



THE GLOBAL FOOD DONATION POLICY ATLAS

Executive Summary: Nigeria

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 maps the laws and policies in countries across the globe. 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.

NIGERIA FOOD LOSS AND WASTE

Each year, approximately 40% of food produced in Nigeria is lost or wasted. At the same time, nearly 116 million people are moderately or severely food insecure.

The Nigerian government has implemented interventions to promote food security. The Constitution of Nigeria directs states to ensure that all Nigerians always have adequate food. In 2016, Nigeria published its National Policy on Food and Nutrition in Nigeria to promote food security for all Nigerians. In 2017, Nigeria adopted the Agriculture Sector Food Security and Nutrition Strategy, to tap Nigeria's rich agricultural potential to reduce poverty and end hunger by 2035.

Nonetheless, Nigeria is yet to adopt a national law to promote food donation or address food loss and waste. Notwithstanding, there are several non-profit and private sector initiatives to address food loss and waste in Nigeria, including the Postharvest Loss Alliance for Nutrition (PLAN) led by the Global Alliance for Improved Nutrition (GAIN) which was established to address the loss and waste of nutrient-dense perishable foods. At the same time, private sector actors including food banks are actively promoting food rescue and donation of surplus food to mitigate hunger and food insecurity.

Nigeria: By the Numbers

- Population: 214,028,000
- GDP: \$440 billion
- Poverty Rate: 46%
- Prevalence of Food Insecurity: 44.1%
- Global Food Security Index: 41.3
- FLW Estimates: 37, 941, 470 tons

NIGERIA FOOD DONATION POLICY HIGHLIGHTS

DATE LABELING: Nigeria's date labeling scheme is set out in the Pre-Packaged Food, Water and Ice Labelling Regulations (2019) under the National Agency for Food and Drug Administration and Control Act. The Pre-Packaged Food, Water and Ice Labelling Regulations establish a dual date labeling scheme for prepackaged foods, which distinguishes between safety-based and quality-based labels. Specifically, the Pre-Packaged Food, Water and Ice Labelling Regulations require all pre-packaged foods to feature a "use-by date" or "expiration date" or a "best-before-date" or "best-before-quality-date," depending on the type of the food product.

ACTION OPPORTUNITY: Despite aligning with the best practice of having standard labels for quality versus safety as provided in the 2018 update to the *Codex Alimentarius* General Standard for the Labeling of Prepackaged Foods, the regulations do not expressly permit donation of food past the quality-based date. Nigeria should amend the Pre-Packaged Food, Water and Ice Labelling Regulations to explicitly permit the donation of food after the quality-based date. In addition, the government could promote education and awareness on the meaning of date labels.

NIGERIA FOOD DONATION POLICY OPPORTUNITIES

TAX INCENTIVES AND BARRIERS: Nigeria's Companies Income Tax Act (CITA), allows companies to claim a deduction for allowable donations made to eligible recipients in the relevant tax assessment period under certain conditions. However, this deduction is not available for donations made to food recovery organizations, because they are not listed as eligible recipients. Also, CITA does not explicitly authorize in-kind food donations. Luckily, food donations do not incur any VAT-related financial barrier. While most transactions, including the sale of food, incur a VAT at a rate of 7.5%, goods purchased for humanitarian, donor funded projects, are zero rated, meaning that VAT does not pose a barrier to food donation.

ACTION OPPORTUNITY: Nigeria should amend the Companies Income Tax Act (CITA) to explicitly include food recovery organizations as eligible recipients. Nigeria should also amend the CITA to allow for in-kind donations, including food donations. Nigeria could also provide a tax deduction for activities associated with the storage, transportation, and delivery of donated food.

FOOD SAFETY FOR DONATIONS: In Nigeria, food safety laws are mostly contained in the National Agency for Food and Drug Administration and Control Act, the Food and Drugs Act (FDA), and the Counterfeit and Fake Drugs and Unwholesome Processed Foods Act. While these laws do not explicitly mention food donation, they are broad in scope and presumably apply to food donations.

ACTION OPPORTUNITY: Nigeria should amend the National Agency for Food and Drug Administration and Control Act to feature a donation-specific chapter or draft regulations that elaborate on food safety for donations. The Nigerian government could also produce and disseminate clarifying guidance on food safety requirements relevant to donation.

LIABILITY PROTECTION FOR DONATIONS: Nigeria does not provide explicit legal protections for food donors and food recovery organizations. The Federal Competition and Consumer Protection Act establishes a strict liability scheme, holding any person that supplies defective services or goods, such as food, liable for any damages resulting from those goods or service, whether or not a consumer bought them from the person supplying the goods or service. Given this strict liability scheme, food donors and food recovery organizations may be wary of donating food due to a fear of being held liable in case a beneficiary is harmed.

ACTION OPPORTUNITY: To ensure that liability concerns related to donating food do not deter potential donors, Nigeria should enact national legislation that establishes clear and comprehensive liability protection for food donors and food recovery organizations, similar to protections offered in Argentina and the United States of America.

NIGERIA FOOD DONATION POLICY: HOW DOES IT COMPARE?

Nigeria has prioritized food security in its legislative framework. However, there is a need to execute legal and policy solutions through legislation and regulatory reform to advance these agendas and position food donation as a necessary tool to success. Clarifying food safety requirements, adopting comprehensive liability protections and providing tax incentives for in-kind donations for food donors and food recovery organizations may help achieve this goal.

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	National FLW/ Donation Law or Policy
No Policy	Moderate Policy	No Policy	No Policy	No	No Policy	No Policy	No

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

BACKGROUND INFORMATION: MAJOR LEGAL ISSUES IMPACTING FOOD DONATION

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

Date Labeling: Date labels affixed to food products are a major driver of food waste and an obstacle to food donation. Most food donors and food recovery organizations are appropriately cautious about donating food that may no longer be safe, but it is not always clear whether the date label accompanied by language such as “sell by,” “expires on,” or “best by” relates to food safety. In fact, date labels are generally intended to reflect freshness or quality rather than safety for the vast majority of foods.

Liability Protection for Food Donations: A significant barrier to food donation is the fear among donors that they will be found liable if someone becomes sick after consuming donated food. Some countries have adopted liability protections to mitigate this concern. However, many food donors and food recovery organizations are uncertain as to whether they are eligible for this protection, whether there are actions required to maintain the protection, and what limits, if any, apply.

Tax Incentives and Barriers: Transportation and storage costs are often cited as the main expenses that manufacturers, retailers, and restaurants need to overcome to donate food. Tax incentives, including deductions and credits, can help to offset these financial inputs and help make donation a more attractive, affordable option. The application of certain taxes to donated foods, such as the value-added tax, however, can also create a barrier to donation.

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

Government Grants and Incentives: Grants and incentive programs funded at the national 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.

National law or policy on food waste: Adopting a national food loss and waste or food donation framework can help governments ensure policy coherence and advance food recovery efforts along the supply chain. Offering a unified and comprehensive framework may better enable governments to clarify food safety rules, standardize date labels, define liability protections for food donors and food recovery organizations, and set forth additional tax benefits to which donors may be entitled under relevant law. A national law or policy can also serve as a foundation for government grant programs and awareness campaigns focused on food system sustainability and food security.

THE GLOBAL FOOD DONATION POLICY ATLAS PROJECT SUPPORT

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