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CHINA

RECOMMENDATIONS
FOOD DONATION
LAW AND POLICY

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Authors

This report was written by the following staff and students at the Harvard Law School Food Law and Policy Clinic (FLPC): Regan Plekenpol, Emily M. Broad Leib, Kaixin Fan, and Caroline Jaschke, with expert input from Pinghui Xiao.

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About The Global Food Donation Policy Atlas

The Global Food Donation Policy Atlas is a first-of-its-kind initiative to promote better laws on food donation to help address food loss and food insecurity. This project maps the laws affecting food donation in countries across the globe to help practitioners understand national laws relating to food donation, compare laws across countries and regions, analyze legal questions and barriers to donation, and share best practices and recommendations for overcoming these barriers. The project is a collaboration between the Harvard Law School Food Law and Policy Clinic (FLPC) and The Global FoodBanking Network (GFN). To learn about and compare the food donation laws and policies for the countries FLPC has researched to date, visit www.atlas.foodbanking.org.

About the Harvard Law School Food Law and Policy Clinic

The Harvard Law School Food Law and Policy Clinic (FLPC) serves partner organizations and communities by providing guidance on cutting-edge food system legal and policy issues, while engaging law students in the practice of food law and policy. FLPC focuses on increasing access to healthy foods; supporting sustainable food production and food systems; and reducing waste of healthy, wholesome food. For more information, visit www.chlpi.org/food-law-and-policy.



About The Global FoodBanking Network

The Global FoodBanking Network (GFN) supports community-driven solutions to alleviate hunger in more than 40 countries. While millions struggle to access enough safe and nutritious food, nearly a third of all food produced is lost or wasted. GFN is changing that. GFN believes food banks directed by local leaders are key to achieving Zero Hunger and building resilient food systems. For more information, visit www.foodbanking.org.



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ABOUT THESE RECOMMENDATIONS

This document is a product of The Global Food Donation Policy Atlas project, a partnership between the Harvard Law School Food Law and Policy Clinic (FLPC) and The Global FoodBanking Network (GFN). The Atlas project is an innovative partnership that maps the laws and policies affecting food donation in countries across the globe and provides a comparative legal analysis based on these findings. For each country, the Atlas project produces a Legal Guide to identify the laws relevant to food donation in that country. While the landscape differs across geopolitical borders, the Legal Guides recognize universal issues that impact efforts to reduce food loss and waste (FLW) and increase food recovery. These issues include food safety, date labeling, liability, taxes, donation requirements and food waste penalties, and government grants or funding programs.

In-country interviews with relevant stakeholders, including food banks and other food recovery organizations, food donors, government officials, and legal experts, further informed the content of the Legal Guides and revealed priority actions for law and policy change. Based on these findings, FLPC has developed specific recommendations for each country. These recommendations serve as a companion to the Legal Guides, though both documents may stand alone. The purpose of the recommendations is to highlight select actions for improving upon laws, policies, and programs relevant to food loss, waste, and donation.

The document sets forth recommendations focused on China, where an estimated 27% of food produced annually for human consumption is lost or wasted¹ and approximately 10% of the population is malnourished.² The discussion below provides a brief overview of the legal issues most pertinent to food donation, which the China Legal Guide explains in detail. The recommendations included in this report are not exhaustive but offer select best practices and policy solutions to reduce FLW and combat food insecurity through stronger food donation laws and policies in China.



SUMMARY OF RECOMMENDATIONS

The recommendations contained in this document provide a starting point for stakeholders in China to strengthen the legal and policy framework relevant to food donation. Food banks and other organizations whose mission is to reduce food waste and increase food donation (collectively referred to as “food recovery organizations”), donors, and policymakers should consider additional opportunities to advance food donation and reduce food waste. In summary, the recommendations for the government are as follows:

To ensure food is not disposed of or labelled as “expired” when it is still safe for consumption or donation, the government should:

- Adopt a national dual date labeling standards that differentiate between safety-based and quality-based date labels.
- Amend the Food Safety Law to permit the donation of food after the shelf-life date where the date relates to quality.
- Promote consumer education and awareness on the meaning of date labels and their application to donated food.

To ensure that liability concerns related to donating food do not deter potential donors, the government should:

- Enact a national Good Samaritan law to provide liability protection for food donors and food recovery organizations, provided they do not act with gross negligence or wrongful intent.
- Establish a scope of protection that covers donations at a low fee.

To ensure that food donors and food recovery organizations are sufficiently incentivized to engage in food donation, the government should:

- Exempt food donation from the list of transactions that are VAT-taxable and ensure that food donors are allowed to reclaim VAT credits attached to donated food.

To ensure that all food supply chain actors contribute to food recovery and donation efforts, the government should:

- Adopt a policy requiring the donation of surplus food or imposing monetary penalties for food sent to landfills that is still suitable for human consumption.
- Develop and enforce a food waste and food donation reporting requirement for all food businesses in China.

To ensure that government policies and expenditure support food donation, the government should:

- Create government grant opportunities for food donation infrastructure.
- Implement government procurement policies to support food donation.

INTRODUCTION

Food loss and waste (FLW) represents a major environmental, economic, and social challenge in China. Nearly 10% of the population is undernourished³ (roughly 150.8 million people),⁴ yet approximately 27% of food produced annually in China for human consumption is lost or wasted (approximately 349 million tons).⁵ This loss makes up approximately one-quarter of the world's total FLW.⁶ In 2015 Chinese consumers in big cities produced 18 million tons of food waste (this amount increased to 19.8 million tons in 2020), an amount that could feed up to 50 million people per year.⁷ The land, water, carbon, nitrogen, and phosphorus footprints of China's food waste alone are comparable to those of an entire medium-sized country.⁸ Policies designed to both prevent FLW and promote food donation are critical in addressing the simultaneous burdens of climate change and food insecurity.

IN 2015 CHINESE CONSUMERS IN BIG CITIES PRODUCED 18 MILLION TONS OF FOOD WASTE, AN AMOUNT THAT COULD FEED UP TO 50 MILLION PEOPLE PER YEAR.

Unlike many other nations, where household food waste is the largest proportion of total food waste,⁹ in China 90% of consumer-stage food waste happens in mid- to high-end restaurants and canteens.¹⁰ In 2013 food waste officially became a national priority with the launch of the Clean Plate Campaign 1.0, which focused on officials' extravagant feasts and receptions.¹¹ China broadened this effort to public consumers and media in 2018 with the Clean Plate Campaign 2.0.¹² In 2021 the government enacted the Anti-Food Waste Law, which proposed initiatives to fight food waste in the catering sector, establish a food donation system, and develop further rules to govern expired foods.¹³ Alongside government initiatives and legislation, the Oasis Food Bank in Shanghai was founded in 2015 as the first food bank in mainland China.¹⁴ In its first year of operations, Oasis Food Bank distributed 30 tons of food. This expanded to about 500 tons in 2020.¹⁵

Despite the positive impact of these operations, food donors and food recovery organizations often encounter legal questions surrounding food donation. These challenges include possible exposure to legal liability if food recipients become ill, no tax incentives for in-kind food donations, and confusion over the meaning of date labels. The following sections briefly summarize some of the most common legal issues relevant to food donation, as identified and described in more detail in the Legal Guide, and offer policy recommendations to address these challenges.

LEGAL CHALLENGES & POLICY RECOMMENDATIONS

Date Labeling

Issue Overview

A major driver of food waste and an obstacle to food donation is the disposal of foods that do not pose a food safety concern due to confusion over date labels—such as “sell by,” “use by,” or “best by”—affixed to food products. In countries that have measured the impact of date labels, research shows that consumers generally misinterpret date labels as indicators of safety. But for the vast majority of foods, date labels indicate freshness or quality

rather than food safety, and few foods become more likely to carry foodborne illnesses over time. In the United Kingdom, for example, researchers found that consumers discarded about 22% of food that they could have eaten due to confusion over date labeling.¹⁶ Similarly, 84% of Americans report that they throw away food after the expiration date passes due to safety concerns, even if there is minimal risk of a foodborne illness at that time.¹⁷ As a result, donors and food recovery organizations, cautious about food safety, may discard food once the date passes even if the food remains perfectly safe to donate and consume.

Guidance on food labeling in China is provided by the national Food Safety Law¹⁸ as well as by Regulation GB 7718-2011 National Food Safety Standards-General Rules for the Labeling of Prepackaged Food.¹⁹ Both the law and the regulation require prepackaged items to be labeled with a shelf-life date (保质期), which, based on its definition, appears to indicate food quality.²⁰ Neither the law nor regulation indicate whether a relationship exists between the shelf-life date and food safety. Shelf-life dates may be used to indicate both food safety risks and declines in food quality. However, it is unclear when the label indicates the former versus the latter.²¹ The Food Safety Law prohibits the sale or distribution of food beyond this date and imposes sanctions on food companies that act contrary to this provision.²² Most interviewed stakeholders concluded that offering expired items for free is not allowed under these provisions.²³ Since China labels all prepackaged foods with only one type of date label, it is difficult for consumers to know which food is still safe to consume or donate past the date. This confusion leads to food being needlessly discarded when it could be consumed. Further, the lack of clarity around the consequences of offering expired food for free also unnecessarily discourages consumers and businesses from donating food that does not pose a safety risk.

The Chinese government issued an Anti-Food Waste Law in April 2021 to propose initiatives for fighting food waste in the catering sector, establish a food donation system, and develop further rules to govern expired foods. Article 16 of the law addresses the importance of avoiding food waste so long as food safety is guaranteed.²⁴ To do this, article 16 requires that the shelf-life of food be determined in a “scientific and rational manner, and conspicuously indicated for easy identification.”²⁵ However, since article 16 does not specify whether this requirement applies to the government or businesses producing the product, it is not clear what changes will result from this new requirement. Further, while such a requirement may help ensure the shelf-life date is being scientifically set, a shelf-life date is still used to indicate both a safety risk and decreased quality, with no differentiation between the two. To remedy the latter, the Work Programme on Anti-Food Waste (反食品浪费工作方案), issued in December 2021 by the National Development and Reform Commission to begin implementing the Anti-Food Waste Law, establishes further guidance for food date labeling. It suggests introducing two different terms for date labeling: “best before” (最佳食用日期) and “expiration” (保质日期).²⁶ Implementing this new date label scheme would potentially add nuance to the previously used single term “shelf-life” (保质期). The guidance also encourages the sale of food near the expiration date at preferential prices, though implementation is pending.²⁷

Recommended Policy Actions

1. SET LABELING STANDARDS THAT DIFFERENTIATE BETWEEN SAFETY-BASED AND QUALITY-BASED DATE LABELS.

To reduce confusion and clarify the meaning of date labels, many countries and, increasingly, the food industry moved toward a dual date labeling system that uses one term to indicate quality and another to indicate safety. The *Codex Alimentarius (Codex)*²⁸ recommends a dual date labeling scheme that uses a “use-by date” or “expiration date” to indicate foods with an increased safety risk past the date and a “best-before date” or “best quality-before date” to indicate freshness or quality.²⁹ Similarly, the Consumer Goods Forum, a global network of 400 consumer goods companies across 70 countries, recommended establishing two clear terms—one for quality and one for safety—and prohibiting the use of any other term.³⁰

More and more countries around the globe are adopting this dual date labeling standard. The European Union requires that the date label on any food product use only one of two standard labels: “best before” for quality and “use by” for safety.³¹ The United Kingdom also issued industry guidance to assist manufacturers in identifying which products should be labeled with a “best before” versus a “use by” date label.³² Estimates suggest that about one-third of the United Kingdom’s 2 million tons of yearly household food waste may be reduced through the dual date labeling scheme.³³ Leading research also suggests that standardizing and clarifying date labels is the most cost-effective solution to reducing food waste in the United States.³⁴ By aligning its laws with this internationally popular dual-labeling scheme, China stands to gain similar food waste reduction benefits.

The aforementioned Work Programme on Anti-Food Waste (反食品浪费工作方案) recommends a similar differentiation. It charges the Ministry of Commerce and the State Administration for Market Regulation (SAMR) with implementing such changes to the date labeling scheme.³⁵ As noted in the work plan, “best before” (最佳食用日期) would indicate peak food quality and “expiration” (保质日期) would indicate safety.³⁶ Prepackaged foods would be labeled with only one of these terms, depending on whether the food poses a safety concern beyond a specific date.

To ensure standardization and help manufacturers implement this dual-labeling scheme, GB 7718-2011 should be amended to specifically list the foods that must get the “expiry/use by” label according to the specific food safety situation of China. This would prevent overuse of the safety label and ensure that foods that do pose a safety risk are properly labeled. The Food Safety Committee³⁷ should create this list by identifying which foods in China pose a safety risk if consumed after the date. For example, in the United Kingdom, guidance documents about date labeling for surplus food include tables that offer specific recommendations for different food categories.³⁸

A dual date labeling scheme helps eliminate uncertainty about the meaning of date labels. As a result, it helps prevent unnecessary food waste since consumers and donors are better equipped to identify which foods are merely past peak freshness and remain safe for consumption or legal redistribution and which foods may pose actual safety risks after the date on the label.

2. AMEND THE FOOD SAFETY LAW TO PERMIT THE DONATION OF FOOD AFTER THE SHELF-LIFE DATE WHERE THE DATE RELATES TO QUALITY.

The Food Safety Law should be amended to allow distribution of food that is past its shelf-life date so long as the food does not pose a safety concern. As the law currently stands, production and distribution of food past the shelf-life date is prohibited.³⁹ Since China does not yet use date labels that distinguish between quality and safety concerns, the law acts as a blanket prevention of past-date food distribution even if there is no safety concern.

An amendment to the Food Safety Law could explicitly permit distribution of foods past their shelf-life date that do not pose a safety risk. If a dual-labeling scheme is implemented, as suggested above, any foods posing safety concerns after the expiration date would be labeled with a safety-based “use by/expiry date” and excluded from donation past the date. Meanwhile, the law would permit the donation of foods that have passed the quality-based, “best before” date yet remain safe for consumption.

In the absence of a dual-labeling scheme, distribution of food past its shelf-life should still be allowed, provided that foods most prone to spoilage are excluded from this allowance. The regulations themselves or other widely distributed guidance could list foods that do pose a safety risk after a certain period and are therefore not permissible for donation past the shelf-life date. For example, in response to food shortages during the COVID-19 pandemic, Costa Rica issued the “COVID-19 Food Donation Guidelines”⁴⁰ to avoid unnecessary waste

of safe, past-date food and explicitly allow the donation and consumption of certain foods after the “expiration date.” The guidelines feature detailed annexes that identify how long after the “expiration date” various types of food may be safe to donate and consume. However, the ideal Chinese guidance would feature a simpler, shorter list of the few foods not permissible for donation rather than an extensive list of the foods that can be donated safely past the expiration date. The Food Safety Committee of the State Council should be responsible for creating and distributing these guidance documents.

The United Kingdom has a food donation policy that explicitly allows food with a quality-based, “best before” date label to be sold, donated, redistributed, and consumed past this date.⁴¹ This policy even allows food to be sold, redistributed, or consumed after its safety-based date label if it was frozen or cooked prior to the date.⁴² Similarly, the European Union allows for the marketing of food past the quality-based date.⁴³ Some EU member states take a more cautious approach and only allow the donation of food past its quality-based date as long as the food was properly handled and stored.⁴⁴

Amending the Food Safety Law to allow distribution of food past its shelf-life would also permit distribution through discount stores. Shops, such as HotMaxx, which already sell nearly expired food at a discount, could expand their offerings to include foods that are past their quality-based date label. This would help reduce food waste and get food into the hands of people in need of safe, cheap, nutritious food.

3. PROMOTE CONSUMER EDUCATION AND AWARENESS ON THE MEANING OF DATE LABELS AND THEIR APPLICATION TO DONATED FOOD.

National consumer education will be critical to inform donors, food recovery organizations, and consumers that shelf-life labels generally do not convey safety but are more likely indicators of quality. Any clarification or standardization of China’s date-labeling regime—such as the changes proposed in this guide—will also require campaigns to educate and increase awareness among donors, food recovery organizations, and consumers about the new labels and distinctions between them. Such an education campaign can also help clarify rules regarding past-date donation for quality-dated foods, if allowed as recommended above.

The Food Safety Committee of the State Council⁴⁵ should drive the public education campaign, as it administers overall guidance on food safety. The committee might also draw support for its public education from the Anti-Food Waste Law, which requires consumer-facing education, such as incorporating anti-food waste education into the National Food Safety Publicity Week.⁴⁶ The programming of events and materials should include education on the meaning of date labels and clearly convey the regulations on donating food past the date on the label. The Food Safety Committee could also direct the news media to publicize information about date labels in compliance with article 22 of the Anti-Food Waste Law that requires the news media to publicize anti-food waste laws.⁴⁷

Liability Protections for Food Donation

Issue Overview

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. Other countries, including Argentina and the United States, have established liability protections, often called “Good Samaritan” laws to address this concern.⁴⁸ These protections limit the likelihood that food donors and food recovery organizations will be held responsible for any harm resulting from the donated food, provided that they comply with relevant laws.

China has not adopted such liability protection for food donors and food recovery organizations. As a result, potential donors and food recovery organizations, out of fear for potential liability, may prefer to discard rather than donate surplus food even if it is still suitable for human consumption. Manufacturers may have a heightened fear of liability, as they are subject to a strict liability standard (i.e., a plaintiff does not need to show that manufacturers are negligent or intentional in causing the harms, only that the product has a defect, the plaintiff suffered injuries, and the defective product caused the injuries).⁴⁹ The statutory provision that establishes the strict liability standard for defective products does not distinguish between food products and other products⁵⁰ and therefore may deter manufacturers for donating surplus food. Other than potential liability under tort law, there is an unlikely basis for criminal liability except for in the most egregious cases of intentional noncompliance with food safety standards or gross negligence that would sufficiently give rise to food poisoning.⁵¹

Recommended Policy Actions

1. ENACT A NATIONAL GOOD SAMARITAN LAW TO PROVIDE LIABILITY PROTECTION FOR FOOD DONORS AND FOOD RECOVERY ORGANIZATIONS.

To address concerns among food donors and food recovery organizations regarding potential liability and encourage more donation, the National People's Congress of China or its standing committee should enact a national Good Samaritan law for food donation. The law should protect both food donors and food recovery organizations from civil liability resulting from donated food as long as these actors comply with relevant food safety laws. Furthermore, to offer meaningful protection, the law should (1) include a presumption of good faith on the part of donors and food recovery organizations if they comply with all food safety laws and (2) place the burden on the plaintiff to prove that these actors did not act in good faith.⁵²

To balance the interests of donors and food recovery organizations with those of the food recipients, any Good Samaritan law enacted in China should require donated food to meet all relevant food safety laws and should cover both donors and the food recovery organizations receiving donated food. Liability should remain when harm to the recipient is the result of intent, recklessness, or gross negligence. With liability protections established in legislation, food donors would have a broader, clearer grant of protection, applicable to incidences of harm that may result from food that they believe is safe and wholesome but that somehow causes illness to the recipient.

2. ESTABLISH A SCOPE OF PROTECTION THAT COVERS DONATIONS AT A LOW FEE.

As China develops liability protections for food donors and food recovery organizations, it is advisable that the law applies to both free donation and donation at a nominal charge that covers the cost of handling and transporting the food. Food recovery organizations need resources to cover labor, transportation, administrative support, and other costs related to the recovery, processing, and distribution of surplus food. Therefore, if the Good Samaritan law only applies to food distributed at no cost, recovery organizations may face a financial burden that would ultimately hinder food donation and recovery. Liability protection that covers food distributed at a low fee will enable the long-term, sustainable operation of nonprofit food recovery organizations. This is especially relevant in China, as a large portion of food donated and consumed is fresh produce, and harvesting, transporting, and handling surplus fresh produce can be costly. Moreover, this could encourage innovative food recovery models such as nonprofit social supermarkets that exist in the European Union, where qualifying low-income individuals and families purchase donated food at heavy discounts. The protection should be limited to nonprofit organizations, and the law should make clear that any funds

generated from food sales would be used to cover operational costs (e.g., transportation and handling) rather than for commercial purposes. Further, this protection should extend to situations where one NGO charges another NGO to handle or transport food.

Tax Incentives and Barriers

Issue Overview

Food donation can be costly. Tax policies can either help offset these expenses and incentivize donation, or they can create an additional barrier to donation, which contributes to greater FLW.

China has tax incentives that are applicable to all charitable donations, which would include food donations. Specifically, a business may deduct its charitable donations of up to 12% of gross profit from its taxable income, and if the charitable donation exceeds 12% of the company's profit that year, the amount may carry over and be deducted within three years.⁵³ Individuals may also deduct charitable donations from their taxable income, subject to a cap of 30% of their taxable income.⁵⁴ For in-kind donations such as food, the value of the donation is based on the fair market value of the donated goods.⁵⁵ Furthermore, article 26 of the Anti-Food Waste Law provides that the state will implement tax policies that help prevent food waste. However, there is currently no implementing regulation for this provision.⁵⁶

While the existing deductions may incentivize food donation, China's value-added tax (VAT) system can hinder it. Currently, food donation is regarded no differently than food sales for VAT purposes, and is thus a taxable event.⁵⁷ The only exception is donation to enterprises or individuals in targeted areas for poverty alleviation purposes, in which case donation would be exempt from VAT.⁵⁸ The general practice in China is for businesses that donate food to cover the VAT on the donation,⁵⁹ making it more expensive to donate food than to simply discard it.

Recommended Policy Actions

1. EXEMPT FOOD DONATION FROM THE LIST OF TRANSACTIONS THAT ARE VAT-TAXABLE AND ENSURE THAT FOOD DONORS ARE ALLOWED TO RECLAIM VAT CREDITS ATTACHED TO DONATED FOOD.

Because Chinese tax law treats donation as a sale for VAT purposes,⁶⁰ the tax obligation on the donor and/or the food recovery organization poses a barrier to food donation. For example, consider a grocery store that buys a bag of rice for 10 yuan (¥) from a distributor and donates it to a food recovery organization. The grocery store pays a 6% input VAT (¥0.6) to the distributor when it acquires the food. If the grocery store were to sell the food to a customer for its fair market price (¥12), the grocery store will charge the customer a 6% output VAT, which amounts to ¥0.72 (¥12 x 6%). The grocery store then pays the government the difference between the output VAT and input VAT (¥0.72 - ¥0.6 = ¥0.12). When the grocery store donates the food to a food recovery organization, the output VAT will be the same as if the store sold the food for its fair market price. The government is still due the difference between the output VAT and input VAT (¥0.12). Either the donor or the food recovery organization must come up with the ¥0.12 due to the government. The common practice in China is that the donor covers this expense.⁶¹ Because the food recovery organization, unlike a consumer, will not pay the donor the amount of output VAT (¥0.72), the donor is not reimbursed for the ¥0.6 input VAT it paid to the distributor, as it would be through a sale. As a result, under the current policy, the donor will incur two expenses: (1) the amount of the input VAT on the food and (2) the difference between the output VAT and input VAT, which the donor pays at the time of donation.

To mitigate these VAT concerns—and thereby reduce barriers to food donation—the Chinese government should enact policy to exempt food donation from VAT with a right to deduct or to apply a zero rating (i.e., a VAT rate of 0%) on donated food items.

Exempting donation from VAT is not unprecedented in China. From 2019 to 2025, an enterprise’s or individual’s donation to enterprises or individuals in targeted areas for poverty alleviation purposes can be exempt from VAT.⁶² Additionally, as part of the tax policy to encourage donation during the COVID-19 pandemic, the government exempted VAT for the donation of goods used for pandemic responses through March 31, 2021.⁶³ However, because the rule only exempted VAT on the donation, businesses that donated goods could not reclaim credit for the input VAT paid for the supply, meaning that the benefit of the policy is limited.⁶⁴ Thus, in the context of food donation, the government should not only exempt food donation from VAT, but it should also allow donors to recoup the input VAT they paid to acquire the food they later donated. This ensures that the VAT does not deter businesses from donating food. Another approach is to set the VAT rate to 0% (called “zero rating”) for food donations. Many European countries have employed this technique in their tax law to remove the fiscal barrier to donating food.

Donation Requirements or Food Waste Penalties

Issue Overview

Some countries influence business behavior and promote sustainable food systems through food donation requirements or monetary penalties for sending food to landfills (often known as “organic waste bans” or “waste diversion requirements”). China’s Anti-Food Waste Law provides a framework for both donation requirements and food waste penalties, but it does not require either one.

Articles 27 to 30 of the Anti-Food Waste Law stipulate warnings and corrective action for violators of the law’s food waste mitigation provisions by a designated department.⁶⁵ If they refuse to take corrective action, the violators can be fined anywhere from ¥1,000 to ¥100,000 depending both on the type of violator and the type of violation.⁶⁶ These articles penalize wasteful behavior such as misleading consumers to order excessive food and failure to implement food waste prevention measures. However, they do not penalize food disposal or destruction of food, as an organic waste ban would. Further, article 23 does not specifically mandate food donation.⁶⁷ The article requires local people’s governments to establish a mechanism linking food producers and dealers to food donation organizations or other relevant social organizations.⁶⁸ The same article also encourages online information services to build platforms to aid in food donation activities.⁶⁹ However, nothing is specifically required of food businesses. Given the willingness of the National People’s Congress to innovate in response to food waste concerns and the ongoing effort to implement the Anti-Food Waste Law at both the state and local levels, there is an opportunity to employ food donation requirements and an organic waste ban in future policy design and implementing regulations.

Recommended Policy Actions

- 1. ADOPT A POLICY REQUIRING THE DONATION OF SURPLUS FOOD OR IMPOSING MONETARY PENALTIES FOR FOOD SENT TO LANDFILLS THAT IS STILL SUITABLE FOR HUMAN CONSUMPTION.**

To further anti-food waste goals and advance food security, the government should adopt policies that require the donation of surplus food and penalize disposal or destruction of food that remains fit for human consumption. China could do this through an additional food donation law or through the implementing regulations of the Anti-Food Waste Law.

The National People's Congress standing committee could enact a food donation law. Peru, for example, enacted a Food Donation Law that prohibits all food storage facilities and supermarkets from discarding or destroying food that has lost commercial value but is still suitable for human consumption.⁷⁰ California's SB1383 regulations offer another promising model. The regulations mandate that certain food businesses donate food they would otherwise discard and that these businesses establish contracts with food recovery organizations.⁷¹ Such a provision could complement a ban on food destruction or disposal by helping streamline food recovery. The law should delegate power to an agency to monitor and enforce the food donation requirement as well as specify civil penalties and fines for violations. Any food donation law enacted by the National People's Congress standing committee should include a broad range of supply chain actors (e.g., producers, supermarkets, restaurants, and businesses above a certain minimum size) to ensure maximum impact in reducing food waste and enhancing food security.

An alternative to passing a new food donation law is adopting food donation requirements and food disposal penalties through the implementing regulations of the Anti-Food Waste Law. For example, article 5 directs the Ministry of Commerce and SAMR, under the State Council, to establish anti-food waste systems and rules for the catering industry.⁷² As part of these rules, the State Council departments might require the catering industry to donate any leftover food that is still safe for human consumption. Furthermore, food donation requirements or food waste penalties could be incorporated into the mandate in article 23 to facilitate food donation through establishing a mechanism to link food producers with food recovery organizations. The Ministry of Civil Affairs and SAMR could require that food producers and dealers contribute any safe, surplus food to this linking mechanism and penalize any preventable waste or discarded edible food.⁷³

2. DEVELOP AND ENFORCE A FOOD WASTE AND FOOD DONATION REPORTING REQUIREMENT FOR ALL FOOD BUSINESSES IN CHINA.

A food waste and food donation reporting requirement should be adopted through the implementing regulations of the Anti-Food Waste Law to pressure businesses into adhering to waste-reduction measures. England's 2018 Waste Strategy, for example, introduced voluntary annual reporting for all businesses, which encouraged businesses to report their food waste and food surplus each year.⁷⁴ The United Kingdom intends to enforce the reporting as a mandatory requirement under the legal powers of an environmental bill, which was recently passed into law.⁷⁵ China's National People's Congress should designate a department, such as SAMR, to receive and review the annual food waste and food donation reports. The designated department should establish a standardized online reporting platform through which businesses and food recovery organizations can report the required information. The department should also conduct intermittent audits of these reports to ensure the information provided is accurate.

Adoption of a food waste reporting requirement is consistent with many provisions within the Anti-Food Waste Law. Article 4 requires the government to disclose anti-food waste information to the public every year, and article 5 both encourages the catering industry to disclose anti-food waste information to the public and requires State Council departments to "analyze and assess [the] food waste situation each year."⁷⁶ Article 17 directs the government and its relevant departments to "establish an anti-food waste supervision and inspection mechanism."⁷⁷ A food waste reporting requirement would supply valuable information that could help fulfill these requirements. A food donation reporting requirement could be enacted via the implementing regulations of article 23 as part of the goal to encourage food donation.⁷⁸ A reporting requirement is useful even if the government enacts a food waste penalty, as it can help to check compliance and indicate any ongoing challenges.

Government Grants and Incentives

Issue Overview

Government grants and incentive programs at the national or local level can be an important resource for food donation initiatives, especially as an alternative or supplement to tax incentives. Government funding can be particularly helpful in China, where interviewed stakeholders often cited the lack of food donation infrastructure as a factor that limits food recovery.⁷⁹ For example, government grants can help food donors and food banks acquire equipment and resources necessary for gleaning, storing, processing, and transporting food for donation. Government funding can also support technological innovations to make food donation more efficient and sustainable.

The recently enacted Anti-Food Waste Law provides several opportunities for creating grants and incentive programs. To date, however, China has yet to offer national grant or incentive programs for food donation.⁸⁰ Article 23 of the law provides that the civil affairs and market regulatory departments, among others, of the local people's government at or above the county level shall establish a mechanism to connect surplus food to areas of need and guide food businesses to donate food to social organizations.⁸¹ Article 26 requires the government at or above the county level to support scientific research, technological development, and other activities to prevent food waste.⁸² Article 26 further mandates government procurement to be beneficial to preventing food waste.⁸³

Recommended Policy Actions

1. CREATE GOVERNMENT GRANT OPPORTUNITIES FOR FOOD DONATION INFRASTRUCTURE.

A main barrier that prevents businesses from donating food is the lack of food donation infrastructure.⁸⁴ For example, one business interviewed for this research finds it difficult to donate surplus food to areas outside of Shanghai because of limited food banks outside of Shanghai or other major cities.⁸⁵ Indeed, there are almost no food banks outside major cities such as Shanghai, Shenzhen, and Hangzhou.⁸⁶ To build food banks in those areas would require a significant amount of financial and human resources. Even in cities that already have food banks, donation can be costly. The process of donation must overcome significant transportation and storage costs, which are particularly burdensome when preserving and transporting fresh produce.⁸⁷

Many countries have grant programs to encourage food recovery. For example, the US federal government provides financial assistance for food distribution through The Emergency Food Assistance Program (TEFAP) to help supplement the diets of low-income Americans by providing them with emergency food assistance at no cost.⁸⁸ Under TEFAP, local agencies (usually food banks) receive food purchased by the US Department of Agriculture (USDA) as well as financial assistance for administrative expenses.⁸⁹ The 2018 Farm Bill authorized the USDA to provide \$4 million each year from FY 2019 through FY 2023 to support Farm to Food Bank Projects,⁹⁰ wherein state agencies connect farmers who have surplus crops with emergency feeding organizations.⁹¹ State agencies could use the funds to pay for the “harvesting, processing, packaging, or transportation of unharvested, unprocessed, or unpackaged commodities donated by agricultural producers, processors, or distributors” to “provide food to individuals in need” and to “build relationships between agricultural producers, processors, and distributors and emergency feeding organizations through the donation of food.”⁹² As another example, in 2021 the USDA launched a grant program to build infrastructure for food banks and allocated up to \$100 million to the program.⁹³

The Chinese government could create similar programs to reimburse food businesses and farmers for the costs of donating to local food banks. Additionally, similar to the USDA's infrastructure grant program to food

banks, the government could offer grant funding to help food banks acquire the necessary equipment to store and distribute surplus food, especially equipment needed for fresh produce. The government could also give financial awards to organizations or individuals for innovative technology solutions that connect surplus food with organizations and/or individuals that need it.

2. IMPLEMENT GOVERNMENT PROCUREMENT POLICIES THAT SUPPORT FOOD DONATION.

Since government procurement is a sizable part of China's economy, making up 4% of the country's gross domestic product in 2018,⁹⁴ any positive change in government procurement practices could significantly impact food recovery in China. Procurement policies could strategically prioritize surplus food and minimize food waste through careful planning.

Consistent with the requirements in article 26 of the Anti-Food Waste Law, the national government of China could consider promulgating procurement guidelines to be implemented at each level of the government that help reduce food waste.⁹⁵ Ministries could be required to donate surplus food from canteens and add a requirement into contracts with outside food service vendors that any edible surplus will be donated and the remaining scraps composted or recycled. For example, the Federal Food Donation Act encourages US federal agencies that have contracts for food services or sale, food provision, or use of federal property by private parties for events where food is provided, to donate excess food to nonprofits that distribute or serve food-insecure people.⁹⁶ Similar requirements for government procurement could be effective levers in China to institutionalize anti-food waste behaviors.

Further, where necessary, central investment in food donation infrastructure and equipment (e.g., reusable containers, refrigeration, on-site composting) would facilitate increased donation of safe, surplus food and reduce unnecessary food waste in an effective and affordable manner. Strategically leveraging the purchasing power of government procurement can set a positive example for other institutions in preventing excess purchasing, donating food whenever possible, and keeping surplus food as high up on the food recovery hierarchy as possible.⁹⁷

CONCLUSION

While these Policy Recommendations are intended to help strengthen food donation in China, they are not exhaustive. Those committed to reducing FLW and promoting food recovery should seek the advice of legal experts, policymakers, and other stakeholders to identify the most effective and feasible policy interventions.

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⁹² 7 U.S.C. § 7507(d)(1), (3).

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⁹⁷ United States Env. Protection. Agency, *Food Recovery Hierarchy*, <https://www.epa.gov/sustainable-management-food/food-recovery-hierarchy>

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