

# Humanitarian Aid as an Integral Part of the European Union's External Action: The Challenge of Reconciling Coherence and Independence

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**The article focuses on the European Union's (EU) humanitarian aid policy. It addresses the challenge for the EU to deliver independent humanitarian aid while simultaneously seeking to establish more coherence between its external policies. The article examines how the EU tries to reconcile these potentially conflicting policy goals, both de jure and in practice. Empirically, it explores the interaction between EU humanitarian aid and development cooperation, the Common Foreign and Security Policy, and trade policy. While the independence of the humanitarian aid delivery is, for the most part, not being undermined, it remains difficult to establish positive synergies with other external policies because of institutional hurdles and legal constraints, as well as political obstacles and operational incompatibilities.**

## 1. Introduction

This article addresses the challenge faced by the European Union (EU) in wanting to deliver humanitarian aid independent from foreign policy goals, while simultaneously seeking to establish more coherence in its external action. The preamble to the 1996 Council Regulation on humanitarian aid, which provides the basic legal framework for the further elaboration of a specific humanitarian aid policy on behalf of the European Community (now the EU), makes explicit reference to the humanitarian imperative, highlighting that

the essential aim of humanitarian aid is to prevent or relieve human suffering irrespective of any political considerations (Council of the EU, 1996). However, the EU's humanitarian aid continued to intermesh regularly with foreign policy goals until the end of the 1990s (Versluys, 2008a).

A general willingness to strive for a more independent EU humanitarian aid policy – meaning autonomous from economic, political, and military considerations – in compliance with international humanitarian law became clear during the drafting of the Constitutional Treaty by the European Convention in 2002–2003. It

underlined the separate nature of humanitarian aid in comparison with other external policies, such as development cooperation or Common Foreign and Security Policy (CFSP). The European Consensus on Humanitarian Aid, adopted in December 2007 and signed on behalf of the Council, the European Commission, the European Parliament and the Member States, stresses the independent nature of the EU's policy in this field, and stipulates that EU humanitarian aid is guided by the four internationally agreed principles of neutrality, impartiality, humanity, and independence (European Union, 2008). These four principles are specific to humanitarian aid and make it distinct from other forms of aid.

With the entry into force of the Treaty of Lisbon in 2009, humanitarian aid has become an EU external policy in its own right. Significantly, the relevant treaty provision (Article 214 TFEU) was copied verbatim from the abandoned Constitutional Treaty without any further discussion. The 2007 European Consensus can be regarded as the most recent document defining the basic characteristics of the EU's humanitarian aid policy. The explicit recognition that the granting of 'ad hoc assistance and relief and protection for people in third countries who are victims of natural and man-made disasters, in order to meet the humanitarian needs resulting from these different situations' constitutes a distinct policy of the EU's external action (Article 214 TFEU) is an important step towards achieving the goal of independent humanitarian aid.

At the same time, the EU has been increasingly striving for more coherent external action. Coherence of the EU's external activities – denoting the establishment of positive synergies between different external policies – has been a treaty-based requirement and guiding principle. As will be covered in more depth later, the Treaty of Lisbon attaches great importance to the improved coherence of the EU's external action (Gebhard, 2011). The goal of enhanced coherence draws on the intuitive assumption that by establishing unity for a common purpose, the EU will become a more efficient and effective foreign policy actor. Given the close connection between the origins of a humanitarian crisis – a civil war, natural disaster, and extreme poverty – and its consequences – large numbers of displaced people and social and economic difficulties – humanitarian aid is almost automatically linked to other policy areas. Hence, one of the key challenges for the EU is to ensure coherence in its response to crisis situations between the different policies involved, while safeguarding that coherence with these other external policies does not come at the expense of the humanitarian aid policy's independence.

This article examines how the EU tries to reconcile these two policy goals *de jure* and in practice. First, we contextualize the research question and indicate how it links up with the debate on coherence of the EU's

external action. Next, we explore how – if at all – the EU tries to reconcile its policy goal of coherence with the goal of independent humanitarian aid. We do so by scrutinizing the European Consensus on Humanitarian Aid and the Treaty of Lisbon. We then provide a more in-depth analysis by focusing on the relationship of humanitarian aid with three other policy domains, namely development, CFSP, and trade. Based on an analysis of policy documents and legal texts, we explore whether and how the goals of increased coherence and independent humanitarian aid are pursued together.

## 2. The quest for horizontal coherence

Given the close connection between the origins of a humanitarian crisis and its consequences, humanitarian aid can only be effective when it is linked to other policies. In its response to international emergencies, the EU needs to ensure coherence between humanitarian aid and the other external policies involved. But ensuring coherence with the other external policies may undermine the independence of EU's humanitarian aid policy.

The EU's concern with coherence of its external action has been addressed in an increasing number of scholarly works (Gauttier, 2004; Gebhard, 2011; Nuttall, 2005; Smith, 2004; Van Elsuwege, 2010). It is generally assumed in the literature that enhanced coherence positively affects the effectiveness of EU's external action. Possible negative effects of increased coherence – such as a less independent humanitarian aid – have been neglected.

'Coherence' is most commonly defined as denoting both the absence of contradictions between different areas of external policy and the establishment of synergies between them (Gauttier, 2004, pp. 23, 26; Gebhard, 2011, p. 106; Van Elsuwege, 2010, pp. 1013–14). In policy terms, coherence thus refers to the duty of ensuring synergy between the different fields of EU's external action; it implies 'a desirable, positive way of interaction between the [policies] and their respective bureaucracies, bound to the "service of a common purpose"' (Gebhard, 2011, p. 112).

In practice, one can distinguish two dimensions of coherence. On the one hand, there is the strategic, or policy-related, dimension, which refers to the possibility of conflicting objectives or clashing political agendas. On the other hand, there is the technical, or procedural, dimension, which points at the 'administrative implications of having to reconcile two different channels of policymaking, including their respective bureaucratic machineries' (Gebhard, 2011, p. 106). The achievement of coherence can thus be thwarted by either procedural, or operational, incompatibilities, or by conflicts arising in the case of competing policy objectives, diverging bureaucratic cultures, and the struggle for

institutional power, the so-called 'turf battling' between rivalrous institutions (Gebhard, 2011, pp. 111–112; Nuttall, 2005, pp. 96–97). This article is primarily concerned with what is termed 'horizontal coherence'. The concept regards the extent to which different EU foreign affairs activities are 'logically connected or mutually enforcing' (Smith, 2004, p. 173).

### 3. Reconciling coherence and independence of humanitarian aid: the legal challenge

The pursuit of coherence is particularly challenging and potentially problematic for humanitarian aid policy because of the stated objective of independence. It remains contested whether the independence of humanitarian aid has been reinforced through the insertion of a separate chapter in the Lisbon Treaty (Van Elsuwege & Orbie, 2014) or whether the EU's quest for more coherence would lead to the subordination of the humanitarian imperative to overriding security, development, and trade goals (as feared by some NGOs).

The principle of independence is explicitly mentioned in the European Consensus on Humanitarian Aid and defined as: 'the autonomy of humanitarian objectives from political, economic, military or other objectives' (European Union, 2008, p. 2). The sole purpose of humanitarian aid is 'to relieve and prevent the suffering of victims of humanitarian crises' (European Union, 2008, p. 2). The four humanitarian principles as defined in the European Consensus correspond to the practice of the United Nations Office for the Coordination of Humanitarian Affairs and are based on a number of United Nations General Assembly and Security Council Resolutions.<sup>1</sup>

The Treaty of Lisbon only refers to 'impartiality, neutrality and non-discrimination' as the fundamental principles guiding the EU's humanitarian aid (Article 214(2) TFEU). Despite the absence of an explicit reference to independence in the Treaty of Lisbon, that principle still binds the institutions and the member states in pursuing the EU's humanitarian aid policy, not least because the treaty contains a reference to 'the principles of international law' (Article 214(2) TFEU). The latter generally pertain to the principles of humanity, neutrality, and impartiality, but the notion of independence may be considered as a 'derived principle', insofar as its substance, i.e., the autonomy of humanitarian objectives from political, military, or economic influences, follows from the three other principles.

The extent to which the goal of independent humanitarian aid is *de jure* (not) reconciled with the goal of a more coherent foreign policy depends largely – but not exclusively – on how the respective provisions in the Lisbon Treaty and the European Consensus are interpreted. On the one hand, a potential conflict seems to

arise between the two goals in the first part of the provision on humanitarian aid in the Lisbon Treaty: EU humanitarian aid shall not only be implemented in compliance with the general principles of international (humanitarian) law, but it shall also be conducted 'within the framework of the principles and objectives of the external action of the Union' (Article 214(1) TFEU). It is important to mention that this reference is included as a standard clause in all treaty provisions dealing with EU external policies and reflects a general preoccupation of the Lisbon Treaty with ensuring the coherence of the Union's action on the international scene. Yet, a strict reading of Article 214(1) TFEU might suggest that humanitarian aid can be used as an instrument to achieve the entire list of objectives mentioned in Article 21 TEU, which is the key reference point listing the EU's general principles and objectives. These include the ambition to preserve peace, prevent conflicts, and strengthen international security (Article 21(2)(c) TEU). Obviously, such an interpretation potentially affects the independence of humanitarian operations. However, the inclusion of a horizontal list of external action objectives in Article 21 TEU does not absolve the institutions from respecting the principle of conferral as expressed in the specific legal bases mentioned in the treaties.<sup>2</sup>

Pursuant to Article 214(2) TFEU, the Union is only competent to follow a humanitarian aid policy in respect of international (humanitarian) law and the principles of impartiality, neutrality, and non-discrimination (cf. *supra*).<sup>3</sup> The latter principles preclude that humanitarian operations are used to pursue the political, military, or economic objectives of the EU's external action listed in Article 21 TEU. The first sentence of Article 214(1) TFEU cannot affect this legal obligation. In sum, the incorporation of a specific treaty provision on humanitarian aid helps to consolidate the specific features of EU action in this field without, however, solving the often blurred boundaries with other policy areas in practice.

On the other hand, rather than regarding the reference to the principles and objectives of EU external action in Article 214(1) TFEU as a potential threat to the independence of humanitarian operations, it may be considered as a general call for coherence in the EU's response to global emergencies. Although humanitarian aid is subject to specific conditions and principles, which implies that it is distinct from other forms of aid, humanitarian assistance can only be effective when it is linked to other policies. Such an interpretation is fully in line with the European Consensus (European Union, 2008, p. 3), which explicitly states that EU humanitarian aid 'should take long-term development objectives into account' and 'is closely linked to development cooperation'.

With the Treaty of Lisbon, several innovations have been introduced to increase the coherence of EU's

external action. A first innovation regards the inclusion of a general list of EU external action objectives in Article 21(1) TEU. Following the horizontal application of Article 21 TEU, the objective 'to assist populations, countries and regions confronting natural or man-made disasters' – laid down in Article 21(1)(g) – does not exclusively relate to the EU's humanitarian aid policy, but can, in principle, also be pursued on the basis of other EU policies. Second, new institutional functions and structures have been created, most notably the European External Action Service (EEAS) and the High Representative of the Union for Foreign Affairs and Security Policy. In contrast to development cooperation, humanitarian aid does not fall under the competence of the EEAS. Nevertheless, there is a general fear among both the humanitarian aid community (Caritas, 2011; Oxfam, 2012) and DG ECHO (Georgieva, 2011a) that the integration of humanitarian aid policy in the EU's external action under the Lisbon Treaty, as well as an expanded interpretation of the coordinating role of the EEAS, may lead to a politicization of humanitarian aid delivery.

This concern has been further fuelled by the EU's aspiration of greater visibility, which has gone hand in hand with the goal of enhanced coherence, based on the intuitive belief that more visibility and coherence are part and parcel of a more effective external action. The lack of visibility and awareness of the EU's external activities has long haunted Brussels-based EU policymakers. This also applies to the EU's humanitarian actions, which have often gone unnoticed by the general public. However, in the case of humanitarian aid, increased visibility may conflict with the humanitarian imperative to provide aid on a needs-based approach and may affect the independence from political, economic, military, or other objectives. The latest step in catering for increased visibility is the creation of a European Voluntary Humanitarian Aid Corps, as codified in Article 214(5) TFEU (European Commission, 2012a, European Commission, 2012a, p. 2). Doubts have been raised in the humanitarian aid community about the implications of this initiative for the independence of EU humanitarian aid (Schick, 2013).

In short, while the Lisbon Treaty seems to have strengthened the independence of EU humanitarian aid, the pursuit of coherence continues to be seen as a challenge to achieving a needs-based humanitarian aid. To examine this further, we now proceed with a more in-depth analysis of how the EU tries to reconcile the policy goals of increased coherence and independence in practice. Based on an analysis of policy documents and legal texts, as well as concrete illustrations, we will focus on the relationship of humanitarian aid with three other policy domains, namely development, CFSP – and in particular crisis management – and trade.

#### 4. Independence of humanitarian aid and coherence with crisis management, development, and trade policies

##### 4.1. The nexus between humanitarian aid and crisis management operations

Based on the specific provision devoted to EU humanitarian aid in the Treaty of Lisbon, which states that aid shall be conducted in compliance with the principles of international law and with the principles of impartiality, neutrality, and non-discrimination, it follows that EU humanitarian aid cannot be used as a tool for facilitating and supporting CFSP crisis management operations. The European Consensus states that 'EU humanitarian aid is not a crisis management tool' (European Union, 2008, p. 2). Article 40 TEU forms an additional guarantee for the independence of EU humanitarian aid in relation to potential foreign policy and military influences. According to this provision, the implementation of CFSP measures cannot affect the application of the procedures and the extent of the powers of the institutions under the EU's non-CFSP action and vice versa.

Nevertheless, Article 43 TEU provides that the Union may use civilian and military means to pursue humanitarian tasks. Under certain circumstances, measures adopted within the context of EU's Common Security and Defence Policy may be used to support humanitarian operations. This is in line with the horizontal application of Article 21(2)(g). However, the use of Common Security and Defence Policy instruments in the context of humanitarian operations remains controversial. This is particularly the case for man-made disasters because of their inherent political dimension. The European Consensus upholds that 'in complex emergencies, recourse to civil protection assets should rather be the exception' (European Union, 2008, p. 7). Similarly, it states that military assets and capabilities in support of humanitarian relief operations are to be 'used only in very limited circumstances as a "last resort", i.e., where there is no comparable civilian alternative and only the use of military assets that are unique in capability and availability can meet a critical humanitarian need' (European Union, 2008, p. 7).

Respect for international humanitarian law requires that EU military operations supporting humanitarian assistance are subject to strict conditions.<sup>4</sup> For instance, such operations can only be employed upon request by United Nations Office for the Coordination of Humanitarian Affairs and if all civilian alternatives have been explored and exhausted. Crucially, any military assets used under this scenario must remain under civilian coordination and must respect the needs-based

and neutral nature of humanitarian aid. In other words, the humanitarian imperative has to be respected under all circumstances.

A recent example illustrating the challenge to reconcile crisis management and humanitarian assistance is the EU's response to the conflict in Syria.<sup>5</sup> On 24 June 2013, the European Commission and the High Representative jointly announced 'a comprehensive EU approach to the Syrian crisis' (European Commission and High Representative of the EU for Foreign Affairs and Security Policy, 2013). The comprehensive EU response has multiple objectives including the facilitation of a political solution to the crisis, the prevention of regional destabilization, and the offer of humanitarian assistance. As such, humanitarian aid is part and parcel of a broader EU strategy to tackle the crisis situation in Syria.

Arguably, such an approach entails the risk that EU-funded humanitarian aid is perceived as a foreign policy tool (Pontiroli, Ponthieu, & Derderian, 2013). This is particularly the case because the objective of humanitarian assistance is linked with the sanctions against the Assad regime. The plea for more humanitarian aid to Syria came from the EU Ministers of Foreign Affairs at the same meeting where the sanctions against the Syrian government were tightened (Council of the EU, 2013a). In order to address the humanitarian needs of the Syrian civilian population, EU member states may authorize the sale, supply, or transfer of key equipment and technology for strategic sectors (oil, gas, and banking) in Syria. This is only possible under certain conditions, including prior consultation with the Syrian National Coalition for Opposition and Revolutionary Forces (Council of the EU, 2013b).

#### 4.2. The nexus between humanitarian aid and development policy

As humanitarian aid and development cooperation are closely intertwined, it is often difficult to draw an exact borderline between the *ad hoc* assistance under Article 214 TFEU and the structural assistance under Article 208 TFEU. In order to address this, the European Commission has taken the lead in linking relief, rehabilitation and development (LRRD) (European Commission, 1996, 2001). However, the implementation of the LRRD concept has not always been easy; the same goes for the establishment of synergies between DG ECHO and DG DEVCO (Development and Cooperation) in the 'grey zone' of rehabilitation (Versluys 2008b, p. 105; Koddenbrock & Büttner, 2009, pp. 127–129). This is due to diverging views between the development and humanitarian actors within the EU, as well as institutional and operational obstacles (Koddenbrock & Büttner, 2009, pp. 127–129; Morazán,

Grünewald, Knoke, & Schäfer, 2012, p. 18). In 2003, an inter-service group on transition, co-chaired by DG ECHO and DG DEVCO, was established to follow a more coherent approach. In practice, however, the inter-service group has not borne a lot of fruit (Morazán et al., 2012, p. 5).

Experience from field missions further reveals that LRRD remains a challenge for the EU. A concrete example is the EU's response to the 2010 earthquake in Haiti. While the EU proved to be a quick and generous provider of emergency aid, it encountered several problems in delivering assistance for the transition towards long-term development (Werleigh & Brouwer, 2011). There was a considerable funding gap between short-term relief and long-term development. The Haiti Task Force set up after the earthquake to deal with *ad hoc* crisis management has 'created more competition and power struggles between the Commission and the EEAS and more delays than concrete results' (Morazán et al., 2012, p. 18).

The EU has recently taken some promising initiatives in the area of LRRD, such as the piloting programmes in the Horn of Africa, 'Supporting Horn of Africa Resilience'. Nevertheless, almost 20 years after the first Commission communication on LRRD, it can only be concluded that the concept has never been put into practice beyond some pilot projects (Hauck, 2012). Both Development Commissioner Piebalgs (2011) and Humanitarian Aid Commissioner Georgieva (2011b) admit that the EU's approach to LRRD could be improved in terms of concrete output on the ground, for example by making the EU's funding tools more flexible. In sum, while LRRD does not affect the independence of humanitarian aid delivery, as an instrument to achieve coherence between humanitarian aid and development cooperation, it has so far been missing its target.

A recent EU initiative regarding the development-humanitarian aid nexus is the Commission communication on resilience (cf. Benadusi, 2014). Resilience is defined as 'the ability of an individual, a household, a community, a country or a region to withstand, to adapt, and to quickly recover from stresses and shocks' (European Commission, 2012b, p. 5). As such, it requires a comprehensive approach that includes risk assessment tools, a focus on prevention and preparedness, and an enhanced response to crises. A policy based on enhancing resilience implies that donors are not only just intervening to address the consequences of emergency crises, but also that they tackle the root causes of recurrent crises (European Commission, 2012b, p. 2). As this requires a coherent approach between humanitarian aid and development assistance, the concept of resilience has been central to debates about improving EU's LRRD policy.

### 4.3. The nexus between humanitarian aid and trade policy

A concrete case to explore the nexus between humanitarian aid and trade is the EU's response to the devastating floods in Pakistan in 2010. The European Council called not only for the provision of humanitarian aid but also for the adoption of additional measures deemed essential for Pakistan's recovery and growth. It was agreed 'to grant exclusively to Pakistan increased market access to the EU through the immediate and time limited reduction on key imports from Pakistan' (European Council, 2010, p. 10). The decision of the European Council to use a trade policy instrument for the achievement of a humanitarian objective was fully in line with the rationale of Article 21 TEU and the Lisbon Treaty to increase the coherence of the EU's external action. Nevertheless, the initiative faced significant legal and political obstacles.

Several members of the European Parliament as well as import-sensitive industries from France, Italy, Portugal, and Spain challenged the appropriateness of such a measure. In particular, they raised concerns about the economic implications for the EU's textiles and ethanol industry and the absence of any political conditionality in the Commission's proposal (European Parliament, 2011). Given the humanitarian inspiration of the trade initiative, the latter point is striking, as it would undermine the humanitarian principle of independence, according to which aid to people in need cannot be subject to any political, economic, or military conditions.

The measure was adopted in the context of EU's Common Commercial Policy under the legal basis of Article 207(2) TFEU and not as part of the EU's humanitarian assistance under Article 214 TFEU. Therefore, the humanitarian principles laid down in Article 214(2) TFEU and reflected in the European Consensus do not automatically apply to this type of measures. Within the context of the Common Commercial Policy, the granting of trade preferences can be made conditional upon respect for fundamental rights.<sup>6</sup> Hence, it is not surprising that the European Parliament only accepted the proposed regulation after the inclusion of explicit conditionality provisions. According to the regulation, Pakistan is only entitled to benefit from the preferential arrangements if it does not engage in 'serious and systematic violations of human rights, including core labour rights, fundamental principles of democracy and the rule of law' (European Union, 2012, p. 43). Members of European Parliament also inserted a statement that the measure is not a precedent for the EU's trade policy, but strictly a response to the specific situation in Pakistan, thereby limiting the consistent application of trade preferences in the context of humanitarian catastrophes.

The EU's initiative to support Pakistan also faced some hurdles at the level of the World Trade Organization (WTO). Given that the unilateral introduction of trade preferences would be in breach of the Most Favoured Nation and non-discrimination principles, the EU had to request a waiver (Bartels, 2007). Some WTO members, such as India, suspected that the EU granted favourable market access to Pakistan based on geopolitical or other EU interests rather than humanitarian motives. Looking at historical antecedents, India's suspicion was probably not unfounded (Portela & Orbie, 2014).

The Pakistan case demonstrates that the EU's trade policy may be used as an instrument to promote humanitarian objectives in the wake of a global emergency. However, the broader political context with the geostrategic importance of Pakistan may have influenced the decision. Moreover, the final EU Regulation does not safeguard the independence of the humanitarian initiative given the conditionality and safeguard clauses. In addition, the case clearly shows the limits and challenges faced by the EU in pursuing the goal of increased coherence between its external policies. To begin with, the final EU Regulation was adopted in October 2012, i.e., more than 2 years after the catastrophic events, and is a diluted version of the original Commission proposal (European Commission, 2010). Apart from the addition of conditionality and safeguard clauses, the more limited scope as well as the shorter duration of the trade preferences – they apply for only 1 year – raise questions about the effective added value of such a measure (Khorana, Yeung, Kerr, & Perdakis, 2012). The conclusion may thus be that forging coherence between EU trade policy and humanitarian aid objectives is very difficult to establish, *inter alia*, because it is closely connected to economic interests.

## 5. Conclusion

Horizontal coherence is always difficult to achieve for any international actor. However, it is even more difficult for a highly compartmentalized actor, such as the EU, to forge synergetic relations between the different foreign policy fields. Realizing policy coherence is arguably even more challenging in the case of humanitarian aid policy. Since the early 2000s, the EU has increasingly emphasized the independence of this policy domain. Yet, over the same time period, the EU has developed military capabilities and it has profiled itself as a leading actor in development aid. The EU has also pursued a pro-active international trade policy and has explicitly expressed its ambition to be a coherent actor on the world scene. These developments led to the puzzle that inspired this article: how – if at all – does the EU reconcile the potentially conflicting policy goals of an

independent humanitarian aid policy and a coherent external action?

With the European Consensus and the Lisbon Treaty, the EU has put in place a solid political and legal framework for the implementation of a strong humanitarian aid policy. This article has shown that, although decision-making in the field of humanitarian aid is still essentially steered within the Commission DG ECHO, and although relations with the EEAS do not appear to have undermined the fundamental role of humanitarian principles (OECD-DAC, 2012, pp. 90–5), the quest for coherence does indeed pose challenges to the EU's humanitarian aid policy.

To begin with, the trend towards a more comprehensive approach to crisis management, including a more active coordinating role for the EEAS, may lead to further institutional tensions with DG ECHO. A clear-cut division of responsibilities as well as a sufficient awareness of the humanitarian aid specificities among all actors are crucial to ensure effective cooperation on the ground. Second, there has still been little practical progress on linking emergency aid, rehabilitation, and development. A recent assessment conducted by the OECD revealed that 'opportunities for greater programme coherency between ECHO, EuropeAid and EEAS are sometimes being missed' (OECD-DAC, 2012, p. 95). Third, the ambition of the Lisbon Treaty to facilitate the combination of different policy instruments in response to global emergencies faces political and legal obstacles. This has been clearly illustrated with the Pakistan case, where the temporary introduction of autonomous trade preferences faced strong opposition both within the EU and at the level of the WTO.

Finally, it appears that the EU is a key player when it comes to providing and coordinating humanitarian assistance, but difficulties remain regarding the integration of humanitarian aid programmes in more comprehensive strategies of disaster response. While the independence of the humanitarian aid delivery has not been undermined so far, the EU experiences difficulties to establish positive synergies between the respective external policies because of institutional hurdles and legal restraints, as well as political obstacles and operational incompatibilities.

## Notes

1. Notably United Nations General Assembly (1991, 2003) and United Nations Security Council (2006).
2. This can be derived from Article 3(6) TEU, which states that 'the Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the treaties'. See also Dashwood (2011, p. 35).
3. Moreover, in accordance to the settled case law of the European Court of Justice, the EU must respect international law in the exercise of its powers (see European Court of Justice, 1992).
4. Those conditions are laid down in the 'Guidelines on the use of military and civil defense assets in disaster relief' (Oslo guidelines) and the 'Guidelines on the use of military and civil defense assets to support United Nations humanitarian activities in complex emergencies' (MCDA guidelines). See European Union, 2008, p.6.
5. Another example illustrating how the interplay between crisis management and humanitarian assistance has translated into practice is the EU's reaction the crisis in Libya in April 2011 (see Van Elsuwege and Orbie, 2014).
6. However, granting trade preferences for reasons related to foreign policy may not always be compatible with international trade law, as became clear in the EC-Tariff Preferences case (WTO, 2004).

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