



THE GLOBAL FOOD DONATION POLICY ATLAS

Executive Summary: Dominican Republic

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.

DOMINICAN REPUBLIC FOOD LOSS AND WASTE

Every week, 1.1 million kilograms of food are lost or wasted along the supply chain in the Dominican Republic, with 93% of food lost in the production phase, alone. Much of this lost and wasted food is still safe for human consumption. If recovered and redistributed, this food could help reduce food insecurity, which affected 10.4% of the population prior to the novel coronavirus (COVID-19) pandemic. By the end of 2020, this number had likely increased, as the poverty rate rose by at least 1.4%, despite government interventions to address hunger and food insecurity.

Even before the pandemic, the Dominican government prioritized hunger reduction and food security as part of its national policy agenda. In recent years, the government adopted the 2019-2022 National Plan for Food and Nutrition Sovereignty and Security, the 2030 National Development Strategy, and the Social Assistance Plan of the Presidency through which the government delivered food to nearly 500,000 families in just the first month of the COVID-19 pandemic. Despite the potential for food recovery and donation to support greater food security, the Dominican Republic has yet to adopt a national law to promote food donation or prevent food loss and waste as part of its agenda. Two Bills related to the reduction of food waste were introduced in Congress in 2020—the “Law Project for the Reduction of Food Loss and Waste, Initiative No.1305-2020” (“*Proyecto de Ley para la Reducción de la Pérdida y Desperdicio de Alimentos*” or “Food Loss and Waste-Reduction Bill”), and the “Law Project against Food Waste, Initiative No.01291-2020” (“*Proyecto de Ley contra el Desperdicio de Alimentos*” or “Food Waste Bill”), and remained pending at the time of this writing.

Dominican Republic: By the Numbers

- Population: 10,074,000
- GDP: \$88.94 billion
- Poverty Rate: 24.7%
- Prevalence of Food Insecurity: N/A
- Global Food Security Index: 45.7
- FLW Estimates: 57.2 million kg/year

In the absence of targeted national legislation, public-private partnerships in the Dominican Republic have leveraged food donation as solution to food loss, food waste, and food insecurity. The Dominican Food Bank (*Banco de Alimentos República Dominicana* or BARD) and other members of the National Committee for the Prevention and Reduction of Food Losses and Waste (*Comité Nacional de Prevención de Pérdidas y Desperdicios de Alimentos*), have largely led these efforts.

DOMINICAN REPUBLIC FOOD DONATION POLICY HIGHLIGHTS

FOOD SAFETY: The Dominican Republic has an expansive and complex body of law, regulation, and standards governing food safety. Most food safety standards in the Dominican Republic are derived from the General Health Law (*Ley General de Salud, No. 42-01*) and the General Regulation for the Control of Food and Beverage Risk (*Reglamento General para Control de Reisgos en Alimento y Bebida* or General Food Regulation). The General Food Regulation features several articles that specifically concern food donation, and which offer commentary on government oversight. Food safety is also regulated through nonbinding, voluntary technical standards (*Normas Dominicanas* or NORDOMs), which comprise the Dominican Quality System (*Sistema Dominicano para la Calidad* or SIDOCAL). Relevant NORDOMs may apply to donated food; however, the country has not adopted a NORDOM specifically for food donation.

ACTION OPPORTUNITY: To ensure that donated food complies with all relevant food safety laws, regulations, and standards, the Dominican Republic should amend the General Food Regulation’s donation-specific provisions. The amendments should enumerate which food safety rules apply to food donors and food recovery organizations. The government should also adopt a NORDOM that specifically addresses food safety for donated food, adopt clarifying guidance on how existing food safety standards apply to the context of food donation.

TAX BARRIERS AND INCENTIVES: The Dominican Republic offers a tax deduction of up to five percent of the donor’s net income for the value of charitable in-kind and monetary donations made to registered institutions, including food banks. The Tax Code also exempts all donations made to public and charitable institutions from the Corporate Income Tax. Additionally, most agricultural food products are exempt from the value-added tax, referred to as the Transfer of Industrialized Goods and Services Tax (*Impuesto a la Transferencia de Bienes Industrializados y Servicios*, or ITBIS), thus effectively removing this tax as a potential barrier to donation.

ACTION OPPORTUNITY: Given the modest tax incentives that cover general charitable donations, the Dominican Republic could further incentivize food donation by increasing the tax deduction available for qualifying food donations and associated expenses. The Dominican Republic should also offer tax credits to encourage donation among farmers and smaller donors who may not otherwise benefit from the available deduction.

DOMINICAN REPUBLIC FOOD DONATION POLICY OPPORTUNITIES

DATE LABELING: The Dominican Republic standardizes date labels under the General Food Regulation and NORDOM 53 on General Labeling for Prepackaged Products. Both of these binding regulations require the use of quality-based date labels, but are not aligned on how this label is expressed. Further, neither the General Food Regulation nor NORDOM 53 adhere to the 2018 update to the *Codex Alimentarius* General Standard for the Labeling of Prepackaged Foods, which features a dual date labeling scheme distinguishing between safety-based and quality-based labels. The Dominican labeling scheme also does not clarify whether food may be donated after the quality-based date.

ACTION OPPORTUNITY: The Dominican Republic should amend NORDOM 53 to require the use of a dual date labeling scheme consistent with the *Codex Alimentarius*’ standard to which the NORDOM should align. Further, the government should explicitly allow for the donation of food after the quality-based date, ensuring that consumers better understand the difference between quality-based labels and safety-based labels.

LIABILITY PROTECTION: The Dominican Republic currently lacks national liability protections for food donors and food recovery organizations, which can discourage potential donations. The General Law 358-05 on the Protection of the Rights of the Consumer and User recognizes strict liability of producers, importers, distributors, suppliers, if an injury results from a product defect or insufficiency. The law does not clearly extend to food donors or food recovery organizations. However, Pro Consumidor (*Instituto Nacional de Protección de los Derechos del Consumidor*), which is responsible for overseeing compliance with the law, has previously coordinated with donors and food recovery organizations to ensure compliance.

ACTION OPPORTUNITY: To ensure that food donors and food recovery organizations are appropriately protected against legal liability arising from claims of harm, the Dominican Republic should enact clear and comprehensive liability protections for these actors. A strong policy would protect donors and food recovery organizations that act in “good faith,” and adhere to relevant food safety and other laws.

DOMINICAN REPUBLIC FOOD DONATION POLICY: HOW DOES IT COMPARE?

The Dominican Republic’s recent consideration of national legislation on food loss and waste demonstrate attention to this issue among policymakers. While the Dominican Republic works toward a comprehensive framework for redirecting safe, surplus, or otherwise unmarketable food to those who need it most, policymakers should pursue targeted improvements to existing law and regulations that impact food donation. In particular, clarifying food safety standards, introducing a dual date labeling scheme, enacting liability protections for food donors and recovery organizations, and increasing tax benefits for donation may significantly increase food donations in the Dominican Republic.

| 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 | No Policy | Weak Policy | No | No policy | No Policy |

For more detail on how the Dominican Republic 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 the Dominican Republic and policy recommendations for strengthening this framework, check out the Dominican Republic Food Donation Legal Guide and the Dominican Republic 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

Project Partners: The Global Food Donation Policy Atlas is a joint initiative of the Harvard Law School Food Law and Policy Clinic and 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.