of the status and role of the EU in international politics since the end of the Cold War.

The central research question of this research is the following: *What do we learn when we analyse through the lenses of Conflict Resolution the alleged benefit of the CFSP and ESDP and their actual response to the two Congo Wars?* Attendant questions include the following:

- What do we learn from Conflict Resolution regarding violent human and social behaviours and third party involvement in efforts to handle them?
- How has the EU responded to the opportunity of learning from Conflict Resolution for the establishment and development of the CFSP and ESDP?
- How did Conflict Resolution insights inspire the CFSP-based response to the two Congo Wars?

To achieve the above-stated objectives, I undertake the following tasks:

- Review the normative, theoretical, and practical precepts of Conflict Resolution for the understanding and handling of violent human and social behaviours;
- Revisit the mainstream debate on the alleged added value of the CFSP and ESDP;
- Discern the background of the two Congo Wars; and

- Account systematically for and assess the decisions and actions of the CFSP concerning the two Congo Wars.

## Research Methodology

This research is a *critical, qualitative* assessment of the claimed potential of the CFSP and its operational backbone ESDP, and of the difference that the two policy frameworks reportedly enabled the EU to make in its response to the two Congo Wars. It is a *critical* study because it attempts to “de-bunk hidden assumptions” (Olsen 1997: 6) underlying the establishment of the CFSP, including its ESDP, its claimed in-built benefit for the defence of a global common good, and its response to the two Congo Wars. This is done through the lens of Conflict Resolution as a specialist field of study the primary concern of which is the holistic analysis and handling of human and social violence. On the other hand, this research is qualitative for various reasons. Drawing on several authors, Creswell (1998: 14) defines *qualitative research* (QR) as “an inquiry process of understanding based on distinct methodological traditions of inquiry that explore a social or human problem.” For him and others, QR is a “difficult, rigorous, and time-consuming” form of research the main aim of which is to generate a new understanding of a relevant issue, by resorting to different analytical approaches and different sources of information (Creswell 1998: 13-14). By “distinct methodological traditions”, Creswell means “the historian’s biography, the psychologist’s phenomenology, the sociologist’s grounded theory, the anthropologist’s ethnography, and the social, urban studies, and political scientist’s case study.” (Creswell 1998: 15) With regard to the *case study* tradition, which I have chosen for this research, Creswell presents it as an in-depth “exploration of a ‘bounded system’ or a case (or multiple cases) over time through detailed, in-depth data collection involving multiple sources of information rich in context.” (Creswell 1998: 61). The case study can be a programme, an event, an activity, or individuals.” This research meets these requirements in as much as is it sets out to generate a different understanding, a different construct of knowledge, and explanation of the potential and limits of the CFSP and ESDP, using a Conflict Resolution

theoretical approach, drawing on various sources, and covering a lengthy period (1994-2009).

Regarding the rationale for qualitative inquiry, Creswell (1998: 17-18) lists eight reasons most of which are valid for this research. The first motive is the nature of the research question which usually begins with a '*what*' or '*how*', and sets the broad picture of what is going on. The second reason is the self-evidenced need for continuous exploration of the topic. In the case at hand, the CFSP and its implementing tool ESDP are newer than any other external policy framework of the European Community (EC) and its successor EU; and they continue to grow and generate debates about their normative relevance and practical use. The third motive for conducting a qualitative research is "the need to present a *detailed view* of the topic." (Creswell 1998: 17). This is a key aim and feature of this study, for it is a comprehensive critical account of the essence of the CFSP and its response to the two Congo Wars through the lens of Conflict Resolution. The fourth motive is the need to go out to the setting to gain access to and collect data. I have conducted in-person interviews with EU officials and Member States nationals involved in the making of EU foreign and security policy at the EU headquarters in Brussels, Belgium. The fifth reason is the interest of the researcher to write in a literary style, bringing herself or himself into the study through the use of the personal pronoun "I", among other strategies. The sixth motive is the availability of sufficient time and resources to spend on extensive data collection and analysis. The seventh reason to conduct a qualitative research is the nature of the target audience who must be receptive to such inquiry. This is a doctoral dissertation in Social and International Studies, with a special focus on the performance of the EU foreign and security policy in the war-afflicted DR Congo. It thus has academics in these areas as its primary audience. The eighth and final reason for conducting a qualitative study is the researcher's intention to emphasise her or his role as an *active learner* rather than an *expert* who passes judgment on others' perspectives and meaning (Creswell 1998: 18). My intention is to improve my own understanding and that of any academic reader of the potential and limit of the EU foreign and security policy for serving a global common good, using the DR Congo as a case study.

## **Types and Sources of Data**

One of the requirements of *qualitative research* (QR) is the use of multiple sources of information that include (but are not limited to) documents, reports, interviews, archival records, audio-visual materials, and observations (Creswell 1998). The data for this research include (i) **primary data** and (ii) **secondary data**. The latter are essentially made of documents of foreign policy outputs, that is, decisions and actions, and publications relevant to the CFSP, ESDP, and the case study. Primary data are made of *in-depth, qualitative interviews*. In qualitative research whereby social meaning does not exist independently of people (Sayer 1992), interviews help clarify (with respondents) the specified features and unveil the un-specified features of a meaning by way of elicitation and assessment. By *in-depth*, it is assumed that there is more meaning and explanation than those made available in respondents' utterances in the first instance, and that it is the role of the interviewer to explore and relate the two to the possible extent. Citing Rubin and Rubin (1995), Warren (2002: 83) stresses that *qualitative interview*, unlike the standardized survey interview with which it shares "the emphasis on researchers asking questions and listening, and respondents answering", tends to be epistemologically "more constructionist than positivist." This implies that an interview is treated as both a *resource* and *topic* (Seale 1998: 215-6), that is, as a "part and parcel of society, not simply a mode of inquiry into and about society." (Gubrium and Holstein 2002: 30). As a *resource*, it leads to the first order meaning. As a *topic*, it helps unveil the second order meaning of social phenomena. This research adheres to the view that interview participants, including the interviewer, "are more likely to be viewed as meaning makers, not passive conducts for retrieving information from an existing vessel of answers" (Holstein and Gubrium 1995; as quoted in Warren 2002: 83).

## **Issues, Levels, and Units of Analysis**

In line with the holistic approach (to the analysis and handling of violent human and social manifestations) of Conflict Resolution, this study considers different issue-areas, different levels of analysis, and different units regarding the CFSP and its response to the two Congo Wars. It examines a wide range

of issue-areas; from political, economic, and social to structural and systemic dimensions of dealing with violent conflicts. The purpose is to determine if and how the design of the CFSP and its response to the two Congo Wars reflected due awareness and treatment of such issue-areas. My assumption is that without due awareness and treatment of all the relevant issue-areas, the CFSP, contrary to what some analysts have alleged (Stavridis 2001; Petiteville 2003), cannot enable the EU to become a force for a global common good. Concerning levels of analysis, various academics have pointed out that, in the case of “a multi-tiered system of government such as the EU” with loose structure, complexity, and heterogeneity (Peterson 1995: 70), the need to take breath at different levels becomes more self-evident because “patterns and processes of policy-making ‘vary considerably from sector to sector’” (Wallace 1983: 52; as quoted in Peterson 1995: 69-70). Vale and Mphaisha’s (1999: 90) have warned that,

Whether we choose to approach foreign policy as something that should be explained on the level of the international system, or on the level of the society within which that state operates, or on the level of the individuals in that society, has fundamental implications for how foreign policy is analysed and what conclusions are reached.

For the purpose of this research, I draw on the *three-level analytical framework* of the *policy network model* developed by Peterson (1995). The three levels are *super-systemic level*, *systemic level*, and the *sub-systemic / meso-level*. Peterson convincingly argues that his model is particularly suitable for studying the decision-making in the European Union for two main reasons. The first is the lack of “‘off-the-shelf’ institutions’ which can facilitate bargaining between different types of actors at the meso-level.” This argument is particularly valid for the period before the inception of the ‘off-the-shelf’ organ, that is, the European External Action Service (EEAS) under the Treaty of Lisbon that entered in force on 1 December 2009. The second reason is that “decisions taken at the policy formulation stage have become more important determinants of eventual EU policy outcomes in recent years.” (Peterson 1995: 71).

**The first level of analysis** concerns *history-making decisions* and “transcends the EU’s day-to-day policy process”. Such decisions “alter the Union’s legislative procedures, rebalance the relative powers of EU



institutions, or change the EU's remit." They "address the question: how does EU governance change?" (Peterson 1995: 72; added underlining). In this sense, EU *history-making decisions* "alter the way the EU works as a system of government." (Peterson 1995: 72-3). Peterson places EU's history-making decisions into three categories. The first one concerns decisions that are "taken to launch the process of revising treaties in intergovernmental conferences (IGCs)." Here the generic units of analysis are the IGCs. An intergovernmental conference is, in EU terminology, a special negotiations meeting of representatives of the governments of member states with a view to amending the Treaties (European Union (EU) 2013). Analytical variables at this level include the different treaties and their respective annexes (*Protocols, Declarations, Final Acts, Statements*) that directly relate to the study object and or case study of this research. The second category of *history-making decisions* consists of "broad, strategic decisions about the EU's agenda, priorities and finances" (Peterson 1995: 72) that are taken by the European Council. The latter "brings together the Union's Heads of State or government and the President of the European Commission, and is the Union's supreme political authority." (Council 2008b: 6). Upon the entry into force of the Lisbon Treaty on 1 December 2009, "the European Council became a fully-fledged institution in its own right"; with "a president, elected for a term of two and a half years, renewable once." (Council 2010a: 3). Before that date, it rather referred to the regular meetings of the Heads of State or Government of the Member States and usually met at least twice a year and "was chaired by the president or prime minister of the Member State holding the six-monthly Council presidency." (Council 2010a: 3). Concrete examples of *history-making decisions* by the European Council include *Conclusions, Reports, Acts, Statements, and Declarations* of European Summits that "often become 'bibles' in EU politics." (Peterson 1995: 72; added underlining). In relation to the CFSP, Article 13 (Title V) of the TEU assigned to the European Council two tasks the first one of which was to "define the principles of and general guidelines for the CFSP, including for matters with defence implications." (Added emphasis). The third and last category of *history-making decisions* concerns "legal decisions handed down by the European Court of Justice (ECJ)" and which set out "the

limits of the EU's powers" and by time, become "touchstones in EU governance such as 'direct effect' and 'proportionality'" (Peterson 1995: 72). Bradley (2002: 119), too, has stressed the "central role" of the ECJ driven from its function as "the ultimate authority for interpretation" and application of the EU law. At this sub-level of analysis, there does not seem to be much substance for the purpose of this research because the TEU (Title V) excluded the CFSP decisions from the supervision of the ECJ.

**The second level of analysis** – *systemic level* – concerns "policy-setting decisions" which usually address the following question: "what should be done?" (Peterson 1995: 73). At this level, "choices are made between alternative courses of action according to one of several versions of the 'Community method' of decision-making [*Assent procedure- AVN; co-decision procedure- COD; consultation procedure- CNS, and co-operation procedure- SYN*]." (Peterson 1995: 73). Various institutional actors at this level share the powers to set policy and constitute, in principle, our main units of analysis. The first one is the aforementioned European Council. One of its tasks is to "decide on *common strategies* to be implemented by the Union "in areas where the Member States have important interests in common" (TEU, Title V, art. 13; added emphasis). Besides, the European Council "may act as 'a court of last resort' when first COREPER [committee of permanent representatives] and then the Council of Ministers are deadlocked." (Peterson 1995: 73). The second unit of analysis is the *Council of the European Union*, also referred to as the *Council of Ministers* (Council, in short). It is the main decision-making body of the EU and represents the Member States (Peterson 1995: 73; Smith H. 2002: 107). The third unit of analysis at the *systemic level* is the European Commission (Commission, in short). Under EU treaties, the Commission is responsible for coordinating, executing, and managing the actions of the Union. According to Nugent (2002: 151), "The Commission's main functions can be grouped under six headings; policy initiator, legislative functions, legal guardian, mediator and broker, and external representative and negotiator." In Smith's view, the "Commission's role in [EU] foreign policymaking and implementation changes according to which particular aspect of foreign policy is under discussion", and its "most important external competence is in terms of the foreign policy

aspects of trade, including the highly political issue of economic sanctions.” (Smith H. 2002: 109). However, the competence of the Commission for CFSP matters is much less central and rather limited by the intergovernmental procedure of the CFSP, notwithstanding the *initiative* and *consultative power* conferred onto it in the treaty on the Union (TEU, Title V, arts. 14, 18, 20, 22, and 27). The fourth unit of analysis at the *systemic level* is the European Parliament (EP) whose assent is indispensable prior to the conclusion of any international agreement, among other things. Article 21 of the TEU (Title V) required the Presidency to inform and “consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy”, and to ensure that its views would be duly taken into consideration. The president-in-office had to deliver a report to the European Parliament’s full session on EU foreign policy and could have to answer questions of Members of the European Parliament (MEP) at its monthly plenary session. Besides, the EP could put questions to the Council or make recommendations to it.” (TEU, Title V, art. 21). Finally, the EP would hold an annual debate on progress in implementing the common foreign and security policy. **Member States** constitute the fifth unit of analysis at the systemic level. Their role is central for both policymaking and implementation because, as Smith H. (2002: 113) notes, “it is the member states that can add teeth to foreign policy”. Article 11(2) of the TEU (Title V) stipulated that Member States had to “support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity”, and “work together to enhance and develop their mutual political solidarity.” It also required them to “refrain from any action which would be contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations.” The Treaty earmarked a number of prerogatives to Member States, ranging from requesting a revision of a joint action to taking “the necessary measures as a matter of urgency” in case “major difficulties in implementing a joint action” or “imperative needs arising from changes in the situation and failing a Council decision” (TEU, Title V, art. 14(6,7)).

The TEU also required Member States to “coordinate their action in international organisations and at international conferences” where they

would have to “uphold the common positions” and keep informed those not present of any common interest (TEU, Title V, art. 19). Under the CFSP legal provisions, those Member States who were permanent members of the UN Security Council had to defend “the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter.” Article 20 (TEU, Title V) required the “diplomatic and consular missions of the Union’s Member States in third countries and in international organisations and conferences” to “cooperate in ensuring that the common positions and joint actions adopted by the Council were complied with and implemented.” (Added underlining). Likewise, Member States had to “inform and consult one another within the Council on any matter of foreign and security policy of general interest in order to ensure that the Union’s influence is exerted as effectively as possible by means of concerted and convergent action.” (TEU, Title V, art. 16). Any Member State could also “refer to the Council any question relating to the common foreign and security policy and may submit proposals to the Council.” (TEU, Title V, art. 22(1)). More importantly, under Article 23 of the TEU (Title V), a Member State could abstain in a vote of any Council’s decision under the CFSP, and thereby not be obliged to apply the decisions in question or to contribute to its financing (TEU, Title V, art. 28(3)). This prerogative to opt out on financial contribution was applicable in case of “operational expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decide[d] otherwise”; and which de facto could not be charged to the budget of the European Communities (TEU, Title V, art. 28(3)).

**The third level of analysis** – the *sub-systemic* or *meso-level* – is that of “individual EU policy sectors [...] where many *policy-shaping* decisions are taken, particularly as policy options are formulated.” Peterson defines the term “meso” as usually implying “a level between one (macro) and another (micro).” (Peterson 1995: 74). Yet, in the case at hand, “very little actual decision-making occurs at the ‘micro-level’ in EU governance, which mostly features the implementation of decisions taken elsewhere or management of the EU’s activities by actors with very little discretion of their own.” (Peterson 1995: 89; endnote n<sup>o</sup> 5). Peterson points out that “[m]ost policy-shaping

decisions are ‘second-order’ decisions which address the question: how do we do it?” (Peterson 1995: 74). Key actors at the meso-level include “the Commission’s Directorates-General (DGs), national civil servants and private actors who bargain with each other in various types of committee or Council working groups.” (Peterson 1995: 74). Much like at the systemic level, the role of the Commission’s *DGs*, *Committees*, and *Units* depends on which issues and aspects of foreign policy are concerned. During the time reference of this research (1994-2009), the most notable Commission’s *DG* was the *Directorate-General for External Relations (DG RELEX*, in short, under its French acronym: *Direction Générale des Relations Extérieures*). In particular, *DG RELEX* was responsible for the participation of the Commission into the CFSP and the management of over a hundred of representations of the Commission in third countries. Following the entry into force of the Lisbon Treaty (on 1 December 2009), *DG RELEX* was merged into the European External Action Service (EEAS) by Council Decision of 26 July 2010 (2010/427/EU). During the same timeline, there were also various CFSP-related units of analysis at the Council level. The first one is the former *General Affairs Council (GAC)*. It was renamed *General Affairs and External Relations Council (GAERC)* since June 2002 and split into two sub-configurations, *General Affairs Council (GAC)* and *Foreign Affairs Council (FAC)*, by the Treaty of Lisbon (2009). *GAERC* was responsible for the Union’s relations with the rest of the world, among other things. *GAERC*’s members were Member States’ foreign (affairs) ministers and their primary task was to discuss and negotiate foreign policy (Smith H. 2002: 107). In particular, *GAERC* was responsible for deciding *joint actions (JAs)* and *common positions (CPs)*, the two most important outputs of the CFSP that this dissertation critically accounts for. The second unit of analysis on the Council side is the above-mentioned *Committee of Permanent Representatives*, more referred to by its French acronym ‘*COREPER*’ (“*Comité de Représentants Permanents*”). This committee “occupies a special position in the Council hierarchy, because it has the final say in the preparation of Council proceedings.” (Council 2008b: 13). *COREPER* brings together “permanent representatives of the Member States’ governments in Brussels” who “meet several times a week in a virtually permanent process of

discussion and negotiation” and “establish and maintain relationships of trust and confidence that facilitate mutual understanding of their respective positions.” (Council 2008b: 12). COREPER members exercise political control over other expert groups within the Council. One of those groups is for instance the *Africa Working Group*. *All representatives of EU Member States whom I interviewed at the headquarters of the EU in Brussels were members of COREPER or participated in its meetings from time to time.*

The third unit at the *meso-level* is the **General Secretariat of the Council** (General Secretariat of the Council (GSC), in short). Its staff, in particular the Secretary-General (SG) of the Council and High Representative for the CFSP until the entry into force of the Treaty of Lisbon (1 December 2009), play an important role in the formulation, preparation, and implementation of policy decisions adopted under the CFSP. The overall task of the GSC is “to provide every support the Council needs to do its work.” (Council 2008b: 15). Concretely, it advises the Union’s Presidency, ensures continuity of the work of the Council’s different services, monitors meetings, and manages the budget of the Council (Council 2008b: 15). Like in the Commission, different functional Directorates-General exist within the Council and directly dependent on the CGS (Council 2008b: 15-17). During the time reference of this research, the *Policy Planning and Early Warning Unit* (PPEWU) established by Declaration No. 6 annexed to the Final Act of the TEU (Amsterdam version, 1999) was housed in General Secretariat of the Council. It was responsible for, among other things, monitoring, analysis and assessment of international developments and events, including early warning on potential crises and for drafting policy options for the attention of the Council. *All my interviewees in the Council were directly or indirectly involved in the work of the PPEWU.*

## **Conclusion**

This section summarises the **types and sources of data** on the one hand, and the **issues, levels and units of analysis**, on the other, for this research. Regarding the former, I have drawn on both Primary Data and Secondary Data in line with the requirements of *Qualitative Research* (QR). As indicated

earlier, primary data are made of *in-depth, qualitative interviews*, formally requested by email correspondence and telephone calls from the following:

- Officials involved in the external relations and foreign policy of the EU, particularly in Sub-Saharan Africa, at the Council, the European Commission, and the European Parliament;
- Permanent representations of EU Member States to the EU in Brussels;
- Representatives of the DR Congo and South Sudan to the to the EU;
- Policy officers involved in EU foreign policy matters in Civil Society organisations in the EU's capital Brussels (Belgium);
- General Secretariat of the African, Caribbean, and Pacific (ACP) group of countries; and
- Representation of the African Union (AU) to the EU.

Regarding EU officials, I sought interviews from staff at the level of Director, Head of Unit, Committee Chairperson, and Desk Officers. Concerning EU Member States' permanent representations to the EU, two main criteria guided my choice: (i) the specificity and weight of a Member State in EU foreign and security policy and (ii) historical links with, interest, and involvement in Sub-Saharan Africa and or in the DR Congo. In total, I contacted 9 Member States: Belgium, France, Germany, Netherlands, Poland, Portugal, Spain, Sweden, and UK. I directed my request primarily to senior diplomats, including with the rank of 'Ambassador', responsible for EU political, foreign, and security affairs. As for Civil Society actors, I contacted the following organisations: Amnesty International (AI)-Europe, European Centre for Development Policy Management (ECDPM), and European Peacebuilding Liaison Office (EPLO). My interview requests included my identification details, an outline of my research project, the main issues for discussion, confidentiality assurance, and a recommendation letter from my supervisor. Regarding unsuccessful requests, I either did not receive a response at all or was informed that the appropriate staff was not available for interview. Positive responses came from the following: 4 EU Member States (Germany, Portugal, Sweden, and UK), the Council and the Commission, and 2 non-governmental organisations (AI-Europe and EPLO). In terms of format, interviews were semi-structured (with open-ended and check-listed questions) and tape-recorded (unless otherwise wished by the respondent, prohibited under the security protocol of the respondent's institution / department, or hindered by technical problems).

|                          | EU foreign policy officials |            |            | EU Member States | Third countries | INGOs | ACP Group (Secretariat) | African Union |
|--------------------------|-----------------------------|------------|------------|------------------|-----------------|-------|-------------------------|---------------|
|                          | Council                     | Commission | Parliament |                  |                 |       |                         |               |
| <i>Contacted (staff)</i> | 6                           | 2          | 2          | 9                | 2               | 3     | 1                       | 1             |
| <i>Positive Response</i> | 6                           | 2          | 0          | 4                |                 | 2     | 0                       | 0             |
| <i>Negative Response</i> | 0                           | 0          |            | 1                | 1               | 0     | 0                       |               |
| <i>No response</i>       | 0                           | 0          | 2          | 4                | 1               | 1     | 1                       | 1             |
| <i>Interviewees</i>      | 5                           | 2          | 0          | 7                | 0               | 2     | 0                       | 0             |

I was not able to do field research in the DR Congo mainly because of security reasons. I am Rwandan and from July 1994 until September 1995, I lived and worked as a broadcast journalist in eastern DR Congo for humanitarian organisations during and after the massive exodus and settlement of over one million of Rwandan refugees there. I found it too risky to return there and do interviews in the same insecure place where some of my broadcast colleagues were assassinated and others disappeared during the two Congo Wars. I have attempted to remedy this lack of first-hand data by drawing on the most authoritative resources, namely reports by non-governmental human rights and humanitarian organisations. As my interviewees at Amnesty International and European Peacebuilding Liaison Office in Brussels proudly confirmed, such organisations constitute the best sources for independent, timely, accurate, detailed, and widely, swiftly, and efficiently disseminated accounts of the situation on the ground. Free access and use of such detailed and periodical accounts are determinant for establishing, in line with Conflict Resolution, three important facts. The first fact, which many studies take either as for granted or as minor, is whether the EU did always have timely and appropriate warning information on the situation on the ground. The second one, which is also missing in most studies on the same theme and case study, is whether there was always a CFSP response when the situation on the ground so required. The third and



last fact is whether any CFSP-based response was need-tailored, timely, and decisive. Moreover, such accounts are crucial for testing the quote that opens this dissertation: “*The aim of the EU foreign policy is to replace the law of force with the force of law.*” (Solana 2009a: 4).

On the other hand, secondary data mainly include foreign policy outputs and publications relevant to the subject of inquiry (CFSP) and case study (DR Congo). They essentially are EU documents pertaining or related to the CFSP and concrete CFSP-based decisions and actions on the two Congo Wars. These decisions and actions, herein also termed **CFSP outputs**, the so-called “Main Aspects and Basic Choices of the CFSP” in EU’s own terminology, that the Union adopted and implemented in relation to the case study. They include the following: Principles and General Guidelines; Declarations; Demarches; Common Strategies; Common Positions; Joint Actions; and Decisions. My secondary data also include relevant literature on the EU foreign and security policy, as well as on Conflict Resolution, the DR Congo, and the Africa’s Great Lakes Region. Regarding EU documents pertaining or related to the CFSP in general and concrete CFSP-born decisions and actions in particular, the main source was the online public registers of the Council and other institutions of the EU. These registers had been operational since the late 1990s following the entry into force of the TEU (Amsterdam version, 1999) and were said to contain references to “all non-sensitive documents” that can publicly be accessed (Council 2012c). I could directly request from the relevant services of the EU only documents that were not available in the online registers. This is an important challenge for people without or with limited access to internet and or who are unfamiliar with online search. In the absence of a readily available list of contents of each register beforehand, it was impossible to establish the proportion of the online search results in relation to the actually existing material on a subject of one’s interest. The search result depended on the search options (‘Simple search’, ‘Advanced search’, ‘Advanced search’, and ‘Latest documents’) and established search criteria (‘Document number’, ‘Words in Title’, ‘Text’, ‘Subject Matter’, ‘Date’). In the case of one request, the relevant services of the General Secretariat of the Council responded me that the lists of some of the “main aspects and basic choices of the CFSP”, namely Declarations,

Demarches, Reports of Heads of Mission, and Political Dialogue meetings, had not been (systematically) drawn for the period from 1994 to 1997 and therefore were not available (Sieberichs 2011). Besides, one of my requests for clarification remained unanswered. Hence, my analysis is based on the records that I accessed and the quality and amount of which I considered sufficient for substantiating my argument in the manner hereby exposed. Overall, I have drawn on all legally binding decisions and actions of the CFSP, that is, *CFSP Legal Acts* (Common Strategies, Common Positions, Joint Actions, and Decisions) and non-legally binding *outputs* (Principles and General Guidelines, Declarations, and Demarches), all of which I accessed online or obtained through correspondence with the relevant services of the Council. The two reference documents for all CFSP legal acts herein referred to have been the following: the thematic list published on 31 December 2009 (Council 2009d) and the (daily) Official Journal of the European Union (OJ). For non-legally binding instruments, my counting and analysis is based on the online register of the following sources: European Council meetings (European Council 2013); CFSP Statements (Council 2013a); the different annual reports on the CFSP activities; and the “recapitulative lists of CFSP instruments (declarations, démarches, reports of Heads of Mission and political dialogue meetings)” drawn up by the Secretariat of the Council respectively since 1998 and 2004 onwards (Council 1998a, 1998b, 1999a, 2000b, 2001, 2002, 2003a, 2004, 2005b, 2006e, 2006f, 2007b, 2007c, 2008c, 2008d, 2009e, 2009f, 2010b, and 2010c).

I consider a wide range of issues, levels and units of analysis involved in the EU foreign policy within the framework of the CFSP. I follow Peterson’s three-level model of *super-systemic level*; *systemic level*; and *meso-level*, respectively concerned with the EU *history-making*, *policy-making/setting*, and *policy-shaping*. Units of analysis are those that were most involved in the EU *foreign policy-making* at each of the aforementioned three levels. These units were the following:

- Intergovernmental Conferences (IGCs), European Council, and EU Presidency, at the *super-systemic level*;
- The Council of Ministers (Council, in short), the European Parliament, and Member States through COREPER, at the *systemic level*; and

- The Commission through its DG RELEX, GAERC, the Council General Secretariat and attendant Directorates-General, departments, and units involved in the shaping and making of foreign policy, at the *meso-level*.

As Peterson might have noted, this 3-level distinction is not to be conceived and or argued in absolute terms. The degree of cross-level actorness is significant in most cases mainly because of the presence and interference of member governments at and across all stages of EU decision-making as a result of what Peterson and others have identified as lobbying network channels between national capitals and EU headquarters. Likewise, the European Council seems to be involved at both the super-systemic level and the systemic one. For its part, the Commission seem to have a significantly limited presence at the systemic level in contrast to its lead role at the meso-level.

*Levels and Units of Analysis in EU Foreign Policy Decision-making: table adapted from Peterson (1995: 71).*

| Level  | Decision Typology            | Main Actors   | Distinctive Rationality                      |
|--|------------------------------|---|--|
| <b>Super-systemic:</b><br>How does EU governance change? | <b>History-making</b>        | IGCs<br>European Council<br>EU Presidency<br>European Court of Justice  | Political<br>Legalistic                      |
| <b>Systemic:</b><br>What should be done?                 | <b>Policy-setting/making</b> | European Council<br>Council of the EU<br>EU Parliament<br>Member States' governments through COREPER<br>European Commission | Political<br>Technocratic<br>Administrative  |
| <b>Sub-systemic/<br/>meso-level:</b><br>How do we do it? | <b>Policy-shaping</b>        | European Commission<br>DG RELEX<br>GAERC<br>Council General Secretariat<br>Directorate-General E<br>Working Groups          | Technocratic<br>Consensual<br>Administrative |

## Research Timeframe

This research covers a specified period (1994-2009) because one of the shortcomings that it addresses is the lack of a systematic and comprehensive account of the CFSP decisions and actions that reportedly enabled the EU to make a difference in its response to the two Congo Wars. For a fairer, comprehensive, and balanced assessment, it is important to take into account not only field operations and missions but also any other foreign and security policy endeavours. I have chosen the year 1994 as the start-date because of two reasons. The first one is that it was the first full year of the actual implementation of the CFSP. Indeed, the *Treaty on the European Union* (Maastricht version) that established the CFSP entered into force on the 1<sup>st</sup> of November 1993. The second and most important reason is that, as detailed later, the First Congo War broke out in early October 1996. In line with the Conflict Resolution approach of this research, the prevention period that falls within the existence of the CFSP spans from January 1994 until the outbreak of armed confrontation. On the other hand, the end-date (2009) marked the celebration of the first decade of the ESDP and the exceptional heightening of its achievements, particularly by EU authorities. The first High Representative for the CFSP underscored the historic importance of that year in the following words: “2009 is a landmark year for the European Union's role in the world. It marks ten years of European Security and Defence Policy (ESDP), during which the EU became a global provider of security, making a real difference to people's lives all over the world.” (Solana 2009d: 1). More important to underline, the year 2009 marked the entry into force, on the 1<sup>st</sup> of December, of the *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community* (Treaty of Lisbon, in short). The new treaty introduced significant changes that fall outside the methodological approach of this research. First, the Treaty of Lisbon (Title V) abolished the three pillar structure of the EU (*European Communities, Common Foreign and Security Policy (CFSP), Police and Judicial Co-operation in Criminal Matters (PJCC)*) that was introduced by the 1993-TEU and maintained throughout to the entry into force of the Lisbon Treaty. With the merging of the three pillars, the CFSP, the long awaited and most salient and commented pillar under the abrogated structure, became an

integral part of a Union’s External Action that also encompasses the “external relations” traditionally pertaining to the European Commission. The grouping of all external relations of the EU under the External Action umbrella was meant to resolve the coherence and coordination problem that reportedly affected negatively the CFSP contribution to international peacebuilding in the DR Congo (Martin 2010: 72). Second, as the table below shows, the objectives of the External Action were made less ambiguous and more comprehensive, at least on paper, than the ones assigned to the CFSP prior to 2009.

| <b>CFSP objectives (pre-Lisbon TEU, Title V, art. 11(1))</b>   | <b>External Action objectives (Lisbon TEU, Title V, art. 21)</b>  |
|--|---|
| (1) Safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter.   | (1) Safeguard the values, fundamental interests, security, independence and integrity of the European Union.  |
| (2) Strengthen the security of the Union in all ways.  | (2) Consolidate and support democracy, the rule of law, human rights and the principles of international law.   |
| (3) Preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders. | (3) Preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders. |
| (4) Promote international co-operation.  | (4) Foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty.   |
| (5) Develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.  | (5) Encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade.  |
|  | (6) Help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development.  |
|  | (7) Assist populations, countries and regions confronting natural or man-made disasters.  |
|  | (8) Promote an international system based on stronger multilateral cooperation and good global governance.  |

Besides, the Lisbon Treaty established a *European External Action Service (EEAS)*, a cross-institutional department deemed to increase coherence and coordination of all the external policies of the EU. It also expanded the post of the *High Representative for Common Foreign and Security Policy* to that of a *High Representative of the Union for Foreign Affairs and Security Policy* who is at the same time one of the *Vice-Presidents of the European Commission* and Chief of the EEAS. Third, the Lisbon Treaty (Title V, art. 24) reduced the specific policymaking instruments under the CFSP from five (*Principles and General Guidelines; Common Strategies; Common Positions; Joint Actions; and Decisions*) to two (*General Guidelines and Decisions*). Fourth and last, the Lisbon Treaty (Title V, art. 42) upgraded European Security and Defence Policy to Common Security and Defence Policy (CSDP). Although the latter was kept as an integral part of the CFSP and an essentially intergovernmental matter, its role was significantly reinforced through the enlargement of its mission (Title V, art. 43(1)). Three new tasks (*joint disarmament; military advice and assistance; and post-conflict stabilisation*) were added to its original three tasks known as the Petersberg Tasks (*humanitarian and rescue tasks; peacemaking and peacekeeping tasks; and tasks of combat forces in crisis management*). Because of methodological constraints and for the sake of fairness, it is imperative to review the ‘success narrative’ using the same context and elements on the basis of which it has been constructed, even if the post-Lisbon potential of the CFSP and its actual performance in the violence-afflicted DR Congo may not much be different.

## **Research Structure and Organisation**

This work revolves around the following chapters. The first chapter is an introduction that outlines the context, the aim and main argument, the methodology, as well as the timeframe and structure of the dissertation. The second chapter critically highlights the advantages of Conflict Resolution (CR) as a specialist field of study with attractive normative, theoretical, and practical precepts for systematically theorising about conflict and conflict intervention. Chapter 3 offers a background to the two Congo Wars, highlighting the origin and development of the problems of the country into an International Social Conflict (ISC) to which the EU might have made a

positive difference only by means of a timely, need-tailored, multilevel, multifunctional, decisive, cross-national, and long-term response. Chapter 4 engages in detail the discussion on the claimed added value of the CFSP and its operational pillar ESDP for enabling the EU to do more and better about wars and violent conflicts in third places. The purpose is to establish the extent of integration of relevant insights from Conflict Resolution into the CFSP during the period covered by this research. Chapters 5 and 6 offer detailed accounts of the first and second wars in the DR Congo and the corresponding response of the EU through its CFSP. The aim is to identify any general *need-response pattern*, applying the three stage delineation prescribed by Conflict Resolution: *early warning and prevention (EWP)*; *conflict management (CM)*, and *post-war/conflict (settlement) peacebuilding (PW/C(S)PB)*. In the seventh chapter, I offer an overall, final evaluation of the potential of the CFSP and its response to the two Congo Wars, thus laying the ground for the conclusion in the eighth and last chapter.

## CHAPTER TWO: THEORETICAL FRAMEWORK

What does Conflict Resolution (CR), as a subject area of study, have to offer for the systematic theorising about and handling of violent human and social behaviours? In this chapter, I set out to answer this question. I argue that CR, with its own limitations, still offers a more valuable and affordable, though sophisticated and demanding, alternative for capturing and addressing the multiple and complex realities of human and social violence wherever and whenever it occurs or threaten to do so. Its insights are particularly relevant for assessing the allegedly inherent added value of the CFSP and the claimed difference it has enabled the EU to make in its response to two bloody wars that broke out in the DR Congo successively in 1996 and 1998. As indicated in the first chapter, various studies attribute the total or partial failure of international peace efforts by the EU and other international actors in the DR Congo and its region precisely to the lack or minimal application of what seems to be a CR approach (Youngs 2004; Autesserre 2009; Lemarchand 2012;). Others rather attributed the failure of peace efforts in that country and the entire Great Lakes region of Africa to the imposition of what they present as 'conflict resolution models' that prescribe a 'one size fits all' solution, that is, a neo-liberal peace agenda that is irrespective of the specificities of each case (Daley 2006). In that chapter, I showed that the main shortcoming of these works is the lack of conceptual clarity concerning their use of key terms, mainly 'conflict resolution' and 'peacebuilding'. This shortcoming is important because CR is different from what some academics have referred to as 'post-Cold War Conflict Resolution Mechanism'. They have termed it 'International Conflict Resolution Mechanism' (ICRM) and described it as being essentially characterised by third party-mediated negotiated settlement among the conflicting parties, preceded by a cease-fire and followed by the implementation of the agreed solution that include transitional power-sharing and free, and fair multi-party elections as the final stage. They have criticised this mechanism mainly because they find it based on an assumed universal applicability (Salem 1993; Duffield 1997; Clapham 1998a, 1998b). This chapter shows that the 'Conflict Resolution model', so to



name it, is different from and does not prescribe the 'one size fits all solution' or the ICRM.

Though an abundant literature on the subject exists, and an attempt is here made to do justice to as many relevant works as possible, I shall essentially draw on the following works: Miall et al. (1999) and Sandole (1993, 1998, 2001). Not only did their publication coincide with the birth of the EU and its announced commitment to assume an active and positive foreign and security policy in a post-Cold War environment, but also their authors explicitly sought to make them as much policy-relevant as possible. Miall, Ramsbotham, and Woodhouse (1999) present their authored book as a response to "the need for a single, comprehensive survey of contemporary conflict resolution and its contribution to the management of post-Cold War conflicts" (Miall et al. 1999: xi), and their conflict resolution approach as representing "the 'praxeological edge or purpose' of peace research." (Miall et al. 1999: 44). In my view, it is a complete account of the origin and development of Conflict Resolution, both in theory and practice, to its stage precisely at the time the EU was allegedly taking on board lessons learned from failed humanitarian interventions in places like Former Yugoslavia, Somalia, and Rwanda. The authors pay due tribute to both outspoken critics and outstanding proponents of the field. On the other hand, the work of Sandole draws upon an impressive literature inside and outside the field of Conflict Resolution and proves to be a successful attempt to articulate a generic theory of conflict formation and escalation, with direct policy and practical implications.

## **Conceptual and Normative Clarifications**

The terms *conflict* and *conflict resolution* (CR) are so widely, often indiscriminately, used that it is important to specify the definitional, practical, and normative scope of their use for the purpose of clarity, pertinence, and due attribution. *Conflict* may mean "armed confrontation" or "war" for some, and any "physical and direct violence", for others. Some define it as a "process", others as "start-up conditions", and others as both (Sandole 1993, 1998, 2001). In some contexts, the term is used to refer to "an aspect of our

lives which is taken for granted – something that will always be” and which “occurs at every level of social interaction from the personal to the international.” (Fetherston 1994: 96). Burton defines *conflict* as “an essential creative element in human relationships.” For him, *conflict* “is the means to change, the means by which our social values of welfare, security, justice and opportunities for personal development can be achieved...the existence of a flow of conflict is the only guarantee that aspirations of society will be attained.” (Burton 1972: 137-138). In this sense, conflict “is not necessarily a bad thing; indeed, it may be an ‘early warning’ sign that something has gone wrong in an otherwise important relationship that needs to be addressed before it gets worse.” (Sandole 1993: 6). Galtung (2000: 51) claims that *conflict* amounts to “a challenge with the problems shouting ‘transcend me!’, go beyond, *force motrice* driving human beings, societies, the whole world forward.”

Here, I use the term *conflict* as defined in the specialised study field of Conflict Resolution, that is, as “an intrinsic and inevitable aspect of life”, “an expression of the heterogeneity of interests, values and beliefs that arise as new formations generated by social change come up against inherited constraints.” (Miall et al. 1999: 5). In particular, I refer to Sandole who defines *conflict* as “a dynamic phenomenon, a ‘manifest conflict process’ (MCP), characterized by phases of initiation, escalation, controlled maintenance, and management, perhaps leading to some kind of termination reflective of settlement, resolution, or transformation” (Sandole 1993: 6). As a manifest process, conflict means “a situation in which at least two parties, or their representatives, try to pursue their *perceptions* of mutually incompatible goals by *undermining*, directly or indirectly, each other’s goal-seeking capability.” (Sandole 1993: 6). Things get worrying and complicated when the manifest conflict process takes an aggressive turn, with involved parties or their representatives attempting “to pursue their perceptions of mutually incompatible goals by *physically damaging or destroying* the property and high-value symbols of one another [...]; and/or *psychologically or physically injuring, destroying, or otherwise forcibly eliminating one another.*” (Sandole 1993: 7).

On the other hand, *conflict resolution* (in lower case) is commonly and generically understood as “an objective and an activity that is universal and practised by people throughout the world who may or may not be aware of the term.” (Miall et al. 1999: 60). However, this generic definition is different from the specific one that implies awareness, relevant knowledge and skills, patience, as well as strong commitment. In context of this dissertation, Conflict Resolution (upper case in initials) is used “as a defined specialist field” (Miall et al. 1999: 2-3) concerned with the holistic analysis and non-violent handling of conflicts whenever and wherever they actually occur or threaten to do so. It means at the same time (i) “a specialist academic and practical field” and (ii) a prescriptive “description of successful outcome to peacemaking and peacebuilding process”. (Miall et al. 1999: 60). Most, if not all, theorists and researchers in this field stress the fact that “[a]s both an analytic and normative field, *conflict resolution* takes violent or destructive conflict as its topic, and aims to gain an accurate understanding of its nature and aetiology in order to learn how it can best be overcome.” (Miall et al. 1999: 43, added emphasis). Its objective “is not the elimination of conflict, which would be both impossible and [...] sometimes undesirable. Rather, the aim of conflict resolution is to transform actually or potentially violent conflict into peaceful (non-violent) processes of social and political change. This is an unending task as new forms and sources of conflict arise.” (Miall et al. 1999: 22).

## **The Need for Multidisciplinary Knowledge and Skills**

The breaking down of knowledge in the name of science is probably a significant reason for humanity's persistent failure to control its destiny...[People] tend to perceive situations in a limited context, to seek limited remedies for problems and generally to reduce seemingly complex variables to simple proposition... This lack of a holistic view obviously leads to superficial, false and often damaging policy decisions. (Burton 1997: 130, as quoted in Sandole 2001: 2).

Conflict Resolution emerged and developed as a **multidisciplinary** area of study out necessity and conviction. It has drawn on many disciplines with a view to addressing properly the multiple problems of man's society. Miall, Ramsbotham, and Woodhouse (1999: 42) and Sandole (1993, 1998) offer a good account of this cross-disciplinary inspiration. As most of CR theorists,

they stress the original influence of early studies of human behaviour and labour-management relations in the area of industries and organisations. The list includes; Anthropology, Biology, History, International Relations, Pacifism, Physiology, Political Science, Psychoanalysis, Psychology, Religious Studies, Schizophysiology, Social Psychology, and Sociology.

Following the failure of conflict interventions in the early 1990s, Conflict Resolution benefited a great deal from a wealth of constructive criticisms from critical theorists, development studies, cultural studies, gender studies. More attention has been drawn to (i) the need to scrutinise the link between the search for power and self-perpetuating discursive violence and oppression along Foucault's line of thought (Fetherston 2000); (ii) the necessity to intervene at all levels, in particular the grass-root one, of the affected society (Lederach 1997); (iii) the imperative to avoid or minimise negative effects of both cultural *imperialism* or *universalism* and cultural *relativism* or *particularism* (Salem 1997; Avruch 1998; Duffey 2000); and (iv) the need to acknowledge and properly address the discrimination and exclusion of women within and across societies (Taylor and Miller (eds.) 1994; Francis 2001). The integration of these and other contributions from relevant fields and disciplines underpins the *complexity theory* by which "everything is connected to everything else", including *nature* and *nurture* (Sandole 1998: 11). This means that conflict analysts and resolvers need "all the bits or [...] levels represented" in order to avoid to fall victim of "disciplinary fragmentation of knowledge into zealously guarded 'sovereign units'", which "breeds *arrogant ethnocentrism* and *comedic*, if not also dangerous, replays of the scenario of the three blind men, each assuming that the bit of the elephant he has grabbed onto represents the totality of the beast." (Sandole 1998: 11, added emphasis).

## **Conflict Theory and Analysis**

The normal conflict has many actors, many goals and many issues, is complex, is not easily mapped, yet mapping is essential. (Galtung 1998: 6-7).

Adequate conflict analysis – *polémologie*, to borrow the French terminology – has from the start, been the essential prerequisite for normative conflict resolution. (Miall et al. 1999: 65).

## Human Needs Theory

Deterrence does not deter sane behaviours, and the power political frame [is] unrealistic because no account [is] taken of relevant human factors: there are ontological, inherent human needs that cannot be suppressed, (needs of identity and recognition that are the bases of relatedness), which make deterrence sometimes irrelevant at all societal levels. The only option, in politically realistic terms, [is] to resolve the social and behavioural problems that [lead] to specific conflicts, and not try merely to suppress them or to settle them by coercion. (Burton 2001a: 4).

Explicit in the above quote is the existence of limits to the patience and tolerance of humans when some of their cherished needs are actually or potentially denied and or threatened. Since the 1970s onwards, Burton consistently sustained that individuals or groups will resort to any means and assume any risks and punishment in defence and pursuit of their needs. Unlike *interests*, which are material and may therefore be in short supply from time to time, needs are non-material and, therefore, non-negotiable through power bargaining. They are to be satisfied. This is possible because, for instance, “the more security and recognition one party to a relationship experiences, the more others are likely to experience”. (Burton 1990: 242, as cited in Miall et al. 1999: 47). Likewise *conflicts*, unlike *disputes*, are to be *resolved* and not *settled* (Burton 2001a: 4) because they involve needs. Therefore, deterrence is illusory and counter-productive in situation involving needs, since it only increases the perception of *frustration* of those subjugated to coercion. For Burton, *frustration*, that is, “interference with the occurrence of an instigated goal-response at its proper time in the behaviour sequence” (Dollard et al. 1939: 7, as quoted in Sandole 1993: 13), is the main cause of violent behaviour. This explains why Burton has always defended his frame of ontological human needs (*identity, recognition and security*) as representing a useful and better analytical tool for understanding both domestic and international problems such as the decline of the international system based on nation-states; the inadequacy of former colonial boundaries; demands for greater autonomy of minority ethnic communities; inner city violence and unrest, “widespread and protracted violence wherever nation-state authorities seek to suppress secessionist movements.” (Burton 2001a: 6).

Logically, Burton's *Need Theory*, also referred to as the *Basic Human Needs Theory* (BHNT) and which he proudly presented as "a holistic theory of human behaviour", emerged and developed as an alternative to post-World War II theories of conflict and conflict resolution. These were, in his view, inspired by power politics and "legal frames", and oriented towards "self-promotion of dominant groups in their own short-term interests." (Burton 2001a: 3). His aim was to provide a conceptual alternative approach that would help "tackle thoughtfully and constructively problems such as environmental destruction and increasing violence within and between societies." (Burton 2001a: 5). His *problem solving*, the practical application of the *Needs Theory*, refers to "interactive processes" whereby conflicting parties are helped identify the sources of their problem, revealing possible options that can satisfy their needs. It is therefore a "facilitation process [that is] essentially non-bargaining, non-negotiating, at least until the analysis of the situation is complete, until there is agreement on the nature and sources of the conflict, and until details of options have been discussed." (Burton 2001a: 6). At the decision making level, the approach implies that decision makers acquire insights into the conflict, assess the costs and consequences of policies in the longer term before taking decisions, "rather than relying on coercion in the event of adverse responses." (Burton 2001a: 4).

#### *Assessing Burton's Contribution*

According to various CR theorists and analysts, Burton is not credited for inventing the *Needs Theory*, but for having given it "its most impassioned and uncompromising expression." (Rubenstein 2001: 1). He is renowned for using the theory to ground "the field of conflict analysis and resolution [...] in a defensible theory of the person." (Rubenstein 2001: 1). The "personalists held that the individual was unchangeably aggressive and the situationalists that he/she was infinitely malleable." (Rubenstein 2001: 1). For Burton, no amount of persuasive deterrence or manipulative reward can prevent individuals or identity groups from pursuing their needs. Instead, more deterrence and manipulation trigger more anti-social behaviour and violence within and across societies. Other merits of Burton's theory for CR theorists

and practitioners include the following. First, the BHNT establishes a clear distinction between (negotiable) *interests* and (non-negotiable) *needs* or *values* and the corresponding processes of conflict resolution. Burton insists that negotiable interests “can be dealt with by employing the conventional trinity of force, law, and/or power-based negotiation [...] characteristic of strategic studies, conventional diplomacy, and ‘alternative dispute resolution’.” (Rubenstein 2001: 3).

Contrariwise, needs and values “are not for trading” and require other methods and means, mainly *problem-solving*. Burton recommends to keep settlement or negotiation processes (appropriate for disputes, i.e. interests-based problems) and problem-solving processes (more appropriate for needs-based problems) separate until such time when “both frames are part of general knowledge and training in both is readily available” in a way that practitioners may be able to use either frame according to the context and not according to what they better know to handle (Burton 2001a: 5). He suggests that, as a matter of principle, dispute-like situations be allocated to “persons trained in negotiation, and situations that are likely to have deep-rooted elements to others with relevant analytical and facilitation training.” (Burton 2001a: 5).

### *Human Needs in Context*

The most obvious flaw of Burton’s theory, pointed out by various critics like Avruch (1998) and espoused by Rubenstein and myself, lies in its being “indefensibly” essentialist or ontologist, “a-historical”, “apolitical”, and “de-contextualised”, and as such non-realist: human needs cannot be analysed outside the political and social context in which they are manifested and fought for (Rubenstein 2001: 4). The identity need, that is, the need to be whom one wants to be or whom one believes one is; the need to be different, be it in some aspects only, is a matter of culture. The latter is dynamic rather than static; it evolves over times and depending on contexts. The need for recognition is related to the identity need. It refers to the need for humans to have their distinct identity accepted and respected culturally, socially, politically, and ideologically.

Likewise, the security need generally derives from the fear of hurt to one's physical and psychological integrity. In protracted social conflicts, it derived from the fear of identity loss and betrayal. It becomes a matter of survival in the psychological and moral sense. The Israeli-Palestine is a good case in point, as is Hutu-Tutsi conflict in Rwanda and Burundi. "Biologizing" or "ontologizing" human needs therefore "forecloses the inquiry that should be made into the extent to which certain needs are becoming universal as a global culture comes painfully and convulsively into existence." (Rubenstein 2001: 4). "Ontologizing" human needs "also forecloses other necessary inquiries: for example, into the relationship between childhood and adult behaviour." (Rubenstein 2001: 4). Rubenstein also points out the typological problem concerning the needs. Not all conflict theorists agree on their number or salience. According to Burton, the most salient needs are three or four: identity, recognition, and security (and personal development), with special importance of the first two. Galtung's (1994: 72) list of basic needs include; the *survival* needs, *well-being* needs, *identity* needs, and the *freedom* needs. In 1973, Paul Sites identified eight essential needs whose satisfaction would be indispensable to avoid 'non-deviant', 'non-violent' behaviour of individuals: (1) consistency of response; (2) stimulation; (3) security; (4) recognition; (5) justice; (6) meaning; (7) rationality; and (8) control (Sites 1973, as quoted in Rubenstein 2001: 1).

Rubenstein contends that Burton's original error which led him to 'absolutizing' human needs is that, like Galtung, he "departed quite deliberately from Abraham Maslow's post-Freudian psychology, with its hierarchy of developmental needs seemingly rooted in unacknowledged Western and bourgeois cultural values." (Rubenstein 2001: 4). By "extracting basic needs from the mental structures postulated by Freud and his successors", BHN theorists threw the baby out with the bath water, thus putting "emotional and cognitive dynamics into a 'black box', much as their behaviourist predecessors had done." (Rubenstein 2001: 5). In Rubenstein's view, much could be gained by opening up the black box and asking some fundamental questions including the following ones: (i) Are imperative needs expressions of a libidinal drive, as Freud thought? (ii) Do they emerge in the course of human development, as Erikson (1963) and others believed? (iii) Is



their nature and role best explained by cognitive theory, discourse analysis, or some other perspective on mind and personality (Rubenstein 2001: 5)?

### *Generic Theory of Conflict*

Drawing on an impressive wealth of studies in most existing disciplines, Sandole (1993, 1998) has come up with a useful generic theory of conflict formation and escalation with relevant implications for conflict intervention that provides some answers to Rubenstein-suggested research questions. His “embryonic *generic theory*”, as he labels it, postulates the following (Sandole 1998: 11-13). First, Sandole asserts that there exists, in human beings, a *physiological mechanism* that requires some kind of stimulation to be activated to produce violent reactions, and which can however be influenced by *learning*. Sandole indicates that his hypothesis is loaded in Paul MacLean’s (1975, 1978) theory of man’s “triune brain”. The latter is described as being constituted of (i) reptilian, (ii) limbic, and (iii) cerebral cortex subsystems corresponding to the phylogenetic evolution of humankind from the reptilian to modern man. The first two, allegedly inherited from reptilian and mammalian antecedents of humans, are concerned primarily with the ‘Self’ and the preservation of species. When stimulated, they produce physiological reaction associated with “preparation for attack”. However, unlike other animals or reptilian and mammalian descendants, humankind is expected to be governed more by the cerebral cortex than any of the other two because the cerebral cortex is more developed in human beings than in any other living species.

Second, the possibility for the limbic part of human brain (*passion*) for dominating the neo-cortical one (*reason*) during instances of actual or perceived violations of one’s *basic needs* for, among others, *recognition*, *identity*, and *security* increases the probability of a violent response to the perceived source (or a surrogate of the source) of the *frustrated* needs. Third, real or perceived *structural* and *cultural violence* (Galtung 1969) at various levels of our external environment, such as *rank disequilibrium* (Sandole 1993: 12, citing Galtung 1964) or *relative deprivation* (Sandole 1993: 12, citing Gurr 1970), feed frustration. Four, the *frustration-of-needs-aggression* nexus is both stimulated by, and in turn stimulates, *ethnocentrism* and

*political realism*. Five, Sandole argues that when two or more actors so characterised are parties to a conflict, then the *frustration-of-needs-aggression* nexus can generate a quasi-deterministic spiral, reflective of *action-reaction processes*, with reciprocal, imitated increases in the capability to wage war, and in other steps to war. The more involved in this process the actors become, the more they will tend to *over-perceive* and *overreact* to threatened and actual assaults to needs, even in cases where their capabilities have been reduced. This will fuel further the spiral, and increase the probability of generating *negative self-fulfilling prophecies* (NSFPs).

Six, NSFPs may be reflective of *self-stimulating* and or *self-perpetuating conflict processes* as well as of *action-reaction processes*, or a combination of both. Action-reaction processes can operate independently of self-stimulating and or self-perpetuating conflict processes. However, over time, in protracted conflict situations, will probably give rise to the latter, that is, a *culture of violence*. Seven, NSFPs, or *conflicts-as-process*, as well as *conflicts-as-start-up conditions*, can be further exacerbated by environmental shocks and uncertainties associated with developments at the international and global level. These include, among others, proliferation of weapons of mass destruction; the "Malthusian nightmare revisited"; the collapse of previously existing political and other systems, and corresponding increases in the number of political units and in territorial contiguity; and increases in the amount of violence and war worldwide. Finally, Sandole finds that third parties enter the scene at the *conflict-as-process* level. Their 'trick', he suggests, is to create the 'magic' by which competitive processes driven by *political realism* can be replaced, or at least supplemented, by cooperative processes of conflict resolution inspired by *political idealism*.

### *Assessing Generic Theory*

Sandole's generic theory sheds significant light on some of the still shadowy parts of the inside world of humans and its interaction with the external environment in conflict formation and escalation processes. His contribution is original in that he brings back the baby, be it part of it only, into the bath water, using relevant findings in physiology and psychoanalysis. Perhaps

because of this, Sandole stresses the individual level as the most important for analysing causes and conditions of conflict. Like Burton (1984: 19), Sandole does not consider the distance from the individual level to the societal or international level important because, he argues, “[m]uch of what applies at the individual level has been or can be applied at the societal level and beyond” (Sandole 1993: 15), in spite of some clear and understandable differences of scale and appearance to be born in mind unless one wants to fall prey to reductionism. In his view, “individuals are still involved in across the spectrum of different levels of analysis, as decision-makers, by implication, so are individual-level causes and conditions.” (Sandole 1993: 15).

Sandole also offers a useful description of conflicts as either *start-up conditions* (underlying causes or “incendiary materials”) or as *processes* (immediate causes). This distinction is very important for determining both the type and timing of conflict intervention. Finally, Sandole defends third party’s intervention as being indispensable much more on pragmatic than moral grounds. In some instances, he argues, only a third party can *unlock* those conflicting parties *locked into* “a decision-making quandary”, particularly in situations whereas they are presented with “equally unattractive choices”, or when positive elements of a particular option are cancelled out by its negative ones (Sandole 1998: 5).

### **Azar’s ‘Protracted Social Conflicts’ model**

Developed in the 1970s and 1980s, the *protracted social conflicts* (PSCs) model went almost un-noticed in the conventional literature on conflict (Miall et al. 1999: 70). Indeed, during this period, world’s most “attention was focussed on the East-West conflict and its spectre of thermonuclear annihilation; the endlessly intractable Middle East conflict and the Northern Irish ‘Troubles’; the brutal Apartheid system in South Africa; the inexplicable Greek-Cypriot/Turkish-Cypriot conflict, and the like” (Sandole 2001: 1). Yet, the model constituted a major qualitative shift in the way violent conflicts were understood and explained. Azar coins some conflicts “protracted” because they are deep-seated “in religious, cultural or ethnic identity” (Azar 1990: 2, as quoted in Cavanaugh 2000: 66), have no organic, close end

cycle, and can alternately remain *non-manifest* (latent) or *manifest* (overt) over periods depending on the circumstances. Concerning the recurrence of PSCs, Azar stresses the deprivation of human needs as the main precondition for conflict escalation from its otherwise essentially creative role in human relationships (Burton 1972) to high levels of intensity and direct violence. Other preconditions include, in addition to the communal composition, the state's role in the frustration or satisfaction of needs and the international linkages such as economic dependency and politico-military alliances (Miall et al. 1999: 73-74; Cavanaugh 2000: 66).

| <b>Preconditions of protracted social conflicts (PSC): Azar's typology</b> |                                     |                                     |
|--|-------------------------------------|-------------------------------------|
| <b><i>Relevant discipline</i></b>  | <b><i>Preconditions for PSC</i></b> | <b><i>Correlates</i></b>            |
| Psychology, biology, development studies                                   | <i>Human Needs</i>                  | Level of human development          |
| Anthropology, history, sociology   | <i>Communal content</i>             | Degree of ethnic heterogeneity      |
| Politics, political economy  | <i>Governance</i>                   | Scale of political repression       |
| International relations, strategic studies                                 | <i>International linkages</i>       | Volumes of arms exports and imports |
| Source: Miall et al. 1999: 76.   |                                     |                                     |

Azar's conceptual and analytical model departed from the conventional perspective to conflict mainly in four main aspects. Azar's model was amply exposed in his most cited work: *The Management of Protracted Social Conflicts* (1990). First, it stresses the multiplicity and dynamism of the causes of post-World War conflicts. Second, it dismisses any clear-cut distinction between domestic and international sources of conflict and confers a more determining role to the former. Third, Azar's model stresses the open end, that is, the absence of "a starting and an end point of protracted social conflicts. Finally, the model highlights the resilience of communal factors in PSCs (Miall et al. 1999: 72-74). On this last point, Azar contends that a protracted social conflict is a manifestation of "the prolonged and often violent struggle by communal groups for such *basic needs* as *security* [protection from physical, social and psychological harm], *recognition* and *acceptance*

[need of individual and groups to feel recognised, accepted and fairly treated as having specific defining identity features], fair access to political institutions and economic participation” (Azar 1991: 93, as quoted in Miall et al. 1999: 71, added emphasis). The need for *fair access* to and *participation* in social, economic, and political institutions has an added value in that effective participation “may not be just an interest, but – along communal recognition and physical security – a basic development need.” (Cavanaugh 2000: 67).

Consequently, Azar identifies three determinants and process dynamics that activate conflicts: (i) communal actions and strategies; (ii) state actions and strategies; and (iii) in-built conflict mechanisms, that is, “mutually reinforcing dynamics of intergroup conflict escalation and de-escalation” (Miall et al. 1999: 88). Azar confers special role onto the communal actions and strategies, “tracing the deepest source of PSC to the societal (sub-state) level and locating it in the unsatisfied human needs of identity groups.” (Miall et al. 1999: 88). By *communal actions and strategies*, reference is made to the necessity to look into the “the ways in which dissatisfied groups come to articulate grievances, mobilize, specify goals and strategies and, eventually, mount a militarised challenge to existing state power-holders” as an integral part of conflict formation and escalation process (Miall et al. 1999: 88). Azar has found out that, as a result of the process, more often than not painful (since achieved through violent struggles), of state formation and nation-building throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries, most societies here and there (with striking salience in the underdeveloped world) are *multi-communal* (with more than one identity group). They are “characterised by the disarticulation between the state and society as a whole” and hegemonic domination of one group to the detriment of the others whose essential needs are denied or frustrated (Azar 1990: 6-7, as cited in Cavanaugh 2000: 66). In this regard, the DRC conflict is case in point. As highlighted later in the chapter on the background to this research, it is deep-rooted in the brutally exploitative, repressive, discriminatory, patrimonial, and hegemonic domination practiced first by King Leopold II of Belgium, second by Belgian colonial masters, and third by the successive post-independence regimes; all of whom ill-fated the

life of over 200-hundreds ethnic groups who make up the Congolese mosaic society.

Like some other CR theorists and analysts (Mitchell 1981 and Burton 1987), Azar recognises the important role of *perception* in the conflict escalation process. Both individuals and groups indeed tend to interpret the denial or violation of their needs, in particular the access need, as reflecting decision-makers' disregard and rejection of their distinct identity. Perceived alienation and victimisation generate strong sentiment of in-group belonging and cohesion within the affected groups, and increase the potential of collective violence. In her application of Azar's explanatory model to the Northern Ireland conflict, Cavanaugh (2000: 68) makes the following pertinent observation:

Mobilisation of marginalized [...] group occurs when individual victimization is recognized on a communal level. The mobilization of these groups as manifested in collective protest is often met by suppressive rather than accommodative measures by the dominant group. What may begin as a [genuine and legitimate] demand for fulfilment of one need can, if felt unfulfilled, soon envelop a wider range of issues. This spillover effect may serve to mobilize a greater participation within the aggrieved group. The communal actions and strategies employed by the [aggrieved] group may change to become more stringent or extreme, depending on the response of the political authority; civil disobedience may quickly turn into political violence.

Perhaps nowhere else than in the Great Lakes region of Africa do in-group belonging, solidarity, and cohesion along ethnic and tribal lines play a decisive role in the violent seizure, accumulation, and exercise of absolute power and in the formation and escalation of conflicts into mass atrocity crimes (crimes against humanity, war crimes, ethnic cleansing (ethnocide), and genocide).

### **International Social Conflicts (ISCs)**

Some have coined conflicts displaying the above listed constitutive features as 'international social conflicts', ISCs in short (Ramsbotham and Woodhouse 1996: 87-105; Hansen et al., 2000: 10-11). ISCs become easily drawn-out and exacerbated and their causes – deep and immediate - vary as much as their manifestations, involving various actors with changing interests and strategies to achieve them (Ramsbotham and Woodhouse 1996: 104; Galtung 1998: 6-7). ISCs differ from Cold War conflicts in that:

- they occur outside the superpower ideological rivalries by proxies;
- they emerge in reaction to the failure of inept, corrupt, repressive or collapsed state systems to fairly provide citizens with some of the basics taken for granted in the developed world;
- they translate, in most instances, the determination of the victims to stand up and fight for their rights along group identity lines across conventional social classes and state borders; and
- they are fought by identity groups, organised bands, and militia acting on their own or in connivance with one or more internal or external supporters.

In their worst form, ISCs are fought by unscrupulous and unaccountable militias, criminals, arms smugglers, mafias, mercenaries, state-sponsored and armed civilians who terrorise, extort, kill innocent civilians and force large number of others into internal displacement or exile (Cater 2002). Some have referred to this phenomenon as *warlordism* (Mackinlay 2000). Their effective handling is possible only through a range of solutions - short and long-term ones - that pay due attention to their multiple, inter-related immediate and root causes at all levels: individual, communal, national, regional and international. By each and all these characteristics, the tragedy of the DR Congo is by far an illustrative case.

## **Conflict Handling**

Whether conflict leads to destructive action, indifference or constructive action, or some mixture, is for us to decide. (Galtung 2000: 51).

Conflict Resolution, despite its diverse nature and criticisms against it, remains essentially traceable to its strong commitment to (i) “the assumption that aggressive win-lose styles of engagement in violent conflict usually incur costs that are not only unacceptably high for the conflict parties, but also for world society in general”; and to (ii) “a search for ways of transforming actually or potentially violent conflict into peaceful processes of political and social change.” (Miall et al. 1999: 63-64). This stance is rooted in another distinctive assumption of Conflict Resolution that posits the following: “the way we deal with conflict is a matter of habit and choice” and it “is possible to change habitual responses and exercise intelligent choices.” (Miall et al. 1999: 2-3). In other words, CR theorists assume that constructive handling of

violent human and social behaviours is not only desirable but also feasible not only for the conflicting parties but also to the international community in general. Arguably, this assumption underpinned the creation of the European integration project in the early nineteen fifties, to prevent the relapse of the continent into World War-like intra-European confrontations, and the inception of the CFSP and ESDP in the nineties, to address post-Cold War International Social Conflicts.

### **A Matter of Habit: Discriminant Learning and Positive Reinforcement**

As a matter of habit, dealing with conflict reflects Bandura's *discriminant learning* and *positive reinforcement* by which the individual develops "a selected reaction to certain stimulus, a particular relationship between a certain stimulus x and response y" (Sandole 1993: 11, citing Bandura 1973). Once this stimulus-response pattern has been established and serves as a *norm* for the individual in similar situations, and brings successes, it over time becomes so internalised that "it will become progressively more difficult to undermine that internalized x-y connection, even in case where it no longer applies." (Sandole 1993: 11). In Sandole's view, this *response generalization* and *internalisation* explains why "*Realpolitik* is so compelling a normative guide to action" in case of perceived threats. It tends to dominate international relations because it has been learned, used with rewards (instead punishment) and internalised over time. Sandole and other CR theorists, analysts and practitioners espouse the thesis that "learning can play a powerful role in conflict especially in the escalation and perpetuation of violent conflict systems." (Sandole 1993: 11).

### **A Matter of Choice: Four-in-One v. One-in-Four Paradigms**

Theorists of *learning* in conflict handling optimistically assume that *what is learnt can be unlearnt* and *intelligent choices* can be made mainly through acknowledgement and comparison of different paradigms, that is, lens with which social reality is looked at, analysed, interpreted, and dealt with. Sandole (1993: 4) has identified "at least four paradigms relevant to conflict and conflict resolution at *all* levels, from the interpersonal to international". These are *Political Realism (Realpolitik)*; *Political Idealism (Idealpolitik)*;



*Marxism*; and *Non-Marxist Radical Thought* (NMRT). The first two are “polar opposite” and “each can be viewed as a reaction to the other.” Political Realism tends to be the dominant system and has three components: *Descriptive Realism*, *Explanatory Realism* and *Prescriptive Realism*.

*Descriptively*, Political Realism defends the view of the world as potential and actual battleground. *Explanatorily*, it inspires the belief that two factors account for the battleground state of affairs. First, the existence, at all levels, of a negative core genotypic basis - the flaw with which all human beings are born, reminiscent of the *biological determinism*, as advocated by Koestler (1967) who metaphorically spoke of *the ghost in the machine*. Metaphorically, the “ghost” means the in-built flaw in human nature, while the machine stands for “human kind”. Second, there does not exist “appropriate conflict resolution mechanisms”, in particular at international level. This premise is in line with Waltz’s (1959: 232, as quoted by Sandole 1993: 4) assertion that “wars occur because there is nothing to prevent them”.

*Prescriptively*, Political Realism recommends successful defence and pursuit, by all means, of one’s interests as the ‘only morality’ in a world of anarchy. It thus encourages the use of what Morton Deutsch once coined “‘competitive’ processes of conflict resolution: power-based, adversarial, confrontational, zero-sum, win-lose’ approaches to dealing with conflict.” (Deutsch 1973, as cited in Sandole 1993: 4). For Sandole and other Conflict Resolution theorists, Political Realism was the determinative paradigm of “superpowers decision-makers during the Cold War” and “continues to dominate perceptions and behavior” in some post-Cold War conflict situations. This makes the association of Political Realism with “destructive outcomes” less surprising.

Political Idealism (*Idealpolitik*) is the second mainstream paradigm through which social reality is often seen, analysed, interpreted and dealt with. It concedes to Political Realism its description of an alarming frequency and intensity of violence, but does reject its explanation and prescription. Political idealists sustain that “violent conflict can be the result of many contributing factors, including *learned* responses to frustrated goal-seeking behavior.”

(Sandole 1993: 4). Accordingly, the range of responses is wide, “including counter-violence (in self-defence), but also non-violent means for bringing about change in political, social, economic, and other systems to eliminate causes and conditions of violent conflict.” In this sense, Political Idealists encourage the use of Deutsch’s second type of approach to conflict: “cooperative processes of conflict resolution: non-adversarial, non-confrontational, non-zero-sum (positive-sum), ‘win-win’ approaches to dealing with conflict” (Deutsch 1973, as cited in Sandole 1993: 4).

This makes the association of Political Idealism with *constructive* outcomes possible, appropriate and preferable. For Sandole, the basic difference between Political Realism and Political Idealism is that of “nature vs. nurture”. While Political Realism “stresses ‘containing’, ‘detering’, and making the best of a basically negative, biologically determined situation”; Political Idealism “emphasises the changeability of environment and therefore of behaviour.” Therefore, “one orientation is clearly pessimistic in outlook while the other is optimistic” (Sandole 1993: 5). As for Marxism and Non-Marxist Radical Thought (NMRT), Sandole presents both as representing “combinations of Political Realism and Idealism.” In his view, Marxism, like Realism, “stresses the inevitability of conflict (between socio-economic classes). Like Idealism, it emphasises “structural change, especially in the system of ownership of the means of production, as the way to bring about behavioural change.” Both Marxism and Idealism “have a variable conception of human nature, which is dependent on environment, in contrast to Realism’s fixed conception of human nature (irrespective of environment).” (Sandole 1993: 5).

On the other hand, Non-Marxist Radical Thought recognises, like Realism, the “potency of our biological nature”, such as the ‘power of human needs in world society’ as developed by Coate and Rosati (1988, cited in Sandole 1993: 5). Like Idealism, NMRT “stresses structural change to bring social, political, economic, and other institutions more in line with *basic human needs*”. It also “has a sense of the validity, power, and rationality of cooperative processes (and constructive outcomes) as the only way to achieve a fair, long-lasting, durable solution to the problems underlying manifest conflict.” (Sandole 1993: 5). Like Marxism, it recognises “that the

changes necessary to (re)align institutions with needs – environment with ‘human nature’ – are often radical and, therefore, attempts to effect such change, coupled with the ‘role-defence’ response to such attempts by supporters of a threatened status quo, are likely to generate and sustain violent conflict cycles.” (Sandole 1993: 5).

| <i>Conflict Handling: Paradigms and Worldviews</i> |                        |  |   |
|--|------------------------|--|---|
|  | <b>Description</b>     | <b>Explanation</b>   | <b>Prescription</b>   |
| <b>Political Realism</b>                           | Anarchy.               | - Inherently negative human nature.<br>- Lack of (appropriate) conflict resolution mechanisms. | All-out competition and deterrence: defence and pursuit of self-interests by all means. |
| <b>Political Idealism</b>                          | Frequency of violence. | Various contributing factors, including discriminant learning.                                 | Self-defence, counter-violence, non-violent and cooperative means.                      |
| <b>Marxism</b>                                     | Inevitable violence.   | Oppressive and exploitative production systems.  | Structural change, through violence if necessary.                                       |
| <b>NMRT</b>  | Inevitable violence.   | Potency of human biological nature (power of human needs).                                     | Structural change, through violence if necessary.                                       |

In a nutshell, both Marxism and NMRT “are like Realism in that they see *competitive* processes of conflict resolution (and often destructive outcomes) characterising the efforts of disenfranchised, disempowered, need-violated persons and minority outgroups generally, attempting to redefine their relationships with resistant supporters of a status quo which benefits only the ingroup.” (Sandole 1993: 5). For Sandole, the paradox for Marxists and NMRT proponents “is that the use of competitive processes, intentionally or ostensibly, to clear the way for structural and cooperative processes, may generate self-perpetuating violent conflict system which fall right into the Realist category (a fate which could befall Idealists as well, who become involved in wars to end war’).” (Sandole 1993: 5-6). Sandole (1993: 6, 2001: 7) prefers the combination of the four conflict orientations and the two approaches into an overall basis for examining the different causes and conditions of conflict and strategies for handling them.

### Three-Stage Intervention Strategy

Most Conflict Resolution theorists espouse Sandole's (2001: 7) suggestion "to complement elements of *Realpolitik* with elements of *Idealpolitik*, Marxism, and NMRT to 'capture the complexity of conflicts.'" They have consistently argued that whilst in some cases (of genocide and ethnic cleansing, in particular) the use of force, preferably under Chapter VII of the UN Charter and with international consensus and legitimacy, may be needed to control violence, inclusive dialogue and participation (Galtung 1996: 271), broad-based compromise and sustained external support to nurture peace (Hampson 1996) through the building and strengthening of local peace constituencies and effective broad-based institutions should prevail and given preference when addressing violent conflicts (Woodhouse 2000). Here lies the key difference between the allegedly predominant 'International Conflict Resolution model' that is constantly criticised because of its assumed universal applicability (Salem 1993; Duffield 1997; Clapham 1998a, 1998b; Daley 2006; Autesserre 2009) and the 'Conflict Resolution model' with which it is often confused. Reflective of this essence and difference is the conflict intervention continuum that Galtung (1976), already in the mid-seventies, prescribed in his three approaches to peace – *peacemaking*, *peacekeeping* and *peacebuilding* – and which have since then been refined in a three-stage conflict intervention process consisting of *Conflict Prevention*, *Conflict Management*, and *Post-conflict Peacebuilding*. The following section addresses each of the three stages separately.

#### *Conflict Prevention*

Sandole (1998: 12) defines Conflict Prevention (CP) as meaning to stop the house from catching on fire. He gave as an example the mission of the UN Preventive Deployment Force [UNPREDEP] in Macedonia. Likewise, Miall et al. (1999: 96) conceive of CP as referring to "those factors or actions which prevent *armed* conflicts or mass violence from breaking out." Miall and his colleagues also present the aversion of violent conflicts in Macedonia and in some other Balkan states that broke away from the former Yugoslavia and or the Russia Union as successful cases of preventive intervention. More interesting for the purpose of this analysis is their claim that the prevention of

conflict was central to CR from the very start of this subject area of study in the 1950s and their presentation of CP at its present stage. According to them, CP dates back to Boulding's idea of Conflict Resolution as meaning "the development of a knowledge base in which 'social data stations' would emerge, forming a system analogous to a network of weather to produce indicators 'to identify social temperature and pressure and predict cold or warm fronts'" (Miall et al. 1999: 43, citing Kerman 1974: 82). They see this idea as the right presage of contemporary CP as an *early warning* and *early action* mechanism, which was introduced in the late 1980s and early 1990s, in particular following the failures of conflict intervention in Rwanda and former Yugoslavia. Miall et al. (1999: 101) assign a two-fold role to *early warning*: (i) to monitor areas prone to conflicts and (ii) to devise ways for "early action to nip a potential conflict in the bud where this is feasible and appropriate." Its task is also two-fold: (i) to identify the type of conflict and location and (ii) to monitor and appraise the escalation of identified conflicts.

### **Monitoring of areas prone to violent conflicts**

One line of approach for early warning to achieve its aim is to determine the circumstances under which conflicts are likely to occur, using methods and techniques pertaining to both *qualitative conflict monitoring* and *quantitative conflict monitoring*. Qualitative conflict monitoring is concerned with the provision of quality and timely information, analyses on particular cases and societies. On the other hand, quantitative / statistical conflict monitoring deals with number of indicators of conflict proneness on particular cases and societies. The results of this conflict watch method vary depending on the variables used and are difficult to generalise.

In comparative perspective, qualitative monitoring offers more advantage because it "offers vastly more content-rich and *contextual* information than quantitative statistical analysis" (Miall et al. 1999: 102, added emphasis). Its less attractive side lies in noise and information overload (*ibid.*), which renders its management and distribution in a digested way very challenging. Indeed, information saturation may cause fatigue and confusion when it comes to make selection. Still, "[g]iven the current state of the art, qualitative monitoring is likely to be the most useful for gaining early warning of conflict

in particular cases: the expertise of the area scholar and the local observer, steeped in situational knowledge, is difficult to beat.” (Miall et al. 1999: 102).

### Devising ways for effective conflict prevention

The more effective is monitoring, the greater the possibility for designing effective preventive tools. Drawing on a range of both qualitative and quantitative studies on conflict proneness indicators and factors, in particular Ted Gurr (1993, 1998), Miall et al. (1999: 108) produce the following table on likely *factors* likely to generate conflict and possible *preventors* at each of the five analytical levels retained by various conflict theorists and analysts: individual, societal, national, regional, and international.

| <b>Preventors of non-interstate conflicts</b>       |                                    |   |
|---|------------------------------------|---|
| <b>Level of Analysis/Action</b>                     | <b>Factors generating conflict</b> | <b>Possible Preventors</b>                          |
| <b>Global</b>                                       | Inappropriate systemic structures. | Change in international order.                      |
| <b>Regional</b>                                     | Regional diasporas.                | Regional security arrangements.                     |
| <b>State</b>  | Ethnic stratification.             | Consociational politics/<br>federalism/autonomies.  |
|   | Weak economies.                    | Development.  |
|   | Authoritarian rule.                | Legitimacy, democratisation.                        |
|   | Human right abuses.                | Rule of law, human rights<br>monitoring/protection. |
| <b>Societal</b>                                     | Weak societies.                    | Strengthening civic society, institutions.          |
|   | Weak communications.               | Round Tables, workshops, community<br>relations.    |
|   | Polarised attitudes.               | Cross-cultural work.                                |
| <b>Elite/ Individual</b>                            | Exclusionist policies.             | Stronger moderates.                                 |
| Source: Miall et al. (1999: 108); slightly adapted. |                                    |   |

### Third Parties' Contribution to Conflict Prevention

The contribution of third parties to the prevention of conflict escalation may take different forms. On policy level, Miall et al. (1999: 111-113) have made an inventory of some of the measures for both light intervention (for light prevention) and deep intervention (for deep prevention). Their listed policy

measures for light intervention (*crisis management* and *preventive diplomacy*) include official diplomacy: mediation, conciliation, fact-finding, good offices, peace conferences, envoys, conflict prevention centres, and hot lines. Light intervention measures also include non-official diplomacy (private mediation, message carrying and creation of back channels, peace commissions, problem-solving workshops, conflict resolution training, and round tables). Besides, they comprise support to peacemaking efforts by local actors (church-facilitated talks, debates between politicians, cross-party discussions, and powerful states' inducements "in an effort to twist the arms of governments, strengthen moderate leaders and counteract the influence of extremists". Such inducements consist of the following:

- Political measures (mediation with muscle, mobilisation through regional and global organisations, and attempts to influence the media);
- Economic measures (sanctions, emergency aid, and conditional offers of financial support); and
- Military measures (preventive peacekeeping, arms embargoes, and demilitarisation).

Policy measures for *deep intervention* include measures to strengthen or restore governance (promotion of and support to national conferences, constitutional making/reforming commissions). They also include election assistance (election monitoring); support to trials (monitoring human rights abuses, supporting judicial independence; and support to professional and independent media. To this list, one can add promotion of and support to other bodies of the civil society such as non-governmental organisations and non-state institutions and agencies involved in human rights activities, child education, gender equality promotion, grass root sustainable development.

|                        | <b>Light Intervention: crisis management and preventive diplomacy</b> |                    | <b>Deep Intervention: promotion of good governance</b> |
|------------------------|---|--------------------|--|
| <b>Policy Measures</b> | Diplomacy   | Official           | Measures to strengthen or restore governance           |
|                        |   | Non-official       | Election assistance                                    |
|                        | Support to Local Peacemaking  |                    | Measures to support the judiciary system               |
|                        | Powerful states' inducements  | Political measures | Support to professional and independent media          |
|                        |   | Economic measures  | Promotion of and support to the civil society at large |
|                        |   | Military measures  |  |

## Justifying and Assessing Conflict Prevention

The main assumption underlying the Conflict Prevention (CP) proposal is two-fold: (i) the prevention of violent conflict is desirable and (ii) the prevention of violent conflict is possible. On the desirability of CP, there does not seem to be any significant controversy. Like other CR proponents, Miall et al. (1999: 95-96) are of the view that, in light of the tragedy that bedevilled Rwanda and other regions in the early 1990s, it is definitely much better and much easier to handle conflicts and save lives before conflicting parties have reached a point of armed confrontation and large-scale violence. Evans (1998: 65) stresses, among others, *motivation* as an advantage of early prevention in that conflicting parties “are more likely to accept assistance while issues are still specific and before grievances accumulate and the desire for retribution becomes paramount.”

Another advantage of early prevention is *effectiveness*, since intervention occurs “before issues have generalized, issues and parties have multiplied, positions have hardened, and actions have turned into ever more hostile reverberating echoes of threats and counterthreat.” (Evans 1998: 65) In terms of financial and human cost, many experiences also demonstrated that conflict prevention is cost-effective in comparison to the high cost of relief, protection, and post-conflict rehabilitation and reconstruction. From an internationalist point of view, conflict prevention is finally desirable because the causes and consequences of contemporary conflicts are located at national, regional and international levels, which is brought to the attention of the world public, “through worldwide media coverage, refugee flows, the impact of diasporas and the destabilisation of surrounding regions.” (Miall et al. 1999: 96) The second assumption, that is, the actual possibility to prevent destructive conflicts by removing the conditions that are necessary for such conflicts to occur, is the most controversial one. First, neo-realists would see the proposal, like the whole CR enterprise, as **wishful thinking**. In my view, such a stance is not totally immune from contradiction, not least because their concession (and indeed advice) that humans can and should do their best to get the best of a basically negative nature and anarchical environment does suggest some conflict prevention efforts, for example



deterrence! Where the real controversy lies is on determining when, how, and why conflict prevention has taken place, has succeed or failed. I do not intend here to engage in the epistemological debate on causality. The authors herein cited (Miall et al. 1999: 99-101) have fairly addressed the issue. My (additional) comment is that it is always difficult, even in retrospect, to determine for certain the causal relationship between a single factor and an event, partly because people ascribe different meanings (often competitive and contradictory) to the same event, depending on their interpretive paradigm and purposes. Hence, absolute and final knowledge is a myth. It is for this reason that discourse analysis is often required in order to deconstruct and reconstruct knowledge to show its multiple dimensions. In any case, policies and actions to prevent conflicts are, per se, as much as justifiable as are policies and actions to prevent road accidents, floods and robberies. One is never one hundred percent sure that a single action such as alcohol test (for preventing road accidents), dykes (for dealing with floods), or increased policing (for handling thefts and armed robberies) is responsible for failure or success. Sometimes, a road accident may happen without casualties because its occupants used safety belts rather than abstaining from alcohol. In the final analysis, what one would be expected to prove to oneself (in order to avoid self-blame and remorse) and to others (in order to avoid blame and possible punishment) is whether one has done one's best out of one's best knowledge, abilities, and means to prevent or help prevent whatever misfortune expected to be prevented from occurring. Decision and policy makers would be judged in function of their awareness and use of the best epistemic knowledge and prescriptions available to them on conflict prevention.

For Conflict Prevention to be seen as satisfactory it needs to address both likely immediate causes and likely root causes of both particular possible conflicts and possible conflicts (Miall et al. 1999: 100). Miall et al. (1999) speak of *Light Prevention* (LP) when CP addresses immediate causes (dealing with *conflict-as-process*, in Sandole's terminology) and of *deep prevention* (DP) when it addresses root causes (dealing with *conflict-as-start-up conditions*, in Sandole's terminology). *Light prevention* is judged successful when it averts armed conflict, that is, when it stops the house from

catching on fire. It is considered failed when the house catches on fire; that is, when outbursts of violence take place. On the other hand, *deep prevention* is considered successful when peaceful social change takes place before the house catch fire and or gets damaged, and un-successful when the result (of omission or inappropriate action) is conflict-prone situation in society (Miall et al. 1999: 118-127). In sum, Conflict Prevention refers to short and long-term decisions, policies, strategies, actions and activities undertaken with a view to preventing a crisis from escalating into open, intensive, and extensive violence and to laying the foundation required for peaceful social transformation to take hold before and not after the outbreak of the catastrophe.

| <i>Success and failure in conflict prevention</i>   |   |                                      |
|---|---|--------------------------------------|
|   | <b>Success</b>                            | <b>Failure</b>                       |
| <b>Light Measures</b>                               | Armed/ violent conflict averted.          | Armed/ violent conflict takes place. |
| <b>Deep Measures</b>                                | Peaceful change/ positive transformation. | Conflict-prone situation.            |
| Source: Miall et al. (1999: 127); slightly adapted. |   |                                      |

### *Conflict Management*

Generically, Conflict Management (CM) refers to a whole range of short and or long-term decisions, policies, strategies, actions and activities undertaken in order to contain, handle and or put an end to the vertical and spatial escalation of a conflict. From a Conflict Resolution angle, CM means “the limitation, mitigation and containment of violent conflict.” (Miall et al. (1999: 21). On Sandole’s (1998: 12-13) typology of conflict intervention, Conflict Management ranks second, just after Conflict Prevention, and means, in his house fire metaphor, preventing “an existing fire from spreading”. He gives as example the mission of the UN Protection Force, UNPROFOR, in Bosnia. As a fire limitation, mitigation and containment process, CM is made of two components: *peacemaking* and *peacekeeping*. The former refers to (third party’s) efforts to induce conflicting parties to voluntarily reach a settlement to their conflicts, as is envisaged under Article 33 of Chapter VI of the UN Charter (on ‘Pacific Settlement of Disputes’). Peacemaking activities “can be identified with the search for creative, and at the same time acceptable and sustainable, outcomes of the conflict.” (Galtung 1996: 271). For Galtung,

There is one mistake which is no longer pardonable: the single-shot 'table at the top', the high table, for 'leaders'. Rather, let one thousand conferences blossom, use modern communication technology to generate a visible flow of peace ideas from everywhere in society. Proposals may be contradictory - but why should peace look the same at all places? Tap the insights all over, marginalizing nobody, making peace-making itself a model of structural peace. To believe that a handful of diplomats can do it alone is like the (post-) Stalinist belief that 400 apparatchiks can play the economy of 400 million. Or look at Israel/Palestine in the hands of the political leaders of both sides, peace movements apparently being deactivated. These issues are so terribly complex that mass participation in their solution is needed. And creativity can be found all over, when properly stimulated. (1996: 271).

The second component of CM, that is *peacekeeping*, refers to the contemplation and actual use of force with a view to decreasing and neutralising the intensity of the fire, to use Sandole's metaphor. It was following the failure of conflict intervention in the early 1990s (Somalia, Yugoslavia, and Rwanda) that voices requesting the use of force to avert or halt mass violence during peace operations increased and gained support. At the same time, proponents of Conflict Resolution made a strong case for complementarity of the two components. They referred "to peacekeeping as an important instrument of positive conflict transformation, as [peacekeeping] practitioners ha[d] come to employ psychological and communication strategies instead of conventional military force." (Hansen et al. 2001: 10). They suggested that *peacekeeping* become more formally and systematically associated with certain tasks traditionally pertaining to Conflict Resolution and that peacekeepers be accordingly trained and equipped with the relevant skills.

| <b>Military operation and peacekeeping / CR: behaviour differences and skills requirements</b> |  |
|--|--|
| <b><i>Traditional Military Behaviour</i></b>   | <b><i>(Contemporary) Peacekeeping / Conflict Resolution</i></b>                                    |
| No contact with civilians.   | Intense interaction with civilians and co-operation with civilian components of the peace mission. |
| Use of basic military skills (non-contact skills).   | Use of negotiation skills (contact skills).  |
| Destruction of opposing armed elements.  | Negotiation with opposing armed elements.  |
| Adversary role.  | Pacific role.  |
| Identified enemy.  | No identified enemy.   |
| End goal: military victory.  | End goal: resolving underlying conflict causes.  |
| Forcible.  | Consent based.   |
| Source: Hansen et al. (2001: 16); slightly adapted.  |  |

Moreover, it has been argued that, for effective conflict intervention, the number of qualified civil agents participating in peace operations be significantly increased in order to adequately address the non-military aspects (structural, cultural, social, and psychological) of post-Cold War conflicts (Weiss 1999). In his *Conflict Transformation by Peaceful Means*, Galtung (1998: 12) suggested that, “peacekeeping operations could be improved by calling on expertise not only in military reasoning and the means of violence, but also in police skills, non-violence skills and mediation capabilities”. He and many others have even made the case for the involvement of less “military teeth”, to use Weiss’ expression, and more ‘civilian teeth’, so to say, in peace operations.

As a result of the integration of military and non-military elements, peace operations have been assigned wider and comprehensive functions that require them to be *multilateral* (involvement of several distinct actors), *multidimensional* (different components: military, civilians, police) and *multinational and/or multicultural* (different national and cultural backgrounds of participants) (Ramsbotham and Woodhouse (eds.) 2000). The lead argument here is that Conflict Management should be conceived, designed, and implemented with a view to preparing the ground for *Post-conflict Peacebuilding* to which I turn now.

| <b>Functions of multidimensional peacekeeping operations</b> |  |
|--|--|
| <b>Military Component</b>                                    | Monitoring and verification of cease-fires.<br>Cantonment.<br>Disarmament and demobilisation of combatants.<br>Overseeing the withdrawal of foreign forces.<br>Mine-awareness education and mine-clearance.<br>Provision of security for humanitarian workers.   |
| <b>Civilian Police Component</b>                             | Crowd control.<br>Establishment and maintenance of a judiciary system.<br>Law enforcement.<br>Monitoring, training and advising local enforcement authorities on organisational, administrative and human rights abuses.   |
| <b>Civilian Component</b>                                    | Political Element<br>Political guidance of the overall peace process.<br>Assistance in the rehabilitation of existing political institutions.<br>Promotion of national reconciliation.<br>Electoral Element<br>Monitoring and verification of the electoral process.<br>Education of the public about electoral processes. |

| <b>Functions of multidimensional peacekeeping operations</b> |   |
|--|---|
|  | Assistance for the development of grass-roots democracy.<br>Human Rights Element<br>Monitoring of human rights.<br>Investigation of cases of human rights violations.<br>Promotion of human rights.<br>Humanitarian Element<br>Delivery of relief aid.<br>Repatriation of refugees.<br>Resettlement of displaced persons.<br>Re-integration of ex-combatants. |
| Source: Hansen et al. (2001: 4-5); slightly adapted.         |   |

### *Post-Conflict Peacebuilding*

When he first introduced the concept of ‘*peacebuilding*’ in the 1970s, Galtung (1975) assigned it the role of addressing “the practical implementation of peaceful social change through socio-economic reconstruction and development”. Three decades later, the Canadian Peacebuilding Co-ordinating Committee (CPCC) defined peacebuilding as being “the effort to promote human security in societies marked by conflict”, and its “overarching goal” as being “to strengthen the capacity of societies to manage conflict without violence, as a means to achieve sustainable human security.” (Last 2000: 80; quoting the CPCC). Both definitions - quite similar – are generic. They do not take into account the time and context of intervention, in which case peacebuilding can take place before, during and after violent conflict. It may even take place in the absence of real or potential conflict, simply in order to strengthen societies’ capacity to address their difficulties and problems, in which case it may go un-noticed as part of general (not specific) prevention.

In the context of conflict intervention from a CR perspective, peacebuilding is more understood and used as “a comprehensive term that encompasses the full array of stages and approaches needed to transform conflict towards sustainable, peaceful relations and outcomes.” (Lederach 1994: 14). More emphasis has been put on building relationships within the overall framework of *conflict intervention continuum*. Hence, peacebuilding “underpins the work of peacemaking and peacekeeping by addressing the structural issues and the long-term relationship between conflictants” (Miall et al. 1999: 22). Sandole (1998: 13) equates peacebuilding to *conflict transformation* and to

Burton's conflict prevention, and conceives of its role as being to "deal with the long-term relationships among the surviving occupants of the house, and between them and their 'neighbors', such that, 'next time', they can resort to less lethal means of conflict handling than burning down the house".

For CR theorists and proponents, peacebuilding has two main objectives: (i) prevent a relapse into direct (physical) violence (*negative peace*, in Galtung's terminology) and (ii) promote self-sustaining peace (*positive peace*) by addressing the underlying (cultural, structural, economic, political, environmental) causes of violent conflict. In the context of UN post-settlement peacebuilding, Ramsbotham (2000: 182) offers a conceptual framework for peacebuilding made of five dimensions:

- Military/security dimension;
- Political/constitutional dimension;
- Economic and social dimension;
- Psycho/social dimension; and
- International dimension.

The latter, less often than not distinctively included by analysts, involves (1) direct, culturally sensitive support for the peace process; (2) transference to local control avoiding undue interference or neglect; and (3) integration into cooperative and equitable regional and global structures.

| <b>Post-Settlement Peacebuilding: a possible framework</b> |  |   |   |
|--|--|---|---|
|  | <i>Short term measures</i>               | <i>Medium term measure</i>                                | <i>Long-term measures</i>   |
| <b>Military/security dimension</b>                         | Disarmament/<br>Demobilisation           | Consolidation of new national army under civilian control | Demilitarised politics  |
|  | Separation of army and police            | Integration of national police                            | Social security   |
|  |  | Protection of civilians                                   | Transformation of culture of violence   |
| <b>Political/<br/>Constitutional dimension</b>             | Manage problems of transition government | Overcome the challenge of first elections                 | Establish tradition of good governance including the respect of democracy, human rights and rule of law |
|  | Constitutional reform                    | Peaceful transfer of power                                | Development of civil society within a genuine political community                                       |
| <b>Economic/<br/>Social dimension</b>                      | Humanitarian aid                         | Rehabilitation of resettled persons                       | Stable macro-economic policies and economic management  |
|  | Essential services                       | Reviving agriculture                                      | Sustainable community development   |
|  | Communications                           | Demining  | Distributional justice  |

| <b>Post-Settlement Peacebuilding: a possible framework</b>   |  |  |   |
|--|--|--|---|
|  | <i>Short term measures</i>                                 | <i>Medium term measure</i>   | <i>Long-term measures</i>   |
| <b>Psycho-social dimension</b>                               | Overcoming initial distrust                                | Managing conflicting priorities of peace and justice                 | Healing psychological wounds/long-term reconciliation                     |
| <b>International dimension</b>                               | Direct, culturally sensitive, support to the peace process | Transference to local control avoiding undue interference or neglect | Integration into cooperative and equitable regional and global structures |
| Source: Miall et al. (1999: 203) and Ramsbotham (2000: 182). |  |  |   |

## Conclusion

In this chapter, I set out to answer the following question: What is the added value, if any, of Conflict Resolution (CR), as a subject area of study, with regard to systematic theorising about and handling of violent human and social behaviours? The aim was two-fold. First, I wanted to underscore that CR, despite its own limitations and requirements (of specific knowledge and skills, unshakable commitment, and patience), offers a more valuable and affordable alternative for capturing and addressing the multiple and complex realities of human and social violence wherever and whenever it occurs or threaten to do so. Second, by systematically discerning the essence and role of Conflict Resolution, I aimed to show that CR is different from the often applied and critiqued neo-liberal conflict resolution models and that in any related analysis, it is imperative to clarify key concepts such as ‘conflict resolution’ and ‘peacebuilding’ in order to avoid any misunderstanding, misspecification, and unintended misattribution. I also advanced that CR insights are particularly relevant for discerning the allegedly inherent benefit of the CFSP and ESDP and the claimed difference the two policy frameworks have enabled the EU to make in its response to two bloody wars that broke out in the DR Congo successively in 1996 and 1998. The foregoing clearly shows that CR does provide original insights for comprehensive analysis and treatment of violent human and social behaviours, as well as for assessing responses to them; and are therefore particularly relevant for critically analysing both the substance of the CFSP and ESDP and their claimed decisive role in the EU’s response to the two Congo Wars. What follows is a summary of my findings.

## **Conflict Theory and Analysis: Needs Theory and its Derivatives**

The most noted merit of Burton's Needs Theory is that it is the most holistic theory of human being. As such, it enables a systematic and comprehensive inquiry into the multiple motives, from the biological to the environmental, underlying 'deviant' human and social behaviours. As such, the theory and its derivatives are, at best, better alternatives and, at worst, complements to other theories on human and social violence. As most theories, the Need Theory has its less attractive side. The most retained flaw of Burton's theory is his 'ontologisation' of human needs in contrast to his 'contextualisation' of their satisfiers (Rubenstein 2001). His (deliberate?) error has been reported to be his extraction of the baby (human needs) out of the bath water, contrary to the expectations of neo-Freudists and neo-Maslowists. I am inclined to argue that Burton's contradiction and error are better captured by referring to the informational comment offered by Miall et al. (1999: 47-48) and according to which Burton's thesis reflects the influence he had from the "idea of first order and second order learning" of the systems theory. System theorists are concerned with "the role of social learning and culture in the way in which social systems change." They claim that "although social systems learn through their members, who individually adjust their world view according to experience, socio-cultural systems also have underlying assumptions which make the system as a whole more resistant to change than individual members." Rapoport coins these assumptions *default values*. Reference is made to the fact that being so commonly used, default values "become regarded as immutable, and actors in the system tend to forget they can exercise choices in order to attain goals. When society members run into problems, they address them first by reference to the default values." There is a first order learning reaction, instead of second order learning one "which requires a willingness and capacity for challenging assumptions" following the neo-constructivist line of analysis.

If Burton effectively became under the influence of systems theory, I am therefore tempted to contend that his absolutist concept of needs is less 'biologized' than assumed and more in line with a first order learning interpretation; whilst his *problem-solving* approach echoes a second order



learning concern. Human needs may be ontological in their essence, but contextual in their manifestation and, mainly, their fulfilment. And here is where Burton's original contribution lies: by bringing the human needs to the most experimental observation status, he made more visible, or at least attempted to do so, the distinction, be it partial, between needs, wants, and interests than would have been otherwise possible, say, by solely observing the baby in the bath water. His appears to be an attempt (perhaps unintended) at combining positivist perspectives (Frankfort-Nachmias and Nachmias 1996) and realist approaches (Outhwaite 1987; Sayer 1992) to social inquiry. Otherwise, it is inconceivable to reconcile his 'deliberate deviation' from the road traced by Freud and Maslow on the one hand, a choice one would expect some CR advocates to welcome, and his conception of human needs in ontological terms. Otherwise, I too would consider him the most daring and risk-taking of all unreserved proponents of Conflict Resolution.

Indeed, Sandole, whose generic theory of conflict is a derivative of Burton's Needs Theory, has attempted to dig deeper into the inner human world discovered by Freud and Maslow in search of an answer to his own fundamental question: What is it in the 'Self' that when *frustrated* can cause conflict to be expressed *violently*? (Sandole 1993: 12). Taking the existence of human needs as the best starting point, he then moves on to search for the deepest origin of human needs and the activating mechanism of violence, by revisiting early biological, physiological, and psychoanalytical inquiries. As he develops his generic theory of conflict, he deliberately stops short of explicitly including biological factors. In Sandole's (1993: 8) view, proponents of the biological origin theory of human aggression, mainly Arthur Koestler (1978), have provided neither empirical evidences nor conclusive argumentation. Nor is his personal stance vis-à-vis Freud's (1922, 1959, 1961) theory of the eternal 'dialectical struggle' between two forces within man's nature, *Eros* (life) force and *Thanatos* (death) force, clear. According to this theory, of which Sandole gives a good account, the domination of *Eros* directs aggression outward ('explosion'); whilst the ascendance of *Thanatos* redirects aggression inward ('implosion'). What is however clear from his theory is that, like many of his study field fellows, he does not conceive of

human needs in absolute terms. He rather presents them as products of the interaction between man's inner world and the external one.

Sandole's understandable caution is indicative of a seemingly eternal dilemma facing Conflict Resolution. Explicit acknowledgement of and emphasis on a biological origin of man's aggression entails condoning biological determinism and political realism, in which case there would be little place for Conflict Resolution. On the other hand, outright exclusion of natural ingredients from the human needs box would make needs pure social and cultural inventions, in which case (cultural) relativism, with its anarchical flavour, would take the upper hand. In the face of such a dilemma and until advocates of biological determinism get it irrefutably right, it is wise to stop by physiology and argue for a combination of nature and nurture, with a more determining role for the second. Azar's use of the human needs concept reflects this concern. Although his idea of human needs is not different from that of Burton, his emphasis on **communal factors and state actions and strategies** move human needs further away from the biological fence and the inner circle of individual psychology to that of community and state politics.

Moreover, the determining role he and others confer **to perception, values, and group identity** reflects concerns usually pertaining to ethnography studies (Cavanaugh 2000: 76-77). This cross-disciplinary influence lends more credit to the thesis that, in the final analysis, needs are contextual and their salience depends on the perception one has of them as well as of the means required to fulfil them at specific periods of history. *This means that needs are tradable (as is their fulfilment), be it in the second or final analysis, not only within but also across communities and societies.* This implies that Conflict Resolution has but to be constantly more self-reflexive and flexible than Burton and his followers might be willing to concede, with all the virtues and limits of such a requirement when it comes to theory application.

### **Conflict Handling**

Conflict Resolution emerged as a "viable alternative" to power politics as a way of handling violent interactions among and between humans within and

across societies. Its prescription for effective conflict handling logically stems from its human needs approach to human and social violence, with its four fundamental claims. The first one is that conflict handling is imperatively desirable. The second and more important is that conflict intervention is always possible. The third assertion is that human nature and social problems are complex: human needs have multiple facets and therefore require multiple satisfiers (economic, social, political, cultural, and psychological) at all levels of analysis (individual, communal, societal, national and international). The fourth and last hypothesis is that deterrence does not deter humans from pursuing their needs, but rather increases the possibility of the occurrence of violence. This alleged self-evidence entails the use of peaceful means and cooperative approaches to conflict intervention. The latter should ideally occur before the denial or frustration of some human needs leads to the outburst of violence.

However, CR recognises that humans do not live in an ideal world, partly because humans are capable of the worst acts in defence and pursuit of their needs much more because of nurture (internalised negative default values) than human nature per se. Hence, where *prevention* fails to occur at all or to occur effectively, CR recommends *conflict management*, with deterring muscle if needed, to control violence; and *peacebuilding* to prevent relapse into violence and (re-)build relationships and self-sustainable peace and development from within affected communities. The community-based (three-stage) conflict intervention continuum and the use of both the carrot and stick best reflect the conception of CR as *a holistic science of human behaviour and social problems*. More importantly, these prescriptions reflect both the virtues and limitations of the field. As virtues, they widen the scope of options for appropriate understanding and handling of violent human and social behaviours. On the other hand, the prescription of an integration of bits of each and all paradigms and approaches require a great deal of adequate knowledge and skills, genuine commitment, and patience, all of which are more often than not in short supply. In the absence of a clear standard formula for the perfect integration of all the bits, all and each formula might be valid until results prove the contrary. Unfortunately, in most instances,

convincing evidences become available as a result of post-mortem diagnosis, leaving one with counter-factual hypotheses only.

The foregoing has two main implications. First, Burton's concept of prevention is the best option and it needs to be more explored than it actually is. Second, **education** and **training** in conflict analysis and conflict intervention need be given adequate prominence if conflict handling is to be more a matter of *intelligent choices* rather than of *habit*. Placing **education** and **training** at the centre of conflict analysis and conflict intervention theory with direct implications for practice not only is likely to help improve knowledge in the field as a result of inputs from different perspectives and contexts; but also can decisively contribute to making that knowledge better work as long as it blossoms from within rather than from outside the societies concerned in the first instance. Communities and societies not only need own adequate conflict analysis and handling; they mostly need to own the knowledge that can make positive peace hold at home. As Samoth and Stromquist (2001: 664-65) argue, "problems-solvers must directly be involved in generating the knowledge they require", because "[a]chieving information affluence in poor countries cannot rest on transfer and absorption but rather requires a generative process with strong roots." In this regard, the CFSP and ESDP are inherently flawed. As I shall show later, their foundational and main reference texts clearly suggest that the two foreign policy frameworks are essentially geared towards generating EU's own knowledge, skills, and experience, first, and transferring that know-how package to the stated beneficiaries of EU's conflict intervention in third places, second. This leads us directly to the status and role of third party involvement in conflict diagnosis and resolution.

### **Third party conflict intervention**

Advocates of CR conceive of the role of third parties (mainly individual states, intergovernmental organisations and institutions, the United Nations) for the successful handling of violent conflicts as desirable, necessary, and sometimes indispensable for intertwined moral, pragmatic, and political reasons. **Morally**, third party intervention is rooted in the humanitarian

impulse common to all humans as once captured in “Kant’s idea of suffering in one part of the world being felt in all other parts” (Ramsbotham and Woodhouse 1996: 107). This stance reflects the view of the international collectivity as a single *community of humans* with shared values and aspirations. It is this moral position that has reportedly underpinned the European Union project from its very start as a European Community in the fifties until present. It allegedly also underpins the inception and development of the CFSP and ESDP which were presented as the long missing arm for enabling the EU to perform as a true force for the global good, particularly in violence-afflicted places (Solana 2001). This idea of commonality of human nature and imperative solidarity is probably the best argument for any third party intervention. However, in practice, it is the most likely to be contested more for its abuse than its utility by both defenders and deniers of human needs, not least because of the prevalence of narrow self-interests and the lack of consistency in its materialisation. As substantiated in detail later in this dissertation, the primary intended beneficiaries of the CFSP in general and its implementing ESDP in particular was and still is the backyard of the EU, mainly the Balkans, independently of the amount and urgency of needs on the ground. Indeed, my interviews with some EU officials revealed that when the ESDP was nearing its much-celebrated first decade of existence, some Member States often complained that it had been doing more in Africa than in Europe. However, my critical account of concrete CFSP-ESDP decisions and actions on the DR Congo clearly demonstrates the opposite in terms of political commitment, relevance, promptness, and effect.

**Pragmatically**, CR argues that conflicting parties may be so embittered against each other that only an outsider can do something worth doing to help them resolve their problems as less violently as possible. It has been rightly pointed out that “[o]nce individuals in conflict – whether at the interpersonal, intergroup, interorganizational, international or any other level – start to express themselves through [violent means], they may become brutalized, unable to view their ‘enemies’ as anything but despicable subhumans. (Sandole 1998: 5, quoting Sandole 1987) Moreover, third parties, in particular from the so named North (i.e. rich and developed countries), are better placed in terms of means, both material and non-

material, that are required for effective conflict intervention (Miall et al. 1999: 109). The two assertions raise two important related questions. The first one concerns moral legitimacy. The second question concerns the issue of neutrality of third parties. More often than not, third parties, in particular those with the necessary power and resources are not so innocent in most of the tragedies they want or are called upon to help avert and or mitigate. The DR Congo is a perfect case in point. As I argue in Chapter Three, the tragedy of the country is significantly a direct consequence of colonialism and post-colonial destructive involvement by Western powers. According to various analysts (Sandole 1993; Agnew 2000; Burton 2001), shortcomings in the Western production and consumption system led to inter-imperial wars for cheap and abundant resources in overseas lands. The case of the DR Congo, which I develop in the next chapter, best exemplifies this view because the scramble for access to and control of its unimaginably abundant natural riches was the main objective of the 1884-85 Berlin Conference at which the then major Western powers decided the partition, conquest, and plundering of Africa (Nzongola-Ntalaja 2002). Others hold that one reason for the South's armament race "is that it may allow [it] to compensate partially (in a military sense) for the massive economic disparity it [the South] suffers from in its relationship with the North." (Sandole 1998: 18). The lack of consensus on how to deal with global warming and West's reluctance to deliver on HIV/AIDS treatment are good examples of the ever-growing disparities between the North and the South and the practical limits of the humanitarian impulse. They certainly fit into Galtung's structural violence on a global scale and are testament to the necessity to resolve the problems at the global level as well. Conflict Resolution acknowledges this and recommends some solutions, namely the "integration of conflict-prone countries and regions into cooperative and equitable regional and global structures." (Ramsbotham 2000: 182). The unresolved practical question or dilemma is that more often than not, the parties largely responsible for and beneficiaries of structural violence are at the same time the ultimate decision-makers for its mitigation and eradication. For this not to occur, the moral argument needs to outweigh any other arguments. As I highlight at length in

the corresponding chapters, this is not the case for the CFSP and ESDP, both in theory and practice.

**Politically**, CR rightly suggests that it is in the own interest of outsiders to get involved in handling what Luttwak (1999) coins “other peoples wars” because (i) the causes of contemporary conflicts are located at national, regional and international levels and (ii) their consequences are felt at global level as well. The increasing level of internationalisation, interdependence, and interpenetration of contemporary societies leaves no room for risk-free indifference or inaction (Miall et al. 1999: 116). Here again, *realpolitik* and political idealism enter into interpretive conflict. CR’s political argument reflects an international society point of view according to which the international collectivity is composed of “states cooperating for mutual advantages” (Miall et al. 1999: 116); while realists and neo-realists would see the political argument for third party intervention as valid only for the defence and pursuit of one’s interests. Here is where Sandole’s ‘one-in-four paradigms’ approach to violent conflicts and their constructive handling is of unique value for discerning and fulfilling the needs of both interveners and intervened societies. As developed in Chapter Four, the CFSP and the ESDP are, at least in light of the letter and spirit of the lead reference documents, that is, Treaties and European Security Strategy, more for the defence and promotion of EU values and interests (Council 2003b: 6-10) than for global Samaritanism.

In conclusion, Conflict Resolution does enable us to theorise about conflict and conflict intervention more thoroughly than would be possible in any other discipline I have knowledge of, mainly because of its extensively developed and well-articulated Human Needs Theory and its interdisciplinary approach. However, the endorsement, integration into policies, and implementation of its prescriptions are unattractive to able external interveners for four main reasons: (i) they require genuine transformation of deep-rooted habits or default values; (ii) they demand specific knowledge, skills, patience, and long-term commitment; (iii) they do not yield immediate tangible results; and (iv) they are not politically marketable or rewarding as do military interventions and or massive humanitarian assistance in the wake of a

catastrophe. Most if not all the requirements of CR are more often than not in short supply in the foreign and security policy-making realm. As one observer has put it, decision-makers, administrators, and consultants are much closer to journalists than to academics in that the former, contrary to the latter, work to get it fast and right with their eye always fixed on the deadlines (Hanlon 1998). More importantly, CR prescriptions often become of very limited relevance for policy makers when their upheld values clash with high politics self-interests. Whether the CFSP and its response to the two Congo Wars are or are not an exception is the focus of Chapter Four and subsequent ones. Before that, I offer the background to the First and Second Congo Wars in in the next chapter.

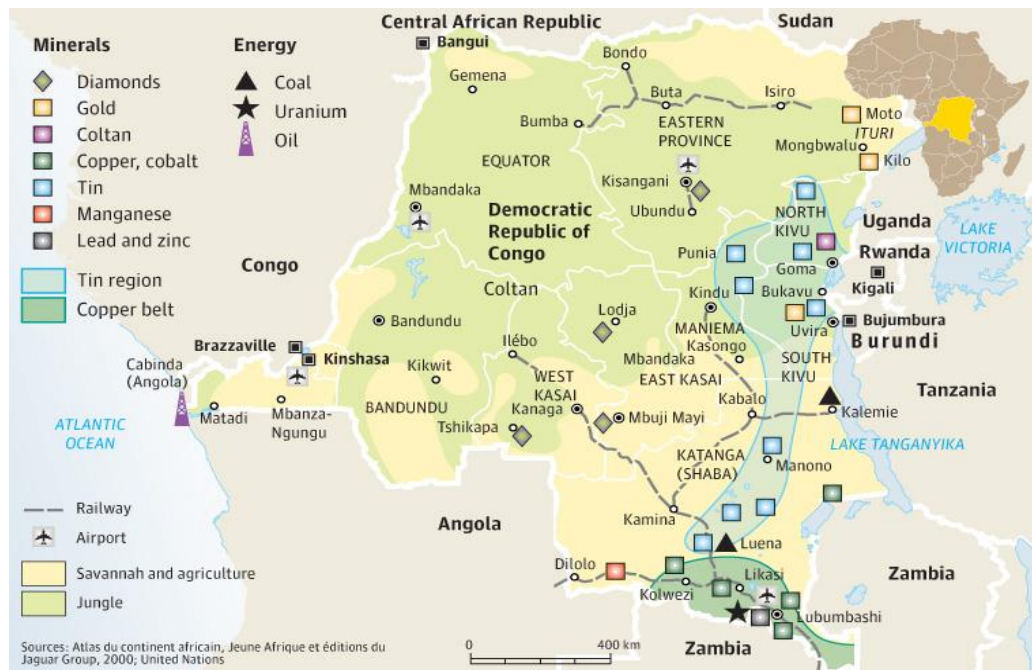


### CHAPTER THREE: BACKGROUND TO THE TWO CONGO WARS

*How did the situation of the DR Congo (DRC, in acronym) worsen to the extent of requiring non-forcible intervention by the EU and other international powers from the early nineteen nineties onwards?* This chapter sets out to answer this question. Throughout most of its known history, the DR Congo has had different names. Under the rule of Belgium's King Leopold II (1885–1908) and colonial masters (1908-1960), it was respectively named 'Independent State of Congo' (ISC), also referred to as 'Congo Free State' (CFS), and 'Belgian Congo' (Prunier 2009: 75). The country's second president after independence, Mobutu Sese Seko, renamed it successively 'Democratic Republic of Congo' (1965-1971) and 'Republic of Zaire' (1971-1997). In May 1997, Mobutu's successor, President Laurent Désiré Kabila, renamed it 'Democratic Republic of the Congo' (Nzongola-Ntalaja 2002: 1). To date, the country has not seen its name changed again. Geographically, the DRC lies right at the heart of Africa, sharing borders with nine other African countries: Angola, Republic of the Congo, Central African Republic, Zambia, Burundi, Rwanda, Tanzania, Uganda, and South Sudan. It covers 2.3 million square kilometres/905,000 square miles (Prunier 2009: 75), which makes it the 11<sup>th</sup> largest country in the world, the second largest country in Africa (Lemarchand 2012: 214) after Algeria, and as big as Western Europe.

The DRC has a population of some 70-million and over 200-ethnic groups and tribes many of whom "straddle national boundaries" (Nzongola-Natalaja 2002: 14) and whose main languages of countrywide communication are French (official), Lingala, and Swahili. More importantly, the DR Congo is incomparably endowed with natural resources and wealth. According to *The Economist* (1997, 3 May), its subsoil hosts most of "the richest ores in the world- gold, manganese, zinc and cobalt as well as copper". Its abundant natural resources also include diamonds, silver, niobium, tantalum, petroleum, tin, uranium, coal, hydropower, and timber. Daley points out that the country's "biodiversity is almost unparalleled in the world" and that, likewise, "its water resources extend over some three million square miles of the Congo River basin." She rightly concludes that, "On the basis of primary

resources, the Congo [DR Congo] should be the richest country in Africa and among the wealthiest in the world.” (Daley 2006: 306).



Source: Le Monde Diplomatique (2006).

Unfortunately, these unparalleled natural endowments have more been the source of misery and suffering instead of prosperity and well-being for the large majority of Congolese people since pre-independence times (Nzongola-Natalaja 2002; Daley 2006; Pruner 2009; Froitzheim, Söderbaum, and Taylor 2011). As Nzongola-Natalaja (2002: 2) recalls, since the Berlin Conference on Africa arbitrarily established the Congo Free State in 1885,

the enormous wealth of the country has served not to meet the basic needs of the people but to enrich the country's rulers and their external political allies and business partners. The economic, social and moral decay of the Congo is thus the logical outcome of the country integration, however imperfect, in the political economy of imperialism, on the one hand, and its rulers' insertion in the transnational networks of pillage and corruption, on the other.

As a result, the DR Congo is one of the poorest countries in the world whose rank was 168 out of 169 countries on the UN's 2010 Human Development Index (Froitzheim, Söderbaum, and Taylor 2011). In the following sections, I offer a short overview of the context and conditions that have led the country to such a deplorable destiny.

## Pre-Independence Rule

The DR Congo, as a country and modern state, emerged as “an arbitrarily cut chunk of the African continent” (Prunier 2009: 75) at the free trade-minded Berlin Conference on (the partition of) Africa where fourteen imperial powers signed a General Act by which Belgium inherited it as an ‘Independent State’, officially named ‘Independent State of Congo’ (ISC) and headed by King Léopold II of Belgium. In fact, the king acquired it as his personal property (Daley 2006: 306). Actually, King Léopold II had astutely initiated his business agenda of making the Congo basin his own property earlier in 1876, with the creation and chairing of intermediary agencies, mainly the Brussels International Conference, Association Internationale Africaine (AIA), and Association Internationale du Congo (AIC) (Nzongola-Natalaja 2002: 17-18). During his 23-year patrimonial rule (1885-1908), King Leopold II of Belgium “turned the ‘Congo Free State’ into a massive labour camp, made a fortune for himself from the harvest of its wild rubber, and contributed in a large way to the death of perhaps 10 million innocent people.” (Dummett 2004: 1). Daley points out that the Congo Free State “gave freedom to Western capital, and death and enslavement to indigenous populations.” For instance, “In order to supply labour to the plantations, villages were exterminated, bodies mutilated and diseases spread in epidemic proportions.” (Daley 2006: 306). Nzongola-Natalaja too recalls that the deaths were caused mainly by murder, starvation, exhaustion, exploitation, exposure, and disease. As a result, the total population dramatically shrank from between 20 and 30 million people at the start of the colonial era to 8.5 million in 1911 (Nzongola-Natalaja 2002: 22). Another life enduring legacy of the rule of King Leopold II is the reorganisation, on the basis of tribal identity, of “the indigenous population into rigid homelands” that were “supervised by ‘native/black’ authorities” in order to render easy the “recruitment of cheap and forced labour.” (Ndlovu-Gatsheni 2011: 11-12). That tribal identity-based reorganisation of the local population led to the creation of “rigid ‘ethnic’ identities” intrinsically related to homelands, and it sowed the seeds of contestations, tensions, and armed confrontation over identity, land ownership, and citizenship, particularly the country’s fertile and minerals-rich eastern regions where migrants from neighbouring kingdoms of

Burundi and Rwanda had been settling since pre-colonial times (Reyntjens 2009: 13). Concerning the ruthless rule of the king, Nzongola-Ntalaja (2011: 1) notes that, “When the atrocities related to brutal economic exploitation in Leopold's Congo Free State resulted in millions of fatalities, the US joined other world powers to force Belgium to take over the country as a regular colony.” The substitution took place in 1908 when the Belgian Parliament formally replaced “the king’s exclusive rule and territorial rights” by a colonial regime system (Nzongola-Ntalaja (2002: 26). Under the new rule, the socio-economic situation significantly improved mainly in terms of economic growth, socio-economic infrastructures and education, particularly in urban and mining areas (Nzongola-Ntalaja (2002: 62). Prunier (2009: 76) advances that, “Apart from South Africa, the Belgian Congo was the most industrialized and ‘developed’ territory on the continent. By 1958, on the eve of independence, 35 percent of all adults were in salaried employment, a proportion unknown elsewhere in Africa.” However, the benefits were limited to the colonial masters, other western expatriates/settlers, and the small local elite, to the detriment of the peasants (Nzongola-Ntalaja 2002: 62-77). Prunier (2009: 76) too warns that the Belgium-induced development “was deceptive: out of the whole salaried workforce, barely fifteen hundred could be termed “professionals,” while the others were unqualified workers, farm laborers, petty clerks, and *assorted fundi* (artisans and repairmen). By the time of independence in 1960 there were only *seventeen* university graduates out of a population of over twenty million.” Prunier argues that the deceptive development of indigenous populations was intended because “[t]he Belgian paternalistic system needed disciplined, semi-qualified drones”, and not “people who could take responsibility”, since the “whites were there for that.” More importantly, systematic exploitation, oppression, and repression in all forms went on, albeit in a less shocking manner, since the Belgian colonial masters did not address the root causes of King Leopold’s atrocities against and enslavement of the indigenous populations, that is, extreme structural and systemic violence (Nzongola-Ntalaja (2002: 26-41). They pursued a more or less similar policy of ethno-tribal polarisation and institutionalised the voluntary and forced immigration and resettlement of Rwandans in the eastern provinces in order to secure free and or cheap work

force. The institutionalisation took place mainly through the creation in 1948 of the *Banyarwanda Immigration Mission* that lasted until 1955. The “displaced Rwandans” were given land to work, and “this was not welcomed by the ‘indigenous’ locals.” (United Nations Economic and Social Council (UNECOSOC) 1996a: 5, para. 19).

## **Post-Independence Rule**

From 1956 to 1960, the Congolese people organised a sustained struggle against colonial exploitation, oppression, repression, and social injustice that finally led to the independence of their country from Belgium on 30 June 1960 (Nzongola-Ntalaja 2002: 77-88). Unfortunately, as Belgium “shifted from total denial of any ‘native problem’ to a hurried flight from both colonization and any form of responsibility” (Prunier 2009: 76), the country’s small elite was not prepared enough to handle the unjust and discriminatory political system their colonial masters left behind (Braeckman 1992). Worse, the new leaders fought each other for the same unjust and extravagant privileges that the colonial rulers had denied them (Nzongola-Ntalaja (2002: 88-89). As a result, the country quickly fell prey to severe instability and insecurity including the first secessionist rebellions in mine-rich and fertile regions of the country (South, East, and North). The situation was finally brought under control by the first UN military intervention that was codenamed United Nations Operation in Congo (ONUC) and which that lasted from July 1960 until June 1964 (Lemarchand 2012). One year later, in November 1965, a military coup brought onto power the then Army Chief of Staff and a former colonial army sergeant, General Mobutu, with the assistance of Western powers in the context of the East-West rivalries in Africa (Lewis 1997; Lemarchand 2001; Nzongola-Ntalaja 2002, 2011; Prunier 2009).

Mobutu stayed in power for three decades (1995-1997) only because of the protection and assistance of the West, in particular the Americans, “who saw him as their most reliable cold war ally on the African continent” (Prunier 2009: 77), and “a staging post for US anti-communist wars in Africa.” (Daley 2006: 306-07). During his rule, Mobutu so impoverished and destroyed his

country for his own benefit and that of his cronies that in the early 1990s Zaire was but a phantom state (French 1997) and many of the then 45 million Zairians could not even afford to buy beer or soap (French 1995: 1). In 1993-5, the per capita gross domestic product (GDP), estimated at US\$117, was 65% lower than in 1958, two years before the independence of the country (French 1995: 1). In 1997, President Mobutu's personal fortune was estimated at around US\$4 billion: almost equivalent to the total multilateral and bilateral aid (some US\$3,900 billion) that his country received between 1982 and 1991. In that same year, the external debt of the country was estimated at around US\$5 billion (El País 1997: 3); while the modern socio-economic infrastructures that the Belgian colonial masters left behind had been falling in decay since long before. For instance, "the [road] network was reduced from 140,000 km in 1959 to a mere 20,000 km at the beginning of the 1970s" and by the early 1990s, "the Roads Department [was] better known as the Potholes Department. Transports costs in the countryside [were] 40-50 per cent higher than they were before independence, and the life expectancy of a lorry [was] no more than 80,000 km." (Bayart 2009: 65). Ironically, until the end of the Cold War, Zaire was among the main recipients of major development aid in Africa and perhaps in the world. In 1970-01 and 1980-01, for example, Zaire was among the top five recipients of European Development Fund Aid to Africa (Lancaster 1999: 2010). Bayart (2009: 83-88) convincingly shows that during Mobutu's personalised authoritarian reign, Zaire stood out as an example of state-sponsored and organised endemic appropriation and accumulation of the country's wealth and means of production and trade. Gordon and Gordon (2001: 75) point out that, while "most African political systems were characterized by varying degrees of personal authoritarian rule" at the end of the first decade of African independence, in some cases, "such as Zaire [...] under Mobutu in the early to the mid-1970s, the personal authority of a strongman ruler became virtually synonymous with government itself." Indeed, Mobutu's three decade-long rule was based on a combination of oppression, repression, predation, and "neo-patrimonial exercise of power that progressively corrupted official institutional norms and frameworks" and "allowed the transfer of large parts of the economy to political and military elites" (Reyntjens 2009: 11).

*Neopatrimonialism* made this possible because, as Francis (2008: 10) rightly recalls, like *patrimonialism*, it involves “the exercise of political authority based on an individual, whereby patrimony (public resources) is used to serve the private and vested interests of the state power-holders, including the ruling and governing elites.” In a (neo-)patrimonial system, “the state governing institutions are appropriated, used, subverted, privatized, informalized, and subordinated to the interests of the personalized ruler, the regime in power and its supporters.” (Francis 2008:10).

French (1997: 2) reports that Mobutu’s “systematic looting of the national treasury and major industries gave birth to the term ‘kleptocracy’ to describe a reign of official corruption that reputedly made him one of the world’s wealthiest heads of state.” This three pillar governance strategy of “violence, cunning, and the use of state funds to buy off enemies” (French 1997: 2) and to reward supporters led to the gradual disappearance of the Zairian State and its institutions from the public sphere. In this regard, Williams (2011: 46) does not exaggerate when he advances that under Mobutu, Zaire was probably “the quintessential case” of the *fragmentation policy* (consisting of the systemic weakening and partition of institutions, in particular the security ones) in the sense that “President Mobutu effectively handed out to local strongmen licences to pillages and loot [...] in order to keep the country sufficiently destabilized to avoid a threat from within the military itself.” In the area of social and communal relations, Mobutu exploited the negative colonial legacy of discrimination and segregation on tribal, ethnic, and regional origin grounds. On the one hand, he practiced the politics of provocation, incitement, and impunity regarding racial and xenophobic violence between ‘original’ indigenes and ‘migrant’ indigenes in various parts of the country (UNECOSOC 1994: 21). On the other hand, he would grant or deny citizenship to Congolese of ‘foreign’ ancestry (mainly Rwandans) as fitted his own political interests. In either case, the outcome was at best material destruction, resentment, and alienation; and at worst communal violence resulting into many deaths, wounded, and displaced persons. In 1991-3 for instance, inter-communal violence instigated or condoned by State authorities caused thousands of deaths and displaced hundreds of

thousands in the Shaba and Northern Kivu regions (UNECOSOC 1994, 1996, 1997).

On the regional level, Mobutu also sowed the seeds of much of the violence that is the object of this research. He used the strategic position of his country (at the heart of Africa), its abundant natural wealth, and the West's support and protection to cajole and punish regimes and rebellions in neighbouring countries in order to impose himself as the "godfather" and the "guarantor" of regional stability (Braeckman 1995: 388-394). In the Angolan civil war, he would propose and impose his mediation to the Angola's government with its sworn enemy UNITA rebel movement while the latter had its main rear bases in and trafficked minerals through Zaire's south-eastern province of Shaba (French 1997; Tshiyembe 2003: 55-56; Prunier 2009: 74-5, 88-98). When the Rwandan civil war broke out in October 1990, Mobutu was the first regional president to convene meetings and summits that led to the first-ever durable cease-fire agreement, known as N'Sele Cease-Fire Agreement, signed on 29 March 1991. At the same time, he did little to prevent Congolese of Rwandan Tutsi descent and Rwandan Tutsi refugees in Zaire from enrolling in and supporting the Rwandan rebel forces in the early 1990s (Lemarchand 2012: 217); whereas he sent some 2,000 of his elite troops to assist the regular troops of the then Rwandan government in the first days of the hostilities (Braeckman 1995: 392; Nzongola-Ntalaja 2002: 154). Mobutu played the same double game of arsonist and fire fighter with regard to Uganda and Burundi regimes whose rebel movements had bases respectively in the north and south-eastern parts of Zaire (Braeckman 1992, 1994, 1995; Tshiyembe 2003: 64-65; Prunier 2009: 74, 80-88).

### **End of Cold War and the demise of Mobutu's absolute reign**

President Mobutu's three-decade rule of oppression, repression, kleptocracy, neopatrimonialism, and regional paternalism remained unchallenged, except on two occasions (1977-8 and 1991-2) when his Western protectors - mainly the United States of America (USA), France, and Belgium - intervened militarily in order to put down respectively a secessionist rebellion in the country's south-eastern region and a violent revolt by unpaid soldiers (French



1995, 1997; Nzongola-Ntalaja 2002: 160-163). The situation changed rapidly and dramatically following the end of the Cold War “which had been the great justification for his regime.” (Prunier 2009: 77). Firstly, the alleged threat of the spread of Communism in central Africa disappeared, thereby rendering unnecessary and unjustifiable the support and protection of Western powers (French 1997). As Lemarchand (2001: 9-10) puts it, “By the early 1990s, [...] the Congo [Zaire] had lost its strategic significance as a client state of the West, and the costs of an external rescue operation seemed to greatly outweigh the benefits. At a time when multiparty democracy was the order of the day, bolstering Mobutu’s dictatorship had ceased to be a realistic option”.

Secondly, as some have already sustained, the end of the East-West standstill meant the triumph of Western neoliberal politico-economic views and policies and unleashed related internal and external demands for democracy, human rights, and rule of law worldwide, particularly in place where populations had been long neglected and oppressed by their own rulers with the indifference and or complicity of West’s or East’s superpowers. In this respect, Macey and Miller (1992: 277-278) recall “the dramatic events across the world, including Tiananmen Square, the overthrow of Ceaucescu, the fall of the Berlin Wall, the partial triumphs of democracy in Nicaragua and the Philippines, and, of course, the emergence of democracies in the Commonwealth of Independent States and Eastern Europe”. In the case under study, when in 1990 Mobutu responded to pro-democracy demonstrations “by ordering a massacre of students at the University of Lubumbashi [the country’s second largest city], Belgium, Zaire’s largest source of foreign aid, cut off assistance, demanding democratic reforms. Soon, the United States and France also joined in.” (Howard 1997: 7). Likewise, the “Bretton Woods institutions and other donors followed suit in response to Mobutu’s resistance to change (Reyntjens 2009: 11). As a result, Mobutu found himself with fewer and fewer resources to reward his cronies and to buy off his opponents; which accelerated the collapse of the central state and its retreat to the capital Kinshasa, where it ‘operated’ in isolation and was totally disconnected from the reality in any other corner of the country (Reyntjens 2009: 11-15). By the early 1990s, Zaire simply “had sunk

below the level of even the most deficient African polities” because of “the corrupt leadership” of President Mobutu (Prunier 2009: 47).

### **The Rwandan genocide and the end of the Mobutu regime**

Arguably, the fall of Mobutu was easily, swiftly, and tragically made possible by the prompt and massive influx and settlement of over one million of Rwandan ethnic Hutu refugees in eastern Zaire – the Kivu North and South provinces – in the summer of 1994, in the aftermath of the Rwandan genocide. Their unexpected mass settlement all along Zaire’s eastern border with Rwanda and Burundi unprecedentedly worsened the already volatile situation and poor living conditions of the receiving country Prunier (2009: 46-52). In fact, the new refugee flow included ordinary peasants, political leaders (from the country’s President to the chief of the 10-house cell), business people, civil servants, academics, and students. Most importantly, they included the bulk of defeated governmental troops and political parties’ militias accused of having been at the forefront in the genocide against the ethnic Tutsi minority group and massacre of members of the opposition parties in their home county from April to July 1994 (UNECOSOC 1994; UN Security Council 1994a). They were “soon followed by thousands of Hutu refugees from Burundi fleeing the avenging arm of the Tutsi-dominated army.” (Lemarchand 2012: 217). In humanitarian, economic, and environmental terms, their rapid and massive settlement in an already overpopulated eastern DR Congo unprecedentedly overwhelmed humanitarian agencies and organisations and collapsed the already fragile local infrastructures and resources (United States Central Intelligence Agency (CIA) 1994; United Nations High Commission for Refugees (UNHCR) 1996a, 1996b, 1996c, 2000).

In social and communal terms, the sudden settlement of over one million of ethnic Hutu refugees sharpened longstanding tensions and violent clashes between ‘indigenous’ citizens and ‘non-indigenous’ nationals on the one hand, and between ethnic Hutus and ethnic Tutsis, on the other (UNHCR 2000: 258; Reyntjens 2009: 43). As indicated earlier, other large groups of ethnic Hutus and Tutsis from Rwanda and Burundi had been settling there

since the pre-colonial era and had often been party to and victims of political manipulation and racial and xenophobic violence. As Reyntjens (2009: 13) puts it,

The most visible and violent expression of the identity, land ownership, and citizenship problem was the situation of the 'Banyarwanda', the Kinyarwanda speakers living in the Kivu. They consisted of several groups: the 'native' established since the pre-colonial period, the 'immigrants' and the 'transplanted' of the colonial period, the 'infiltrators' and 'clandestines' before and after independence (1960) and the Tutsi and Hutu refugees.

Lemarchand (2012: 217) rightly notes that it was not until the sudden arrival and settlement on the eastern Zairian soil of the new Rwandan refugees that "the 'Banyarwanda' label dissolved into full-blown Hutu-Tutsi enmities." He points out that, "[a]lmost overnight the lines were clearly drawn between the Mobutu-backed Hutu refugee community and the pro-Rwanda Tutsi minority, the latter including both the long-established so-called Banyamulenge [...] in South Kivu, and the ethnic Tutsi of North Kivu." Politically, the settlement of the new Hutu refugees from Rwanda played into the endless jockeying game between President Mobutu and the opposition and led to the postponement, for two more years until 10 July 1997, of the first multi-party parliamentary and presidential elections (UN General Assembly 1995: para. 877).

| <i>Rwandan refugees in the Great Lakes region, end-August 1994</i> |                  |
|--|------------------|
| <b>Location</b>  | <b>Figure</b>    |
| Northern Burundi   | 270,000          |
| Western Tanzania   | 577,000          |
| South-western Uganda   | 10,000           |
| Zaire (Goma)   | 850,000          |
| Zaire (Bukavu)   | 332,000          |
| Zaire (Uvira)  | 62,000           |
| <b>Total</b>   | <b>2,101,000</b> |
| Source: UNHCR 2000: 251.   |                  |

In terms of security and stability, the unexpected settlement of such a huge number of Rwandan refugees - including a significant number of the armed and security forces of the ousted regime, militia, and convicts - exponentially increased acts of violence, thefts, lawlessness, extortion, banditry, militia warfare, and cross-border incursions into and from Rwanda and Burundi (UN

Security Council 1994a, 1995b; UNHCR 1996a, 1996b, 1996c); all the more that the Zairian State had long ceased to exist and function as such, except in the isolated capital Kinshasa. In particular, the new situation embittered the relations between the post-genocide Rwandan authorities and the Zairian government because of the paternalistic support that President Mobutu had assured to the ousted Rwandan regime throughout its lifetime (1973-1994) (Braeckman 1994, 1995). Unsurprisingly, the war that toppled President Mobutu, the so-called First Congo War (1996-1997), was masterminded and carried out by the post-genocide Rwandan regime under the pretence of removing the security threat posed by armed elements in and around refugee camps. As Lemarchand (2001: 11) contends, "if failure [of the Zairian state] was already patent in 1992, collapse did not materialize until late 1996, with the destruction of the Hutu refugee camps of eastern Zaire by the Rwandan Patriotic Army (RPA) and the emergence of Laurent-Désire Kabila as the self-proclaimed leader of the Alliance des Forces Démocratiques pour la Libération du Congo (AFDL)." Other regional countries, namely Burundi and Uganda, actively participated in the anti-Mobutu military campaign and the proclamation of Laurent-Désire Kabila as President of the new DR Congo. It was also Rwanda who initiated and led the Second Congo War (1998-2002) that some analysts have coined Africa's First World War (Prunier 2009, Reyntjens 2009) in view of the number of participating African countries (at least nine national armies), the huge number of human casualties, extreme inhumane suffering, and its continent-wide repercussions. As I highlight later in this dissertation, both wars were a foretold and preventable tragedy whose terrible consequences would long last.

## **Conclusion**

I started this chapter by posing the following question: *How did the situation of the DR Congo worsen to the extent of requiring non-forcible intervention, by the EU and other international powers, from the early nineteen nineties onwards?* From the foregoing, it is clear that by that time, Zaire was progressively becoming a continental battlefield and a slaughterhouse of millions of people and a theatre of massive displacement of others. This was the consequence of a combination of endemic authoritarianism, repression,

State-led and or sponsored patronage, clientelism, predation, violent conflicts and wars in neighbouring countries and ensuing massive flows of populations, and the negative involvement of Western powers - mainly Belgium, France, and the United States of America - and the international organisations in which they had a big say, since colonial times. Logically, the EU (former European Economic Community, EEC, and European Community, EC) was expected to do help remedy the situation not least because of moral, historical, and political reasons. In 2001 the then Head of the CFSP recalled the moral reason in these terms: “The right way for the European Union is the way of compassion and of engagement. It is recognising that when others suffer, we all lose a little of our own humanity.” (Solana 2001: 7, para. 31). Solana’s statement echoed a view and an ideal that some scholars have described as “the universal morality of the human community” (Hill 1989: 8, quoting Wright). As the author of the economic treatise *Wealth of Nations* (1776) and of *The Theory of Moral Sentiments* (1759) reminds us, “all our moral sentiments arise from ‘sympathy’ [...], which leads us to enter into the situations of other men [and women] and to partake with them in the passions which those situations have a tendency to excite.” (Smith, as quoted in Marshall 1996: 27). Historical and political motives include the responsibility of an intergovernmental organisation one member state (Belgium) of which colonised Congo in the way described above. They also include the special ties between Europe and Africa, the so-coded ‘Euroafrican’ link (Lister 1995), that took shape during the colonisation era and were progressively woven since then until today. In particular, the ‘Euroafrican’ relationship has been cemented through cooperation agreements the most important of which were the successive four *Lomé Conventions* (1975, 1980, 1985, 1990, and 1995). These agreements were initiated in 1975, date of the creation, by the Georgetown Agreement, of the organisation of African, Caribbean, and Pacific (ACP) States. The *Lomé Conventions*, like their predecessors (the two *Yaoundé Conventions*: 1963 and 1969) served as the main channel through which the EEC / EC provided development aid to ACP countries of which Zaire was a member. As noted earlier, Zaire was one of the top aid recipients of such aid during much of the Cold War era. Political reasons also include the need for the EU, whose

creation in 1993 coincided with the total decay of the Zairian State, to demonstrate that it could live up to the expectations it itself raised by establishing the CFSP: to become an important international actor and a real force for a global common good. Could and did the CFSP actually enable the EU to perform as such a force, as some have claimed? I try to answer this question in the next chapters.

## CHAPTER FOUR: CFSP - STRENGTHS AND SHORTCOMINGS

As advanced in Chapter 1, one of the shortcomings in the literature herein reviewed concerning the CFSP-based response to the two Congo Wars is the lack of empirical evidence of the actual assets of the CFSP throughout the period under which the CFSP allegedly enabled the EU to make a difference in its response to the two wars. Yet, without such factual knowledge, fairly establishing whether the then available resources of the CFSP were appropriate and sufficient, first, and whether the EU made the best use of them, second, is impossible. In this chapter, I address the first part of the puzzle. The second question – did the EU actually make the best use of the CFSP resources at its disposal in its response to the suffering of the two wars? – is addressed in subsequent chapters. Concerning the first task – availability and suitability of resources – I undertake the following tasks. First, I offer a critical account of the gradual development of the two policy frameworks throughout the period under consideration. Second, I engage the debate on the two perennial issues – *common stance* and *operational means* – that reportedly constitute proofs of the claimed added value of the CFSP for enabling the EU to do more and better in its dealing with violent conflicts in third places. As indicated in Chapter 1, my argument is two-fold. On the one hand, I endorse the widely held view according to which the CFSP is much less common than claimed and desired. Unlike other analysts, I show that the CFSP is in fact ‘common’ and ‘uncommon’ at the same time and that, because of that *sui generis* status, no single major theory about European integration fully captures that contradiction in terms. In particular, I refute the ‘federalist’ standpoint of Hazel Smith (2002) according to which the EU can and does have a foreign policy like that of a sovereign nation-state and her equation of its supreme decision-making authority, i.e. the European Council, to a central government of a sovereign nation-state, namely the USA. I show that having such supreme central authority is important for any international actor, particularly in the realm of foreign and security policy, and its absence in the case of the EU means that the CFSP is much less common than claimed and desired. This suggests that, in most practical instances of high risk of human casualties and or of

little or no shared high politics interests, reaching a common position is likely to become an end in itself and CFSP-born decisions and actions are likely to reflect the lowest common denominator. On the other hand, and more importantly, I contend that from any theoretical perspective, in particular that of Conflict Resolution, common stance does not necessarily entail better decisions and actions in favour of the real victims of violent conflicts. Nor does its absence necessarily lead to the opposite. If anything does entail a common stance, it is the protection and promotion of the EU's self-interests such as its own worldview, its international visibility, influence, prestige, trade, and economy.

Regarding operational resources, I shall establish that both proponents and critics of the inception and development of the ESDP fail to substantiate their respective positions. The former fail to demonstrate whether the failure of the EU in places ridden by violent protracted conflicts in the Balkans and or elsewhere in the 1990s was a consequence of the lack of operational means and whether any international actor did achieve lasting positive peace in those places because of its operational capacities and capabilities. For their part, critics who have argued that the introduction of the ESDP meant the militarisation of the EU, and its death as an allegedly true force for a global common good, fail to prove whether the EU did ever perform as such a force in its dealing with violent conflicts in third places before the inception of the ESDP. My overall argument is that the normative, theoretical, and practical criteria of Conflict Resolution, as exposed in Chapter Two, are more reliable than 'common stance' and 'autonomous operational resources' for adequately assessing whether the CFSP, in particular its operational component (ESDP), has led or can actually lead the EU to become or cease to be(come) a true force for a global common good both in theory and practice.

### **History and development of the CFSP and ESDP: 1993-2009**

*When, how, and why did the CFSP and ESDP come into existence and developed?* For the purpose of this research, the origin and development of these two policy frameworks during the period under study can be outlined in three distinct yet connected and complementary stages: foundation stage;



development stage; and consolidation and experimentation stage. The *foundation stage (1993 - 1998)* started at the end of 1993 when the TEU, also known as the Treaty of Maastricht (ToM), entered into force and placed the then nascent EU on a single institutional structure of three pillars the second of which was the CFSP covering “all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence” (ToM, Title V, art. J.4). As indicated in Chapter One, the CFSP was assigned five specific objectives the first one of which was to safeguard the common values, fundamental interests and independence of the Union. In relation to the EU’s global role, the five objectives included (i) the preservation and strengthening of international peace and security and (ii) the development and consolidation of democracy and the rule of law, and respect for human rights and fundamental freedoms. Another important achievement pertaining to the foundation stage was the adoption on 2 October 1997, after two years of tough negotiations, of the *Treaty of Amsterdam amending the Treaty on European Union (TEU), the Treaties establishing the European Communities and certain related Acts*, Treaty of Amsterdam (ToA), in short. Its amendments to the CFSP provisions were awaited with great expectations because it “was negotiated between 1995 and 1997 when European leaders were grappling with the conflict in Bosnia and Herzegovina, which ended in November 1995.” (Hallergård 2009: 56). Its main inputs included the integration of the so called *Petersberg Tasks* (listed in Chapter One) of the Western European Union (WEU) into the scope of the CFSP (ToA, Title V, art. 17 (2)); the introduction of a new legal instrument named ‘Common Strategy’ (Title V, art. 13 (2)); and the requirements for Member States (i) to “work together to enhance and develop their mutual political solidarity” (Title V, art. 11 (2), 2nd subpara.) and (ii) to support the “progressive framing of a common defence policy” as they consider appropriate, “by cooperation between them in the field of armaments.” (Title V, art. 17 (1), 4th subpara.). At the same time, the ToA provided for a Member State to opt out of any security and defence agreement reached under Article 17 in order to comply with the requirements of its own constitutional procedure (ToA, Title V, art. 24 (1)). The ToA also provided for the creation of a permanent post of *High*

*Representative for Common Foreign and Security Policy* (High Representative for CFSP, in short), who at the same time was the Secretary-General of the Council (Title V, art. 18 (3)); the appointment of EU special representatives on CFSP matters (Title V, art. 18 (5)); and the conclusion of “an agreement with one or more States or international organisations in implementation of the provisions” on the CFSP (Title V, art. 24).

Concerning policymaking procedure and resources, the main innovations of the ToA were possibly the following. First, it removed “Member States” as co-subject and / or co-decision-maker alongside the Union and confirmed the Union as the sole subject and/or decision-maker (Title V, arts. 11, 16). Second, the ToA enhanced the possibility to use *qualified majority voting* (QMV) for the CFSP matters, except for “decisions having military or defence implications” (Title V, art. 23 (2)). Third, it introduced the concepts of *constructive abstention* (ToA, Title V, art. 23 (1)) and subsequent *emergency brake* that a Member State or a group of Member States could invoke to stop an operational decision being taken by QMV (ToA, Title V, art. 23 (2)). Fourth, the ToA established the *Policy Planning and Early Warning Unit* (PPEWU), Policy Unit in short, to be housed in the Council Secretariat and placed under the direct responsibility of its Secretary-General (Declaration N° 6) and High Representative for the CFSP (ToA, Title V, arts. 18 (3), 26). Its main task would consist of monitoring crisis and conflict situations, gathering and analysing information, and formulating policy and action plan options.

The foundation phase ended in December 1998 when Heads of State and Government of France and the United Kingdom met and issued a statement, known as *Saint-Malo Declaration*, calling for the development of EU capacity “for autonomous action, backed up by credible military forces, the means to decide to use them and a readiness to do so, in order to respond to international crises.” (Council 2000a: 1, para. 2). Arguably, the *Saint-Malo Declaration* defined the real entry point of the European Security and Policy (ESDP) for two reasons. First, it came from the two most important EU Member States regarding security and defence issues, with long standing conflicting views on the project of a European common defence. On the one side, France is known for relentlessly pushing for a European political union

that is totally autonomous, self-reliant, and independent; as well as capable in each and all aspects of foreign policy, security, and defence (Grevi 2009: 22, Gordon 2000: 13). On the other hand, the preferred option of the United Kingdom, “whose forces are necessary to any credible European military” (Gordon 2000:12), is reportedly to enhance “the military capabilities of EU Member States”; while at the same time “preserving the central role of the Atlantic Alliance [NATO] as the main forum for European defence” and avoiding “duplicating at EU level institutional structures [...] already available to NATO and individual countries” (Grevi 2009: 22). Second and more importantly, the European Council meeting in Cologne (Germany) in June 1999 fully integrated the recommendations contained in the *Saint-Malo Declaration* into its conclusions for the inception of the ESDP (European Council 1999a).

The *development stage* (1999-2002) started in 1999 with the entry into force on 1 May 1999 of the Treaty of Amsterdam (ToA) which, as highlighted above, had raised great expectations and substantially amended the provisions on the CFSP (TEU, Title V). Indeed its entry into force was immediately followed by the formal establishment, hardly one month later, of the ESDP (European Council 1999a: 33, para. 1); the appointment of the first ever High Representative for the CFSP (European Council 1999b); and the adoption of the aforementioned Helsinki Commitments (European Council 1999c). These 1999-year steps were quickly complemented by the establishment, between 2000 and 2001, of political, military, and civilian decision-making and operational structures for the ESDP: Interim Political and Security Committee (Council Decision 2000/143/CFSP); Interim Military Body (Council Decision 2000/144/CFSP); Secondment of national military experts to the General Secretariat (Council Decision 2000/145/CFSP); Committee for civilian aspects of crisis management (Council Decision 2000/354/CFSP); Political and Security Committee (PSC) (Council Decision 2001/78/CFSP); Military Staff of the European Union (EUMS) (Council Decision 2001/80/CFSP); Military Committee of the European Union (EUMC) (Council Decision 2001/79/CFSP). To these developments, one should add the transfer of the operational function of the WEU to the EU (European Council 2000b); the adoption of the *EU Programme for the Prevention of*

*Violent Conflicts* (European Council 2001b: 12, para. 52); and the declaration of the ESDP as operational in December 2001 (European Council 2001c: 2, para. 6). The *development stage* concluded in 2002 when the European Council extended the mission of the ESDP to the fight against terrorism (European Council 2002b: 31-34) and concluded an agreement with NATO allowing EU access to NATO assets and capabilities in pursuit of the ESDP mission (European Council 2002c).

The *consolidation and experimentation stage*, that is, the third and last stage (2003-2009) of the period under examination, started in 2003 with the launching of the first ESDP missions and operations in and outside Europe: EUPM (EU Police Mission in Bosnia and Herzegovina, 1 January 2003), EUFOR Concordia (EU military operation in the Former Yugoslav Republic of Macedonia, 31 March 2003), and ARTEMIS (EU military operation in the DR Congo, 12 June 2013). Other most defining milestones of this phase comprise the entry into force of the Treaty of Nice (ToN) on 1 February 2003 and the adoption, on 12 December 2003, of the ever first European Security Strategy (ESS) of the EU: *A Secure Europe in a Better World. European Security Strategy*. The first two operations fall outside the geographical scope of this research; whereas ARTEMIS is addressed in detail later in this dissertation. Regarding the ToN, it amended the aforementioned Treaty of Amsterdam and made various changes to the provisions on the CFSP and ESDP. The most important amendment was the removal of the provisions for close cooperation between the European Union and the WEU on defence and security matters and the integration into the EU of those functions of the WEU that were necessary for the EU to assume its new responsibilities in the security and defence area (ToN, Title V, art. 17). For Whitman (2002: 13), “This was an acknowledgement of the agreement at the Helsinki European Council that the Member States are to collectively develop the military security provisions of the CFSP within the EU rather than at arm’s length through the WEU.” Concerning the decision-making procedure, the ToN introduced “enhanced cooperation” (Title V, arts. 27a - 27e) except for “matters having military or defence implications”. Besides, it extended the application of “qualified majority voting” (QMV) to the appointment of the Secretary-General and High Representative for CFSP, the Deputy Secretary-

General (Treaty establishing the European Community (TEC) 2002, art. 207 (2)), special representatives of the Union on CFSP matters (ToN, Title V, art. 23 (2)); and to the conclusion of international agreements in implementation of the CFSP (ToN, Title V, art. 24).

Regarding the *European Security Strategy*, EU authorities presented it as a reaffirmation of its “common determination to face its responsibility for guaranteeing a secure Europe in a better world” and a tool that “would enable the European Union to better deal with the threats and global challenges and realise the opportunities facing [it].” (European Council 2003c: 21, para. 85). Drawn up under the authority of the EU's High Representative for the CFSP in the aftermath of the deep divisions among Europeans over the US-led armed invasion of Iraq in Spring 2003, the ESS identified “global challenges and key threats” to the security of the EU and defined the strategic objectives and policy options to address them. Global challenges included the following: Wars; AIDS and other deadly pandemics; poverty; environmental degradation and scarcity of natural resources; and energy dependence (Council 2003b: 1-3). The document earmarked five clear-cut key threats to the security of the EU: Terrorism; Proliferation of Weapons of Mass Destruction; Regional Conflicts; State Failure; and Organised Crime (Council 2003b: 3-5). Besides, the ESS established three strategic objectives for the EU to “defend its security and to promote its values”: *addressing the threats*; *building security in its neighbourhood*; and *developing an international order based on effective multilateralism* (Council 2003b: 6-10). The document set out four clear-cut policy options for the Union in pursuit of these objectives: *be more active* (more prevention); *be more capable* (more institutional and operational capabilities); *be more coherent* (by bringing together the different instruments and capabilities available to the EU); and *working with partners* (in particular the USA) (Council 2003b: 11-14). The 2003-developments were followed by the creation of the European Defence Agency (EDA) and of EU Battle groups in the course of the following year (2004). By 2007, the EU had at its disposal 15-combat-trained battle groups whose tasks on the ground included the aforementioned *Petersberg tasks* and those outlined in the ESS such as **disarmament, counter terrorism, security sector reform, and support to**

**third parties.** The EU Battle group was to be 1,500 personnel strong; “the minimum militarily effective, credible, rapidly deployable, coherent force package capable of stand-alone operations, or for the initial phase of larger operations” of crisis management under a UN Security Council Resolution (UNSCR) (Council 2009b: 2-3). At the same time, the Union counted on over 1.6 million EU civilian personnel who were reportedly specialised “in the **four priority areas** of civilian action [...]: **police; strengthening the rule of law; strengthening civilian administration** and **civil protection.**” (Council 2009c: 2). Since 2003 until the end-date for this research (2009), the EU undertook over 20 civilian and military missions in response to violent crisis and conflicts within and outside Europe.

In conclusion, the answer to the initial question for this section – *When, how, and why did the CFSP and ESDP come into existence and develop?* – is the following. The CFSP was established in 1993 at the same time as the EU itself of which it formed the most political and innovative of its three pillars. It came into existence by way of the same Treaty that established the EU as a political union. The foregoing account of the key reference documents unveils that the treaty-based inception and the gradual, yet rapid development and consolidation of the CFSP and its operational spine ESDP were a matter of urgent necessity as Member States of the then European Community were trying to cope with the complex foreign and security policy challenges, notably the breakup of Yugoslavia that followed the end of the Cold War. The necessity was urgent because the USA, the main ally and traditional security provider of Western Europe, mainly through NATO, was becoming less and less willing to take on alone or at all those challenges (Gordon 1997, 2000).

### **CFSP Instruments**

Throughout the period under examination, the CFSP had its own specific instruments and procedures for its decisions and actions. From 1993 onwards, they were periodically updated in line with the adoption and entry into force of amended versions of the TEU and of other history-making documents of the EU. The latest updates took place upon the entry into force, on 1 December 2009, of the Treaty of Lisbon (ToL). In particular, the

new treaty redefined and reduced the main instruments of the CFSP from five (*Principles and General Guidelines; Common Strategies; Common Positions; Joint Actions; and Decisions*) to only two (*General Guidelines and Decisions*). As explained in the first chapter, the ToL introduced significant changes to the CFSP provisions all of which led me to establishing December 2009 as the end-date for this research project for methodological reasons. Hence, this section concerns only instruments and procedures that were enacted and updated prior to that date and therefore were available for use for the response of the EU to the violent conflicts in the DR Congo. In this context, I use the acronym 'TEU' for generic reference to the post-Nice consolidated version of the TEU. According to one senior official responsible for CFSP-related legal matters at the Council of the EU whom I interviewed, the CFSP instruments for the period under review can be categorised into two main sets: **Non-Legal Instruments** and **Legal Instruments**. **Non-Legal Instruments** are characterised as such because they are NOT legally binding on the Union and or its Member States. My interviewee specified that *Non-Legal Instruments* are only *political instruments* whereas *Legal Instruments* are also *political*. For an example, he indicated that **Common Positions** are *legal and political positions* while **Declarations** and **Statements** are *political positions* only. He clarified that both have the same political value and effect but are legally different. Hence, **Non-Legal Instruments** can also be referred to as *Non-Legally Binding Instruments* or *Exclusively Political Instruments*. They include *Principles and General Guidelines, Declarations, Demarches, and Political Dialogue*. On the other hand, **Legal Instruments** are *legal acts* and as such, they are legally binding on the Union and its Member States upon their adoption and publication in the Official Journal of the European Union (OJ). For the period under consideration, these instruments were *Common Strategies (CSs), Common Positions (CPs), Joint Actions (JAs), and Decisions*. One legal instrument, *Common Strategy (CS)*, was not available at the time of the First Congo War (1996-1997) because it was introduced under the Treaty of Amsterdam that entered into force on 1 May 1999.

|                              | <i>Politically Binding.</i> | <i>Legally Binding.</i> | <i>Published in the Official Journal of the European Union (OJ).</i> |
|------------------------------|-----------------------------|-------------------------|--|
| <b>Non-Legal Instruments</b> | Yes                         | No                      | No   |
| <b>Legal Instruments</b>     | Yes                         | Yes                     | Yes  |

For the purpose of this research, I consider all *Legal Instruments* and exclude ‘Political Dialogue’ from the list of Non-Legal Instruments. The exclusion of ‘Political Dialogue’ is dictated by various factors. First, the services of the General Secretariat of the Council of the EU informed me that no lists of the aforementioned non-legal acts, except ‘Principles and General Guidelines’, had been drawn for the early years of the CFSP, in particular for the 1994-1997 period, and therefore were not available either in the archives or in the online public registry of the Council (Sieberichs 2011). Second, Political Dialogue was rather a cross-cutting external relations activity and not a specific instrument of the CFSP. Third, the amount of Political Dialogue activities throughout the period under study is too huge and the issue-areas they cover are too broad to be systematically accounted for in the context of this research. In fact, EU Political Dialogue meetings regularly took place at various levels: Heads of State and Government level, Ministerial level, Senior Officials level, and expert level. For instance, in 1998 alone, 96 meetings were held at the expert level alone, “in the fields of Human Rights, United Nations, Security, Drugs, Central Europe, Eastern Europe and Central Asia, OSCE, Non-proliferation, Disarmament, Terrorism, Africa, Western Balkans, Middle East Peace Process, Latin America, Asia, South-Eastern Europe, Planning and Analysis, Mashrek-Maghreb, Middle East Gulf.” (Council 1999: 43). Because of these difficulties, data on all non-legal instruments, except Principles and General Guidelines, are more indicative than absolute in most instances.

### *Non-Legal Instruments*

Non-Legal Instruments under analysis include the following: Principles and General Guidelines, CFSP Declarations, and Demarches. **‘Principles and**



**General Guidelines**’ pertain to the second category of “EU history-making decisions”, that is, “broad, strategic decisions about the EU’s agenda, priorities and finances” (Peterson 1995: 72-3), as well as foreign and security policy (TEU, Title V, art. 13(1); added underlining). For any case or matter, being the object of **‘Principles and General Guidelines’** means the highest attention and commitment it can receive from the EU of which the European Council is the highest political organ. Examples of ‘Principles and General Guidelines’ include the aforementioned Helsinki Commitments and the European Security Strategy. *It is therefore important to establish if, when, and why the two Congo Wars were the object of these history-making meetings and decisions of the EU throughout the period under scrutiny.* On the other hand, **Declarations** or **Statements** express “the Union’s position, requests or expectations vis-à-vis third countries and international issues.” Their “main focus” is “the defence of human rights and fundamental freedoms and the support for peace and democratisation processes.” (Council 1998b: 10). A **Declaration** “is an instrument for which there is no provision in Title V of the Treaty on European Union but which was a feature of European political cooperation (EPC). It is not a mandatory instrument and is still frequently used under the CFSP.” (European Union 2005: 47). A **Declaration** forms part of the so-called “Other CFSP Activities” which “represent well-established tools of the Union’s activity in the foreign policy area and as such contribute to its worldwide visibility as a foreign policy actor.” (Council 1998b: 10). Where and when necessary, CFSP Statements express “the Union’s objectives and intentions” vis-à-vis an event or a situation and their political impact “may be very significant; some statements have more political weight than formal texts.” (Council 2008a: 175). **CFSP Declarations** were published as **EU Declarations** at Council sessions or as **Presidency Declarations** on behalf of the EU outside Council sessions (Council 1998b: 10).

Concerning **Demarches**, they are (confidential) diplomatic initiatives with third countries in particular. **EU Demarches** are undertaken particularly in support of “the respect for human rights and democracy, humanitarian action, UN peace missions and election monitoring, as well as non-proliferation of biological and chemical arms, the UN register for conventional weapons and the universality of the prohibition of nuclear tests.” (Council 1999a: 43). *EU*

*Demarches* are generally carried out by a small group of diplomats or ambassadors on behalf of the EU. For instance, on 14 December 1997, a “demarche was carried out by a Troika of EU Heads of Missions in Kinshasa with the DRC Minister of Foreign Affairs concerning the harassment of citizens of EU Member States.” Another demarche was carried out on 26 January 1998 “by the EU Heads of Missions Troika with the Rwandan Minister of Justice concerning the situation of prisoners in that country.” (Council 1998b: 29). Like Declarations, Demarches did not have a legal base under the Treaty provisions for the CFSP, but were part of the aforementioned “Other CFSP Activities” under the period under review. The responsibility to decide whether the publication of the content of the Demarches rested with the Presidency of the EU, in consultation with the Member States and the Commission (Council 2008a: 176).

### *Legal Instruments*

Legal instruments that are the object of our analysis comprise Common Strategy (CS), Common Position (CP), Joint Action (JA), and (CFSP) Decisions. **Common Strategy** was introduced under the Treaty of Amsterdam (ToA), which entered into force in 1999, and was therefore not available for use when either of the two Congo Wars broke out. It was meant to be implemented “in areas where the Member States have important interests in common” and to serve for outlining the overall strategic interests, position, objectives, and priorities of the EU regarding a given partner or a group of partners, as well as the means to be made available by the Union and the Member States for its implementation (TEU, Title V, art. 13(2)). The adoption of a CS exclusively rested with the European Council and its execution would be established usually for an initial period of four years. On the other hand, **Common Position** was introduced under the Treaty of Maastricht (ToM) and was therefore available for use throughout the whole period under review (1994-2009). The EU updated the provisions for CP successively through the Treaty of Amsterdam (1999) and the Treaty of Nice (2003). In substance, CPs served to define the stance and approach of the EU to a particular geographical or thematic issue (TEU, Title V, art. 15) and

to promote and enhance systematic and coordinated cooperation between Member States on foreign and security matters (TEU, Title V, art. 19(1)); French Ministry of Foreign and European Affairs 2008). CPs could “define medium-term strategies giving valid guidelines over a relatively long period”, or “shorter-term guidelines” and “immediately operational provisions.” The process always involved prior “examination in detail of the common interests of the Union in respect of a third country or a multilateral question” (Council 2008a: 28).

Like Common Position, the legal instrument of **Joint Action** (JA) was available for use since the inception of the CFSP in 1993 and was successively updated under the Treaties of Amsterdam (1999) and Nice (2003). JAs were meant to address specific situations where operational action by the EU would be required (TEU, Title V, art. 14(1)). The text for each JA would detail its specific objectives, scope, timeframe, the resources required, the conditions and, if necessary, the duration for its implementation (TEU, Title V, art. 14(1)). Like CPs, JAs committed the EU and all Member States in the positions they would adopt and in the conduct of their activities (TEU, Title V, art. 14(3)). The main difference between CPs and JAs lay in the essence of the latter: “the pooling of means available to the European Union to carry out specific actions.” (Council 2008a: 28). Like CPs and JAs, **CFSP Decisions** too were available for use since the inception of the CFSP in 1993 and were successively updated under the Treaties of Amsterdam (1999) and Nice (2003). The EU was to use them to define and implement other CFSP instruments, in particular Common Strategies, Common Positions, and Joint Actions (TEU, Title V, art. 13(3)).

### **Commentary**

This chapter, in general, and the foregoing section, in particular, set out to address the following questions: *What resources did the EU have at its disposal under the CFSP for its response to the two Congo Wars? Were those resources adequate enough for the EU to make a difference for the many civilian victims of the two wars?* During the period under scrutiny, the EU could resort to General Principles and Guidelines, Common Positions,

and Declarations in order to express its intention, concern, support, disapproval, and or condemnation regarding the violent conflict in the DR Congo. It could also engage in some concrete action through the adoption and implementation of Joint Actions and Decisions. On the other hand, the EU could count on Common Strategy and ESDP operational capabilities but only from 1999 and 2001 onwards, respectively. To some extent and at least on the paper, these resources were in line with the recommendations made for improvement following the tragic failure of the international community in its dealing with mass atrocities crimes in former Yugoslavia and Rwanda. Those recommendations were mainly the following: appropriate knowledge and skills; genuine and sustained political commitment; need-tailored and timely response; appropriate and clear norms, laws, and mechanisms; comprehensiveness and complementarity of response (Vassal-Adams 1994; Eriksson 1996; Millwood 1996; UNDPKO 1996; Barnett 1997; Sandole 1998; Carlsson et al. 1999; Mial et al. 1999; IPEP 2000; Ramsbotham 2000). However, these resources were too inadequate for the EU to make the claimed difference because of the following major shortcomings. The first one is the late establishment of the CFSP with reference to the timeline of the two Congo Wars. During much of the period under scrutiny, the EU was still putting together and or fine-tuning most of the assets, in particular military ones, it had identified as indispensable for developing and strengthening its CFSP. By the time the CFSP entered into force (November 1993), the conflict in the DR Congo had entered in its most protracted stage of sustained political decay, statelessness, lawlessness, and socio-economic deprivation as described in Chapter Three. 'Common Strategy', the CFSP most important legal instrument, was available for use only after the entry into force of the Treaty of Amsterdam on 1 May 1999; nearly one year after the breakout of the Second Congo War. Likewise, the EU adopted its first Security Strategy on 12 December 2003; one year after the formal end of the Second Congo War and the conclusion of a comprehensive agreement among the parties to that bloody conflict. The ESDP itself was formally established at the end of 1999, more than one year into the Second Congo War, and was declared fully operational three year later (2001). Its supporting civilian, political, and military institutional structures were hardly in place by

the end of 2002; whereas its 15-combat-trained battlegroups and nearly 2 million civilian experts in the four earmarked issue-areas - **policing; strengthening the rule of law; strengthening civilian administration; and civil protection** – reached their envisaged full strength in 2007.

The second main shortcoming is intrinsically related to the first, and is the huge inexperience of the European Communities (EC), first, and European Union (EU), later, *in foreign and security politics in general and in humanitarian intervention for human protection purposes in violent conflict contexts, in particular*. Until the adoption in 1992 and entry into force in 1993 of the TEU, anything close to the pretended CFSP had taken place under the European Political Cooperation (EPC) and consisted only of voluntary consultation, information exchange, and non-legally binding declarations. Therefore, when Member States of the then nascent European political union jointly embarked on the CFSP venture, they had no point of reference of their own, except high ambitions. They had but to start from scratch to the same degree, or even much more, as they had had to in the 1950s when they embarked on economic integration. Any participation in humanitarian interventions had taken place throughout NATO and or WEU. This handicap is particularly exemplified by the trial and error approach that guided the development of the CFSP during the period under examination. For instance, the most important legal instrument, Common Strategy, and the most important strategic document, European Security Strategy, were adopted respectively five and 10 years after the inception of the CFSP. Conceivably, Common Strategy should have been introduced from the very beginning of the CFSP, in 1993, because it was meant to serve establish the overall strategic orientation of the EU towards a country, a group of countries or a region. Similarly, the EU should have adopted the ESS long before 2003 since it conceived and presented it as the key reference document embodying the vision and values pursued through the CFSP. The trial and error approach also underpins the substantial amendments and fine-tuning of the Treaty provisions for the CFSP on two occasions (in 1997 and 2001) during the period under review. The third major in-built flaw is the lack of clarity regarding the scope, objectives, and criteria of the CFSP; mainly

exemplified by the use of vague notions such as “all areas of foreign and security policy”, “important common interests”, and “common interests of the Union” in the definition of the main reference documents. One immediate and more frequent negative consequence of this shortcoming is the lack of a clear policy line towards specific situations. The DR Congo serves to test this hypothesis.

The fourth shortcoming is the primacy of the values, needs, interests as well as the modus operandi of the EU, in the design, development and use of the CFSP architecture. The Union expects the promotion of international peace, security, rule of law, and human rights to occur and take roots in third places as a natural consequence of its self-assertion as a driving force for a global common good, a ‘normative power Europe’ in Manner’s (2002) terms; and its new capacity, ability, and operational readiness for autonomous action in response to international crises (European Council 1999b: 33). The problem here is that these institutional and operational developments embody EU’s worldviews, values, needs, interests, and modus operandi. This means that views, values, needs, interests, and modus operandi of non-EU societies and or non-EU key allies would most likely matter as far as they would be in line with those of the EU and its key allies. One feature that particularly attests this Eurocentric and self-interested nature of the CFSP, particularly its ESDP, is the choice of state level and issue-areas (**policing; strengthening the rule of law; strengthening civilian administration; and civil protection by state institutions**) for its conflict intervention, to the detriment of local community level and issue-areas for (post-conflict) peacebuilding. In line with the Conflict Resolution approach of this research, the latter could include, but not be limited to, inter-community dialogue and reconciliation, community training in locally nurtured conflict resolution, community-based awareness raising and or training programmes on gender issues, multi-ethnicity, multiculturalism, citizenship, psycho-social healing, human rights and humanitarian law, participatory democracy, social responsibility and accountability. As Francis (2012: 2) notes, “rebuilding failed and collapsed states” - one of the main sources of threats and challenges to international peace and security according to the European Security Strategy - and “reconciling bitterly divided communities” constitute a titanic task that

“requires not only the rebuilding and reconstruction of physical, political, governance, economic and development infrastructures and institutions, but also psychological and emotional repair at individual, societal, regional (provincial/sectional) and national level.” Far from this, the CFSP and its key reference documents not only privilege the state level but also the most attractive and rewarding aspects of what Lemay-Hébert (2013: 3) describes as the Western or Weberian model of statebuilding: strong institutions of the central state, their capabilities to legitimate the state’s monopoly of the use of physical force and to secure the state’s grip on the society.” Under this approach, “the state is equated with its institutions, state collapse is understood in terms of the state institutions, and statebuilding implies their reconstruction.” This orientation, common to post-cold war international peacebuilding, has already been widely criticised because it primarily serves the interests of external interveners and their local proxy elites. In response to Paris’ (2010) unreserved defence of liberal peacebuilding, Cooper, Turner, and Pugh (2011: 1999, 2001) convincingly show that all international peacebuilding endeavours, whether carried out by consent or coercion, “reflect the exercise of hegemonic power” by the intervener(s) and often fail “because local ‘buy-in’ is limited and the incentives for obstruction, co-option or evasion of neoliberal governance mechanisms commensurately higher.” These three scholars underline the fact that all post-conflict international peacebuilding strategies share “a core of common prescriptions: neoliberal policies of open markets, privatisation and fiscal restraint, and governance policies focused on institutions, enhancing instruments of state coercion and ‘capacity building’ based on the now near-universal conceit that ‘development require security’.” Francis (2012: 7) too argues the same and highlights “the increasing ‘securitisation of development’, and the ‘developmentalisation of security’” of a liberal peace agenda that highly values “state(re)building as key aspect of post-war peacebuilding because without viable and functioning state authority and institutions, conflict and instability will continue to threaten international peace and security.” In this sense, the almost exclusive focus of the ESDP on the (re)construction of the Weberian state places the EU straight among the most powerful defenders and promoters of the statist approach to post-conflict peacebuilding in third places. The most powerful

proponents include the World Bank (WB) which, “backed by the International Monetary Fund (IMF) conditionalities, places state institutions building at the top of its agenda so that neoliberal political economies can be institutionalised.” (Cooper, Turner, and Pugh 2011: 2000-01). Clearly, this approach denotes interveners’ (neo-)realist view of the state as “the central actor in international politics.” (Hobson 2000: 2). Undoubtedly, all this is in dissonance with the normative, theoretical, and practical precepts of Conflict Resolution which, as exposed in the third chapter of this dissertation, places ‘nation’ before ‘state’, ‘individual’ before ‘group’, ‘bottom’ before ‘top’, and ‘local’ before ‘global’ in terms of priorities.

The fifth, embedded handicap is the subsidiary and dependent status of the CFSP. The foregoing account of key reference documents reveals the primacy of NATO as the main security framework for the EU, the confinement of EU intervention to where and when NATO is not already engaged, the Treaty-based obligation for the CFSP and ESDP not to prejudice the foreign and security policies of individual Member States, and the Treaty-protected requirement of UN request and or authorisation for any EU humanitarian intervention. The sixth important in-built flaw is the importance the EU and various academics give to military muscle over any other assets in the development of the CFSP. Conceivably, the nature of the actual and perceived security threats and the reluctance of the USA to continue providing alone the security shield for Western Europe (Gordon 1998, 2000) somehow justify such importance. However, such a focus constitutes an important in-built shortcoming because the use of military force for humanitarian protection purposes is less likely in third places of little or low self-interests and high risks for the EU and any other external interveners; and is unreliable from a Conflict Resolution perspective. Devising an adequate, definite fix for these shortcomings is hardly possible unless the EU primarily resolves the two main underlying issues: ‘Ends’ and ‘Means’. I take up them in the following sections.



## Common stance and joint action

Proponents of the CFSP have underlined Treaty-based “common stance” and “joint action” in all areas of foreign and security policy as one of its most enabling innovations particularly in comparison to its predecessor EPC (Representation of France to the EU 2008, Solana 2009). However, the claimed innovation is overvalued at best and much less determinant for the EU to *make a difference* when it comes to prevent and or mitigate 1994-Rwanda-like tragedies. As the preceding account of key reference documents shows, the CFSP is inherently much less common than often alleged and desired, and is consequently doomed to function intermittently and on the least common denominator basis. More notably, *common position* and *joint action* per se are no guarantee for the EU, or any other actor, to become a true force for a global common good. Concerning the degree of *commonality*, a first-order reading of the EU official discourse and glossary suggests that the use of the term ‘common’ is intended to convey a sense of *communitisation* or *communalisation*. According to the glossary of EU legislation (European Union (EU) 2012a), *communitisation* “means transferring a matter which, in the institutional framework of the Union, is dealt with using the *intergovernmental method* [...] to the *Community method* [...].” The latter, also known as the **supranational method**, “is based on the idea that the general interest of Union citizens is best defended when the Union’s institutions play their full role in the decision-making process, with due regard for the subsidiarity”. The glossary outlines the four salient features of the *Community method* (i.e. *Community modus operandi*) as being the following (EU 2012b):

- The monopoly of the European Commission – Commission, in short – of the right of initiative;
- A widespread use of qualified majority voting (QMV) in the Council of the EU;
- An active role for the European Parliament (EP); and
- A uniform interpretation of Community law by the European Court of Justice (ECJ).

These criteria sharply contrast with those for the *intergovernmental method* that has been governing CFSP decision-making and which is guided by the logic of cooperation between and among Member States through the Council

of the EU, with minor and or consultative involvement of other key actors namely the Commission, EP, and the ECJ. The glossary of the EU legislation clearly warns that the abolition of the “pillar” structure under the Treaty of Lisbon (2009) “did not entail the ‘communitisation’ of the Common Foreign and Security Policy for which the intergovernmental method is maintained.” (EU 2012b). What then does the key qualifier “common” stand for?

### **Veiled Intergovernmentalism?**

Most if not all intergovernmentalist analysts have so far presented the CFSP as process of predominantly national foreign policy projection whereby communitisation, if any, of foreign policy issue-areas is but too partial, optional, and circumstantial to account for a full-fledged and permanent common stance that some EU authorities and outright euro-optimists often speak of, and much less a single foreign policy some of them might have been dreaming of. Bomberg and Stubb (2003: 117) have sustained that “it is often unclear how much weight the EU has because the member states in the final analysis must allocate the resources necessary to execute the EU’s foreign and security policy.” In their typology, foreign and security policy clearly pertains to Member State prerogatives. Mahncke (2004: 28) even finds it difficult to define the ‘Common Foreign and Security Policy’ and argues that the denomination “is essentially something of a misnomer” because,

Unlike the Common Fisheries Policy, for example, the CFSP is only ‘common’ to the extent that member states identify shared foreign policy interests and produce common outputs accordingly. When they cannot, the CFSP is less a policy than a set of procedures for mutual foreign policy consultation and co-operation. Hence, even when interests diverge, CFSP as a ‘system’ continues to function, although it then lacks the output of a common policy.

Mahncke (2004: 28) holds that “the CFSP does not replace national foreign policies (even if this could be said to be the long-term logic of such a process) but exists in tandem with them”; and that “national foreign policies are an essential underpinning of the CFSP”. He sustains that this is the case because “from declarations and demarches to participation in international negotiations, the vast majority of the CFSP’s diplomatic instruments are in fact national instruments, usually provided by the member states holding the rotating Council Presidency.” Mahncke (2004: 39) argues that it is “either by

chance or as a result of conscious efforts to come to the same position (through diplomatic consultations and in fact through the CFSP process)” that individual national foreign policy issues and initiatives “might be similar or identical” and then presented to “the outside world as a common European (though not formally a Union) stance.” He concludes that this state of affairs is likely to remain unchanged even in the event the EU establishes the post of an EU Minister for Foreign Affairs for its External Action Service (Mahncke 2004: 28).

Wagner (2003: 577) too contends that, “the CFSP has not been communitarized and is unlikely to become so in the future”. The reason is that the intergovernmental set-up of the CFSP and the Treaty-granted recourse to qualified majority voting (QMV) are sufficient for “the principals in European foreign policy”, that is, the member states, “who will delegate decision-making power not because they are striving for a European federation but only if and when delegation helps them to realize their interests. (Wagner 2003: 589). Due to the predominance of (external) *crisis management* as the main common function of the CFSP, Wagner explains, “there are few incentives [for Member States] to delegate sovereignty to supranational institutions such as the Commission or the ECJ.” (2003: 585). Knodt and Princen (2003: 1–2) too advance that policies under the CFSP “have remained firmly intergovernmental” and “[D]ecision-making and implementation remain completely under the member states’ remit, even if they try to act together as ‘the EU’.” The two analysts sustain that though these policies “have been brought under the umbrella of ‘the’ European Union and the European Commission has often actively sought to gain a foothold in these areas, the formal role of EU-level institutions in them is limited.” Likewise, Wessel (1999: 319–320) argues that, regardless of its “*prima facie* broad scope”, CFSP “is not to be seen as a common policy in the same way as the concept is used in, for instance, the Community’s common agricultural policy or common commercial policy.” For him, “The non-exclusive nature of CFSP is paramount. The competences of the institutions, the obligations of the member states and the decision-making procedures all reflect the intention of the states to create a common policy that would not unconditionally replace the national policies of the individual

states, but would only emerge *where and when possible*.” (Wessel 1999: 319–320). Wessel notes that, “Despite concrete obligations aiming at the establishment of a common policy, a number of vague notions (‘important common interests’, ‘general interest’, ‘reasons of national policy’) allow for a large margin of appreciation on the part of member states.” This means that, “Whenever policy does not prove possible, member states are free to pursue their own national foreign policies.” (Wessel 1999: 319–320). In sum, for intergovernmentalists, the intergovernmental set-up of the CFSP will prevail as long as Member States consider it sufficient for well serving their respective self-interests. Accordingly, Member States would agree to further or full communitisation if and only if that would always better serve their individual interests, which is unlikely.

### **Open-ended communitisation?**

Other analysts hold a rather balanced or even opposite view and report a process of *Brusselisation* or *Europeanisation* of the foreign policies of EU Member States since the introduction of the CFSP. Allen’s (1998) neologism of *Brusselisation* suggests that “the national foreign policies of EU member states are slowly becoming less national in the sense that foreign policy is now increasingly made both in and with reference to what happens in Brussels [EU capital].” (Reynolds 2005: 51). Reynolds (2004: 50) sustains that “the degree of difference and divergence among member states’ foreign policies can in fact be said to be diminishing” due “in no small measure to the increased intensity and institutionalisation of foreign policy co-operation within the European Union.” Reynolds notes an increasing presence of the ‘European dimension’ in consideration of the ‘national interest’ and argues that the implication is that “national foreign policies today are resolutely not defined in isolation, but are very much affected by what happens in Brussels.” (Reynolds 2005: 54). For him, this may lead to “the increased centrality of Brussels as the loci for foreign and security-making within the Union.” (Reynolds 2005: 58). In a similar vein, Tonra (2000: 160) contends that, “the institutionalisation of the CFSP through its committee structures has contributed to the *Europeanisation* of national foreign policies” and consequently the redefinition of so-called ‘national interests’ in a new

European context.” This view is much in line with that of most of the EU officials and Member States’ representatives to whom I posed the following question: Can we speak of *Communitisation* or *Europeanisation* of the foreign and security policies of the EU’s Member States in reference to the CFSP? “Yes”, one EU official answered, “in the sense that national foreign policies are made in reference more and more to the European Union’s foreign policy. The foreign policies of Member States are more and more blurred and subsumed by the Foreign Policy of the European Union.” (Director for legal matters at the Council of the EU 2005, interview, 1 October). For Wong (2005: 149), Europeanisation under the CFSP “can be understood as a process of foreign policy convergence”; as “a dependent variable contingent on the ideas and directives emanating from actors (EU institutions, statesmen, etc.) in Brussels, as well as policy ideas and actions from member state capitals (national statesmen).” Wong (2005: 150) conceives of *Europeanisation* as “a process of change manifested as policy convergence (both top–down and sideways) as well as national policies amplified as EU policy (bottom–up projection)” the resulting effect of all which is the redefinition of both identity and interests.

| <b>Three dimensions of Europeanization in national foreign policy</b> |   |
|---|---|
| <b>Aspects of Europeanisation</b>                                     | <b>National foreign policy indicators</b>   |
| <i>Adaptation and Policy Convergence</i>                              | a) Increasing salience of European political agenda.<br>b) Adherence to common objectives.<br>c) Common Policy outputs taking priority over national <i>domaines réservés</i> .         |
| <i>National Projection</i>  | a) State attempts to increase national influence in the world.<br>b) State attempts to influence foreign policies of other member states.<br>c) State uses the EU as a cover/ umbrella. |
| <i>Identity Reconstruction</i>  | a) Emergence of norms among policy–making élites.<br>b) Shared definitions of European and national interests.  |
| Wong 2005: 142; Table 7.2.  |   |

By these accounts, Wong’s conceptualisation of Europeanisation seems more attractive. While some scholars confines it to national foreign policy adaptation, Wong captures it as a change resulting from mainly two mutually reinforcing processes whereby national foreign policies outsource and get

outsourced from the ideas, agreements, and decisions prevailing within and across the common institutions in the Union's capital Brussels, all of which lead to important identity reconstruction over time. However, and more importantly, from these and other institutionalist accounts of the CFSP, the outcome of the process of 'Brusselisation' or 'Europeanisation' of national foreign policies is not clear: *complete or open-ended communitisation?*

### **Federalization?**

Hazel Smith takes a rather unreserved stance and refutes the argument according to which the European Union does and cannot have a foreign policy much the same as that of the nation-state because it is not a sovereign entity (Smith H. 2002: 4). She contends that the European Union "behaves *as if it were* sovereign" because its different institutions regularly take and implement decisions on its behalf and "its partners negotiate and react to the Union as if it were a sovereign actor." (Smith H. 2002: 2). She sustains that this is so "because the Union has an impact on both the domestic and international affairs of partner countries such that it cannot be ignored [...] partly because the member states have given up sovereignty to the Community (as part of the Union) on external trade." (Smith H. 2002: 2). Even "when the member states have not formally abrogated sovereignty", she argues, the Union's "decision-making structures allow for a process of negotiation so that a *European Union commonality of foreign policy interest* can be achieved", depending on the stakes involved (Smith H. 2002: 4). She goes as far as to compare the European Council to a central government of a sovereign nation-state like the United States, thereby refuting the lack of a central and supreme authority as one of the proof that the EU, unlike individual sovereign states, cannot afford a foreign policy worth the name. Smith alleges that her opponents "confuse speed and alleged effectiveness with capacity", and infer a theoretical value to "the practical question of the time decisions take to be made". In her judgement, this difficulty affects sovereign states as well, and is much more a matter of the degree of commonality of European Union foreign policy interests than of the existence of a centralised decision-making capacity with a single executive authority. "Many states," she contends, "particularly democratic states that are built

upon a separation of governmental powers, are vulnerable to conflicting interest groups demanding different foreign policy in response to those different interests.” (Smith H. 2002: 4-5). The United States and the various scandals like **Irangate** that some of its central leaderships had to resort to in order to counter interest groups’ opposition to some foreign policy choices constitute her noted supporting examples.

Certainly, foreign policy coordination is a challenge for nation-states as well; and, as this research postulates, the existence of a central authority endowed with executive power is not per se a sufficient condition for successful resolution of that challenge. However, Smith’s claim that the mere absence of such authority is more a practical rather than a theoretical problem needs to be substantiated beyond any reasonable doubts for a number of reasons. Firstly, in the case of a sovereign nation-state, the issue of commonality of foreign policy interests is less problematic because *core national interests* are clearly established in a long-term perspective and are not subject to continuous negotiations and trade-offs between interest groups who individually have primary prerogatives over the area-issues in question. Secondly, unlike in the case of a sovereign nation-state, the commonality of foreign policy interests cannot *a priori* be imposed, if need be, by any supreme executive. Some or all of the insufficiently specified areas and issues of the foreign and security policy of the EU, in particular those covered by the CFSP, are *a priori* subject to inter-governmental negotiations and the member states’ commitment to them under the Union’s roof is essentially voluntary and a matter of loyalty, mutual solidarity, and good faith from the outset (TEU, Title V, arts. 11, 12, 14, 16). Thirdly, member states’ primary right to make and carry out their own foreign and security policies where and when the CFSP is not engaged and, importantly, the requirement for the CFSP not to prejudice them, are both Treaty-protected (TEU, Title V, art. 17).

For all these reasons, Smith’s comparison of the European Council to a central government of a sovereign nation-state like the United States is overstated at best. The US has a central federal government led by a President fully empowered by the US Constitution to take, autonomously and independently, decisions on behalf of all her/his fellow US citizens on any

matter of national interest, without having to conditionally consult and obtain the approval of the governor of each State of the federation. The European Council does not have such constitutional power as of yet, notwithstanding many attempts in this regard.

Smith implicitly puts the EU Member States on an equal footing with “interest groups” in the United States of America. If my reading of her reasoning is correct, these groups may be individual States of the federation or coalitions of political party representatives. We may also compare the US decentralised federal system to that of Spain where Autonomous Communities are the equivalent of American federated States. Certainly, party representative coalitions, Autonomous Communities in Spain or individual States of the US federal nation-state or any other federal nation-state worth the name can oppose and attempt to block the foreign policy decisions and actions of the central state government. Still, the latter can, sometimes out of personal interests and ambitions of some of its lead members, pursue its preferred foreign policy course of action, despite foreseeable and foretold negative consequences. The participation of Spain in the US-led invasion and occupation of Iraq is perhaps the best example. An overwhelming majority of Spanish citizens, individual political parties, and highest authorities of some Autonomous Communities publicly and strongly opposed it (El País 2003). At the subsequent general elections of May 2004, they harshly punished the Popular Party-led government for acting against their will and voted the main opposition party, the Socialist Party (El Mundo 2004). The latter subsequently fulfilled its electoral promise to withdraw Spanish troops from Iraq (Aizpeolea 2004).

On the other hand, the European Union remained divided and paralysed (Habermas and Derrida 2003, Mollet 2003, Murphy 2003) simply because it did not have a central government fully empowered to commit it, if need be, against the will and wishes of some of its Member States. Unlike any EU Member State government, no Autonomous Community in Spain, no single State of the American federal nation-state, no *interest group* can undertake its own foreign policy action as result of its disagreement with or in opposition to the central federal authority where such authority actually exists. Smith H.



(2002: 121), too, notes that the “EU decision-making in general relies on negotiation and consensus to a much greater extent than decision-making within a national state where a majority party may seek to impose its policies on an oppositional minority party rather than to achieve consensus.” However, she adds:

The difference between EU and member-state decision-making is much less significant in the case of foreign policy [...] because foreign policy is much more likely to be a consensual activity between the major political parties in the member states with most governments willing to go to some lengths to involve opposition parties in major foreign policy initiatives. (Smith H. 2002: 121).

Her conclusion is that “[t]he EU, much like a nation-state, seeks to minimise internal conflicts in order to present a united front to the outside world.” (Smith H. 2002: 121). The fundamental difference I note here is that, in the case of the EU, it is not just one single central government, but rather as many central governments as Member States who are equally empowered “to go to some lengths” to convince each other. In this respect, Dobson and Weale (2003: 156) make an important point: “The EU has evolved beyond an ordinary association between independent states, but not to the extent that it has become a state in its own right.” Both scholars warn against the limits of comparison of the EU “to other systems of multilevel governance like the US.” (Dobson and Weale 2003: 167). Their list of differences between the two multilevel governance systems include the “great deal of trouble” the US assumes to socialize each generation into the American creed”; the incomparable strength of “nation-state identity and powers” within the EU, “particularly in defence and foreign affairs”; and the multiplicity of languages in Europe” that “makes it difficult for a common European party system to emerge.” (Dobson and Weale 2003: 167-8). Furthermore, the two academics note,

very few Europeans want to be assimilated on the model of the American melting pot. Instead they want to remain as separate and diverse peoples, but peoples united in a multiplicity of ways around core values and projects they hold in common, such as a commitment to liberal democracy, respect for the rule of law, the promotion of human rights and a decent society, and welfare and prosperity. (Dobson and Weale 2003: 168).

Hence, the two analysts conclude, “the proper structural equivalent, if there is one, is not to a developed federal system but to something beyond the loose North American Free Trade Agreement yet short of the US federal system.” (Dobson and Weale 2003: 168). Overall, my position regarding the federalist argument of Hazel Smith is that, while democratic sovereign nation-states face problems of coordination and integration of their respective foreign policy activities, the EU is incomparably prone or vulnerable to inaction, unwarranted delays, and insufficiency of decisions and actions under its CFSP for which it derives its legitimacy from Member States, and not the other way around.

In response to the initial question of whether the denomination ‘CFSP’ is a misnomer or a contradiction in terms, the foregoing suggests that the CFSP does have supranational competences, mainly because it has a Treaty base and envisages foreign and security initiatives, including operational actions, that commit all Member States. It is therefore ‘common’ by design and much more than the EPC: the simple intergovernmental consultation and cooperation mechanism that it replaced. It is ‘uncommon’ because it neither replaces nor rules over national foreign policies unconditionally, because it can exercise the Treaty-conferred supranational competences only when and where Member States so decide. This, in addition to the lack of experience, underpins the aforementioned semantic ambiguity over its scope and issue-areas. The Treaty provisions that were finally adopted in 1992 for the CFSP were a rather light version that Member States preferred to a more radical one drafted by the Dutch government and which reportedly would have communitised, from the very start, the CFSP and prevented Member States to have supreme control of foreign and security matters handled by the Union on their behalf (Wagner 2003: 578). However, this should have come as no surprise since the CFSP could but mirror the very **sui generis** status of the EU of which it was deemed to be the ‘high politics’ pillar: it is by far more than any conventional intergovernmental organisation, yet very short of any federal nation-state worth the name. Like the EU itself, the CFSP is by far more prone to intermittence and inaction than any foreign policy of a sovereign nation-state. Notwithstanding, does ‘common stance’ and ‘joint

action' necessarily entail betterment in humanitarian terms? I address this question in the following section.

### **Utility of Common Stance and Joint Action**

Since the inception of the CFSP in 1993, many voices have demanded for its 'communitisation'; alleging or implying that without full unity, there would be no betterment. Only three years after its entry into force, the then European Commissioner for External Relations and European Neighbourhood Policy argued that, "under the CFSP, national policies should be complementary to common actions and not the other way around." (Van den Broek 1996: 3-4). He went on to warn Member States in these terms: "Unless common action becomes the normal reaction of the Union when faced with external challenge, the Union will continue to serve rather a paymaster than a peacemaker." He indicated that conflict prevention, crisis management and non-proliferation of weapons of mass destructions, for instance, "cannot possibly be effective on a purely national basis." (Van den Broek 1996: 4). A decade later, Van den Broek (2007) reaffirmed that "[r]eaching common positions between 27 member states" remained the requirement in order to be able to "to make a difference when being confronted with today's serious international crisis situations". For former President of the European Commission Romano Prodi (1999-2004), the EU simply "will not succeed in contributing to peace and stability in the world...unless...the entire foreign and security policy of the Union is brought inside the Community system" (quoted in Wagner 2003: 578). The example of negative consequences that proponents of a communitised foreign policy most cite is the EU paralysis in the face of the US invasion of Iraq, with the support the UK and the opposition of France in the spring of 2003. Hoebink and Mollet (2003: 37) for example commented: "The split over the US-led war on Iraq in spring 2003 brought European divisions into harsh focus; the nascent 'Common Foreign and Security Policy' reduced to something like a joke in the eyes of many". The above-quoted former President of the European Commission lamented: "Europe should have a role; saying that it should is exaggerated because we are not yet united to speak with one voice. However, if Europe had a common goal, in these days it could have a very big influence in the world

scene. But instead we are being laughed at.” (Romano Prodi, as quoted in Murphy 2003: 1). In their world-widely commented joint call for the rebirth of Europe, Habermas and Derrida (2003: 1) – two of the most authoritative thinkers of 20<sup>th</sup> century Europe too observed: “There is no doubt that the power of feelings brought Europe's citizens to make a stand together [against the war against Iraq]. But the war also brought Europeans awareness of the long foreseen failure of their common foreign policy.” (Added underlining).

Clearly, these views infer an inherent and self-evident qualitative added value, in terms of efficiency and effectiveness, to full communitisation of the CFSP. Yet, they appear to be inspired by a challengeable euro-centrist premise that the sum or melting of the foreign and security policies of individual Member States under the CFSP can only make them become (more) effective and (more) ethical, that is, policies for the global common good. Certainly, common position and joint action can be enabling factors. Still, they are dependent as variables and cannot per se and alone account for the implied qualitative improvement. As Lister (1997: 8) has pertinently pointed out, it does not seem theoretically proven that a Union's common foreign policy would be, say, “better than the sum of the individual foreign policies of the member states”. Earlier, I too underscored that individual nation-states, unlike the EU, have no problem of single centrality and unity for their own foreign policies. Yet, more often than not, they fail to live up, either by action or by omission, to their responsibilities, their promises, and the expectations of their own citizens and or of the rest of the world. The invasion of Iraq under the American administration of President Bush is a case in point. Actually, what difference would a unified foreign and security policy of the EU have made in the case of the 2003-Iraq invasion? Would the EU, instead of few of its Member States, have participated in the invasion? Would the EU, instead of some of its Member States, challenged and convinced the USA not to go on war? Would the EU have presented a better (preventive) alternative to military invasion? Would the EU have made the invasion internationally legal, or would they have made it more humanitarian than it actually proved to be?

It seems that in the absence of theoretical and empirical evidence, the alleged added value of the 'communitisation' variable is as much overstated as the existence of the variable itself. The CFSP can be a force for a global common good or not, independently of the degree of its communitisation. EU's long standing development aid and trade policies, which have transformed the EU into the world's first aid provider and trade block, have always been fully communitised since their inception. Yet, various analysts consider them partly responsible for the misery and suffering of their target beneficiaries due to the predominance of the interests of donors and the ill-design and mismanagement of development aid and trade projects particularly during the Cold War period (David 2000). Mostly, *common stance* and *centrality* of decision and action do not necessarily entail **altruistic, need-tailored, timely, and sufficient** foreign policy decisions and actions prescribed by Conflict Resolution. Nor does *uncommon* and *decentralised* foreign and security policy axiomatically lead to the opposite.

## **Means: Civilian vs. Military Power Europe**

Much like communitisation, the lack or disposal of operational means has have always been at the centre of the debate about the status and role of, first, the European Community (EC) and, second, its successor the European Union on the world stage; hence the importance and priority that the EU has given to the ESDP in the development of the CFSP. When the first Gulf War unfolded in the early nineteen nineties, former Belgian Foreign Minister Mark Eysken lamented: "Europe is an economic giant, a political dwarf and, even worse, a military worm until it concerns itself with elaborating a defence capability." (Quoted in Leibfried 2009: 11). When in the mid and late nineties the former Yugoslavian empire violently disintegrated and fell prey to ethnic cleansing and genocidal massacres, Europeans in general and EU members in particular attributed their inaction or little action to the lack of robust capacities and capabilities. When the second Gulf War broke out and a US-led coalition invaded Iraq against the will and warnings of the majority of Western European powers, again EU top leaders blamed their divisions and paralysis to their lack of a unified foreign policy and of a euro-army worth the name (Moravcsik 2003, 2004, 2009). Arguably, the lack of the progress

desired by some is due to the lack of unity among EU citizens and the public opinion in general on the benefit and feasibility of either variable for the improvement of EU international identity and behaviour. Indeed, some policy makers, analysts, and public opinion makers have seen in the inception and the development of ESDP the end of Civilian Power Europe; while others have welcomed the military component as the long missing element for the EU to be a Civilian Power worth the name. In the following sections, I shall review the views of each side separately.

### **Peace by Civilian Means**

[H]ow could a political entity so successful at creating order within through the logic of interdependence now turn to the old logic of coercive action externally? (Nicolaidis and Lacroix 2003: 141).

This quote reflects the stance of people whom its authors refer to as the “critics on the left and within NGOs” who “deplored the old-fashioned logic of a force-centred approach to power” adopted by the EU after the end of the Cold War. Indeed, critics of the defence and military dimension of the European Union and advocates of civilians ends by civilian means all draw upon and espouse the concept and definition of such a power as articulated by Francois Duchêne in the nineteen seventies: “[T]he European Community will only make the most of its opportunities if it remains true to its inner characteristics. These are primarily: civilian ends and means, and a built-in sense of collective action, which in turn express, however imperfectly, social values of equality, justice and tolerance.” (Quoted in Smith K. 2000: 28). In Duchêne’s conviction,

The European Community’s interest as a civilian group of countries long on economic power and relatively short on armed force is as far as possible to *domesticate* relations between states, including those of its own members and those with states outside its frontiers. This means trying to bring to international problems the sense of common responsibility and structures of contractual politics which have been in the past associated exclusively with ‘home’ and not foreign, that is *alien*, affairs.’ (Quoted in Whitman 2002: 4).

Likewise, Zielonka has no doubt whatsoever that “[o]pting for a civilian power Europe would represent one of the basic strategic choices that could help the Union acquire a distinct profile – so important in terms of identity and legitimacy” (quoted in Smith K. 2000: 27). Drawing on and embracing these views, Karen Smith has made various reflections two of which I wish to

consider here because they complement each other. Smith made her first reflection just in the aftermath of the inception of the ESDP and the adoption of the Helsinki Commitments in December 1999, to point out the irrelevance of a military force and to warn against its potential harm to the 'civilian EC/EU'. She made the second reflection half the first decade of the implementation of the Helsinki Commitments, to announce and confirm the definite death of 'civilian power Europe' and therefore to close off the debate about the civilian and distinct identity of the EU. In the first reflection, Smith advances a two-fold argument. First, she unreservedly asserts that the Union has been "abandoning its civilian power image" since the inclusion of the defence dimension in the Maastricht Treaty provisions for the CFSP and its later development from the Saint Malo Declaration and Helsinki Commitments onwards (Smith K. 2000: 12). Second and more importantly, Smith argues that "an EU military capability is not necessary and is, furthermore, potentially harmful." (Smith K. 2000: 27).

### **Unnecessary defence and military force**

Smith holds that defence dimension and the associated military power are not necessary because the objectives they are supposed to help achieve can be pursued, even more effectively, by already existing non-civilian means available in abundance to the Union. The pursued objectives are mainly three: full political integration, strong international identity and influence on the international scene, and (better) handling of international crises and conflicts. In terms of enabling *full integration*, Smith argues that the pursuance of defence dimension and military power is based upon the (traditional) statehood model of foreign policy, while "the EU itself is *sui generis*" and "its development cannot be neatly categorised as a state-building enterprise, although key actors have pushed for such a project since the 1950s." (Smith K. 2000: 19). She recalls that, "Born of an attempt to reduce the threat of war within Western Europe", the EU "is the premier example of how inter-state relations can be transformed through intense cooperation, which does not necessarily entail the creation of a superstate." In support of her point, she endorses Duchêne's assertion that, "With all its imperfections, the Community domesticates the balance of power into

something which, if not as 'democratic' as domestic norms, has made the international system in Europe take a huge step in their direction" (Smith K. 2000: 19).

With regard to *strong international identity and influence on the international scene*, Smith argues that the distinct and attractive identity of the EU has been achieved and can be further strengthened through the success of the European model of exclusively using peaceful and intense cooperation to transform inter-states relations. This success, she argues, is so powerful and attractive that regions and countries want to join or be linked with the Union in one form or another simply because the "EU is simply not threatening" (Smith K. 2000: 24). For Smith, it is from this success that "the civilian power image [of the EU] derives particular strength." Unfortunately, Smith regrets, "in the debate on an EU defence dimension, the contributions that a civilian EU could make to international relations have been discounted" (Smith K. 2000: 19).

Moreover, Smith contends that proponents of a military power EU forget or ignore that "[m]ost foreign policy does not involve the use of force" and that, instead, the EU can and should increase its international influence by better using and "strengthening the economic and diplomatic instruments and procedures that the EU can already use, including trade and association agreements, aid, the use of special envoys, election observation, human rights monitoring, and so on" (Smith K. 2000: 23). In Smith's view, "Excessive emphasis on the military dimension diverts attention from the key problem – the member states themselves" without whose agreement "there will be no common foreign policy and no use of foreign policy instruments, civilian or military." In any case, she concludes, "adding a military dimension will not turn the EU into a more influential actor" (Smith K. 2000: 20); while "[a] civilian power EU could have represented a major shift in international relations." (Smith K. 2000: 28). Smith is convinced that "it would be far better for the Union to improve its capacities to do what it can already do fairly well, with civilian means." (Smith K. 2000: 23).



Concerning the *handling of international crises and conflicts*, Smith argues that the “perceived effectiveness of NATO’s use of force in Bosnia and Kosovo” has “provided *the* justification and spur for the development of an EU military capability.” (Smith K. 2000: 19). She however contends that as far the implementation of the Petersberg Tasks, in particular military intervention in internal conflicts, is concerned, “there may be little that outsiders can, or should, do in these cases, especially when the combatants are still fighting” (Smith K. 2000: 20). She cites the reluctance of states to intervene at all in most internal conflicts because of past controversial and disastrous military interventions such as the one in Somalia in the early 1990s; the absence of an otherwise required international agreement on the circumstances under which military intervention in internal conflicts should be justified and carried out; and the requirement of prior UN authorisation even in cases of military intervention for human protection purposes (Smith K. 2000: 20).

Smith rather endorses the allegedly wide-held view that the EU is “very well-placed” and better equipped than any other international organisation with the type of non-military means which are the most appropriate for tackling the economic, social and political root causes of the internal conflicts and security threats the EU set itself out to respond through the CFSP (Smith K. 2000: 23). Such civilian assets include “intellectual impact of a new model of interstate relations, the disposition of considerable economic influence over the management of the international economy, the possession of a vast network of contacts and agreements with every region of the international system” (Hill, quoted in Smith K. 2000: 23). Her empirical evidence of EU’s successful use of these non-military means are the same as those listed by other analysts (Whitman 2002; Moravcsik 2003, 2009; Leibfried 2009). They include the Pact for Stability in Europe and enlargement towards southern, central, and eastern Europe (Smith K. 2000: 15-6). Leibfried (2009: 11) sustains that, “With the exception of the post-war reconstructions of Japan and West Germany, no external stabilization effort in history can boast such success.” Smith insists that even in the event of necessity of military intervention for humanitarian purposes, “the EU does not have to be the organisation that does the intervening.” (Smith K. 2000: 25) Alternative

organisations for providing “political direction and authority” and through which the EU could make its contribution already existed by the time the EU set out to acquire a defence and military dimension. Her alternatives particularly include the United Nations (UN), enlargeable Western European Union (WEU), and the Organisation for Security and Cooperation in Europe (OSCE) (Smith K. 2000: 25-26).

### **Potentially harmful defence and military force**

Smith K. asserts that the pursuit and eventual achievement of military power by Europe is “potentially harmful” for various reasons. She points out that “[a]n EU military capability would represent the culmination of a ‘state-building project’ and lead to the recreation of “the state on a grander scale”; just the opposite of the fundamental objective of the European integration project (Smith K. 2000: 27). In her view, building up an EU military force could create security dilemma and therefore be met with suspicion and opposing alliances by non-member states and thus “could cement a division in Europe rather than overcome it.” (Smith K. 2000: 24-25). Smith warns that this would mean the end of civilian power EU. She indicates that even if the EU would use military means as last resort and in self-defence or for humanitarian purposes, thus allegedly remaining a civilian power, still “the stated intention of enhancing the EU’s military resources carries a price: it sends a signal that military force is still useful and necessary, and that it should be used to further the EU’s interests. It would close off the path of fully embracing civilian power. And this means giving up far too much for far too little.” (Smith K. 2000: 27). It is Smith’s conviction that wielding military power “would signal the end of the EU’s (potential or actual) contribution to a different kind of international relations, in which civilian instruments are wielded on behalf of a collectivity which had renounced the use of force among its members and encouraged others to do the same.” (Smith K. 2000: 28).

### **Death of ‘Civilian Power EU’**

In her second reflection made half the first decade of the development of EU military capacities and capabilities, Smith K. (2005: 1) announced the death

of *civilian power EU* and undertook “to knock off once and for all the idea of ‘civilian power EU’, and indeed the idea of naming the EU as a specific kind of international actor”. She concluded that the EU was “no longer a civilian power” (Smith K. 2005: 17) and that “civilian power EU [was] definitely dead” (Smith K. 2005: 12) because the EU could not fulfil any of the four defining features of an *ideal-type civilian power*: civilian means; civilian ends; persuasion/ soft power; and democratic control. In terms of means, Smith K. (2005: 1) argued that the EU had developed military capabilities since the inception of the ESDP in 1999 onwards and was heading for more military force in view of the then planned setting up of EU battle groups. She rejected the labelling or categorisation of ‘peacekeeping troops’ as ‘civilian means’ because peacekeepers, whether armed or not, “are still troops who are trained *a/so* to kill”. Besides, she sustains, since the tragic experiences of the 1990s, the trend had been to “depart from traditional peacekeeping principles and allow for the use of more ‘robust’ forms of intervention.” (Smith K. 2005: 2).). Therefore, for her, the EU could not deny possessing and using military means under the disguise of the aforementioned Petersberg Tasks. In her view, “It is much easier and more coherent to maintain a distinction between purely civilian means and military means” because “saying that acquiring or using a bit of military means still qualifies an actor as a civilian power leads to the inevitable question of how much military: where is the cut-off point?” On the other hand, dropping the element of ‘means’ of the definition of a ‘civilian power’ weakens the concept and lets doors wide open for any actor, in particular actors with military means, to qualify (Smith K. 2005: 10-11).

Concerning ‘civilian ends’, Smith recalled those proposed by the precursor of all writers on ‘civilian power’, that is, Francois Duchêne: international cooperation, solidarity, domestication of international relations (or strengthening the rule of law in international relations), responsibility for the global environment, and the diffusion of equality, justice and tolerance.” (Duchêne 1973: 19-20, as quoted in Smith K. 2005: 3). Her observation is that these goals “are still quite fuzzily defined” (Smith K. 2005: 3) and very hard to define (Smith K. 2005: 12). Her proposal is that not only we must acknowledge the ambiguity of the alleged ‘civilian ends’ but also avoid uncritically stating that, “the EU is actually pursuing civilian ends [...] and

therefore is a civilian power.” (Smith K. 2005: 10). To illustrate her point, she for instance underlines that it is not clear what ‘solidarity’ means in terms of policy practice (Smith K. 2005: 3), or “which human rights are promoted (only political?) and which democratic principles (majority rule?)” prevail (Smith K. 2005: 10). Nor does she find clearly stated which of the following numerous foreign policy objectives of the EU takes precedence and how they reinforce each other: the promotion of regional cooperation, economic interdependence, human rights, democracy, sustainable development, fight against terrorism, conflict prevention, organised crime, and illegal immigration (Smith K. 2005: 15-17). Besides, Smith denotes that empirical evidence suggests EU’s preference for those objectives that promote its self-interests such as the fight against terrorism and illegal immigration than those that further the interests of its foreign policy target countries and regions (Smith K. 2005: 16).

Regarding the third criteria, the use of persuasion, instead of coercion, to domesticate the behaviour of international interlocutors, Smith holds that the EU has been using “command power”, particularly since the late 1990s, “to induce or coerce third countries to do certain things” that satisfy more its own interests and or produce inconsistent results. For an example, she points out that *conditionality* has become “a well-established feature of EU foreign relations.” (Smith K. 2005: 10-11). She underlines that the EU coerces its interlocutors particularly with “*negative conditionality*” (negative measures such as reduction, suspension of aid, or sanctions) which is “*coercion*, in other words.” (Smith K. 2005: 11). With reference to the last criteria, civilian control over foreign policy, Smith affirms that “formal parliamentary control in the CFSP (or over trade agreements, or, as is increasingly important, the external aspects of the Justice and Home Affairs agenda) is not assured”. She contends that, “the parliamentary input – and public debate – over the use of the armed forces by the EU and/or by the member states is minimal” and that “the entire development of the European Security and Defence Policy has occurred with very little public discussion, or even knowledge.” (Smith K. 2005: 11). Smith’s conclusion is that the EU “finds itself, like almost every other international actor on the planet, somewhere along a spectrum between the two ideal-types of civilian and military power.” She asserts that,

“like all other international actors”, the EU “faces moral dilemmas between carrying out duties towards its citizens and carrying out duties towards foreigners.” (Smith K. 2005: 17). Smith henceforth calls for the debate about the alleged distinct international identity of the EU to be shifted and focused on the kind of (international) *order* and *justice* – the (international) milieu – the EU cherishes and upholds and how it actually does pursue and should pursue that milieu.

### **Still ‘Civilian Power EU’**

While Smith K. (2005: 17) was announcing the definite death of ‘civilian power EU’ and was calling for an end to “classifying or categorising the EU – and celebrating its distinctiveness” in world politics, others were doing the opposite. This is the case of two authors, Moravcsik and Leibfried, whose views are otherwise identical to Smith’s ones. Amid the international and, particularly, trans-Atlantic discord over the Iraq crisis in the early 2000s, Moravcsik (2003, 2004, 2009) argued, like Smith, that an EU military power measurable to the US’ one was and is unnecessary, unachievable, and harmful for EU’s global influence for peace and security. Military force is not necessary because, Moravcsik sustains, the EU “possesses five instruments that, taken in total, constitute an influence over peace and war as great as that of the United States.” (Moravcsik 2004: 172). Those instruments are the following: *free trade based accession*; *aid* (civilian development and humanitarian aid); *multilateral peacekeeping and policing*; *monitoring and building global trust by international institutions*; and *multilateral legitimation and legitimacy*. In Moravcsik’s (2004: 173) view, the first instrument “is perhaps the single most powerful policy instrument for peace and security in the world today.” Concerning the second, Moravcsik points out that EU contribution represents “70 per cent of all” development and humanitarian aid worldwide and “four times more than the United States”, and “is far more equitably disbursed, often by multilateral organisations”. As to the third instrument, Moravcsik underlines that the EU contributes “ten times as many peacekeeping troops as the United States” to *multilateral peacekeeping and policing*. Concerning the fourth instrument, *monitoring and building global trust by international institutions*, Moravcsik sustains that the EU can and

should increase its support. In his conviction, “The Iraq crisis might have developed very differently if the Europeans had cared enough to offer the option of sending, say, ten times as many weapons inspectors to Iraq, ten months earlier.” (Moravcsik 2004: 173).

Regarding the fifth and last instrument, Moravcsik (2004: 173) considers international / multilateral legitimacy to be “the basis of ‘soft power’ – the power to attract rather than compel” in the contemporary world. In his view, “Even modest progress on difficult civilian tasks – like tightening ties with Turkey, developing EU flexibility on the Israeli-Palestinian question, establishing a multinational coercive inspection force for WMD, or cutting agricultural subsidies – would do more, euro-for-euro, to promote world peace and security than construction of a ‘Euro-force’.” (Moravcsik 2004: 174). Furthermore, Moravcsik argues, building a euro-military power in the US’ image is not feasible because “[i]t is unlikely that Europeans will spend the money, or approve the wrenching industrial and political upheavals, necessary to create a serious high-intensity force.” (Moravcsik 2004: 172). Finally and even more important to underline in Moravcsik’s view, the calls and initiatives to build up a high-intensity euro-force are harmful for two reasons. First, “militarisation betrays European ideals and interests”, deeply rooted “in an admirable European idealism about the potential efficacy of non-military foreign policy instruments.” Second, “European defence schemes distract Europe from its true comparative advantage in world politics: the cultivation of civilian and quasi-military power.” (Moravcsik 2004: 172).

When the ESDP was celebrating its tenth anniversary by the end of 2009, Moravcsik confirmed his prediction, made five years earlier. He announced that the EU had actually become “the quiet superpower”, “the only other global superpower besides the United States in a bipolar world”, and the “world’s pre-eminent civilian power”. He argued that its power and global influence were actually rising and would continue to do so for a foreseeable future because they are based on “stable factors such as high per capita income, long-term institutional advantages and convergence of underlying

national interests between European countries and other great powers, notably the United States.” (Moravcsik 2009: 403).

At the same point in time, Leibfried (2009) too disapproved of harsh criticisms and constant demands for credible military power to remedy EU’s alleged lack of foreign policy worth the name. For him, such criticisms and demands are misplaced, unfair, and harmful. They are *misplaced* because they are inspired on an outdated model of foreign of classical nation-state foreign policy that is inapplicable to the case of the EU, which is not a superstate. They are *unfair* because, they fail to realistically assess the “unusual policy instruments” of the EU” the “most important and successful” of which “is its accession policy.” Thanks to this policy, Leibfried argues, the EU has turned “fragile post-dictatorial democracies in Greece, Spain and Portugal” into “reliable partners.” (Leibfried 2009: 11). Leibfried’s list of unusual and innovative, yet undervalued, foreign policy instruments include “Europe’s association treaties with countries on the Mediterranean rim” and “its trade and development programs in some members’ former colonies.” (Leibfried 2009: 11).

Lastly, Leibfried finds the criticisms against EU foreign policy and demands for military force *harmful* because; “As long as we expect Europe to behave like a nation-state rather than allowing it to develop on its own terms, its foreign policy will be misdiagnosed and overprescribed, doomed to perpetual crisis and impotence.” In order to avoid this and with a view to enabling the EU “to make an enormous contribution toward solving critical regional and global problems”; Leibfried rather proposes strengthening EU’s “sui generis capabilities” and using “them to influence and embed its neighbours”. (Leibfried 2009: 11).

### **Peace by Civilian and or Military Means**

In sharp contrast with the foregoing argument of Smith (2000, 2005), Moravcsik (2003, 2004, 2009), and Leibfried (2009), various analysts endorse the official discourse of EU authorities and sustain that military force rather reinforces ‘Civilian Power Europe’ (Gasteyer 1996; Bretherton and Vogler 1999; Heisbourg 2000; Howorth 2000; Stavridis 2001; Petiteville

2003). In particular, Stavridis and Petiteville have made a strong case for the EU to acquire a credible military force in order to be an able and credible Civilian Power on the international scene. Stavridis (2001: 3) maintains that, “thanks to the militarising of the Union, the latter might at long last be able to act as a real power in the world, and more importantly as a civilian power, that is as a force for the promotion of democratic principles in the world.” He directly refers to the “many atrocities in the former–Yugoslavia and other areas of the world” (Stavridis 2001: 3). He undertakes to demonstrate that “the militarising of the EU” is not only compatible with but also indispensable for the strengthening of a Civilian Power Europe. He thus sets out to challenge scholars (namely Whitman 1998, Edwards 2000, and Smith K. 2000) who argue the opposite: that the militarising of the EU under the CFSP entails the end of Civilian Power Europe.

Stavridis’ argument revolves around two main pillars: (i) the *military power* requirement and the status of the EU in world politics and (ii) the concept of *civilian power* and the *military power* condition. Here I shall focus on the second, as I have no fundamental observation on his valuation of military power as a means to enhance the Union’s high politics profile on the international scene. EU authorities have themselves made clear that the introduction of the CFSP aimed to assert the Union’s identity and to level up the EU political influence to its coveted economic leverage on the international stage (TEU, art.1).

### **Military Power and Civilian Power EU**

Stavridis (2001: 21) contends that “only half of the initial definition” of the concept of *civilian power* was used and “useful during the nuclear stalemate and the predominance of the bipolar world.” He too recalls that the concept of *civilian power* as applied to Europe was academically first developed by Duchêne (1972, 1973), and was initially used in reference to Japan and West Germany. He notes that the concept had two main features: (i) “the absence of military means (both conventional and nuclear) and the presence of economic and financial importance in the international system” (Stavridis 2001: 4-5); and (ii) the promotion “through [one’s] foreign policy [of] the ideals of democracy, human rights, economic growth and international cooperation.”



(Stavridis 2001: 6). His main finding is that only the first characteristic was unfortunately emphasised, with as a result the under-study of “the question of military power as part of the concept”. Hence, Stavridis criticises scholars who emphasise the *non-military condition* of any civilian power at the expense of the second – the normative prerequisite of promoting democratic principles – and ignore “the more problematic question of how to promote these principles without ever having to use force.” (Stavridis 2001: 9). He finds this question more than just a theoretical one “because it implies, though not explicitly, that democracies should never fight each other.” To challenge this assumption he advances that “[h]istory and reason point to a different direction of the course” and simply asks; “What would have been a civilian response to Hitler’s military takeover of Europe?” (Stavridis 2001: 9). For him, “the possession of military means is necessary because it allows for the possibility of using them. It adds to the credibility of an international actor. Equally important is, in his view, the fact that by not having a military option the range of possibilities becomes more restricted and less credible.” Comparing the EU to the United States of America, Stavridis affirms that, “by having both military and non-military options, the Americans enjoy more freedom of manoeuvre when dealing with international issues.” (Stavridis 2001: 18). His conclusion is two-fold. First, he affirms that “we need to move from the concept of a civilian power ‘by default’ to that of a civilian power ‘by design’ (or by conviction)”. Second, he advances that “the militarizing of the EU makes the concept even more useful.” (Stavridis 2001: 20).

For his part, Petiteville (2003: 137) argues that, “without support from a stronger CFSP, including military potential, the EU’s capability to play a major role in conflict-preventing and peace-building operations may remain quite limited in the future.” Petiteville and like-minded analysts “believe that the EU’s current soft diplomacy has more to win than to lose if completed by a stronger CFSP which is equipped with a military potential to perform the so-called Petersberg tasks.” Petiteville advances that, “Contrary to Karen Smith (2000) and other authors”, himself and his like-minded fellows “do not see the ‘end of civilian power EU’ in the evolution but the strengthening of the EU’s external capability.” In his view, “promoting democratic and human rights values is not necessarily contradictory with the disposing of a military

potential to face, in the last resort, the crises of a frequently ‘uncivil world’ [...], provided that the latter is not used as a tool for expansion, imperialism or hegemony.” (Petiteville 2003: 137). Petiteville bases his call for the building of EU military capability on the allegedly inherent limits of *soft diplomacy*. He defines the latter “as a diplomacy resorting to economic, financial, legal and institutional means to export values, norms and rules and achieve long-term cultural influence.” He sustains that *soft diplomacy* “is mainly based on the promotion of democracy, human rights, the rule of law, peaceful resolution of conflicts, sustainable development and so on”; and “is usually seen as deprived of power interests and as a useful contribution to the work of the United Nations’ efforts to promote global governance.” (Petiteville 2003: 134).

Petiteville relates *soft diplomacy* to the concepts of *soft power* and *civilian power*, both of which “underline the primacy of economic and institutional cooperation over military means, and of long-term cultural influence on short-term diplomatic pressures, to achieve international political influence.” He recalls that soft diplomacy “is not totally new and has, for instance, characterized the diplomacy of states like Canada and Scandinavian countries.” (Petiteville 2003: 134). Besides, Petiteville notes that the “EU’s soft diplomacy is not new in itself, but the EU brings an added value because its weight in the world is comparable to the US.” In that context, he points out,

the EU may pretend to compete with the US for global leadership in promoting its own conception of democracy (for example banning the death penalty and defending strong welfare states), promoting sustainable development (through support for the Kyoto protocol which was rejected by the US) and by regulating globalisation (especially on social protection, culture, agriculture, development aid, etc.). (Petiteville 2003: 134).

Accordingly, Petiteville sustains, the “EU’s soft diplomacy as a way of proposing values, norms and rules is all the more important given that the globalisation era is characterized by a collective need for meanings other than strictly economic norms.” (Petiteville 2003: 134). Nonetheless, he warningly contends, EU soft diplomacy “faces obvious geo-political constraints.” It “may be adapted to ‘soft conflictual’ situations where economic sanctions are sufficient to exert an effective pressure on governments”, but is inefficient “in more serious cases of political/military

conflict such as mass crimes (Rwanda), civil wars (Sierra Leone, Angola, Congo) or authoritarian regimes resistant to economic pressures (Iraq, Serbia, Nigeria, Sudan).” (Petiteville 2003: 137). He advances that without the support of a strong CFSP, “the objective of ‘conflict prevention’ set by the Cotonou Agreement as a new objective of the EU co–operation with ACP states seems quite unrealistic”. He quotes a member of the cabinet of former Commissioner for Development Cooperation and Humanitarian Aid, Mr. Poul Nielson (1999 –2004) as sharing his assessment: “Conflict prevention sounds great in speeches, but in practice, unless involving 500,000 soldiers, we do not know how we will manage” (Petiteville 2003: 137). Moreover, he gives the case of the role of the EU in Asia and Middle East as empirical evidences. He sustains that the objectives contained in the *Strategy* presented by the Commission in 1994 for Asia and which included “a strong EU contribution to regional security including negotiations about arms control and non–proliferation [...] are merely rhetorical given the weak political influence of Europe in Asia.” Concerning his second area of empirical evidence, he affirms that “the Middle–East is another classic example of the EU’s limited capacity to link economic co–operation with diplomatic influence.” He argues that while the “EU provides more than 50 per cent of international aid to the Palestinians”, its “diplomatic position”, which is reputed to be closer to the Palestinians than the US, has given Israel the incentive to leave the EU out of the Israel–Palestinian negotiation process.” (Petiteville 2003: 137).

### **Commentary**

The views exposed above share a fundamental premise that the EU is by design an essentially civilian power at least in two aspects: **means** and **ends**. Nuances and divergences exist only in terms of the importance of either criterion and of the way and extent to which the EU must satisfy either criterion in order to qualify as a civilian power worth the name. Proponents of a Civilian Power EU without any military force whatsoever hold that non-military means are not only appropriate but also sufficient for the EU to domesticate international relations through the promotion and protection of human rights, fundamental freedoms, and the rule of law worldwide. They

regret and warn against the weakening and, worse, the death, of Civilian Power EU because of the introduction and development of a military dimension through the ESDP. Their critics argue the opposite and welcome the military dimension as a rather enabling factor for a global civilian power EU by design rather than by default. Both sides provide insightful accounts of the origin and contours of the concept of *civilian power* and its relevance and applicability to the case of the EC/EU, and its benefit for the conception, conduct, and evaluation of foreign policy. In particular, Smith's (2005) conceptualisation of an *ideal-type civilian power*, with the four complementary criteria, and Stavridis' re-conceptualisation of a Civilian Power Europe, with an emphasis on the second normative condition – the promotion “through its foreign policy of the ideals of democracy, human rights, economic growth and international cooperation” (Stavridis 2001: 6) – are pertinent. Equally useful is Moravcsik's (2003, 2004, 2009) delineation of the EU's five foreign policy “instruments that, taken in total, constitute an influence over peace and war as great as that of the United States.” (Moravcsik 2004: 172). Leibfried (2009) too makes an important point by stressing that the EU is neither a *superpower* nor *superdwarf* and that we should assess its foreign policy accordingly. Finally, Petiteville's (2003) definition of *soft diplomacy* and his account of its actual application by the EU constitute an important contribution to the discussion.

However, there exist some important shortcomings with either side, particularly when it comes to civilian ends, that is, the normative condition of a *civilian power* in Stavridis' conceptualisation. Advocates of non-military instruments fail to demonstrate how in their cited empirical evidence, the use by the EC/EU of non-military foreign policy instruments successfully furthered civilian ends in favour of recipient countries of little or no high stakes for the EC/EU and or its key allies. Enlargement (in particular towards central and eastern Europe), the more cited empirical evidence of a civilian power Europe, undeniably owes its success to the sustained political will, long-term commitment, and determination that altogether underpin the European integration project: a non-forcible creation of a community of shared geographical location, history, ideals, values, and interests. In other words, enlargement is an integral part of the main “means” for furthering the

European integration venture and is therefore nurtured by a strong self-realisation interest. Critics of the military dimension also leave one wondering whether the failure of the EC/EU to avert or stop the tragedies in certain places was due to the non-use or inadequate use of its otherwise sufficient non-military foreign policy instruments.

More importantly, their outright rejection of military means and the warning against the death of civilian power EC/EU clearly suggest that until the introduction and development of military capacities and capabilities under the CFSP, the EC/EU was a civilian power worth the name by their own criteria. In her second reflection, Karen Smith sets out to argue that “the EU is no longer a civilian power” (Smith K. 2005: 1); but she unexpectedly decides not “to delve into the question of whether the EC/EU ever was a *real* civilian power, before the end of the Cold War”, evoking space constraints (Smith K. 2005: 6). In any case, none of the authors reviewed here claim more assertively than she does that the EC was real civilian power before the end of the Cold War. Yet her claim, be it implicit, is challengeable in terms of *ends*. Issues of human rights, good governance, rule of law, and fundamental freedoms were deliberately long left out of the scope of development aid and trade policies of the EC/EU because of the cardinal principle of non-interference into internal affairs during the Cold War and the primacy of self-interests. In the case of the EC/EU’s partnership with ACP group, it was not until the entry into force of the Cotonou Agreement in April 2003 that such issues were taken on board.

I could easily agree with Smith K. and others that the EC/EU could do more and better with its non-military foreign policy instruments, and could undertake or participate in military intervention for humanitarian purposes through alternative organisations such as the UN or WEU. I however do not see how Smith’s proposed indirect military intervention would be less harmful than direct military intervention, in terms of the world’s perception of the EU as “a collectivity which had renounced the use of force among its members and encouraged others to do the same.” (Smith K. 2000: 28). Likewise, I share Smith and others’ scepticism about the real possibilities of military intervention for human protection purposes by able actors in high risk places unless core self-interests are at stake. Nevertheless, negative experiences of

disastrous interventions (in Somalia) and or inaction (in 1994-Rwanda) do not per se close off the possibility of positive action, particularly when decisions makers come under strong pressure from the voters and world's mass media.

Concerning proponents of military means for *civilian ends*, I agree with Stavridis (2001) and Petiteville (2003) that the military option may be needed or even the only possible course of action to prevent or halt mass atrocities in certain circumstances. Stavridis' historic example of the Allies' response to Hitler's military takeover of Europe is pertinently convincing. Therefore, international actors who claim to be *civilian powers* in terms of the *ends* of their respective foreign policies should have that option available to them individually or collectively, autonomously or dependently. I also agree with Petiteville that actual use of military force for human protection purposes should take place as the last step on a long continuum involving trade and economic sanctions. However, in any of their cited cases where military force was and would be indispensable for successfully dealing with mass atrocity crimes (Former Yugoslavia, Rwanda), civil wars (Angola, Congo, Sierra Leone), or repressive regimes resistant to non-military compliance enforcement measures (Nigeria, Iraq, Serbia, Sudan), none of the two authors indicates whether, at the time of these tragedies, the EU did have that continuum; whether it tried that continuum; and why, if ever it tried that continuum, the EU still needed its own credible military power to eventually succeed. Moreover, Petiteville and Stavridis constantly compare the EU to the US to highlight the weakness of the former and the strength of the second, as a direct consequence of the inequality of their respective military forces. Yet, in the two examples of Asia and Middle East that Petiteville gives, it is not empirically evident that the US has actually performed better than the EU on the second prerequisite of a civilian power, or that any hypothetically better performance would be attributable to Washington's overwhelming military force. In their analyses, it is not evident first whether the United States of America are or behave as a civilian power at all, and, second, if and when the US are or behave as a civilian power because of its military superiority.

Another point of discord is the added value that Petiteville ascribes to the EU's *soft diplomacy* simply because, economically (for the time being), the Union can compete with the US for global leadership. From a CR perspective, his assessment appears to be much more *quantitative* than *qualitative*. Some individual countries, including small ones, can *qualitatively* and *morally* compare to and even outweigh the US and or the EU in terms of inducing peace, human rights protection, and sustainable development by way of humanitarian aid, development aid, cooperation, and negotiations. His own mention of the praxis of Canada and Nordic countries could not be more pertinent here. Lastly, Stavridis affirms that a civilian power concept emptied of its second condition was "useful" during the era of nuclear stalemate only. However, he does not state why. In whose interests was it useful? Arguably, it was not in the interest of those countries that proved to be more impoverished and afflicted by violent protracted conflicts after decades of development aid from the EC. For instance, Sub-Saharan Africa was on top of the development aid agenda of the EC/EU since the inception of the establishment of the so-called Lomé Conventions in 1975 throughout to the Cotonou Agreement concluded in 2000. Yet, in 2005, Sub-Saharan Africa was "the only region to have grown poorer" since its independence in the nineteen fifties and "its share of world trade ha[d] halved in a generation." (Department for International Development 2005). The European Commission's official (Mr. Poul Nielson, 1999-2004) may be right in warning that conflict prevention under the Cotonou Agreement is unachievable without a back-up force strong of half a million troops. Not less problematic is the actual use (through the CFSP) of such a force without a clear and implementable ethical common foreign policy, in order to enforce compliance with the Agreement provisions (Art. 8) on human rights, democracy and rule of law, corruption, and mismanagement, conflict prevention, and peacebuilding in recipient countries.

## **Conclusion**

This chapter aimed to identify the resources that the EU had at its disposal under the CFSP for its response to the two Congo Wars that broke out successfully in 1996 and 1998, and to establish, from a CR perspective,

whether those resources were adequate enough to enable the EU to make the difference for the millions of civilian victims of those two wars. The foregoing discussion has established that during the full period under examination, the EU disposed of various normative, policy-making, and operational resources for use under the CFSP. The latter indeed experienced a so rapid and extensive development politically, legally, institutionally, and operationally that in only one decade (1999-2009) it carried out over twenty civilian and military missions in responses to international crises. The foregoing examination of key reference documents also shows that these developments reflected clear attempts to integrate some of the relevant lessons from failed humanitarian interventions of the 1990s (in the Balkans and in the Africa's Great Lakes region); as well as the normative, theoretical, and practical insights from CR, at least in that they embedded the EU's rejection, be it on paper only, of indifference and inaction in front of shocking human suffering and the Union's subscription to the *complex theory* and *praxis* of violent conflict. However, the reported developments were not sufficient enough to enable the EU to make the claimed difference in its response to the two Congo Wars. Firstly, from a timing perspective, during much of the two wars, the EU was either devising or fine-tuning most of the assets it considered necessary for developing and strengthening its CFSP. For examples, by the time the CFSP came into force, conflict prevention for the First Congo War was nearly overdue; and when the CFSP gathered most of its own resources, the Second Congo War had formally ended. The ESDP itself was incepted at the end of the 1999, nearly one year and a half into the Second Congo War, and was declared operational at the end of 2001. 'Common Strategy', the most important policy-making instrument of the CFSP, was available for use only from 1 May 1999 onwards; whereas the European Security Strategy was adopted a decade after the entry into force of the CFSP and one year after the formal end of the Second Congo War. Finally, CFSP's own supporting civilian, political, and military structures were hardly in place by the end of 2002; whereas its 15-combat-trained battlegroups and its nearly 2 million civilian experts reached the planned full strength in 2007.



Secondly, from a qualitative perspective, these resources were inadequate because of various intertwined reasons; the most decisive one of which being the transcendence of the values and interests of the EU and its Member States to the detriment of the 'humanitarian imperative'. Another overwhelming shortcoming is the deliberate ambiguity over the scope, normative stance, and objectives of the CFSP, which serves to keep everyone comfortably on board but is largely responsible for the inherently intermittent and open-ended status; and clearly denotes a minimalist approach to humanitarian intervention for human protection purposes. This in turn makes the CFSP too unreliable and unpredictable for the EU to make a difference in world politics in general and nation-(re)building in particular. Moreover, the subsidiary status of the CFSP; its dependence on the authorisation of the UN and or the government of the intervention-target country; its lack of experience in 'high politics' foreign policy and in CR praxis (availability and use of specialised holistic knowledge, abilities, and know-how); the excessive focus on '*Means*', and the related importance and priority given to military power, at the expense of '*Ends*', and the focus on the most marketable and fashionable issue-areas of contemporary international peacebuilding (**policing; strengthening the rule of law; strengthening civilian administration and civil protection**) suggest excessive eurocentrism and focus on post-war statebuilding to the detriment of the context-tailored, multi-stage (conflict-continuum), multi-level, and multifunctional approach prescribed by CR. All this unsurprisingly reinforces the perception of the CFSP as being part of international liberal peacebuilding the main features of which I have just exposed in the preceding section. *Overall, from the CR perspective, the CFSP normative, policy, and operational growth is a much less "success story" than often claimed. Is this also the case in practice?* I respond to this question in the following chapters by investigating the alleged difference the CFSP, in particular its operational pillar ESDP, enabled the EU to make in its response to the two Congo Wars. Indeed, to date, the DR Congo has been one of the largest African recipients of "international peacebuilding and state reconstruction interventions" (Francis 2012: 6) and "a major focus for Europe and a proving ground for an evolving European policy." (Dobbins et al. 2008:

133). For analytical clarity, I account for the CFSP-borne response to the most pressing needs and challenges of each of the two wars separately, drawing on secondary data.

## **CHAPTER FIVE: CFSP-BASED RESPONSE TO THE FIRST CONGO WAR (1994 - 1998)**

Timely and quality information is crucial for successful analysis and handling of violent conflicts. Arguably, such information is even more crucial than the often-overvalued operational capacities and capabilities. Surprisingly, all the studies reviewed earlier concerning the EU response to the tragedy of the DR Congo fail to provide empirical facts on both the information on the violent conflict and the CFSP resources that were available to the EU for its response. They also fail to establish if and how the EU did (not) make good use of that information and those resources. This chapter sets out to fill the gap regarding the First Congo War by answering the following questions: *Was the information on the first war in the DR Congo timely and sufficient for the EU to respond adequately for its prevention, mitigation, and recurrence? Did the EU make the best use of the CFSP assets that were available for its response?* I carry out this task by using the three-stage analytical approach of Conflict Resolution: Early Warning and Prevention (EWP), Conflict Management (CM), and Post-Conflict Peacebuilding (PCPB). This approach helps discern *any general need-response pattern* and account, as systematically and thoroughly as possible, the difference that the CFSP in general and the ESDP in particular reportedly enabled the EU to make in its response.

### **Early Warning and Prevention (July 1994 - Sept. 1996)**

#### **Needs and Challenges**

The period for early warning and prevention (EWP) for the First Congo War (FCW) spans from July 1994, the date of the massive and sudden influx of 1.2 million refugees from Rwanda into eastern Zaire (Democratic Republic of Congo as from May 1997 until to date), until September 1996 when the war broke out. From day one of that biblical exodus, there was unanimous consensus among all concerned that “[t]he presence of refugees in North and South Kivu was [...] a threat both to internal stability and to security along Zaire’s borders with Burundi and Rwanda.” (UN Security Council 1996a: 7, para. 27). Hence, various warnings and calls for preventive action were

constantly made from the very beginning of the crisis. The first of such warnings was rather a threat from the new Rwandan authorities. On several occasions, they publicly vowed to pursue the refugees and dismantle the camps if appropriate measures were not taken for their “immediate repatriation [...] or their removal away from the border area deeper into Zaire.” (UNHCR 2000: 251). In late 1994, a US Defense Attaché echoed the threat of Rwandan government to the staff of the UN Refugee Agency in eastern Zaire in these terms:

If you as the head of the UNHCR operation here in Goma do not address the issue of disarming the ex-FAR [former Forces Armées Rwandaise] and militias in the camps, you will probably see an RPA [Rwandan Patriotic Army] brigade on that traffic circle within the next year [...] There is another war coming if we do not disarm the camps and get the refugees home. (Odom 2006: 1).

On 19 December 1994, Zaire’s Prime Minister Kengo Wa Dondo informally addressed members of the UN Security Council on the issue. According to an unclassified cable of the United States Mission at the UN in New York, Mr. Kengo Wa Dondo criticised the ousted Rwandan leaders for hindering the return of their country fellows and “for invading a large section of the Zairian territory and terrorizing local populations.” (United States Department of State (US Department of State) 1994: 2, para. 3). He also criticised the new Rwandan authorities for threatening to pursue their refugees in host countries; wrongly suspecting the government of his country of aiding the ousted Rwandan government forces to reorganise; and for preferring domestic justice to international tribunal. For solutions, Kengo Wa Dondo proposed three complementary options: *repatriation*, *resettlement*, and *relocation*. He asked the international community to provide the necessary means because his own government could not alone cope with the situation. Concerning his first and preferred option, Kengo Wa Dondo advocated the setting up of security corridors from the camps to the borders of his country with Rwanda and the establishment of safe areas within Rwanda to facilitate the return of refugees (US Department of State 1994: 3, para. 6). Regarding the second option, he urged the UN to find another place of asylum for the exiled Rwandan political leaders. For the third and last option, he asked the international community to move the refugees, in particular political leaders, military and militia personnel, away from the border areas between his country and Rwanda in accordance with the African Convention on refugees

that required at least a 150 kms distance from the country of origin. He informed the Security Council that his government had “earmarked four possible sites [farther] in the interior for camps, but had no transportation.” (US Department of State 1994: 2, para. 7).

Kengo Wa Dondo told the UN Security Council that his country was not “responsible for the war in Rwanda and should not pay the price of the policies of its neighbours.” He indicated that the damage caused by Rwandan refugees to his country’s “economy, environment, education, infrastructures, and health sectors” was so unbearable and intolerable that it “required the international community to take urgent action.” (US Department of State 1994: 2, para. 4). He “threatened that that persons of Rwandan descent who had acquired Zairian citizenship fraudulently would no more be tolerated”; thus reviving the long-standing debate and tensions over citizenship in the country’s political and social arenas. Besides, he warned that if humanitarian aid did not reach his country’s armed forces, the latter “would only steal the food from the civilians.” He argued that “the international community should feed the impoverished local Zairians, failing which they could ‘take up arms’ and expel the Rwandan refugees.” (US Department of State 1994: 5, para. 10). Kengo Wa Dondo warned members of the UN Security Council that his country security forces “had been maintaining order in the camps for six months without reinforcements, and were so [...] weakened that ‘anything could happen.’” (US Department of State 1994: 2, para. 4). He promised to make available 1,500 troops to police the camps with UN logistical support and at the regular rate of compensation for blue helmets (US Department of State 1994: 3, para. 6).

A month before the warning and call for appropriate action of Zaire’s Prime Minister, his government’s concerns and proposals had already been taken on board by the UN Secretary-General in his report S/1994/1308 of 18 November 1994 to the UN Security Council concerning the situation in Rwandan refugee camps. However, the options of repatriation and resettlement were soon ruled out because of the lack of the necessary conditions of safety and dignity inside Rwanda, for the first option, and of candidate countries for receiving part of the refugee population, for the

second option (UNHCR 2000; UN Security Council 1995). Moreover, the massacre by post-genocide Rwanda's new army of thousands of internally displaced persons in the UN-protected camp of Kibeho, south-western Rwanda, on 22 April 1995, virtually brought voluntary repatriation to a halt and triggered more displacements from the region towards neighbouring countries, in particular Zaire and Burundi (UNHCR 2000: 255). Arguably, the Kibeho events and the ambivalent reaction of the international community were a clear foreshadowing of a much larger scale tragic scenario that was about to unfold in refugee-hosting eastern Zaire (Prunier 2009: 38; Odom 2006: 8-9). This meant that the only realistic temporary option at the time was to focus on the following:

- Policing camps;
- Disarmament of armed elements in the camps;
- Separation and protection of the 1 million ordinary refugees from the influence and control of military and political leaders; and
- Relocation of camps far away from the Rwandan border.

For implementation, the UN Secretary-General (UN SG), in agreement with the UN Refugee Agency, submitted to the UN Security Council three options: *Traditional Peacekeeping Peace Operation, UN-led Peace Enforcement Operation, and UN-authorized Peace Enforcement Operation.* (UN Security Council 1995) However, only an insignificant number of the sixty potential troop-contributing countries contacted by the UN SG responded positively (UN Security Council 1995). Consequently, the sole alternative was the least reliable solution of using Zairian security forces. In February 1995, the UN Refugee Agency and the Government of Zaire concluded an agreement by which the "Zairian Contingent for the Security of the Camps" (ZCSC) was established. It was a specially recruited force strong of 1,500 troops from the 'Division spéciale présidentielle' of President Mobutu and backed up by "international advisers from the Netherlands and from several West African countries." (UNHCR 2000: 254-255). Its task consists of essentially policing the camps in order to restore therein law and order. Despite its impressive beginnings, the Force eventually did not live up to expectations. According to the UN Refugee Agency, the Contingent "eventually proved to be poorly disciplined" and "was soon drawn into the endemic corruption of the administration in the Kivus and other parts of Zaire." (UNHCR 2000: 255).

Moreover, its poor performance added to the widening political divide in Zaire because it “was directly accountable to President Mobutu, through his Minister of Defense, and not to the Prime Minister” from the political opposition (UNHCR 2000: 255). By mid-1995, consistent reports (Amnesty International 1995a; Human Rights Watch 1995) emerged on military bases, training, and equipment being provided to former Rwandan armed forces and militias in violation of the different arms embargoes decided by the UN Security Council (Resolutions 918 (1994), 997 (1995), and 1011 (1995)).

As early as January 1996, the International Commission of Inquiry that the Security Council established to investigate those allegations (Resolution 1013 (1995) of 7 September 1995) “in the Great Lakes region and elsewhere between October 1995 and October 1996” confirmed them (UN Security Council 1998b). Security in and around the camps continued to deteriorate in the last part of 1995 and throughout 1996. Incursions and infiltrations from and into refugee camp areas in eastern Zaire and pre-emptive and retaliatory strikes by the new Rwandan government’s armed forces gradually intensified; as did inter-communal tensions and violent clashes in North and South Kivu. The situation produced many deaths and displaced persons some of whom, in particular from the ethnic Tutsi community, crossed into Rwanda and Burundi seeking refuge (ECOSOC 1996, UN Security Council 1996, UNHCR 2000). In his 1995-end-of-year report to the UN General Assembly, the UN Secretary-General warned member states of a potential regional flare-up in these terms: “The combination of ethnic polarization in Burundi and Rwanda, massive circulation of arms, porous borders and trans-border movements of refugees threaten, at best, to keep the sub-region perpetually unstable and, at worst, to ignite a large-scale regional conflict.” (UN General Assembly 1995: para. 888) These concerns materialised in mid-September 1996 when armed confrontations erupted between the rebel group of the so named Banyamulenge (Congolese descended from Rwanda’ ethnic Tutsis, some of whom had settled in South Kivu during pre-colonial times) and armed elements from Rwanda’s and Burundi’s ethnic Hutu refugee camps. By mid-October 1996, the name of the Banyamulenge rebel group was revealed as “Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre (AFDL)”, in French; translated into English as

Alliance of Democratic Forces for the Liberation of Congo-Zaire. One month into the clashes, the UN Secretary General Boutros-Ghali alerted the UN Security Council, reporting increasing tension “on the border between Rwanda and Zaire, including cross-border exchanges of heavy weapons fire and mutual accusations between the two Governments.” (UN Security Council 1996b: 1) Ten days later, he reported on the deterioration of the situation and underlined that “[t]he failure to address the root causes of the conflicts in the region of the Great Lakes, in political and economic as well as security terms, ha[d] once again unleashed a spiral of violence and human suffering that may spin out of control unless urgent measures are taken immediately to contain the situation.” (UN Security Council 1996c: 2).

### **CFSP-based Response**

For Early Warning and Prevention (EWP) of the First Congo War, the EU had at its disposal some of the CFSP decision-making and implementation instruments identified in the preceding chapter. Political and non-legal assets included *Principles and General Guidelines*, *Declarations*, and *Demarches*; whereas politico-legal instruments included *Common Positions (CPs)*, *Joint Actions (JAs)*, and *Decisions*. This section determines per category which of these resources the EU actually resorted to, when and how it did so.

#### *Non-Legally Binding Decisions and Actions*

In terms of **Principles and General Guidelines**, the European Council held six summits three of which addressed the situation in Zaire and or the Great Lakes Region throughout the period of EWP (July 1994 - September 1996).



| <i>First Congo War: Early Warning and Prevention (July 1994 - Sept 1996)</i>  |             |             |             |          |
|---|-------------|-------------|-------------|----------|
| <b>CFSP Response: Principles and General Guidelines</b>   |             |             |             |          |
|   | <b>1994</b> | <b>1995</b> | <b>1996</b> |          |
| Total EU Summits  | 2           | 2           | 2           | <b>6</b> |
| <b>EU Summits with reference to DR Congo/ Great Lakes Region (GLR)</b>  | <b>0</b>    | <b>2</b>    | <b>1</b>    | <b>3</b> |
| <b>Main issue-areas addressed with reference to the DRC/GLR:</b>  |             |             |             |          |
| <i>EU concern about and condemnation of “all acts of violence and destabilisation attempts by extremists of every hue” in Burundi.</i>        | 0*          | 1           | 1           | <b>2</b> |
| <i>EU call for the convening, as soon as possible, of a conference on peace, security and stability in the region of Great Lakes.</i>         | 0           | 1           | 1           | <b>2</b> |
| <i>EU emphasis on the importance of national reconciliation and stability in the Great Lakes Region.</i>                                      | 0           | 1           | 0           | <b>1</b> |
| <i>EU support to rapid appointment of a new special representative of the United Nations Secretary-General to Burundi.</i>                    | 0           | 1           | 0           | <b>1</b> |
| <i>Confirmation of the appointment an EU Special Envoy for the Great Lakes Region.</i>  | 0           | 0           | 1           | <b>1</b> |
| <i>EU’s support to the democratic transition in Zaire and readiness to assist Zaire in the preparation and organisation of the elections.</i> | 0           | 0           | 1           | <b>1</b> |
|   | <b>0</b>    | <b>4</b>    | <b>4</b>    |          |

\* The figure corresponding to each area-issue refers to the number of EU Summits that addressed that particular area-issue in the DR Congo and or Great Lakes Region.

At the end of the first meeting held in June 1995, the European Council issued a statement (*European Union Statement on Burundi*) by which it expressed the concern of the European Union about and condemnation of “all acts of violence and destabilisation attempts by extremists of every hue” in Burundi, and called for the convening, “as soon as possible” of “a conference on peace, security and stability in the region of Great Lakes” (European Council 1995a). Six months later, the European Council meeting in Madrid (Spain) “emphasize[d] the importance of national reconciliation and stability in the Great Lakes region” in order to “put an end to the violence,

particularly in Burundi, and to ease the return of Rwandan refugees.” The European Council restated its support to the convening, the earliest possible, of a conference on peace, security and stability in the region, “as well as well as the rapid appointment of a new special representative of the United Nations Secretary-General to Burundi.” (European Council 1995b). At the third summit held in June 1996, three months to the First Congo War, the European Council again expressed the concern of the European Union about “the violence which continue[d] to mark the Great Lakes Region and in particular Burundi”. The summit also confirmed the appointment by the EU of “a Special Envoy for the Great Lakes Region” in order to support “the peace efforts of the United Nations and the Organization of African Unity as well as regional leaders and other concerned personalities”. (European Council 1996a). The European Council also restated the EU’s support to the convening of an international conference on peace, security, and stability “under the joint auspices of the UN and the Organization for African Unity in order to address within a global approach the root causes of the crises and to ensure respect for commitments.” In the specific case of Zaire, the European Council expressed the EU’s support to the then “ongoing process of transition to democracy [...] aimed at holding free and democratic elections according to the framework and the timetable indicated by the institutions responsible for the transition.” It expressed the readiness of the EU “to assist Zaire in the preparation and organisation of the elections.”(European Council 1996a).

Concerning **Declarations** for the period under review (July 1994 - September 1996), the relevant services of the Council of the European Union informed me that lists of *CFSP Declarations* for the year 1993 and 1994 had not been drawn up and therefore were not available (Sieberichs 2011). For the remainder of the forewarning and prevention period, I retrieved two *CFSP Declarations* issued on the situation in Zaire and the Great Lakes region. In the first Declaration (Press: 210 Nr: 8685/95), which was issued on 7 July 1995, the EU expressed its continued and “deep concern” about the frequent violation of “the spirit and the letter of the [1994-] Constitutional Act” that “laid down the powers of Zairean State Institutions so that transition to the Third Republic could be managed in a spirit of cooperation”. The EU stressed “the

enormous importance which it attaches to respect for the principles of a state of law without which democracy cannot be established” and strongly urged each of the transitional institutions to ensure the removal of “any ambivalence” and the application of “the act of transition” in its entirety. In its second Declaration (Press: 183 Nr: 8399/96) that was made public on 20 June 1996, that is, a year later and only three months before the outbreak of the First Congo War, the Union announced for the first time its “objectives and priorities with regard to the Great Lakes region” as being “to secure peace, to consolidate the process of national reconciliation in the countries concerned, to facilitate a return to normal democratic life, in particular by restoring the rule of law, and to encourage economic and social recovery.” The EU stated that it was “aware of the close links between the various political, economic and humanitarian problems in the region and of the serious risk of destabilization”, and “emphasize[d] the need for a comprehensive approach and a regional dimension in the search for lasting solutions to the crisis.” The EU also stated that “the presence of over a million and a half refugees in the region constitute[d] a major factor of destabilization and that their return to their countries of origin in safety and with dignity [was] essential if peace [was] to be restored.” To that end, the EU appealed to the signatories of the Cairo and Tunis Declarations to comply with the undertakings they gave, so as in particular to stop trafficking in arms and the training of the various militia and armed groups which serve only to increase insecurity in the region.” In that regard, the EU made reference to the “United Nations Resolution 1053 [...] and also the measures in the plan of action adopted by the Bujumbura Conference (12 to 17 February 1995) for the prevention of subversive activities in countries of asylum.” The EU also underlined “the importance of deploying United Nations observers in airports and at frontiers.” In terms of **Demarches**, lists of the so-called “Other CFSP Activities” (declarations, demarches, reports of Heads of Mission and political dialogue meetings) were not drawn for the 1994-1997 and therefore were not available (Sieberichs 2011). As a result, I have not been able to establish whether the EU did carry out any Demarches regarding the specific situation of Zaire or its region during the period under consideration.

### *Legally Binding Decisions and Actions*

During the early warning and prevention period (July 1994 – September 1996) of the First Congo War, the EU did not enact any **Common Position (CP)** in response to the deterioration of the political, security, and social situation in Zaire. On the other hand, the EU adopted **one Join Action (JA 96/250/CFSP, 25 March 1996)** by which it appointed its “Special Envoy for the African Great Lakes Region” and legally outlined its objectives with respect to the region and its countries as being the following: (1) to assist those countries in resolving the crisis affecting their region and (2) to support the efforts of the UN and the Organisation of African Unity (OAU), as well as those of regional leaders and other parties, aimed at finding a lasting and comprehensive peaceful solution to the political, economic and humanitarian problems facing the region (JA 96/250/CFSP, art. 1). In line with these objectives, the mandate of the Special Envoy was to “support the efforts aimed at creating the conditions for solving the crisis, including the preparation for the holding of a Conference on Peace, Security and Stability in the Great Lakes Region, which [was] an important step in the process of finding a lasting and peaceful solution.” (JA 96/250/CFSP, art. 2). The Special Envoy was assigned the following five specific tasks:

- To work in support of the efforts of the UN and of the OAU and of those African personalities who were assisting the two organizations;
- To establish and maintain close contact with the Governments of the countries of the region, with other interested Governments and international organizations in order to identify measures that needed to be taken towards solving the problems of the region;
- To coordinate closely with the representatives of the UN and of the OAU in the region, which were responsible for the convening of the Conference;
- To cooperate with regional leaders and other parties working towards the same objective; and
- To establish, where appropriate, contact with other parties who might have a role to play in achieving progress.

The Special Envoy had to report every two months, or whenever necessary, to the Council or its designated instances, and could be called to report orally on developments, whenever the need would arise. He/she could also “make recommendations to the Council on measures which the Union might

undertake to fulfil its objectives in the region.” (JA 96/250/CFSP, art. 3). Besides, the Special Envoy had to define with the parties the “guarantees necessary for the completion and smooth functioning” of this mission and Member States and the Commission were required to “grant all necessary support to such effect.” (JA 96/250/CFSP, art. 4). This Joint Action entered into force on the day of its adoption, i.e. 25 March 1996, and was to apply until 25 November 1996 (JA 96/250/CFSP, art. 5). In terms of **CFSP Decisions**, the Union adopted only one (96/441/CFSP, 15 July 1996) on the situation in Zaire and the Great Lakes Region in general. It concerned the extension of the application of the aforementioned Joint Action 96/250/CFSP until 31 July 1997.

## **Conflict Management (Oct. 1996 – May 1997)**

### **Needs and Challenges**

By mid-October 1996, it became clear that the violent clashes involving Congolese Tutsi of Rwandan descent; ousted Rwandan armed forces and militia; armed groups from Rwandan and Burundian refugee camps; and Zaire’s security and armed forces in Zaire’s eastern province of South Kivu, veiled a large-scale war engineered and spearheaded by the post-genocide regime in Rwanda. The primary objective was to dismantle the Rwandan and Burundian refugee camps that the governments of the two countries of origin considered a serious threat to their respective security and survival (Amnesty International 1996a; Human Rights Watch (HRW) and Fédération Internationale des Ligues des Droits de l’homme (FIDH) 1997). A less stated yet evident objective was regime change by force in Zaire. This latter objective underpinned the creation of Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre (AFDL) as the political umbrella of the armed rebellion. The presentation of the war as an uprising of a threatened (ethnic Tutsi) minority group, the so-called Banyamulenge, made it appear a ‘just self-defence struggle’; whereas the ‘Alliance’ umbrella turned it into a ‘War of National Liberation’. Refugee camps came quickly under direct and systematic military attacks from 17 October 1996 onwards. At the same time, related large-scale massacres, abductions, and forced dispersal of fleeing

refugees and civilians started to be confirmed and publicly denounced by media, non-governmental organisations, and UN agencies all of whom called for assistance and protection of defenceless civilians (Reyntjens 2009: 87-101; Prunier 2009: 116-125). By 2 November 1996, all humanitarian organisations had been “forced to leave”, by the Rwanda-led rebel forces, all camp areas in North and South Kivu, abandoning refugees and displaced persons to their dreadful fate (Médecins Sans Frontières (MSF) 1996).

In a press release dated 22 October 1996, the first date of forced departure of humanitarian organisations from the South Kivu region of Uvira, UN High Commissioner for Refugees, Ms. Sadako Ogata, raised the alarm: "I am deeply worried by the widening scale of violence in eastern Zaire in recent weeks that has once again sent tens of thousands of refugees – women, children, sick and elderly – fleeing for their lives [...] Unless all parties to this conflict step back, we are, I am afraid, heading toward a humanitarian catastrophe." (UNHCR 1996c: 1). Three days later, 25 October 1996, the chief of the UN Refugee Agency addressed the UN Security Council on the matter and requested urgent political action to avert the course of events (UNHCR 1996d). On same date, the EU Commissioner for Humanitarian Aid, Ms. Emma Bonino, urged the international community to “clearly say that [a] new genocide, which seem[ed] to be under preparation, [was not going to] be tolerated.” (Quoted in Reyntjens 2009: 88). Four days later, she reiterated: “Five hundred thousand people today, probably one million in the coming days are in mortal danger (...). If the Security Council does not act now, I wonder when it will ever act.” (Quoted in Reyntjens 2009: 80). On 3 November 1996, nearly three months into the fighting, UN High Commissioner for Refugees desperately reiterated her appeal:

This may be a final appeal to all those involved in this terrible conflict, or it will be too late. Combatants should stop attacking refugees. The refugees from the largest camps in the region are on the move toward some of the most inhospitable and inaccessible areas in Zaire. The further the refugees move west, the more difficult it will be for us to reach them. It may make repatriation and reconciliation impossible. (UNHCR 1996b: 1).

After lengthy tergiversations, the UN Security Council adopted Resolution 1078 (1996) on 9 November 1996 requesting the Organisation’s “Secretary-General, in consultation with his Special Envoy and the coordinator of

humanitarian affairs, with the United Nations High Commissioner for Refugees, with the OAU, with the Special Envoy of the European Union and with the States concerned to draw up “a concept of operations and framework for a humanitarian task force, with military assistance if necessary”. The objectives of such a force would be the following:

- Delivering short-term humanitarian assistance and shelter to refugees and displaced persons in eastern Zaire;
- Assisting the United Nations High Commissioner for Refugees with the protection and voluntary repatriation of refugees and displaced persons; and
- Establishing humanitarian corridors for the delivery of humanitarian assistance and to assist the voluntary repatriation of refugees after carefully ascertaining their effective will to repatriate.

Six days later (15 November 1996), the UN Security Council adopted, under Chapter VII of the Charter of the United Nations, Resolution 1080 (1996) authorising the conduct of the aforementioned multinational force (MNF) to fulfil its objectives, “by using all necessary means”. However, the actual deployment of the force was delayed because of the opposition of the government of Rwanda and its allies. Their argument was that the bulk of refugees had returned home after the dismantlement, on the same date the resolution was adopted, of the largest camp (Mugunga) which housed about 800,000 inmates by early November 1996. In the end, the military intervention was aborted on 13 December 1996, one month after the adoption of the resolution authorising it, because the pro-rebellion side won the diplomatic battle of figures against the pro-intervention side. The latter estimated that only some 400 hundred thousand refugees had been forced to return home and that about half a million of them were still missing (Prunier 2009: 118-19; Reyntjens 2009: 85-86).

In the following weeks and months until the fall of Mobutu regime in May 1997, more and more consistent evidence and eye-witness testimonies of systematic massacres of Rwandan Hutu refugees surfaced; and urgent calls for intervention were again made (Prunier 2009: 125). In a press release made public on 26 November 1996, Amnesty International (1996b: 1) reported a massacre that had been perpetrated a week before in these terms:

Members of a Tutsi-led armed group in eastern Zaire massacred about 500 unarmed Rwandese refugees and displaced Zairians at Chimanga refugee camp, 60 kilometres south of Bukavu [...]. These arbitrary and deliberate mass killings of defenceless civilians are a callous abuse of human rights and should be condemned by the international community [...]. It is unacceptable for the international community to ignore these and other killings and entrusts the return of Rwandese and Burundi refugees to the AFDL, which has committed these atrocities.

In a statement issued about five months later, Human Rights Watch (1997) too denounced further massacres of refugees by the ADFL troops and their allies, and urged the international community to act without further delays: "These outrages are only the most recent in a series of ADFL actions to impede the delivery of aid and to evacuate a truly desperate population. [...] There is no question now about the aim of the ADFL to kill refugees. The only question remaining is how many must die before the international community rises to its moral and legal responsibility to intervene." This and other similar emergency calls once again fell on deaf ears of the most influential members of the international community. In May 1997, the afore cited European Commissioner for Humanitarian Affairs declared that the abortion of the multinational force decided under "Washington's instigation" was "an incredible error" that allowed "massive human rights violations in eastern Zaire" and "the transformation of this region into a real slaughterhouse during the last six months" (Bonino; quoted in Lemaître 1997). Did the response of the 'political EU', as opposed to the well-known 'humanitarian EU', in the framework of its praised CFSP make a difference? The following section tries to provide an answer.

### **CFSP-based Response**

For the management of the First Congo War, the European Union had at its disposal the same policymaking and implementation instruments as for the prevention stage. To re-cap, *non-legally binding instruments* comprised *Principles and General Guidelines, Declarations, and Demarches*; whereas *legally binding instruments* included *Common Positions, Joint Actions, and Decisions*.



### *Non-Legally Binding Decisions and Actions*

Concerning **CFSP principles and general guidelines** during the large-scale armed confrontation period of the First Congo War (October 1996 - May 1997), the European Council, the highest political organ of the EU, held **one summit** that addressed the matter. The meeting took place on 13-14 December 1996, two months after the outbreak of violence. At that summit, the European Council expressed “grave concern about the continuing violence in the Great Lakes Region, not only in Eastern Zaire but also in Burundi” and called for “fast and decisive action by the international community” in response to “the continuing humanitarian emergency, particularly in Eastern Zaire” (European Council 1996b). The European Council welcomed “the return of large numbers of refugees”, but underlined “the need to facilitate the voluntary repatriation of the remaining refugees”. It also stressed “the need for a flexible approach” with a view to swiftly addressing the implications of “the rapidly changing circumstances on the ground...] for the implementation of UN Security Council Resolutions concerning the establishment, for humanitarian purposes, of a temporary multinational force” (European Council 1996b). In that respect, the European Council restated “the willingness of the European Union to contribute fully and urgently to these efforts”, in line with the Joint Action of 22 November 1996 (JA 96/669/CFSP), the associated Council Decision of the same date (Council Decision 96/670/CFSP), and the Western European Union (WEU)’s Ministerial Declaration of 19 November 1996 (WEU Council of Ministers 1996). The Joint Action and the corresponding Decision in question concerned the EU’s pledge of contribution to the democratic transition process in Zaire, mainly in the preparation for elections; whereas the declaration of the WEU Member States expressed their readiness to contribute to the aforementioned multinational force for the delivery of humanitarian aid and the protections of humanitarian workers and civilians at risk (in particular refugees and displaced persons) in eastern Zaire in line with UN Security Council Resolution 1080 of 15 November 1996.

| <b>EU CFSP Main Aspects and Basic Choices on ZAIRE / DRC (1994-2009)</b>  |             |             |          |
|---|-------------|-------------|----------|
| <i>First Congo War: Conflict Management (Oct. 1996 - May 1997)</i>  |             |             |          |
| <b>EU response: Principles and General Guidelines</b>   |             |             |          |
|   | <b>1996</b> | <b>1997</b> |          |
| Total EU Summits  | 1           | 0           | 1        |
| <b>EU Summits with reference to DR Congo/ Great Lakes Region (GLR)</b>  | <b>1</b>    | <b>0</b>    | <b>1</b> |
| <b>Main issue-areas addressed:</b>  |             |             |          |
| <i>EU grave concern about the continuing violence in the Great Lakes Region, not only in Eastern Zaire but also in Burundi.</i>                                 | 1*          | 0           | 1        |
| <i>EU call for fast and decisive action by the international community in response to the continuing humanitarian emergency, particularly in Eastern Zaire.</i> | 1           | 0           | 1        |
| <i>EU welcome of the return of large numbers of refugees.</i>   | 1           | 0           | 1        |
| <i>Need to facilitate the voluntary repatriation of the remaining refugees.</i>   | 1           | 0           | 1        |
| <i>EU willingness to contribute fully and urgently to UNSC-decided establishment, for humanitarian purposes, of a temporary multinational force.</i>            | 1           | 0           | 1        |
| <i>EU call for respect for the territorial integrity and sovereignty of Zaire.</i>  | 1           | 0           | 1        |
| <i>EU call for peaceful and political solution to the problems in the region.</i>   | 1           | 0           | 1        |
| <i>Importance of the electoral process in Zaire in terms of the stability of the region.</i>  | 1           | 0           | 1        |
| <i>EU pledge of support to the successful completion of the electoral process in Zaire.</i>   | 1           | 0           | 1        |
| <i>EU support to the support for the early convening of an international conference on peace and security in the region.</i>                                    | 1           | 0           | 1        |
|   | <b>10</b>   | <b>0</b>    |          |

\* The figure corresponding to each area-issue refers to the number of EU Summits that addressed that particular area-issue in the DR Congo and or Great Lakes Region.

Besides, the European Council meeting in Dublin at the end of 1996 welcomed “the initiative of the regional leaders in seeking to resolve the problems in Eastern Zaire through dialogue” and called for the respect of the principles already reached by those leaders, mainly “the crucial importance of respect for the territorial integrity and sovereignty of Zaire, in pursuit of a peaceful resolution of the conflict.” (European Council 1996b). The European Council recalled “its view that the problems of the region as a whole can only be resolved by political means” and promised the EU’s support, in particular through its Special Envoy, to the peace efforts of the regional leaders and to dialogue between the different parties to conflict in the region. With regard to the specifically internal situation inside Zaire, the European Council

recognised “the importance of the electoral process in terms of the stability of the region” and reiterated “the commitment of the Union to play its part in support of the successful completion of that process in Zaire by means of the Joint Action adopted on 11 November 1996”, and called for “the latter’s early and urgent implementation.” Finally, the European Council once again reaffirmed “its support for the early convening of an international conference under the joint auspices of the UN and the Organization of African Unity in order to address within a global approach the root causes of the crisis and thus bring about a peaceful, durable and comprehensive resolution of the conflicts in the region.” (European Council 1996b).

On the other hand, the EU issued, during the same period, five **CFSP Declarations** with regard to Zaire/DR Congo during the period under review (mid October 1996 - mid May 1997). They focused on the outbreak of the South Kivu crisis (Press: 276 Nr: 10631/96, 21 October 1996; Press: 296 Nr: 11054/96, 25 October 1996); the military build-up (Press: 44 Nr: 6017/97, 17 February 1997); a five-point peace plan for eastern Zaire (Press: 69 Nr: 6492/97, 7 March 1997); and the situation of refugees (Press: 83 Nr: 6703/97, 15 March 1997). The peace plan in question had been presented by the joint Special Representative of the United Nations and Organization of African Unity for the Great Lakes and had been the object of UN Security Council Resolution 1097 (1997) adopted on 18 February 1997. Its five points were the following:

- Immediate cessation of hostilities;
- Withdrawal of all external forces, including mercenaries;
- Reaffirmation of respect for the national sovereignty and the territorial integrity of Zaire and other States of the Great Lakes region;
- Protection and security for all refugees and displaced persons and facilitation of access to humanitarian assistance; and
- Rapid and peaceful settlement of the crisis through dialogue, the electoral process and the convening of an international conference on peace, security and development in the Great Lakes region.

| <b>First Congo War: Conflict Management (mid Oct. 1996 - mid May 1997)</b>   |             |             |          |
|--|-------------|-------------|----------|
| <b>CFSP-based response: CFSP Declarations</b>  |             |             |          |
|  | <b>1996</b> | <b>1997</b> |          |
| <b>Main Points</b>   |             |             |          |
| EU's (i) grave concern about the situation in South Kivu and (ii) call on all parties to exercise restraint and to ensure the prevention of open conflict across the border between Zaire and Rwanda (Press:276 Nr: 10631/96, Press:276 Nr: 10631/96). | 2           | 0           | 2        |
| EU's (i) great concern about the deterioration of the situation of refugees, displaced persons, and local populations and (ii) call for their safety and humanitarian corridors (Press:83 Nr: 6703/97).  | 0           | 1           | 1        |
| EU's (i) great concern at the military build-up in the east of Zaire; (ii) strong condemnation of all interference in the conflict, and (iii) call for the withdrawal of all outside and mercenary forces (Press:44 Nr: 6017/97).                      | 0           | 1           | 1        |
| EU's (i) support for the efforts of the UN-five point peace plan and (ii) call on all belligerents and parties to endorse and give effect to the UN-OAU five point peace plan (Press:69 Nr: 6492/97).  | 0           | 1           | 1        |
|  | <b>2</b>    | <b>3</b>    | <b>5</b> |

In terms of **Demarches**, I was not able to establish if the EU undertook any concerning Zaire and the Great Lakes region during the period under review. As indicated earlier, staff at the EU Council informed me that the data for the 1994-1997 period were not available (Sieberichs 2011).

#### *Legally Binding Decisions and Actions*

The European Union did not adopt any **Common Position** between October 1996 and May 1997. However, it enacted **two Joint Actions** in November 1996, two months after the outbreak of hostilities. By the first Joint Action (JA 96/656/CFSP, 11 November 1996), the European Union stated that it was going to “contribute to the democratic transition process in Zaire” as part of an international effort coordinated by the United Nations, mainly in the preparation for elections. The EU specified that its assistance would “involve

the establishing of a European electoral unit and a contribution to the Special Fund of the United Nations.” The Union indicated that it would “consider and assess appropriate further measures in support of the democratic transition process in Zaire, including measures for technical assistance and the possible deployment of observers.” (JA 96/656/CFSP, art. 1). By way of the second Joint Action (JA 96/669/CFSP, 22 November 1996), the European Union committed itself, the Community, and Member States to support “the urgent implementation of the relevant United Nations Security Council Resolutions, with a view to enabling the delivery of humanitarian aid to eastern Zaire and facilitating the return by free consent of refugees to their country of origin and the return of displaced persons.” (JA 96/669/CFSP, art. 1). The EU reaffirmed the priority which had to be given to the return of the refugees to their country of origin and the need to overcome all obstacles to that end, and confirmed its willingness to assist Rwanda to create the essential conditions for the return of the Rwandan refugees (JA 96/669/CFSP, art. 1).

The Joint Action also provided for the Member States of the EU to “consult and cooperate within the Council on their voluntary contributions in support of African participation in the multinational force, in accordance with the relevant United Nations Security Council Resolutions.” (JA 96/669/CFSP, art. 3). Finally, this Joint Action bound the European Union to “intensify its efforts to restore stability in the Great Lakes Region, in particular by encouraging the setting up of democratic institutions and respect for human rights.” (JA 96/669/CFSP, art. 5). The Union also reaffirmed that “the holding of an international conference on peace, security and development in the Great Lakes Region, under the auspices of the United Nations and the Organization of African Unity, ha[d] a decisive role to play in finding a lasting settlement of the crisis in the region”, and invited “all the parties to redouble their efforts so that such a conference” could take place (JA 96/669/CFSP, art. 5).

| <b>First Congo War (1994-1997): Conflict Management (mid Oct. 1996 – mid May 1997)</b>   |             |             |          |
|--|-------------|-------------|----------|
| <b>CFSP-born response</b>  |             |             |          |
| <b>JOINT ACTIONS (JAs)</b>   |             |             |          |
|  | <b>1996</b> | <b>1997</b> |          |
| Total JAs on Zaire / DR Congo  | <b>2</b>    | <b>0</b>    | <b>2</b> |
| <b>Main themes / issues re DRC/ GLR:</b>   |             |             |          |
| <i>EU support of the democratic transition process in Zaire.</i>   | 1           | 0           | 1        |
| <i>EU support to the urgent implementation of the relevant UNSC Resolutions (1078 and 1080) concerning the protection and repatriation of refugees in eastern Zaire.</i> | 1           | 0           | 1        |
|  | <b>2</b>    | <b>0</b>    | <b>2</b> |

As for **CFSP Decisions**, the EU adopted **two** in reference to the management of the First Congo War. The first Decision (Council Decision 96/250/CFSP, 1 October 1996) was enacted in October 1996 and specified the additional fund to cover the costs that would arise from the extension, until 31 July 1997, of the mandate of the EU's Special Envoy for the Great Lakes Region. By means of the second Decision (Council Decision 96/670/CFSP) adopted on 22 November 1996, the European Union requested the Western European Union (WEU) to examine as a matter of urgency how it could, for its part, contribute to the optimum use of the operational resources available for the implementation of the aforementioned Joint Action (96/669/CFSP) adopted on the same date regarding the Union's contribution to the UN-voted multinational force (MNF) for the delivery of humanitarian aid the protection of refugees in eastern Zaire (JA 96/670/CFSP, art. 1). In effect, the implementation of Joint Action 96/669/CFSP had defence implications and could in particular require the use of military means. In that case, use would have to be made of the Western European Union (WEU) in accordance with the Treaty provisions (TEU, art. J.4), given the fact that by then the EU did not have its own military resources.

# Post-war Peacebuilding

## Needs and Challenges

The First Congo War officially ended with the fall of the country's capital Kinshasa into the hands of the Rwanda-manned rebel movement AFDL on 17 May 1997. The AFDL leader, Laurent Désiré Kabila (hereinafter referred to as "Kabila Sr." as opposed to his son "Kabila Jr." who replaced him in 2001 after his assassination) gave himself all powers by the constitutional law-decree of 27 May. Two days later, on 29 May 1997, he was sworn-in as new president of Zaire which he renamed 'Democratic Republic of Congo'. Expectedly, the First Congo War and its consequences worsened the pre-war humanitarian, political, security, and social problems and challenges. In essence, the new government had to "be careful to avoid mirroring the government it deposed" (HRW 1997) and establish the foundations for a free, democratic, and prosperous nation for each and all Congolese without any discrimination. In a statement made public five days only after Kabila Sr. had become the new president, HRW (1997) stressed three priorities upon which the new regime had to focus on as a matter of urgency if it wanted to prove its commitment to eradicating past abuses and to preventing their recurrence in the future:

- Establish the army and the national gendarmerie as non-partisan and nationally-representative forces under civilian control;
- Establish basic political freedoms, including freedom of speech, particularly making public radio and television available to all points of view; and
- Reform the regional and local administrations into non-partisan and nationally-representative institutions.

Detailed requests and recommendations of the human rights organisation to all political forces of the country included the following:

- Respect and represent the interests of a pluralistic society, and allow its citizens to freely elect their representatives;
- Support as an urgent priority the development of an independent and effective judiciary;
- Repudiate arbitrary measures to strip Kinyarwanda-speaking nationals, the Banyarwanda or other minorities of their Zairian nationality;

- Investigate and facilitate independent investigations of violations of human rights or humanitarian law by forces of the deposed government as well as members of the ADFL forces with a view to public disclosure of the findings and accountability before the law of those responsible for gross abuses;
- Encourage the independent work of local and national civic organizations, including nongovernmental organizations dedicated to the promotion and protection of human rights, and remove legal or administrative obstacles to this work; and
- Abide by the binding norms of international humanitarian law applicable to situations of armed conflict.

To the members of the international community, “including the United Nations, the European Union and its member states, the United States, and the Organization of African Unity”, Human Rights Watch made the following recommendations:

- Call upon the new government of the Democratic Republic of Congo to permit full, unhampered international investigations of the allegations of widespread civilian massacres during the armed conflict that led to its establishment;
- Pressure the government to investigate reports of such attacks, to make the findings public, and to bring to justice those responsible;
- Make any commitment of aid to the new government, including election assistance, dependent on concrete steps toward respecting human rights and creating the conditions for free and fair elections; and
- Support programmes by organisations of civil society in Zaire to promote respect for human rights, propagate a democratic culture, and train independent election monitors.

Other human rights and humanitarian organisations and agencies made similar calls and recommendations to the new authorities of the DR Congo and to members of the international community. Arguably, none of the problems and challenges warranted urgent political action more than the mass atrocities that the same organisations and agencies had been relentlessly denouncing and urging the Congolese authorities and the international community to prevent and stop throughout the armed conflict. Hence, in less than two months after the establishment of the new government (on 14 July 1997), Human Rights Watch wrote to the United Nations Secretary-General Kofi Annan asking him “to request the Security Council to authorize immediately the creation of a Commission of Experts with the explicit mandate not only to investigate the alleged atrocities but also



to determine whether the creation of an international tribunal [was] warranted [...]”. The organisation recommended him to act on his “own authority to establish a commission of investigation of similar stature and mandate” in the event the Security Council declined to act. HRW’s urgent recommendation was made following the release, three days before (11 July 1997), of the report of the Joint Mission that the UN Commission on Human Rights had mandated to investigate alleged massacres and other human rights violations that had occurred in eastern Zaire/DR Congo since September 1996. Paragraph 80 of the report (A/51/942) stated the following: “There is no denying that ethnic massacres were committed and that the victims were mostly Hutus from Burundi, Rwanda and Zaire. The joint mission’s preliminary opinion is that some of these alleged massacres could constitute acts of genocide.” (UN General Assembly 1997). Under paragraph 95, the Joint Mission stated that “there [were] reliable indications that persons belonging to one or other of the parties to the conflict in eastern Zaire, now Democratic Republic of the Congo, probably committed serious violations of international humanitarian law [...] between early September 1996 and 17 May 1997.” The Mission indicated that “[S]uch crimes seem[ed] to be sufficiently massive and systematic to be characterized as crimes against humanity” and that “their authors could be brought to trial before international tribunals, as was decided in the case of the former Yugoslavia and Rwanda.”

Besides, more atrocities were still being committed, particularly in the eastern part of the country. On 16 June 1997, one month after the new president, Mr. Kabila Sr., had been sworn-in, Physicians for Human Rights (PHR) (1997) presented a field visit report on human rights violations in eastern Congo and western Rwanda to a hearing sponsored by the United States House International Relations Committee. One of the key findings of the report was the following:

Although civil war has officially ended in former Zaire/Congo, the region remains destabilized. Widespread insecurity and fear pervade Eastern Congo as well as Western Rwanda, where there is currently an unreported civil war taking place. [...] Atrocities and human rights abuses of many kinds are ongoing throughout the region (PHR 1997: 2-3).

Concerning Eastern Congo, PHR (1997: 3) alarmingly reported: “Rwandan military have committed, and continue to commit, widespread atrocities

against civilian populations in Eastern Congo.” The organisation indicated that it had received “reports and eye-witness accounts of killings of unarmed Rwandan Hutu refugees and local Congolese non-combatants throughout Eastern Congo by soldiers identified as Rwandan military.” It specified that the killings “appear[ed] to be systematic attacks to eliminate the Interahamwe threat, to annihilate remaining refugees, and to punish villagers in Eastern Congo alleged to have harbored or sheltered Rwandan Hutu refugees.” The international non-governmental organisation indicated that, “According to several testimonies, villagers in these instances were attacked merely because of their Hutu ethnicity.” (PHR 1997: 3). It made seventeen recommendations to the United States, the international community including the EU, and the governments of the two countries concerned. Key points in those recommendations were:

- Full and independent investigation and punishment of alleged atrocities; prevention of further human rights abuses;
- Protection of refugees and displaced persons;
- Strict compliance with international human rights and humanitarian laws by the Rwandan and Congolese governments;
- Acknowledgment of the civil war and related atrocities as direct consequence of the failure of the international community to preventively handle the refugee camps crisis in the first place; and
- Conditioning of any assistance to the respective governments of the two countries to their compliance with international human rights and international laws and their practical commitment to the rule of law.

In the following sections I undertake to establish, first, the policies and actions of the new authorities for addressing these needs, problems, and challenges; and, second, the EU response under its CFSP.

## **New Government’s Response**

### *Social and Communal Policies and Actions*

Under the rule of President Kabila Sr., long-standing discrimination, pauperisation, divisions and tensions persisted and increased due to the lack of political will and practical commitment to their adequate handling. In early 1998, a UN Special Rapporteur, Mr. Garretón, detailed persistent “legal, cultural and educational discrimination against women” (UNECOSOC 1998: 52, para. 239) and “violence, including sexual violence and torture” against

them (UNECOSOC 1998: 47, para. 206). He also reported lack of “improvement in living conditions, particularly those of wage-earners” (UNECOSOC 1998: 45, para. 193), “military presence in the universities” (UNECOSOC 1998: 46, para. 195), and “repression in schools and universities” (UNECOSOC 1998: 46, para. 196). Besides, Garretón noted “serious epidemics” and related death tolls as a result of the inability of people to afford adequate medicines and their resort to unsafe “traditional medicine” (UNECOSOC 1998: 46, paras. 197-99). He also underlined the predominance of “one ethnic group [that of the President] over hundreds of others” (UNECOSOC 1998: 48-49, paras. 212-13), and alerted the international community, including the EU, of the failure by the new authorities to progress peace and reconciliation in these terms:

AFDL has failed to advance the peace process, if it ever really intended to do so. The country is more sharply divided than before, inter alia in its armed forces: between AFDL and former FAZ members, between Rwandans and Katangese, etc. [...] The ethnic conflicts have not been settled, nor will they be settled until the State commits itself to a policy of reconciliation. In the renewed conflict in Nord Kivu, the State, instead of acting as mediator or peacemaker, has aggressively taken the side of one of the ethnic groups. [...] Unfortunately, the security which the victorious forces had imposed on the conquered cities has been considerably eroded by those same forces. This is confirmed by the attacks on property and security described in this report. (UNECOSOC 1998: 50, paras. 225-27).

The Special Rapporteur affirmed that the “Government ha[d] all the tools it needed to settle the ethnic conflicts in Kivu in conditions of justice and equality, without fomenting animosity or taking sides.” (UNECOSOC 1998: 52, para. 240). On this particular aspect and others, Garretón asked the international community, including the EU, to do all in its power for the building in the DR Congo of “a genuinely democratic society that respects each of its members” (UNECOSOC 1998: 53, para. 243).

#### *Civil and Political Rights Policies and Actions*

Upon his arrival in power, President Kabila Sr. proved to be authoritarian by denying civil liberties and political rights to everyone except to himself and his followers. On 26 May 1997, only one week after his seizure of power, he prohibited any activities by political parties and public demonstrations. The following day, he signed the Constitutional law-decree 003 of 27 May 1997 giving himself all executive and legislative powers. Four months later, he banned all political parties. The following year, on 25 May 1998, he signed

another constitutional law-decree giving himself unlimited powers (Reyntjens 2009: 158-9). In sum, president Kabila concentrated all powers in his own hands; closed down the political space except for his own AFDL; and crushed any dissidence. From late autumn 1997 onwards, UN bodies and human rights organisations constantly denounced the authoritarian drift of the new regime and called for urgent action by members of the international community. In his aforementioned report of January 1998, the UN Special Rapporteur concluded that none of the basic conditions qualifying a democratic regime was being met in the case under consideration (UNECOSOC 1998: 48, para. 212), and that the Congolese people did not enjoy, and would “not enjoy in the foreseeable future, the human right to democracy.” (UNECOSOC 1998: 49, para. 217). Garretón indicated that the new regime had “eliminated the civil rights to life, liberty, physical integrity, etc.” and suspended “the rights of political participation”. He also reported the subordination of the courts to the executive branch, the use of “the new armed forces and police” by and for the sole “political and ethnic power group in the Government” and the commission by these armed forces and police of “abuses against opponents and ‘enemies’ (UNECOSOC 1998: 48-9, paras. 212-13).

The UN Special Rapporteur uncovered the emergence of a “new State structure, based on an omnipresent State-party [...], which [was] overwhelmingly dominated by two ethnic groups – the Tutsi and the Katangese Luba – the first of which [was] not considered by the population as being Congolese”; and “the absence of a short, medium or long-term democratic project” (UNECOSOC 1998: 49, para. 217). Garretón also denounced the lack of “freedom of information on radio and television, the most popular public media.” (UNECOSOC 1998: 49, para. 213). His overall observation was that, “A mentality of victors and vanquished ha[d] taken hold, aggravated by the perception that the former include foreigners, a situation which cause[d] a strong sense of humiliation.” (UNECOSOC 1998: 49, 214) As the new regime was celebrating its first anniversary in power (May 1998), Amnesty International (1998a: 1) too reported a similarly alarming situation:

One year later, the country's vibrant and diverse civil society is heavily under attack. Dozens of opposition politicians, journalists, human rights activists, academics, church leaders and trade unionists are currently unlawfully detained. Many more have been arbitrarily arrested and tortured during the past twelve months, and sometimes charged with endangering the security of the state. Others have been violently assaulted. [...] The constitution is still suspended and political party activities outside the ruling *Alliance des forces démocratiques pour la libération du Congo-Zaïre* (AFDL) are banned. In early April 1998, the government outlawed the country's leading human rights organization, *Association zaïroise pour la défense des droits de l'homme* (AZADHO), Zairian Association for the Defence of Human Rights. A few days later, most other human rights organizations were declared illegal after the authorities refused to register them.

### *Human Rights and Humanitarian Law Policies and Actions*

Despite official declarations and promises, the practical behaviour of the new regime authorities did not differ much from that of the one it had ousted concerning the respect, protection, and promotion of human rights and humanitarian law. Its rule quickly became characterised by "violations of the right to life, in the form of political murders, police brutality and disappearances; the use of torture and other cruel, inhuman or degrading treatment or punishment; attacks on the dignity of women; and restrictions on the freedoms of association (especially political parties and NGOs), opinion, expression, assembly, etc." (UNECOSOC 1998: 49, para. 219). Moreover, "There [was] no effort to ensure justice by trying those responsible for violations of human rights and international humanitarian law." (UNECOSOC 1998: 49, para. 215). Besides an official war, and the resulting massive violations of human rights and humanitarian law, continued in the eastern part of the country after the military victory of the Rwanda-manned AFDL rebels. In February and May 1998, Amnesty International sounded the alarm as follows:

Largely unknown to the international community, the armed conflict in Eastern Congo is continuing. The AFDL as well as the so-called *Mai Mai* and other armed opposition groups have committed serious human rights abuses against the civilian population. In late February 1998, the army reportedly killed more than 300 civilians in the area of Butembo, North Kivu Province." (Amnesty International 1998).

In his report cited above, the UN Special Rapporteur reported continued recruitment of children for armed combat, "absolute disregard" of their lives "in the attacks on the refugee camps, and the blocking of humanitarian

assistance” (UNECOSOC 1998: 46, paras. 200-201). Concerning alleged mass atrocity crimes committed during the First Congo War, the new regime repeatedly hindered all independent inquiries, including UN-authorized investigations. This was highlighted in the letter by which the UN Secretary General transmitted the report of the UN Investigative Team to the UN Security Council on 29 June 1998:

It is a source of deep regret that, between its first deployment in August 1997 and its withdrawal in April 1998, the Team was not allowed to carry out its mission fully and without hindrance. Nevertheless, in spite of the difficulties outlined in the report, the Team was able to reach a number of conclusions that are supported by strong evidence. Two of these conclusions stand out. The first is that all the parties to the violence that racked Zaire, and especially its eastern provinces, during the period under consideration have committed serious violations of human rights or international humanitarian law. The second is that the killings by AFDL and its allies, including elements of the Rwandan Patriotic Army, constitute crimes against humanity, as does the denial of humanitarian assistance to Rwandan Hutu refugees. The members of the Team believe that some of the killings may constitute genocide, depending on their intent, and call for further investigation of those crimes and of their motivation. (UN Security Council 1998a: 2).

The UN Secretary-General indicated that “[v]iolations of human rights on such a scale as to constitute crimes against humanity must be regarded as posing a threat to international peace and security” (UN Security Council 1998: 2), and called upon the members of the Security Council to respond to the report accordingly.

### *Security and Stability Policies and Actions*

The new regime failed to create non-partisan, nationally representative army and security forces under civilian control. In the aftermath of the First Congo War, the DR Congo in fact lacked armed and security forces of its own worth the name. Actually, the country “had never had an effective army” since its independence from Belgium in 1960. Throughout the three decades (1965-1997) of President Mobutu’s dictatorship and *kleptocracy*, “the security forces’ primary mission was to protect presidential powers, not to provide security to the civilian population” or “to defend the country from internal or external threats.” (Dobbins et al. 2008: 105). With the First Congo War, Mobutu’s troops disintegrated rapidly without engaging in combat. Some of them joined the victorious rebels; others allied themselves to the various armed groups and regional insurgents, while others simply went underground

to form their own factions and militias of fortune. As a result, the new government vulnerably relied on regional allies for the actual end of hostilities, the provision of security both inside the country and on its borders, and the formation of a new army and security apparatus. This daunting task rested by default with Rwandan troops who had brought the rebellion to power. The appointment on 1 December 1997 of Rwandan Lt. Col. James Kabarebe as acting Chief of Staff until his replacement on 13 July 1998 (Reyntjens 2009: 162) was reflective of the strong foreign control over the new armed and security forces. Officially, Rwandan and Ugandan troops also stayed in the DR Congo to jointly combat RD Congo-based insurgents against their respective countries (Reyntjens 2009: 144-146); hence their direct and heavy involvement in the aforementioned unofficial war in eastern DR Congo.

However, these neighbours' heavy presence and absolute control of the new government's security system was more of a problem than a solution. They were directly involved in gross violations of human rights and humanitarian law themselves, as well as the pillaging of natural resources in the eastern provinces of the country. Besides, their real agenda and priority, in particular of Rwanda's military contingents, was "to keep President Kabila on the leash". That "was detested by Kabila and his followers which resulted in friction and conflict in the Congolese Army" (Rudasingwa 2012: 1-2). Consequently, "the [new] army remained a hazy affair. [...] Rather than being one single army, the FAC [Forces Armées Congolaises] continued to be made up of factions (Rwandan and Congolese 'Tutsi', Katangans, former FAZ, *kadogo* and other recruited during the advance of the rebellion." (Reyntjens 2009: 162). Very often, tensions and confrontations occurred between Congolese soldiers and their Rwandan colleagues and or allies (Reyntjens 2009). As a result, insecurity continued to reign in much of the country's vast territory and war continued in the mineral-rich eastern provinces, pitting against each other regular armed forces, insurgents, and militias of all kinds.

### *Humanitarian Assistance Policies and Actions*

According to the United States Committee for Refugees and Immigrants (USCRI) (1998), there were about 255,000 refugees and 100,000 IDPs at the end of 1997. Throughout the second semester of 1997 and the first one of 1998, various humanitarian agencies and organisations consistently denounced: deliberate “attacks on the refugee camps and the blocking of humanitarian assistance” (UNECOSOC 1998: 46, para. 201); influxes of new refugees from neighbouring countries; forced mass displacements of civilians as a result of tensions and armed combats in certain regions, in particular in the eastern provinces; forced repatriation; forced suspension of humanitarian activities; manipulation, harassment, and expulsion of humanitarian organisations “presented [by the Government] as protecting those guilty of genocide” (UNECOSOC 1998: 50, para. 223); and closure of camps. All this resulted in unbearable living conditions and avoidable injuries and deaths of internally displaced persons (IDPs) and refugees (Amnesty International 1997, 1998; PHR 1997; USCRI 1998).

### **CFSP-based Response**

#### *Non-Legally Binding Decisions and Actions*

These comprise CFSP Principles and Guidelines, Declarations, and Demarches adopted during the period of post-war peacebuilding under review (June 1997- August 1998). Concerning **Principles and Guidelines**, the European Council held four meetings the only one of which that addressed the aftermath of the First Congo War took place on 16 and 17 June 1997. On that occasion, the European Council indicated that the EU was looking “forward to establishing a constructive relationship with the new government of the Democratic Republic of Congo”, and that “respect for human rights and international humanitarian law, as well as a genuine commitment to democracy” constituted “[a]n essential cornerstone for rebuilding the country and securing the acceptance and assistance of the international community, including the European Union” (European Council 1997). The Heads of State and Government of the EU welcomed “the agreement between President Kabila and the UN Secretary General regarding the investigation into alleged human rights violations in Congo” and



stated that they were expecting “President Kabila to give effect to that agreement and to implement the concrete steps which he ha[d] announced regarding the democratization process, which [they deemed to] result in free and fair elections within two years.” (European Council 1997). They announced that the European Union was prepared to play a full part in that process and, once again recalled “the need for an international conference under the auspices of the UN and the OAU on peace and stability in the Great Lakes Region.”

| <b>EU CFSP Main Aspects and Basic Choices on ZAIRE/ DRC (1994-2009)</b>   |             |             |          |
|---|-------------|-------------|----------|
| <i>First Congo War: Post-war Peacebuilding (June 1997 - Aug. 1998)</i>  |             |             |          |
| <b>EU response: Principles and General Guidelines</b>   |             |             |          |
|   | <b>1997</b> | <b>1998</b> |          |
| Total EU Summits  | 3           | 1           | <b>4</b> |
| <b>EU Summits with reference to DR Congo/ Great Lakes Region (GLR)</b>  | <b>1</b>    | <b>0</b>    | <b>1</b> |
| <b>Main issue-areas re DRC/ GLR:</b>  |             |             |          |
| <i>Conditioning of EU assistance to the new authorities to respect for human rights and international humanitarian law, as well as a genuine commitment to democracy.</i> | 1*          | 0           | <b>1</b> |
| <i>Welcome of the agreement between President Kabila and the UN Secretary General regarding the investigation into alleged human rights violations in Congo.</i>          | 1           | 0           | <b>1</b> |
| <i>EU call on new President to give effect to that agreement.</i>   | 1           | 0           | <b>1</b> |
| <i>EU pledge of support to the democratisation process.</i>   | 1           | 0           | <b>1</b> |
| <i>EU reminder of the need for an international conference under the auspices of the UN and the OAU on peace and stability in the Great Lakes Region.</i>                 | 1           | 0           | <b>1</b> |
|   | <b>5</b>    | <b>0</b>    |          |

\* The figure corresponding to each issue-area refers to the number of EU Summits that addressed that particular area-issue in the DR Congo and or Great Lakes Region.

On the other hand, according to the records available at the General Secretariat of the Council of the EU, **three CFSP Declarations** were issued in relation to the DR Congo during the reference period under consideration. They covered political developments and human rights violations in that country. In the first Declaration (Press: 164 Nr: 8316/97, 27 May 1997), which was made public ten days after the fall of the country’s capital, the European Union expressed its encouragement by “the change in Government in

Kinshasa [...] without widespread fighting”; though it at the same time regretted “the loss of life which occurred throughout the conflict.” The Union expressed the hope that the transitional Government was going to be “as broadly based as possible in order to encompass the political aspirations of all of the people of the country” and restated “its willingness to support the democratization process leading to free and fair elections”, which it deemed was to “bring lasting peace, stability and prosperity for all the people of the country.” By that same Declaration, the EU underlined the responsibility of the transitional Government “for promoting reconciliation between all the people” and the high importance of “respect for human rights and commitment to democracy” in that respect. The EU also recalled the primary responsibility of the new authorities “for security throughout the country, including the protection and dignified treatment of refugees, large numbers of whom remain[ed] in the Democratic Republic of Congo.” To this end, the Union requested the new authorities to grant “full and unrestricted access to them” and to ensure “full respect for international humanitarian law” and “the safety of humanitarian aid workers.” Besides, the European Union regretted that the UN investigative mission had been prevented from visiting the country and urged “the new authorities to allow the United Nations to carry out its work in relation to human rights as a matter of urgency and to guarantee it unhindered access to all the regions it wishe[d] to visit.” The Union indicated that it was on that basis and taking into account “the huge problems of rehabilitation, as well as of economic and social reconstruction of the country” that it hoped “to develop its relations with the Democratic Republic of Congo to help its people pursue their legitimate aspirations.” The EU also announced that a Presidency-led mission, including the Commission and the EU Special Envoy, was going to “convey the Union's views to the new authorities and, in the light of their visit, recommend appropriate next steps, including at the political level, to promote the EU's objectives in the region.”

By the second Declaration (Press: 99 Nr: 7284/97) issued four months later (4 October 1997), the European Union expressed its “great concern” about the violence in the capital Kinshasa. It urged all parties concerned “to show the necessary restraint and respect the basic terms of the democratic

transition process” and “to engage fully in the search for a speedy political solution and to refrain immediately from further violence. The Union underlined the need to find a political solution to the conflict and reiterated “its support for the peace plan of UN/OAU Special Representative Sahnoun”, as well as for “the process of democratic transition, leading towards elections, as the only road towards a peaceful and stable situation.” The European Union noted that fighting was going on “in different parts of the country” and appealed to “all parties to respect the rights of the civilian population, ensure the safety of foreign citizens and, if necessary, to facilitate their evacuation.” The Union underlined “the most urgent need for humanitarian assistance to reach refugees and displaced persons.” By means of the third Declaration (Press: 255 Nr: 10396/98), which was made public on 17 July 1998 just less than a month before the outbreak of the Second Congo War, the EU stated that it was “gravely preoccupied with the findings contained in the Report of the UN Secretary General's Investigative Team charged with the inquiry into violations of human rights and humanitarian law in Zaire / the Democratic Republic of Congo”. The Union “strongly condemns all massacres and other atrocities committed before, during and after the military campaign which led to the overthrow of the former Zairian regime.” It also expressed its concern “about the difficulties the Investigative Team encountered in carrying out its task” and its support for the recommendation for further investigation of alleged atrocities to be carried out. In that regard, the Union urged the Governments of the DR Congo and Rwanda “to make a clear commitment to allow an independent and thorough inquiry without further delay.” The EU indicated that it was looking forward to such a commitment and would follow closely its implementation. The Union also urged the Governments of the two countries “to investigate within the framework of their own judicial systems the allegations contained in the report of the UN Secretary General's Investigative Team, and to bring to justice those responsible for crimes against humanity and other violations of human rights and humanitarian law.” The EU stressed the importance of putting an end to impunity if reconciliation and lasting peace [were] to be achieved in the Great Lakes Region” and expressed its readiness to provide “technical assistance” towards that end.

| <b>First Congo War: Post-war Peacebuilding (June 1997 - Aug. 1998)</b>   |             |             |          |
|--|-------------|-------------|----------|
| <b>CFSP-based Response: CFSP Declarations</b>  |             |             |          |
|  | <b>1997</b> | <b>1998</b> |          |
| <b>Key Points</b>  |             |             |          |
| <i>EU regret of loss of life during the conflict and request to the new government to be broadly representative and effectively work for peace, unity, democracy, human rights, and prosperity for all Congolese citizens (Press: 164 Nr: 8316/97).</i>                    | 1*          | 0           | 1        |
| <i>EU's "great concern" about the violence in the capital Kinshasa and fighting in different parts of the country, and call for a political solution and respect of humanitarian law (Press: 99 Nr: 7284/97).</i>  | 1           | 0           | 1        |
| <i>EU's strong condemnation of "all massacres and other atrocities committed before, during and after the military campaign which led to the overthrow of the former Zairian regime"; and call for their full investigation and prosecution (Press: 255 Nr: 10396/98).</i> | 0           | 1           | 1        |
|  | <b>2</b>    | <b>1</b>    | <b>3</b> |

\* The figure corresponding to each area-issue refers to the number of **CFSP Declarations** that addressed that particular area-issue in the DR Congo and or Great Lakes Region.

Regarding **Demarches**, **two** Demarches were undertaken with the authorities of the DR Congo during the period under review. The first Demarche was carried out on 14 December 1997 by a Troïka of EU Heads of Missions in Kinshasa with the DR Congo Minister of Foreign Affairs concerning the harassment of citizens of EU Member States. The second Demarche was undertaken on 26 January 1998. It focused on the internal situation and the detention of four EU citizens in the country.

#### *Legally Binding Decisions and Actions*

Legally binding decisions and actions include Common Positions, Joint Actions, and Decisions. For the post-war phase of the First Congo War, the EU did not adopt any **Common Position** on the DR Congo or the Great Lakes Region. However, the EU adopted **two Common Positions** on Africa in general. In the first CP, the Union outlined *the principles and guidelines of its stance on conflict prevention and resolution in Africa* (CP 97/356/CFSP of 2 June 1997). In the second CP, the Union defined its foreign policy principles, guidelines, and objectives concerning "human rights, democratic principles, the rule of law and good governance in Africa" (CP 98/350/CFSP of 25 May 1998). Indirectly, the two CPs applied, by extension to individual

countries, such as the one hereby under consideration. By way of the first CP, adopted less than a month after the AFDL rebels had taken power, the EU stated that prevention and resolution of conflicts in Africa were among its priorities; but that “the primary responsibility” rested “with the Africans themselves” (CP 97/356/CFSP, Preamble). The EU confined its role to actively supporting conflict prevention and resolution efforts “within the appropriate political and legal framework (United Nations, OAU, sub-regional organizations), where necessary, and in close cooperation with the relevant bodies.” (CP 97/356/CFSP, art. 1) In particular, the Union announced its readiness “to assist in building the capacities for conflict prevention and resolution in Africa on the basis of concrete project proposals of which the assessment was to be carried out by its own fact-finding mission (CP 97/356/CFSP, art. 7). The EU indicated that it was going to develop a proactive, comprehensive and integrated approach, which was also to serve as a common framework for actions of its individual Member States, and that *its policy would focus on preventing the outbreak or recurrence of violent conflicts, including at an early stage, and on post-conflict peacebuilding.* For an improved contribution to conflict prevention in Africa, the EU announced that it would seek (i) to improve linkage between its efforts (policies and actions) and those of the Africans, and (ii) to use the various instruments available coherently to promote effective conflict prevention and resolution. The Union committed itself to take steps “to ensure coordination of the efforts of the European Community and those of the Member States in this field, including with regard to development cooperation and the support for human rights, democracy, the rule of law and good governance.” (CP 97/356/CFSP, art. 3).

Common Position 97/356/CFSP also bound Member States to recognise the availability of arms in quantities exceeding needs for self-defence as possible factor contributing to situations of instability and to consequently strengthen their efforts to prevent and to combat illicit trafficking of arms, in accordance with the eight criteria for arms exports established by the European Council in June 1991 and June 1992, and to encourage African States to submit annual returns to the UN Register of Conventional Arms as a means of promoting transparency and building confidence (CP 97/356/CFSP, art. 4). In

case the Union's initiative to support conflict prevention and resolution efforts had defence implications, the EU would request the Western European Union (WEU) to elaborate and implement such initiative with regard to those defence implications, in particular the use of military means, in accordance with the provisions of the TEU (CP 97/356/CFSP, art. 5). By the second Common Position, which was adopted one year later (25 May 1998) after the adoption of the first one (2 June 1997), the European Union recalled that "human rights are universal, indivisible, interdependent and intrinsically linked" (CP 98/350/CFSP, Preamble). The Union announced that, in that respect, its objective was "to work in partnership with African countries to promote respect for human rights, democratic principles, the rule of law and good governance"; and that the new approach was to "serve as a framework for the actions of the Member States." (CP 98/350/CFSP, art. 1.). The EU recognised the "the right of sovereign states to establish their own constitutional arrangements and to institute their own administrative structures according to their history, culture, tradition and social and ethnic composition", and expressed its commitment "to encourage and support the on-going democratisation process in Africa on the basis of respect for" the following four principles (CP 98/350/CFSP, art. 2):

- (a) Protection of human rights (civil and political, and social, economic and cultural);
- (b) Respect of basic democratic principles, including:
  - The right to choose and change leaders in free and fair elections;
  - Separation of legislative, executive and judicial powers; and
  - Guarantees of freedom of expression, information, association and political organisation;
- (c) The rule of law, which permits citizens to defend their rights and which implies a legislative and judicial power giving full effect to human rights and fundamental freedoms and a fair, accessible and independent judicial system; and
- (d) Good governance, including the transparent and accountable management of all a country's resources for the purposes of equitable and sustainable development.

The Union indicated that, when deciding policy towards individual countries, it would "take into account their points of departure and the direction and pace of change within them, as well as the policy commitments of the respective

governments.” (CP 98/350/CFSP, art. 3). The Union legally bound itself to “give high priority to a positive and constructive approach that encourages human rights, democratic principles, the rule of law and good governance”, and to “consider increasing its support for African countries in which positive changes have taken place and where the governments concerned are engaged in promoting positive change.” (CP 98/350/CFSP, art. 3). In this regard, the EU envisaged working with both governments and civil society based on partnership and cooperation. In instances of negative changes, the Union legally committed itself to “consider the appropriate responses that could help reverse those developments” (CP 98/350/CFSP, art. 3). Besides, the EU took note of the intention of the European Commission “to direct its action towards achieving the objectives and the priorities of this common position, where appropriate, by pertinent Community measures.” (CP 98/350/CFSP, art. 4).

| <b>EU CFSP Main Aspects and Basic Choices on ZAIRE/ DRC (1994-2009)</b>  |             |             |          |
|--|-------------|-------------|----------|
| <i>First Congo War: Post-war Peacebuilding (June 1997 - Aug. 1998)</i>   |             |             |          |
| <b>CFSP-based Response: Common Positions (CPs)</b>   |             |             |          |
|  | <b>1997</b> | <b>1998</b> |          |
| <b>Contents</b>  |             |             |          |
| <i>Outline of EU foreign policy objectives, priorities, and approach concerning conflict prevention and resolution in Africa (CP 97/356/CFSP).</i>                                       | 1           | 0           | 1        |
| <i>Outline of EU foreign policy objectives, priorities, and approach concerning human rights, democratic principles, the rule of law and good governance in Africa (CP 98/350/CFSP).</i> | 0           | 1           | 1        |
|  | <b>1</b>    | <b>1</b>    | <b>2</b> |

- \* The figure corresponding to each area-issue refers to the number of CPs that concerned that particular area-issue in the DR Congo and or Great Lakes Region.

In terms of **Joint Actions**, the EU adopted only **one** specifically on the DR Congo (JA 97/875/CFSP of 19 December 1997). The legal act in question extended and adapted “in substance” Joint Action 96/656/CFSP adopted a year earlier (on 11 November 1996) “in support of the democratic transition process in Zaire”. In the preamble of the new Joint Action, the European Union pointed out, among other things, that the new government had

renamed the country “Democratic Republic of Congo” and revoked the previous programme of democratic Transition while announcing its own intention to hold democratic elections and had appointed a Constitutional Commission. Taking into account these changes, the Union set out to contribute to the democratic transition process in the DR Congo as “part of an international effort”. Under the new Joint Action (97/875/CFSP), like under the one it extended (JA 96/656/CFSP), the Union’s contribution was to come essentially in the form of assistance in preparations for elections which would involve the establishing of a European Electoral Unit. The Union would also consider and assess appropriate further measures in support of the democratic transition process in the DR Congo, including measures for technical assistance and possible deployment of observers (JA 97/875/CFSP, art. 1). The new JA also established that the operational balance of the amount of ECU 4 million charged to the general budget of the European Communities by virtue of Joint Action 96/656/CFSP was to be made available in order to finance expenditure arising out of this Joint Action (JA 97/875/CFSP, art. 4). Under Article 5, the Council noted the intention of the European Commission to propose measures to help achieve the objectives of this Joint Action, inter alia, within the meaning of the European Development Fund (EDF).

On the other hand, the EU enacted **CFSP Decisions**, for the post-war peacebuilding phase of the First Congo War. Two of the three legal acts extended, for the third and fourth time respectively, the application of Joint Action 96/250/CFSP of 25 March 1996 by which the Union nominated its Special Envoy of the Union for the Great Lakes Region. The first Decision (97/448/CFSP) was adopted on 16 July 1997. It extended the application of Joint Action 96/250/CFSP from 31 July 1997 until 31 July 1998 (Decision 97/448/CFSP, art. 1). It also established that an additional sum of ECU 1415000 was to be charged to the general budget of the European Communities for 1997 in order to cover the costs related to the mission of the Special Envoy for the African Great Lakes Region (Decision 97/448/CFSP, art. 2). The second Decision (98/452/CFSP) was adopted on 13 July 1998 and extended the application of same Joint Action 96/250/CFSP of 25 March 1996 for another one year period (13 July 1998 - 31 July 1999) (Decision



98/452/CFSP, art. 1). It also established that a sum of ECU 813925 was to be charged to the general budget of the European Communities for 1998 in order to cover related costs (Decision 98/452/CFSP, art. 2).

By means of the third Decision (98/410/CFSP) adopted on 29 June 1998, the European Union extended for a further year the application of the aforementioned Joint Action 97/875/CFSP (of 19 December 1997) concerning the *Union's support to the democratic transition process in the DR Congo* and which was due to expire on 30 June 1998. In the preamble, the Union recalled that its support to the democratic transition process in that country as outlined in Joint Action 97/875/CFSP remained "contingent upon the commitment of the Democratic Republic of Congo Government and institutions to a transition towards democracy". The EU restated its concern about the situation of tension, violence, and grave violations of human rights and international humanitarian law that was prevailing in the country. Still, the Union noted "some positive developments such as the appointment of a Constitutional Assembly", and therefore reaffirmed its readiness to support developments towards democracy in that country.

| <b>First Congo War: Post-war Peacebuilding (June 1997 - Aug. 1998)</b>   |             |             |          |
|--|-------------|-------------|----------|
| <b>CFSP-born Response: CFSP DECISIONS</b>  |             |             |          |
| <b>Main Points</b>   | <b>1997</b> | <b>1998</b> |          |
| <i>One-year extension of the mandate of the EU Special Envoy for the African Great Lakes Region (Decision 97/448/CFSP).</i>  | 1           | 0           | 1        |
| <i>One-year extension of the mandate of the EU Special Envoy for the African Great Lakes Region (Decision 98/452/CFSP).</i>  | 0           | 1           | 1        |
| <i>One-year extension of the application of Joint Action 97/875/CFSP (of 19 Dec. 1997) concerning the Union's support to the democratic transition process in the DR Congo (Decision 98/410/CFSP).</i> | 0           | 1           | 1        |
|  | <b>1</b>    | <b>2</b>    | <b>3</b> |
| * The figure corresponding to each area-issue refers to the number of CFSP Decisions that addressed that particular area-issue in the DR Congo and or Great Lakes Region.                              |             |             |          |

## Summary of Findings

### Early Warning and Prevention (EWP)

During the period of EWP, July 1994 - September 1996, calls for action to prevent violent escalation of the situation in the then Zaire focused on peaceful transition to democracy and rule of law and on the removal of the security threat posed by the presence on the Zaire-Rwanda border of over one million of refugees among whom were ousted Rwandan military and militia forces some of whom had just been involved in the genocide and mass killings in their home country. For the first problem, the international community, the main aid donors in particular, was called upon to use all its influence, most likely through a well-coordinated and sustained use of the carrot and stick, to revamp and progress the derailed political transition to democracy in Zaire. For the security threat problem, the Zairian authorities, the UN Agency for refugees (UNHCR), and the UN Secretary- General proposed the establishment of an international force to ensure security in and around the camps, facilitate voluntary and safe repatriation, relocation of camps far away from the border areas, and the separation of political and military leaders from bona fide refugees and their resettlement in other countries. However, the UN Secretary General received little or no positive response and resorted to the least bad solution of using poorly paid and disciplined local soldiers to patrol inside and outside the camps. Expectedly, the local contingent did not live up to the task for long. As a result, insecurity and cross-border provocation persisted and increased, leading to the outbreak of the First Congo War.

As far as the EU is concerned, its CFSP-born response to calls for preventive action came in various forms. The Union addressed the situation of Zaire and the Great Lakes Region at three of its six summits held during the EWP period; issued two *CFSP Declarations*; and adopted one *Joint Action* and one *CFSP Decision*. The first legally binding response was Joint Action 96/250/CFSP that the EU adopted on 25 March 1996 and by which it nominated its first Special Envoy for the African Great Lakes Region. The main substance of these CFSP-born policy outputs were the following:

- EU concern about and condemnation of all acts of violence and destabilisation;
- Presentation of the Union's objectives and priorities regarding the Great Lakes region: to secure peace, to consolidate the process of national reconciliation in the countries concerned, to facilitate a return to normal democratic life, in particular by restoring the rule of law, and to encourage economic and social recovery;
- Appointment of an EU Special Envoy for the Great Lakes Region;
- Confirmation of EU support to the democratic transition in Zaire and its readiness to assist the country in the preparation and organisation of the resulting elections;
- Call for the application of the Act of Transition in its entirety and without further delays in Zaire; and
- Call for the organisation, the earliest possible, of a conference on peace, security and stability in the region.

| <b>First Congo War: Early Warning and Prevention (July 1994 - Sept. 1996)</b> |   |             |             |             |          |
|---|---|-------------|-------------|-------------|----------|
| <b>EU CFSP Main Aspects and Basic Choices on ZAIRE/ DR Congo</b>              |   |             |             |             |          |
|   |   | <b>1994</b> | <b>1995</b> | <b>1996</b> |          |
| <i>Non-Legally<br/>Binding<br/>Responses</i>                                  | <b>Principles &amp; General Guidelines*</b> | 0           | 2           | 1           | <b>3</b> |
|   | <b>CFSP Declarations</b>                    | 0           | 1           | 1           | <b>2</b> |
|   | <b>Demarches</b>                            | 0           | 0           | 0           | <b>0</b> |
|   |   | <b>0</b>    | <b>3</b>    | <b>2</b>    | <b>5</b> |
| <i>Legally Binding<br/>Responses</i>  | <b>Common Positions</b>                     | 0           | 0           | 0           | <b>0</b> |
|   | <b>Joint Actions</b>                        | 0           | 0           | 1           | <b>1</b> |
|   | <b>CFSP Decisions</b>                       | 0           | 0           | 1           | <b>1</b> |
|   |   | <b>0</b>    | <b>0</b>    | <b>2</b>    | <b>2</b> |
|   |   | <b>0</b>    | <b>3</b>    | <b>4</b>    | <b>7</b> |

\* The corresponding figure refers to the number of EU Summits that addressed matters related to the situation in the DR Congo and or Great Lakes Region.

## **Conflict Management (CM)**

The First Congo War officially broke out by late September-early October 1996, following violent clashes around refugee camps as from early September 1996 onwards. As it soon turned out, the primary objectives of the main actors on the ground, that is, Rwandan and Burundian troops, were the dismantlement of camps hosting Rwandan refugees and the removal from power of Zaire's long-time President Mobutu. Hence, the most desperate, repeated, and final appeals for action was for the establishment of a multinational force (MNF) for the protection of unarmed civilians, in particular Rwandan refugees, who came under direct attacks from day one of the military campaign. By mid-November 1996, two months into the war, the UN at last voted the force in question and authorised it to protect endangered population "by using all necessary means". Yet, its deployment was delayed and finally cancelled in mid December 1996 because the pro-Rwandan government side convinced key decision-makers among the international community that the bulk of refugees had returned home amid the military attacks on and dismantlement of their camps (Prunier 2009; Reyntjens 2009).

The EU response under its CFSP was formulated and presented in various forms. To start with, the European Council discussed the war situation at the sole summit that it held during the war period; whereas the Council adopted two Joint Actions and two Decisions. The first legally binding response of the EU under the CFSP to the needs and challenges of Zaire during the Conflict Management stage was Joint Action 96/656/CFSP of 11 November 1996 and which outlined the principles, objectives, priorities, and approach of the EU support to the democratic transition process in Zaire. The Union also issued at least five CFSP Declarations. The essence of these policy outputs was the following:

- Condemnation of acts of violence and violations of human rights and humanitarian law;
- EU willingness and readiness to contribute fully to the establishment and deployment, for humanitarian purposes, of the UN-voted multinational force;

- EU call for respect for the territorial integrity and sovereignty of Zaire; and for peaceful and political solution to the problems in the region;
- Confirmation of EU assistance to the successful completion of the electoral process in Zaire, through among other things, the establishment of a European electoral unit and a contribution to the Special Fund of the United Nations;
- Extension of the mandate of the EU Special Envoy for the Great Lakes Region; and
- Need for an early convening of an international conference on peace and security in the region.

| <b>First Congo War: Conflict Management (Oct. 1996 - May 1997)</b> |   |             |             |           |
|--|---|-------------|-------------|-----------|
| <b>EU CFSP Main Aspects and Basic Choices on ZAIRE/ DR Congo</b>   |   |             |             |           |
|  |   | <b>1996</b> | <b>1997</b> |           |
| <i>Non-Legally Binding Responses</i>                               | <b>Principles &amp; General Guidelines*</b> | 1           | 0           | <b>1</b>  |
|  | <b>CFSP Declarations</b>                    | 2           | 3           | <b>5</b>  |
|  | <b>Demarches</b>                            | 0           | 0           | <b>0</b>  |
|  |   | <b>3</b>    | <b>3</b>    | <b>6</b>  |
| <i>Legally Binding Responses</i>                                   | <b>Common Positions</b>                     | 0           | 0           | <b>0</b>  |
|  | <b>Joint Actions</b>                        | 2           | 0           | <b>2</b>  |
|  | <b>CFSP Decisions</b>                       | 2           | 0           | <b>2</b>  |
|  |   | <b>4</b>    | <b>0</b>    | <b>4</b>  |
|  |   | <b>7</b>    | <b>3</b>    | <b>10</b> |

\* The corresponding figure refers to the number of EU Summits that addressed matters related to the situation in the DR Congo and or Great Lakes Region.

### **Post-war Peacebuilding (PWPB)**

The *First Congo War* officially ended with the fall of the country's capital Kinshasa in the hands of the Rwanda-manned AFDL rebels on 17 May 1997. Expectedly, the new authorities were confronted with a myriad of daunting needs and challenges for rebuilding the country literally from the scratch. In this regard, the recommendations and advice of most, if not all, human rights activists, analysts, observers, aid donors, and friends of the country and the region to the new authorities could be captured in just one: perform differently and better than the ousted regime of President Mobutu. This meant that the AFDL-led government had to establish the foundations for a free, democratic,

and prosperous nation for each and all Congolese without any discrimination. However, the new authorities did not delay in choosing a different path. Instead of working for peace and reconciliation among long antagonised communities, they were much more involved in fomenting animosity, hatred, and violence; and in ensuring the predominance of the President's ethnic group over hundreds of others in each and all sectors of the society. Discrimination and exploitation of women and children also continued unabated while the living conditions of the majority of the population worsened because of the high cost of basic commodities.

On the political front, President Kabila Sr. soon proved to be authoritarian. Shortly after his accession to power, he promulgated laws and decrees concentrating both legislative and executive powers into his own hands and depriving all civil liberties and political rights to everyone except to himself and his followers. He prohibited political activities and public demonstrations, and persecuted dissenting voices by means of arbitrary arrests, imprisonment, tortures, disappearances, assassinations, and summary executions. With regard to truth and justice, the new regime hindered independent investigations into mass atrocities committed during the war and perpetuated the culture of impunity and human rights violations, including violations of the right to life. Besides, an unofficial war went on in the eastern part of the country after the arrival of the AFDL rebels onto power, causing further massive and serious violations of human rights and humanitarian law against the civilian population. Those violations included unlawful killings and cruel treatment, recruitment of children for armed combat, attacks on refugee camps, the blocking of humanitarian assistance, and the harassment and expulsion of human rights and humanitarian organisations. These and other grave denials and abuses of human rights were constantly and publicly reported and denounced by some of the most credible sources. In response, the European Union resorted to each and all the instruments that were available under its CFSP. It addressed the situation of the DR Congo and the Great Lakes Region at one of its four Summits held during the period under consideration; issued at least three Declarations; and undertook at least two Demarches with the country's new authorities. On the legal side, the Union adopted two Common Positions on Africa that by extension applied to the DR

Congo as well, one Joint Action, and three CFSP Decisions. The first legally binding instrument was Council Decision 97/448/CFSP, enacted on 16 July 1997. It extended the application of Joint Action 96/250/CFSP on the nomination of a Special Envoy of the EU for the African Great Lakes Region. The main area-issues and substance of these CFSP outputs were the following:

- Conditioning of EU assistance to the respect for human rights and international humanitarian law by the new authorities, as well as to their genuine commitment to democracy;
- Condemnation of all massacres and other atrocities committed before, during and after the military campaign that led to the overthrow of the Mobutu regime;
- EU request and support for an full and independent investigation and prosecution of those atrocities and massacres;
- Security and freedom of the citizens of EU Member States in the DR Congo;
- Announcement and outline of EU foreign policy objectives, priorities, and approach concerning conflict prevention and resolution in Africa: indirect and subsidiary contribution to preventive and post-conflict peacebuilding initiatives;
- Announcement and outline of EU foreign policy objectives, priorities, and approach concerning human rights, democratic principles, the rule of law and good governance in Africa: indirect and subsidiary contribution for the respect of human rights; protection of basic democratic principles; establishment of the rule of law; and practice of good governance.
- Renewal of EU pledge of financial and technical support to the democratic transition process in the country;
- Extension of the mandate of the EU Special Envoy for the Great Lakes Region; and
- Need for an international conference on peace, security, and stability in the Great Lakes Region.

| <b>First Congo War: Post-Conflict Peacebuilding (June 1997 - Aug. 1998)</b> |  |             |             |           |
|---|--|-------------|-------------|-----------|
| <b>EU CFSP Main Aspects and Basic Choices on DR Congo</b>                   |  |             |             |           |
|   |  | <b>1997</b> | <b>1998</b> |           |
| <i>Non-Legally Binding Responses</i>  | <b>Principles &amp; General Guidelines *</b> | 1           | 0           | <b>1</b>  |
|   | <b>CFSP Declarations</b>                     | 2           | 1           | <b>3</b>  |
|   | <b>Demarches</b>                             | 1           | 1           | <b>2</b>  |
|   |  | <b>4</b>    | <b>2</b>    | <b>6</b>  |
| <i>Legally Binding Responses</i>  | <b>Common Positions **</b>                   | 0           | 0           | <b>0</b>  |
|   | <b>Joint Actions</b>                         | 1           | 0           | <b>1</b>  |
|   | <b>CFSP Decisions</b>                        | 1           | 2           | <b>3</b>  |
|   |  | <b>2</b>    | <b>2</b>    | <b>4</b>  |
|   |  | <b>6</b>    | <b>4</b>    | <b>10</b> |

\* The corresponding figure refers to the number of EU Summits that addressed matters related to the situation in the DR Congo and or Great Lakes Region.

\*\* Two CPs adopted on Africa were by extension applicable to the DR Congo:

1) CP 97/356/CFSP on EU principles and guidelines for its contribution to conflict prevention and resolution in Africa.

2) CP 98/350/CFSP on EU principles and guidelines concerning human rights, democratic principles, rule of law and good governance in Africa.

## **Commentary**

In this chapter, I set out to answer the following questions: *Was the information on the first war in the DR Congo timely and sufficient for the EU to respond adequately for its prevention, mitigation and recurrence? Did the EU make the best use of the CFSP assets that were available for its response?* Towards this end, I have used the three-stage analytical approach of Conflict Resolution: Early Warning and Prevention (EWP), Conflict Management (CM), and Post-Conflict Peacebuilding (PCPB). The ultimate aim was to discern *any general need-response pattern* that might help establish as systematically and empirically as possible whether, how, and why the CFSP did (not) enable the EU to live up to its pledges and expectations for preventing or the occurrence, bloody escalation, and or recurrence of tragedies similar to 1994-Rwanda. This section offers a summary of the result of the exercise.



The First Congo War was a long foretold catastrophe about which the EU, like any other member of the international community, was timely and sufficiently informed. For a recall, its main immediate cause was the deterioration of security along the border between the DR Congo and Rwanda, following the settlement of about two million Rwandan refugees in the eastern provinces of the DR Congo in summer 1994, in the aftermath of the genocide in their home country. Among those refugees were defeated military and militias, some of whom had taken part in the genocide and mass killings. The repeatedly out-cried and over-demonstrated inability of the host government to effectively ensure security in and around refugee camps, the publicly stated intention of those ousted military and militias to re-conquer power by arms if necessary, and the declared determination of their defeaters to pursue them across the border could altogether but presage the worst. Many reliable sources timely, consistently, and repeatedly warned the international community; recommending various solutions in order to prevent the outbreak of the war at best or to mitigate and avoid its recurrence at worst (United States Department of State (US Department of State) 1994; UN General Assembly 1995; Amnesty International 1996a, 1996b, 1996c; ECOSOC 1996a, 1996b; UNHCR 1996a, 1996b, 1996c, 1996d; UN Security Council 1996a, 1996b, 1996c, 1998a, 1998b, 1998c; HRW 1997; Human Rights Watch (HRW) and Fédération Internationale des Ligues des Droits de l'homme (FIDH) 1997; Lemaître 1997a, 1997b, 1997c; Médecins Sans Frontières (MSF) 1997; Physicians for Human Rights (PHR) 1997; UNECOSOC 1998; United States Committee for Refugees and Immigrants (USCRI) 1998).

The main underlying origin, the *start-up conditions* in the terminology of CR theorist Sandole (1993, 1998), was the predatory, corrupt, neopatrimonial, personalist, and repressive rule of President Mobutu who, during the three decades of his rule (1965-1997), made his fellow citizens shockingly poorer than they were at independence in 1962, despite hosting much of the world's most wanted natural riches (French 1995, 1997; Nzongola-Ntalaja 2002; Bayart 2009). The international community, including the EC that was upgraded to EU in 1993, was along aware of the situation. In fact, the EC

“unilaterally suspended EDF aid to Zaire in 1992, in line with Article 366 of the Lomé IV Convention” (Bourque and Sampson 2001: 17), following a series of human rights violations such as the massacre of protesting students of the University of Lubumbashi (Human Rights Watch 1992). With the end of the Cold War, the country lost the strategic value for the West, with the latter withdrawing its economic aid, political support, and military protection. As a result, by the late nineteen eighties, the central state had virtually ceased to exist and operate, except in the country’s capital Kinshasa (Reyntjens 2009). The gradual and multi-level retreat of the State turned the country into “the quintessential case” of the *fragmentation policy*, that is, the nationwide systemic weakening and partition of institutions (Williams 2011). The unwillingness of the international community to address timely and adequately the problem of the 1994-Rwandan refugees was the last straw that broke the camel’s back.

The consequences of the First Congo War were unimaginably horrific because it caused the death of hundreds of thousands of innocent persons and left behind deep wounds that will remain open for various generations to come. For its CFSP-born response before, during, and after the war, the EU varyingly resorted to all the decision-making and implementation instruments that were available except *Common Position*. The non-use of this instrument specifically on the DR Congo and or the Great Lakes Region was an important shortcoming and is much revealing. In the absence of the instrument of Common Strategy, introduced later by the Treaty of Amsterdam that entered into force on 1 May 1999, Common Position was the only legally binding instrument available under the CFSP that the EU could use to outline its position towards the DR Congo and its region in general and towards the First Congo War, in particular. Likewise, the EU did use Joint Action (JA) only for the appointment of its Special Envoy (JA 96/250/CFSP); the outlining of the principles, objectives, priorities, and approach of its support to the democratic transition process in Zaire, two months after the outbreak of military campaign (JA 96/656/CFSP, JA 97/875/CFSP); and for expressing its support to any relevant UN Security Council Resolutions for the protection of the refugees and their repatriation in safety and dignity (JA 96/669/CFSP). Arguably, it could have used that instrument in support of the repeated pleas

for the establishment and deployment of a capable preventive peacekeeping force in and around the refugee camps, the relocation of refugees away from the border between the two countries, and or the actual deployment of the UN-authorized multinational intervention (MNF). Instead, the EU resorted more to non-legally binding, generic instruments of its CFSP, namely general principles, guidelines, declarations; including when the most reliable sources were constantly reporting mass killings of refugees and unarmed local civilians, and calling for urgent decisive action.

**Overall, the *general need-response pattern* was that of inaction, insufficient action, and often too late response to killings and other gross violations of human rights and humanitarian law.** The EU did not make the best use of the CFSP resources mainly because of the following factors: lack of experience and benchmarks in 'high politics' foreign policy; late inception of the CFSP; its non-exclusive competence status; its subsidiary role; the primacy of interests of the EU and or its allies; and the "Somalia Syndrome". Concerning the lack of experience and benchmarks, for decades and until the entry into force of the CFSP in November 1993, the European Communities (EC), the predecessor of the EU, had carried out its external relations with the DR Congo and Sub-Saharan Africa in general through the Lomé Conventions, the focus of which were trade and development cooperation. Any 'hard' (as opposed to 'soft') foreign policy matter would be addressed through the EPC (European Political Cooperation), that is, the foreign policy consultation and coordination framework that preceded the CFSP. The policy outputs of the EPC were mostly declarations and demarches; and, exceptionally, joint actions in the form of positive and or restrictive measures as in the case of the fight against the apartheid regime in South Africa and terrorist incidents sponsored by Libya and Syria (European Communities 1988: 14). The testimony of the EU's first Special Envoy and Representative to the Great Lakes region of Africa, the EU's first diplomat to be assigned such a mission, Mr. Ajello, is quite illustrative of the level and importance of the lack of experience in foreign and security policy, in general, and in humanitarian intervention for human protection purposes, in particular:

It is clear that we are all inventing from scratch. We have no point of reference, no precedent, nothing. It's rather personal initiatives that take into account the views of different member states [of the EU], but a real common position there is not as such. What exists is a common denominator. By using the space rendered possible within this lowest common denominator, I try to draw up a comprehensive strategy for Europe in the region [of the Great Lakes] and eventually in Africa. (Ajello and Richard 2000: 118).

The early infancy situation of the CFSP at the time of the First Congo War too was responsible for the lack of experience and thereby failure to make the best of the available resources. As substantiated in detail in the preceding chapter, the CFSP hardly entered into force in November 1993, when prevention for the First Congo War was nearly overdue. The non-exclusive competence of the CFSP and its unanimity-voting rule underlay the lack of consensus and disagreement among Member States on various suggested solutions. For instance, a peacekeeping plan code-named "Tindemans Plan" after the name of Belgium's Former Prime Minister and Former Foreign Affairs Minister who proposed it for addressing the security in and around Rwandan refugee camps and their eventual relocation was dropped out because of the lack of support at the Belgian and European levels (Reyntjens 2009: 21). The testimony of the first Special Representative of the EU for the region, Mr. Ajello, suggests that his mission was indeed further complicated by divergent views of Member States some of whom (like France and Belgium) had long standing and often conflicting foreign policy objectives towards the region and its individual countries:

At first, I had big problems due to the fact that as EU Special Envoy I should have been representing a common position. But there wasn't one. The positions were varied and often completely contradictory especially on Rwanda, but also on Burundi. There were serious problems because it is not easy selling a product that does not exist. So I had to invent a common policy myself, taking into account the sensitivities of each of the parties. And this invention gradually became the effective common policy in the region. (Ajello, as quoted in Misser 2007: 4).

This quote suggests that the single and perhaps most decisive factor that prevented the EU to make the best use of the resources that were available under the CFSP in its response to the First Congo War was the primacy of national self-interests that underpinned the reported diverging views and positions among Member States. The EU Special Envoy for the region has revealed that his constant warning messages and suggestions for a peacekeeping force "were ignored" because the international community,

including some Member States of the EU, considered such intervention “a difficult and risky operation.” (Ajello and Richard 2000: 40). Some analysts rightly argue that the implementation of such a plan might have saved the Great Lakes Region from two successive wars and related mass atrocities (Reyntjens 2009). At least, it would have deprived the post-genocide regime of Rwanda and its allies of the sole official justification for their military invasion and occupation of the DR Congo: the security threat posed by armed elements among the Rwandan refugees along the border of the two countries. Likewise, had the UN-authorized multinational intervention (MNF) “for humanitarian purposes in eastern Zaire” in November 1996 actually taken place, the proportions of death and desolation that befell the refugees and local population might certainly have been much less. The mission was aborted not because the bulk of the refugees suddenly returned home as plans to intervene were being discussed; but rather because key actors at the UN and EU levels had never seriously considered it (Reyntjens 2009: 87). The debate on whether the mandate of the Force had to include or not disarming and separating armed elements from ordinary refugees in the camps as one of its core objectives (Reyntjens 2009: 83) seems to have been a strategy to buy time (Prunier 2009: 119). Contestably, the NATO-led military intervention in Kosovo (Operation Allied Force, 23 March - 10 June 1999), launched eight months after the outbreak of the Second Congo War, was not less risky or difficult. Certainly, it was worth carrying because crucial common interests of key decision-makers were at stake. As I highlight in the chapter discussing the overall findings of this thesis, Kosovo formed (and still forms) part of the EU backyard – the Balkans - and therefore was (and remains) the main strategic priority of the Union.

The Treaty-based subsidiary role of the CFSP also played a role in the EU failure to make the best use of available resources, namely Common Positions and Joint Actions. Each and all the decisions and actions that the EU undertook under the CFSP in response to the war were aligned to and in support of decisions and actions by the United Nations and key international actors. Finally, the inception of the CFSP coincided with the most terrible humanitarian tragedies of the 1990s, in particular the genocide and mass killings in Rwanda and in the Balkans. While these tragedies triggered the

“Never Again” pledge worldwide, they at the same time commanded caution and disengagement from (forcible) military intervention, often referred to as the “Somalia Syndrome” (Weiss 1995), because they did expose the inadequacy of the modus operandi of humanitarian intervention of the time and its often deadly risks for the intervening forces. The humiliating killing of 18 US Marines in Somalia, first, in 1993, and 10 UN peacekeepers in Rwanda, second, at the start of the 1994-genocide, still stands as the most remembered illustration of such dangers. In the following chapter, I determine whether there was any improvement in the use of CFSP resources in response to the Second Congo War.

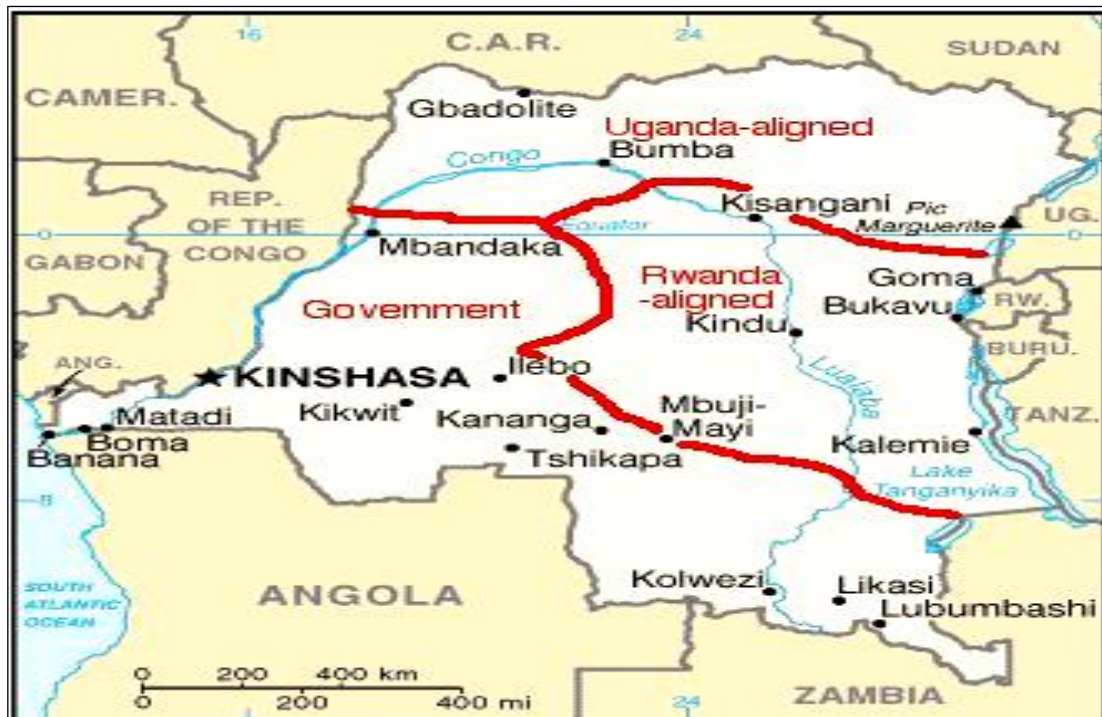
## CHAPTER SIX: CFSP-BASED RESPONSE TO THE SECOND CONGO WAR (1997-2009)

### Introduction

My objective in this chapter is to establish whether the EU response to the Second Congo War under the CFSP experienced significant improvement in comparison to its CFSP-born response to the First Congo War. As in the case of the preceding chapter, I account for the empirical knowledge and information about the needs and challenges on the ground, the CFSP resources that were available, and their actual use by the EU. The underlying assumption remains the same: unless such empirical knowledge is first established, it is hardly possible to fairly establish whether the EU did have timely and sufficient information to act; whether and why it did (not) make the best use of the resources that were available under the CFSP; and whether any such use did enable the EU to make a difference as claimed by EU authorities and some academics (see first chapter). Interestingly, most if not all studies on the subject do not provide such information and knowledge as systematically as their assertions would require. One major contribution of this research consists in filling up this gap. As for the chapter on the First Congo War, I shall draw on secondary data and use the three-stage analytical approach of Conflict Resolution: early warning and prevention, management, and post-war rebuilding. Again, for the sake of clarity, I shall treat each stage separately.

The Second Congo War (SCW) started on 2 August 1998 and formally ended on 17 December 2002 when the belligerents and parties signed a comprehensive peace accord known as the *Global and Inclusive Agreement on Transition in the Democratic Republic of the Congo (Global and Inclusive Agreement (GIA))*. That war has been variously coined as the “Africa’s World War” (Punier 2009), “The Great African War” (Reyntjens 2009), and “Africa’s ‘first world war’” according to former US Secretary of State Madeleine Albright (The Economist 2009) because of its scale and toll of destruction. At least ten African countries sent in troops either in support of or against the then President of the DR Congo, Laurent Désiré Kabila. Countries that intervened to help the embattled president included Angola, Zimbabwe,

Namibia, Chad, Central African Republic (CAR), Sudan, and Libya; while those who attempted to topple him down were mainly Rwanda, Uganda, and Burundi. As a result, the DR Congo's territory quickly became divided into two main geographical parts: the resources-rich East and North remained under the total control of Rwanda and Uganda and their respective local politico-military proxies; whereas the rest of the country stayed in the hands of the government of the DR Congo and its allies.



Estimate of territory held by factions in June 2003 (Wikipedia 2011).

Three intertwined factors underlay the break out of the second war. The first one was the inability and or unwillingness of the new authorities to unite the country and establish the foundation of a free, secure, democratic, and prosperous nation-state. The second one was the inaction or little action by the international community without whose sustained and substantial assistance long lasting peace, democratic politics, and socio-economic prosperity was doomed to remain elusive at best. The third and probably most determining factor was the real agenda of the key masters and protectors of the new regime, that is, Rwanda and Uganda, who were more interested in controlling the vast valuable resources of the eastern provinces of the country than in actually helping restore security for all, establish good



governance (a commodity they themselves were cruelly short of at home), and eliminate bases of insurgencies against them (HRW 2006a; Erlinder 2008; Reyntjens 2009). Unsurprisingly, combats were initiated by the same Rwandan troops that President Kabila Sr. officially had ordered, only five days before (27 July 1998), to leave his country and return to theirs, allegedly anticipating an imminent coup to remove him from power. The consequences were horrific, particularly in terms of human casualties. According to the International Rescue Committee (IRC), nearly two million out of the two and a half million persons who perished in the DR Congo between August 1998 and May 2000 did so as a result of the war (Nzongola-Ntalaja 2002: 241). Throughout the three stages of the conflict, human rights and humanitarian organisations, UN rapporteurs, and independent observers and analysts constantly denounced blatant and systematic violations of human rights and humanitarian law, and called on the most able actors of the international community to take appropriate action. For its part, the EU responded with various decisions and actions under its CFSP. Some of those endeavours, namely five field operations, have been presented as the most if not only supporting evidence for the alleged difference the CFSP and ESDP have enabled the EU to make in the DR Congo.

### **Early Warnings and Prevention (June 1997 - August 1998)**

The one-year period of Post-Conflict Peacebuilding for the First Congo War (June 1997 - August 1998) was an inter-war period and therefore served for early warning and prevention for the Second Congo War. Accordingly, any CFSP-born decisions and actions aimed at rebuilding the country during that period were also valid for *early warning* and *prevention* for the second war. Certainly, the failure of both the new Congolese government and the international community to address adequately the multiple needs, problems, and challenges that faced the DR Congo in the aftermath of the First Congo War led to the outbreak of the second war. The preceding chapter (in particular the section on PCPB) deals at length with that inter-war period. For a reminder, I shall here offer only a summary. In terms of problems and challenges, the new authorities quickly proved more unwilling than unable to:

- Promote reconciliation, with the consequent sharpening of ethnically motivated divisions, tensions, and violence, particularly in the country's eastern provinces;
- Grant, for all citizens and on equal footing, civil rights to life, liberty, physical integrity, freedom of expression, etc.;
- Respect and ensure respect of human rights and humanitarian law, particularly in the eastern provinces of the country where an unofficial low intensity war went on;
- Create a non-partisan and nationally inclusive armed and security forces capable of ensuring law and order and of defending the country's territorial integrity; and to
- Facilitate independent investigations, including by the UN, of gross violations of human rights and humanitarian law committed during the First Congo War.

Concerning the role of the international community, various watchdog organisations, agencies, UN-Commissions and Rapporteurs, and individuals relentlessly denounced the above-described situation and constantly called for timely, appropriate, and sufficient response. In particular, they recurrently asked the international community to:

- Do all in their power to protect refugees and displaced persons in the DR Congo;
- Pressure the DR Congo's government to permit full, unhampered, independent, international investigation and prosecution of alleged mass crime atrocities;
- Support programmes by civil society organisations in the DR Congo to promote respect for human rights, propagate a democratic culture, and train independent election monitors; and
- Subject any assistance other than humanitarian aid to the commitment of new government and its regional godfathers to concrete steps toward respecting human rights and humanitarian law and creating the conditions for democracy and the rule of law.

As far as the response of the EU under its CFSP is concerned, it came out in the form of both legally and non-legally binding decisions and actions. In terms of the legal acts, the Union adopted two Common Positions (CPs 97/356/CFSP and 98/350/CFSP), one Joint Action (97/875/CFSP), and three CFSP Decisions (97/448/CFSP, 98/452/CFSP, and 98/410/CFSP). By means of the two CPs, the Union outlined respectively the principles and guidelines of its policy on (i) conflict prevention and resolution (CP 97/356/CFSP) and on (ii) on the one hand; and, on the other, on human rights, rule of law, and good governance in Africa (CP 98/350/CFSP). On the

other hand, the Union adopted Joint Action 97/875/CFSP in order to extend and substantially adapt Joint Action 96/656/CFSP on its support to the democratic transition process in the DR Congo. The three CFSP Decisions adopted during that period bore on the nomination of the EU's Special Envoy to the Great Lakes Region and its support to the democratic transition process in the DR Congo. In terms of non-legally binding initiatives, the situation in the DR Congo and the Great Lakes Region were object of one European Council meeting, three CFSP Declarations, and at least two Demarches with the authorities of that country.

| <b>Second Congo War: Early Warning and Prevention (June 1997 - Aug. 1998)</b> |   |             |             |           |
|---|---|-------------|-------------|-----------|
| <b>EU CFSP Main Aspects and Basic Choices on DR Congo</b>                     |   |             |             |           |
|   |   | <b>1997</b> | <b>1998</b> |           |
| <i>Non-Legally Binding Responses</i>  | <b>Principles &amp; General Guidelines*</b> | 1           | 0           | <b>1</b>  |
|   | <b>CFSP Declarations</b>                    | 2           | 1           | <b>3</b>  |
|   | <b>Demarches</b>                            | 1           | 1           | <b>2</b>  |
|   |   | <b>4</b>    | <b>2</b>    | <b>6</b>  |
| <i>Legally Binding Responses</i>  | <b>Common Positions**</b>                   | 0           | 0           | <b>0</b>  |
|   | <b>Joint Actions</b>                        | 1           | 0           | <b>1</b>  |
|   | <b>CFSP Decisions</b>                       | 1           | 2           | <b>3</b>  |
|   |   | <b>2</b>    | <b>2</b>    | <b>4</b>  |
|   |   | <b>6</b>    | <b>4</b>    | <b>10</b> |

\* The corresponding figure refers to the number of EU Summits that addressed matters related to the situation in the DR Congo and Great Lakes Region.

\*\* By extension, the two CPs on Africa were also applicable to the DR Congo:

- 1) CP 97/356/CFSP on EU principles and guidelines for its contribution to conflict prevention and resolution in Africa.
- 2) CP 98/350/CFSP on EU principles and guidelines concerning human rights, democratic principles, rule of law and good governance in Africa.

## **Conflict Management (August 1998 - December 2002)**

The 'Conflict Management' stage under review spanned from 2 August 1998, date on which the Second Congo War broke out, until 17 December 2002 when Congolese belligerents and parties signed the 'Global and Inclusive Agreement'. As underscored earlier, the Second Congo War broke out because of the failure of the new regime and the international community to

address adequately the immediate and latent problems that led to or resulted from the First Congo War. Like the First Congo War (1996-1997), the second one was launched from the country's eastern region bordering with Burundi, Rwanda, and Uganda. Once again, it was disguised into a rebellion by the *Banyamulenge*, Congolese ethnic Tutsi of Rwandan origin, and based on two charges: authoritarianism and security concerns. On the first charge, Rwanda and its puppet rebels accused President Kabila Sr. of "misrule, nepotism and corruption", as well as of the marginalisation of the *Banyamulenge* community and the killing of Congolese Tutsi. On 12 August 1998, the name of the new politico-military rebellion was announced as being 'Rassemblement Congolais pour la Démocratie' (RCD) in French (Reyntjens 2009: 194-196), which translates in English as 'Congolese Rally for Democracy'. On the second charge, the government of Rwanda and Uganda accused President Kabila Sr. of allying with insurgencies, including defeated Rwandan military and militia who had been involved in the 1994-genocide, based in eastern Congo against their two respective countries. Burundi, the other eastern neighbour of the DR Congo, too justified "its limited military involvement as arising out of the need to stop incursions of Hutu extremists based in the Congo." (Nzongola-Ntalaja 2002: 238). Arguably, the unconvincing character of these arguments, their authors' preference for the military coup solution approach, and the high economic and geopolitical stakes of the war triggered the direct and immediate military intervention of up to ten other African countries.

### **Needs and challenges**

The Second Congo War, like the first one, was characterised by gross violations of human rights and humanitarian law. One of the first acts of the kind was "the blockade of the port of Matadi and the interruption of electricity and water supply to Kinshasa [the capital] by repeated switching off the Inga power dam", which "resulted in shortages of basic necessities, an outbreak of waterborne diseases and numerous deaths." (Nzongola-Ntalaja 2002: 241). Nzongola-Ntalaja has underscored that the Second Congo War was "peculiar in that it remained mainly a war against unarmed civilians, with repeated massacres of innocent men, women and children, particularly by Rwandan

troops and their Congolese auxiliaries, and with HIV-positive soldiers passing on the deadly virus to the thousands of women they raped or, occasionally to those whose services they purchased.” (Nzongola-Ntalaja (2002: 242). He recalls the alarming figures provided in 2000 by the International Rescue Committee (IRC), according to which 1,7 million out of the 2,3 million persons who died in the DR Congo between August 1998 and May 2000 died as a result of the war. Actually, the IRC was just one of the many voices who, from the very start of the hostilities throughout to their formal end, relentlessly pleaded the international community to protect civilians and alleviate their suffering. Human Rights Watch (1998) did so only three days into the war. The organisation also “called on the international community to insist on full accountability for” the then and previous “human rights abuses in the Congo, Rwanda, and other countries in the Great Lakes region if a sustainable resolution to chronic instability in the region [was] ever to be found.” For its part, Amnesty International sent out its first public alert on 7 August 1998, only five days after the combats had started. It too made an “urgent appeal to safeguard human rights [...] in response to waves of arrests in the capital Kinshasa and reports of widespread killings, especially in the eastern Kivu region.” (Amnesty International 1998b: 1). The organisation called on “all parties involved in the conflict and to foreign governments who [could] have an influence on the situation to ensure that further human rights abuses [were] prevented.” It also urged “governments of neighbouring countries to allow unarmed civilians fleeing the conflict and human rights abuses in DRC to seek refuge in their country.”

From then onwards, HRW, AI, and other human rights advocates, including UN agencies, constantly made many similar and more pressing calls and recommendations in the form of press releases, public statements, interviews and testimonies in word media, letters, and reports. One month into the war, the UN Special Rapporteur on the situation of human rights in the DR Congo, Mr. Garretón, submitted a report in which he detailed serious violations of international humanitarian law by the two sides to the war (Government and rebels). Reported violations included *violence to life and summary executions, arbitrary detentions and or deportations, torture, sexual violence, and forced recruitment of civilians, including children* (UN General Assembly

1998: 8-10, paras. 23–39). Two months later, Amnesty International (1998c: 2) went further and denounced a “War against unarmed civilians” thousands of whom were “victims of atrocities” that included “large scale massacres [...], ‘disappearances’ and torture, including rape, as well as arbitrary arrests and detentions”. AI deplored that, “While the conflict ha[d] received some international attention, almost nothing ha[d] been said or done about the atrocities inflicted on the unarmed civilian population.” Once again, the organisation called for urgent action to effectively ensure full protection of civilians, suspension of arms transfers and supplies to the parties implicated or likely to be involved in those atrocities, and full investigation and prosecution of those crimes.

In July 1999, one year into the war, the belligerents signed a ceasefire agreement (the so called Lusaka Ceasefire Agreement) committing themselves, among other things, to respect and protect human rights and humanitarian laws, and a UN peacekeeping force was subsequently deployed to monitor their commitments. However, one year later, Human Rights Watch (2000: 1) had but to report, for the nth time, an unchanged pattern of brutal violence directed against defenceless civilians in these terms: “The Rwandan army and its Congolese allies have massacred and raped civilians in eastern Congo. Their opponents, Hutu and Mai Mai armed groups, are also committing atrocities against the civilian population.” Among other recommendations, the organisation asked the UN to ensure that the field office of the UN High Commissioner for Human Rights in Eastern Congo had adequate resources to function effectively and that the UN peacekeeping operation had a strong human rights component. Just two months before the signing of the so-named Global and Inclusive Agreement for peace, constitutional inclusive democracy, reconciliation, and socio-economic development in the DR Congo, another UN Special Rapporteur on human rights in the country, Iulia Motoc, too alerted the international community as follows: “Serious human-rights violations have taken place in rebel-controlled territory, particularly in the east of the country. Sexual violence against women and children has been used as a weapon of war by most of the armed groups involved in the conflict.” She described those violations as “massive” and asserted that “[t]he reprisals against the civilian population

constitute serious infringements of humanitarian law.” (UN General Assembly 2002: 17, para. 79). By any standards, the international community, including the EU, continuously received timely and sufficient information in order to act accordingly.

### **CFSP-based Response**

During the period under review, the following political and legal policy resources were readily available for use by the EU under its CFSP. Non-legally binding political instruments were the following: *Principles and Guidelines*, *CFSP Declarations*, and *Demarches*. On the legal side, the Treaty of Amsterdam, which entered into force on 1 May 1999, introduced a new politico-legal instrument: *Common Strategy*. The new instrument added up to the already existing three ones: *Common Position*, *Joint Action*, and *CFSP Decision*. In the following sections, I shall determine if, when, and how the EU used any of these instruments for the management of the Second Congo War.

#### *Non-Legally Binding Responses*

During Conflict Management stage of the Second Congo War (1998-2002), the European Council held sixteen summits only **three** of which issued some **Principles and General Guidelines** on the situation of the DR Congo. The first of the three meetings was held in December 1998, four months into the Second Congo War (European Council 1998). The second EU summit took place at the end of 2001 (European Council 2001a), more than two years after the signing of the Lusaka Ceasefire Agreement on 10 July 1999. The third and last one took place in March 2002 (European Council 2002a), nine months ahead of the conclusion of the transitional peace and power-sharing agreement: the Global and Inclusive Agreement. At one or the other of the three summits, the EU expressed or reaffirmed **its concern** about the aggravation and internationalisation of the armed conflict in the DR Congo and related violations of human rights and humanitarian law. The Union also **called for** the cessation of hostilities, the withdrawal of all foreign troops, the respect of human right and humanitarian law, and a negotiated political

solution. To that end, the EU pledged or renewed **its support** to the Lusaka Ceasefire Agreement-born process of inter-Congolese dialogue.

| <b>Second Congo War: Conflict Management (Aug. 1998 – Dec. 2002)</b>   |             |             |             |             |             |           |
|--|-------------|-------------|-------------|-------------|-------------|-----------|
| <b>CFSP-based Response: Principles and General Guidelines</b>  |             |             |             |             |             |           |
|  | <b>1998</b> | <b>1999</b> | <b>2000</b> | <b>2001</b> | <b>2002</b> |           |
| Total EU Summits   | 1           | 4           | 3           | 4           | 4           | <b>16</b> |
| <b>EU Summits with reference to DR Congo/ Great Lakes Region*</b>  | <b>1</b>    | <b>0</b>    | <b>0</b>    | <b>1</b>    | <b>1</b>    | <b>3</b>  |
| <b>Main issues addressed with reference to DRC/GLR:</b>  |             |             |             |             |             |           |
| <i>EU concern about aggravation and internationalisation of the armed conflict in the DR Congo.</i>                          | 1           | 0           | 0           | 0           | 1           | <b>2</b>  |
| <i>EU support to the principles of territorial integrity and sovereignty of the DR Congo and its neighbouring countries.</i> | 1           | 0           | 0           | 0           | 0           | <b>1</b>  |
| <i>EU call for negotiated political solution.</i>  | 1           | 0           | 0           | 0           | 0           | <b>1</b>  |
| <i>EU call for respect of human rights and humanitarian law.</i>   | 1           | 0           | 0           | 0           | 0           | <b>1</b>  |
| <i>EU support for the Lusaka and Arusha Agreements.</i>  | 0           | 0           | 0           | 1           | 0           | <b>1</b>  |
| <i>Commission's signing of National Indicative Programme for the DR Congo in January 2002.</i>                               | 0           | 0           | 0           | 0           | 1           | <b>1</b>  |
| <i>EU support to inter-Congolese dialogue underway.</i>  | 0           | 0           | 0           | 1           | 1           | <b>2</b>  |
|  | <b>4</b>    | <b>0</b>    | <b>0</b>    | <b>2</b>    | <b>3</b>    |           |

\* The corresponding figure refers to the number of EU Summits that addressed that particular issue.

Besides, the EU issued **thirty-three (33) CFSP Declarations** on the political, military, and humanitarian developments in that country and its region. Those declarations were distributed per year as follows: three in 1998, nine in 1999, five in 2000 and 2001 each, and eleven in 2002. The three statements issued in 1998 reflected the EU's **concern** at the deterioration of the internal situation, the violation of human rights, and its **call** for a peaceful solution. Declarations made public in the course of 1999 focussed on the armed conflict, arms trade to and within the Great Lakes Region, cease-fire negotiations and the resulting agreement, in particular the above-mentioned Lusaka Ceasefire Agreement. The EU retook on board the same issues in



the five declarations published in 2000, except one that focused on the infringement of liberty of Archbishop Emmanuel Kataliko and called for his return to his archdiocese in Bukavu (southeastern DR Congo). In its 2001-five Declarations, the Union expressed its **condemnation** of the attack and assassination on the president of the DR Congo, Mr. Laurent Désiré Kabila (Kabila Sr.) on 16 January 2001, its **concern** over the conflict between Hema-Lendu communities in the north-eastern part of the country, and at the redeployments of troops in that country by Rwanda and Uganda. The eleven declarations issued in 2002 covered three main issues: the continued outbreak of violence and fighting particularly in the eastern part of the country; the dire human rights and humanitarian situation for ordinary Congolese, displaced persons, and refugees; and the peace negotiations that led to the Global and Inclusive Agreement and the ensuing agreements for the withdrawal of foreign troops (of Angola, Uganda, and Rwanda).

Finally, the EU undertook at least **forty-five Demarches** on the conflict in the RD Congo during the period of Conflict Management (Aug. 1998 - Dec. 2002). The bulk of those demarches were undertaken with the authorities of the DR Congo. Other actors that the EU approached included Rwanda, Namibia, Uganda, Zimbabwe, Chad, Republic of Congo, Zambia, Gabon, the then Organisation for African Unity, and the United Nations. The predominant area-issues of those demarches were: the **armed conflict and related violations of human rights and humanitarian law**, the **political situation**, and the **peace process** in the DR Congo; and **regional security and development** challenges and solutions. Other area-issues included the ratification of the Comprehensive Test-ban Treaty, the Chemical Weapons Convention, the detention of EU diplomats in RD Congo, and the World Conference against Racism.

#### *Legally Binding Responses*

During the reference period under scrutiny, the EU did not adopt any CFSP **Common Strategy (CS)** in relation to the DR Congo, the Great Lakes Region, or Sub-Saharan Africa in general. Instead, the Union adopted **four Common Positions**, **four Joint Actions** and **two CFSP Decisions** as part of its contribution to the management of the Second Congo War. The first

Common Position (CP) was adopted and entered into force on 15 November 1999, a few months after the signing of the Lusaka Ceasefire Agreement; whereas the adoption of the fourth CP took place in October 2002, nearly two months ahead of the conclusion of the Global and Inclusive Agreement. The first three CPs (CP 1999/728/CFSP of 15 November 1999, CP 2001/83/CFSP of 29 January 2001, and CP 2002/203/CFSP of 11 March 2002) expressed and focused on the “support through action by the European Union and its Member States” to “the implementation of the Lusaka ceasefire agreement and the process towards peace in the Democratic Republic of Congo (DRC)” (CP 1999/728/CFSP, art. 1). By means of the fourth and last Common Position (CP 2002/829/CFSP of 21 October 2002), the Union outlined the conditions under which it amended the arms embargo that its Member States had previously decided (in April 1993) against the then Zaire (former name of the DR Congo) and allowed the supply of certain equipment to the country.

### **EU position on and support to the Lusaka Ceasefire Agreement**

With regard to the support to the Lusaka Ceasefire Agreement and the peace process, the Union reaffirmed its conviction that lasting peace could only be achieved through the following: (i) peaceful, inclusive, and fair negotiations between all parties concerned; (ii) respect for the territorial integrity and national sovereignty of the DR Congo and for democratic principles and human rights in all States of the region; and (iii) consideration of the security interest of the DR Congo and its neighbouring countries (CP 1999/728/CFSP, art. 1). Hence, the Union indicated that its support and action would only be geared towards enhancing and materialising these principles; as well as it was to be conditioned to the endorsement and implementation of these principles by all the parties to the conflict (CP 2001/83/CFSP). In this regard, the Union stated that its cooperation with the countries in the region involved in the Congolese crisis would take account of the efforts made by those same countries to implement the Lusaka Ceasefire Agreement and related agreements and the relevant Security Council Resolutions (CP 2002/203/CFSP, art. 7). The EU announced that in its cooperation with those countries it would “promote support for activities

which contribute to political stability and the alleviation of economic and social problems which contribute to instability in the Great Lakes region.” (CP 1999/722/CFSP, art. 6) To that end, the Union restated its readiness to support the holding of an international conference on peace, security, democracy and development in the Great Lakes region once progress in the Lusaka and Arusha peace processes so allowed and the interested countries so decided (CP 2002/203/CFSP, art. 7).

Besides, the Union committed itself to “pursue its action for a full withdrawal without delay of all foreign troops from the DRC in accordance with the Security Council Resolutions” (CP 2002/203/CFSP, art. 3) and pledged to “strive for the rapid implementation of the process of disarmament, demobilisation, repatriation, reintegration and resettlement [DDRRR] of combatants of armed groups.” (CP 2002/203/CFSP, art. 4) Regarding the DDRR, the Union indicated that the process was to be carried out voluntarily, and that, to that end, it would maintain its support the work of the UN Mission in the DR Congo (MONUC) and the Joint Military Commission (JMC) (ibid.)

### **EU position on and support to Inter-Congolese Dialogue**

With regard to the inter-Congolese negotiations, the EU expressed its desire and active support for an agreement that would enable the unity and integrity of the DR Congo to be maintained and the rule of law to be re-established through a peaceful transition capable of restoring good governance, respect for human rights and fundamental freedoms and of paving the way for a return to democracy. The Union underscored that the “Agreement on transition and its institutions should in particular address the key issues of Congolese nationality and the new organisation of the army and of the State with a view to the full restoration of representative democracy as an essential guarantee for the country's lasting and equitable development.” (CP 2002/203/CFSP, art. 5). The Union also pledged to maintain an appropriate level of humanitarian aid to the country and to lend its support to the reconstruction and development of the target country. The EU legally bound itself to ensure that such support would benefit all the Congolese people and all the regions of the country and that it would contribute dynamically and proactively to the peace process by promoting the restoration of the

Congolese State, good governance, an improvement in the economic situation and respect for human rights (CP 2002/203/CFSP, art. 5).

### **Amendment of the 1993-arms embargo**

Concerning the amendment of the arms embargo, the Union allowed the following: (a) supplies temporarily exported to the DR Congo for the personal use only of United Nations personnel; (b) supplies of non-lethal military equipment intended solely for humanitarian or protective use; and (c) equipment to be used for the clearance and destruction of anti-personnel landmines (CP 2002/829/CFSP, art. 1(2)). Member States were legally bound to immediately inform each other and the European Commission of the measures taken under this CP and to supply each other with any other relevant information at their disposal in connection with it (CP 2002/829/CFSP, art. 2). With a view to maximising the impact of these measures, the Union, on the one hand, undertook to deploy efforts to encourage other countries to adopt measures similar to those contained in this Common Position (CP 2002/829/CFSP, art. 3).

| <b>Second Congo War: Conflict Management (Aug. 1998 - Dec. 2002)</b>  |             |             |             |             |             |          |
|---|-------------|-------------|-------------|-------------|-------------|----------|
| <b>CFSP-based Response: Common Positions (CPs)</b>  |             |             |             |             |             |          |
|   | <b>1998</b> | <b>1999</b> | <b>2000</b> | <b>2001</b> | <b>2002</b> |          |
| Total CPs on Zaire / DR Congo   | <b>0</b>    | <b>2*</b>   | <b>0</b>    | <b>1</b>    | <b>2</b>    | <b>5</b> |
| <b>Main themes/ issues re DRC/ GLR:</b>   |             |             |             |             |             |          |
| <i>EU support for the implementation of the Lusaka ceasefire agreement and the peace process in the DR Congo.</i> | 0**         | 2           | 0           | 1           | 1           | <b>4</b> |
| <i>Exceptions to the arms embargo decided in April 1993 against DR Congo.</i>                                     | 0           | 0           | 0           | 0           | 1           | <b>1</b> |
|   | <b>0</b>    | <b>1</b>    | <b>0</b>    | <b>1</b>    | <b>2</b>    |          |

\*\* The CPs and Decisions of 8 November 1999 and 15 November 1999 as well as their corresponding implementing Decisions are similar to the best of knowledge. My request for clarification from the Council was unsuccessful. Consequently, my analysis takes into account only 4 CPs.

\*\* Number of Common Positions that addressed that particular issue.

On the other hand, the EU adopted **four Joint Actions** for the management of the Second Congo War (Aug. 1998 – Dec.2002). All the four legally binding undertakings concerned the definition and updating of the status and mandate of the EU Special Envoy and Special Representative for the Great

Lakes Region (JA 2000/347/CFSP of 22 May 2000, JA 2000/792/CFSP of 14 December 2000, 2001/876/CFSP of 10 December 2001, and JA 2002/962/CFSP of 10 December 2002). The first JA (2000/347/CFSP) re-extended the mandate of the Union's Special Envoy (EUSE) for the Africa's Great Lakes Region, decided for the first time on 25 March 1996 (JA 96/250/CFSP), from 31 July 2000 until 31 December 2000. The second JA (2000/792/CFSP) upgraded the status of the 'Special Envoy' to that of 'Special Representative' (SR) and accordingly refined her/his mandate, with a view to increasing transparency and clarity. Under the new status, EU Special Representative (EUSR) would conclude a contract as 'Special Adviser' with the Council and was responsible for implementing his/her mandate, including the constitution of her/his team, in consultation with the Presidency, assisted by the Council's Secretary-General/ CFSP's High Representative, and in full association with the Commission (JA 2000/792/CFSP, art.3). The mandate of EUSR for the Great Lakes Region was to "support the efforts aimed at creating the necessary conditions for a lasting and peaceful solution to the crises affecting the African Great Lakes Region, including preparations, at the appropriate time, for an international conference on peace, stability, democracy and development in the African Great Lakes Region." (JA 2000/792/CFSP, art. 2 (1)). The new JA specified that the mandate of the EUSR was to "be based on the policy objectives of the European Union regarding the conflicts in the African Great Lakes Region". Those objectives were (re)defined as being mainly the following (JA 2000/792/CFSP, art. 1):

- Active and efficient contribution of the EU to a final settlement of the conflict in the DR Congo and the conflict in Burundi;
- Particular attention to the regional dimension of the two conflicts;
- Assurance of the continued presence of the EU on the ground and in relevant international fora, staying in touch with key players and contribution to crisis management; and
- Contribution to a consistent, sustainable and responsible policy of the EU in the African Great Lakes Region.

The Special Representative would report directly to the Secretary-General/High Representative of the Union's Council and was accountable to him/her regarding the administrative costs incurred in connection with his/her

activities. He / she had to submit regular reports on his/her own initiative or when requested, to the Council through its Secretary-General/High Representative (JA 2000/792/CFSP, art. 4); and such reports had to be forwarded to the European Commission (JA 2000/792/CFSP, art. 5). With a view to ensuring consistency of external action of the European Union, the Special Representative had to coordinate his activities with those of the CFSP's High Representative, the Presidency and the Commission. In the field, he had to maintain close liaison with the Presidency, the Commission and the Heads of Mission all of whom had, on their turn, to make their best efforts to assist the Special Representative in the implementation of the mandate. The Special Representative was also to liaise with other international actors in the field (JA 2000/792/CFSP, art. 8). The new status and mandate of the SR were successively extended and amended twice, on 10 December 2001 by the third Joint Action (JA 2001/876/CFSP) and on 10 December 2002 by the fourth and last Joint Action (JA 2002/962/CFSP).

| <b>Second Congo War (1998-2009): Conflict Management (Aug. 1998 - Dec. 2002)</b>  |          |          |          |          |          |          |
|---|----------|----------|----------|----------|----------|----------|
| <b>CFSP-based Response: Joint Actions (JAs)</b>   |          |          |          |          |          |          |
|   | 1998     | 1999     | 2000     | 2001     | 2002     |          |
| Total JAs on Zaire / DR Congo   | 0        | 0        | 2        | 1        | 1        | 4        |
| <b>Main themes/ issues re DRC/ GLR:</b>   |          |          |          |          |          |          |
| <i>Nomination of an EU Special Envoy for the African Great Lakes Region.</i>  | 0*       | 0        | 1        | 0        | 0        | 1        |
| <i>Appointment of EU Special Representative of the European Union for the African Great Lakes Region.</i>                             | 0        | 0        | 1        | 0        | 0        | 1        |
| <i>Amendment and extension of the mandate of the Special Representative of the European Union for the African Great Lakes Region.</i> | 0        | 0        | 0        | 1        | 1        | 2        |
|   | <b>0</b> | <b>0</b> | <b>2</b> | <b>1</b> | <b>1</b> | <b>4</b> |

\* Number of Joint Actions that particularly concerned that issue.

Finally, the EU adopted **two CFSP Decisions** in response to Conflict Management needs and challenges in the DR Congo. The two CFSP outputs concerned respectively (i) the mandate and activities of the Union's Special Representative for the Great Lakes Region and (ii) the support of the EU to the implementation of the Lusaka Ceasefire Agreement (Decision

1999/423/CFSP of 28 June 1999 and Decision 1999/729/CFSP of 15 November 1999). By the first Decision, the Union extended for a year (31 July 1999 - 31 July 2000) the validity of JA 96/250/CFSP by which the Union had appointed three years earlier its Special Envoy to the Great Lakes Region, and established the financial reference amount intended to cover the costs related to that mission at EUR1137000,00 (Decision 1999/423/CFSP, arts. 1-2). By the second Decision, the EU legally bound itself to contribute with a financial reference amount of EUR12.000.000,00 towards operational, non-military expenditure to enable the Joint Military Commission (JMC) to deploy its observers in the DR Congo during a six month period and fulfil its tasks as specified in its Rules of Procedure (Decision 1999/729/CFSP, arts.1 and 2).

## **Summary of Findings**

### *The Second Congo War: Causes and Casualties*

The Second Congo War started on 2 August 1998. It officially ended on 17 December 2002 when the belligerents and parties to the conflict signed the 'Global and All-Inclusive Agreement' (GIA) that was deemed (i) to put a definite end to the hostilities and the related gross violations of human rights and humanitarian law and (ii) to initiate democratic constitutional politics, national reconciliation, and reconstruction. One year earlier, on 10 July 1999, the same belligerents and parties had concluded a ceasefire, the Lusaka Ceasefire Agreement, for (i) "effective cessation of hostilities" and "all acts of violence against the civilian population by respecting and protecting human rights"; (ii) the release of war prisoners and hostages; (iii) the facilitation of human assistance; and (iv) the holding of an inclusive inter-Congolese dialogue that actually resulted in the above-mentioned GIA. Three intertwined factors led to the Second Congo War. The first is the inability or unwillingness of the new authorities of the DR Congo to adequately resolve the causes of the First Congo War (long-run repressive dictatorship, mismanagement, patronage, generalised impunity, abject socio-economic poverty for the majority of the population, gross human rights violations, and the presence of over one million Rwandan refugees) and its immediate consequences (heavy presence and power of foreign armed forces, massive grave violations of

human rights and humanitarian law, and the weakening of the social fabric). The second factor is the inaction or little care of the international community whose sustained and substantial assistance was desperately indispensable to address that situation; whereas the third element was the paternalist and aggressive determination of Rwanda and Uganda, the two countries who engineered and led the First Congo War, to control all power and resources in the DR Congo. Indeed, the Second Congo War were started by the same Rwandan troops whom on 27 July 1998 DR Congo's President Kabila Sr. ordered to leave his country and return to theirs, allegedly to abort a military coup by those same troops to overthrow him. Arguably, the veiled hegemonic plans of Rwanda and Uganda prompted the military intervention of at least other eight African countries in support of either of the two sides. The involvement of such a large number of African countries from the four corners of the continent transformed the DR Congo into a battlefield for 'Africa's First World War' with an unprecedented toll of human and material casualties: some five million dead and the systematic plunder of the unparalleled natural resources of the country.

#### *Gross human rights violations and calls for action*

Throughout the period under review (August 1998 - December 2002), watchdog organisations, agencies, commissions, missions, UN's Special Rapporteurs, and mass media timely, sufficiently, and continuously alerted the international community of the war-caused inhumane suffering of unarmed civilians inside the DR Congo and in the Great Lakes Region and called for appropriate action. For instance, less than five days after the outbreak of the Second Congo War (on 2 August 1998), Human Rights Watch (1998) and Amnesty International (1998) blew the whistle and urged the belligerents and the international community to do all in their power (i) to protect unarmed civilians against blind repression, torture, summary executions, and "widespread killings, especially in the eastern Kivu region"; and (ii) to hold accountable all the perpetrators of those atrocities as well as of the crimes that had been committed before. One month later, the UN Special Rapporteur on the situation of human rights in the DR Congo reported serious violations of human rights and international humanitarian



law which included *violence to life and summary executions, arbitrary detentions and or deportations, torture, sexual violence, and forced recruitment of civilians, including children* (UN General Assembly 1998: 8-10, paras. 23–39). Just two months before the signing of the Global and Inclusive Agreement for peace and democracy in the country, another UN Special Rapporteur reported “serious” and “massive” violations of international humanitarian law, “particularly in the east of the country” and which included the use of sexual violence against women and child soldiers and slaves “as a weapon of war by most of the armed groups involved in the conflict.” (UN General Assembly 2002: 17, para. 79).

### *CFSP-based Response*

The reaction of the EU to reported mass atrocity crimes consisted of both non-legally binding and legal initiatives. Concerning the first category, the Union addressed the situation (i) at three of its sixteen **Summits** held during the military campaign period; (ii) in its thirty three (33) **CFSP Declarations** issued during that same period; and (ii) in its forty-five (45) **Demarches** undertaken throughout the same timeframe. By means of one or the other of these non-legally binding political responses, the Union alternately expressed **its concern** about and **its condemnation** of gross violations of human rights and humanitarian law, and **its commitment and support** to efforts to end the violence and reach a negotiated solution, as well as to the provision of humanitarian aid and the investigation and prosecution of reported human rights violations. As for the politico-legal responses, the EU passed **four Common Positions, four Joint Actions, and two CFSP Decisions**, outlining its stance and legally binding itself to “support through action” the implementation of the Lusaka Ceasefire Agreement and the process towards lasting peace, representative democracy, genuine reconciliation, and socio-economic development in the DR Congo. Its “support through action” consisted essentially of the following:

- Political, diplomatic, technical, and financial support to the UN Mission in the DR Congo (MONUC) and the Joint Military Commission (JMC) in charge of supervising the effective cessation of hostilities, the withdrawal of all foreign troops from the territory of the DR Congo, and the process of disarmament, demobilisation, repatriation, reintegration and resettlement [DDRRR] of combatants of armed groups;

- Political, diplomatic, technical, and financial assistance for the holding of an international conference on peace, security, democracy, and development in the Great Lakes Region;
- Pledge to condition its political, diplomatic, financial, and technical support to and cooperation with countries in the region to their political and practical commitment to the Lusaka Ceasefire Agreement and to the process of peace, reconciliation, and democratisation in the DR Congo;
- Extension and amendment of the arms embargo decided in 1993 by the Union's Member States against the then Zaire in order to make it applicable to UN-identified spoilers of the Lusaka Cease Fire Agreement and the process of peace, reconciliation, and democratisation; and
- Upgrading and extending the status and mandate of the Union's Special Envoy / Representative in the region.

The earliest CFSP-born response came on 11 August 1998, nine days into the war hostilities, in the form of a **Declaration** (Press 255, Nr 10396/98) expressing the EU concern about the deterioration of the situation in the DR Congo. On the other hand, the first legally binding response was **Common Position** 1999/728/CFSP adopted on 15 November 1999, three months into the Second Congo War, on the EU support to the Lusaka Ceasefire Agreement and peace process in the DR Congo. The first Joint Action (JA 2000/347/CFSP) was enacted on 22 May 2000, nearly two years into the Second Congo War.

| <b>Second Congo War: Conflict Management (Aug. 1998 - Dec. 2002)</b> |   |             |             |             |             |             |           |
|--|---|-------------|-------------|-------------|-------------|-------------|-----------|
| <b>CFSP-based Response: Overview</b>                                 |   |             |             |             |             |             |           |
|  |   | <b>1998</b> | <b>1999</b> | <b>2000</b> | <b>2001</b> | <b>2002</b> |           |
| <i>Non-Legally Binding Responses</i>                                 | <b>Principles &amp; General Guidelines*</b> | 1           | 0           | 0           | 1           | 1           | <b>3</b>  |
|  | <b>CFSP Declarations</b>                    | 3           | 9           | 5           | 5           | 11          | <b>33</b> |
|  | <b>Demarches</b>                            | 12          | 4           | 6           | 14          | 9           | <b>45</b> |
| <i>Legally Binding Responses</i>                                     | <b>Common Strategies (CSs)</b>              | 0           | 0           | 0           | 0           | 0           | <b>0</b>  |
|  | <b>Common Positions (CPs)**</b>             | 0           | 2           | 0           | 1           | 2           | <b>5</b>  |
|  | <b>Joint Actions (JAs)</b>                  | 0           | 0           | 2           | 1           | 1           | <b>4</b>  |
|  | <b>CFSP Decisions **</b>                    | 0           | 3           | 0           | 0           | 0           | <b>3</b>  |
|  |   | <b>16</b>   | <b>18</b>   | <b>13</b>   | <b>22</b>   | <b>24</b>   | <b>93</b> |

\* The corresponding figure refers to the number of EU summits that addressed matters related to the situation in the DR Congo.

\*\* The CPs and Decisions of 8 November 1999 and 15 November 1999 as well as their corresponding implementing Decisions are similar to the best of knowledge. My request for clarification from the Council was unsuccessful. Consequently, my analysis takes into account only 4 CPs and 2 Decisions.

## **Post-Conflict Settlement Peacebuilding (Jan. 2003- Dec. 2009)**

In line with insights from Conflict Resolution, the stage here considered as *Post-Conflict Settlement Peacebuilding* (PCSPB) in the DR Congo started in January 2003 and ended in December 2009. The start date marked the immediate aftermath of the signing, on 17 December 2002, of the afore-cited *Global and Inclusive Agreement* (GIA). That formally put an end to the war and lay the terms and conditions for a transition to multi-party democracy. The end-date refers to the first 10<sup>th</sup> anniversary of the ESDP and the entry into force of the Lisbon Treaty which among other things suppressed the pillar structure of the EU, substantially reduced the policy making instruments of the CFSP, and renamed and upgraded the ESDP to the status of 'Common Security and Defence Policy' (CSDP). I offer arguments for the timeframe of this research in the first chapter. Major developments in the formal post-conflict settlement period in the country included the following:

- Formal endorsement of the *Global and Inclusive Agreement* by the parties to the conflict and the signing of a transitional constitution (April 2003);
- Establishment of transitional institutions (June - August 2003);
- Launching and conduct of the five civilian and military operations of the EU in the country since 2003 onwards;
- Holding, in July 2006, of the first free and democratic general elections in the country since the early 1960s and the resulting end of the transition in December 2006;
- Perpetuation of unofficial deadly war in the country's eastern provinces;
- Indictment, arrests, and trials of some individuals on charges of mass atrocity crimes committed in eastern DR Congo; and
- Visit of US Secretary of State Hillary Clinton to Goma (capital of North Kivu) in August 2009.

### **Needs and Challenges**

The major needs and challenges for the DR Congo during this period were not different from those the country had been confronted with since the beginning of the First Congo War. They still were about the will and capacity of the leaders of the country to effectively prevent and end military campaigns, constant gross violations of human rights and international humanitarian law, and the massive plundering of the country's wealth by foreign country troops and their local proxies. The authorities had also to

provide security for all, in particular defenceless and threatened civilians, and ensure humanitarian, social and psychological assistance reach internally displaced peoples, refugees, and other impoverished groups. Finally, the new leaders had to deliver justice and put an end to impunity; promote unity and reconciliation; introduce and nurture a democratic culture; and sow the seeds of a prosperous nation economically, socially, and culturally. Overall, meeting successfully these needs and challenges required bringing about **good governance** for which the EU established, in 2001, the following five principles: **Openness, Participation, Accountability, Effectiveness, and Coherence** (European Commission 2001: 10). These features are not significantly different from the eight key features that the UN attributes to the concept: Participation; Rule of law; Transparency; Responsiveness; Consensus; Equity and inclusiveness; Effectiveness and efficiency; and Accountability (United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) 2012).



UNESCAP (2012: 3).

Conceivably, the most urgent tasks and challenges were three. The first one was the provision of (physical) security and integrity for all, in particular the defenceless and vulnerable groups, including refugees and internationally displaced persons. The second pressing task was to ensure the provision of basic humanitarian aid (medicine, potable water, food, shelter, cloth, and sanitation facilities) and psychosocial assistance to those in desperate need of such help. The third compelling priority was the end to the unofficial war

and related gross violations of human rights and humanitarian law in the most afflicted part of the country: its eastern provinces. Indeed, only three months into the phase of Post-Conflict Settlement Peacebuilding, Amnesty International for example publicly denounced economic exploitation and gross human rights abuses in eastern DR Congo in these words:

For the last four and half years Rwanda, Uganda and their Congolese allies have systematically plundered eastern DRC's natural wealth on a vast scale causing, directly or indirectly, the deaths of hundreds of thousands of Congolese civilians. In spite of numerous peace agreements, the killing continues, while the international community looks on (Amnesty International 2003a: 1).

In particular, the organisation alerted of "one of the world's gravest humanitarian and human rights crises" taking place in the Ituri region of north-eastern DR Congo where about 50,000 people had died "as a result of armed conflict in the region and more than 500,000 people displaced since mid-1999." (Amnesty International 2003a: 1). In 2003, the number of people internally displaced by war in the DR Congo was estimated 3.4 million (Internal Displacement Monitoring Centre (IDMC) 2006: 8). Amnesty International (2003) also denounced the systematic rape of women and use of child soldiers some of whom were under the age of seven. At that same time, the Special Rapporteur of the UN Commission on Human Rights, Ms. Motoc, too denounced a tragic situation of human rights in the DR Congo due to the continuation of the armed conflicts, unfair trials and summary executions, harsh repression against human rights defenders, denial of the freedom of expression and association, plundering of natural resources of the country, and endemic impunity. She sounded the alarm concerning the population in the most affected eastern provinces in these terms:

Given their magnitude, the violations of human rights and humanitarian law, notably as regards the protection of civilians, the phenomenon of child soldiers and the sexual violence against women and children, may be characterized as crimes against humanity and war crimes. The atrocities committed in the east of the country have reached unprecedented levels. The humanitarian situation is catastrophic. (UNECOSOC 2003: 3).

The Special Rapporteur urged the Congolese authorities to put an end to that situation and called on the international community to decisively contribute to that end. In particular, the rapporteur asked members of the international community to exert sufficient pressure for the enforcement of all international instruments, especially concerning the protection of unarmed civilians in

immediate danger. Ms. Motoc also demanded them to offer sufficient assistance with local capacity-building in the fields of administration of justice and the protection of women and children, and especially the victims of sexual violence; and to finance effective and meaningful actions to end impunity (UNECOSOC 2003: 17).

Despite these and other similar calls for swift and need-tailored action by both the Congolese government and members of the international community, including the EU, perpetration of mass atrocities continued unabated throughout the seven-year period of Post-Conflict Settlement Peacebuilding (PCSPB) under consideration. In early 2006, three years into the PCSPB process and one year after UN member states had unanimously and solemnly committed themselves to never again fail their individual and collective 'Responsibility to Protect (RtoP/R2P)' populations against mass atrocity crimes (crimes against humanity, war crimes, ethnic cleansing, and genocide) (UN General Assembly 2005: 30, para. 139), a group of over ten international and Congolese human rights, environmental and aid organisations, for the nth time, called for an end to the illegal exploitation of natural resources and related gross violations of human rights (HRW 2006b). Citing various investigation reports, including the final report of the UN Panel of Experts on the Illegal Exploitation of Natural Resources of the Congo (S/2002/1146), the group underlined that belligerents involved in the plundering of the mineral and economic wealth of the DR Congo "used some of their profits to finance further military operations that often involved widespread human rights abuses against civilians and violations of international humanitarian law." The group also recalled that by then (2006), war had "caused the deaths of four million people in Congo, the highest death toll in terms of civilian lives since World War II." (HRW 2006b: 2). The Internal Displacement Monitoring Centre (2006: 8) too blew the whistle, stressing that since October 2005 when there were about 1.5 million of internally displaced persons (IDPs) in DR Congo, some 40 thousand people had been fleeing their home every month as a result of fighting in eastern DR Congo. Later that same year, HRW (2006a: 1) once again denounced that the death of "more than 1,200 civilians" per day in the DR Congo as a result of violence, lack of medical care, and hunger was going mostly unnoticed by

the international community. That same year (2006), the report of the UN-appointed human rights expert Mr. Titinga Frédéric Pacéré could not be more alarming:

The human rights situation remains worrying, particularly in the eastern part of the country and in northern Katanga, where national and foreign militias, as well as the Mai-Mai and the armed forces of the Democratic Republic of the Congo, are committing atrocities and other massive human rights violations with impunity. Massacres of civilians, looting, mass rapes of women and girls and summary executions, among other things, are posing a serious challenge to the Transitional Government's efforts to improve the situation. (UN General Assembly 2006: 2).

He too urged the international community to provide the Congolese government with all the necessary attention and support for enabling the Congolese government and actors on the ground such as the UN force and the Office of the High Commissioner for Human Rights to redress the situation. However, three years later (2009) and seven years into post-conflict settlement peacebuilding, the pattern of mass violence and gross violations of human rights and international humanitarian law remained unchanged. The UN High Commissioner for Human Rights reported continuing armed conflict in eastern DR Congo and the resulting massive human rights violations in North Kivu and unprecedented attacks against civilians in Oriental Province. Outside the specific armed conflict in the eastern part of the country, the Commissioner reported generalised impunity, sexual violence, increasing political repression, as well as arbitrary arrests, torture, and appalling detention conditions (UN General Assembly 2009).

### **CFSP-based Response**

Throughout the phase of *Post-Conflict Settlement Peacebuilding* (PCSPB), the EU had the same CFSP instruments as during the preceding stage of *Conflict Management* (CM). Non-legal binding or exclusively political instruments for foreign policymaking were *Principles and General Guidelines*, *CFSP Declarations*, and *Demarches*. The legally binding, politico-legal ones were *Common Strategy*, *Common Position*, *Joint Action*, and *Decision*. I shall now determine **if**, **when**, and **how** any of these instruments was used to progress transition from war to lasting positive peace in the DR Congo during the chosen timeframe (January 2003 – December 2009).

### *Non-Legally Binding Decisions and Actions*

During the 7-years of PCSPB in the DR Congo under review, the European Council held twenty-eight summits. **Nine** of those meetings adopted **Principles and General Guidelines** on the situation in that country and or in its region. The first three of the nine summits were held in 2003, one year after the signing (in December 2002) of the *General and Inclusive Peace Agreement*, two in 2004 and 2006 each, and one meeting in 2005 and 2007 (European Council 2003, 2004, 2005, 2006, 2007).

| <b>Second Congo War: Post-Conflict Settlement Peacebuilding (Jan. 2003 - Dec. 2009)</b> |             |             |             |             |             |             |             |           |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-----------|
| <i>CFSP-Based Response: Principles and General Guidelines</i>                           |             |             |             |             |             |             |             |           |
|   | <b>2003</b> | <b>2004</b> | <b>2005</b> | <b>2006</b> | <b>2007</b> | <b>2008</b> | <b>2009</b> |           |
| Total EU Summits  | 5           | 4           | 3           | 3           | 3           | 5           | 5           | <b>28</b> |
| EU Summits with reference to DR Congo/ Great Lakes Region (GLR)                         | <b>3</b>    | <b>2</b>    | <b>1</b>    | <b>2</b>    | <b>1</b>    | <b>0</b>    | <b>0</b>    | <b>9</b>  |

The main substance of the Principles and General Guidelines adopted on the DR Congo at the nine summits can be summarised in the following points:

- Expression of EU concern about and condemnation of gross human and humanitarian law violations, including mass atrocity crimes;
- EU call for rapid disarmament, demobilisation and reintegration of ex-combatants, and for the establishment of a unified, integrated army and police in the DR Congo;
- EU call upon all neighbouring countries, in particular Rwanda, to support the peace process in the DR Congo;
- Deployment of EU's civil and military operations to support the transition and post-transition peace process in the DR Congo;
- Requirement for EU future assistance to the DR: new authorities' strong commitment to good governance and to the strengthening of the rule of law; and
- Multilateralism: close cooperation between the EU, the UN, and other key actors on conflict prevention, crisis management, and peacebuilding in the DR Congo, its region, and the whole Africa.

Besides, the EU issued **twenty-seven CFSP Declarations** by which it varyingly expressed its commitment, its satisfaction, its deception, and its concern about the developments in the DR Congo and or in the region. For instance, in a declaration issued on 9 April 2003 (Press: 113 Nr: 8300/03),



the Union “welcome[d] the conclusion of the inter-Congolese dialogue in Sun City, South Africa on 2 April 2003 as a further significant step towards lasting peace in the Democratic Republic of Congo and the whole Great Lakes Region.” Five days later, the EU issued another declaration (Press: 115 Nr: 8433/03), strongly condemning “the acts of military aggression in and around Drodro, in the Ituri Region, in the North-Eastern part of the Democratic Republic of Congo, which culminated in the massacre of hundreds of civilians”; and expressed “serious concern about the grave humanitarian consequences for the Congolese population.” Some five months later, the EU restated, in a CFSP statement (Press: 301 Nr: 13526/03), its firm condemnation of the renewed massacres in Ituri on Monday 6 October 2003, in the village of Katchele. Likewise, on 4 June 2004, the EU issued a public statement (Press: 191 Nr: 10151/04), strongly condemning the violence in Bukavu and the ensuing deaths of innocent civilians. In another instance (18 March 2004), the EU indicated that it remained “firmly committed to peace and stability in the Democratic Republic of the Congo and in the entire Great Lakes region in general.” (Press: 78 Nr: 7376/04). Roughly, about two thirds of the twenty-seven declarations concerned the instability, violence, killing and displacement of civilians in the eastern part of the country, violations of human rights and humanitarian law, and delays in the implementation of the peace accords.

| <b>Second Congo War: Post-Conflict Settlement Peacebuilding (Jan. 2003 - Dec. 2009)</b> |             |             |             |             |             |             |             |           |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-----------|
| <b><i>CFSP-based Response: Declarations</i></b>   |             |             |             |             |             |             |             |           |
| <b>Issue-areas addressed</b>  | <b>2003</b> | <b>2004</b> | <b>2005</b> | <b>2006</b> | <b>2007</b> | <b>2008</b> | <b>2009</b> |           |
| Violence and killing of civilians, particularly in eastern DR Congo.                    | 3*          | 3           | 0           | 0           | 2           | 3           | 3           | <b>14</b> |
| Violations of human rights and humanitarian law; justice; and rule of law in DR Congo.  | 0           | 0           | 1           | 1           | 1           | 1           | 0           | <b>4</b>  |
| Peace and political transition process in DR Congo.                                     | 2           | 1           | 2           | 1           | 0           | 0           | 0           | <b>6</b>  |
| Peace and stability in the Great Lakes Region.  | 1           | 1           | 0           | 0           | 1           | 0           | 0           | <b>3</b>  |
|   | <b>6</b>    | <b>5</b>    | <b>3</b>    | <b>2</b>    | <b>4</b>    | <b>4</b>    | <b>3</b>    | <b>27</b> |

\* Refers to the number of CFSP Declarations that addressed the corresponding area-issue.

On the other hand, the EU undertook at least **twenty-eight CFSP Demarches** in response to Post-Conflict Settlement Peacebuilding needs and challenges in the DR Congo. The majority of them were undertaken in 2003 and 2004, twelve and eight respectively.

| <b>Second Congo War: Post-Conflict Settlement Peacebuilding (Jan. 2003- Dec. 2009)</b> |      |      |      |      |      |      |      |           |
|--|------|------|------|------|------|------|------|-----------|
| <b><i>CFSP-based Response: Demarches</i></b>   |      |      |      |      |      |      |      |           |
|  | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |           |
| CFSP Demarches with reference to DR Congo/ Great Lakes Region                          | 12   | 8    | 3    | 0    | 1    | 2    | 2    | <b>28</b> |

The twelve Demarches undertaken in the course of 2003 (Council 2004) covered various area-issues such as the fighting and humanitarian emergency in Ituri (three times), capital punishment (two times), and support for EU's initiatives at the 59<sup>th</sup> session of the UN Commission for Human Rights (CHR). They also addressed the entry into force of the Comprehensive Test Ban Treaty (CTBT), the universality of the CWC (Chemical Weapons Convention), bilateral non-surrender agreements of the International Criminal Court (ICC), and the safety and security of radioactive sources. Only two Demarches out of the twelve were conducted with the authorities of other countries (Rwanda and Uganda) than those of the DR Congo. Demarches undertaken with Rwanda and Uganda concerned the then catastrophic situation in Ituri. The eight Demarches carried out the following year (2004) (Council 2005b) also covered various issues such as the situation in eastern DR Congo and in the Great Lakes Region, the status of implementing the legislation accompanying the ratification of the Rome Statute (on ICC), and the human rights in various countries, notably DR Congo, Sudan, and Zimbabwe. They were undertaken with authorities of DR Congo, Burundi, Uganda, and Congo. The remaining eight Demarches were undertaken solely with DR Congo and addressed issues such as; children in an armed conflict, political assassinations in the country, EU guidelines on torture, and International Criminal Court (ICC).

## *Legally Binding Decisions and Actions*

Like under any previous phase of the two wars, the EU did not adopt any CFSP *Common Strategy* in response to the needs and challenges of post-conflict settlement peacebuilding following the Second Congo War. Instead, it took a significant number of Common Positions (CPs), Joint Actions (JAs), and CFSP Decisions. The Union adopted **nine Common Positions** in relation to the DR Congo and or Great Lakes Region: two CPs in 2003, 2005, and 2008 per each year and 1 per year in 2006, 2007, and 2009. All the nine CPs either amended or repealed previous CPs on three themes: (i) EU support for the implementation of the Lusaka Ceasefire Agreement and the peace process in the DR Congo (2 CPs); (ii) EU's restrictive measures against that country (6 CPs); and (iii) the supply of certain equipment into that country (1 CP).

| <b>Second Congo War: Post-Conflict Settlement Peacebuilding (Jan. 2003 - Dec. 2009)</b>                                 |      |      |      |      |      |      |      |   |
|---|------|------|------|------|------|------|------|---|
| <b>CFSP-based Response: Common Positions (CPs)</b>  |      |      |      |      |      |      |      |   |
|   | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |   |
| Total CPs on Zaire / DR Congo   | 2    | 0    | 2    | 1    | 1    | 2    | 1    | 9 |
| <b>Main themes/ issues re DRC/<br/>GLR:</b>   |      |      |      |      |      |      |      |   |
| <i>EU support for the implementation of the Lusaka Ceasefire Agreement and the peace process in the DR Congo (DRC).</i> | 1    | 0    | 1    | 0    | 0    | 0    | 0    | 2 |
| <i>EU exceptions to the arms embargo decided in April 1993 against DR Congo.</i>  | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 1 |
| <i>EU restrictive measures against the DR Congo.</i>  | 0    | 0    | 1    | 1    | 1    | 2    | 1    | 6 |
|   | 2    | 0    | 2    | 1    | 1    | 2    | 1    | 9 |

### **EU support to Lusaka Ceasefire Agreement and Peace Process**

By means of the two CPs on the Lusaka Ceasefire Agreement and the peace process, the EU committed itself to support action taken by the United Nations and the African Union, and to cooperate closely with these organisations and other relevant actors of the international community in the

implementation of that ceasefire and the various related peace agreements and relevant United Nations Security Council Resolutions (UNSCRs) (CP 2003/319/CFSP, art. 2). The Union pledged that, in its cooperation with the countries in the region involved in the Congolese crisis, it would “take account of the efforts made by the latter to implement the ceasefire and peace agreements and [the relevant] UNSCRs (CP 2003/319/CFSP, art. 10). The EU “condemn[ed] in the strongest terms the atrocities [...] committed in the east of the country, particularly in the Ituri region”, and called for those responsible to be brought to justice (CP 2003/319/CFSP, art. 7). The Union “recall[ed] that the Rome Statute of the International Criminal Court is applicable to all acts of genocide, crimes against humanity and war crimes committed on DRC territory after the statute's entry into force (1 July 2002)” (CP 2003/319/CFSP, art. 7). The EU undertook to “urge the complete withdrawal of foreign troops from the Ituri region, as well as increased DDRRR, the full implementation of MONUC's mandate, and peace-building efforts, which are vital in order to reach a degree of stability in Ituri and the Kivus.” (CP 2003/319/CFSP, art. 7). The Union committed itself to “call upon the Governments of the DRC, Rwanda and Uganda to use all their influence to bring an end to the tension and to work towards ensuring that conditions exist in the Ituri region which will allow the Luanda Agreement (September 2002) to be successfully implemented.” (CP 2003/319/CFSP, art. 7). On the other hand, the EU “condemn[ed] the illegal exploitation of natural resources, which represents one of the causes and consequences of four years of war, as well as a factor that fuels prolonged conflict, according to the recent UN report of the panel of experts on the illegal exploitation of natural resources and other forms of wealth of the DRC.” (CP 2003/319/CFSP, art. 8). The Union “call[ed] on all States to draw the appropriate consequences from the findings of the panel and [...] on all states concerned to take the necessary measures.” (CP 2003/319/CFSP, art. 8). The Union pledged its support to “the action agreed in UNSCR 1457 (2003), which should help bring to an end such exploitation” and its readiness “to cooperate with the panel to fulfil its new mandate.” (CP 2003/319/CFSP, art. 8).

Besides, the Union reaffirmed “its willingness to support the transition, as soon as its institutions [were] in place, with projects that [were] designed in

particular to promote aid to the population, the strengthening of state structures, the economic reconstruction of the country and DDRRR projects.” (CP 2003/319/CFSP, art. 6). In this respect, the EU underlined “the importance of adhering to the agreements between the DRC and the international financial institutions, especially the agreement concerning the poverty reduction and growth facility (PRGF) between the government of the DRC and the International Monetary Fund.” (CP 2003/319/CFSP, art. 6). The Union also pledged to “ensure [...] an appropriate level of development and humanitarian aid to the DRC” and to “lend its support to the transitional Government for the reconstruction and development of the country, ensuring that such support benefits all the Congolese people and all the regions of the DRC, and that it contribute[d] dynamically and proactively to the peace process by promoting the restoration of the Congolese State, good governance, an improvement in the economic situation and respect for human rights.” (CP 2003/319/CFSP, art. 9). Furthermore, the EU committed itself to continue its support to “the Burundi peace process based on the Arusha Agreement” the success of which, it believed, was “linked to the solution of the Congolese crisis and which in itself could promote peace and stability in the Great Lakes Region.” (CP 2003/319/CFSP, art. 11). In this regard, the Union pledged to support “the holding of an international conference on peace, security, democracy and development in the Great Lakes Region once progress in the Lusaka and Arusha peace processes so allow[ed] and the countries concerned so decide[d].” (CP 2003/319/CFSP, art. 11).

### **EU arms embargo against the DR Congo**

During the period under review, the EU adopted one CP (2003/680/CFSP) amending Common Position 2002/829/CFSP on the arms embargo against the DR Congo in order to bring it in line with UN Security Council Resolution 1493 (2003) of 28 July 2003. The latter, adopted under Chapter VII of the Charter of the United Nations, imposed an arms embargo and embargo on any assistance, advice or training related to military activities, to all foreign and Congolese armed groups and militias operating in the territory of North and South Kivu and of Ituri, and to groups not party to the Global and All-

inclusive Agreement, in the DR Congo (UNSCR 1493 (2003), para. 20). Exemptions were allowed for supplies to the UN mission (MONUC) in that country, the Interim Emergency Multinational Force deployed in Bunia and the integrated Congolese national army and police forces; as well as to supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training as notified in advance to the Secretary-General through its Special Representative (UNSCR 1493(2003), para. 21). Accordingly, the new Common Position, adopted two months after the adoption of UNSCR 1493(2003), committed the Union and its Member States to prohibit “direct or indirect supply, sale or transfer of arms and any related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned to the Democratic Republic of the Congo by nationals of Member States or from the territories of Member States, or using their flag vessels or aircraft, [...] whether originating or not in their territories.” (CP 2003/680/CFSP, art. 1(1)). This prohibition also applied to “direct or indirect provision to any person, entity or body in the Democratic Republic of the Congo of any assistance (including financing and financial assistance), advice or training related to military activities, including in particular technical training and assistance related to the provision, manufacture, maintenance or use of the items mentioned in subparagraph (a), by nationals of Member States or from the territories of Member States” (2003/680/CFSP, art. 1(2)). As under the UNSCR 1493 (2003), this Common Position allowed exemptions for (a) the supply, sale or transfer of any of the aforementioned items to the United Nations Organisation Mission in the Democratic Republic of Congo and the integrated Congolese national army and police forces and for (b) “the supply, sale or transfer of non-lethal military equipment intended solely for humanitarian or protective use, or the provision of assistance and training related to such non-lethal equipment, provided that such supply or provision is notified in advance to the UN Secretary-General through its Special Representative.” (CP 2003/680/CFSP, art. 1 (2)).

## **EU restrictive measures against the DR Congo**

The EU adopted six CPs concerning restrictive measures against the DR Congo during the *post-conflict settlement peacebuilding* period under review. The first CP (2005/440/CFSP) was adopted on 13 June 2005. It repealed the aforementioned CP 2002/829/CFSP on the arms embargo against the DR Congo in order to integrate, in one single legal document, its provisions and those of UN Security Council Resolution 1596 (2005). Hence, in addition to the aforementioned prohibitions, the new CP banned the grant, sell, supply or transfer technical assistance, brokering services and other services related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types directly or indirectly to any person, entity or body in, or for use in the DR Congo (CP 2005/440/CFSP, art. 1(2)). The revised prohibition also applied to the provision of “financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of arms and related materiel, or for any grant, sale, supply, or transfer of related technical assistance, brokering services and other services, directly or indirectly to any person, entity or body in, or for use in the DRC.” (CP 2005/440/CFSP, art. 1(2)). Exemptions were allowed for units of the army and police of the DR Congo, provided that the said units (i) had completed the process of their integration; or (ii) operated under the command, respectively, of the ‘état-major intégré’ of the Armed Forces or of the National Police of the DR Congo; or (iii) were in the process of their integration, in the territory of the DRC outside the provinces of North and South Kivu and the Ituri district. Exemptions were also allowed for the supplies for humanitarian or protective use and for the United Nations Organisation Mission in the DRC (‘MONUC’), if such supplies were notified in advance to the Sanctions Committee (CP 2005/440/CFSP, art. 2(c)).

On the other hand, the new CP imposed, in line with the provisions of UNSCR 1596 (2005), restrictive measures against those persons whom the UN Sanctions Committee would designate as acting in violation of the arms embargo (CP 2005/440/CFSP, art. 3). The Union and its Member States bound themselves to freeze all funds, other financial assets and economic

resources owned or controlled directly or indirectly by such persons or held by entities owned or controlled directly or indirectly by such persons or by any persons acting on their behalf or at their direction (CP 2005/440/CFSP, art. 5). Common Position 2005/440/CFSP was subsequently amended three times (by CPs 2006/624/CFSP, 2007/654/CFSP, 2008/179/CFSP) before being repealed on 14 May 2008 by CP 2008/369/CFSP which was on its turn amended by CP 2009/66/CFSP of 26 January 2009. The amendments and repeal aimed to bring its provisions in harmony with the relevant Security Council Resolutions (UNSCR 1649 (2005), UNSCR 1698 (2006), UNSCR 1768 (2007), UNSCR 1771 (2007), UNSCR 1771 (2007), UNSCR 1799 (2008), UNSCR 1807 (2008), UNSCR 1857 (2008)) on arms embargo and restrictive measures against UN-identified spoilers of the peace process in the DR Congo and the GLR.

### **Joint Actions (JAs)**

The European Union adopted **thirty-one (31) Joint Actions** in response to the aforementioned needs and challenges of post-conflict settlement peacebuilding in the DR Congo. Two of those JAs concerned respectively the launching and conduct of EU's first military operation (code-named ARTEMIS) in the DR Congo (JA 2003/423/CFSP) and EU support to the creation of the Integrated Police Unit (IPU) in DR Congo (JA 2004/494/CFSP). Nine Joint Actions addressed the question of the EU Special Representative to the Great Lakes Region; whereas the EU support to the security sector reform (SSR) in DR Congo (EUSEC RD Congo) was object of eight JAs. The EU police mission in the country's capital Kinshasa (EUPOL 'Kinshasa') and the Union's police mission in the whole country (EUPOL RD Congo) were object of five JAs, each. Finally, two Joint Actions concerned the EU's second military operation (EUFOR RD Congo) that was conducted during the country's first multiparty elections towards the end of 2006.



| <b>Second Congo War: Post-Conflict Settlement Peacebuilding (Jan. 2003 - Dec. 2009)</b> |             |             |             |             |             |             |             |           |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-----------|
| <b>CFSP-based response: Joint Actions</b>   |             |             |             |             |             |             |             | <b>31</b> |
|   | <b>2003</b> | <b>2004</b> | <b>2005</b> | <b>2006</b> | <b>2007</b> | <b>2008</b> | <b>2009</b> |           |
| <i>EU military operation in DR Congo (ARTEMIS).</i>                                     | 1*          | 0           | 0           | 0           | 0           | 0           | 0           | <b>1</b>  |
| <i>EU Special Representative for the African Great Lakes Region.</i>                    | 2           | 1           | 2           | 1           | 1           | 1           | 1           | <b>9</b>  |
| <i>EU support to Integrated Police Unit (IPU) in DR Congo.</i>                          | 0           | 1           | 0           | 0           | 0           | 0           | 0           | <b>1</b>  |
| <i>EU Police Mission in Kinshasa (EUPOL 'Kinshasa').</i>                                | 0           | 1           | 1           | 3           | 0           | 0           | 0           | <b>5</b>  |
| <i>EU Police Mission in DR Congo (EUPOL RD Congo).</i>                                  | 0           | 0           | 0           | 0           | 2           | 1           | 2           | <b>5</b>  |
| <i>EU support to SSR in DR Congo (EUSEC RD Congo).</i>                                  | 0           | 0           | 2           | 1           | 2           | 1           | 2           | <b>8</b>  |
| <i>EU military operation (EUFOR RD Congo).</i>  | 0           | 0           | 0           | 1           | 1           | 0           | 0           | <b>2</b>  |
|   | <b>3</b>    | <b>3</b>    | <b>5</b>    | <b>6</b>    | <b>6</b>    | <b>3</b>    | <b>5</b>    | <b>31</b> |

\* Number of JAs that particularly addressed the corresponding area-issue.

### **EU military operation in DR Congo (Operation ARTEMIS)**

Operation ARTEMIS was the first military operation of the EU outside Europe, in Africa, and in the DR Congo. It was decided by way of Joint Action 2003/423/CFSP that the Council adopted on 5 June 2003, following a request of UN Secretary General to the EU for assistance in order to enforce the implementation of UN Security Council Resolution 1484 (2003) (UNSCR 1484 (2003)) of 30 May 2003. For a background, during the Second Congo War, Uganda's troops intervened on the side of some Congolese armed movements (MLC, UDC, DCR-ML) operating from north-eastern DR Congo against the central government. In early 2003, Ugandan troops started to leave that province (ITURI) in compliance with an agreement between the governments of the two countries in the framework of the General and Inclusive Agreement signed on 17 December 2002. As Ugandan troops were leaving Ituri, fighting for controlling power and resources and for settling scores rapidly erupted and intensified between local armed groups along ethnic and tribal lines (Lendu vs. Hema) as from February 2003 onwards (Helly 2009: 182). Despite the deployment of some 700 UN peacekeeping troops in the framework of the United Nations Organisation Mission in the Democratic Republic of Congo (MONUC: *Mission de l'Organisation des Nations Unies au Congo*, in French), the violence intensified, causing the

death of tens of thousands civilians and the displacement of at least half a million persons (Amnesty International 2003d). Until more UN troops could be deployed on the ground, the UN Security Council decided to dispatch to the region an Interim Emergency Multinational Force (IEMF) that France accepted to lead upon request of the UN Secretary General. To that end and on the initiative of France, the EU decided, through the adoption of JA 2003/423/CFSP, to launch operation ARTEMIS in the framework of the ESDP.

| <b>Operation ARTEMIS</b>   |   |
|----------------------------|---|
| <b>Aim</b>                 | To contribute to the stabilisation of the security conditions and the improvement of the humanitarian situation in Bunia. |
| <b>Headquarters</b>        | Paris (OHQ) and Entebbe (FHQ)   |
| <b>Starting date</b>       | 12 June 2003  |
| <b>Ending date</b>         | 1 September 2003  |
| <b>Strength</b>            | Ca 2000 troops  |
| <b>Budget</b>              | EUR7 million  |
| <b>Contributors</b>        | 14 EU Member States + Brazil, Canada, and South Africa.   |
| Source: Helly (2009: 181). |   |

Operation ARTEMIS had three objectives as per UN Security Council Resolution 1484 (2003). The first one was to help stabilise the security conditions and improve the humanitarian situation in BUNIA, the provincial capital of Ituri. Secondly, ARTEMIS had to ensure the protection of the airport and of internally displaced persons in the camps of Bunia. The third task was to contribute, if the situation so required, to the safety of the civilian population, United Nations personnel, and the humanitarian presence in the town. The mission lasted three months (12 June - 1 September 2003) during which period it succeeded in halting the massacres and in restoring stability in the town of Bunia and its surrounding (Ajello 2010: 155-157; Helly 2009: 183-184).

### **EU Special Representative for the African Great Lakes Region**

The EU adopted nine Joint Actions concerning the EU Special Representative (EUSR) to the Great Lakes Region during the post-war rebuilding period under scrutiny. It approved two per year in 2003 and 2005 and 1 per year in 2004, 2006, 2007, 2008, and 2009. All of them concerned the extension and or amendment of the mandate of the EUSR to the region

in accordance with changes on the ground. The core of the mandate remained to contribute to the achievement of the policy objectives of the Union in the region. Those objectives were essentially three. The first one was to ensure an active and efficient contribution of the EU to a final settlement of the transition in the DR Congo, in Burundi, and to security, political, and economic developments in the whole region. The second objective was the development and implementation of a consistent, sustainable and responsible policy of the EU in the African Great Lakes. The third one was to ensure continued presence of the European Union on the ground and in relevant international fora, staying in touch with key players, and contribution to crisis management. Mr. Aldo AJello (Special Representative of the UN Secretary-General and Head of the UN Operation in Mozambique (ONUMOZ), 1992-94) occupied the EUSR post for the African Great Lakes Region since its creation in March 1996 (JA 96/250/CFSP) until his resignation and his replacement by Mr Roeland VAN DE GEER (Dutch) as from 1 March 2007 onwards (JA 2007/112/CFSP).

### **EU support to Integrated Police Unit (IPU) in DR Congo**

The creation of an Integrated Police Unit (IPU) in the DR Congo was provided for in the Global and Inclusive Agreement on the transition in the country, signed in Pretoria on 17 December 2002, and the Memorandum on Security and the Army of 29 June 2003. The essential task of the Unit was to ensure the protection of the State institutions and to reinforce the internal security apparatus. The creation of the unit involved the training of 1008 Congolese police personnel with a view to scaling up the neutral force made available by the UN mission (MONUC) there to guarantee the security of the government and transitional institutions. The EU decision to support the actual implementation of this provision was taken by means of Joint Action 2004/494/CFSP of 17 May 2004. In addition to the activities funded by the European Development Fund, the Union and its Member States committed themselves to “contribute with funds and/or contributions in kind to provide the government of the DRC with the law enforcement equipment, arms and ammunition [...], including transport costs to Kinshasa where relevant, identified as necessary for the establishment of the IPU.” (JA

2004/494/CFSP, art. 1 (2)). The rationale behind the EU's joint action in favour of the IPU was that the then "security situation in the DRC could deteriorate with potentially serious repercussions on the process of strengthening of democracy, the rule of law and international and regional security"; and that a "commitment of EU political effort and resources [would] help to embed stability in the region." (JA 2004/494/CFSP, Preamble (7)). More importantly, this Joint Action was adopted in response to a request for assistance from the UN Secretary General (UNSCR 1493 (2003)) and from the RD Congo's Government of National Unity and Transition put in place on 30 June 2003 following the promulgation, on 4 April 2003, of the Country's Transitional Constitution.

### **EU Police Mission in Kinshasa (EUPOL 'Kinshasa')**

The European Union Police Mission (EUPOL 'Kinshasa') was established by means of Joint Action 2004/847/CFSP adopted on 9 December 2004. It was the EU's first police mission in Africa. It lasted two years (12 April 2005 - June 2007) and was replaced by **EUPOL DR Congo** in July 2007. Its mandate was two-fold. Firstly, it had to help with the establishment and running of the Congolese National Police's Integrated Police Unit in the capital Kinshasa, responsible for the protection of state leaders and institutions. Secondly, EUPOL 'Kinshasa' had to mentor and advise on the reform and reorganisation of the Congolese National Police (JA 2004/847/CFSP, art. 1).

| <b>EUPOL 'Kinshasa' (JA 2004/847/CFSP)</b> |   |
|--|---|
| <b>Aim</b>                                 | <ul style="list-style-type: none"> <li>▪ Support the creation and management of the Congolese National Police's Integrated Police Unit (IPU) in the capital Kinshasa, responsible for the protection of state institutions.</li> <li>▪ Advise on the reform and reorganisation of the Congolese National Police, in line with international police best practices.</li> </ul> |
| <b>Headquarters</b>                        | Kinshasa: capital of DR Congo   |
| <b>Starting date</b>                       | 12 April 2005   |
| <b>End of mandate</b>                      | 30 June 2007  |
| <b>Staff</b>                               | 30 international staff  |
| <b>Mission budget</b>                      | EUR4.3 million.   |
| <b>Contributing States</b>                 | 6 EU Member States + Canada and Turkey.   |
| Source: Council (2005a, 2006a, 2012d).     |   |

In particular, EUPOL 'Kinshasa' was "to monitor, mentor, and advise the setting up and the initial running of the IPU in order to ensure that the IPU acts following the training received in the Academy Centre and according to international best practices in this field." (JA 2004/847/CFSP, art. 3) In light of developments on the ground, the Joint Action (2004/847/CFSP) establishing EUPOL 'Kinshasa' was subsequently amended and extended four times (JAs 2005/822/CFSP; 2006/300/CFSP, 2006/868/CFSP; 2006/913/CFSP) until the end of the mission on 30 June 2007. Hence, the last amendment provided for the increase of the advisory role of EUPOL 'Kinshasa' with the Congolese police in order to facilitate, in liaison with the mission 'EUSEC RD Congo', the process of security sector reform in the DRC (JA 2007/405/CFSP, Preamble (7)). The strength of EUPOL 'Kinshasa' was, at its peak, 30 personnel.

According to various accounts, EUPOL 'Kinshasa' made a difference because it helped the National Police of the DR Congo keep order during the country's transition to democracy, particularly during the preparation and running of the country's first democratic general elections in 2006. In particular, the Mission "assisted the police (the IPU) in improving its capacity to deal with mass demonstrations and street protests"; which "proved to be very useful during several political rallies and demonstrations during the electoral campaign." (Vircoulon 2009: 225). The Mission "was also involved in the preparatory work for the reform of the Congolese police together with Member States (the UK and France), Angola and South Africa and the European Commission" and the UN police mission there (UNPOL). The result of that work was "the guidelines of the reform and the draft organic law in 2006" (Vircoulon 2009: 225).

Martin (2010: 66) points out that thanks to the training programme organised by the EUPOL Kinshasa, the IPU "underwent human rights awareness provided by the International Committee of the Red Cross." She too values positively the participation of EUPOL Kinshasa', after the 2006 elections, in "a multilateral think-tank/ working group to reform the CNP" with a view to implementing "a more wide-ranging programme of reorganisation and development of the police able to reinforce reforms in the security sector as a whole." (Martin 2010: 66-67). She underlined that, "In terms of human

security, EUPOL Kinshasa's work on the CNP [Congolese National Police] represented a more significant impact on sustainable peace in the DRC than assistance to the IPU [Integrated Police Unit]." Martin recalls that, "Prior to 2004 there was no police force for public order, and crowd control was an instrument of violence undertaken by armed forces." (Martin 2010: 67). For the EU Special Envoy/Representative for the region at the time, *EUPOL Kinshasa*, despite its limited financial and limited resources, "has been a success. The police were well trained and the part of the project executed by the Council represented a major innovation. After the formation and training, we did not leave the integrated police unit to cope alone as is usual. We continued to follow and assist them and be assured that the police officers correctly apply what they had learned during the training." (Ajello 2010: 169). As developed below, the takeover was assumed by another police mission, 'EUPOL RD Congo', which this time covered the whole territory of the country.

### **EU Police Mission in DR Congo (EUPOL RD Congo)**

The *EU Police Mission for the DR Congo (EUPOL RD Congo)* was decided on 12 June 2007 by means of Joint Action 2007/405/CFSP) and launched on 1 July 2007, in order to follow on EUPOL 'Kinshasa'. The internal objective was to develop "an overall EU approach to security sector reform [SSR]." The external aim was to contribute "to Congolese efforts to reform and restructure the National Congolese Police (PNC) and its interaction with the judicial system", by means of monitoring, mentoring, and advisory action (JA 2007/405/CFSP, art. 1). That entailed the four specific objectives the first one of which was to support the setting up of a viable, professional and multi-ethnic/integrated police force, which takes account of the importance of proximity policing throughout the whole country with the direct involvement of the Congolese authorities in that process. Secondly, EUPOL RD Congo has specifically to contribute to improving interaction between the police and the criminal justice system in the broader sense. Its third specific task was to help ensure the consistency of all SSR efforts. Fourthly, the Mission had to operate in close interaction with another EU mission in the country, EUSEC RD Congo, and the projects of the Commission, and coordinate its action

with the other international efforts in the field of reform of the police and the criminal justice system (JA 2007/405/CFSP, art. 2).

Besides, EUPOL RD Congo had also to advise the EU Member States and third States, and to coordinate and facilitate, under their responsibility, the implementation of their projects in fields of interest to the mission and in furtherance of its objectives. The financial reference amount to cover expenditure relating to the mission was established at EUR5.500.000 (JA 2007/405/CFSP, art. 9). The Council and the Commission were responsible for the coordination and consistency of the activities undertaken through EUPOL RD Congo with the Community's external activities. The Head of EUPOL DR Congo was mandated to cooperate with the other international players present, in particular MONUC and the third States involved in the DR Congo (JA 2007/405/CFSP, art. 11). Initially, this Joint Action was to apply from 1 July 2007 until 30 June 2008. Yet in light of the changes on the ground, it was amended and extended four times: once in 2007 (JA2008/38/CFSP) and 2008 (2008/485/CFSP), and twice in 2009 (2009/466/CFSP and 2009/769/CFSP). At the writing of this dissertation (2012), its mandate was due to end on 30 September 2012 (Decision 2011/537/CFSP). As of early 2012, EUPOL RD Congo was strong of 50 international staff, with eight contributing Member States of the EU and a headquarters still Kinshasa, the capital of the DR Congo.

| <b>EUPOL RD Congo</b>   |   |
|---|---|
| <b>Aim</b>  | To support, by means of monitoring, mentoring, and advisory action, Congolese efforts to reform and restructure the National Congolese Police (PNC) and its interaction with the judicial system. |
| <b>Headquarters</b>   | Kinshasa  |
| <b>Starting date</b>  | 1 July 2007   |
| <b>End of mandate (as per COUNCIL Decision 2011/537/CFSP)</b> | 30 September 2012   |
| <b>Personnel</b>  | 50 international staff  |
| <b>Contributing States</b>                                    | 8 EU Member States  |
| Source: Council (2012d).                                      |   |

According to various assessments, **EUPOL DR Congo** contributed to the reform and restructuring of the Congolese security forces through its support

to three institutions: the Police Reform Monitoring Committee (CSRP), the General Inspection of the Congolese police (IG-PNC) and the General Commissariat of the Congolese police (CG-PNC). Vircoulon (2009: 226) positively values the mission in that it sought “to cover all aspects of police reform (legal framework, structures, administration and management, etc.)” and tried “to develop more operational and visible activities such as the establishment of a research and intervention police unit in Kinshasa (through German funding of €500,000), and support to the border police and the police inspectorate.” Vircoulon also alleges that EUPOL RD Congo “tried to support the peace process in the Eastern Congo that was launched at the beginning of 2008, collapsed at the end of 2008, and allegedly re-started after the RDF / FARDC collaboration against the FDLR.” Martin (2010: 67) sustains that it “was not until the end of EUPOL Kinshasa and the transfer to EUPOL DR Congo that policing issues were seen in terms of fundamental problems of security sector reform, rather than a bolt-on to support the election process.” In her view, EUPOL was “able to push for an increased role regarding security sector reforms with discernible long-term benefits for human security.”

### **EU support to SSR in DR Congo (EUSEC RD Congo)**

The EU mission to provide advice and assistance for security sector reform (SSR) in the DR Congo, codenamed **EUSEC DR Congo**, was established in May 2005 by means of Joint Action 2005/355/CFSP of 2 May 2005. Its mandate was to contribute with advice and assistance to the reform, integration, and professionalisation of the Congolese armed and security forces, with four specific objectives the first one of which was to contribute to the integration of the Congolese army. The second specific task was to run the "Chain of payments" project; whilst the third was to support the Congolese authorities in their efforts to establish a modern, efficient administrative structure within the Armed Forces of the DR Congo (FARDC). Fourthly, EUSEC DR Congo has to assist the Congolese army in the field of officer training, logistics, human rights, and civil-military cooperation. The Mission had to provide advice and assistance “while taking care to promote policies compatible with human rights and international humanitarian law,



democratic standards and the principles of good governance, transparency and respect for the rule of law.” (JA 2005/355/CFSP, art. 1(1)). The initial duration of the mission was of one year (2 May 2005-2 May 2006) and the corresponding financial reference amount to cover expenditure relating to the mission was established at EUR 1,600.000 (JA 2005/355/CFSP, art. 9). The political control and strategic direction of the mission rested with the Political and Security Committee (PSC) under the authority of the Council of the EU (JA 2005/355/CFSP, art. 8). Throughout the post-conflict settlement stage under review, the legal instrument (JA 2005/355/CFSP) establishing EUSEC DR Congo was amended and extended once in 2005 (2005/868/CFSP), 2006 (JA 2006/303/CFSP), and 2008 (JA 2008/491/CFSP); and twice in 2007 (JA 2007/192/CFSP, JA 2007/406/CFSP) and in 2009 (JA 2009/509/CFSP, JA 2009/709/CFSP).

| <b>EUSEC RD Congo</b>                                   |   |
|---|---|
| <b>Headquarters</b>                                     | Kinshasa (capital of DR Congo)  |
| <b>Start date</b>                                       | June 2005   |
| <b>End date (as per Council Decision 2010/565/CFSP)</b> | 21 September 2012   |
| <b>Mandate</b>  | Contribute with advice and practical assistance to the reform, integration, and professionalisation of the Congolese armed forces, with special focus on human rights, humanitarian law, good governance, and civil-military cooperation. |
| <b>Mission strength</b>                                 | 51 staff  |
| <b>Mission budget</b>                                   | EUR 13,6 million (2011-2012)  |
| <b>Contributing states</b>                              | 13 EU Member States + USA   |
| Source: Council (2012e).                                |   |

In terms of achievements, the overall results of EUSEC RD Congo appear to have been at best mixed including by the standards of EU diplomats. Martin (2010: 67) attributes the same merit to it as to EUPOL and EUFOR DR Congo, and affirms that “[a]ll the three missions demonstrated aspects of a human security approach with their attention to human rights, a display of effective multilateralism, and a bottom-up perspective, although in all cases this was weak and incidental to their principal mandate.” For the first and long-time serving EU Special Envoy / Representative for the region (March

1996 - February 2007), Mr. Aldo Ajello, three main factors have prevented EUSEC RD Congo from living up to its mandate and to the expectations of all concerned: (i) the lack of sufficient human and financial resources; (ii) coordination problems; and (iii) political correctness and dogmatic rigidity of donors in particular the World Bank. Ajello suggests that the hindrances have been particularly felt regarding the formation of the new national army and the programme of Disarmament, Demobilisation, and Reintegration (DDR) (Ajello 2010: 170-74). Concerning the first handicap, Ajello affirms that from the very start of the mission, EU “Member States have not been able to, or rather have not been willing to provide a sufficient number of officers to cover all the integrated brigades and the United Nations have been very reluctant to provide logistical assistance and security measures to the European officers.” (Ajello 2010: 170). In relation to the second disabling factor, Ajello indicates that “coordination”, which was in the end entrusted to EUSEC RD Congo at least in the capital Kinshasa, “proved more difficult than expected” because each of the actors involved, mainly South Africa, Angola, Belgium, France, United Kingdom, Netherlands, Germany, and United States “wanted to keep its identity and continued to pursue its bilateral agenda.” (Ajello 2010: 171). Writing in 2010, only one year after the EU authorities had proudly celebrated the ‘successes’ of the ESDP in its first decade, including its five operations in the DR Congo, Ajello could not be more critical and pessimistic about the unnecessary delays and resulting negative consequences:

It is only in February 2008, when my mandate had expired for nearly a year, that the Government managed to approve the model of the new integrated army. But the reform of the army remains still to be done. If it took three years to identify a model, which has since been modified, one can easily imagine the time required to put it in place. Meanwhile the army continues to wreak havoc, especially during military operations in the east, for which it is still not properly prepared or supported. (Ajello 2010: 171).

Concerning the third disabling factor, Ajello focuses on the DDR and suggests that it has been a “foretold failure” because all donors, including the EU and its Member States, entrusted the lead role to the World Bank (WB), knowing in advance that its principles and rules of procedure were inherently incompatible with the programme. He in particular cites the “sacred principle of ‘government ownership’” and the legal impossibility for the WB to deal with

armed military, receive them in “orientation centres”, or disarm them. The WB could not even “finance the portion of the program which concerned the operations of disarmament, even if it was run by someone else.” (Ajello 2010: 172). Ajello regrets that the European Union that was the main contributor to the programme and therefore had the right to offer an alternative to the WB did not do so because it “did not want to question the ‘intimidating’ authority of the Bank and the dogmatic nature of the principle of ‘*government ownership*’”. He concludes that, “The result has been a waste of money and time and a lot of additional suffering to the Congolese people.” (Ajello 2010: 173).

### **EU military operation ‘EUFOR RD Congo’**

The EU undertook its military operation code-named ‘EUFOR RD Congo’ in 2006 in support of the UN Mission in the DR Congo (MONUC) during the first multiparty presidential and legislative elections that had been scheduled to take place in summer 2006 in that country. The operation was authorised by UN Security Council Resolution 1671 (2006) of 25 April 2006 (UNSCR 1671 (2006)). The latter was adopted under Chapter VII of the UN Charter, with the rationale that “the situation in the Democratic Republic of the Congo continue[d] to constitute a threat to international peace and security in the region” and because “neither the forces of MONUC [UN force in Congo] nor the Armed Forces of the Democratic Republic of the Congo would have the capacity to contain [it]”. This implies that the two other EU missions, **EUPOL ‘Kinshasa’** and **EUSEC RD Congo**, that had been operating in the country since a year before too would not be capable of properly handling such violence. Hence, the Security Council authorised the deployment of EUFOR RD Congo “for a period ending four months after the date of the first round of the presidential and parliamentary elections”. The resolution authorised the EU force “to take all necessary measures, within its means and capabilities, to carry out the following tasks” the first one of which was to support MONUC to stabilise a situation, in case MONUC faces serious difficulties in fulfilling its mandate within its existing capabilities. The second main objective was to contribute to the protection of civilians under imminent threat of physical violence in the areas of its deployment, and without prejudice to the

responsibility of the Government of the DR Congo. The third task was to contribute to airport protection in Kinshasa; whereas for the fourth one consisted of ensuring the security and freedom of movement of the personnel as well as the protection of the installations of EUFOR RD Congo. Fifthly, EUFOR RD Congo had to execute operations of limited character in order to extract individuals in danger.

EUFOR DR Congo, like other EU operations in the country herein discussed, was decided in response to the request of the UN and in agreement with the authorities of the recipient country. The EU established its own legal basis (JA 2006/319/CFSP) for the operation on 27 April 2006, only two days after the adoption of UNSCR 1671 (2006). EUFOR DR Congo carried out the UN-established mandate during the four-month period, from 30 July until 30 November 2006, excluding the two months for pre-deployment and withdrawal. The financial reference amount for the common costs of EUFOR DR Congo for a four-month period was established at EUR16700000; whereas the overall cost amounted to EUR100 million (Major 2009: 315). In terms of military force resources, EUFOR relied on three pools based in three different places: an advance deployment troops in Kinshasa (capital of DR Congo); an on-call force in the neighbouring country of Gabon; and a strategic reserve force in Europe. Together, the three bases made up 4000 troops 2400 of whom made up the forces based in Kinshasa and Gabon (Major 2009: 314). Contributions came from 21 EU Member States and two third states (Turkey and Switzerland).

| <b>EUFOR DR Congo</b>         |   |
|-------------------------------|---|
| <b>Mandate</b>                | Support UN mission in DR Congo (MONUC) in ensuring security, law, and order during 2006-general elections |
| <b>Start date</b>             | 30 July 2006  |
| <b>End Date</b>               | 30 November 2006  |
| <b>Headquarters</b>           | Kinshasa (DR Congo) and Potsdam (Germany)   |
| <b>Strength</b>               | 4000 troops   |
| <b>Cost</b>                   | EUR100 million  |
| <b>Contributing countries</b> | 21 EU Member States + 2 third country (Turkey and Switzerland)  |

In terms of performance, the overall verdict is that EUFOR DR Congo successfully fulfilled its mandate and tasks (Major 2009: 318-322; Rodt 2009: 213-219; Ajello 2010: 177). Most analysts and observers underlined the way it handled the most serious incident of violence during the election that broke out in the capital Kinshasa on 20 August 2006 and which caused the death of some 23 civilians and soldiers and 43 wounded (Martin 2010: 60). Reportedly, not only did the force adequately contain the violence between militias loyal to two of the most potential winners of the presidential election, but it also contributed to the change of perception among the local population who started to see it “a neutral power and credible force” that was well prepared and fully determined to secure “a fair electoral process.” (Martin 2010: 60-1). Martin advances that the force passes the test of human security (“defined most simply as individuals’ freedom from want and freedom from fear” (Martin 2010: 55)) not only for providing security to all in the capital during the election, but also because:

A human rights agenda was built into the mission from the earliest stage of the planning in consultation with the Council’s human rights secretariat and with the appointment of a specific human rights advisor to the mission: a gender concept was developed, along with a reporting system to monitor human rights issues; training was carried out in human rights and gender issues; street patrols took with them a human rights monitor and often medical assistance for the local population. (Martin 2009: 61).

By most accounts, the most felt shortcoming of the mission was the limited scope of its mandate, operational theatre, and duration. Martin (2010: 61) rightly recalls that though EUFOR DR Congo “in practice implemented what could be called a human security approach”; its “mandate by itself was not conducive to protecting human rights, unless protection is viewed in its broadest sense as part of the process of supporting democratic elections.” Indeed, the mission “had no statutory right to intervene if it witnessed human rights abuses; but was reliant on a request for support from MONUC before it could intervene.” (Martin 2010: 61). Arguably, the toll of deaths and injured at the violent incident of August 2006 might have been avoided or reduced had the Mission been given a right of initiative of its own. On the other hand, all the activities of the EUFOR DR Congo were concentrated in the country’s relatively peaceful capital Kinshasa, very far away from its endemic war-torn eastern provinces.



Source: Council (2006b).

Moreover, the mission was allowed to last four months only, which was a too short period in light of the human security needs on the ground. According to various sources, some EU Member States, in particular France and Belgium, and EU representatives on the ground, called for its extension “as a precaution against the danger of riots after [its] withdrawal”. However, Germany and parts of the military personnel reportedly opposed such an extension (Major 2009: 315). It has been sustained that the concerns of Germany, which provided the commander and the operational headquarters for the Force, “centred on the risks that German soldiers might incur in the DRC and the political exposure the mission represented for a country which was still nervous about ‘out of area’ engagements.” (Martin 2010: 58) Hence, for political reasons, Germany wanted “to have its troops home by [2006] Christmas.” (Martin 2010: 59) Resultantly, the legal basis of EUFOR DR Congo was repealed on 27 February 2007 (JA 2007/147/CFSP).

### CFSP Decisions

During the period of *Post-Conflict Settlement Peacebuilding* under review (January 2003- December 2009), the EU adopted **nineteen CFSP Decisions** that served as legal basis for the definition, implementation, or termination of the Common Positions and Joint Actions presented above.

| <b>EU CFSP Main Aspects and Basic Choices on ZAIRE/ DRC (1994-2009)</b> |          |          |          |          |          |          |          |           |
|---|----------|----------|----------|----------|----------|----------|----------|-----------|
| <b>CFSP DECISIONS</b>   |          |          |          |          |          |          |          |           |
| SECOND PHASE (1998-2009): SECOND CONGO WAR                              |          |          |          |          |          |          |          | <b>25</b> |
| <i>Post-Conflict Settlement Peacebuilding (Jan. 2003- Dec.2009)</i>     |          |          |          |          |          |          |          | <b>19</b> |
|   | 2003     | 2004     | 2005     | 2006     | 2007     | 2008     | 2009     |           |
| <i>EU military operation in DR Congo (ARTEMIS).</i>                     | 5*       | 0        | 0        | 0        | 0        | 0        | 0        | <b>5</b>  |
| <i>EU Police Mission in Kinshasa (EUPOL 'Kinshasa').</i>                | 0        | 1        | 2        | 0        | 0        | 0        | 0        | <b>3</b>  |
| <i>EU support to SSR in DR Congo (EUSEC RD Congo).</i>                  | 0        | 0        | 0        | 0        | 0        | 2        | 1        | <b>3</b>  |
| <i>EU military operation (EUFOR RD Congo).</i>                          | 0        | 0        | 0        | 6        | 0        | 0        | 0        | <b>6</b>  |
| <i>EU restrictive measures against the DR Congo.</i>                    | 0        | 0        | 1        | 0        | 0        | 0        | 1        | <b>2</b>  |
|   | <b>5</b> | <b>1</b> | <b>3</b> | <b>6</b> | <b>0</b> | <b>2</b> | <b>2</b> | <b>19</b> |

\* The figure refers to the number of CFSP Decisions adopted on a specific issue.

### **EU military operation in DR Congo (ARTEMIS)**

The EU adopted five *CFSP Decisions* as legal acts for the carrying out of ARTEMIS (JA 2003/423/CFSP): the Union's first military operation in the DR Congo and in Africa. The first Decision (2003/432/CFSP) was taken on 12 June 2003 for the launching on the same date of the operation; whereas the second (Decision DRC/1/2003) was adopted the following month for the acceptance of contributions from third States, namely Brazil, Canada, Hungary, and South Africa. That Decision was amended at the end of the same month in order to accept contributions from Cyprus (Decision DRC/3/2003). The participation of Cyprus was further subject to a specific Decision (2003/693/CFSP) on the agreement between that country and the Union concluded on 22 September 2003. The Union adopted the fifth and last Decision (DRC/2/2003) on 11 July 2003 to establish a Committee of Contributors (CoC) for ARTEMIS the main function of which was "to play a key role in the day-to-day management of the operation." The CoC constituted "the main forum where contributing States collectively [would]

address questions relating to the employment of their forces in the operation.” Members of the CoC were of two categories: Representatives of all EU Member States, on the one side, and Representatives of the third States participating in the operation and providing significant military contributions, on the other.

### **EU Police Mission in Kinshasa (EUPOL ‘Kinshasa’)**

The Council adopted three Decisions (1 in 2004 and 2 in 2005) for the implementation of Joint Action 2004/847/CFSP of 9 December 2004 on the launching of the EU Police Mission in Kinshasa (DRC): EUPOL ‘Kinshasa’. By the first Decision (EUPOL Kinshasa/1/2004), the Political and Security Committee (PSC) of the Council appointed Mr Adílio CUSTÓDIO Head of Mission for EUPOL ‘Kinshasa’. The first of the two Decisions adopted the following year approved the Agreement between the EU and the DR Congo on the status and activities of EUPOL ‘Kinshasa’ (Decision 2005/680/CFSP); whereas the second decision extended the mandate of the head of mission until its end (Decision EUPOL KINSHASA/2/2005).

### **EU support to SSR in DR Congo (EUSEC RD Congo)**

The EU adopted three CFSP Decisions for the launching and running of EUSEC RD Congo: the Union’s mission to provide advice and assistance for security sector reform in the D R Congo. They all concerned the appointment of the Head of Mission. The first Decision (EUSEC/1/2008) was taken on 12 February 2008 for the appointment of Michel SIDO as the new Head of Mission in replacement of his predecessor, Pierre Michel JOANA, who resigned on 19 December 2007. On 23 June 2008 Michel SIDO too resigned, which led the Union to appoint his successor, Jean-Paul MICHEL, by means of the second Decision (EUSEC/2/2008). The EU adopted the third Decision (EUSEC/1/2009) was on 25 September 2009 to appoint again Jean-Paul MICHEL as the Head of Mission.

### **EU military operation ‘EUFOR RD Congo’**

Six CFSP Decisions in total were adopted, all in 2006 (two in May, two in June, and two in August), in relation to the launching and running of ‘EUFOR



RD Congo': the EU military operation in support of the UN Mission in the DR Congo (MONUC) during the 2006 election process. The first two Decisions concerned respectively the acceptance of the participation of Turkey as a third State (Decision MONUC SPT/1/2006) and the establishment of a Committee of Contributors (Decision MONUC SPT/2/2006). The two Decisions taken in June addressed respectively the launching of the operation on 12 June 2006 (Decision 2006/412/CFSP) and the approval of the Agreement between the EU and the Gabonese Republic on the status of the European Union-led forces in the Gabonese Republic (Decision 2006/475/CFSP). The same two matters were object of two more CFSP Decisions (2006/675/CFSP and 2006/676/CFSP) adopted in August 2006 concerning the participation of Switzerland in EUFOR RD Congo.

### **EU restrictive measures against the DR Congo**

The EU adopted two CFSP Decisions, respectively on 29 November 2005 (Decision 2005/846/CFSP) and on 27 April 2009 (2009/349/CFSP), in relation to its restrictive measures against the DR Congo enacted for the first time on 13 June 2005 (CP2005/440/CFSP). The two Decisions served to update the EU's list of persons and entities subject to the measures imposed by UN Security Council Resolution 1596 (2005) in accordance with the list approved on 1 November 2005 by the Sanctions Committee that the UN established for that purpose pursuant to its Security Council Resolution 1533 (2004).

### **Summary of Findings**

In the preceding section, I researched the phase of *post-conflict settlement peacebuilding* that spanned from the signing, in December 2002, of the Global and Inclusive Agreement (GIA) to the celebration of the 10<sup>th</sup> anniversary of the ESDP and the entry into force of the Treaty of Lisbon in December 2009 (January 2003 – December 2009). I have pursued two objectives. The first one consisted of identifying the most pressing needs, problems, and challenges that country was facing for its transition from all-out war to lasting positive peace, following the signing of the GIA. The latter had indeed been purposely engineered to put a definite end to war and to

irreversibly set the DR Congo on the path of democratic constitutional politics and socio-economic prosperity for all its population. The second objective was to account as systematically and accurately as possible for the legally binding and non-legally binding decisions and actions that the EU undertook under the CFSP umbrella in order to contribute to the success of the transition. I have established that there were indeed many needs, problems, and challenges in the aftermath of the formal end of all-out war and afterwards. The most urgent of such needs and challenges was to end an unofficial war and related deadly insecurity that continued unabatedly in the eastern part of the country. The country's authorities had also to put an end to the inhumane treatment and mass killings of innocent civilians, mass rapes, and forced and active enlistment, conscription, and use of children (child soldiers) in military campaigns. Hindrance of humanitarian assistance to refugees and internally displaced persons, political persecution of real and supposed dissidents and critics, and generalised impunity were also persistent throughout the period under scrutiny. Moreover, the illegal exploitation of the country's natural resources and other kinds of wealth equally required urgent and definite solution. Finally, the authorities of the DR Congo had to invest in the rekindling of the social fabric through appropriate decisions and actions for national unity and reconciliation. Unfortunately, the same authorities were involved more in the frustration and denial of most of these needs than in their fulfilment; thus creating and exacerbating problems and challenges instead of handling them. Many human rights and humanitarian organisations, agencies, various UN bodies, and mass media relentlessly warned both the Congolese authorities and the international community, pressing for timely and appropriate action in order to avoid the perpetuation of the war situation and related suffering for the majority of the population.

For its response, the EU varyingly resorted to all its policymaking and operational resources that were available under the CFSP, except Common Strategy. The European Council, the highest political organ of the EU, held **twenty-eight summits nine of which** issued *Principles and General Guidelines* concerning the situation in the DR Congo and the Africa's Great Lakes Region in general. On the same matter, the Union issued at least

**twenty-seven CFSP Declarations** and undertook some **twenty-eight Demarches**. In terms of legally binding decisions and actions, the Union adopted **nine Common Positions (CPs)**, **thirty-one Joint Actions (JAs)**, and **nineteen CFSP Decisions**. More notably, some of these decisions and actions led to the launching, implementation, and extension of **two military operations** (Operation ARTEMIS, 2003 and EUFOR DR Congo, 2006) and **three civilian missions** (EUPOL Kinshasa, 2005; EUSEC DR Congo, 2005; and EUPOL DR Congo, 2007). These operational initiatives aimed at helping with the control of ethno-political tensions and violence, some of which resulted from recurrent fighting in the eastern part of the country, and the building of professional national security and armed forces.

| <b>SECOND CONGO WAR</b>  |   |           |           |           |           |           |           |           |            |
|--|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|
| <i>CFSP-based contribution to Post-Conflict Settlement Peacebuilding (2003-2009)</i> |   |           |           |           |           |           |           |           |            |
|  |   | 2003      | 2004      | 2005      | 2006      | 2007      | 2008      | 2009      |            |
| <i>Non-Legally<br/>Binding<br/>Response</i>  | <b>Principles &amp;<br/>General<br/>Guidelines*</b> | 3         | 2         | 1         | 2         | 1         | 0         | 0         | <b>9</b>   |
|  | <b>CFSP<br/>Declarations</b>                        | 6         | 5         | 3         | 2         | 4         | 4         | 3         | <b>27</b>  |
|  | <b>Demarches</b>                                    | 12        | 8         | 3         | 0         | 1         | 2         | 2         | <b>28</b>  |
| <i>Legally<br/>Binding<br/>Response</i>  | <b>Common<br/>Strategies</b>                        | 0         | 0         | 0         | 0         | 0         | 0         | 0         | <b>0</b>   |
|  | <b>Common<br/>Positions</b>                         | 2         | 0         | 2         | 1         | 1         | 2         | 1         | <b>9</b>   |
|  | <b>Joint Actions</b>                                | 3         | 3         | 5         | 6         | 6         | 3         | 5         | <b>31</b>  |
|  | <b>Decisions</b>                                    | 5         | 1         | 3         | 6         | 0         | 2         | 2         | <b>19</b>  |
|  |   | <b>31</b> | <b>19</b> | <b>17</b> | <b>17</b> | <b>13</b> | <b>13</b> | <b>13</b> | <b>123</b> |

\* The corresponding per year figure refers to the number of EU summits that addressed matters related to the situation in the DR Congo.

In general, the decisions and actions taken under the CFSP throughout the period under review focused on human rights and humanitarian law issues, as well as peace and security affairs. In each and all them the EU strongly expressed its **concern** about and **condemnation** of gross human and humanitarian law violations, including mass atrocity crimes, and illegal exploitation of DR Congo's natural resources and other forms of wealth. The

EU also used the decisions and actions accounted for above to communicate and reaffirm its adherence to and defence of *multilateralism* in conflict prevention, crisis management, and post-conflict peacebuilding in the Africa's Great Lakes region and in Africa; as well as its commitment to and call for the improvement of the *international peace and security system* based on the Rule of Law. The earliest CFSP-born response was a **Demarche** undertaken on 7 January 2003 with the authorities of the DR Congo on death penalty. EU diplomats continued to resort to Demarches on this same theme and on the war and humanitarian situation in Ituri until the issuing of the first **Declaration** (Press: 113 Nr: 8300/03) on 09 April 2003. Through the latter, the Union welcomed "the conclusion of the inter-Congolese dialogue in Sun City, South Africa on 2 April 2003 as a further significant step towards lasting peace in the Democratic Republic of Congo and the whole Great Lakes Region." On the other hand, the first legally binding response was **Common Position 2003/319/CFSP** adopted on 8 May 2003 on EU's support for the implementation of the Lusaka Ceasefire Agreement and the peace process in the DR Congo. The first operational decision was **Joint Action 2003/423/CFSP** that the Council adopted on 5 June 2003 and which laid the legal ground for the launching of Operation ARTEMIS a week later.

## Commentary

The aim of this chapter was to investigate whether there was any improvement in the CFSP-based response to the Second Congo War, in comparison to its dealing with the First Congo War. Again, I have drawn on secondary data and used the three-stage approach of Conflict Resolution (*early warning and prevention, management, and rebuilding*). Concerning the characteristics of the war itself, I have established that it displayed both similarities and differences with regard to the first war. In terms of similarities, it broke out because the winners of the First Congo War perpetuated and aggravated the neopatrimonial, predatory, and repressive policies and practices that constituted the underlying causes of that war (Nzongola-Ntalaja 2002). Such policies made the country much poorer throughout the 1990s than it was at its independence in 1960 (Bayart 2009; French 1995, 1997); despite being home to some of the most diverse and abundant natural

wealth on earth (Daley 2006) and being the recipient of huge amounts of development aid (Lancaster 1999). The second war, like the first one, also broke out because the international community proved hesitant at best, and unwilling at worst, to take timely action and implement appropriate decisions despite constant early warnings and calls for action, particularly by civil society and human rights and humanitarian organisations. Likewise, the second war was initiated and manned by Rwandan troops, with the support of Burundi and Uganda, professedly in order to introduce democracy and to eradicate insecurity that was being caused by insurgents along the border of the DR Congo with these three countries. A more notably saddening similarity is the targeting of the civilian population, which caused millions of deaths and wounded, displaced, and traumatised persons (Nzongola-Ntalaja 2002; Lemarchand 2001, 2012; Gegout 2005; Prunier 2009; Reyntjens 2009; Office of the High Commissioner for Human Rights (OHCHR) 2010). However, the second war was different from the first one in that it pitted former allies (RD Congo, Rwanda, and Uganda) against each other; involved more African country regular armies; lasted longer; and had much more to do with the strategic control of the country and the systematic plundering of its natural resources and wealth. Another important difference is that the Second Congo War formally ended through a ceasefire and a comprehensive political agreement between the different parties to the conflict; whereas the first war terminated by military victory of the rebels.

Concerning the CFSP response, the EU deployed more policy instruments and material means than it did for the First Congo War. More importantly, the Union resorted to some of its so called restrictive/negative measures, that is, compliance enforcement measures, against UN-listed spoilers of the peace process and carried out five field operations (two military and three civilian) for *post-conflict settlement peacebuilding*. Notwithstanding, by the standards of Conflict Resolution, **that response was insufficient and most often came too late to help prevent or halt the large-scale bloodshed caused by that war.** *It was insufficient in five main ways.* Firstly, the EU did not use Common Strategy, the most important legal policy making instrument that, unlike for the first war, was available following the entry into force of the Treaty of Amsterdam on 1 May 1999. Arguably, one would have expected

the EU to use that instrument for outlining its overall strategic interests, position, objectives, and priorities towards the DR Congo and the whole Great Lakes Region of Africa, and the resources to be made available by the Union and its Member States for the implementation of such a strategy. The adoption of Common Strategy would have attenuated the ad hoc and trial-and-error approach of most of the decisions and actions undertaken under the CFSP in response to the bloody conflict; no less because the minimal period of a Common Strategy was four years (TEU, Title V, art. 13(2)). Moreover, the adoption of a Common Strategy would have symbolised the strongest political commitment of the EU towards the country and the region, and would thus have served as a key reference for other EU policies for the region and for EU peacebuilding partners working on and in the region. Secondly, the EU resorted to more declaratory and procedural foreign policy and confidential diplomacy (through Demarches) than to legal and operational decisions and actions. Indeed, the first CFSP-based reaction to the war and related mass atrocities was a **Declaration** (Press 255, Nr 10396/98). From the outbreak of the war in August 1998 until the signing of the Global and All-Inclusive Agreement in December 2002, the EU issued **33 CFSP Declarations** and undertook **45 Demarches**. In sharp contrast, it enacted only **four Common Positions (CPs)**, **four Joint Actions (JAs)**, and **two CFSP Decisions**. Thirdly, all CFSP decisions and actions, in particular the legal ones, focused on central **statebuilding** to the detriment of **community building** and **societal recovery**.

Fourthly, the space, time, and or the strength of any of the five field operations (Operation Artemis; EUFOR RD Congo; EUPOL 'Kinshasa'; EUPOL RD Congo; and EUSEC RD Congo) were too limited to meet effectively the needs of all the civilians who were at risk. Certainly, ARTEMIS adequately protected civilians under deadly threat and restored temporary and relative security and safety in and around Bunia, the provincial capital of Ituri in the East, in accordance with its mandate and objectives (Helly 2009; Rodt 2009; Ayello 2010; Martin 2010). However, looting, killings and forced displacement continued in large numbers in other parts of the Ituri province (Reyntjens 2009: 220). Besides, the operation ended too early despite constant warnings of the continuation and resumption of ethno-political

violence and related atrocities in that province (Gegout 2005; Reyntjens 2009) and calls for its extension (Helly 2009; Major 2009). As a result, its dissuasive effect on local warlords did not last long. Only one month after the UN force (MONUC) had taken over from ARTEMIS and expanded its protection mandate to larger Bunia, “fighting between militias resumed in October 2003 and continued throughout 2004.” (Reyntjens 2009: 221). Likewise, EUFOR DR Congo was a success both internally and externally (Rodt 2009) reportedly because it satisfactorily delivered on its mandate and objectives. However, its work was limited to the capital of the country, some 2693 km (1673.36 miles) away from the war-bedeviled eastern provinces. It only lasted the initially planned four months (30 July 2006 - 30 November 2006), despite calls for a more than needed longer stay (Major 2009; Martin 2010). Besides, its human rights protection mandate was confined to supporting the democratic elections and any intervention to protect human rights required prior demand and or authorisation from the UN mission (MONUC) in the country. More importantly, “the main target of EUFOR assistance were members of the international community”, mainly and in order priority “MONUC personnel, members of EU organisations other than EUFOR, European Union nationals, unarmed civilians’.” (Martin 2010: 61).

For their part, the three non-military missions (EUPOL ‘Kinshasa’; EUPOL RD Congo; and EUSEC RD Congo) too contributed to the professionalisation and democratisation of the armed and security forces (Vircoulon 2009; Ajello 2010; Martin 2010). *Yet they too were incommensurate in view of the pressing needs they were deemed to address on the ground.* In particular, they were limited in strength and space in that they were made of a small staff - 30 international staff for EUPOL Kinshasa; 50 international staff for EUPOL DR Congo; and 51 staff for EUSEC DR Congo - and were concentrated in the country’s capital Kinshasa. As Martin (2010: 67) notes, the attention of these missions to human rights abuses “was weak and incidental to their principal mandate.” According to the first Special Envoy/Representative of the EU for the region, the lack of sufficient human and financial resources, disorganisation, and the politics of ‘correctness’ and ‘dogma’ of donors altogether prevented EUSEC DR Congo from living up to its objectives and external expectations (Ajello 2010). As I explain later in this

section, more motives underpinned the insufficiency of not only EUSEC DR Congo but also the rest of CFSP response to the two Congo Wars.

Fifthly, none of the CFSP legal decisions and actions enacted in response to the Second Congo War specifically targeted any of the countries, in particular Rwanda and Uganda, largely responsible for the outbreak and perpetuation of the bloody conflict and for the ensuing massive plundering of the natural riches and other forms of wealth of the DR Congo (Human Rights Watch 2000; UN Security Council 2002). Froitzheim, Söderbaum, and Taylor (2011) correctly underscore that the EU failed to adequately deal with the strong trans-border dimension of the conflict due to the national approach of its post-war peacebuilding endeavours. The three authors attribute that approach to the “bureaucratic and organisational complexity” of the EU as well as to “its ineffective policies”. By *bureaucratic and organisational complexity*, they essentially refer to the institutional incoherence and interdepartmental and interpersonal rivalries and turf wars. Surprisingly to a lesser extent, they attribute that complexity to the double locus (EU + Member States) of the foreign and security policy of the EU. Regarding *ineffective policies*, they contend that the “EU is organized and designed to deal with nation-states (however dysfunctional these may be) and not with regions”. In the case of the Africa’s Great Lakes Region, they state, the EU “has found it very difficult to successfully engage in the context of a regional conflict where a credible regional counterpart is absent” (Froitzheim, Söderbaum, and Taylor 2011: 59). This explanation is hardly convincing because of two reasons, at least. First, its authors do not demonstrate, from a theoretical, legal, and policy perspective, how and why “the EU is organized and designed to deal with nation-states [...] and not with regions”; how the opposite set-up would look like; and, more importantly, how it could at all help better address regional dimensions of violent conflicts like the one under scrutiny. Second, their assertion is clearly challenged, rather than supported, by one of their interviewees - diplomats from EU Member State - who told them that “the EU focuses on regional economic integration and puts weight on regional organisations.” (Froitzheim, Söderbaum, and Taylor 2011: 59). The existence of partnership frameworks between the EU and Africa (through the African Union), EU and West Africa (through ECOWAS:



Economic Community of West African States), or between EU and Asia (for example through the ASEAN: Association of Southeast Asian Nations) are some of the examples. Sounder reasons (than the alleged in-built set up flaw) account for the conscription of post-war peacebuilding by the EU and other external interveners to the national level in the DR Congo. One reason is that key players of the international community, in particular Western powers, considered the tragedy of the DR Congo essentially, if not exclusively, as an internal problem caused by the failure of the Congolese state under the three-decade long reign of the West's proxy President Mobutu throughout the Cold War. Another important reason is the genocide-derived moral guilt complex of Western powers for failing Rwandans at the greatest hour of their need in 1994. This guilt served as an excuse for silent complicity and or unconditional support of the most influential Western powers to the Rwanda's post-genocide regime that played the leading role in setting in motion and sustaining the two wars; each time effectively highlighting security concerns and grave violations of human rights against Congolese ethnic Tutsis of Rwandan descent (Prunier 2009; Reyntjens 2009). A third motive is that the strongman of post-genocide Rwanda and the President of Uganda were members of the quartet whom in March 1998, only five months to the breakout of the Second War, the then US President Bill Clinton admirably branded as a "new breed" of African leaders. These included Yoweri Museveni (Uganda), Meles Zenawi (Ethiopia), Isaias Afewerki (Eritrea), and Paul Kagame (Rwanda). Western powers and donors deemed these leaders to bring and or cement peace, multiparty democracy, freedom, and free-market economies in their respective countries and regions (Maliti 2012).

On the other hand, the CFSP response to the Second Congo War under usually came **too late for the protection of the millions of victims**. This was particularly the case for the most important decisions and actions such as operational undertakings and negative measures against some peace spoilers. It took nine days after the outbreak of the war for the EU to make its earliest reaction, in the form of a Declaration, under the CFSP. However, the Union enacted its first legal response under the CFSP (**Common Position 1999/728/CFSP**) on 15 November 1999, one year and three months into the

Second Congo War and four months after the signing of the Lusaka Ceasefire Agreement. Its **first** Joint Action (**JA 2000/347/CFSP**) came out on 22 May 2000, nearly two years after the beginning of the war. While it did save many human lives from butchery, Operation ARTEMIS was launched months after many human rights and humanitarian law organisations had relentlessly called for such a force to prevent at best or control the mass killing of innocent civilians. One of such calls came from Amnesty International as early as in October 2002 (Amnesty International 2003d).

From the foregoing is it evident that, overall, the EU did not make the best use of the CFSP resources in response to the Second Congo War. The causes – and not one single determinant as is often sustained – are largely the same that I have exposed earlier in relation to the CFSP response to the First Congo War. They comprise the lack of experience and benchmarks in ‘high politics’ (hard) foreign policy; the early age of the CFSP; its non-exclusive competence status towards Member States; its subsidiary role; the primacy of values and interests of the EU and or its allies; the Somalia Syndrome; and the guilt complex from the Rwandan genocide. When the Second Congo War broke out in August 1998, the CFSP was hardly five year old. The Treaty of Amsterdam, which substantially amended and fine-tuned the provisions for the CFSP by introducing among other things the most important legal policy making instrument (Common Strategy), had not entered yet into force. The ESDP was yet to be established nearly one year later (June 1999) and the EU Programme for Conflict Prevention was yet to be adopted in 2001. The ESDP supporting institutional structures were in place by the end of 2001 while its trained combat forces and civilian experts reached their envisaged operational strength in 2007; one year after the first-ever democratic elections had taken place in the DR Congo. More notably, the first European Security Strategy (ESS), the key reference document that the EU presented as embodying the values, vision, and scope of its foreign and security policy, was adopted ten years after the inception of the CFSP and one year after the signing of the Global and Inclusive Agreement that formally ended the Second Congo War. *Arguably, during much of the outbreak and escalation of the Second Congo War, the CFSP, in particular its much-awaited operational backbone ESDP that was established in 1999*

*and was declared operational at the end of 2001, was still in its early development.* This partly explains the trial-and-error approach of much of the CFSP response to the war and the frequent resort to *statements, general principles and guidelines, declarations, and confidential diplomacy.*

Concerning the disabling role of the **subsidiary status** of the CFSP, it is important to recall that any operational undertakings under the ESDP was legally subject to the request and or approval of the UN Security Council and or the authorities of the target country or regional organisation. This requirement underpinned the launching of the five operations (Operation ARTEMIS; EUPOL Kinshasa; EUSEC DR Congo; EUFOR DR Congo; and EUPOL DR Congo) that allegedly enabled the EU to make the difference in the DR Congo. In the following chapter, I shall elaborate on this determinant in relation to the development and implementation of the 'responsibility to protect (R2P)' norm that emerged in 2001 with a view to addressing the failure of humanitarian interventions of the early 1990s. With reference to the condition of **non-exclusive competence** vis-à-vis Member States, any legal binding decisions and or action under the CFSP had not to prejudice the individual foreign and security policies of Member States, individually or in coalition; and therefore required *unanimity* except for the implementation of a Common Strategy. Established to protect national interests of each Member States within the CFSP, this requirement often led to **inaction, late response**, and or **insufficient action** (Ajello and Richard 2000; Misser 2007; Ajello 2010). One of the most reported examples took place at the end of 2008. Influential European NGOs, the UN Secretary-General, and individual EU Member States and officials called for a military intervention by the EU in order to halt bloodshed in the north-eastern DR Congo and thus allow the UN force (MONUSCO) to reinforce its presence on the ground. However, the EU finally did not intervene because of the lack of unanimity. Member States in favour included Belgium, France, Italy, Netherlands, and Spain. Against the idea were Germany and the United Kingdom (UK). The latter argued that its military deployment to the country fell outside its national interests (Vines 2010:1101-02). It is worth noting that throughout the period covered by this research (1994-2009), the EU adopted only three Common Strategies, respectively on Russia on 4 June 1999 (1999/414/CFSP), Ukraine on 11

December 1999 (1999/877/CFSP), and on the Mediterranean region on 19 June 2000 (2000/458/CFSP). After that, Member States decided not to adopt Common Strategies anymore because, legally, their implementation (mainly through the adoption of Common Positions and Joint Actions) automatically implied the possible use of qualified majority voting within the Council to the detriment of the preferred cardinal principle of unanimity. Their decision was meant to prevent the use of that clause by any coalition of the willing within the Council on behalf of all Member States (Director at Council Legal Service, 2007, interview, 10 October). In the case under study, individual self-interests of Member States did not only cause inaction but also played an important role in some of the decisions and actions of the CFSP on the Second Congo War, especially the aforementioned five civil and military operations. Hence, France took the lead on Operation ARTEMIS apparently because “it badly wanted a mission to show the EU was capable of acting alone, where NATO would not be involved”; whereas the United Kingdom endorsed the operation and sent in engineers because it “had to prove that it was still part of the project to create a European defence policy.” (Gegout 2005: 437-38).

On the other hand, without the existence of core values and or common interests, the EU would not have taken those decisions and actions. For some analysts, the five operations were “more about the EU experimenting with its own capabilities than about Africa” because “the EU can reach decisions more easily on Africa than on many other parts of the world” (Vines 2010: 1091). However, one should nuance this often-offered interpretation. Certainly, the construction of a self-assigned identity of a global Good Samaritan or a global Normative/Civilian Power EU – which is different from just testing EU’s own capabilities as an autonomous international actor – and the relative facility for decision-making on Africa played an important role in the choice of that continent for the first experiments of ESDP outside Europe. Nevertheless, it is also true that by the time of the launching of those operations no other part of the world outside Europe was in urgent need of international assistance as helplessly as was the African theatre of the five operations. Our findings show constant and compelling calls from the most credible voices for such assistance and that the five operations responded to

genuine needs. It might be fairer and more accurate to assume that these operations were “more about EU experimenting with its own capabilities” to live up to its own humanitarian pledges and external expectations and that the tragedy of the DR Congo and EU’s close historical ties with Sub-Saharan Africa made the decision much easier to take. Certainly too, security concerns underlay the launching of these operations, in particular EUSEC RD Congo, because the target country fitted into the category of failed states and the regional impact of its wars “had negative spill over effects in the wider region.” (Hoebeke, Carette, and Vlassenroot 2007: 15). To some extent, this interpretation is tenable because the 2003 European Security Strategy (ESS) identified *failed / failing states* as one of the main sources of challenges and threats to international security and *bad governance* as the main cause of state failure. The same document listed the DR Congo, alongside the Balkans and Afghanistan as a case in point (Council of the European Union 2003b: 6). However, in the case of the DR Congo, these security concerns were of much less importance than often assumed because the same ESS document did not explicitly identify that country, or the Great Lakes Region, or Sub-Saharan Africa in general as part of the geostrategic objectives of the foreign and security policy of the EU. These security concerns become more easily appreciable only when placed in the wider context of the dominant worldview championed by the EU. That view is of an international society of states bound by the rule of law, well governed (that is, democratic), upholding shared values, each pursuing its interests within common interests, and characterised by free market economy and social prosperity (Council of the European Union 2003b). For the EU, “The quality of international society depends on the quality of the governments that are its foundation.” (Council of the European Union 2003b: 10). I come back to this issue of the role of values and the corresponding worldview in the following chapter when I address the constraints of global culture on contemporary international peacebuilding.

Finally, the *Somalia syndrome*, which suppressed the appetite of military intervention in Rwanda (Brunk 2008; Cooper, Turner, and Pugh 2011), and the *moral guilty complex* for the failure of the international community in Rwanda too played an important role in the inaction, late action, or little

undertaking of the EU under its CFSP regarding the Second Congo War. In the absence of a direct and serious threat to core common interests of its Member States, the EU found politically too costly sending boots on the ground to prevent or halt a war labelled as Africa's First World War and the subsequent constant bloody fighting between regular armies, ruthless militia, armed groups, and rebel movements along constantly shifting alliances. In the following chapters, I offer an overall assessment of the motives and capacities of the CFSP as well as its response to the two Congo Wars. From the foregoing, three elements are clear though. First, the motives, capacities, and achievements of the CFSP have often been misrepresented or misinterpreted. Second, various factors, rather than a single determinant, altogether account for the inbuilt flaws of the CFSP as well as of its omission, late action, or insufficient response regarding the two Congo Wars. Third, the Conflict Resolution approach is more appropriate for critically discerning and assessing those motives, capacities, and achievements.

## **CHAPTER SEVEN: OVERALL ASSESSMENT**

This chapter offers a general and final evaluation of the motives, strengths, and accomplishments of the CFSP including its response to the two Congo Wars, prior to the entry into force of the Treaty of Lisbon (on 1 December 2009). It does so through the lens of Conflict Resolution and recommendations from the failure of the international community to protect populations from mass atrocity crimes of the 1990's. Briefly, these insights and recommendations relatedly include:

- Adoption of clear and strong norms, laws, and mechanisms for global humanitarianism;
- Strong and sustained political commitment to global human protection;
- Acquisition of appropriate knowledge, skills, and foresight;
- Provision of need-tailored, sufficient, and timely responses; and
- Use of a comprehensive and complementary approach.

Some of the relevant works on these prescriptions and lessons include the following: Burton (1972, 2001); Sandole (1993, 1998, 2001); Vassal-Adams (1994); Eriksson (1996); Galtung (1996,1998, 2000); Millwood (1996); Ramsbotham and Woodhouse (1996, 2000); UNDPKO (1996); Barnett (1997); Adedeji (1999); Carlsson, Sung-Joo, and Kupolati (1999); Miall, Ramsbotham, and Woodhouse (1999); Cavanaugh (2000); IPEP (2000); Hansen et al. (2001); and Rubenstein (2001). In the following sections, I assess the CFSP and its actual response to the two Congo Wars against each strand of these five prescriptions.

### **Clear and strong norms, laws, and mechanisms**

Early research studies and policy reports on genocide and mass killings in the Balkans and Rwanda in the 1990's identified the lack of clear and strong norms, laws, and mechanisms for intervention for human protection purposes as one of the main reasons of the failure to prevent and halt those tragedies. One of their main recommendations was the revision, fine-tuning, and adoption of norms, laws, and mechanisms that would make possible timely and decisive preventive and curative action in the face of mass atrocities (Vassal-Adams 1994; Millwood 1996; Annan 1999; Carlsson et al. 1999; UN

Security Council 1999; IPEP 2000). On a worldwide level, the utmost result of the discussion of this recommendation is “The Responsibility to Protect” (R2P); a norm-setting document produced by the International Commission on Intervention and State Sovereignty (ICISS) in 2001 and which introduced and elaborated the responsibility to prevent (R2prevent), the responsibility to react (R2react), and the responsibility to rebuild (R2rebuild). It was a response to a challenging question that UN Secretary-General Kofi Annan in 1999-2000 put to opponents, critics, and sceptics of humanitarian intervention in these terms: "if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica, to gross and systematic violation of human rights that offend every precept of our common humanity?" (UN General Assembly 2000: para. 217). The report established a set of clear principles, procedures, mechanisms, and actions, including, as last resort, military action that could be authorised by the General Assembly, failing a UN Security Council decision, in order to protect people from mass atrocity crimes (genocide, ethnic cleansing, war crimes, and crimes against humanity). As Gierycz (2010: 112) suggests, the ICSS report “constitutes the most comprehensive and well-developed characterization of R2P to date”, because it established a set of “principles that would equally enable effective prevention of future atrocities against civilians and ensure respect for international principles of sovereignty and non-intervention in the domestic affairs of other states.” Gierycz (2010: 113) rightly laments that the publication of the report (on 30 September 2001) only two weeks after the tragic terrorist attacks on US soil (on September 11) and the ensuing war on terror ill-fated the chances for the document to be “converted into an agenda for action or taken up by member states”, and condemned it to remain “merely a technical paper available to the Secretary-General and the public at large.” Gierycz (2010: 113) argues that as of 2010, the ICISS report had “served merely as a basis for elaborating the so-called ‘protection clause’ included in the Millennium Declaration in 2005.” The latter was adopted by all the 150 UN member states who participated in the World Summit that took place that year. On the one hand, the ‘protection clause’ commits each member state to fulfil its primary R2P its population from potential and actual mass atrocity crimes. On



the other, the clause provisions commit the international community to assist any member state in fulfilling its individual R2P; and to collectively use “in a timely and decisive manner” all appropriate means, including, as a last resort, enforcement action, in order to protect populations from mass atrocity crimes if national authorities are “manifestly” unable or unwilling to do so in the first place (UN General Assembly 2005: para. 139).

Unfortunately, the UN-adopted ‘protection clause’ provisions were a largely watered down version of the original report. They are not legally binding and, mainly, criteria and conditions for their actual use were deliberately left unspecified, arguably in order to make them acceptable to all signatories. As Gierycz (2010: 113) points out, the ‘protection clause’, unlike the original report, avoided to elaborate “on possible military enforcement of protection means, and any restraint in using the veto in the Security Council in R2P cases.” Nonetheless, the EU is credited for playing an important role for the adoption of this clause. According to the international nongovernmental organisation (INGO) Oxfam International, “In 2005, EU members were world leaders in developing the ‘rule-based international order’ in helping to win the international argument for the Responsibility to Protect.” (Oxfam International 2008: 2). In particular, the EU reportedly played a decisive role by convincing its African partners to loosen their fierce hold on the principle of ‘non-interference into internal matters’ (Oxfam International 2008: 1). Surprisingly, EU’s own norm-setting documents, which include the TEU provisions and other principles and general guidelines adopted since the creation of the EU itself in 1993 until the entry into force of the Lisbon Treaty in 2009 for the organic and operational growth of the CFSP, are even **softer** and **unclear**. For instance, the EU did not refer to the R2P in the European Security Strategy (ESS) that it adopted in 2003, two years after the publication of the aforementioned report of the International Commission on Intervention and State Sovereignty. The EU simply indicated that it needed “to develop a strategic culture that fosters early, rapid, and when necessary, robust intervention” (Council of the European Union 2003b: 12); and warned countries who “ha[d] placed themselves outside the bound of international society” that “there [was] a price to be paid, including in their relationship with

the European Union.” (Council of the European Union 2003b: 11). In March 2008, one year before the official celebration of the ‘success’ stories of the ESDP and eight months to the revision of the ESS, Oxfam International made the following recommendation to the EU for a clear and strong normative stance:

In revisiting the ESS in 2008, make clear that it has a vital role in upholding the Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity – and commit to this as a central objective of the CFSP and ESDP. This should help set the agenda for the next period in building the EU’s foreign policy identity, when the new High Representative and External Service bring greater unity to the different policy instruments today still divided between the European Commission and Council of Ministers. (Oxfam International 2008: 3-4).

In the updated version of the ESS, the EU took on board this recommendation as laconically as follows: “With respect to core human rights, the EU should continue to advance the agreement reached at the UN World Summit in 2005, that we hold a shared responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.” (Council of the European Union 2008e: 12). Undoubtedly, this reference fell short of the recommendation of Oxfam International because it did not provide any single indication of how the EU intended to advance that agreement. This should not come as a surprise since the wording is as laconic and cautious as the ‘protection clause’ included in the declaration of that Summit. Arguably, the EU might not even have referred to the R2P in the revised version of the ESS if that Summit had not included in its declaration the clause. In the 2003, the EU made it clear that “the fundamental framework for international relations” was the UN Charter; that the UN Security Council had “the primary responsibility for the maintenance of international peace and security”, and that enabling the UN to “fulfil its responsibilities and to act effectively” was “a European priority.” (Council of the European Union 2003b: 10). Indeed, all EU norm-setting documents herein reviewed confine it to a subsidiary role when it comes to decisively and timely responding to mass atrocity crimes wherever and whenever they threaten to occur or actually occur. Actually, there exist three unwritten criteria for any forcible action by the EU for human protection purposes that are extremely difficult if not simply impossible to meet at all or on time. These are in a hierarchical order of importance the following: (1) Mandate by the UN

Security Council; (2) Decision by the European Council; and (3) Authorisation by National Parliaments of EU's Member States. One of my respondents – a senior diplomat at the Sweden's permanent representation to the EU – outlined them when I underlined the lack of information as to when and how the EU would undertake a forcible action in response to mass atrocity crimes. He underlined that even the application of this procedure is not automatic but rather a case-by-case decision; and that the mandate must be strictly humanitarian and in any case exempt of any regime change by force. He indicated that the primary condition of *UN Security Council authorisation* was very important for his country “because it adds legitimacy to what the EU does.” He highlighted that such “legitimacy in itself is very important” because it adds “respect to International Law” and that, for that reason, “allowing for certain States to intervene militarily in other parts of the world without a UN mandate is a very serious matter where we would be very cautious.” Unquestionably, the cases of Rwanda (1994), DR Congo (1996-2000), and Darfur (2003-2005) precisely show that both the recognition of mass atrocities as a genocide and the authorisation by the UN Security Council of a forcible response are always in short supply when they are most needed, unless high stakes of most if not all its permanent members are involved. When I pointed out this, my respondent referred me back to the R2P and cautiously specified as follows: “I think in extreme cases we might be able to accept that the General Assembly or a coalition of States act if it is a clear case to prevent genocide ... Maybe that has to be on an ad hoc basis.” He gave the example of his country's support to NATO-led military action against the Serbs to prevent them from committing further ethnic cleansing against the Albanian population in Kosovo in the spring of 1999, precisely when similar mass atrocities were taking place in the DR Congo! In the case of the mass atrocities of Darfur which unfolded when the CFSP was entering its tenth year and its ESDP backbone was about to be declared operational, the Swedish diplomat precisely blamed the inaction or little action of the EU on the lack of a UN formal recognition of the crimes as a genocide:

First of all, I'm not aware that we have said clearly that 'This is genocide'. Sweden has not. I think the US Congress has perhaps made some statement in this regard, but Sweden has not clearly...I think there has been some legal attempts to try to find whether this is genocide or not, or if what's happening there

is genocide, but we have not come to a conclusion. (Anonymous 2008, interview, 19 May).

Certainly, the materialisation of either option (UN Security Council mandate or a UN General Assembly/Coalition of States mandate) for meeting the first condition for a forcible action for human protection purposes requires the EU to have a unique and strong voice at the UN. Lamentably, the EU is in this respect much weaker than its CFSP reference documents might suggest by requiring Member States to “coordinate their action in international organisations and at international conferences” and to “uphold the common positions in such forums.” (TEU, art. 11(1)). In particular,

Member States which are also members of the United Nations Security Council will concert and keep the other Member States fully informed. Member States which are permanent members of the Security Council will, in the execution of their functions, ensure the defence of the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter. (TEU, art. 11(2)).

This coordination imperative is important because prior authorisation by the UN Security Council is the most important of the aforementioned three unwritten conditions for any EU enforcement of human protection in favour of third party victims. During interview, all my respondents attributed the lack of timely and decisive response by the EU to gross violations of human rights in third places to the absence of a UN mandate. The recurrent example was Darfur (Sudan). To one Head of Unit (at the Council) who too evoked the absence of agreement at the UN Security Council, I simply asked: “Why then does the EU not campaign at UN Security Council for strong measures including military interventions to be timely taken?” His reply was straightforward:

It is difficult because, first, the two countries on the UN Security Council [France and UK] do not coordinate their policies there and actually the EU as such does not have a common voice at the UN but rather as many voices as Member States. Second, those countries that are the target of possible intervention are also members of the UN and some have effective lobbying capabilities. Sudan is one example: because of its economic relations with China, it has succeeded in blocking any UN Security Council’s decisive action against it. (Anonymous 2008, interview, 20 May).

One representative of Sweden to the EU too regretted the absence of coordination between the two Member States of the EU with a permanent seat on the UN Security Council in the following terms:

[...] if we have faith in the CFSP of the EU, in the long run it's a bit of anomaly that two countries are permanent members of the Security Council without coordinating their policies with the rest of us. They don't. UK and France do not coordinate. That's an exception, you know, there is an exception to the CFSP when it comes to the Security Council. Because there the EU does not have a coordinated view, which is quite strange. That's why we have said in the past that it would make sense for the EU to have a seat on the UN Security Council rather than individual EU members. (Anonymous 2008, interview, 19 May).

To one senior diplomat at the CFSP, I put a similar question: "Does not the requirement of a prior mandate by the UN imply that, for the EU, the first thing to battle for is to have a permanent seat at the UN Security Council who would make the voice of the EU duly heard and taken into consideration?" His answer could not be more diplomatic: "Yes, that's nice; but ask the Permanent Members of the UN Security Council!" As I insisted on having his own view as an EU diplomat, he elaborated:

They don't want to give their seats! [Long silence] We have moved along in CFSP matters but do not forget also that there are still national diplomacies, especially for the bigger countries, which are of course very dear to them. We're trying increasingly hard so that European Members of the UN Security Council see their position in the European context and we try to move towards some joint approach in the Security Council but in the end it remains the national decision. (Anonymous 2007, interview, 3 October).

When I asked him if he could think of the day when the EU would have one voice at the UN Security Council, he diplomatically responded: "Yes, but let's talk in a fifty year time." The fore-cited Swedish representative too was quite pessimistic about that possibility, assuming that the two countries concerned would veto any EU decision in that direction. These testimonies clearly suggest that fulfilling the other two conditions (Decision by the European Council and Decision by National Parliaments) is equally difficult if not impossible, unless core self-interests are involved. Sweden's representatives to the EU informed me that until May 2008, the Darfur case had not been really on the agenda of the CFSP-ESDP and had never been really an issue where the EU was going to do it alone. They told me that the vehicle for Darfur had always been the UN and the AU. A senior diplomat at the Council of the EU pointed out that "sending troops into Darfur would be extremely politically risky" for any EU Member State government (Head of Unit at Council 2007, interview, 3 October). One senior EU official simply retorted to me: "Why should the EU intervene in Sudan?" Very surprised, I reacted: "Because of the same fundamental values at the core of the European

project!" He was on his turn very surprised by my innocence and clarified the matter once for all as follows:

In theory, it is easy to say and campaign. In practice, no one considers sending troops to Sudan against the will of Sudanese government. The Responsibility to Protect is like a religious statement: in real life, no Member State can put its troops at high risk in a country where it does not have interests. Any government doing that would face its own voting constituencies back home and hardly survive politically speaking. (Head of Unit at European Commission 2008, interview, 20 May).

The official indicated that "forcible military interventions are an option that in practice the EU will use on very limited occasions and in which common interests are clearly identified and will be used." He explained that this is the case partly because the EU does not have its own army but rather relies on troops of Member States who cannot commit them without prior authorisation of their national parliaments. The official summarised the position and *modus operandi* (approach) of the EU concerning forcible intervention for human protection purposes as follows:

In principle, we agree to intervene on humanitarian grounds. In practice, we do it with local actors. We do it in accordance with international law. This was the case of EU operation in Congo [Operation Artemis in the DR Congo] and now in Chad. This is also why we do it in agreement with and support to the UN and African Union. The EU cannot intervene in Zimbabwe against the will of Zimbabwe, its influential neighbours, or the African Union. (Head of Unit at European Commission 2008, interview, 20 May).

In terms of **clarity**, the norm-setting documents that were applicable during the period under review were so vague and open-ended that it was impossible even for insiders to spell out the scope of the CFSP. To every EU official I interviewed, I put the following two-fold question: "*According to the Treaty provisions, the CFSP covers 'all areas of foreign and security policy', and 'all questions related to the security of the Union': (a) what are those areas and questions? (b) Why are those areas and questions unspecified?*" To the first part of the question, they all told me that at any time any matter could be of the CFSP realm if Member States decided so. An EU official working in the Council's Policy Unit simply advised me to check up in documents and concrete decisions of the CFSP: "You should look at the instruments used and see which areas and issues are addressed," she said. "In particular, you have to look at the EU Security Strategy as it gives details on the scope of the CFSP." (Anonymous 2007, interview, 3 October). Her reference to the European Security Strategy is quite revealing, because the

Union adopted its first Security Strategy ten years after the entry into force of the CFSP. Moreover, the ESS did not spell out the aforementioned conditions for an EU forcible action for human protection purposes. In the 2008-updated version, the EU simply undertook to advance the agreement reached at the 2005 UN World Summit that all members of the international community “hold a shared responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.” (Council of the European Union 2008e: 12). Only interviews with EU decision makers and analyses of individual cases help discern some of the criteria for a possible EU action in response to “gross and systematic violation of human rights that offend every precept of our common humanity”. All EU officials and representatives of its Member States I interviewed acknowledged this lack of clarity. Most of them did not consider it a source of concern and actually defended it. To all my interviewees I put the following question: “Are you personally or your country [in the case of diplomats at permanent representations of Member States to the EU] comfortable with that lack of precision?” Diplomats from Member States unequivocally approved and defended the ambivalent wording as **the price for every Member State to adhere to and support the CFSP project**. One British diplomat simply ruled out the possibility of a crystal-clear conscription of the scope of the CFSP due to the differences of foreign policies among Member States (Anonymous 2007, interviewed on 9 November). Senior staff at the Political Affairs Unit at the permanent representation of Germany to the EU explained to me that leaving the CFSP flexible was the only realistic way to make it acceptable to all Member States because in some of them there exist(ed) constitutional barriers to handing over sovereignty on some specific matters. In their view, the *in-built ambiguity* over the scope of the CFSP made every Member State feel comfortable and allowed any of them to propose any matter they would consider to be of the CFSP (Anonymous 2007, interview, 5 November). For this reason, they explained, it would have been unrealistic and counterproductive to place the CFSP under the roof of the Commission because of the latter’s strict rules, exclusive right of initiative, and its large independence from Member States. For Sweden’s representative to the EU, the ambivalence over the scope and criteria and conditions of the CFSP was

not a matter of concern as long as it did not cross his country's red line on defence matters:

Our limits have been on the defence side. That is where our limits are. We do not see the EU developing a common defence for us for instance. That is where our red lights are as a non-alliance country. This is the limit for us. We're not a NATO member; we are also sceptical about the EU working on Common Defence. (Anonymous 2008, interview, 19 May).

Another argument of Member States' representatives in defence of the ambiguity and open-endedness is what they referred to as the *unpredictability* of Foreign Policy. The fore-cited British diplomat argued that themes of foreign policy change so often that writing down them once for all would not be realistic and probably many Member States would oppose it; for each would like to have its view fully reflected in the Treaty. He suggested that no one even tried to write down the scope because it would be futile. He gave the example of 'climate change', recalling that, a few years before, it had been absent from foreign policy, but by then had come to the centre of any foreign policy discussions within and outside the EU. In a similar vein, an EU official working in the Policy Unit of the Council explained and somehow justified the lack of clarity in the Treaty provisions for the CFSP in terms of the geopolitical context that was prevailing at the inception of the CFSP. According to her, the Berlin Wall had just fallen, Germany had been united, and the Cold War had just ended; so there was a new security context and new security challenges that at that time no one really knew what foreign and security policy meant for the EU. She told me that Member States did not know for sure the common foreign and security issues and matters that had to be covered. Therefore, she said, Member States preferred, out of caution, to leave the scope of the CFSP flexible enough for any subsequent amendments in the future to be easy to make (Anonymous 2007, interview, 3 October).

Admittedly, there is a valid point in the argument of my two respondents as far as *open-endedness or flexibility*, but definitely not *ambiguity*, is concerned. Usually, intentional vagueness and open-endedness – more referred to as “constructive ambiguity” – is just one strategy for securing agreement and advantages on hardly negotiable points (Bell and Cavanaugh 1998; Klieman 1999); or for “experimentation and learning” (Inkpen and



Choudhury 1995). However, in the case of the negotiations for the creation of the CFSP, resorting to imprecision was largely inherent to the hybrid, *sui generis* nature of the EU: neither an intergovernmental organisation nor a federation of States. It was not the best strategic option, but rather the only option for Member States to reach some sort of an agreement, be it, as was actually the case, for only offering guidelines. Open-endedness of the CFSP was problematic because of the excessively ambiguous wording of its scope that made any agreement extremely difficult not just for new inputs but also for the interpretation of the original Treaty provisions. The main if not sole underlying motive was not the accommodation in advance of future adjustments in response to possible humanitarian imperatives. The aim was rather to secure the acceptance of the CFSP to each and all Member States and its absolute political control and strategic direction, at both the national and EU levels, by Member States. This underlay the requirement of **unanimity of all Member States** for the vote of all legally binding decisions, except implementing decisions, of the CFSP. In fact, the crystal-clearness and delineation of the scope of other common policies exclusively under the rule of the EU Commission, such as Trade and Agriculture policies, never impeded any updating of those policies. Therefore, the price for establishing a common foreign and security policy was to make it as less common as required by the unique nature of the EU and not by the unpredictability of foreign policy itself; and the use of an ambiguous language perfectly served that purpose. One main consequence of this somehow existential politics of ambiguity is that the extreme difficulty to accurately discern and fairly assess in theory and practice the essence and modus operandi of EU foreign and security policy. Following the inception of the CFSP in 1993 and of its operational backbone ESDP six years later, various scholars underlined this problem and offered different solutions (Peterson and Sjursen 1998; Larsen 2000; Hill 2003; Bono 2004; Carlsnaes 2004). As indicated in the first chapter, this thesis has opted for using the *three-level analytical framework* of the *policy network model* developed by Peterson (1995), and for reinforcing it with the CR approach.

## Strong and sustained political commitment

The acquisition and actual use of adequate resources for human protection largely depend on the political will and commitment of the highest decision makers nationally, regionally and internationally. In this respect, the dispatch and deployment in Rwanda of poorly trained and equipped UN troops, with the exception of the Belgian battalion, and the UN decision to reduce them to a minimal presence, rather than reinforcing them, at the height of the 1994-genocide are very illustrative. For a solution, the fore-cited research studies and policy evaluations recommended *unreserved and sustained political commitment to the protection of populations from genocide and other gross and systematic violations wherever and whenever circumstances on the ground would so require* (Vassal-Adams 1994; Carlsson et al. 1999; Eriksson 1996; Millwood 1996; UNDPKO 1996; IPEP 2000). However, attempts to materialise this recommendation have fallen short of the expectations. On the international level, the reduction of the original R2P report to a mere and unprecise protection clause that was included in the 2005 Millennium Declaration remains so far the most emblematic example of the failure. On the EU level, we have shown in the preceding section that because of the primacy of national self-interests mainly, EU Member States were only able to afford a soft and ambiguous CFSP. For the same reason, the EU did not mention the R2P in the first European Security Strategy adopted in 2003 and only did so laconically in the revised version adopted five year later. This implies that the CFSP per se inherently reflects limited and conditional political commitment of Member States towards each other, first, and the rest of the world, second. The more common high stakes a real or potential human tragedy involves, the more and sustained collective political commitment the CFSP is likely to galvanise for its prevention or mitigation. In practice, this can only translate into *selective collective political commitment to the R2P in third places*. In the ESS, the EU clearly earmarked four geographical areas for its primary concern. These are in a hierarchical order the following: Balkans, Southern Caucasus, Middle East, and the Mediterranean Area and Arab World in general (Council of the European Union 2003b: 8). Regarding the Balkans, the 2003-ESS stated: “The

credibility of our foreign policy depends on the consolidation of our achievements there.” On the other hand, the signatories of the document called for “a stronger and more active interest in the problems of the Southern Caucasus, which [would] in due course also be a neighbouring region.” Member States identified the resolution of the Arab/Israeli conflict as “a strategic priority for Europe” and an indispensable condition for “dealing with other problems in the Middle East.” They decided that the EU “must remain engaged and ready to commit resources to the problem until it is solved.” (Council of the European Union 2003b: 8). Sub-Saharan Africa, which in EU's own words was “poorer” in 2003 than it had been 10 years before (Council of the European Union 2003b: 2), was left out of the geographical strategic priorities of EU foreign and security policy. The DR Congo was not an exception despite being included in that same document and along the Balkans and Afghanistan as one of the places where the “European Union and Member States ha[d] intervened to help deal with regional conflicts and to put failed states back on their feet” (Council of the European Union 2003b: 6). Whereas the first legally binding response of the CFSP on the DR Congo was adopted three years after the entry into force of the Treaty provisions on the CFSP (Joint Action 96/250/CFSP), a similar initiative on former Yugoslavia was enacted only one week (8 November 1993) following the entry into force of the CFSP. It concerned the EU support for the conveying of humanitarian aid in Bosnia and Herzegovina (Council Decision 93/603/CFSP). By contrast, calls for a preventive international peacekeeping force to ensure security in and around the Rwandan refugees camps in eastern Zaire and to relocate armed constituencies in the camps farther inside Zaire, far away from the zone bordering the country of origin, were ignored, despite repeated clear warnings of a looming regional conflagration – the First Congo War - with unimaginably grave consequences (Ajello and Richard 2000; Prunier 2009; Reyntjens 2009).

Moreover, by means of Common Position 97/356/CFSP adopted on 2 June 1997 a month after the First Congo War had officially ended, the Union outlined the *principles and guidelines of its stance on conflict prevention and resolution in Africa*, which by extension applied also to the DR Congo. By that legal act, the Union certainly stated that prevention and resolution of conflicts

in Africa were among its priorities. However, the Union confined its role to **supporting** conflict prevention and resolution efforts by other actors; mainly by Africans, African regional and continental organisations and the United Nations. In that document, the EU expressly earmarked **prevention** and **post-conflict rebuilding** as constituting its main if not sole concerns. By so doing, the Union deliberately excluded from target situations of its possible forcible intervention the most destructive stage of violent conflict, that is, the stage of escalation and intensification of physical violence including mass atrocity crimes, when precisely maximal and unequivocal commitment is most needed for saving lives. Accordingly, the majority of CFSP-born responses to the two wars, in general, and to their respective peaks of large-scale violence, in particular, were non-legally binding political acts, in particular Declarations. I have documented this in detail in the two preceding chapters. One would have expected more legally binding decisions and actions, not least because, contrary to most non-legally binding outputs presented and analysed herein, they all had a Treaty base in the provisions for the CFSP and therefore committed far more the Union and its Member States. Besides, all legally binding responses, with the exception of the nomination of the EU Special Envoy and Representative to the Great Lakes Region, to any stage of either of the two wars were subsidiary contributions upon request of the UN and or the government of the DR Congo.

| CFSP-based response to conflict in the DR Congo (1994-2009)  |       |                       |   |                   |           |     |                             |                  |               |                |    |     |
|--|-------|-----------------------|---|-------------------|-----------|-----|-----------------------------|------------------|---------------|----------------|----|-----|
|  |       | Timeline              | Non-legally binding decisions and actions |                   |           |     | Legal decisions and actions |                  |               |                |    |     |
|  |       |                       | General Principle and Guidelines *        | CFSP Declarations | Demarches |     | Common Strategy             | Common Positions | Joint Actions | CFSP Decisions |    |     |
| First Congo War  | EWP   | July 1994- Sept. 1996 | 3   | 2                 | 0         | 5   | 0                           | 0                | 1             | 1              | 2  | 7   |
|  | CM    | Oct. 1996 - May 1997  | 1   | 5                 | 0         | 6   | 0                           | 0                | 2             | 2              | 4  | 10  |
|  | PCSPB | June 1997 - Aug. 1998 | 1   | 3                 | 2         | 6   | 0                           | 2                | 1             | 3              | 6  | 12  |
|  |       |                       |   | 5                 | 10        | 2   | 17                          | 0                | 2             | 4              | 6  | 12  |
| Second Congo War   | EWP** | June 1997 – Aug. 1998 | 1   | 3                 | 2         | 6   | 0                           | 2                | 1             | 3              | 6  | 12  |
|  | CM    | Aug. 1998 - Dec. 2002 | 3   | 33                | 45        | 81  | 0                           | 4                | 4             | 2              | 10 | 91  |
|  | PCSPB | Jan. 2003- Dec. 2009  | 9   | 27                | 28        | 64  | 0                           | 9                | 31            | 19             | 59 | 123 |
|  |       |                       |   | 12                | 60        | 73  | 145                         | 0                | 13            | 35             | 21 | 69  |
|  |       |                       | 17  | 70                | 75        | 162 | 0                           | 15               | 39            | 27             | 81 | 243 |
| <p>* Number of EU Summits that addressed issues directly related to the conflict in the DR Congo.</p> <p>** The one-year period of Post-Conflict Peacebuilding for the First Congo War (June 1997 - August 1998) was an inter-war period and therefore served for early warning and prevention for the Second Congo War. The corresponding CFSP decisions and actions are included in the overall total sum only once.</p> <p><b>EWP:</b> Early Warning and Prevention</p> <p><b>CM:</b> Conflict Management</p> <p><b>PCSPB:</b> Post-Conflict Settlement Peacebuilding</p> <p><b>N.B.:</b> For the PCSPB phase of the first war, the EU did not adopt any Common Position on the DR Congo and or Great Lakes. The two CPs recorded in this table concerned Africa in general and only by extension can be applied to our case study.</p> |       |                       |   |                   |           |     |                             |                  |               |                |    |     |

Overall, these findings clearly show that during the period under consideration, the CFSP largely reflected limited and selective collective political commitment to the R2P in general and with regard to Sub-Saharan Africa and the DR Congo in particular. As such, it did not live up to one of the key recommendations of research studies and policy reports on the failed

humanitarian interventions in the Balkans and Rwanda in the 1990's: unreserved and sustained political commitment to the protection of populations from mass atrocity crimes across the globe. One of the main reasons was the primacy of self-interests at the national and EU levels.

## **Appropriate knowledge, skills, and foresight**

Much of the Conflict Resolution and 'lessons learnt' literature mentioned in the preceding sections underlined the *lack of appropriate knowledge, skills and foresight* as one of the key factors that led to the failure of third party humanitarian intervention in the Balkans and Rwanda. The claim is that third parties failed to properly grasp and analyse the dynamics of the violent conflicts in those places and to foresee otherwise foretold and preventable tragedies. For a solution, the literature suggested *human and material capacity building for appropriate information gathering and analysis*. Two specific solutions were strongly recommended: (i) *Professional training and recruitment of qualified and competent staff* and (ii) *establishment of early warning and prevention systems and mechanisms*. My findings suggest that, during the period under consideration, the EU largely took on board the recommendation for *human and material capacity building for appropriate early knowledge, warning, and prevention of deadly conflicts*. With the adoption, on 2 October 1997, of the Treaty of Amsterdam and its entry into force on 1 May in 1999, a permanent post of the High Representative for the CFSP, who at the same time was the Secretary-General of the Council, was created and a policy unit, Policy Planning and Early Warning Unit, came into being. Housed in the Council Secretariat and under the responsibility of its Secretary-General and High Representative for the CFSP, the mandate of the unit was to gather and analyse information on potential and actual violent conflicts and to recommend courses of action by the Union. Besides, the Treaty of Amsterdam provided for the Council to appoint, whenever it would deem it necessary, a special envoy/representative of the Union on CFSP matters. The mandate of the special envoy or representative and her/his team include information gathering and analysis on the ground and suggestions for policy formulation at the CFSP Headquarters. As indicated

earlier, the EU appointed its first Special Envoy for the Great Lakes Region in March 1996, seven months to the outbreak of the First Congo War (JA 96/250/CFSP, 25 March 1996). Unquestionably, the inception of the ESDP in June 1999, only one month after the entry into force of the Amsterdam Treaty; the adoption, four months later, of the Helsinki Commitments to implement it; and its swift institutional and operational strengthening from 2001 onwards constituted the most relevant and important delivery on capacity and capability building for EU response to violent crises and conflicts over the period under scrutiny. The ESDP Committee for Civilian Aspects of Crisis Management (CivCom), incepted in 2000 and composed of only representatives of EU Member States, provided room for inputs from non-state actors, in particular the Civil Society, for policy shaping and implementation. Such participation covered the training and recruitment of civilian experts (European Peacebuilding Liaison Office staff, interview, 5 November 2007). By the year 2007, the EU had put together some 15-battle groups for autonomous rapid response to crises and violent conflicts at any stage and over 1.6 million civilian personnel specialised in four priority areas of civilian action: *police; strengthening the rule of law; strengthening civilian administration and civil protection.*

In relation to the case study of this research, the findings herein presented clearly show that CFSP-based decisions and actions in response to violent conflicts and mass atrocities in the DR Congo during the period under review (1994-2009) included and prioritised strengthening knowledge, capacity, and skills of state institutions and staff in these four areas. In particular, three of the often praised five missions of the EU in the DR Congo (EUPOL 'Kinshasa', EUPOL RD Congo, EUSEC RD Congo) focused on reforming and training the armed and security forces so that they could be the guarantor of security and safety instead of being source of all the wrongs as had been the case for decades. They also focused on the interaction of the police with the population and the judiciary, and their democratic governance and accountability with a view to enhancing their knowledge and handling of violent human and social behaviours.

However, our findings also reveal that the design and development of these human, institutional, and material resources of the CFSP and their actual use in response to the two Congo Wars had two important and related shortcomings. On the one hand, they reflected much more the interveners' worldviews, values, and security concerns than those of the intervention target societies. On the other, they are state-centred both in the outset and in the outlook. The CFSP and in particular its operational spine ESDP were an exclusive realm of EU Member States. The participation of the Civil Society could only occur when and where Member States would find it 'appropriate' and 'relevant' to the strategic objectives of Union (EPLO Staff 2007, interview, 5 November; EU Council Staff (Unit for Horizontal Issues) 2007, interview, 2 October). *More importantly, their actual intervention focused on the (re)building of the central state to the detriment of the (re)building communities and the recovery of the society being intervened.* As pointed out earlier, various academics rightly consider this approach emblematic of the dominant neoliberal approach to intervention in violent conflicts and partly or entirely responsible for the failure of international peacebuilding in many places (Cooper, Turner, and Pugh 2011; Francis 2012), including the DR Congo (Daley 2006). *The original contribution of this thesis is a thorough scrutiny, through the lenses of Conflict Resolution, of the key reference documents and concrete decisions and actions on one of the most cited cases in this regard: the DR Congo.*

## **Need-tailored, sufficient, and timely response**

Research studies and policy reports on the horrors in the Balkans and Rwanda in the nineteen nineties convincingly established that the failure of third party intervention for human protection purposes there was also, if not mainly, due to irrelevant, insufficient, and late responses. Their main recommendation was *need-tailored, proportionate, and timely responses* before, during, and after violence escalation (Millwood 1996; Annan 1999; Carlsson et al. 1999; IPEP 2000). *According to the findings herein presented, the CFSP-based decisions and actions to the tragedy in the DR Congo varyingly meet these three criteria.* By the standards of the Human Need



Theory reviewed earlier in the chapter on the theoretical framework, **they overall were need-tailored** because they were directed to genuine and pressing needs. In particular, they were intended to help address three of the “four essential human freedoms” that President Franklin Roosevelt once articulated in his famous annual address to the US Congress on 6 January 1941: *freedom from fear, freedom from want, and freedom of speech and expression* everywhere in the world (U.S. National Archives and Records Administration 1941). In most, if not all, the decisions and actions under the CFSP on the two Congo Wars, the EU strongly called for and defended the *physical and moral integrity, safety, dignity, and freedom of movement and expression* of the millions of innocent victims of the human rights abuses and mass atrocity crimes. In each and all the 243 legal and non-legal acts herein reviewed, the EU condemned, through its CFSP, all forms of violence and violations of human rights and humanitarian law, particularly mass atrocity crimes committed in the DR Congo during the time span of this research. Through the operational backbone of the CFSP, the EU provided direct protection to civilians from physical violence. This was specially the case through the conduct of two military operations (ARTEMIS and EUFOR DR Congo) and assistance to the UN peacekeeping force in the DR Congo. Some CFSP decisions also established arms embargo and restrictive measures against specific spoilers of the peace process (CP 2002/829/CFSP; CP 2003/680/CFSP; CP 2005/440/CFSP). Other measures conditioned the assistance of the EU to the country to proven commitment of its leaders to basic democratic principles, good governance, and to the rule of law (CP 2003/319/CFSP). Various CFSP legal and non-legal acts supported the reform, professionalisation, and democratisation of the country’s armed and security forces and their interaction with the judiciary system. This was markedly the case through the dispatch of three civilian operations - EUPOL Kinshasa, EUPOL DR Congo, and EUSEC DR Congo - all of which I have accounted for in detail in the two preceding chapters. Besides, various CFSP initiatives defended the provision and protection of humanitarian assistance to the neediest persons and constantly called on the authorities of the country to promote and protect the freedoms and rights to all the nationals of the country regardless of their regional, tribal, ethnic, or

migratory origin. Other basic needs such as those related to *identity* and *recognition* were also object of various CFSP deliberations such as those that addressed the protracted problem of ***nationality***, ***ethnicity***, and ***tribalism***. Indeed, constant politicization and manipulation of this problem had led to recurrent social and communal tensions and violent confrontations, particularly in the eastern provinces of the country (UNECOSOC 1994, 1996, 1997; Prunier 2009; Reyntjens 2009; Lemarchand 2012). Hence, in one Common Position adopted in support of the Inter-Congolese Dialogue for the establishment of democracy, good governance, and rule of law, the EU underlined the following:

Agreement on transition and its institutions should in particular address the key issues of Congolese nationality and the new organisation of the army and of the State with a view to the full restoration of representative democracy as an essential guarantee for the country's lasting and equitable development. (CP 2002/203/CFSP, art. 5).

Finally, the highest decision making level of the CFSP, that it is the European Council, constantly called for and pledged support to the organisation of an international conference on peace, stability and development in the Great Lakes Region from as early as 1996 (European Council 1996a; European Council 1996b; European Council 1997). Its calls had strong echo at the UN level, particularly through two Security Council resolutions (S/RES/1291 (2000); S/RES/1304 (2000)). The latter underlined “the importance of holding, at the appropriate time, an international conference on peace, security, democracy and development in the Africa’s Great Lakes Region under the auspices of the United Nations and of the OAU, with the participation of all the Governments of the region and all others concerned” (S/RES/1304 (2000), para. 18). The calls yielded fruit in 2004 when the International Conference on the Great Lakes Region (ICGLR) was established as an intergovernmental organisation. According to its founding declaration, its main goal was to combine and integrate regional visions and endeavours towards lasting peace, good governance, and socio-economic development for the region (Al Bashir et al. 2004). Some analysts have advanced that the ICGLR originally much emulated the Conference on Security and Cooperation in Europe – CSCE (Heyl 2010).

On the other hand, our findings clearly show that by the standards of Conflict Resolution and recommendations of research studies on and policy evaluations of failed humanitarian interventions of the nineteen nineties, the CFSP response to the two Congo Wars was **insufficient**, particularly **in qualitative terms**. Concerning the First Congo War, its *prevention* required sufficient and sustained support to weakened state and non-state institutions and organisations and to the democratisation process long before the massive arrival and settlement of Rwandan refugees on the Congo-Rwanda border. Following the arrival of those refugees, the prevention of the First Congo War required the creation of the conditions that were indispensable for their voluntary repatriation, settlement, relocation, and resettlement in dignity and safety. Various authoritative voices timely made many and constant appeals and viable options for decisive action in this regard (US Department of State 1994; UN General Assembly 1995; UN Security Council 1995a, 1995b, 1995c; Amnesty International 1996a, 1996b, 1996c; ECOSOC 1996; UNHCR 1996a, 1996b, 1996c, 1996d, 2000; UN Security Council 1996a, 1996b, 1996c; USCRI 1998; Odom 2006). However, the CFSP followed the suit of the key decision-makers of the UN Security Council and, in most instances, opted for **procedural and declaratory foreign policy and the provision of humanitarian aid**. The most important initiative of the CFSP during the prevention phase of the First Congo War was the appointment, on 25 March 1996, of Mr. Aldo Ajello as the first EU Special Envoy for the African Great Lakes Region (Joint Action 96/250/CFSP). As Samyn (1997: 9) sustains, that appointment “provided an instrument for joint analysis and for more concerted action in the region.” In his first report filed on 30 May 1996, Ajello warned EU authorities of the worsening situation on the ground and of the likeliness of a pre-emptive military action by Rwanda against refugee camps if the international community continued to prove unwilling or unable to prevent further rearming of defeated Rwandan armed forces and militia (Samyn 1997: 9). For a solution, Ajello essentially retook the proposal of the UN Secretary General that consisted of two complementary actions. On the one hand, he proposed the deployment of UN military observers in and around refugee camps areas, at airports, and Zaire-Rwanda borders. On the other, he suggested the isolation of political

and military leaders from refugee camps with a view to neutralising their control over ordinary refugees and to identifying refugees' political representatives with whom the post-genocide Rwandan government could negotiate a political settlement. He even promised EU aid to the Zairian government to tackle the problem of intimidation in refugee camps (Samyn 1997: 9). However, his proposal, like that of the UN Secretary General, and his pledge of EU contribution, remained just a proposal. The EU, like other key international actors, rather supported the least bad alternative of local contingent policing force whose initially promising performance soon faded away due essentially to its lack of discipline and its political instrumentalisation (UNHCR 2000). The remainder of CFSP-based response to early warnings and appeals for preventive action were *Principles and General Guidelines* and *Declarations* (European Council 1995a; European Council 1995b; European Council 1996a). As Samyn (1997: 8-9) puts it,

For more than a year [1994-1996], the only political response to the increased danger of regional destabilisation was the support of the EU to the organisation of the regional conference for peace and security in the region [...], as well as to the work of the International Tribunal [for Rwanda].

The findings presented in the fifth chapter show that upon the outbreak of the First Congo War, it immediately became clear that the Rwandan troops and their allies were specifically targeting the refugee camps and that incessant calls were made for decisive action for the protection of the refugees. After wearisome deliberations, the UN Security Council voted a multinational force (MNF) on 15 November 1996 (UNSCR 1080 (1996)) the mandate of which was to facilitate the delivery of humanitarian aid and to protect the refugees and war-displaced persons in eastern Zaire "by using all necessary means". Notwithstanding, the force was aborted one month later under the pretext that the bulk of the refugees had returned to their home country amid the fighting and consistent reports and accounts of systematic and large-scale massacres of unarmed refugees and local populations suspected of sympathising with them (Prunier 2009; Reyntjens 2009). The most significant CFSP response was the adoption of Joint Action 96/669/CFSP and Decision 96/670/CFSP by which the EU committed itself to contribute to that force under the umbrella of the Western European Union. Against all expectations, the EU did not take any Common Position (CP) regarding the armed conflict,

the country, or the region. Nor did it take any restrictive measures against any of the belligerents. This was mainly due to two related factors that much of the literature reviewed in the first chapter of this research ignored or undervalued in favour of the much-noted neoliberal motives. These are the lack of experience and benchmarks in hard power in international politics, on the one hand, and the diverging views and interests of key Member States, on the other. The testimonies of the first EU Special Representative to the region leave no single doubt. On the first ground, he and his team had to start completely from the scratch in their attempts “to draw up a comprehensive strategy for Europe in the region [of the Great Lakes] and eventually in Africa.” (Ajello and Richard 2000: 118). This justification is tenable because until after the end of the Cold War, the EU did not exist and its predecessor, the European Community (EC), had been carrying out ‘soft’ foreign policy. In the case of (Sub-Saharan) Africa, Caribbean, and Pacific (ACP) countries, that ‘soft’ sovereign policy consisted of trade, commercial, and development aid relations through the Yaoundé Conventions (1964-1975) and the Lomé Conventions (1975-1999) the scope of which excluded political situations in aid recipient countries (de Wilde d'Estimael 2000: 68). Likewise, the predecessor of the CFSP, European Political Cooperation (EPC), which was supposed to address such aspects, was a foreign policy consultative and coordination framework that Member States used to exchange information and views and to make some political declarations and demarches (European Communities 1988; Permanent Representation of France to the EU 2008; Solana 2009a, 2009b, 2009c, 2009d). The context of the Cold War rivalries, the existence of close ties between most decolonised countries and their former colonial masters, and the power struggle between the latter within the EPC altogether rendered impossible any significant common foreign policy for Sub-Saharan Africa, except for South Africa whose Apartheid regime was the target of sustained coercive political action by the EPC (de Wilde d'Estimael 2000: 68-69). Concerning the second factor, some EU Member States did have, individually, long-standing ‘hard’ foreign policies and/or clear strategic plans towards the region and its individual countries. These Member States included Belgium - the former colonial power of Rwanda, Burundi, and the DR Congo - and France - the

main European protector of President Mobutu's neopatrimonial and predatory regime. When Mobutu became strategically useless for the West as a result of the end of the Cold War (Braeckman 1995; Lemarchand 2001; Nzongola-Ntalaja 2002; Tshiyembe 2003; Daley 2006; Prunier 2009), his Western protectors could not swiftly agree on the way forward. Belgium and the United States wanted a swift regime change without Mobutu (Willame 2000: 181-2); whereas France wanted him to lead the democratic change not only in his country but also in the whole region, particularly in the aftermath of genocide in Rwanda (Lanotte 2003: 213-15; Tshiyembe 2003: 94). Precisely, the surprising magnitude of the Rwandan genocide, its aftermath, and its continent-wide geostrategic implications for key Western powers simply made it more unlikely for EU Member States to have any *common position* for the *prevention* and or *management* of the First Congo War. In the words of the first EU Special Envoy to the region, "The positions were varied and often completely contradictory especially on Rwanda, but also on Burundi." (Ajello, as quoted in Misser 2007: 4). Hence, following the armed attacks on Rwandan refugees and reports of repatriation of some of them, France was almost left alone by most of other EU Member States in its sustained defence of the UN multinational force (MNF) to protect refugees in eastern Zaire. The Netherlands and the United Kingdom for instance were against the force and any eventual contribution of the EU to it; thus echoing the United States' argument that the force was no more necessary (Lanotte 2003: 233).

The CFSP-based contribution to **post-conflict building** following the end of the First Congo War too was **insufficient**. After the AFDL rebel forces ousted President Mobutu and took power in mid May 1997, their dictatorial and repressive ruling style was immediately unveiled and constantly denounced by the most credible sources. The new Congolese government rapidly excelled in repression of political opponents and critical civil society. It blocked UN-commissioned investigations into the atrocities committed before, during, and immediately after the First Congo War (UN Security Council 1998a). It also suspended and expelled humanitarian workers. At the same time, further systematic and massive atrocities were being committed particularly in the eastern provinces where an unofficial war continued until the outbreak of the second war on 2 August 1998 (Amnesty International

1997, 1998; PHR 1997; UNECOSOC 1998; USCRI 1998). However, the reaction of the EU under its CFSP was mostly **declaratory diplomacy**. The most valuable policy initiatives were the two Common Positions by which the Union legally established, at last, the **principles, guidelines, priorities**, and the **approach** of its contribution to *conflict prevention and resolution in Africa (CP 97/356/CFSP)* and to *human rights, democratic principles, the rule of law and good governance in Africa (CP 98/350/CFSP)*. Both legal acts fell short of expectations by both Conflict Resolution criteria and lessons from the failure of the international community to protect populations in the Balkans and Rwanda in the 1990s. With reference to the *conflict intervention continuum (prevention – management – rebuilding)*, the EU explicitly excluded *management* from its focus despite the fact that in the majority of violent conflicts, most mass atrocities are precisely committed during that phase. Besides, the Union confined its role to supporting efforts by other actors, in particular the UN and African and regional organisations. Concerning the important issue of *human rights, democratic principles, rule of law, and good governance in Africa*, the Union failed to establish a threshold, be it general, beyond which it would not tolerate gross violations of human rights and humanitarian law. Establishing such threshold would have sent an unequivocal warning to rogue governments and individuals involved in such violations as was being the case in the DR Congo.

In the same way, the CFSP response to the Second Congo War was **incommensurate**. For *early warning and prevention* (June 1997 - August 1998), which was the post-war period of the First Congo War, I have just recalled in the preceding section how that response was deficient. For *conflict management* (August 1998 - Dec. 2002), the most important initiatives that the EU enacted under its CFSP were **four Common Positions, four Joint Actions**, and **two Decisions**. All of them expressed the EU stance and its political, diplomatic, and technical support to the Lusaka Ceasefire Agreement, the Inter-Congolese Dialogue and the resulting Global and Inclusive Agreement and its implementation. That contribution was insufficient because blatant abuses of human rights went on unabated throughout the four-year-period (Amnesty International 1998; Human Rights

Watch 1998, 2000; UN General Assembly 1998, 2002), causing directly or indirectly the death of some 2,3 million persons in the country between August 1998 and May 2000 alone (International Rescue Committee, as cited in Nzongola-Ntalaja 2002: 242). Concerning *post-conflict settlement peacebuilding* (Jan. 2003- Dec. 2009), the most salient undertakings under the CFSP consisted of the two military operations (Operation ARTEMIS and EUFOR DR Congo) and three civilian missions (EUPOL Kinshasa, EUPOL DR Congo, and EUSEC DR Congo). As highlighted earlier (particularly in the first chapter), some reports and studies consider these missions as emblematic of the alleged difference that the the ESDP – the operational spine of the CFSP – enabled the EU to make in that country (Head of Unit at the Council of the EU 2007, interview, 3 October; Dobbins et al. 2008; Belliard 2009). The CFSP response to the needs of *post-conflict settlement peacebuilding* also included the extension of the embargo and restrictive measures against UN-identified spoilers of the peace process in the DR Congo and in the region (Common Position 2002/829/CFSP; Common Position 2003/680/CFSP). Nonetheless, that contribution too fell very short of expectations in view of the many gross violations of human rights and humanitarian law, including mass atrocity crimes, that were constantly reported and denounced throughout the period from the signing of the Global and Inclusive Agreement (December 2002) to the 2009 celebration of the ‘success’ stories. An unofficial war involving regular armies and tens of armed groups and militias continued in the eastern provinces of the country. It caused the killing and maiming of hundreds of thousands persons and the displacement of millions of others; as well as the systematic plundering of the natural resources and other wealth of the country (Amnesty International 2003a; UNECOSOC 2003; UN General Assembly 2005; Human Rights Watch 2006b; Internal Displacement Monitoring Centre 2006; UN General Assembly 2006, 2009). Furthermore, the two military operations and the three civilian missions were too limited in scope, space, strength, and or in time to meet adequately the needs of all the war-affected civilians throughout the country. All recommendations and requests for their otherwise justified extension fell on deaf ears (Helly 2009; Major 2009; Martin 2010).



Doubtlessly, the lack of sharply identified important common stakes of the EU in the Africa's Great Lakes Region on the one hand, and, on the other, the absence in the region of serious and direct threat to the core values and interests of the EU underpinned the minimalist approach of the five operations. As mentioned earlier (particularly in the third chapter), with the end of the Cold War, the DR Congo lose any strategic relevance for the same Western powers that had placed and protected the country's long-serving dictator President Mobutu for three decades. It was not until March 1996 that the EU was able to appoint its first Special Envoy to the region with a mandate to gather elements that would help formulate any common foreign policy of the EU for the region and Sub-Saharan Africa. The first result of that mission was the adoption, three years later and three months into the Second Congo War, of **Common Position 1999/728/CFSP** in support of the implementation of the Lusaka ceasefire agreement and the peace process in the DR Congo. It was not until May 2001 that the EU finally adopted its first common position on Africa (**CP 2001/374/CFSP**) and in which it specified that its contribution to conflict prevention, management, and resolution on that continent would be limited to supporting efforts by the UN, African Union, and African sub-regional organisations. As indicated earlier (in the 'Commentary' section of chapter 6), the EU did not adopt any Common Strategy - the most important legal instrument under the CFSP - on the DR Congo or Africa. Nor did the 2003 European Security Strategy - which identified the security threats and challenges the EU and its key allies had to decisively deal with - include the DR Congo, its region, or Sub-Saharan Africa in the geostrategic objectives of the CFSP.

By contrast, the existence of clearly identified and long-standing strategic importance of Russia, Ukraine, and the Mediterranean region underlay the adoption of a Common Strategy on each of these geographical areas, shortly after the entry into force of the Treaty of Amsterdam (on 1 May 1999) that introduced that legal instrument: Common Strategy on Russia (1999/414/CFSP), Common Strategy on Ukraine (1999/877/CFSP), and Common Strategy on the Mediterranean zone (2000/458/CFSP). Moreover, the 2003 European Security Strategy included the three geographical areas in the strategic priorities of the foreign and security policy of the EU (Council

of the European Union 2003b). For a comparison of resources allocation, the initial strength of the European Union Police Mission (EUPM) in Bosnia and Herzegovina (BiH) was 478 international staff and 296 national staff. The Mission had a law enforcement component at international standards and, throughout its ten-year duration (2003-2012), it “maintained its presence in the entire country through regional and field offices, ensuring monitoring, mentoring and advising at all levels, from local to entity and state level.” (Council 2012a: 1). For a broader picture, the DR Congo (with 2.344.858 sq km and 73.599.190 population as of July 2012 (United States Central Intelligence Agency 2013a) is nearly 46 times bigger and was by then 18 times more populated than BiH (51.197 sq km and 3.752.200 population as of July 2012 (United States Central Intelligence Agency 2013b). In terms of UN-set human development indicators (health, education, and income), in 2003 BiH belonged to the category of ‘*Medium human development*’ countries and ranked 68 on world scale, with a life expectancy at birth of 74.2 years (United Nations Development Programme (UNDP) 2013: 238). By contrast, the DR Congo pertained to the category of ‘*Low human development*’ countries and ranked 168 on a world scale, with a life expectancy at birth of 43.1 years (UNDP 2005: 226). Moreover, at the time, the DR Congo was still convalescing from the terrible desolation caused by ‘Africa’s First World War’ and had hardly initiated its post-war healing process. On the other hand, the international community had continuously assisted the BiH from 1995 onwards. The first time, the assistance was provided by NATO-led international peacekeeping force (IFOR) of 60.000 troops. The second time, it was by another NATO-led substitute force (Stabilisation Force (SFOR)); whereas the third time it was a European Union peacekeeping force (EUFOR). The latter replaced SFOR in December 2004 and was strong of 7000 troops at its initial stage and of 1400 troops as of March 2012 (Council 2012a). Undeniably, the bloody disintegration of the Federal Republic of Yugoslavia in the early 1990s inspired more fear and shame because it took place in the backyard of the EU. It triggered a swift response of the CFSP because, unlike the Africa’s Great Lakes Region or Sub-Saharan Africa in general, the Balkan region was the primary strategic objective of the CFSP from the very inception of the EU (Hallergård 2009). In

defence of the EU little action to rescue the people of Darfur, one senior diplomat at the Policy Unit of the EU Council simply told me that, “[EU] Crisis Management tools, ESDP, [...] were not designed originally to take them or use them in Africa”. As I promptly asked him where the EDSP was originally and primarily supposed to be used, he replied with a bit of astonishment and irritation at my apparent ignorance: “Well, it’s more in the Neighbourhood (my interruption), Balkans and Caucasus and so on.” (Head of Unit at Council 2007, interview, 3 October). In his view and that of various EU Member States’ diplomats dispatched to the EU capital and to whom I talked to, the EU had been doing more for Africa than for its neighbours in central Asia. A Swedish ambassador went as far as to inform me that several Member States, especially new Member States, felt that the EU was doing “too much on Africa” under the ESDP. He reported that they could not understand why the EU was sending “two thousand troops to Chad” while it had problems in its backyard “with strong tensions between Russia and Georgia [...] and frozen conflict in *Nagorno-Karabakh*” in the Southern Caucasus (Anonymous 2008, interview, 19 May).

In terms of **timing**, the most notable CFSP response to the two Congo Wars during the period under review came ***too late*** to prevent or to halt some of the gross and systematic violations of human rights and humanitarian law. With the exception of non-legally binding initiatives, in particular **Declarations**, our findings clearly show that the CFSP response came long after large-scale and high intensity fighting and related mass atrocity crimes had ended. In other words, the majority of CFSP decisions and actions corresponded to the phase of *post-war peacebuilding*. The first legally binding and most important contribution to the prevention of the First Congo War was **Joint Action 96/250/CFSP** that the EU adopted on **25 March 1996** and by which it nominated its first Special Envoy for the Great Lakes Region. His mandate was to gather field information, views, and ideas, and to formulate concrete proposals for the Union to design its own foreign policy for *appropriate conflict prevention* first, and subsequently **conflict management** and **transformation**. Arguably, that appointment was due upon the earliest warning, that is, at the outbreak of the Rwandan refugee crisis in summer 1994; and not just six months into the outbreak of the First

Congo War. In contrast, the EU issued its first pre-war recorded **CFSP Declaration** in July 1995, nearly a year before the adoption of the first legally binding and significant initiative (**JA 96/250/CFSP**). Regarding the **management** phase of the First Congo War, the EU published its first **CFSP Declaration** on 21 October 1996. This was four days before the EU Commissioner for Humanitarian Aid publicly stated that a new genocide seemed to be under way, and urged the international community to “clearly say that it was not going to be tolerated” (Ms. Bonino, as quoted in Reyntjens 2009: 88). On the other hand, the EU enacted the first legally binding CFSP response to the war, **Joint Action 96/656/CFSP**, on 11 November 1996, two months into large-scale fighting and massacres of civilians. This legal act announced and outlined the contribution of the EU “to the democratic transition process in Zaire”, mainly in the preparation for elections. By any standards, this announcement was due long before the outbreak of the First Congo War, shortly after the entry into force of the CFSP provisions in November 1993. Indeed, political transition in that country started in 1991. Following the arrival of Rwandan refugees in the summer of 1994, Zairian authorities, in particular its Prime Minister Kengo Wa Dondo, tiredly decried their country’s inability to bring that transition to the desired end because of lack of means. Likewise, the first response to the Second Congo War under the CFSP was a **Declaration** (Press 255, Nr 10396/98) that was issued on 11 August 1998, nine days into hostilities. The first legally binding response was **Common Position 1999/722/CFSP** that the EU adopted on 8 November 1999, 13 months into the war. It concerned the support of the EU to the Lusaka Ceasefire Agreement and peace process in the DR Congo. Even when the most cited ‘success’ story (Operation ARTEMIS) took place (June - September 2003), the violence (in Ituri) it was intended to halt had already taken the life of about five thousands persons between July 2002 and the beginning of 2003; and had left over 50,000 dead and hundreds of thousands of displaced persons since 1999. By then (2003), the International Rescue Committee estimated at 3.5 million the number of human casualties of the conflict since 1998 (Amnesty International 2003e: 1). Here again, various factors, instead of one single motive, concurrently restrained the CFSP from responding timely to the two Congo Wars. I have detailed these

motives earlier in the two preceding sections and 'Commentary' sections of chapters 5 and 6. They included the lack of experience and benchmarks; the insignificant strategic value of the Africa's Great Lakes Region for the EU; diverging views and interests among EU Member States; and the self-assigned subsidiary status of the CFSP concerning the maintenance of international peace and security.

## **Comprehensive and complementary approach**

In line with the Conflict Resolution approach, the evaluations and research studies mentioned at the start of this chapter regarding the failure of the international community to protect civilians from genocide and other forms of mass killings in the Balkans and in Rwanda in the early 1990s included the **lack of comprehensiveness** and **complementarity** of responses as one of the main underlying factors. For a solution, Conflict Resolution suggests that undertakings aimed at preventing, managing, and constructively transforming violent conflicts be intrinsically *multi-level*, *multi-functional*, and *complementary*; all of which requires appropriate coordination. The '**multi-level**' requirement means that responses to a violent conflict should target all the levels of its manifestation: *individual and interpersonal level*; *community level*; *sub-national level*; *national level*; *regional level*; and *systemic level*. Our findings attest that the CFSP response to the two Congo Wars did not live up to the task because most of its key decisions and actions focused on the national level and on the central state apparatus, particularly in the capital and large urban areas. This was particularly the case for the five operations that allegedly enabled the EU to make a difference in its response. That narrow focus was detrimental to the countryside where two-thirds of the nearly 70 million Congolese population lived in self-organised communities, villages, and chiefdoms; and where most of the mass atrocities reviewed in this study occurred, particularly in the war-afflicted eastern provinces. Even in peacetime and since the onset of the Mobutu regime onwards, these communities, villages, and chiefdoms would from time to time engage in violent competition against each other for the control of power and resources, resulting in many human casualties and huge material losses. As indicated in

the chapter on the background of this thesis, they would do so either under the instigation of the central state authorities or on their own initiative. The situation unprecedentedly worsened in the context of the two Congo Wars. Indeed,

Throughout the eastern Congo, bottom-up rivalries played a decisive role in sustaining local, national, and regional violence after the conflict officially ended. These agendas pitted villagers, traditional chiefs, community chiefs, or ethnic leaders against one another over the distribution of land, the exploitation of local mining sites, the appointment of local administrative and traditional positions of authority, the collection of local taxes, and the relative social status of specific groups and individuals. The resulting violence was not coordinated on a large scale but was rather the product of fragmented, micro-level militias, each of which tried to advance its own agenda at the level of the village or districts. (Autesserre 2010: 8).

The inability or unwillingness to address the Congo tragedy on the various levels of its manifestation was a serious shortcoming because it had both top-down causes – inexistence of central state institutions worth the name – and bottom-up sources – local transposition and adaptation of the malfunctioning of the central state. Autesserre rightly advances that resources for international peacebuilding in the DR Congo could have been used “in a manner more conducive to peace than disproportionately focusing on elections, security sector reform, or the repatriation of foreign militias.” In her view, “International peacebuilders should have devoted part of their time, efforts and resources to local conflict resolution, because local tensions were crucial.” (Autesserre 2010: 243). Martin (2010: 71) too sustains that “a more explicit focus on engaging with local organisations and civil society could have improved both visibility on the ground and the effectiveness of the initiatives [EUFOR, EUPOL, and EUSEC DR Congo].” As indicated from outset of this thesis, the shortcoming in these and other studies on international peacebuilding in the DR Congo concerns three aspects. These are the unspecified use of the term ‘conflict resolution’; the attribution of the failure or mixed results to one single cause, which is the “politics of frames” in the case of Autesserre; and the generalisation of one such factor for all international peacebuilding initiatives in that country at all levels and stages of the bloody conflict. Moreover, as these quotes suggest, there is a persistent tendency to intermingle problems of *level of involvement* (national, subnational, local, individual, international) with those of *issue-area* (elections, security sector reform, repatriation of foreign militias); whereas

failure or mixed results on the former does not necessarily entail failure or mixed results on the latter and vice versa. As highlighted earlier (in the section on Methodology and the chapter on the theoretical framework), the two concepts of analysis (*issue-area* and *level*) are complementary but different. They are not interchangeable and for the sake of analytical clarity and accuracy, one should always make that difference clear.

On the **regional level**, the CFSP response to the two wars was deficient because the EU used its powerful development aid leverage more as a carrot than a stick in its dealing with African countries (namely Angola, Burundi, Rwanda, Uganda, and Zimbabwe) who partly caused or exacerbated either of the two wars, mainly through direct military intervention (André and Luzolele 2001b). I concur with André and Luzolele (2001b: 31) that this policy contravened the principles and values at the heart of EU development aid and had negative effects for the prevention and resolution of the deadly conflict. Indeed, un-interrupted and unconditional aid flow meant political support to the recipient countries and reinforced their capacity to wage and sustain bloody wars in the DR Congo. On the **systemic level**, the EU always aligned and conditioned its CFSP response to that of other powerful international actors, regardless of the relevance and quality of their contribution. A combination of various factors underlay the shortcoming on the regional and international levels. They included the definition of the two wars as a direct consequence of state failure and the view of some key regional leaders, namely Rwandan and Ugandan presidents, as representing hope for a politically and economically liberalised Africa. They also comprised the 'guilt' complex from the Rwandan genocide; the non-exclusive competence status and unanimity voting principle of the CFSP; the self-assigned subsidiary role of the CFSP regarding the maintenance of international peace and security; and the primacy of values, worldview, and interests of the EU.

On the other hand, the **multi-functionality** requirement concerns the *issue-areas* of intervention. It entails that decisions and actions address all the different aspects of the conflict, in particular *political, economic, social, educational / cultural, psychological, judicial, and security dimensions*. I have

extensively reviewed these points earlier in the chapter on the theoretical framework. The findings herein presented show that the CFSP response was below expectations because the most important decisions and actions focused on the rebuilding, by state actors, of four central pillars of the state: *the government, the army, the police, and the judiciary*. The most emblematic examples are the two military operations (ARTEMIS, EUFOR DR Congo) and the three non-military missions (EUSEC DR Congo, EUPOL Kinshasa, and EUPOL DR Congo). Other equally important issue-areas such as *truth, reconciliation, collective memory, compensation for victims, community capacity building in constructive conflict handling, and international accountability and responsibility* were either left out or insufficiently taken on board in important decisions and actions, in particular the legally binding ones. When it updated its ESS, the EU acknowledged and justified its choice as follows: "Security Sector Reform and Disarmament, Demobilisation and Reintegration are a key part of postconflict stabilisation and reconstruction, and have been a focus of our missions in Guinea-Bissau or DR Congo." (Council of the European Union (Council) (2008e): 8). Four causes, instead of a single one as is often advanced, concurrently underlay that choice. The first one is the original design of the CFSP as a pillar exclusively for addressing 'hard' foreign and security policy. The second factor is the easy and rewarding mediatisation and marketisation of (non-)intervention in those issue-areas, as evidenced by the excessive if not exclusive focus of most literature on the five operations, in total disregard of non-operational initiatives under the CFSP. The third one is the total decay in which the central state apparatus of the DR Congo was at the time of the two wars. The fourth and last determinant is the view of the state as the primary if not sole provider of peace, security, and well-being for the populations living within its boundaries. From this perspective, *statebuilding* as an issue-area was a much-needed component of international peacebuilding in that country. However, in view of the application of the same mode of operation irrespective of the particularities of each bloody protracted conflict, the fourth factor tends to outweigh any other single explanatory element. One scholar, Roland Paris, seems to refer to this prevailing underlying motive as the **diktat of global culture**. Paris (2003: 443) defines it as "the prevailing norms of



global culture, which legitimize certain kinds of peacekeeping policies and delegitimize others.” (Paris 2003: 443). He uses the term ‘peacekeeping’ “in its broadest sense to include the many variants of multinational peace operations, including ‘traditional peacekeeping’, ‘peace-enforcement’ and ‘post-conflict peacebuilding’ missions.” (Paris 2003: 464, note 1). He draws on ‘world polity’ sociologists who “treat the entire world as a single society, and argue that there is a distinct *global* culture that comprises the formal and informal rules of international social life” and that “defines whom the principal actors in world politics should be, how these actors should organize themselves internally, and how they should behave.” (Paris 2003: 442). In his view, “the design and conduct of peacekeeping missions reflect not only the interests of key parties and the perceived lessons of previous operations, but also the *prevailing norms of global culture*.” (Paris 2003: 443; emphasis added). He holds that peace operations “are prisoners of global culture in the sense that peacekeeping agencies seem to lack the freedom to pursue peacekeeping strategies that violate, or risk violating, global cultural norms, even if these strategies are potentially more effective at fostering peace than the peacekeeping policies currently in use.” (Paris 2003: 463). Drawing on fourteen case studies of major peacebuilding operations carried out between 1989 and 1999 worldwide, he found out that third parties failed in their intervention essentially because of their **preference** for and **imposition** of one specific form of (international) *peacebuilding*, that is, an *all-at-once and quick political and economic liberalization* and their disregard or undervaluation of its inherent “destabilising effects [...] in the fragile circumstances of countries just emerging from civil wars.” (Paris 2004: 6). In the same line of reasoning, Autesserre refers to this kind of diktat as the “politics of frame”. In clear reference to the case of the DR Congo, she affirms that the “dominant international peacebuilding culture often orients intervention strategies away from local conflict resolution and towards popular, but harmful, tactics such as the rapid organisation of elections.” (Autesserre 2010: 271). For Martin (2010: 70), the EU involvement in the DR Congo was “informed by the Commission’s Strategy for Africa, drawn up in 2005, which draws on the failed state discourse and sees security and the restoration of governance as the pre-conditions for peace and sustainable

development.” Such driving force, whether one coins it *diktat of global culture* or *politics of frames*, reflects nothing more and nothing less than the aforementioned state-centric perception and projection of the world – worldview – as a norms-bound, rule-based, and multilaterally managed international society of democratically governed states. Perhaps no other single international actor holds and advocates this worldview as firmly and decisively as the EU does, as it transpires from the most important reference document for its foreign and security policy: the European Security Strategy (Council 2003b, 2008e).

Finally, **complementarity** between the different responses within the different departments of the EU and in its interaction with other interveners too was unsatisfactory. Certainly, all decisions and actions concerning the prevention and management of the two wars as well as the post-war rebuilding of the country contained clear mention of the importance of complementarity and clauses for its actual application. Regarding in-house coordination, clear and direct reference was always made to actions undertaken under the Community procedure, in particular humanitarian assistance, development aid, and external relations, on the one hand; and decisions and actions by individual Member States of the EU, on the other. In 2003, this cardinal principle was enshrined in the European Security Strategy, the document that the EU presented as embodying the scope, values, norms, principles, and the mode of operation for the CFSP (Council 2003b). All my interviewees from the EU Commission and Council attested to strict adherence to and compliance with the principle of internal coordination and provided concrete examples of efforts towards that end. However, they also acknowledged that they still had a long and hard way to go. One Swedish ambassador could not be more sincere:

Well I don't think we are that coherent if I should be quite frank with you. That's an area (deep sigh!) where we have identified a problem and then we need to be better and improved. And that relates to creating a structure here in Brussels which is more coherent. You know, the proposal now is to have one External Action Service (EAS) [...] You know, we will have more like a Desk System where you have a Gabon Desk and people on the Gabon Desk would see how the EU plays its policy in terms of Trade [...], Aid, security policy, possibly ESDP, etc. So, I think that's going to be improved. On the national level, that's really up to each national country. The EU cannot, you know, call us and say, 'Look, you can't do this and that, because it contravenes what we had; you know, our general policy vis-à-vis Zimbabwe.' I mean if you go against a Common Position, I mean, or Joint Action

on sanctions, it's one case. But coherence 'National vis-à-vis Brussels' has to be managed at home by each capital. I do not think that's a major problem. Because, especially when it comes to Africa, I think most countries, most European Union countries, have the EU as their main vehicle for their foreign policy vis-à-vis Africa. (Anonymous 2008, interview, 19 May).

To my inquisitive surprise concerning his implied specificity of Africa, he responded assertively as follows:

I think so! I think that for the big ones it might not be the case. I mean France, UK, Belgium perhaps, former colonial powers, Portugal, you know, might have, I mean, intense relations that perhaps go beyond what the EU is doing; but most countries like ourselves I think we have a very close look at what the EU does. I mean if we get a response or a question from our Parliament in Sweden about what Sweden does about Guinea Bissau, well, then the answer would be 'with the EU Minister, this and this and that.' We usually say that 'What the EU does is what we do.' (Anonymous 2008, interview, 19 May).

My respondent insisted that no Member State contravened the EU when it came to its legally binding decisions and actions like sanctions and other restrictive measures. When I asked him what in his view the CFSP was not doing but should be doing for the future, he again showed more optimism about internal coherence and comprehensiveness than for the 'EU - Member States' duality:

(Long silence, sigh!) Well...I mean, I would hope that it comes more coordinated, coherent, in a sense that the EU is more consistent you know with ... If we want to ... If you look at Afghanistan, you know, 'What can the EU do there?' Well, we are there with a very small mission, with police training, basically. We still see Afghanistan as a huge producer of opium drugs. What is the EU doing about that? Much of that drug is contributing to financing the insurgency and they destroy our populations who consume those drugs. But then 'Why don't we have a strong policy on drugs which is very effective there in Afghanistan?' We don't. As far as I understand, we don't. And that policy needs to be dealing with farmers' interest to have other crops that the EU buys. And that requires a trade policy which opens its borders for products from Afghanistan for example. Of course, there would be farmers in Europe who would react negatively to that because they would fear the competition. But my point is that unless a strategic and a whole holistic view on the situation where also trade, farm products, and drugs are part of the question, then I don't think the EU will have that much impact. So, my hope is that the CFSP would really be a common policy which would be more coherent, which will include also other aspects of what the EU does. (Anonymous 2008, interview, 19 May).

Regarding the case under scrutiny, various analysts have pointed to important problems of coherence and coordination in the EU. According to Martin (2010: 72),

Where the three missions [EUFOR, EUPOL, and EUSEC DR Congo] failed most was in coherence, and their ability to either connect the different aspects of EU engagement in the DRC, or provide a continuum between short term 'rapid reaction' measures and long-term assistance, or the individual missions and their personnel as much as the context, particularly within the Brussels system, in which these missions are planned and implemented. There has been an element of 'accidental success' about civilian-military coordination. A successful outcome was

often achieved despite mission mandates and thanks to the creative energies and careful planning of individuals in implementing them.

Debatably, the negative impact of the lack of coherence between the CFSP and any other policy of the EU towards that country was less of a problem before 2003. Broad cooperation between the EU and the DR Congo resumed only in 2002 after nearly a decade of a suspension enacted in the early 1990s to exert pressure on President Mobutu for democratic change. After 2002 and throughout to the 'success' story celebration date (2009), traditional development cooperation with that country was mainly shaped by two successive Country Strategy Papers (*Country Strategy Paper for the DRC 2003-2007*; *Country Strategy Paper for the DRC 2008-2013*). The EU elaborated these documents drawing on, first, the EU Strategy for Africa (2005) and, second, the Joint Africa-EU Strategy (2007). More serious coherence problems occurred between the CFSP response and initiatives of other interveners. According to the first Special Envoy and Representative of the EU to the region, with the exception of the payment chain for the soldiers, the "remaining of the programme for creating a new army [was] neither faster nor more efficient" mainly because of coordination problems:

A first problem that we met to define the framework of a coherent army was the multiplicity of actors. Several countries and international organisations had shown interest to assist Congo in the reform of the army. A non-exhaustive list would include South Africa, Angola, the Belgium, the France, the United Kingdom, the Netherlands, the Germany, the United States, the United Nations and the African Union. However, each of these players had its own ideas on the designated type of army to be created, on how to do so, and sometimes its own agenda. The risk was to end up with a *'patchwork'* army, where units were more or less consistent with the model of the country which had formed them, but perfectly inconsistent between them. (Ajello 2010: 171).

Even entrusting the task of coordination to the EU mission 'EUSEC DR Congo' in the capital Kinshasa reportedly did not solve the problem of competition and duplication. As a result, three years passed by after the start of the mission (in 2005) before a new model of the new integrated army was at last consensually agreed among the different players and approved by the Congolese government in 2008. For Ajello (2010: 171), "coordination proved more difficult than expected" because each of the actors who were involved "wanted to keep its own identity and continued to pursue its bilateral agenda." Here again, various factors, rather than one single determinant, concurrently underpinned the failure or limited success of both internal and external

coherence and coordination of the CFSP response to the two wars. However, for the sake of analytical clarity and accuracy, it is important to discern (or attempt to do so) those determinants and their corresponding weight. Regarding in-house coherence and coordination, the first determinant is the conceptual and legal insulation, from the start, of the CFSP as a standalone pillar from the rest of EU external policies, namely development and humanitarian aid policy and trade policy. The second factor is its placement under the intergovernmental control. The third determinant is the ambiguity over its scope that guaranteed that any issue-area could at any time fall under the realm of the CFSP if Member States would so decide. The fourth determinant was the lack of (sufficient) in-house experience in 'hard' foreign and security matters when the CFSP was established in 1993. This factor also accounted for the problems of external coherence and coordination. Through a CFSP in its early development, the EU had to coordinate with various actors with more than a century of experience in high politics on the international scene and with clearly defined self-interests and means to pursue them in the DR Congo, the Great Lakes Region, and Sub-Saharan Africa in general. Other causes of the problems of external coherence and coordination included precisely the lack of (1) a common view of the bloody conflict and (2) clearly identified core common interests and plan of action until after the adoption, on 14 May 2001, of the first *Common Position concerning conflict prevention, management and resolution in Africa* (CP 2001/374/CFSP). They also included the non-exclusive competence status of the CFSP, which allowed Member States to pursue their own foreign and security policy agenda individually or in coalition, and the self-assigned subsidiary role of the CFSP regarding the maintenance of international peace and security in general and the R2P populations from mass atrocity crimes, in particular.

## CHAPTER EIGHT: CONCLUSION

*What do we learn when we analyse through the lenses of Conflict Resolution the alleged potential of the CFSP and ESDP of the EU and their actual contribution to its response to the two Congo Wars?* This was the main research question that this thesis set out to address. As exposed in the first chapter, it has been often claimed that the introduction of the CFSP in 1993 and its organic and operational development from then onwards meant a major qualitative shift from *declaratory foreign policy* to concrete, appropriate decisions and actions for human protection purposes worldwide. People who hold this assertion underline the CFSP principle of *common stance* and *joint action*, on the one hand; and, on the other, the *operational resources* - in particular, the *military capabilities* - that the EU developed following the inception, in 1999, of the ESDP (Solana 2000; Tonra 2000; Stavridis 2001; Habermas and Derrida 2003; Petiteville 2003; Reynolds 2004; Wong 2005; Permanent Representation of France to the EU 2008; Solana 2009a). For empirical evidence, some EU officials and researchers point to the CFSP-based response to the two Congo Wars, notably the five ESDP operations that the EU undertook in the DR Congo from 2003 onwards (Dobbins et al. 2008; Belliard 2009). *This thesis, like various other studies, holds that that this double-folded claim is overstated at best. However, unlike many other studies, it shows that no single factor but rather the interplay of various determinants, both intrinsic and extrinsic, varyingly undermined the potential of the CFSP and made its response to the two wars in the DR Congo insufficient and often too late.* This has been possible through the use of the Conflict Resolution approach which prescribes comprehensive and systematic analysis of violent conflicts; third party involvement in their handling; and responses that are timely, tailored to the victims' needs, sufficient, multi-levelled, and multi-functional not only after the formal end of armed confrontation, but also before the outbreak of violence and during its escalation. The findings herein presented clearly suggest various degrees and stages of failure and success throughout the period under evaluation. Regarding the strengths and weaknesses of the CFSP, its swift and sustained organic and operational growth from its inception in 1993 to the

celebration date of the 'success story' in 2009 sharply contrasts with the lack of clarity and significant progress in terms of normative stance and political commitment with reference to the R2P populations from genocide, war crimes, ethnic cleansing and crimes against humanity worldwide. On the one hand, in a relatively short period, the EU rapidly transformed itself from its traditional status of a *civilian actor* into that of a *civil-military actor* in international politics. It rapidly established and developed legal, institutional, and policy-making frameworks and mechanisms that enabled it to respond autonomously or in conjunction with other actors to various violent crises and conflicts within and outside Europe. These successful developments comprise the rapid Treaty-based institutionalisation and operationalisation of in-house capacity building for the collection, analysis, and sharing of information; and for the formulation and implementation of foreign and security policy options. The institutionalisation of the system of special envoys and representatives, whom the EU dispatches and keeps in places that are prone to or are afflicted by violent crises and conflicts, or in important international and regional intergovernmental organisations, is worth noting. Undeniably, their presence of EU special envoys and representatives in the field and their work help keep and improve EU awareness of and concern for those crises and conflicts, and constitute valuable inputs for its foreign policy making while at the same time enhancing its international visibility and prestige. On the other hand, throughout the period under review (1994-2009), the CFSP remained normatively and politically weak and selective with regard to its own pledge of a "new international morality" for human protection purposes worldwide (Solana 2000: 6). This was due to the non-exclusive competence of the CFSP vis-à-vis Member States, its unanimity voting rule, its self-assigned subsidiary status regarding the maintenance of international peace and security, and its Eurocentric view and approach to world peace and security. The non-exclusive right of initiative vis-à-vis Member States and the unanimity voting principle (for all legally binding decisions, except implementing decisions) ensured that only issue-areas, positions, decisions, and actions agreed on by each and all Member States could become part of the CFSP. The findings herein presented confirm that this Treaty-based inbuilt limitation was the price for the acceptance of the

CFSP by all Member States. Important negative consequences include the ambiguity over the scope and mode of operation of the CFSP and the failure to speak always with a single voice at the UN Security Council. As a result, on various occasions, the CFSP proved to be much less common than claimed and desired, and its initiatives on the Congo tragedy very often reflected the lowest common denominator. The self-assigned subsidiary role for the maintenance of international peace and security, in general, and for the R2P populations in danger, in particular, implies that any undertaking by the EU for human protection purposes requires prior authorisation of the UN Security Council. This position reflects the strong belief of the EU in a multilateralism bound by international law and in the UN as standing “at the apex of the international system.” (Council 2008e: 2). As this thesis has established, this is quite discouraging because the EU does not have a seat on the UN Security Council and those EU Member States who have a seat on it do not want to give it up in favour of the EU; and generally they speak more for themselves than for the EU. As Haine (2009: 457) has noted, “Multilateralism as a condition of action can rapidly become an alibi for inaction.” Finally, the Eurocentric view and approach to world peace and security of the EU underlies the deliberate focus of the CFSP response to violent crises and conflicts on issue-areas of political and economic liberalisation and statebuilding, rather on community building and nation building. The Eurocentric view and approach also entails the primacy of EU interests. The identification of four geostrategic objectives (Balkans, Caucasus, Middle East, and Mediterranean region) for the EU Security Strategy (Council 2003b; Council 2008e) and the exclusion of forcible conflict management from its first Common Position on conflict prevention, management and resolution in Africa (CP 2001/374/CFSP, 14 May 2001) are good illustrations.

Concerning the CFSP-based response to the two Congo Wars, this thesis has also unveiled various degrees and stages of failure and success throughout the period under review; and that various determinants, instead of a single one, underpinned, in varying degrees, those achievements and failures. With reference to the First Congo War, this research has established that two factors concurrently accounted more than any other (of the different



determinants herein identified) for the failure of the EU to make the best use of available resources, namely Common Positions and Joint Actions. The first factor is the situation of early infancy that the EU was in at the time and the corresponding lack of experience and benchmarks in hard foreign policy. The second and perhaps definitive factor is the primacy, through the Treaty-based non-exclusive competence and unanimity voting rule of the CFSP, of national self-interests of each Member State, particularly in the absence of clearly defined core common interests among all Member States as was the case. Regarding the Second Congo War, the findings of this research suggest that there was a significant improvement in the CFSP-based response. The EU took more decisions and actions than it did for the first war. More importantly, some of those decisions and actions led to the launching, implementation, and extension of two military operations (Operation ARTEMIS, 2003, and EUFOR DR Congo, 2006) and three civilian missions (EUPOL Kinshasa, 2005; EUSEC DR Congo, 2005; and EUPOL DR Congo, 2007). In particular, the EU resorted to the so-called restrictive / negative measures, that is, compliance enforcement measures, against UN-listed spoilers of the peace process. However, those decisions and actions were insufficient and most often the EU took them too late to help prevent or halt the large-scale bloodshed caused by that war. As in the case for the first war, no achievement or shortcoming may be attributed to a single underlying factor out of the eight ones that I have identified for all the decisions and actions of the CFSP regarding the two wars:

- Lack of experience and benchmarks in 'high politics' (hard) foreign policy;
- Early age of the CFSP at the time of the two wars;
- Subsidiary role of the CFSP;
- Non-exclusive competence status and unanimity voting rule of the CFSP;
- Primacy of core values, worldviews, and interests of the EU and its key allies;
- The conceptual and legal insulation, from the start, of the CFSP as a standalone pillar from the rest of EU external policies;
- Somalia Syndrome; and
- Guilt complex from the Rwandan genocide.

The self-assigned subsidiary role of the CFSP; its non-exclusive competence status and unanimity voting rule; and the primacy of the values, worldviews, and interests of the EU and its key allies altogether seem to account more for the insufficiency and delays of the CFSP response to the Second Congo War. The first determinant was for instance responsible for the dependency of the EU on the UN Security Council for the launching the five operations and the use of restrictive / negative measures against UN-identified spoilers of the peace process. Each time, the EU opted for aligning its decisions and actions with the decisions and actions of the UN Security Council. Besides, the non-exclusive competence status and unanimity voting rule of the CFSP, and the primacy of core values, worldviews, and interests of the EU and its main allies altogether were largely responsible for the non-use of the Common Strategy instrument and the use of more and better resources for post-conflict peacebuilding. They also decisively underpinned the limitation of time, resources, and levels of involvement as well as the focus on statebuilding and the special, positive treatment of regional leaders perceived as favourable to the neoliberal agenda.

In the same line of reasoning, one should also not generalise failure or success. Overall, the findings of this research suggest that the CFSP response to the two Congo Wars is more valuable than it perhaps appears at face value, if one duly takes into account the weight of the endogenous flaws of the CFSP and the protracted nature of the violence in the DR Congo. Firstly, there was always a CFSP reaction, be it a statement solely, at any stage of either of the two wars. As a result, the CFSP initiatives regarding the two wars were quantitatively substantial and they constitute a valuable stock of peacemaking and preventive diplomacy. The appointment of a Special Envoy / Representative for the Great Lakes Region of Africa in March 1996 is of special relevance in this regard. Secondly, most, if not all, of CFSP initiatives were discussed at the highest level of the EU decision-making pyramid: the European Council and or the Council of the European Union. These two elements – the large number of CFSP initiatives and the political level at which they were discussed and decided – constitute a valuable testament to the constant and high degree of concern of the EU about the

human tragedy of the DR Congo since the mid-1990s throughout the period leading to the success celebration year (2009). Thirdly, some of those undertakings, in particular, the two military operations (ARTEMIS and EUFOR DR Congo) saved and protected endangered lives. Most importantly, they proved that at last, the EU could show some teeth, if it chose and was allowed to do so (by the UN and the authorities of the target country), for human protection in third places that half of its Member States hardly knew about. That in itself was a glimmer of relief and hope not only for the construction of the self-assigned identity of *a force for a global common good* but also for the real and potential victims of human rights violations that shock human conscience. When in 2007 I pointed out to one EU official that the EU response to mass atrocities in Darfur had been too late, he indeed responded: “Well, for the 200 or 300 thousands who have died it's certainly too late but it's not too late to do something.” (Head of Unit at Council, interview, 3 October 2007). The two operations and the restrictive measures against UN-identified peace spoilers were also particularly significant and more difficult to decide on because they were likely to provoke hostile reaction from the designated peace spoilers and their backers; and they therefore involved considerable security risks and geopolitical shortfalls for the intervening side. *Obviously, one can easily discern and duly appreciate these and other important nuances only if one accounts as comprehensively and systematically as possible for all the needs and challenges on the ground and for all the initiatives of the CFSP, and not just for its field operations as most studies tend to do.*

Undoubtedly, the impact of the CFSP-based contribution to efforts towards long-term democratic peace and prosperity in the DR Congo cannot be established in absolute terms because of two main reasons, at least. The first one is that the CFSP initiatives were subsidiary to decisions and actions of other actors, in particular the UN and the African Union. The second reason is that the real and lasting transformative effect of some of those endeavours can be established only after decades, due to the complexity of the issues involved. In the end, *statebuilding*, if sustained, might gradually expand to the countryside and contribute, be it indirectly and unintendedly, to *community building* and *nation building*. This means that further and sustained research

is needed, more on viable options for effective complementarity of these three and other facets of *peacebuilding* (as discussed in the chapter on the theoretical framework) than on the possible incompatibility of some of their respective constitutive elements. This is particularly imperative in the context of the Lisbon Treaty which eliminated the three pillar structure of the EU; placed all the external relations under one umbrella; broadened and clarified the issue-areas of the CFSP; reduced its policymaking instruments from five to only two; and upgraded European Security and Defence Policy (ESDP) to Common Security and Defence Policy (CSDP). Arguably, interdisciplinary approaches are more suitable than disciplinary perspectives, for such a daunting yet necessary task for the research community.

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