

RESEARCH ARTICLE

Concept of Product Responsibility Development and Quality Standardization of Processed Food Products to Improve Competitiveness and National Economic Development

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ABSTRACT

This research was conducted with the aim of finding the development concept of product responsibility and quality standardization of processed food products. This research uses a normative juridical approach which is described descriptively analytically from legal materials and supporting data obtained, which is then analyzed qualitatively juridically. The results obtained from this research are that processed food producers have the responsibility to produce well by meeting the specified quality standards, and if their products harm consumers, they must provide compensation. The application of responsibility for processed food products still uses general legal instruments contained in the Civil Code and sectoral laws. Meanwhile, the implementation of food product standardization still uses legal instruments at the level of government regulations and decisions of the Head of BSN adopted from the provisions of international standards, so it has not provided legal certainty and strong coercive power. As a suggestion, in order to develop product liability and product quality standardization in the future, things that need to be done are strengthening regulations by forming the National Standardization System Law and the Product Liability Law, which include the principle of absolute liability and reverse proof.

KEYWORDS

Product Liability, Standardization, Processed Food

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1. Introduction

The opening of both national and international markets due to economic cooperation between countries in the world, such as the Asean Free Trade Area (AFTA), Asia Pacific Cooperation (APEC), World Trade Organization (WTO), and ASEAN-China Free Trade (2010), has created a free world trade system. This system will expand the movement of transaction flows of goods and/or services (including food products) across the borders of a country (Sinaga, 2013). Thus, the national market will be open to imported goods and services (Susanty, 2017). This may result in a tighter level of business competition. Indonesian business actors must compete with foreign business actors in terms of capital, product quality and quantity, price of goods and market control (Fauzi & Koto, 2022). This can result in unfair business competition, namely competition between business actors in carrying out production and/or marketing activities of goods or services carried out in dishonest or unlawful ways (Fadhilah, 2019). The result is the occurrence of an unfavorable business climate and the absence of certainty of equal business opportunities for large business actors, medium business actors and small business actors, the occurrence of monopolistic practices and/or unfair business competition and the absence of effectiveness and efficiency in business activities (Shahrullah & Cokro, 2020).

For this reason, the role of government is indispensable. The government can function as a facilitator, regulator, as well as a catalyst in an effort to create a conducive and competitive business environment and maintain the sustainability of market mechanisms (Duadji, 2021).

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The more open national and international markets, as a result of the economic globalization process, must continue to guarantee the improvement of public welfare as well as certainty over the quality, quantity and safety of goods and services, including processed food products obtained by consumers in the market (Mansyur & Rahman, 2015). For this reason, inevitably, Indonesian products, especially in this case processed food products, must improve the quality and safety of their products in order to compete with foreign products. The quality of food products, which includes food safety, nutritional content and standards of food ingredients, food and beverages, is a major factor in being able to compete with foreign products because there are no more tariff barriers or protections that can be applied by a country against other countries' products. To ensure that direction, it is necessary to establish product standardization and certification. Product standardization is carried out with the aim of increasing protection for consumers, business actors, labor, and other communities for safety, security, health and preservation of environmental functions. And to assist in the smooth running of trade (Sunarsi, 2023). Also, realizing fair business competition in trade.

The purpose of certification is to provide written assurance from certification bodies, training institutions, inspection bodies and laboratories to certify that goods, services, processes and personnel have met the required standards and quality (Putri, 2021). Quality assurance supported by certification will increase consumer confidence (national and international) in the goods/services produced.

Indonesia, which is part of the global economy marked by ratifying the Agreement Establishing the World Trade Organization with Law Number 7 of 1994, has the consequence that goods and services produced and marketed abroad (exports) must meet international standards and be certified (Heriyanti, 2018). If this is not met, then it is likely that goods and services originating from Indonesia will be rejected in the international market. Thus, Indonesia must be able to compete and continue to improve the quality of goods and/or services it produces that meet international standards and qualifications.

In Indonesia itself, in an effort to organize a network and standardization activities that are harmonious, harmonious and integrated and have a national and international outlook, a national standardization system is created, which includes standardization research and development activities, standard formulation, standard setting, standard enforcement, standard application, accreditation, certification, metrology, standardization guidance and supervision, cooperation, information and documentation, popularization, standardization education and training.

The creation of the National Standardization System is expected to produce: (1) National Standards that are sufficient and in line with international standards for internal quality assurance needs and trade agreements; (2) A standard implementation system that can support increased efficiency and productivity at the production level, ensuring the implementation of consumer protection in aspects of health, safety, security and environmental preservation; (3) Competitive advantage of Indonesian products in the global market; (5) Standardization information needed by business actors, government and consumers in order to facilitate the flow of domestic and international trade; and (6) The growth and development of certification institutions, laboratories, and inspection institutions that are healthy, credible and competitive.

However, to realize the above, there are still several obstacles faced, namely the low awareness of the public and business actors of product quality standards, the insufficient number of national standards that can support industrial products, the inadequacy of legal instruments or regulations that encourage the implementation of effective and efficient standards, the lack of institutions engaged in standardization and competent product certification, lack of qualified Human Resources (HR) in the field of product standardization and certification, lack of integration and good coordination between stakeholders engaged in product standardization and certification, lack of application of sophisticated technology that produces accuracy and high qualification standards, and many other technical obstacles.

What is very visible and often occurs is in processed food products circulating in the market. Often consumers feel disadvantaged by the circulation of these processed food products both in terms of packaging and quality and quality standards (Prayuti, 2020). For example, what was exciting was the existence of packaged milk products containing melamine, the unlawfulness of Ajinomoto cooking seasoning, candies containing addictive substances, toxic tempeh bongkrek, and many more processed food products (packaged food and beverages) circulating on the market, especially home industry products that do not meet the specified quality standards.

(Maulidiyah, 2020) research results show that in the partial test, there is no positive and significant influence between capital variables on competitiveness. The human resource variable on competitiveness has a positive and significant effect. The product standardization variable on competitiveness has no positive and significant effect. Simultaneously test, there is a positive and significant influence between capital, human resources, ecommerce, and product standardization on competitiveness.

The results of the (Muthiah, 2016) research show that food entrepreneurs must be held responsible for the mistakes they make in producing dangerous foods that harm and endanger the health of their consumers and cause death in some cases, whether the mistakes are intentional or unintentional. Business liability is based on the harm caused to the consumer, and the consumer, in this case, must prove the fault of the business. However, there is another alternative liability that is more lenient on consumers, which is strict liability. This type of liability is a form of responsibility of the business actor, and the proof of guilt uses a reverse proof system, i.e. the business actor is responsible for proving its own mistakes in producing food.

Seeing the weak responsibility of producers for the products they produce and the importance of implementing product standardization and certification, especially for processed food products, in an effort to improve product competitiveness and consumer protection, as well as the complexity of these problems in practice in the field, the author is interested in raising these issues in this study.

2. Research Methods

This research is normative juridical research, namely research conducted from library materials. Normative juridical research is research conducted by examining library materials or secondary data only (Ramadhani, 2020). This legal research conducts research on legal principles and legal principles in the context of various issues related to product responsibility and the application of quality standardization of processed food products that are the object of trade in an effort to increase product competitiveness and protection to consumers. The types of data in this research include secondary data and primary data, but this research focuses more on secondary data, while primary data is supporting. The secondary data sources come from library research and primary data sources in the form of field research. The data collected is then processed systematically against written legal materials and then analyzed qualitatively.

3. Result and Discussion

3.1 Product Responsibility Development Concept

The application of product liability implemented in Indonesia still adopts what is regulated in the Civil Code and other sectoral laws, for example, in the Food Law, Health Law, Consumer Protection Law, and others (Arifin et al., 2021).

The liability system that has been used so far is a legal liability system based on tort claims as stipulated in Article 1365 of the Civil Code with the principle of liability based on fault liability, where the plaintiff/victim (consumer) must prove the existence of an element of fault on the part of the defendant (producer), as the principle stipulated in Article 1865 of the Civil Code, which states that "Everyone who argues that he has a right, or in order to establish his own rights or to deny the rights of others, pointing to an event, is required to prove the existence of the right or event".

In this concept of liability, the element of fault is not eliminated (without fault), but rather the burden of proof is shifted (shifting the burden of proof) from the injured party to the adverse party. If this concept is used in product liability, then consumers who claim compensation, although they still have to prove the existence of the three elements in tort, do not need to prove the element of fault in the producer. On the contrary, as soon as an event occurs that harms the consumer, the producer is immediately presumed to be guilty (presumption of fault), so as a consequence, the producer must prove his innocence.

This concept is adopted by Law Number 8 Year 1999 on Consumer Protection, which in Article 22 and Article 28, states:

"Proof of the existence or absence of elements of fault in criminal cases as referred to in Article 19 paragraph (4), Article 20, and Article 21 is the burden and responsibility of the business actor, closing the possibility for the prosecutor to conduct proof".

"Proof of the existence or absence of elements of fault in compensation claims as referred to in Article 19, Article 22, and Article 23 is the burden and responsibility of the business actor".

Based on the material content of the two articles above, it can be concluded that the consumer does not prove the presence or absence of elements of fault committed by the business actor. It is the business actor who proves whether he is guilty or not. Thus, there is an application of the principle of reverse proof and the principle of presumption of fault, which can be interpreted that "the business actor is declared guilty as long as he is unable to prove his innocence". In practice, however, the above provisions and this principle are rarely applied. In cases with tort claims, the plaintiff (consumer) still has to prove the element of fault committed by the business actor (defendant) as well as proving the existence of the tort element, the loss suffered, and the causal relationship between the tort and the loss suffered.

For this reason, in the author's opinion, it is necessary to apply strict liability in the legal liability system in Indonesia, especially those related to product liability.

3.2 Development Concept of Quality Standardization of Processed Food Products

The main challenge faced by the National Standardization Agency (BSN) at the time of its establishment was to develop arrangements, procedures and organizations that meet the norms and good procedures and are in line with common international practices. Therefore, the main focus at that time was to establish a National Standardization System (SSN) and to improve the institutional and processes related to the implementation of SNI development and conformity assessment. After various studies and comparative studies to understand regional and international norms and best practices, and after coordinating across sectors, the SSN framework was standardized through Government Regulation No. 102/2000 on National Standardization, which regulates the institutional framework and the main provisions that must be met in developing all SSN sub-systems. Based on this government regulation, BSN then implemented a number of important steps as follows:

- a. Outline the SSN institutional system required to implement national standardization and stimulate its establishment.
- b. Establish the necessary guidelines to ensure the regularity of the process of developing standards, conducting conformity assessment and enforcing mandatory SNI in accordance with the norms and provisions prevailing at the international level.
- c. Establishing around 90 SNI Technical Committees whose secretariats are spread across a number of ministries and other government institutions to facilitate the participation of stakeholders in the formulation of SNI.
- d. Repositioning KAN and strengthening support for KAN so that it can fulfill the requirements to be accepted in the APLAC/ILAC and PAC/IAF MRA agreements.
- e. Facilitate the establishment of the Indonesian Standardization Society (MASTAN), a non-governmental organization needed to provide the widest possible forum and channel for stakeholders to participate in various standardization processes.
- f. Represented Indonesia in ISO membership, which has been registered since 1954 under the name YDNI (Yayasan Dana Normalisasi Indonesia), and was elected as a member of the ISO Council for the period 2005-2006.
- g. Representing Indonesia's interests in various standards and conformity assessment cooperation forums, both at the regional level (ACCSQ in ASEAN, SCSC and PASC in Asia-Pacific, ASEM-SCA) and in standardization organizations at the international level (ISO, IEC, and CAC).
- h. Develop the function of "notification body & enquiry point" in order to implement the TBT-WTO agreement.
- i. Stimulate bilateral cooperation in the field of standards and conformity assessment. Some of the efforts that BSN can implement in this area are as follows:
- a. Strengthen the Technical Management of SNI Development (MTPS), the application of information technology and the establishment of a network of experts to support quality control so that SNI development can be carried out regularly and effectively in accordance with the SNI development norms discussed earlier.
- b. Conducting institutional restructuring with the establishment of separate agencies/institutions between the regulatory body, the implementing body and the supervisory body so that each has a clear scope of functions, duties and authorities, structured, and does not overlap with each other.
- c. Strengthen the function of MASTAN in the SNI development process so that the participation and implementation of consensus of interested parties can be wider.
- d. Make changes to the SNI development system that includes the preparation and revision of guidelines related to the formation of Technical Committees, SNI development, SNI writing, adoption of international standards, and other National Standardization Guidelines related to SNI development.

Encourage ILAC/APLAC KAN to become a signatory member for MRA in the field of accreditation of testing laboratories and calibration laboratories and inspection bodies. Meanwhile, in the PAC/IAF environment, KAN is encouraged to become a signatory member for MLA in the field of accreditation of quality management system certification bodies and environmental management system certification bodies. Self-preparation to face international peer review in order to obtain MLA in the field of product certification must continue to be implemented.

Some of the efforts that KAN can make to improve and develop the conformity assessment system are:

a.Improve the requirements and quality of the accreditation process so that it is more reliable and the status as a signatory member of the above MRA/MLA can be maintained.

b. Improve the accreditation system of product certification bodies with the aim that KAN is ready for peer review to become a signatory member of PAC/IAF in this accreditation field.

- c. Develop and operate various specific accreditation schemes, such as accreditation for eco-label certification bodies, accreditation for organic food agricultural product certification bodies, accreditation for clinical laboratory certification bodies, as well as developing the infrastructure of conformity assessment bodies to support the implementation of schemes established by the IEC.
- d. Develop human resource knowledge and the application of IT technology to improve the quality of KAN services.
- e. Provide support to stimulate the development of NMIs and strengthen coordination with the Directorate of Metrology of the Ministry of Trade, which handles legal metrology.

In addition, KAN must also seek bilateral MRAs with a number of export destination countries, especially for product areas whose market circulation tends to be monitored by the governments of these countries.

The development of SNI is strongly influenced by various driving forces. A number of driving forces that have a strategic role are:

3.3 Stakeholders' Perception

Stakeholders' perception of the usefulness of standards (including food quality standards) is a very important driving force for SNI development (Wibowo, 2020). Understanding the function of standards in production activities will influence the market pull for SNI development, as well as encourage stakeholders to participate in the SNI development process. Thus, it can be said that the development of SNI is basically rooted in stakeholders' perceptions and understanding of the usefulness of standards.

3.4 Trust in the SNI development process

The second very important driving force is trust in the SNI development process. The development of stakeholders' perception of the importance of standards will only become a real market pull for the development of SNI if their trust in the SNI development process is good enough because: (1) it is open to stakeholder participation; (2) the process is transparent, impartial and upholds consensus; and (3) its implementation is effective because it responds to market needs, is in accordance with laws and regulations and is coherent with various standards and international trade practices.

3.5 Trust in the conformity assessment process

Trust in the conformity assessment process is also a very important factor. If the application of SNI is supported by a reliable and trustworthy conformity assessment, the application of SNI will be increasingly perceived as a factor that can increase the transparency and efficiency of trade transactions, as well as establish business certainty and a healthy competitive climate (Madalina & Husodo, 2020). Trust in conformity assessment is strongly influenced by the development of institutions and the scope of third-party conformity assessment that have the competence and professional management systems and implement good business practices. Thus the reliability of the accreditation process organized by KAN is also an important key to the development of SNI.

3.6 Capability of BSN and KAN

The ability of BSN and KAN, which were established by the government to encourage the development of all SSN sub-systems, is also an important driving force for SNI development. How BSN and KAN can influence the growth of the three driving forces discussed above is also key to the development of SNI. Similarly, the ability of BSN and KAN to strengthen the holistic relationship between market transactions and the development of SNI, between the application of SNI and the availability of conformity assessment, between conformity assessment and capabilities in the field of metrology is also an important key to the development of SNI.

3.7 Trade liberalization

The development of trade liberalization is also an important driving force. Various international agreements, both within the UN and WTO institutions, bind all members to apply certain regularities in trade transactions between countries so that each member country no longer applies various trade barriers for unaccountable reasons. Harmonization of national standards to international standards, development of mutual recognition (MRA) in the implementation of conformity assessment, and openness and transparency in the application of technical regulations are some aspects that are always the subject of negotiations. For example, within the WTO, the Technical Barriers to Trade (TBT) agreement has been agreed upon, which regulates the application of standards, conformity assessment and technical regulations in a transparent manner based on legitimate needs and not intended or causing excessive trade barriers, not differentiating treatment for domestic and foreign products, and not discriminating or giving preferential treatment to a particular country. These principles were later adopted into various regional agreements, both ASEAN and APEC. These developments present both opportunities and challenges. For countries that can meet the level of regularity outlined by these agreements, there are wider opportunities to enter regional and international markets. For those who

do not, they will be less able to take advantage of the opportunity, but they will have to open their markets to those who have reached the level of regularity.

3.8 Development of the National Economy and Increased Product Competitiveness through the Implementation of Product Quality Standardization

The existence of the National Standardization System (SSN) is needed to support national products in facing the era of free trade, to ensure the creation of fair and honest trade and support the growth of national products and public protection, especially in terms of safety, security, health and environmental functions. In addition, in improving the competitive advantage of national products, the development of standardization technical infrastructure is needed, which includes metrology, standards, testing, and quality assessment in order to improve and guarantee the quality of goods and/or services. The development of the technical infrastructure is endeavored so that the benefits can be felt by all parties.

In connection with the foregoing, standardization can be used as one of the government's policy tools in structuring the economy better and providing protection to the community (Rusdjijati & Raliby, 2016). This is in line with the adoption of a welfare state by Indonesia, where the state can intervene in the national economy with the aim of realizing and improving public welfare (Elviandri et al., 2019). The constitutional basis is as stated in the fourth paragraph of the Preamble of the 1945 Constitution, which explicitly states that:

"...the Government of the State of Indonesia shall protect the entire Indonesian nation and the entire Indonesian homeland and to promote the general welfare, educate the nation's life and participate in the implementation of world order based on independence, lasting peace and social justice...".

Judging from these duties and responsibilities, it can be said that the Indonesian state (government) adheres to the notion of a welfare state. This is also reflected in Article 23, Article 27, Article 31 and Article 34 of the 1945 Constitution, which contain state obligations to manage resources for the welfare of society. According to Manuel Kaisiepo, if we look at the ideals and thoughts of the formulation of Article 33 of the 1945 Constitution, which is then used as the constitutional basis for the Indonesian economy, then the most appropriate state model to realize these ideals is a welfare state.

Theoretically, in a welfare state, the role of the government is required to be responsive in managing and organizing the national economy to ensure the availability of basic welfare services at a certain level for its citizens (Offe, 2018). According to G. Esping-Andersen, a country can be said to embrace the notion of a welfare state if it implements the values of socializing the rights and obligations of citizens (social citizenship), full democracy, modern industrial relations systems, the right to education and the expansion of modern mass education systems, and the production and provision of citizen welfare cannot be completely left to the market (Dekki & Dody, 2022). The three main keys that must be implemented by a welfare state are Keynesian macro-economic policies, policies to create full employment and high purchasing power of citizens, and social security programs. These three main keys, in order to respond to changes and transformations in the world economy, according to Anthony Giddens, must be accompanied by the principles of equality, protection of the weak, freedom in the form of autonomy, rights accompanied by responsibility, authority formed on a participatory basis and solidarity in pluralism. So in a welfare state, according to Bagir Manan, the state or government is not merely the guardian of security or public order but the main bearer of responsibility for realizing social justice, general welfare, and the greatest prosperity of the people.

Within this framework, Indonesia implements the National Standardization System as one of the responsive government policies to ensure the availability of basic welfare services at a certain level for its citizens, namely those related to the security, safety and health of consumers in consuming products circulating in the market. Therefore, Indonesia needs national standards with increasing quality and can meet international requirements to support the achievement of strategic goals, among others, increasing exports of Indonesian goods and/or services, increasing the competitiveness of Indonesian goods and/or services against imported goods and/or services, increasing national efficiency, and supporting economic sector linkage programs with various other sectors. Thus, a National Standardization System is needed, which is a network arrangement of standardization facilities and activities that are harmonious, harmonious and integrated and have a national and international perspective.

Given the important role of standardization in the present and future in improving product competitiveness and consumer protection as well as contributing to national development, a system is needed that can be used as a foundation in creating policy patterns and future national standardization development programs and which is able to overcome the problems or obstacles faced as mentioned above.

The challenge for Indonesia in the future is globalization, which demands fierce competition. For this reason, Indonesia needs to strengthen the economic foundation that focuses on competitive advantage. Two factors that support this are increased efficiency and productivity.

As a driver of increased efficiency and productivity, it is necessary to have a standard infrastructure and conformity assessment that can be developed to support national development in facing the era of globalization with sharp competition. The creation of an effective and efficient National Standardization System is expected to produce:

- 1) Indonesian National Standards that are sufficient and aligned with international standards for internal quality assurance needs and trade agreements;
- 2) A standard implementation system that can support increased efficiency and productivity at the production level, ensuring the implementation of consumer protection in aspects of health, safety, security and preservation of environmental functions;
- 3) Competitive advantage of Indonesian products in the global market;
- 4) Standardization information needed by business actors, government and consumers in order to facilitate the flow of domestic and international trade.
- 5) The growth and development of certification institutions, laboratories, and inspection agencies that are healthy, credible and competitive.

In connection with the above, an effort is needed that is supported by all stakeholders and directed at :

- 1) Efforts to create a development center in the field of standardization by utilizing all human resources, facilities and infrastructure in an integrated and coordinated manner that directly supports the implementation of development;
- Establishment of a network of information centers and utilization of information in the field of standardization, which is realized through the use of existing standardization information centers in the country (National Network of Standardization Information) and abroad (ISO Information Network);
- 3) Improvement of cooperative relations with national standardization bodies of trading partner countries, international and regional standardization institutions, government and/or private sector both domestically and abroad.
- 4) Equivalence of Indonesian National Standards with International Standards;
- 5) Equivalence of conformity assessment activities with Indonesian trading partners;
- 6) Improvement of legislation in the field of standardization to support smooth trade in the global market;
- 7) Development of human resources through consistent coaching to improve professionalism in program implementation; and
- 8) Development of healthy and credible test laboratories, certification bodies and inspection bodies through accreditation programs.

To realize this policy, the work program that can be carried out is :

- 1) Stabilize and increase exports of Indonesian goods and/or services through increased production and the use of domestic products;
- 2) develop and strengthen SNI and SSN in order to increase public confidence at home and abroad in Indonesian goods and/or services;
- 3) develop quality assurance programs, safety, security, health, and preservation of environmental functions by developing a national information network and increasing public awareness of standardization;
- 4) increasing the efficiency, effectiveness and productivity of business actors in Indonesia in order to increase competitiveness and added value in producing goods and/or services and control of domestic and foreign markets by improving standardization facilities and infrastructure;
- 5) increase Indonesia's active participation in regional and international standardization activities;
- 6) Develop and improve standardization activities in order to obtain recognition at the international level through bilateral and multilateral mutual recognition cooperation.

Through the steps or efforts mentioned above, it is expected that the implementation of product quality standardization can make a major contribution to national development, especially in the economic sector. This is reflected in the increasing number of products that meet national and international standards; these products will be able to compete in the market. Thus the production sector will run well, and the products it produces will be absorbed by the market. If this happens, the growth and development of the national economy (especially in the production sector) will automatically go well, although this is not the only influencing factor. But at least, there is a significant contribution (role), with many products (especially processed food) that meet the standards (both national and international) in the market, in terms of consumer interests, will provide protection from the aspects of security, safety and health if consuming the product in question and from the interests of the product itself will provide high bargaining value and competitiveness so that it will be the choice of consumers and be able to compete with imported products.

In addition, the fulfillment of product quality standards, especially food, will improve the degree of public health, which will directly or indirectly affect work productivity which will ultimately be able to encourage the growth and development of the national economy.

4. Conclusion

This research was conducted with the aim of finding the concept of product liability development and quality standardization of processed food products. Based on the results and discussion, it is found that processed food producers have the responsibility to produce well by meeting the specified quality standards and if their products harm consumers, they must provide compensation. The application of processed food product liability still uses general legal instruments contained in the Civil Code and sectoral laws, so it is necessary to apply strict liability, especially those related to product liability.

Meanwhile, the implementation of food product standardization still uses legal instruments at the level of government regulations and decisions of the Head of BSN adopted from the provisions of international standards, thus not providing legal certainty and strong coercive power. There is a need for a standard infrastructure and conformity assessment that can be developed as a driver of productivity and efficiency in order to compete excellently and strengthen Indonesia's economic foundation.

As a suggestion, in order to develop product liability and product quality standardization in the future, things that need to be done are strengthening regulations by forming the National Standardization System Law and Product Liability Law which include the principle of absolute liability and reverse proof. Quality standardization and product liability are only two of the many factors that can improve competitiveness and national economic development. It is hoped that further research can discuss other factors that can be developed to improve competitiveness and national economic development.

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