



THE GLOBAL FOOD DONATION POLICY ATLAS

Executive Summary: Colombia

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.

COLOMBIA FOOD LOSS AND WASTE

Each year Colombia loses more than 6 million tons of food during the production, processing, and distribution stages of the supply chain and wastes an additional 3.54 million tons at the retail and consumer levels. At the same time, more than 22% of the population was facing moderate to severe food insecurity prior to the novel coronavirus (COVID-19) pandemic—a global emergency that has since exacerbated both hunger and food loss and waste.

The Colombian government has responded to these challenges in recent years by adopting legislative frameworks intended to promote greater food security and food recovery. Most notably, in 2019, Colombia adopted Law 1990, which established a national Policy Against Food Loss and Waste (*Política Contra la Pérdida y el Desperdicio de Alimentos*). The Law calls for a comprehensive strategy on food loss and waste, recognizing food donation as essential to this pursuit. The Intersectoral Commission of Food and Nutritional Security (*Comisión Intersectorial de Seguridad Alimentaria y Nutricional* or CISAN), comprised of several agency representatives, is responsible for the Law’s regulatory oversight and implementation.

Colombia: By the Numbers

- Population: 49,085,000
- GDP: \$323.8 billion
- Poverty Rate: 27%
- Prevalence of Severe Food Insecurity: 9.17%
- Global Food Security Index: 69.4
- Food Sustainability Index: 71.2
- FLW Estimates: 9.76 million tons

COLOMBIA FOOD DONATION POLICY HIGHLIGHTS

TAX INCENTIVES AND BARRIERS: Colombia’s national income tax regime incentivizes and rewards

individual and corporate taxpayers that donate rather than discard safe, surplus food. A 2016 tax reform confirmed that donors may claim a tax credit equivalent to 25% of the value of donations made to registered nonprofit entities during the taxable year. Such entities include those that promote health, environmental protection, human rights, social development, and poverty reduction. Food donations made to food banks and other food recovery organizations may therefore qualify for this benefit. Colombia also ensures that the value-added tax (VAT), which is generally levied at a standard rate of 19%, does not deter food donations. Most food items are not subject to the tax, and food donations made to registered food banks are entirely exempt from the VAT.

ACTION OPPORTUNITY: The government should ensure that the national tax framework promotes food donation over other forms of food recovery, consistent with the food loss and waste prevention hierarchy set forth in Law 1990. This may involve providing an enhanced benefit for qualifying food donations—a benefit for which there is precedent. Prior to the 2016 tax reform, the Directorate of National Taxes and Customs (*Dirección de Impuestos y Aduanas Nacionales* or DIAN) approved a tax deduction of 125% of the value of food donations made to Asociación de Bancos de Alimentos de Colombia (ABACO), the national food banking network. A recent ruling by DIAN, however, suggests that this benefit may no longer be available.

LIABILITY PROTECTION FOR FOOD DONATIONS: Colombia limits potential liability that may be imposed on food donors in the event that a beneficiary is harmed. Law 1990 exclusively recognizes receiving institutions as responsible for the donated food’s receipt, storage, and quality. This responsibility is triggered once the receiving entity takes possession of the donated food. Law 1990 does not expressly preclude the possibility that a food donor may be held liable for purposeful, reckless, or negligent acts leading up to the moment of donation, nor does the Law extend liability protections to food recovery organizations acting as intermediaries.

ACTION OPPORTUNITY: While limiting the potential liability imposed on food donors is an important step toward increasing donations, Colombia should further protect food donors and food recovery organizations by establishing comprehensive liability protections. The government should amend Law 1990 to protect those who act in “good faith” and adhere to relevant law, similar to protections offered in Argentina and the United States. Comprehensive liability protections should also extend to donations offered for a nominal fee and to donors who directly donate to beneficiaries.

COLOMBIA FOOD DONATION POLICY OPPORTUNITIES

FOOD SAFETY FOR DONATIONS: Despite setting forth comprehensive food safety standards in Law 9/1979 and accompanying regulations, such as Resolution 2674/2013, Colombia’s food safety legal framework fails to explicitly address food donation. Existing food safety rules are broad in scope and presumably apply to food donation operations. Law 1990 confirms that food donors and food recovery organizations must adhere to relevant rules, but it does not enumerate which provisions apply. Accordingly, food donors and intermediaries may encounter some uncertainty as to which food safety standards apply to donated food.

ACTION OPPORTUNITY: To clarify which food safety provisions apply to donated food, the government should update the food safety legal framework to specifically address food donation. This may entail amendments to Law 9 or Resolution 2674 to feature donation-specific language, or may involve the adoption of a new resolution that focuses exclusively on safely donating food. CISAN can also offer this clarification in its regulations of Law 1990, which are still under development.

DATE LABELING: Colombia’s national date labeling standards require manufacturers to choose between a “minimum duration” date and a “deadline for use” (often expressed as the “expiration date”). The regulatory definitions for these labels, however, do not clearly designate these labels as quality-based or safety-based. As a result, manufacturers may use the “deadline for use” to indicate a

product’s peak quality rather than the last date on which the product is safe for human consumption, contrary to its common application in other countries. Law 1990 further prohibits the donation of food within five days of the affixed safety-based date, but it does not expressly permit food donation after the quality-based date has passed.

ACTION OPPORTUNITY: The government should update regulations on labeling for prepackaged foods, distinguishing between and quality- and safety-based date labels, consistent with the dual date labeling scheme elaborated in the *Codex Alimentarius*’ 2018 guidance and endorsed by the Consumer Goods Forum. Colombia should also amend Law 1990 to permit the donation of food within the five-day period prior to the “deadline for use” (or “expiration date”) and to allow donation after the quality-based date. Government guidance and consumer awareness campaigns would ensure that donors accurately interpret date labels and donate rather than discard food that is still safe for human consumption.

DONATION REQUIREMENTS OR FOOD WASTE PENALITES: Colombia established a foundation for donation requirements and food waste penalties through Law 1990, which states that the government can sanction private actors who fail to comply with measures against food loss and waste. The Law does not elaborate on the design of this provision, and the regulations detailing potential enforcement are not yet developed.

ACTION OPPORTUNITY: The government should collaborate with private-sector actors to ensure that the construction, implementation, and enforcement of Law 1990 effectively promotes food recovery and donation without imposing an unreasonable burden. This may require CISAN to elaborate on the language of Law 1990 in its enabling regulations. This may also require the government to amend Law 1990 to ensure that the donation requirement is actionable and enforceable.

COLOMBIA FOOD DONATION POLICY: HOW DOES IT COMPARE?

Colombia’s recent adoption of Law 1990 demonstrates the government’s ongoing commitment to reduce food loss and waste as part of its food security and nutrition agenda. Food donation serves a critical role in this space, yet donation operations can be further strengthened through legislative and policy action. Clarifying food safety requirements, standardizing date labels, and adopting comprehensive liability protections for both food donors and food recovery organizations may help towards 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
No policy	Weak Policy	Weak Policy	Strong Policy	No	Weak policy	Weak Policy

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

THE GLOBAL FOOD DONATION POLICY ATLAS PROJECT SUPPORT

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