

GLOBALG.A.P. AND AGRICULTURAL PRODUCERS: BRIDGING LATIN AMERICA AND THE EUROPEAN UNION

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GLOBALG.A.P., a private agricultural standard, emerged during the 1990s in response to a series of good related problems such as mad cow disease and avian influenza. Today, GLOBALG.A.P. certification is becoming “de facto mandatory” for the exportation of agricultural products to the European Union. This article analyzes how the implementation of GLOBALG.A.P. by Latin American agricultural producers serves as a tool to facilitate exportation to the European Union, in turn, ensuring conformity with European Union trade law, while establishing good agricultural practices in the respective country.

Key Words: European Union, Latin America, GLOBALG.A.P., Dominican Republic, Colombia, Chile

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INTRODUCTION

Private agricultural standards began to emerge during the 1990s as a result of growing consumer awareness in the Global North.¹ At issue were a series of food related problems and debates such as mad cow disease, avian influenza, and genetically modified food.² With the rise of private standards, came “profound questions about the role of public and private institutions in governing food safety, food quality, and the wider social and environmental impacts of the agri-food system.”³ Today, private standards such as GLOBALG.A.P.,⁴ British Retail Consortium Global, Safe Quality Food, and International Featured Standards are no longer the exception but the norm and play a major role in international trade.⁵ While “governmental standards (usually called ‘technical regulations’) may either be mandatory or voluntary, private standards are voluntary by definition.”⁶ However, the international market is now requiring that every agricultural product be GLOBALG.A.P. certified, especially when exporting to the European Union.⁷ Although GLOBALG.A.P. certification offers many benefits to agricultural producers looking to export their products, the lack of access of information and the cost that employing and complying with GLOBALG.A.P. standards has on both small agricultural producers and large agricultural corporations in Latin America has prevented producers from using GLOBALG.A.P. to its full potential. This paper will analyze how the implementation of GLOBALG.A.P. by Latin American agricultural producers serves as a tool to facilitate exportation to the European Union, in turn, ensuring conformity with European Union trade law,

1. Yuichiro Amekawa, *Reflections on the Growing Influence of Good Agricultural Practices in the Global South*, 22 J. AGRIC. ENVTL. ETHICS 531, 532 (2009).

2. *Id.*

3. Spencer Henson & John Humphrey, *Understanding the Complexities of Private Standards in Global Agri-Food Chains*, 46 J. DEV. STUD. 1628, 1628 (2010).

4. G.A.P stands for Good Agricultural Practices.

5. See Pascal Liu, Economist, Food & Agric. Org., Presentation at WTO’s Workshop on Environment-Related Private Standards, Certification and Labelling Requirements: Private Standards in International Trade: Issues and Opportunities 8 (July 9, 2009), http://www.fao.org/fileadmin/templates/est/AG_MARKET_ANALYSIS/Standards/Private_standards__Trade_Liu_WTO_wkshp.pdf.

6. *Id.* at 2.

7. Email from Thoris Matute Pagoada, Inspector, BSC Dominicana, to Ana Cristina Carrera (Apr. 7, 2014, 7:30 pm CST).

while establishing good agricultural practices in the respective country. Part I will address the emergence of GLOBALG.A.P., the benefits and disadvantages of implementing GLOBALG.A.P. and will provide an example of how a developing country has implemented these standards. Part II will examine how agricultural producers in Latin American countries such as the Dominican Republic, Colombia, and Chile have implemented GLOBALG.A.P. standards and the problems they have faced. Part III will discuss possible solutions to the economic problems and information gap facing agricultural producers in Latin America: the formation of partnerships between agricultural producers in Latin America and the importing European corporations and a public option involving both a domestic government and an international institution. Finally, Part IV will evaluate the importance of further strengthening the relationship between brokers and supermarket chains in the European Union and Latin American agricultural producers.

PART I: GLOBALG.A.P.

The emergence of private standards in the agri-food sector has resulted in a paradigm shift in “interrelationships between state and non-state actors,” as a result “public sector *regulation* and standards have been overlain and largely overtaken by a multitude of private standards and codes of conduct.”⁸ In *The Limits to Voluntary Private Social Standards in Global Agri-food System Governance*, Edward Challies defines private governance as:

governance arrangements overseen by non-state actors - normally either corporate or civil society actors, or both in collaboration. Such arrangements may of course engage public sector actors and institutions to varying degrees, and interact with public regulation, but they are not driven by states – ‘the sanctions involved for non-compliance are not enforced by the state, but by the market.’⁹

At the helm of reshaping the governance of the agri-food sector are consumers, retailers, and “social movements more broadly.”¹⁰ While adhering to current private agri-food standards is voluntary in nature, for some agricultural producers, particularly those emanating from developing countries, GLOBALG.A.P. certification is becoming “de facto mandatory.”¹¹ For instance, “powerful corporate actors” can make certification a prerequisite for market access, in turn, excluding small farmers who are unable to meet the requirements set by the private

8. Edward Challies, *The Limits to Voluntary Private Social Standards in Global Agri-food System Governance*, 20 INT’L. J. SOC. AGRIC. & FOOD 175, 176 (2012).

9. *Id.* at 177.

10. *Id.*

11. *Id.* at 179.

agri-food sector from their supply chain.¹² Thus, of particular concern since the rise of private agri-food standards, is the “potential impact of food safety standards, whether promulgated by governments or private sector buyers, on the ability of developing countries to gain and maintain access to markets for high value agricultural and food products, especially in [developed] countries.”¹³

Between 1995 and 2004, the European Union “was subject to the largest number of complaints related to food safety,” as a result of the imposition of private agri-food standards by European Union Retailers.¹⁴ Such complaints accounted for “half of all counter-notifications of SPS measures” before the World Trade Organization (WTO).¹⁵ Moreover, middle-income countries such as Argentina, Brazil, Chile, and Thailand dominated the complaints.¹⁶ However, because the “apparatus of formal complaints through the WTO relates only to mandatory standards set by public agencies [t]he growing array of private food safety standards fall outside the purview of the WTO.”¹⁷ While imposing any kind of standard or law raises problems as evidenced above, sometimes, the benefits outweigh the costs. Finally, an example of a private agri-food standard that has achieved widespread success is GLOBALG.A.P.

A. What is GLOBALG.A.P.?

In order to understand the importance of GLOBALG.A.P. for agricultural producers in Latin America, knowledge of the private standards history, requirements, advantages and disadvantages, and how GLOBALG.A.P. has been applied in other developing countries, is important. During the 1990s, growing social pressure resulted in a push towards creating private food quality standards in order to fill the void that public regulations like Sanitary and Phytosanitary Measures (SPS) and Technical Barriers to Trade (TBT) left in the international sphere.¹⁸ In 1997, as a result of retailers and supermarkets in Europe becoming

12. *Id.* at 179-180.

13. Spencer Henson & Steven Jaffee, *Understanding Developing Country Strategic Responses to the Enhancement of Food Safety Standards*, 31 *WORLD ECON.* 548, 548 (2008).

14. *Id.* at 556.

15. *Id.*

16. *Id.* at 555.

17. *Id.* at 557; see also Steven Jaffee & Spencer Henson, *Standards and Agro-Food Exports from Developing Countries: Rebalancing the Debate* 23 (World Bank Policy Research, Working Paper No. 3348, 2004), <http://www.boaforum.org/u/cms/www/201109/070937107ktk.pdf>.

18. Amjad Masood, *Geographic Variation in Global Diffusion of Private Food Standards: The Case of GlobalGAP Certification* 3 (F.R.E.I.T, Working Paper No. 649, 2013).

aware of consumers' concerns regarding "product safety, environmental impact and the health, safety, and welfare of workers and animals," British retailers working together with European supermarkets created EUREPGAP, an independent certification system for good agricultural practices, by harmonizing their own standards.¹⁹ As a result of globalization, these standards spread beyond continental Europe, and in 2007, EUREPGAP was renamed GLOBALG.A.P. in order to reflect its global reach and success in becoming the leading standard relating to agricultural production.²⁰ The growing recognition of GLOBALG.A.P. has led countries such as Austria, Germany, Japan, France, Kenya, Mexico, and Chile to benchmark or harmonize into their domestic good agricultural practice standards, GLOBALG.A.P., "usually in the form of public-private joint ventures."²¹ Finally, as of 2014, GLOBALG.A.P. has over 228 certified products (in the area of crops, livestock, and aquaculture) and over 140,000 certified producers in over 118 countries.²²

B. Some of the Requirements

Furthermore, as one of the leading private certification schemes in today's world food sector, GLOBALG.A.P. covers "all stages of production, from pre-harvest activities such as soil management and plant protection product application to post-harvest produce handling, packing and storing."²³ The scope of GLOBALG.A.P. coverage includes livestock, crops, and aquaculture.²⁴ Certification also provides for "[f]ood safety and traceability, [e]nvironment (including biodiversity), [w]orker's health safety and welfare, [a]nimal welfare, [and i]ncludes Integrated Crop Management (ICM), Integrated Pest Control (IPC), Quality Management System (QMS), Hazard Analysis, and Critical Control Points (HACCP)." ²⁵ Moreover, to facilitate certification among varying farm sizes around the world, GLOBALG.A.P. offers two options from which applicants who

19. *GLOBALG.A.P. History*, GLOBALG.A.P., http://www.globalgap.org/uk_en/who-we-are/about-us/history/ (last visited Aug. 21, 2016).

20. *Id.*

21. Masood, *supra* note 18, at 3; *see also* Amekawa, *supra* note 1, at 538 (Benchmarking refers to the harmonization of a country's applicant scheme that is proposed to be equivalent to EurepGAP protocols and associated General Regulations).

22. *What We Do*, GLOBALG.A.P., http://www.globalgap.org/uk_en/what-we-do/ (last visited Aug. 21, 2016).

23. *The GLOBALG.A.P. Fruit & Vegetables Standard*, GLOBALG.A.P., http://www.globalgap.org/uk_en/for-producers/crops/FV/ (last visited Aug. 21, 2016).

24. *What We Do*, *supra* note 22.

25. *Cultivating the Future of the Plant*, GLOBALG.A.P., http://www.globalgap.org/uk_en/what-we-do/globalg.a.p.-certification/globalg.a.p./ (last visited Aug. 21, 2016).

wish to be certified may choose:

1 Option 1- Individual Certification

- a) Individual producer applies for certification (GLOBALG.A.P. or a benchmarked scheme)
- b) The individual producer will be the certificate holder once certified.

1.1 Option 1- Multistate without implementation of a QMS

- a) Individual producer or one organization owns several production sites that do not function as separate legal entities.

1.2 Option 1- Multistate with Implementation of a QMS

- a) Individual producer or one organization owns several production sites that do not function as separate legal entities, but where a QMS has been implemented.
- b) In this case the rules of the General Regulations Part II- Quality Management System Rules (QMS) rules shall apply.

or

2 Option 2

- a) A producer group applies for group certification (GLOBALG.A.P. or a benchmarked scheme).
- b) The group, as a legal entity, is the certificate holder once certified.
- c) A group shall have a QMS implemented and comply with rules et out in the General Regulations Part II- QMS Rules.²⁶

Applicants under both options must choose a GLOBALG.A.P. approved certification body and are subject to external inspections, which must take place at the initial assessment and then once a year after the certification is obtained.²⁷ Applicants must also meet the three types of control points: major musts (ex. “[a] system must be in place to avoid mixing of certified and non-certified products, [which] can be done via physical identification or product handling procedures, including relevant records”),²⁸ minor musts (ex. “permanent accident procedures must be clearly displayed in accessible and visible locations”),²⁹ and recommendations (ex. “organic waste material is composted and used for soil

26. *Id.*

27. *See id.* at 13-15.

28. GLOBALG.A.P., INTEGRATED FARM ASSURANCE: ALL FARM BASE, CROPS BASE, FRUIT AND VEGETABLES - CONTROL POINTS AND COMPLIANCE CRITERIA 15 (2013), https://www.scsglobalservices.com/files/standards/130315_gg_ifa_cpcc_af_cb_fv_v4_0-2_en.pdf.

29. *Id.* at 7.

conditioning [and] [c]omposting method ensures that there is no risk of disease carry-over”),³⁰ among other important requirements). Finally, while adhering to the requirements and obtaining GLOBALG.A.P. certification not only helps producers reach global markets and reassures consumers, it also leaves out small farmers who are unable to financially meet GLOBALG.A.P. standards.

C. Benefits and Disadvantages of GLOBALG.A.P.

Although GLOBALG.A.P. has been an international success, it is important to not only highlight the advantages but also the disadvantages of obtaining GLOBALG.A.P. certification. Some of the advantages include economic risk reduction and improved market access opportunities for large, medium, and small agricultural producers.³¹ GLOBALG.A.P. certification also demonstrates to clients (retailers, product traders, importers) that the product is produced using good agricultural practices.³² Additionally, GLOBALG.A.P. certification helps meet the requirements of selling products to Europe, leads to improved facilities, training, and working conditions, and encourages environmentally sound farming practices.³³ Furthermore, “traceability and better record keeping may improve the management of the farm or enterprise.”³⁴

However, obtaining and maintaining GLOBALG.A.P. certification can be costly as a result of investments related to “technical training for innovative production and hygiene practices, variable inputs such as safer yet more costly pesticides, structures such as grading sheds, charcoal coolers, disposal pits, and pesticide storage units, as well as periodical certification and accreditation.”³⁵ GLOBALG.A.P. can also be time consuming.³⁶ Moreover, unlike the case of governmental standards where “[g]overnments are accountable to their citizens and to multilateral institutions (the SPS and TBT committees under the WTO),” in the case of private standards, companies are only accountable to their

30. *Id.* at 11.

31. RODERICK M. REJESUS, N.C. STATE UNIV., E08-51822, GOOD AGRICULTURAL PRACTICES, GAP CERTIFICATION: IS IT WORTH IT? 1 (2009), http://www4.ncsu.edu/~rmrejesu/Food_Safety_Risk/ag-709%20final%20printed.pdf; *see also La Importancia de GLOBALG.A.P.*, BCS ÖKO-GARANTIE GMBH, http://www.bcs-oeko.com/sp_global_gap.html.

32. ANDREW GRAFFHAM ET AL., INT’L INST. FOR ENV’T & DEV. & NAT. RES. INST., SMALL-SCALE FARMERS WHO WITHDRAW FROM GLOBALGAP: RESULTS OF A SURVEY IN KENYA 7 (2007).

33. *See generally id.*

34. Liu, *supra* note 5, at 12.

35. Amekawa, *supra* note 1, at 533.

36. *See id.*

shareholders.³⁷ Finally, *Small-scale farmers who withdraw from GLOBALGAP: Results of a Survey in Kenya* demonstrates the effect that GLOBALG.A.P. has had on agricultural producers in a third world country and highlights some of the advantages and disadvantages of adopting the agricultural standard.

D. Case Study

In *Small-scale farmers who withdraw from GLOBALGAP: Results of a Survey in Kenya*, the authors surveyed smallholder farmers in Kenya who grew crops for export to Europe, regarding “the factors affecting their access to the export market which in all cases involved sale through intermediaries.”³⁸ The survey involved farmers who had been GLOBALG.A.P. certified at one point but whose certification had lapsed or farmers who were in the process of making preparations for GLOBALG.A.P. but had not yet received GLOBALG.A.P. certification.³⁹ The survey showed that the major problem was the cost of GLOBALG.A.P. compliance, which resulted in many small growers having to let their certification lapse.⁴⁰ While many smallholders had to give up GLOBALG.A.P. certification, some of the benefits of compliance that the farmers pointed out included, “[seeing] marked improvements in field [and] personal hygiene, crop health, and cleanliness on farm.”⁴¹ Furthermore, the farmers appreciated the “value of messages from health and safety training” and “adopted proper personal protective equipment for handling agrochemicals, a practice that they never did in the past.”⁴² While GLOBALG.A.P. has had global success, the problems that agricultural producers in developing countries have faced when

37. Liu, *supra* note 5, at 15.

38. GRAFFHAM ET AL., *supra* note 33, at 1.

39. *Id.*

40. *Id.* at 27.

41. *Id.* at 29.

42. *Id.*; see also Issac Maina Kariuki et al., *Farmgate Private Standards and Price Premium: Evidence from the GlobalGap Scheme in Kenya's French Beans Marketing*, 28 AGRIBUSINESS 42, 43 (2012) (finding “that GlobalGAP certification, produce traceability, number of suppliers, competition for suppliers, direct procurement, a good road network, and supply contracts have positive farmgate price effects for smallholders”). See generally Julie Subervie & Isabelle Vagneron, Presentation at the International Association of Agricultural Economists Triennial Conference: Can Fresh Produce Farmers Benefit from Global Gap Certification? The case of Lychee Producers in Madagascar 10 (Aug. 18-24, 2012), <http://ageconsearch.umn.edu/bitstream/126704/2/SUBERVIE.pdf> (stating that “certified farmers may have an opportunity to sell larger quantities because of a mechanical interest from exporters or because they are able to improve both quality and quantity by using new infrastructure built for requirements”).

trying to implement the requirements, stem from having to meet the standards that are being imposed on them, primarily by European retailers.

PART II: GLOBALG.A.P.: COLOMBIA, THE DOMINICAN REPUBLIC, AND CHILE
GLOBALG.A.P. is a prime example of a private agri-food standard that, while voluntary, is becoming “de facto mandatory.” Created by several major “European retailers with the aim of harmonizing their various food safety, labor, and environmental standards,” GLOBALG.A.P. is becoming a pre-requisite for access to the European market.⁴³ Critics argue that imposing GLOBALG.A.P. certification on producers in developing countries leads to the exclusion of farmers who do not have the economic resources, manpower, or access to equipment, of meeting such requirements.⁴⁴ Alternatively, the potential opportunities provided by private food safety standards such as a spillover of good agricultural practices into domestic food safety systems, access to new markets, and the opportunity of developing countries to obtain a competitive advantage by adhering to such standards, outweighs the initial costs.⁴⁵ Thus, producers in developing countries have sought to obtain GLOBALG.A.P. certification. Currently, producers in the Americas have the second largest share of certified producers per continent, after Europe, with countries such as Peru (3460), Chile (2828), Guatemala (1616), Brazil (1005), the Dominican Republic (936), Ecuador (878), Argentina (762), and Colombia (480) accounting for most of the share.⁴⁶ Finally, this section will address the two major problems confronting agricultural producers in Latin America who want to obtain GLOBALG.A.P. certification, by focusing on the Dominican Republic, Colombia, and Chile: lack of economic resources and the information gap facing agricultural producers.

A. Dominican Republic

Agriculture is one of the most important production sectors in the Dominican Republic.⁴⁷ However, it was not until 2003, that a National Committee

43. Challies, *supra* note 8, at 183.

44. Henson & Jaffee, *supra* note 13, at 552-53.

45. *Id.* at 552.

46. GLOBALG.A.P., GROWING A STRONGER BRAND: GLOBALG.A.P. ANNUAL REPORT 2012, at 39 (2012), http://www.globalgap.org/export/sites/default/.content/.galleries/documents/130124_AR12_w eb_en.pdf.

47. CAMARA DE COMERCIO DOMINICO FRANCESA, AGUACATE: PERFIL DE EXPORTACION DESDE REPUBLICA DOMINICANA 5 (2012), <http://www.competitividad.org.do/wp-content/uploads/2009/01/PERFIL-EXPORTACION-AGUACATE-HACIA-FRANCIA.pdf>.

for the Application of Sanitary and Phytosanitary Measures and on Technical Barriers to Trade⁴⁸ was created.⁴⁹ By 2005, Decree No. 58-03 was replaced by Decree No. 515-05, separating the areas of SPS and TBT, in turn, forming “an institution of highest authority [the National Committee for the Application of Sanitary and Phytosanitary Measures] in sanitary, phytosanitary, and food safety matters in the Dominican Republic.”⁵⁰ The National Committee for the Application of Sanitary and Phytosanitary Measures (CNMSF) “has a regulation that gives greater operability and functionality to the responsibilities of each of the institutions of the public and private sectors and international cooperation agencies that make up its structure and actively participate in the committee.”⁵¹ However, it was not until 2008, under Presidential Decree No. 52-08, that a regulation for the general application of the basic rules of good agricultural practices was instituted.⁵² Moreover, the Secretary of State of Agriculture promulgated Resolution No. 10-2008 adopting the

Technical Regulatory Guide for the Application of Good Agricultural Practices and Good Manufacturing Practices in the Production and Exportation of Oriental Vegetables in the Dominican Republic, as an official instrument of mandatory compliance, in order to regulate the production, harvest, transport, packing, and the export procedures of Oriental Vegetables in the Dominican Republic.⁵³

While the government did not begin to require the use of good agricultural practices until 2008, it is important to note that agricultural producers, such as SAVID Dominicana S.A., a Dominican company and exporter of bananas, were already beginning to implement good agricultural practices through GLOBALG.A.P.⁵⁴ certification in 1999.⁵⁵ However, it was not until the

48. Leonel Fernandez, Presidente de la Republica Dominicana, Numero: 515-05, Decreto que Crea el Comité Nacional para la Aplicación de las Medidas Sanitarias y Fitosanitarias y sobre los Obstáculos Técnicos al Comercio (Dom. Rep. 2003).

49. *Historia*, COMITÉ NACIONAL PARA LA APLICACIÓN DE LAS MEDIDAS SANITARIAS Y FITOSANITARIAS, <http://www.cnmsf.gob.do/SobreCNMSF/Historia/tabid/95/Default.aspx> (last visited July 27, 2016).

50. *Id.*

51. *Id.*

52. *Id.*

53. EL SECRETARIO DE ESTADO DE AGRICULTURA, RESOLUCIÓN NO. 10-2008, GUÍA TÉCNICA REGULATORIA PARA LA APLICACIÓN DE BUENAS PRACTICAS AGRÍCOLAS Y BUENAS PRACTICAS DE MANUFACTURA EN LA PRODUCCIÓN Y EXPORTACIÓN DE VEGETALES ORIENTALES EN LA REPUBLICA DOMINICANA (Dom. Rep. 2008).

54. At the time it was still called EUREPGAP.

55. Email from Thoris Matute Pagoada, *supra* note 7.

implementation of Resolution No. 2-2014 that the Ministry of Agriculture began to regulate companies, such as BCS Dominicana, which provide producers with GLOBALG.A.P. certification, due to the fact that GLOBALG.A.P. standards and certification have remained a part of the private sector.

Although companies such as CAEI (with its production of mangos and pineapples), Tamara Agroindustrial (with its production of cherry tomatoes), CARVEXCO (with its production of eggplant, hot pepper, and cundeamor), and ASOANOR (with its production of bananas) have successfully been GLOBALG.A.P. certified, other producers have not been as successful.⁵⁶ When asked, “[w]hat are some of the problems that exist regarding the implementation of GLOBALG.A.P. requirements for both big agricultural companies and small producers,” Thoris Matute Pagoada, an inspector for BCS Dominicana, stated that

a) [L]arger companies [we] can understand as [being] a group of producers of more than 50 members, some of the frequent problems being that those in charge of implementing this system are not sufficiently trained, [whether they are] internal auditors or internal inspectors, responsible for managing the day to day SGC (System Quality Management) and when the company is subjected to external inspection by a Certification Body, certification tends to fail. There are also cultural differences between one producer and another, some tend to obey perfectly the system while others do not, and as you know when a producer fails, you see that the whole group has actually failed. Another problem is the conflict of interest between the internal inspectors and producer, many times for an internal auditor not to end on bad terms with the producer, the inspector will let various violations pass and this is why GLOBALG.A.P is so demanding!!! when it comes to conflict of interest.⁵⁷

b) Small companies, we can understand as being small producers, among the difficulties they encounter are economic, due to the fact that a small producer wishing to become certified for the first time must make an initial investment in infrastructure, like building a center for handling and packaging products, sanitation, an eating area for operators during their lunch time, [and a] stock room.⁵⁸

Moreover, when a producer fails inspection, the producer risks losing certification for up to a year.⁵⁹ While a producer could technically still export its products

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.*

(depending on the requirements imposed on the producer by the European client/importer) because GLOBALG.A.P. is becoming de facto mandatory, a producer could lose its ability to export its products if it fails its inspection.⁶⁰ Finally, it is important to note that although obtaining GLOBALG.A.P. certification has been primarily controlled by the private sector, the Dominican government is “in the process of creating a national Food Safety monitoring team in order to give greater support to projects that are GLOBALG.A.P certified.”⁶¹

B. Colombia

On the other hand, Colombia is an example of a country that began to implement good agricultural practices out of a necessity in order to meet the requirements imposed by foreign buyers on the Colombian agri-food sector.⁶² By 2005, a program to advise and train producers in good agricultural practices was spearheaded by the department of innovation and quality of the Colombian International Corporation, which provided for courses and practical theoretical training modules, among others.⁶³ Realizing the importance of promoting good agricultural practices, in 2007, the National Service of Learning (SENA) established an agreement with Asohfrucol, “the institution managing the fund for the promotion of horticulture and the fruit sector in Colombia.”⁶⁴ The agreement sought to support business initiatives and to help producers in the achievement of international standards of quality” and initially, aimed to support 2500 producers with the implementation of good agricultural practices.⁶⁵ Moreover, the

60. *Id.*

61. *Id.*

62. Julian Zuluaga Marin, *Manual Técnico para la Implementación de Buenas Practicas Agrícolas en el Cultivo de Uchuva (Physalis Peruviana L) en los Municipios de San Vicente Ferrer y la Unión del Departamento de Antioquia* 80 (2013) (unpublished thesis, Universidad Pontificia Bolivariana) (on file with Escuela de Ingenierias, Universidad Pontificia Bolivariana), <http://docplayer.es/16606784-Julian-zuluaga-marin.html>.

63. Lina Marcela Zabala Acero, *Implementación del Protocolo GLOBALGAP como Diagnostico en Producción de Arveja para Exportación en una Finca de la Sabana de Bogotá* 36 (2008) (unpublished thesis, Universidad de la Salle) (on file with Facultad de Administración de Empresas Agropecuarias, Universidad de la Salle), <http://repository.lasalle.edu.co/handle/10185/5155?show=full>.

64. Paula Andrea Tellez Jaramillo, *Voluntary Certification Schemes as Tools to Promote Rural Development in Colombia: A Case Study of Good Agricultural Practices in Plantain Produce* 12 (Aug. 10, 2012) (unpublished M.A thesis, Lund University International) (on file with Master’s Programme in Environmental Studies and Sustainability Science, Lund University International), <http://lup.lub.lu.se/luur/download?func=downloadFile&recordOId=3048198&fileOId=3048201>.

65. *Id.* (stating that it is voluntary and free of cost).

Colombian Institution for Agriculture (ICA) played a major role by creating a “certification scheme in a GAP protocol developed for the Colombian context,” Resolution 4174 in 2009.⁶⁶ The principle norms, protocols, and codes of conduct implemented for certification purposes in the Colombian agri-food sector are: NTC 5400, Resolution 4174, and GLOBALG.A.P.⁶⁷

Colombian Institute for Technical Standards and Certification created the Colombian Technical Standard NTC 5400⁶⁸ in 2005, which is regulated by Resolution 4174 of 2009 by ICA, for good agricultural practices.⁶⁹ The objective behind the creation of NTC 5400 was to define the requirements and procedures needed in order to “better the conditions of primary production, with a focus on . . . safety, competitiveness, environmental protection, and worker safety” of small, medium, and large agricultural producers.⁷⁰ In turn, Resolution 4174 was created to help regulate the certification of good agricultural practices in the production of fruits and vegetables for fresh consumption.⁷¹ Although the implementation of GLOBALG.A.P., NTC 5400 and Resolution 4174, have challenged producers, Julian Zuluaga Marin argues that they represent a “an opportunity to grow due to the fact that their implementation and enforcement will determine access to more attractive markets around the world.”⁷² It is important to note that although the government has been involved in promoting competition, establishing good agricultural practices, and aiding small and medium sized producers, GLOBALG.A.P. certification remains a part of the private sector in Colombia. Finally, in *Voluntary Certification Schemes as tools to promote rural development in Colombia: A Case Study of Good Agricultural Practices in Plantain Produce, Implementación del Protocolo GLOBALGAP como Diagnostico en Producción de Arveja para Exportación en una Finca de la Sabana de Bogotá*, and *Manual Técnico para la Implementación de Buenas Practicas Agrícolas en el Cultivo de Uchuva (Physalis Peruviana L) en los Municipios de San Vicente Ferrer y la Unión del Departamento de Antioquia*, the authors highlight the problems that

66. *Id.* at 13; Resolución 4174 estableciendo el sistema de certificación de Buenas Practicas Agrícolas (Colom. Nov. 9, 2009), http://www.icbf.gov.co/cargues/avance/docs/resolucion_ica_4174_2009.htm.

67. Jaramillo, *supra* note 65, at 12.

68. Norma Técnica Colombiana 5400 Buenas Practicas Agrícolas para Frutas, Hierbas Aromaticas Culinarias y Hortalizas Frescas (Colom. July 7, 2005), <http://conectarural.org/sitio/sites/default/files/documentos/Certificacion%20en%20BPA%20NTC%205400.pdf>.

69. Marin, *supra* note 63, at 28.

70. *Id.*

71. *Id.* at 28 – 29.

72. *Id.* at 17.

agricultural producers in Colombia face when trying to implement GLOBALG.A.P.

In *Voluntary Certification Schemes as Tools to Promote Rural Development in Colombia: A Case Study of Good Agricultural Practices in Plantain Produce*, a case study was conducted which examined a project for implementation of good agricultural practices “through the private standard GLOBALG.A.P. in plantains produced in Colombia,” between 2009 and 2012.⁷³ The main objective of the study was to “implement GAP in seventy smallholders’ members of an association and certify twenty-five in the GLOBALGAP protocol.”⁷⁴ Over “2.5 million tons [of plantains are cultivated] per year” in Colombia, of which 5 percent is exported.⁷⁵ Therefore, successful implementation of GLOBALG.A.P is vital for producers who are interested in exporting plantains. The case study found that in the “specific case of adapting their practices to GLOBALG.A.P., the difficulties were not related with non-compliance but with the financial burden of paying the third party certifier.”⁷⁶ Additionally, “[a]doption often require[ed] large investments that [were] difficult to afford for smallholders hampering their entrance to the new trading channels.”⁷⁷ Moreover, even when the cost of certification was covered by the project, when the producers obtained a collective certification, it limited the performance of individual farmers and certification was often denied because of the poor organizational level of the groups.⁷⁸ Institutions like SENA promote good agricultural practices among smallholders in order to help raise the quality of produce for “local markets as well as upgrading practices to meet the requirements of export markets.”⁷⁹ However, the case study concluded that the implementation of GAP for smallholders would require the “contribution for extension services to supply the training and financial tools to cover the expenses of the upgrading process.”⁸⁰ Therefore, in the meantime, adhering to the requirements of Resolution 4174 serves as the better option for small farmers who are interested in potentially obtaining GLOBALG.A.P. in the future because it would provide them with a more affordable opportunity to begin implementing the safety standards required.⁸¹

73. Jaramillo, *supra* note 65, at 1.

74. *Id.*

75. *Id.* at 9.

76. *Id.* at 33.

77. *Id.* at 33-34.

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

Further, in *Implementación del Protocolo GLOBALGAP como Diagnostico en Producción de Arveja para Exportación en una Finca de la Sabana de Bogotá* Lina Marcela Zabala Acero conducted a study to determine the advantages and disadvantages for pea producers to obtain GLOBALG.A.P. in order to enter the global market.⁸² The author focused on Santillana S.A., a Colombian company that produces approximately four tons of peas a month and sells the peas within Colombia but is interested in expanding its production to sell to international markets.⁸³ Acero found that in order to benefit from the implementation of GLOBALG.A.P. it would be necessary to make investments in “infrastructure, certification, training, and supplies,” increasing the cost of production by 37 percent.⁸⁴ Despite the cost, the author found that the implementation of GLOBALG.A.P. requirements would help “reduce harvest and post-harvest losses” as a result of the training received by workers, making up for the initial increase in cost production.⁸⁵

Finally, in *Manual Técnico para la Implementación de Buenas Practicas Agrícolas en el Cultivo de Uchuva (Physalis Peruviana L) en los Municipios de San Vicente Ferrer y la Unión del Departamento de Antioquia*, Julian Zuluaga Marin states that the biggest problem facing the development of good agricultural practices in the Colombian agri-food sector is the lack of knowledge regarding “the regulations concerning good agricultural practices and the lack of clarity in the proposed concepts.”⁸⁶ Colombia is the biggest producer of uchuva in the world and is at a competitive advantage in terms of quality and supply, thus, achieving a price preference in the world market.⁸⁷ Also, the European Union is the main destination of Colombian uchuva exports.⁸⁸ However, the author concludes that as long as uchuva continues to be produced under the traditional system, producers will risk the success they have had thus far, due to the growing requirements being imposed on producers.⁸⁹ Moreover, Marin concludes that the lack of manuals and protocols available to help facilitate the implementation of good agricultural practices such as GLOBALG.A.P., is hurting the domestic agricultural sector.

82. Acero, *supra* note 64, at 18.

83. *Id.*

84. *Id.* at 101.

85. *Id.* at 100.

86. Marin, *supra* note 63, at 17.

87. *Id.* at 18-19.

88. *Id.* at 32.

89. *Id.* at 34.

C. Chile

Unlike Colombia and the Dominican Republic, Chile opted to benchmark the GLOBALG.A.P. standard. In 2000, the Chilean fresh fruit export sector began to exert “considerable time and resources promoting” good agricultural practice requirements within its sector.⁹⁰ Organizations such as the Association of Exporters (ASOEX), the Chilean Fresh Circuit Association (CFFA), and the Fruit Development Foundation (FDF), played a major role in raising awareness about the certification system and lobbying the Ministry of Agriculture to support GLOBALG.A.P.⁹¹ By 2003, the Fruit Development Foundation launched ChileGAP in order to harmonize the requirements of private standards such as GLOBALG.A.P., Davis Fresh, and USAG.A.P. with the domestic national good agricultural practice standards, becoming the first country in the world to benchmark its national certification scheme and gain approval and accreditation from EurepGAP in 2005 and from GLOBALG.A.P. in 2008.⁹²

ChileG.A.P.’s widespread success can be attributed to the extensive support emanating not only from the private but also from the public sector, which have worked together to develop “policies and practices that are aimed at generating favorable conditions for the development of a profitable and competitive agriculture, capable of competing in the international economy.”⁹³ For example, the Chilean Ministry of Agriculture plays a crucial role in the process of certification by “negotiating with the agricultural producers trading partners

90. Carmen Bain, *Governing the Global Value Chain: GLOBALGAP and the Chilean Fresh Fruit Industry*, 17 INT’L J. SOC. AGRIC. & FOOD. 1, 9 (2010).

91. *Id.* at 9-10.

92. Gabriela Cofré et al., *Adopción de Buenas Prácticas Agrícolas (BPA): Costo de Cumplimiento y Beneficios Percibidos entre Productores de Fruta Fresca*, 30 IDESIA 37, 39 (2012); see also OLGA VAN DER VALK & JOOP VAN DER ROEST, WAGENINGEN UNIV., NATIONAL BENCHMARKING AGAINST GLOBALGAP: CASE STUDIES OF GOOD AGRICULTURAL PRACTICES IN KENYA, MALAYSIA, MEXICO AND CHILE 40 (2009), <http://edepot.wur.nl/11453> (stating that in “April 2004 ChileGAP reaches full equivalency to GLOBALGAP, in 2005 ChileGAP reaches harmonization of GAP and FOOD Safety Standards of both Europe and the United States, in February 2008 ChileGAP Version 3.0. January 01, 2008, option 1, fully approved against GLOBALGAP IFA version 3.0 for Fruit and Vegetables”); *ChileG.A.P. Successfully Re-benchmarked for GLOBALG.A.P. Integrated Farm Assurance Standard Version 4*, GLOBALG.A.P. (July 1, 2013), http://www.globalgap.org/uk_en/media-events/news/articles/ChileG.A.P.-Successfully-Re-benchmarked-for-GLOBALG.A.P.-Integrated-Farm-Assurance-Standard-Version-4/ (stating that “ChileG.A.P. scheme is now officially recognized as equivalent to the GLOBALG.A.P. IFA Standard Version 4 for Fruit & Vegetables under the category Approved Modified Checklist” and was the “first ever national certification scheme to be benchmarked against EurepGAP, later GLOBALG.A.P.”).

93. Bain, *supra* note 91, at 13.

around the world.”⁹⁴ Also, another major public initiative has been the creation of a national commission on good agricultural practices, “whose purpose is to advise the Ministry of Agriculture in formulating policies aimed at incorporating and disseminating the concept of good agricultural practices in the agricultural production process.”⁹⁵ The government also “examines foreign regulations regarding fertilizers, pesticides, post-harvest treatments, and labeling standards.”⁹⁶ While obtaining ChileGAP, certification is voluntary, adhering to the requirements set out in Presidential Decree N°594,⁹⁷ Regulation Regarding Health and Basic Environmental Conditions in the Workplace, which indicates the sanitary and environmental standards that companies need to meet in order to ensure the health and wellbeing of their workers, is required.⁹⁸ Also, Resolution N°3410/2002 requires the implementation of good agricultural practices for farmers who produce and export certain agricultural products such as raspberries.⁹⁹ Finally, while the government does not play a role in the certifying process, it does help “growers and exporters conform to international regulations,” thus, facilitating the export process for its country’s producers.¹⁰⁰ In 2004, the Chilean government, under the Institute of Agricultural Development (INDAP), “initiated a program to bring small farmers into conformity with GAP protocols and certification requirements.”¹⁰¹ The program targeted small farmers with produce mainly in berries and honey.¹⁰² However, while both the private and public sector have worked together in order ensure the success of GLOBALG.A.P. certification, agricultural producers in Chile still face economic challenges when obtaining certification, like the farmers in Colombia and the Dominican Republic.

94. Cofré et al., *supra* note 93, at 39.

95. *Id.* at 38-39.

96. Edward R. T. Challies, *Agri-food Globalization and Rural Transformation in Chile: Smallholder Livelihoods in the Global Value Chain for Raspberries* 164 (2010) (unpublished Ph.D thesis, Victoria University of Wellington).

97. A *Decreto Supremo* or *Presidential Decree* is issued by the head of state of a country and bears the force of law.

98. Cofré et al., *supra* note 93, at 39.

99. *Id.*

100. Challies, *supra* note 97, at 164.

101. DIRECTORATE FOR FOOD, AGRIC. & FISHERIES, ORG. FOR ECON. CO-OPERATION & DEV., *MARKET ACCESS AND PRIVATE STANDARDS: CASE STUDY OF THE CHILEAN FOOD MARKET* 30 (2007), [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=a-gr/ca/apm\(2005\)27/final](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=a-gr/ca/apm(2005)27/final).

102. *Id.*

In *Adoption of Good Agricultural Practices (GAP): Cost of Complying and Perceived Benefits by Fresh Fruit Producers*, the authors surveyed a total of twenty-six producers (twelve producers that had some sort of good agricultural product certification and fourteen that did not but did meet the requirements set out in Presidential Decree N°594) located in the central part of Chile, between O'Higgins and Maule, where over 45 percent of fruit in the country is produced.¹⁰³ In order to be a part of the survey the farmers had to produce fresh fruit for export.¹⁰⁴ The authors found that the cost of implementing, maintaining, and managing good agricultural practices per hectare was greater for the producers who were not certified than for those who had GLOBALG.A.P. certification.¹⁰⁵ In other words, while the initial cost of implementing GLOBALG.A.P. requirements is expensive, once a producer has implemented the changes, maintaining good agricultural practices becomes more effective and less costly.¹⁰⁶ Finally, the next section will propose possible solutions to help solve the economic and information problems facing Latin American producers when trying to either obtain or maintain GLOBALG.A.P. certification.

PART III: POTENTIAL SOLUTIONS TO THE PROBLEMS FACING AGRICULTURAL PRODUCERS

Two of the biggest problems that agricultural producers face when trying to implement GLOBALG.A.P. include, economic hardships and a gap in information available to them. In some instances, producers are not aware that they need GLOBALG.A.P. certification in order to export their products (making investments and increasing production and then finding out that they can't export), while in other cases those in charge of implementing the GLOBALG.A.P. standards are not knowledgeable enough about how to implement the procedures and about the different changes that occur. As a result, producers risk losing their certification for failure to comply with certain requirements. While most of the transactions that occur take place between businesses, agricultural departments in the respective countries need to take a more direct role in helping local producers. This section will discuss two possible solutions to the problems facing agricultural producers in Latin America: the formation of partnerships between agricultural producers in Latin America and the importing European corporations and a public option involving both a domestic government and an international institution.

103. Cofré et al., *supra* note 93, at 37.

104. *Id.*

105. *Id.*

106. *Id.*

A. Private Option: Business to Business

The first option would be to create a business partnership between Latin American producers and European Union importing corporations. This partnership would not only benefit Latin American farmers, both big and small, and the importing EU corporation but would also help establish a line of traceability for the consumer, allowing consumers to, for example, trace a pineapple all the way back to the source of production. An example of a European company that has close ties with agricultural producers in Latin America is UNIVEG. According to the company's website,

[UNIVEG has become its] customers' eyes and ears across the globe, in order to offer a year-round supply of the perfect produce basket. [UNIVEG is the] DIRECT connection to the field, as [it builds] a mutually beneficial grower/exporter presence in every major production region of the world. [UNIVEG] work[s] closely with growers of all sizes to optim[iz]e their potential by giving them a guaranteed route to market and applying customer-focused principles throughout the supply chain. Our produce benefits from being grown in privileged production areas, by growers who receive continuous guidance and support from highly-skilled UNIVEG technical and quality assurance teams. It is picked, packed and distributed in the most efficient and cost-effective manner, using state-of-the-art equipment and facilities.¹⁰⁷

In this case, European companies like UNIVEG would reach out to companies like CAEI, a big grower and domestic company in the Dominican Republic that is willing to grow the product demanded and is also willing to help local growers by contracting with them in order to meet the demand. In turn, this could create a stable supply chain and provide UNIVEG with committed producers. Moreover, not only would a company like UNIVEG provide financing but also technical advice in securing GLOBALG.A.P. A company like UNIVEG would also be able to provide the growers in Latin America with more timely information regarding any updates and changes made to GLOBALG.A.P. This option would not only help local producers who would otherwise not have an opportunity to grow or export their products but would also strengthen the relationship between Latin American producers and European companies and consumers. In practice, consumers would be able to trace their product back to the original grower. Finally, it is important for the Latin American corporation to be a domestic company and not a multinational corporation, in order to promote competition and strengthen the relationship amongst domestic producers.

107. *Id.*

B. Domestic and International Public Sector Involvement

Another way to help agricultural producers who are unable to obtain GLOBALG.A.P. certification is to involve both a domestic government and a foreign institution in the process. For example, the Dominican Republic could help offset the costs of GLOBALG.A.P. certification for producers who are unable to obtain funding or pay for the full cost of implementing the requirements. The Department of Agriculture could also hold seminars at least four times a year, for both those who have already been certified and those who want to be certified, where changes in GLOBALG.A.P. bylaws and standards and problems are addressed. By addressing the problems and finding solutions, governments can help promote competition.

On the other hand, a foreign institution like USAID could not only provide aid in the form of funding but also provide inspectors and advisors who would be able to keep the farmers up to date on GLOBALG.A.P. standards and help facilitate the process of implementing the requirements. In 2005, USAID created an initiative in order to help promote and support competition in the Dominican agricultural sector.¹⁰⁸

One of the beneficiaries was the Taino Agricultural Cooperative (COOPPROBATA), which was composed of 400 banana producers.¹⁰⁹ USAID's objective was to help "small producers in the diversification of their production in order to allow them to be more competitive in the global market."¹¹⁰ Not only did USAID provide \$2.4 million Dominican pesos in economic support, but USAID also helped "construct a processing plant for organic fertilizer and help with land preparation through a fertilization plan."¹¹¹ The construction of the processing plant has allowed COOPPROBATA to produce 15,000 pounds of compost a year, which serves as an organic fertilizer.¹¹² Not only would programs like USAID's help producers who would otherwise lack funding to expand into different markets, but it would also help strengthen the relationship between the two nations involved.

PART IV: THE IMPORTANCE OF STRENGTHENING TIES BETWEEN LATIN AMERICAN AGRICULTURAL PRODUCERS AND EUROPEAN UNION BROKERS,

108. *USAID capacita y apoya a productores de banana orgánico para incrementar su producción*, DOMINICANAONLINE (Oct. 5, 2010), http://www.dominicanaonline.org/portal/espanol/cpo_noti2776.asp.

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.*

SUPERMARKET CHAINS OR COMPANIES THAT ARE FACILITATING THE
IMPORTATION OF THE AGRICULTURAL PRODUCTS INTO THE EU.

During the last ten years, trade between the European Union and Latin America “doubled to around US\$280 billion.”¹¹³ At the same time, the European Union has strengthened its ties with Latin America through free trade agreements and is currently Latin America’s “second-largest trading partner (after the USA).”¹¹⁴ A “closer examination reveals that EU imports from Latin America and the Caribbean grew faster than EU imports to the region over the last five years” with the main imports from these countries being agricultural products and crude materials.¹¹⁵ Additionally, the

EU is the biggest net importer of agricultural commodities (unprocessed products that are mainly traded in bulk, such as grains and oilseeds). The EU is also by far the biggest importer of agricultural products in general, which includes intermediate and final products. Total agricultural imports into the EU reached €98 billion in 2011.¹¹⁶

These facts demonstrate the importance of strengthening ties between Latin American producers and the European importing company, supermarket, or broker. By establishing close relationships, not only can producers secure a buyer, but by working together the importing company or broker can ensure that the product that will be placed in the European market adheres to GLOBALG.A.P. requirements. Further, as major players in the private agri-food sector, they can help shape future requirements in order to make sure that producers can feasibly implement future standards. Thus, it is important for Latin American producers to continue applying for GLOBALG.A.P. certification and complying with the standards, in order to continue to have access to one of their most important markets. More importantly, as more members of the agri-food sector in Latin America begin to comply with GLOBALG.A.P., the good agricultural practices

113. Robin Emmott & Alejandro Lifschitz, *Europe Faces Hurdles at Latin America Summit Focused on Trade*, REUTERS (Jan. 25, 2013, 6:48 AM), <http://www.reuters.com/article/2013/01/25/eu-latinamerica-idUSL6N0AT6GM20130125>; see also Luis A. Ferreira, *The European Union’s Trade with Latin America*, WORLD POL’Y BLOG (Aug. 1, 2013, 10:19 AM), <http://www.worldpolicy.org/blog/2013/08/01/european-unions-trade-latin-america>.

114. Michael Krakowski, *The Relations between the European Union and Latin America and the Caribbean*, 43 INTERECONOMICS: REV. EUR. ECON. POL’Y. 112, 112 (2008).

115. *Id.* at 113.

116. Press Release, CropLife America & European Crop Protection, RE: Promoting US-EC Regulatory Compatibility (Nov. 13, 2012), <https://www.gruene.at/themen/europa/verhandlungen-ueber-ttip-sofort-abbrechen/grenzwerte-fuer-pestizidruueckstaende-als-handelshemmnis.pdf>.

will spread domestically, increasing food safety and the protection of worker's health and welfare.

CONCLUSION

Often left out of the discussion of the effect that the rise of private agri-food standards has had on developing countries is how they changed the agricultural practices in the specific country. Critics only highlight the fact that imposing private agri-food standards such as GLOBALG.A.P. on producers in developing countries leads to the exclusion of farmers who do not have the resources to implement such stringent requirements. However, it is important to note, as evidenced in the case of the Dominican Republic, Colombia, and Chile, that the imposition of such standards on each country's domestic producers eventually led to the creation of good agricultural practices by each government's Department of Agriculture, leading to healthier work environments for the producers.

While agricultural producers in each country have faced economic difficulties when trying to obtain and maintain GLOBALG.A.P. certification, if EU corporations, such as UNIVEG, begin to form partnerships with domestic Latin American producers, the cost can be offset. Additionally, the EU corporation would be assured agricultural products that not only meet GLOBALG.A.P. requirements but also any other restrictions imposed by the EU importing country, providing European consumers safe and good quality produce. Finally, because GLOBALG.A.P. certification is becoming "de facto mandatory" for the exportation of agricultural products to the EU, Latin American governments should become more involved in order to help their local producers meet the requirements. More importantly, is the fact that GLOBALG.A.P. certification will serve as a tool for Latin American producers to access the European market, allowing them to become globally competitive.