



# THE GLOBAL FOOD DONATION POLICY ATLAS

## Executive Summary: Mexico

*More than enough food is produced to feed every person, yet one-third of all food is wasted. Redirecting safe, surplus food is an effective and compassionate solution, but it can be complicated because food is a heavily-regulated product.*

To help address the most pressing and universal legal and policy questions surrounding food recovery and donation, the **Harvard Law School Food Law and Policy Clinic (FLPC)** and **The Global FoodBanking Network (GFN)** have partnered to create The Global Food Donation Policy Atlas. This innovative partnership will map the laws and policies affecting donations in 15 countries over the course of two years. The project aims to: identify and explain national laws relating to food donation, analyze the most common legal barriers to promoting greater food donation and share best practices and recommendations for overcoming these barriers.

### MEXICO FOOD LOSS AND WASTE

Mexico loses or wastes an estimated 20.4 million tons of food each year. Most loss occurs upstream in the supply chain or before food reaches consumers. This is due in large part to inefficient or inadequate cold-chain infrastructure (refrigeration during transportation and storage). At the same time, an estimated 25.5 million people are food insecure, leading the federal government to adopt several social assistance and rural development programs intended to eradicate widespread hunger. While there is currently no comprehensive national law focused on food loss, waste, or recovery, several private-public partnerships supported by the federal government, as well as state laws and policies have created a foundation for food donation efforts.

#### Mexico: By the Numbers

- Population: 128,650,000
- GDP: \$1.221 trillion
- Poverty Rate: 41.9%
- Prevalence of Severe Food Insecurity: 8.9%
- Global Food Security Index: 69.4
- Food Sustainability Index: 65.6
- FLW Estimates: 20.4 million tons

### MEXICO FOOD DONATION POLICY HIGHLIGHTS

**DATE LABELING:** Mexico has enacted federal date labeling standards, requiring manufacturers of pre-packaged foods to select from either a safety-based label, referred to as the expiration date, or a quality-based label, referred to as the preferred consumption date. This **dual-labeling scheme conveys to retailers and consumers whether the item is still suitable for sale and consumption once the affixed date has passed.** In countries without a dual-labeling requirements, variation in the labels can lead to confusion and ultimately contribute to food waste. Mexico's labeling scheme, on the other hand, is a positive step towards reducing waste and promoting greater food donation.

**ACTION OPPORTUNITY:** Despite Mexico's adoption of a dual-date labeling system, there remains some uncertainty surrounding the meaning of the date labels, particularly in the context of food donation. To resolve this issue, the government should issue clarifying guidance to distinguish between the safety-based and quality-based labels and amend the relevant regulation on general labeling specifications to explicitly permit the donation of food after the quality-based date (i.e. preferred consumption date) has passed. Greater consumer education and awareness surrounding the meaning of these labels and the application to donated food will also help promote greater food donation.

**TAX INCENTIVES:** Mexico provides **federal tax benefits to corporate and individuals taxpayers that offer food for donation** provided it is still suitable for human consumption. Federal tax law allows donors to claim an annual deduction for the total value of the donation, up to 7% of the donor's taxable income or taxable profit from the previous year. Donors are eligible to claim an additional 5% deduction for qualifying food donations. Authorized donees, or charitable and non-governmental institutions that are registered to receive food donations, are also eligible for tax benefits and exempt from several taxes and duties.

**ACTION OPPORTUNITY:** Some potential donors in Mexico express concern that the existing incentives are insufficient to offset the perceived costs of donation. Offering an enhanced deduction for food donations and activities associated with the storage, transportation and delivery of donated food may help to encourage greater donations. Amending federal tax law to also provide a tax credit that is applied evenly across tax brackets for donations made to authorized donees and other food recovery organizations may also increase donations, particularly among smaller business donors.

## **MEXICO FOOD DONATION POLICY OPPORTUNITIES**

**FOOD SAFETY FOR DONATIONS:** Mexico's General Health Law features a provision specific to food donation, one which places a general responsibility on all organizations supplying, receiving or distributing food to comply with sanitary controls set forth in the comprehensive law. The law does not offer additional guidance or reference specific provisions with which food donors and food recovery organization must comply. Further, several sanitary provisions in the General Health Law are incompatible with new, emerging models of food rescue and recovery.

**ACTION OPPORTUNITY:** The federal government should amend the General Health Law to **distinguish food safety requirements imposed on food destined for donation from food intended for sale**. The government should also adopt a separate regulation, or Official Mexican Norm, to clarify the food safety requirements that apply to food donation, and disseminate clarifying guidance to help food donors and food recovery organizations better understand the relevant rules.

**LIABILITY PROTECTION FOR FOOD DONATIONS:** Mexico currently offers limited federal liability protection for food donors, pursuant to the General Health Law. Article 199-Bis of the law places exclusive responsibility for the donations on the distributing organizations; article 484 imposes penalties for those who knowingly or negligently authorize the distribution of food that is unsafe for human consumption. Despite these provisions, several states in Mexico have recognized the perceived risks of liability among potential food donors and have therefore adopted liability protections.

**ACTION OPPORTUNITY:** To dispel concerns of food donors and food recovery organizations regarding potential liability for food donations, the **federal government should adopt legislation that establishes clear and comprehensive liability protection for both food donors and intermediaries**. This protection should grant food donors and food recovery organizations a presumption of good faith that would prevent a court from holding these actors liable in the event of harm provided certain conditions are met. This protection should extend to food recovery

organizations that charge a nominal fee for donated food, and should include food that is donated and distributed even after the affixed quality-based date has passed.

**GOVERNMENT GRANTS AND INCENTIVES:** Mexico has identified insufficient cold-chain infrastructure as well as a lack of financial support for food recovery as among the main drivers of food loss and waste. Nevertheless, there are currently no federal grants or public funding mechanisms specifically designed to support on-farm recovery or food donation. Investments in cold-chain management have focused on export supply chains rather than domestic food recovery efforts, and federal grant funding has targeted rural development and poverty reduction but failed to support food donation.

**ACTION OPPORTUNITY:** Providing greater **financial support for food donation logistics will enable food recovery organizations to significantly enhance their impact.** Currently, the private sector is providing this much-needed support, particularly with respect to infrastructure improvements. The government should expand upon these efforts, and designate public grants for cold-chain development, as well as other employment and personnel support that will help to offset the costs of recovering and donating safe, surplus food.

### **MEXICO FOOD DONATION POLICY: HOW DOES IT COMPARE?**

Mexico has several opportunities to increase attention to food donation at the federal level. In the absence of comprehensive national legislation on food loss, waste, and recovery, states have enacted laws and policies that promote food donation by offering tax incentives and liability protections for food donors and food recovery organizations and imposing penalties on food waste. Scaling up these policies to the federal level will help to strengthen food donation efforts and simultaneously combat hunger and food insecurity.

Food Safety for Donations	Date Labeling	Liability Protection for Food Donation	Tax Incentives	Tax Barriers	Donation Requirements or Food Waste Penalties	Government Grants and Incentives
Weak policy	Weak policy	Weak policy	Weak policy	No policy	Weak policy	No policy

For more detail on how Mexico measures up against the other countries evaluated in The Global Food Donation Policy Atlas project, check out [www.atlas.foodbanking.org](http://www.atlas.foodbanking.org). For more information about the food donation legal framework in Mexico and policy recommendations for strengthening this framework, check out the Mexico Food Donation Legal Guide and the Mexico Food Donation Policy Recommendations.

## BACKGROUND INFORMATION: MAJOR LEGAL ISSUES IMPACTING FOOD DONATION

**Food Safety for Donations:** A key barrier to food donation is lack of knowledge regarding safety procedures for donated food. All donated food should be safe for consumption and comply with applicable food safety laws. Potential donors, however, are often uncertain which food safety regulations apply to donated food and the steps necessary to comply.

**Date Labeling:** Date labels, such as “use by,” “best before,” “sell by,” and “expires on,” are a major driver of food waste and obstacle to donation. For the majority of foods, date labels are used by manufacturers to reflect freshness or quality rather than safety, yet without standard labels delineating safety versus quality, safe food often goes to waste rather than being donated.

**Liability Protections for Food Donations:** A significant barrier to food donation is the fear among donors that they will be liable if someone becomes sick after consuming donated food. Many countries are moving to adopt liability protections to mitigate this concern. In such countries, donors and food recovery organizations may still face uncertainty as to the parameters of this protection.

**Tax Incentives and Barriers:** Donating surplus food can be expensive, as food donors must allocate time and money to glean, package, store, and transport surplus food that otherwise would be discarded, usually at no cost. Tax incentives (deductions or credits), can help offset these costs and make donation a more attractive option. In some countries, such as several countries with a Value Added Tax, tax schemes are themselves a barrier to donations.

**Donation Requirements or Food Waste Penalties:** Some countries have employed food donation requirements or impose monetary penalties for food that is sent to the landfill (often known as organic waste bans or waste taxes) in order to influence business behavior and promote more sustainable solutions such as food donation and recovery.

**Government Grants and Incentives:** Grants and incentive programs funded at the federal or local level offer another important resource for food donation initiatives. This is particularly true in countries where donors consider tax incentives to be insufficient to offset the costs of donation or where a lack of infrastructure limits food recovery efforts.

## THE GLOBAL FOOD DONATION POLICY ATLAS PROJECT SUPPORT

**Project Partners:** The Global Food Donation Policy Atlas is a project of the Harvard Law School Food Law and Policy Clinic, with support from The Global FoodBanking Network.



Support from the Walmart Foundation:



This research was made possible through funding by the Walmart Foundation. The findings, conclusions, and recommendations are those of Harvard Law School Food Law and Policy Clinic alone, and do not necessarily reflect the opinions of the Walmart Foundation.