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DATE: 23 NOV 2021	DAY.
THE NATIONAL ASSEMBLY PAPERS LAID DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES	

REPORT ON THE CONSIDERATION OF THE KENYA INDUSTRIAL RESEARCH AND DEVELOPMENT INSTITUTE BILL, 2020

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER 2021

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CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Trade, Industry and Co-operatives on its consideration of the Kenya Industrial Research and Development Institute Bill, 2020 which was read a first time on 8th June 2021 and committed to the Departmental Committee on Trade, Industry and Co-operatives pursuant to Standing Order 127.

The principal object of the Bill is to establish the Kenya Industrial Research and Development Institute.

The Committee in compliance with the requirements of the provisions of Article 118 of the Constitution and Standing Order 127(3), placed adverts in the print media on 11th June 2021 inviting members of the public and relevant stakeholders to submit written memoranda and any views they may have on the Bill. In addition, the Committee invited stakeholders for a physical meeting on Thursday, 5th and Tuesday, 10th August 2021 to receive oral submissions on the Bill however, no attendance was recorded from the invited parties.

The Bill seeks to provide for the establishment of the Institute, its function, powers, location of headquarters, the composition of its Board and matters relating to the day to day management of the Board.

In addition, the Bill provides for inventions and innovations by the employees of the Institute including awards to inventors or innovators, the vesting of Intellectual Property rights in the Institute and the kinds of intellectual information that may be withheld by the Institute with reasons for such withholding of information.

During the consideration of the Bill, the Committee proposed amendments that are aimed at enriching it and provide additional functions to the Institute. Details of the Committee's proposed amendments are contained in Part VI of the Report.

On behalf of the Committee, I would like to pass our gratitude to Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings.

Finally, I wish to express my appreciation to the Honorable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Trade, Industry and Co-operatives and pursuant to provisions of Standing Order 199(6), it is my pleasant duty and honour to present to this House the Report of the Committee on its consideration of the Kenya Industrial Research and Development Institute Bill, 2020 and recommend that the Bill be **approved with amendments**.

Hon. Adan Haji Ali, M.P.
Chairperson

1.0 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Trade, Industry and Cooperatives is one of the fifteen Departmental Committees of the National Assembly established under **Standing Order 216** whose mandates pursuant to the **Standing Order 216 (5)** are as follows:
 - i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
 - ii. To study the programs and policy objectives of Ministries and departments and the effectiveness of their implementation;
 - iii. **To study and review all the legislation referred to it;**
 - iv. To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - v. To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on appointments);
 - vii. To examine treaties, agreements and conventions;
 - viii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - ix. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - x. To examine any questions raised by Members on a matter within its mandate.

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to oversee the following areas:
 - i. Trade
 - ii. securities exchange
 - iii. consumer protection
 - iv. pricing policies
 - v. commerce, and industrialization including special economic zones
 - vi. enterprise promotion and development including small and medium-size enterprises
 - vii. intellectual property
 - viii. industrial standards
 - ix. anti-counterfeit policies
 - x. Co-operatives development.

3. In executing its mandate, the Committee oversees the Ministry of Industrialization, Trade and Enterprise Development and the State Department for Co-operatives.

1.3 COMMITTEE MEMBERSHIP

4. The Committee was constituted by the House in July, 2020 and comprises of the following Members:

Chairperson

Hon. Adan Hajj Ali, MP,
MP for Mandera South Constituency

Jubilee Party

Vice-Chairperson

Hon. Wangari Mwaniki, MP, Vice Chairperson
MP for Kigumo Constituency

Jubilee Party

Members

Hon. William Cheptumo, MP
MP for Baringo North Constituency
Jubilee Party

Hon. Alois Musa Lentoimanga, MP
MP for Samburu North Constituency
Jubilee Party

Hon. Anab Mohamed Gure, MP
MP for Garissa County
Jubilee Party

Hon. Andrew Mwadime, MP
MP for Mwatate Constituency
ODM Party

Hon. Shariff Athman Ali, MP
MP for Lamu East Constituency
Jubilee Party

Hon. Daniel Maanzo, MP
MP for Makueni Constituency
Wiper Party

Hon. Fred Odhiambo Ouda, MP
MP for Kisumu Central Constituency
ODM Party

Hon. Christopher Nakuleu, MP
MP for Turkana North Constituency
Jubilee Party

Hon. Jones Mlolwa, MP
MP for Voi Constituency

ODM Party

Hon. Raymond Kipruto Moi, MP
MP for Rongai Constituency
KANU

Hon. Jared Okelo, MP
MP for Nyando Constituency
ODM Party

Hon. Gichimu Robert, MP
MP for Gichugu Constituency
Jubilee Party

Hon. Patrick Wainaina Jungle, MP
MP for Thika Town Constituency
Independent Member

Hon. Ayub Savula Angatia, MP
MP for Lugari Constituency
ANC Party

Nduati Joseph Ngugi, MP
MP for Gatanga Constituency
Jubilee Party

Hon. Wachira Rahab Mukami, MP
MP for Nyeri County
Jubilee Party

Hon. (Dr.) Wilberforce Oundo, Phd, MP
MP for Funyula Constituency
ODM

Party

1.4 **COMMITTEE SECRETARIAT**

5. The Committee is facilitated by the following Secretariat:

Mr. Daniel Mutunga
Principal Clerk Assistant I/Team Leader

Ms. Christine Ndiritu
Clerk Assistant II

Ms. Nuri Kitel Nataan
Clerk Assistant II

Ms. Marlene Ayiro
Senior Legal Counsel

Ms. Winfred Kizia
Media Relation Officer

Mr. Joseph Ndirangu
Fiscal Analyst I

Ms. Rahab Chepkilim
Audio Officer

Mr. Chelang'a R. Maiyo
Research Officer II

Mr. Richard Sang
Sgt. At Arms

PART ONE

2.0 OVERVIEW OF THE KENYA INDUSTRIAL RESEARCH AND DEVELOPMENT INSTITUTE BILL, 2020

2.1 INTRODUCTION

6. The principal object of the Bill is to establish the Kenya Industrial Research and Development Institute.
7. The Bill seeks to provide for the establishment of the Institute, its functions, powers, headquarters, the composition of its Board and matters relating to the day-to-day management of the Board.
8. The Bill also provides for inventions and innovations by the employees of the Institute including awards to inventors or innovators, the vesting of Intellectual Property rights in the Institute and the kinds of intellectual information that may be withheld by the Institute with reasons for such withholding of information.

2.2 ANALYSIS OF THE BILL

The Bill has forty-three (43) clauses which provide for the following:

9. *Clause 1* of the Bill is the short title of the Bill which is cited as the “Kenya Industrial Research and Development Institute Act, 2020”;
10. *Clause 2* of the Bill is the interpretation section that defines various terms as used in the Bill;
11. *Clause 3* of the Bill sets out the Object of the Act
12. *Clause 4* of the Bill establishes the Kenya Industrial Research and Development Institute as a body corporate with perpetual succession and a common seal;
13. *Clause 5 (1)* of the Bill sets out the core functions of the Institute;
14. *Clause 6* of the Bill provides for the powers of the Institute;
15. *Clause 7* of the Bill provides the headquarters of the Institute to be Nairobi but allows the institute to open branches at any other place in the country;
16. *Clause 8* of the Bill establishes the Board of Directors of the Institute;
17. *Clause 9* of the Bill provides for the eligibility of appointment as Chairperson and Member of the Board;
18. *Clause 10* of the Bill provides for the functions of the Board;
19. *Clause 11* of the Bill provides for the powers of the Board;

20. *Clause 12* of the Bill provides for the tenure of office of the Chairperson and every Member of the Board to be for a *term of three years' renewable once*;
21. *Clause 13* of the Bill provides for the removal from office of Members of the Board;
22. *Clause 14* of the Bill provides for vacancy of office by Members of the Board;
23. *Clause 15* of the Bill provides for filling of vacancy of office and it provides that the appointing authority shall appoint a new Member in accordance with the provisions of this Act;
24. *Clause 16* of the Bill provides for meetings of the Board which shall be conducted according to the schedule. The Board may also regulate its procedure;
25. *Clause 17* of the Bill provides that the quorum of the Board shall be two-thirds of the Members of the Board;
26. *Clause 18* of the Bill provides the delegation by the Board and delegation can be done to any Committee of the Board or to any Member, officer, employee or agent of the Institute;
27. *Clause 19* of the Bill provides for remuneration of the Chairman and Members of the Board;
28. *Clause 20* of the Bill provides for the position of the Director General of the Institute who shall be competitively recruited and appointed by the Board;
29. *Clause 21* of the Bill provides for the qualifications of the Director General. This section also provides for the removal of the Director General from office;
30. *Clause 22* of the Bill provides for the functions of the Director General
31. *Clause 23* of the Bill provides for the tenure of the Director General;
32. *Clause 23* of the Bill provides for the removal of the Director General from office on various grounds;
33. *Clause 25* of the Bill provides for the position of the Corporation Secretary (CS) who shall be appointed by the Board. it also provides for the qualifications of the CS and the office bearers attendant functions;
34. *Clause 26* of the Bill provides for the qualifications of the Corporation Secretary;
35. *Clause 27* of the Bill provides for the functions of the Corporation Secretary;
36. *Clause 28* of the Bill provides for award to a discoverer or inventor. It provides that if any rights in any discovery, invention or improvement are vested in the Institute, the Board may award the discoverer or inventor a bonus of an award as it deems fit;

37. *Clause 29* of the Bill provides for rights to vest in the Institute and states that the rights to a discovery, invention or improvement made by the Institute in the course of an investigation for or on behalf of another person or entity shall vest in the Institute unless there is an agreement to the contrary;
38. *Clause 30* of the Bill provides for withholding intellectual property information;
39. *Clause 31* of the Bill provides for the funds of the Institute;
40. *Clause 32* of the Bill provides for the financial year of the Institution which shall be the period of twelve months ending on the thirtieth of June in every year;
41. *Clause 33* of the Bill provides for the annual estimates and provides that at least three months before the commencement of each financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the Council for that financial year;
42. *Clause 34* of the Bill provides for accounts and audit that the Institute shall cause to be kept proper books and records of accounts of the income, expenditure, and assets of the Authority;
43. *Clause 35* of the Bill provides for annual reports and the Board is expected to submit to the Cabinet Secretary a report on the operations of the Institute for the immediate preceding year;
44. *Clause 36* of the Bill spell out the requirements for affixing of the common seal of the Institute which may be authenticated by the signature of the Chairperson or the Director;
45. *Clause 37* of the Bill provides for protection from personal liability by a Member of the Board, officer, employee, or agent of the Board if the matter of thing done is in good faith while executing the functions, powers or duties of the Board;
46. *Clause 38* of the Bill provides that the Cabinet Secretary, may make regulations generally for the better carrying out of the provisions of the Act;
47. *Clause 39* of the Bill provides for some transitional provisions that include interpretation of the former Institute;
48. *Clause 40* of the Bill provides for amendment of the Science, technology and Innovations Act, by deleting the item 3 in the fourth schedule of the Act;
49. *Clause 41* of the Bill provides for the transitional matters and provides that on the appointed day, all funds, assets and other property both movable and immovable which immediately before such date were vested in the former Institute shall, by virtue of this paragraph vest in the Institute;
50. *Clause 42* of the Bill provides that any person who was a Member of the former Institute immediately before the commencement of this Act shall remain in office for the unexpired period of the person's tenure;

51. *Clause 43* of the Bill provides for staff of the former Institute and states that any person who immediately before the appointed day was the Chief Executive Officer or employee of the former Institute immediately before the commencement of this Act shall remain in office for the unexpired period of his or her term of office.
52. The *Schedule* to the Bill provides for provisions as to the conduct of business and affairs of the Council of the Institution;

PART TWO

3.0 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

53. Following the call for memoranda from the public through the placement of adverts in the print media on 11th June 2021 and vide a letter REF: NA/DDC/TRADE/2021/(030, 031, 032, 033 and 034) dated 29th July 2021 inviting stakeholders for a meeting, the Committee sought for memoranda from the following stakeholders:

- i. Council of Governors
- ii. Kenya Association of Manufacturers
- iii. Commission for University Education
- iv. Kenya National Chamber of Commerce
- v. Kenya Private Sector Alliance

There Committee did receive any written or oral memoranda submitted by the above stakeholders in spite of the request for submission of views from the public pursuant to Article 118(1)(b) of the Constitution.

54. The Commission for University Education submitted via email that they are in support of the Bill while the other identified stakeholders did not submit any memoranda.

3.1 MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE DEVELOPMENT

55. The Committee held a consultative Meeting with the Ministry of Industrialization, Trade and Enterprise Development and the Kenya Industrial Research and Development Institute (KIRDI) in Mombasa from 26th to 29th July, 2021.
56. The meeting was informed on the background relating to the establishment of KIRDI as well as the operations of the institution where it was noted that:
- a. The Kenya Industrial Research and Development Institute (KIRDI) history dates to 1942 when the then colonial government established a central laboratory at Kabete, Nairobi, with the aim of initiating and developing industries so as to relieve shortages of industrial goods which was occasioned by the Second World War.
 - b. Kenya then established KIRDI in 1979 under the then Science and Technology Act, Cap 250 with the mandate to conduct research on industrial and allied technology. However, the Science and Technology Act Cap 250 was repealed by the Science, Technology and Innovation (STI) Act, 2013.
 - c. Currently, KIRDI has three main centers: Nairobi South C (Headquarters), Nairobi South B (under construction) and KIRDI Western Region Centre in Kisumu. Additionally, the Institute has satellite pilot plants in Bungoma, Uasin Gishu, Kisii, Migori, Garrisa and Kilifi Counties. The Institute has a staff complement of 320, out of which 110 are Research Scientists and Engineers.
 - d. Vision 2030 recognizes the role Science, Technology and Innovation (STI) plays in economic development through the application of knowledge in wealth creation. KIRDI is the lead STI institution in the industrial/manufacturing sector and therefore will play a key role in ensuring a knowledge driven industrial sector that is able to compete globally and create prosperity as envisioned by the Vision 2030.

On the legal framework, the Committee was informed as follows: That;

- e. The STI Act, 2013 fails to provide KIRDI with a clear legal and institutional framework to guide its existence, mandate and operations. As such, it was noted that there was need to formulate a legal framework to streamline issues that were omitted in the STI Act, including the appointment of the Board Members in the Institute where some of them were appointed by the CS responsible for Education as opposed to the CS of the Industrialization Ministry where it is domiciled.
- f. There was no clear guidance on appointment of the Director General.
- g. There was lack of clarity on body corporate status, establishment of Boards of Directors and appointment of the CEO. The current STI Act of 2013 does not make provision to these sections which existed in the repealed Act.
- h. The STI Act, 2013 under Section 53 states that “the research institutes set out in the Fourth Schedule which were established under the repealed Act shall continue to operate as if they had been accredited under this Act and shall

forthwith each be issued with a certificate of registration by the Commission.” This statement, which is a transitional clause does not define the mandate, institutional and operational guideline for KIRDI.

- i. The STI Act in its current form limits KIRDI to the functions stated in Section 14(b) of the Science and Technology Act, Cap 250, however, the institution undertakes more functions beyond what is outlined. For instance, the Act does not give KIRDI the mandate of coming up with regulations to better carry out its functions.
- j. The STI Act does not specify the parent Ministry of KIRDI but stipulates that it will be licensed by the Nairobi Commission for Science, Technology, and Innovation (NACOSTI). KIRDI receives its funding and administrative authority from the Cabinet Secretary, Ministry of Industrialization, Trade and Enterprise Development.
- k. There is significant scientific and technological knowledge within universities and other institutions of Higher Learning and within individual innovators, but it is unutilized. KIRDI is the only institution in the country that is harnessing the scientific and technological know-how within Kenya and beyond and converting it through technological transfer, pilot plants, incubation, and common manufacturing facilities.
- l. KIRDI is the only research institute in the country whose mandate is industrial research and under the Ministry of Industrialization, Trade and Enterprise Development. It plays a critical role in application of science, technology and innovation in industrial advancement and manufacturing, which is an essential roadmap to the country’s industrialization and achievement of the newly industrialized nation status.
- m. The enactment of the KIRDI Act, 2020 shall not occasion additional expenditure of public funds. The workforce and the Board of Directors shall exist in the current form.

PART THREE

4.0 COMMITTEE OBSERVATIONS

The Committee made the following observations: -


57. The heading running across every page of the Bill, makes reference to the term 'amendment' which is inconsistent with the title of the Bill;
58. The interpretation clause of the Bill is narrow and as such, the various technical terms referenced in the Bill ought to be defined therein for purposes of clarity.
59. The functions of the Institute, as provided for under Clause 5 of the Bill, should not be overlapping with those of other institutions undertaking research, development and innovation in industrial and allied technologies.
60. Timelines for the provisions of Regulations by the Cabinet Secretary should be stated in the Bill;
61. Under the transitional provisions, the Bill should make provision to amend Section 53 of the STI Act;
62. The Bill lacks penalties aimed at offering solutions to offences that may arise.
63. Under the preamble, there needs to be the incorporation of a description on the intended achievements of KIRDI upon attainment of autonomy status, which cannot be realised in their current form;
64. There were drafting inconsistencies which require regularising, for instance under the financial provisions (Clause 31), the Bill makes reference to Parliament as opposed to National Assembly; and
65. There is need to recognize the Kenya Industrial Research and Development Institute as the sole body responsible for carrying out industrial research, development, technology and innovation by establishing an internationally recognized industrial research infrastructure; and promotion of research, technology, innovation and incubation to facilitate industrial development.

PART FOUR

5.0 COMMITTEE RECOMMENDATION

66. The Committee having considered the Kenya Industrial Research and Development Institute Bill, 2020 recommends that the House **approves** the Bill with amendments as proposed in the schedule appended to the report.

SIGNED.....*for Farah Ali*.....DATE.....*07 Oct 2021*
for HON. ADAN HAJI ALI, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

 THE NATIONAL ASSEMBLY PAPERS LAID	
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TABLED BY:	<i>Vice-Chairperson</i>
CLERK-AT THE-TABLE:	<i>Trade/Industry/Coop</i>

PART FIVE

6.0 SCHEDULE OF PROPOSED AMENDMENTS

The Committee proposed the following amendments to be considered by the House in the Committee Stage:

TITLE OF THE BILL

THAT, the title of the Bill be amended by deleting the word “amendment” wherever it appears in the heading of the Bill.

JUSTIFICATION: The Bill is not seeking to amend any law, therefore the same is not an amendment Bill as is sighted in the heading of the Bill.

CLAUSE 2

THAT, Clause 2 of the Bill be amended by—

(a) inserting the definition of the following terms in their proper alphabetical sequence—

“*former Institute*” means the Kenya Industrial Research and Development Institute existing immediately before the commencement of this Act;

“*incubation*” means the maintenance of enabling environment conditions for the purpose of facilitating the growth or development of infant technologies ideas or industries;

“*indigenous*” knowledge “means the wisdom developed over generations of holistic traditional scientific utilization of the lands, natural resources and environment;

“*innovation*” means

- (a) a technology and innovation model, utility model or industrial design within the meaning of the Industrial Property Act, 2001;
- (b) a product, process, service or ideal which is novel;
- (c) an improved use of a new product service or method in industry, business or society;
- (d) indigenous or traditional knowledge by a community of beneficial properties of land, natural resources, including plant and animal resources and the environment; or
- (e) any other non-patentable creations of improvements which may be deemed as deserving promotion and protection or sui generis intellectual property rights and innovator shall be construed accordingly

“*invention*” means a new and useful at, process, machine, manufacture or composition of matter, living or inanimate, or any invention of discovery which or may be patentable or otherwise protectable or any novel variety of plant which is or may be protectable;

“*innovation*” means doing something new to improve a product, process or service.

“intellectual property” means intangible property that is the result of creativity such as patents, copyrights, industrial designs, utility models trademarks etc.;

“patent” means government authority or license conferring a right or title for a set period especially the sole right to exclude others from making, using or selling an invention;

“secretary” means the corporation secretary appointed of the Board appointed under Section 26; and

“technology” means the application of knowledge to meet the goals, goods and services for sustainable development.

- (b) deleting the definition of the term “Cabinet Secretary” and substituting thereof the following new definition—

“Cabinet Secretary” means the Cabinet secretary responsible for matters relating to industry

JUSTIFICATION: It is good drafting practice to provide definition of technical terms used in the Bill, to allow users to comfortably interact with the law.

CLAUSE 3

THAT, Clause 3 of the Bill be amended by deleting paragraphs (a) and (b) and substituting therefor the following new paragraphs—

- (a) the establishment of the Kenya Industrial Research and Development Institute.
- (b) the recognition of the Kenya Industrial Research and Development Institute as the sole body responsible for carrying out industrial research, development, technology and innovation.
- (c) the establishment of internationally recognized industrial research infrastructure; and
- (d) promotion of research, technology, innovation and incubation to facilitate industrial development.

JUSTIFICATION: These objectives seek to establish and set out the purpose of the Institute
Insertion of a new clause 4A immediately after clause 4 as follows—

Insert the following new clause immediately after clause 4—

objectives of the Institute. **4A.** The objectives of the institute shall be to—

- (a) undertake research development and innovation in industrial and allied technologies; and
- (b) disseminate research findings to support industrial development.

JUSTIFICATION: The Bill is amended to insert a new section that establishes the objectives of the institute.

CLAUSE 5

THAT, Clause 5 of the Bill be amended by-

- (a) inserting a new paragraph immediately after paragraph (m)—
“(n) building materials technology.
- (b) Re-numbering the existing paragraphs “(d), (e), (f), (g), (h) and (i) as sub-clauses (3), (4), (5), (6), (7) and (8) respectively in subclause (2).

JUSTIFICATION: The items listed as paragraph in the Bill are fundamental core functions of KIRDI and should be renumbered as such.

CLAUSE 6

THAT, Clause 6 of the Bill be amended by deleting paragraph “(b)” and substituting therefor the following new paragraphs—

- “(b) create, develop, apply and hold intellectual property rights to inventions;
- “(ba) enter into agreements for the commercial exploitation of intellectual property rights as the Board may consider appropriate.

JUSTIFICATION: The amendment seeks to provide clarity of the section.

CLAUSE 8

THAT, Clause 8 of the Bill be amended in subclause (1) by—

- (a) deleting the words “industrial research and development” appearing in paragraph (b) and substituting therefor the word, “industry”;
- (b) inserting the following new paragraph immediately after paragraph (c)—
 - “(ca) a representative from the National Commission for Science and Technology Institute;
 - “(cb) a representative from the Kenya Industrial Property Institute; and
 - “(cc) a representative from the office of the Attorney General’s.
- (c) deleting paragraphs (c) and substituting therefor the following new paragraph—
 - “(c) Three members appointed by the Cabinet Secretary from the following institutions—
 - i. public universities;

- ii. the Kenya association of manufacturers; and
- iii. the consumer federation of Kenya.

JUSTIFICATION: This is a proposal to enhance government representation in the Board of the Institute as well as including the representative from the office of the Attorney General to offer legal advice to the Board.

CLAUSE 10

THAT, Clause 10 of the Bill be amended by deleting paragraphs (a) to (f) and substituting therefor the following new paragraphs—

- (a) exercise their role collectively and not individually;
- (b) determine the organization's mission, vision, purpose and core values;
- (c) sets and oversee the overall strategy and approve significant policies of the organization;
- (d) approve the organizational structure;
- (e) approve the annual budget of the organization;
- (f) enhance the corporate image of the organization;
- (g) ensure availability of adequate resources for achievement of the organization's objectives; and
- (h) hire the Chief Executive Officer on such terms and conditions of service as may be approved by the relevant government organs.

JUSTIFICATION: The functions of the Board as they appeared in the Bill were not aligned with the functions of the Board as they appear in the *Mwongozo* code.

CLAUSE 12

THAT, Clause 12 of the Bill be amended by-

- (a) renumbering the existing provision as subclause (1);
- (b) inserting the following new subclause immediately after the renumbered subclause (1)-
“(1a) The members of the Board shall be appointed at different times so that their terms of office expire at different intervals”.

JUSTIFICATION: It is important to stagger the appointment of Board Members in a bid to ensure at any given time the Board is functioning properly and has the requisite quorum.

CLAUSE 13

THAT, Clause 13 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1);
- (b) inserting the following new sub-clause immediately after the renumbered subclause (1)

—
“(2) Notwithstanding the generality of the foregoing, the Board shall ensure that any member suspected to have committed an offence under the Constitution or any other written law, vacates office to pave way for investigations.”

JUSTIFICATION: The provision seeks to ensure that no Board Members suspected to have committed an offence vacate office to allow for independent and fair investigations to be carried out.

CLAUSE 20

THAT, Clause 20 of the Bill be amended in subclause (1) by deleting the words “the Board” appearing immediately after the words “recruited and appointed by “and substituting therefor the words, “the Cabinet Secretary”.

JUSTIFICATION: Appointment of the Director General is by the Cabinet Secretary through Gazettement.

CLAUSE 21

THAT, Clause 21 of the Bill be amended by—

- (a) by deleting the word, “masters” appearing in paragraph (a) and substituting therefor the word “doctorate”;
- (b) by deleting the word, “ten” appearing in paragraph (b) and substituting therefor the word “fifteen”; and
- (c) by deleting the word, “five” appearing in paragraph (c) and substituting therefor the word “eight”.

JUSTIFICATION: The Position of the Director General as capture in the KIRDI Human Resource Instruments requires that the holder of that office has at least fifteen years’ experience and at least eight years’ experience in senior management.

CLAUSE 22

THAT, Clause 22 of the Bill be amended by—

- (a) deleting paragraph (b) and substituting therefor the following new paragraph—
“(b) develop an economic, efficient and cost-effective internal management structure’;
- (b) deleting paragraph (d) and substituting therefor the following new paragraph—

- “(d) cooperate with other entities and organizations in the sector;
- (c) deleting paragraph (f) and substituting therefor the following new paragraph—
 - “(f) provide advice as required on matters within the Institute’s responsibility”; and
- (d) deleting the word, “of” appearing immediately after the words, “such other duties” in paragraph (g).

JUSTIFICATION: Additional functions of the Director General are provided to ensure proper dispensation of services by the institute and prescriptive functions that had been provided in the Bill removed so that the same can be contained in the Director General’s letter of employment as well as correction of the typo appearing in paragraph (g).

CLAUSE 23

THAT, Clause 23 of the Bill be amended by deleting the word “three” appearing immediately after the words “not exceeding” and substituting therefor the words “five”.

JUSTIFICATION: The term of the Director General ameliorated to five years to allow the office holder to carry out his mandate and allow for succession management.

CLAUSE 25

THAT, Clause 25 of the Bill be amended by deleting the words “as the Board may on the advice of the Salaries and Remuneration Commission determine” appearing immediately after the words “such terms” and substituting therefor the words “and conditions as the Board may determine”.

JUSTIFICATION: Appointment of the Corporation Secretary is preserve of the Board.

CLAUSE 26

THAT, Clause 26 of the Bill be amended by deleting the words, “in a relevant degree” appearing immediately after the words “holds a degree” appearing in paragraph (b) and substituting therefor the words “law”.

JUSTIFICATION: The amendment seeks to create clarity on the required qualification of the Corporation Secretary.

CLAUSE 27

THAT, Clause 27 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1);
- (b) deleting paragraph (b);
- (c) inserting the following new sub-clause immediately after the renumbered subclause (1)

—

“(2) The Corporation Secretary shall be responsible to the Director General.

JUSTIFICATION: The paragraph is deleted as the same is very prescriptive.

CLAUSE 30

THAT, Clause 30 of the Bill amended by inserting the words “and be released” immediately after the words, “properly withheld”.

JUSTIFICATION: The amendment is being made to provide for clarity of the section.

CLAUSE 31

THAT, Clause 31 of the Bill be amended by deleting the word “Parliament” appearing immediately after the words “allocated by” in paragraph (a) and substituting therefor the words “National Assembly”.

JUSTIFICATION: The clause was amended as the National Assembly is the institution vested with the powers to allocate and or appropriate funds for the Institute which is national government agency.

CLAUSE 32

THAT, Clause 32 of the Bill be amended by deleting clause 32 and substituting therefor with the following new clause—

“(32) The financial year of the institute shall be from the 1st of July to the 30th of June in the next year”.

JUSTIFICATION: Align the clause to the provisions of the State Corporations Act, which provides for the commencement and end of a financial year.

CLAUSE 38

THAT, Clause 38 of the Bill be amended by—

- (a) deleting subclause (1) and substituting therefor the following new subclause—

“(1) The Cabinet Secretary may six months upon enactment of this Act, make Regulations generally for the better carrying out of the provisions of this Act.

(b) deleting subclause (2);

(c) re-numbering the existing subclause (3) as subclause (2).

JUSTIFICATION: There is need to set in law a timeline within which the Cabinet Secretary should formulate the attendant regulations to ensure the operationability of the law once enacted.

CLAUSE 39

THAT, Clause 39 of the Bill be deleted.

JUSTIFICATION: This section is captured in clause 2 of the Bill.

CLAUSE 41

THAT, Clause 41 of the Bill be amended by deleting the words “on the appointed day” wherever they appear and substituting therefor the words “upon commencement of this Act”.

JUSTIFICATION: The Constitution is very clear as to when a Bill may come into law upon assent by the President.

ANNEX I

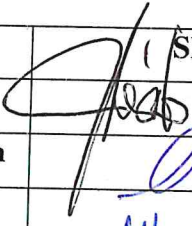


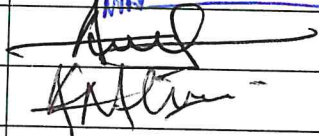

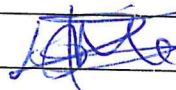
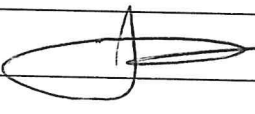
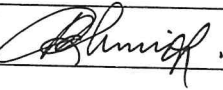
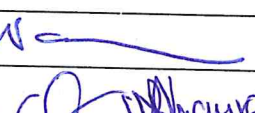




Adoption List

**THE NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES**

ADOPTION LIST

Kenya Industrial Research Development Institute Bill, 2020

Date: 7th October, 2021

NO.	NAME	SIGNATURE
1.	Hon: Adan Haji Ali, MP - Chairperson	
2.	Hon. Wangari Mwaniki, MP - Vice Chairperson	
3.	Hon. William Cheptumo, MP	
4.	Hon. Alois Musa Lentoimaga, MP	
5.	Hon. Anab Mohamed Gure, MP	
6.	Hon. Andrew Mwadime, MP	
7.	Hon. Christopher Doye Nakuleu, MP	
8.	Hon. Daniel Maanzo, EBS, MP	
9.	Hon. Jared Okelo, MP	
10.	Hon. Sharif Athman Ali, MP	
11.	Hon. Jones Mlolwa, MP	
12.	Hon. Kipruto Moi, MP	
13.	Hon. Ayub Savula, MP	
14.	Hon. Gichimu Robert, MP	
15.	Hon. Kimani Patrick Wainaina Jungle, MP	
16.	Hon. Fred Ouda, MP	
17.	Hon. Ngugi Joseph Nduati, MP	
18.	Hon. Wachira Rahab Mukami, MP	
19.	Hon. Dr. Wilberforce Oundo, Phd, MP	

FOR: CLERK OF THE NATIONAL ASSEMBLY

ANNEX II

Minutes

MINUTES OF THE 20TH SITTING (5TH SESSION) OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON THURSDAY 7TH OCTOBER, 2021 IN COMMITTEE ROOM 5, MAIN PARLIAMENT BUILDINGS AT 10.30 A.M.

PRESENT

- | | | |
|----------------------------------------|---|-------------------------|
| 1. Hon. Adan Hajj Ali, MP | - | Chairperson |
| 2. Hon. Wangari Mwaniki, MP | - | Vice Chairperson |
| 3. Hon. Andrew Mwadime, MP | | |
| 4. Hon. Alois Musa Lentoimaga, MP | | |
| 5. Hon. Jones Mlolwa, MP | | |
| 6. Hon. Nduati Joseph Ngugi, MP | | |
| 7. Hon. Dr. Wilberforce Oundo, Phd, MP | | |
| 8. Hon. Daniel Maanzo, MP | | |
| 9. Hon. Gichimu Robert, MP | | |
| 10. Hon. Anab Mohamed Gure, MP | | |
| 11. Hon. Wachira Rahab Mukami, MP | | |

APOLOGY

1. Hon. William Cheptumo, MP
2. Hon. Christopher Nakuleu, MP
3. Hon. Kipruto Moi, MP
4. Hon. Ayub Savula, MP
5. Hon. Jared Okelo, MP
6. Hon. Sharif Athman, MP
7. Hon. Fred Ounda, MP
8. Hon. Kimani Patrick Wainaina Jungle, MP

INATTENDANCE

SECRETARIAT

- | | | |
|--------------------------|---|-----------------------------|
| 1. Mr. Daniel Mutunga | - | Principal Clerk Assistant I |
| 2. Ms. Nuri Kitel Nataan | - | Clerk Assistant II |
| 3. Ms. Marlene Ayiro | - | Senior Legal Counsel |
| 4. Ms. Rahab Chepkilim | - | Audio Officer |
| 5. Ms. Lilian Aluga | - | Protocol Officer |

MIN.NO.NA/TRADE/2021/068:

PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The Chairperson called the meeting to order at 10.30 a.m. A prayer was said. He welcomed the Members to the meeting.

MIN.NO.NA/TRADE/2021/069:

CONFIRMATION OF MINUTES

Confirmation of Minutes of the previous Sitting of the Committee was deferred to another day.

MIN.NO.NA/TRADE/2021/070:

**CONSIDERATION OF SUBMISSION BY THE
MINISTRY OF INDUSTRIALIZATION,
TRADE AND ENTERPRISE DEVELOPMENT
ON THE KENYA INDUSTRIAL RESEARCH
AND DEVELOPMENT INSTITUTE BILL,
2020**

The meeting considered the submission by the Ministry on the Bill and noted that the issues that had been raised during the retreat in Mombasa had been addressed.

MIN.NO.NA/TRADE/2021/071:

**CONSIDERATION AND ADOPTION OF THE
REPORT ON THE KENYA INDUSTRIAL
RESEARCH AND DEVELOPMENT
INSTITUTE BILL, 2020**

The meeting considered the report on the Kenya Industrial Research and Development Bill, 2020 and adopted it with the following amendments.

TITLE OF THE BILL

THAT, the title of the Bill be amended by deleting the word “amendment” wherever it appears in the heading of the Bill.

JUSTIFICATION: The Bill is not seeking to amend any law, therefore the same is not an amendment bill as is sighted in the heading of the Bill.

CLAUSE 2

THAT, Clause 2 of the Bill be amended by—

- (a) inserting the definition of the following terms in their proper alphabetical sequence—
“former Institute” means the Kenya Industrial Research and Development Institute existing immediately before the commencement of this Act;

“incubation” means the maintenance of enabling environment conditions for the purpose of facilitating the growth or development of infant technologies ideas or industries;

“indigenous knowledge “means the wisdom developed over generations of holistic traditional scientific utilization of the lands, natural resources and environment;

“innovation” means

- (a) a technology and innovation model, utility model or industrial design within the meaning of the Industrial Property Act, 2001;
(b) a product, process, service or ideal which is novel;
(c) an improved use of a new product service or method in industry, business or society;

- (d) indigenous or traditional knowledge by a community of beneficial properties of land, natural resources, including plant and animal resources and the environment; or
- (e) any other non-patentable creations of improvements which may be deemed as deserving promotion and protection or sui generis intellectual property rights and innovator shall be construed accordingly

“invention” means a new and useful at, process, machine, manufacture or composition of matter, living or inanimate, or any invention of discovery which or may be patentable or otherwise protectable or any novel variety of plant which is or may be protectable;

“innovation” means doing something new to improve a product, process or service.

“intellectual property” means intangible property that is the result of creativity such as patents, copyrights, industrial designs, utility models trademarks etc.;

“patent” means government authority or license conferring a right or title for a set period especially the sole right to exclude others from making, using or selling an invention;

“secretary” means the corporation secretary appointed of the Board appointed under section 26; and

“technology” means the application of knowledge to meet the goals, goods and services for sustainable development.

- (b) deleting the definition of the term “Cabinet Secretary” and substituting thereof the following new definition—
“Cabinet Secretary” means the Cabinet secretary responsible for matters relating to industry

JUSTIFICATION: It is good drafting practice to provide definition of technical terms used in the bill, to allow users to comfortably interact with the law.

CLAUSE 3

THAT, Clause 3 of the Bill be amended by deleting paragraphs (a) and (b) and substituting therefor the following new paragraphs—

- (a) the establishment of the Kenya Industrial Research and Development Institute;
- (b) the recognition of the Kenya Industrial Research and Development Institute as the sole body responsible for carrying out industrial research, development, technology and innovation;
- (c) the establishment of internationally recognized industrial research infrastructure; and
- (d) promotion of research, technology, innovation and incubation to facilitate industrial development.

JUSTIFICATION: These objectives seek to establish and set out the purpose of the Institute

Insertion of a new clause 4A immediately after clause 4 as follows—

Insert the following new clause immediately after clause 4—
objectives of **4A**. The objectives of the institute shall be to—
the Institute. (a) undertake research development and innovation in industrial and allied technologies; and
(b) disseminate research findings to support industrial development.

JUSTIFICATION: The Bill is amended to insert a new section that establishes the objectives of the institute.

CLAUSE 5

THAT, Clause 5 of the Bill be amended by-

- (a) inserting a new paragraph immediately after paragraph (m)—
“(n) building materials technology.
- (b) Re-numbering the existing paragraphs “(d), (e), (f), (g), (h) and (i) as sub-clauses (3), (4), (5), (6), (7) and (8) respectively in subclause (2).

JUSTIFICATION: The items listed as paragraph in the Bill are fundamental core functions of KIRDI and should be renumbered as such.

CLAUSE 6

THAT, Clause 6 of the Bill be amended by deleting paragraph “(b)” and substituting therefor the following new paragraphs—

- “(b) create, develop, apply and hold intellectual property rights to inventions;
- “(ba) enter into agreements for the commercial exploitation of intellectual property rights as the Board may consider appropriate.

JUSTIFICATION: The amendment seeks to provide clarity of the section.

CLAUSE 8

THAT, Clause 8 of the Bill be amended in subclause (1) by—

- (a) deleting the words “industrial research and development” appearing in paragraph (b) and substituting therefor the word, “industry”;
- (b) inserting the following new paragraph immediately after paragraph (c)—
“(ca) a representative from the National Commission for Science and Technology Institute;
“(cb) a representative from the Kenya Industrial Property Institute; and
“(cc) a representative from the office of the Attorney General’s.
- (c) deleting paragraphs (c) and substituting therefor the following new paragraph—

“(c) Three members appointed by the Cabinet Secretary from the following institutions—

- i. public universities;
- ii. the Kenya association of manufacturers; and
- iii. the consumer federation of Kenya.

JUSTIFICATION: The is a proposal to enhance government representation in the Board of the Institute as well as including the representative from the office of the Attorney General to proffer legal advice to the Board.

CLAUSE 10

THAT, Clause 10 of the Bill be amended by deleting paragraphs (a) to (f) and substituting therefor the following new paragraphs—

- (a) exercise their role collectively and not individually;
- (b) determine the organization’s mission, vision, purpose and core values;
- (c) sets and oversee the overall strategy and approve significant policies of the organization;
- (d) approve the organizational structure;
- (e) approve the annual budget of the organization;
- (f) enhance the corporate image of the organization;
- (g) ensure availability of adequate resources for achievement of the organization’s objectives; and
- (h) hire the Chief Executive Officer on such terms and conditions of service as may be approved by the relevant government organs.

JUSTIFICATION: The functions of the Board as they appeared in the Bill were not aligned with the functions of the Board as they appear in the *Mwongozo* code.

CLAUSE 12

THAT, Clause 12 of the Bill be amended by-

- (a) renumbering the existing provision as subclause (1);
- (b) inserting the following new subclause immediately after the renumbered subclause (1)-
“(1a) The members of the Board shall be appointed at different times so that their terms of office expire at different intervals”.

JUSTIFICATION: It is important to stagger the appointment of Board members in a bid to ensure at any given time the board is functioning properly and has the requisite quorum.

CLAUSE 13

THAT, Clause 13 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1);

(b) inserting the following new sub-clause immediately after the renumbered subclause (1)

—
“(2) Notwithstanding the generality of the foregoing, the Board shall ensure that any member suspected to have committed an offence under the Constitution or any other written law, vacates office to pave way for investigations.”

JUSTIFICATION: The provisions seeks to ensure that no board members suspected to have committed an offence vacate office to allow for independent and fair investigations to be carried out.

CLAUSE 20

THAT, Clause 20 of the Bill be amended in subclause (1) by deleting the words “the Board” appearing immediately after the words “recruited and appointed by” and substituting therefor the words, “the Cabinet Secretary”.

JUSTIFICATION: Appointment of the Director General is by the Cabinet Secretary through Gazettement.

CLAUSE 21

THAT, Clause 21 of the Bill be amended by—

- (a) by deleting the word, “masters” appearing in paragraph (a) and substituting therefor the word “doctorate”;
- (b) by deleting the word, “ten” appearing in paragraph (b) and substituting therefor the word “fifteen”; and
- (c) by deleting the word, “five” appearing in paragraph (c) and substituting therefor the word “eight”.

JUSTIFICATION: The Position of the Director General as capture in the KIRDI Human Resource Instruments requires that the holder of that office has at least fifteen years’ experience and at least eight years’ experience in senior management.

CLAUSE 22

THAT, Clause 22 of the Bill be amended by—

- (a) deleting paragraph (b) and substituting therefor the following new paragraph—
“(b) develop an economic, efficient and cost-effective internal management structure”;
- (b) deleting paragraph (d) and substituting therefor the following new paragraph—
“(d) cooperate with other entities and organizations in the sector;
- (c) deleting paragraph (f) and substituting therefor the following new paragraph—
“(f) provide advice as required on matters within the Institute’s responsibility”; and
- (d) deleting the word, “of” appearing immediately after the words, “such other duties” in paragraph (g).

JUSTIFICATION: Additional functions of the Director General are provided to ensure proper dispensation of services by the institute and prescriptive functions that had been provided in the Bill removed so that the same can be contained in the Director General's letter of employment as well as correction of the typo appearing in paragraph (g).

CLAUSE 23

THAT, Clause 23 of the Bill be amended by deleting the word "three" appearing immediately after the words "not exceeding" and substituting therefor the words "five".

JUSTIFICATION: The term of the Director General ameliorated to five years to allow the office holder to carry out his mandate and also allow for succession management.

CLAUSE 25

THAT, Clause 25 of the Bill be amended by deleting the words "as the Board may on the advice of the Salaries and Remuneration Commission determine" appearing immediately after the words "such terms" and substituting therefor the words "and conditions as the Board may determine".

JUSTIFICATION: Appointment of the Corporation Secretary is preserve of the Board.

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THAT, Clause 26 of the Bill be amended by deleting the words, "in a relevant degree" appearing immediately after the words "holds a degree" appearing in paragraph (b) and substituting therefor the words "law".

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THAT, Clause 27 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1);
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- (c) inserting the following new sub-clause immediately after the renumbered subclause (1)

—
“(2) The Corporation Secretary shall be responsible to the Director General.

JUSTIFICATION: The paragraph is deleted as the same is very prescriptive.

CLAUSE 30

THAT, Clause 30 of the Bill amended by inserting the words “and be released” immediately after the words, “properly withheld”.

JUSTIFICATION: The amendment is being made to provide for clarity of the section.

CLAUSE 31

THAT, Clause 31 of the Bill be amended by deleting the word “Parliament” appearing immediately after the words “allocated by” in paragraph (a) and substituting therefor the words “National Assembly”.

JUSTIFICATION: The clause was amended as the National Assembly is the institution vested with the powers to allocate and or appropriate funds for the Institute which is national government agency.

CLAUSE 32

THAT, Clause 32 of the Bill be amended by deleting clause 32 and substituting therefor with the following new clause-

“(32) The financial year of the institute shall be from the 1st of July to the 30th of June in the next year”.

JUSTIFICATION: Align the clause to the provisions of the State Corporations Act, which provides for the commencement and end of a financial year.

CLAUSE 38

THAT, Clause 38 of the Bill be amended by—

- (a) deleting subclause (1) and substituting therefor the following new subclause—
“(1) The Cabinet Secretary may six months upon enactment of this Act, make Regulations generally for the better carrying out of the provisions of this Act.
- (b) deleting subclause (2);
- (c) re-numbering the existing subclause (3) as subclause (2).

JUSTIFICATION: There is need to set in law a timeline within which the Cabinet Secretary should formulate the attendant regulations to ensure the operationability of the law once enacted.

CLAUSE 39

THAT, Clause 39 of the Bill be deleted.

JUSTIFICATION: This section is captured in clause 2 of the Bill.

CLAUSE 41

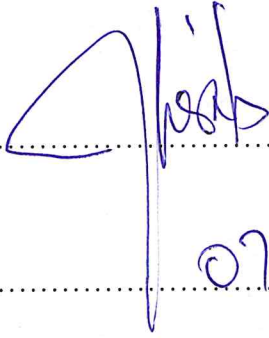
THAT, Clause 41 of the Bill be amended by deleting the words “on the appointed day” wherever they appear and substituting therefor the words “upon commencement of this Act”.

JUSTIFICATION: The constitution is very clear as to when a Bill may come into law upon assent by the President.

MIN.NO.NA/TRADE/2021/072: ADJOURNMENT

The Chairperson adjourned the meeting at 11.45 a.m. The next meeting will be held on notice.

SIGNED.....



(Chairperson)

DATE.....

07/10/2021

MINUTES OF THE 19TH SITTING (5TH SESSION) OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON TUESDAY 5TH OCTOBER, 2021 IN BOARDROOM ROOM ON GROUND FLOOR RED CROSS BUILDING, PARLIAMENT BUILDINGS AT 11.30 A.M.

PRESENT

1. Hon. Adan Hajj Ali, MP – Chairperson
2. Hon. Andrew Mwadime, MP
3. Hon. Jones Mlolwa, MP
4. Hon. Jared Okelo, MP
5. Hon. Dr. Wilberforce Oundo, Phd, MP
6. Hon. Daniel Maanzo, MP
7. Hon. Gichimu Robert, MP

APOLOGY

1. Hon. Wangari Mwaniki, MP – Vice Chairperson
2. Hon. Sharif Athman, MP
3. Hon. Alois Musa Lentoimaga, MP
4. Hon. William Cheptumo, MP
5. Hon. Christopher Nakuleu, MP
6. Hon. Kipruto Moi, MP
7. Hon. Ayub Savula, MP
8. Hon. Nduati Joseph Ngugi, MP
9. Hon. Fred Ounda, MP
10. Hon. Kimani Patrick Wainaina Jungle, MP
11. Hon. Anab Mohamed Gure, MP
12. Hon. Wachira Rahab Mukami, MP

INATTENDANCE

SECRETARIAT

1. Mr. Daniel Mutunga - Principal Clerk Assistant I
2. Ms. Christine Ndiritu - Clerk Assistant II
3. Ms. Nuri Kitel Nataan - Clerk Assistant II
4. Ms. Marlene Ayiro - Senior Legal Counsel
5. Ms. Rahab Chepkilim - Audio Officer
6. Ms. Lilian Aluga - Protocol Officer

MIN.NO.NA/TRADE/2021/064:

PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The Chairperson called the meeting to order at 11.30 a.m. A prayer was said. He welcomed the Members to the meeting.

MIN.NO.NA/TRADE/2021/065:

CONFIRMATION OF MINUTES

Confirmation of Minutes of the previous Sitting of the Committee was deferred to another day.

MIN.NO.NA/TRADE/2021/066:

CONSIDERATION OF SUBMISSION BY THE
MINISTRY OF INDUSTRIALIZATION,
TRADE AND ENTERPRISE DEVELOPMENT
ON THE KENYA INDUSTRIAL RESEARCH
AND DEVELOPMENT INSTITUTE BILL,
2020

The meeting considered the submission by the Ministry on the Bill and it resolved, that:-

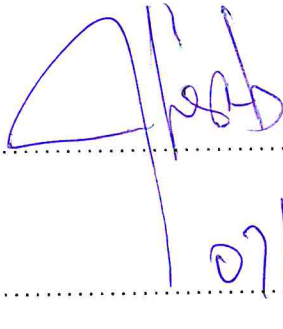
- i. The submission be captured in the draft report on the Kenya Industrial Research and Development Bill, 2020
- ii. The draft report to be considered and adopted on Thursday, 7th October, 2021

MIN.NO.NA/TRADE/2021/067:

ADJOURNMENT

The Chairperson adjourned the meeting at 12.00 p.m. The next meeting will be held on notice.

SIGNED.....



(Chairperson)

DATE.....

07/10/2021

MINUTES OF THE 2ND SITTING OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON TUESDAY, 27TH JULY, 2021 AT SAROVA WHITESANDS BEACH RESORT AND SPA IN MOMBASA COUNTY AT 10:00 A.M.

PRESENT

1. **The Hon. Adan Haji Ali, M.P.** - **Chairperson**
2. The Hon. (Dr.) Wilberforce Ojiambo Oundo, M.P.
3. The Hon. Andrew Mwadime, M.P.
4. The Hon. Jones Mlolwa, M.P.
5. The Hon. Sharif Athman, M.P.
6. The Hon. Patrick Kimani Wainaina Jungle, M.P.
7. The Hon. Robert Gichimu Githinji, M.P.
8. The Hon. Daniel Maanzo, M.P.

APOLOGIES

1. **The Hon. Ruth Wangari Mwaniki, M.P.** - **Vice Chairperson**
2. The Hon. Rahab Mukami Wachira, M.P.
3. The Hon. Anab Mohamed Gure, M.P.
4. The Hon. Kipruto Moi, M.P.
5. The Hon. Alois Musa Lentoimaga, M.P.
6. The Hon. Joseph Nduati Ngugi, M.P.
7. The Hon. Fred Ouda, M.P.
8. The Hon. Jared Okelo Odoyo, M.P.
9. The Hon. Ayub Savula, M.P.
10. The Hon. William Cheptumo, M.P.
11. The Hon. Christopher Doye Nakuleu, M.P.

COMMITTEE SECRETARIAT

1. Mr. Daniel Mutunga - Principal Clerk Assistant I
2. Ms. Christine Ndiritu - Clerk Assistant II
3. Ms. Nuri Kitel Nataan - Clerk Assistant II
4. Ms. Marlene Ayiro - Senior Legal Counsel
5. Mr. Joseph Ndirangu - Fiscal Analyst I
6. Mr. Chelang'a Maiyo - Research and Policy Analyst II

IN-ATTENDANCE – MINISTRY OF INDUSTRY, TRADE AND ENTERPRISE DEVELOPMENT

1. Ms. Betty Maina, EGH - Cabinet Secretary
2. Prof. David Tuigong - CEO, KIRDI

3. Mr. Gregory Okal - Under Secretary
4. Mr. Nicodemus Mutinda - Deputy Director, Corporate Services, KIRDI
5. Ms. Josephine Akama - Deputy Director, Finance and Human Resource, KIRDI

MIN.NO./TRADE/005/2021: PRELIMINARIES

The Chairperson called the meeting to order at seventeen minutes past ten o'clock (10.17 a.m.) followed by prayers.

He further welcomed the Members, staff of Parliament and the officials from the Ministry of Industry, Trade and Enterprise Development led by the Cabinet Secretary, Ms. Betty Maina, CBS, to the meeting. This was followed by introductions.

MIN.NO./TRADE/006/2021: PRESENTATION BY MS. BETTY MAINA, CBS, CABINET SECRETARY IN THE MINISTRY OF INDUSTRY, TRADE AND ENTERPRISE DEVELOPMENT

The meeting was informed on the background relating to the establishment of KIRDI as well as the operations of the institution where it was noted as follows: That;

1. The Kenya Industrial Research and Development Institute (KIRDI) history dates back to 1942 when the then colonial government established a central laboratory at Kabete, Nairobi, with the aim of initiating and developing industries so as to relieve shortages of industrial goods which was occasioned by the Second World War.
2. Kenya then established KIRDI IN 1979 under the then Science and Technology Act, Cap 250 with the mandate to conduct research on industrial and allied technology. However, the Science and Technology Act Cap 250 was repealed by the Science, Technology and Innovation (STI) Act, 2013.
3. Currently, KIRDI has three main centres: Nairobi South C (Headquarters), Nairobi South B (under construction) and KIRDI Western Region Centre in Kisumu. Additionally, the Institute has satellite pilot plants in Bungoma, Uasin Gishu, Kisii, Migori, Garrisa and Kilifi Counties. The Institute has a staff complement of 320, out of which 110 are Research Scientists and Engineers.
4. Vision 2030 recognizes the role Science, Technology and Innovation (STI) plays in economic development through the application of knowledge in wealth creation. KIRDI is the lead STI institution in the industrial/manufacturing sector and therefore will play a key role in ensuring a knowledge driven industrial sector that is able to compete globally and create prosperity as envisioned by the Vision 2030.

On the legal framework, the Committee was informed as follows: That;

1. The STI Act, 2013 fails to provide KIRDI with a clear legal and Institutional framework to guide its existence, mandate and operations. As such, they noted that there was need to formulate a legal framework to streamline issues that were omitted in the STI Act, including the appointment of the Board Members in the institute where some of them were appointed by the CS responsible for Education as opposed to the CS of the Industrialization Ministry where it is domiciled.
2. There was no clear guidance on appointment of the Director General.
3. There was lack of clarity on Body Corporate Status, establishment of Boards of Directors and appointment of the CEO. The current STI Act of 2013 does not make provision to these sections which existed in the repealed Act.
4. The STI Act, 2013 under Section 53 states that **“the research institutes set out in the Fourth Schedule which were established under the repealed Act shall continue to operate as if they had been accredited under this Act and shall forthwith each be issued with a certificate of registration by the Commission.”** This statement, which is a transitional clause does not define the mandate, institutional and operational guideline for KIRDI.
5. The STI Act in its current form limits KIRDI to the functions stated in Section 14(b) of the Science and Technology Act, Cap 250, however, the institution undertakes more functions beyond what is outlined. For instance, the Act does not give KIRDI the mandate of coming up with regulations to better carry out its functions.
6. The STI Act does not specify the parent Ministry of KIRDI but stipulates that it will be licensed by the Nairobi Commission for Science, Technology, and Innovation (NACOSTI). KIRDI receives its funding and administrative authority from the Cabinet Secretary, Ministry of Industrialization, Trade and Enterprise Development.
7. There is significant scientific and technological knowledge within universities and other institutions of Higher Learning and within individual innovators, but it is unutilized. KIRDI is the only institution in the country that is harnessing the scientific and technological know-how within Kenya and beyond and converting it through technological transfer, pilot plants, incubation, and common manufacturing facilities.
8. KIRDI is the only research institute in the country whose mandate is industrial research and under the Ministry of Industrialization, Trade and Enterprise Development. It plays a critical role in application of science, technology and innovation in industrial advancement and manufacturing, which is an essential roadmap to the country’s industrialization and achievement of the newly industrialised nation status.

9. The enactment of the KIRDI Act, 2020 shall not occasion additional expenditure of public funds. The workforce and the board of directors shall exist in the current form.

Members' Interventions

The Members raised the following concerns, which the Ministry of Industry, Trade and Enterprise Development needed to incorporate within the Bill, before the Committee could pronounce itself on the provisions of the Bill: That;

1. The Heading running across every page of the Bill, makes reference to the term 'amendment' which is inconsistent with the title of the Bill;
2. The Interpretation Clause of the Bill is narrow and as such, the various technical terms referenced in the Bill ought to be defined therein for purposes of clarity;
3. The Functions of the Institute, as provided for under Clause 5 of the Bill, should not be overlapping with those of other institutions undertaking research, development and innovation in industrial and allied technologies;
4. Timelines for the provisions of Regulations by the Cabinet Secretary should be stated in the Bill;
5. Under the Transitional Provisions, the Bill should make provision to amend Section 53 of the STI Act;
6. The Bill lacks penalties aimed at offering solutions to offences that may arise;
7. Under the preamble, there needs to be the incorporation of a description on the intended achievements of KIRDI upon attainment of autonomy status, which cannot be realised in their current form;
8. There were drafting inconsistencies which require regularising, for instance under the Financial Provisions (Clause 31), the Bill makes reference to Parliament as opposed to National Assembly;

Additionally, the Members noted that the Committee had a task of informing the House on the KIRDI and its role in industrial research. As such, the Ministry was tasked to furnish the Committee with instances of success by the institution.

Resolutions

Following the comments made by Members, the meeting resolved as follows; That;

1. A Special Motion be moved in the House seeking extension for the consideration of the Bill by 21 days;
2. Relevant stakeholders, including the Commission of University Education, the Kenya Private Sector Alliance, the Kenya Association of Manufacturers, the Council of

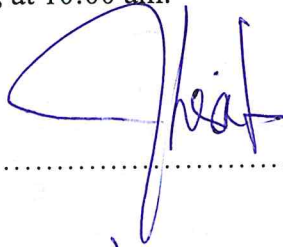
Governors be invited for a meeting with the Committee to share their views on the KIRDI Bill, 2020.

3. The Ministry addresses the matters raised by the Committee Members in relation to the Bill, and thereafter invite the Committee for a meeting to resolve on the ideal roadmap for the consideration of the same.

MIN.NO./TRADE/007/2021: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business, the meeting was adjourned at a half past one o'clock (1.30 p.m.). The next Sitting would be held on Wednesday, 28th July 2021 in Fahari Hall, Whitesands Beach Resort and Spa, at 10:00 am.

SIGNED.....



(Chairperson)

DATE.....

07/10/2021

ANNEX III

Advert



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
 TWELFTH PARLIAMENT- FIFTH SESSION

In the Matter of Article 118(1) (b) of the Constitution
 And
 In the Matter of Consideration by the National Assembly of;

1. The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37 of 2020);
2. The Pharmacy and Poisons (Amendment) Bill (National Assembly Bill No. 1 of 2021);
3. The Health (Amendment) Bill (National Assembly Bill No. 14 of 2021);
4. The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021);
5. The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021);
6. The Community Groups Registration Bill (National Assembly Bill No. 20 of 2021);
7. The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021);
8. The Computer Misuse and Cybercrimes (Amendment) Bill (National Assembly Bill No. 11 of 2021)
9. The Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021);
10. The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020);
11. The Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020);
12. The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill (National Assembly Bill No. 49 of 2020);
13. The Irrigation (Amendment) Bill (National Assembly Bill No. 12 of 2021);
14. The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021).

SUBMISSION OF MEMORANDA

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the aforementioned Bills, whose objects are as follows;

The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37 of 2020) sponsored by Hon. Paul Mwirigi, MP, Igembe South Constituency, seeks to amend the Higher Education Loans Board Act in order to provide that a loanee shall commence the repayment of his or her loan once he or she secures employment. The amendment is meant to cushion unemployed graduates from being charged interest on the loan before they have secured employment.

The Pharmacy and Poisons (Amendment) Bill, 2021 (National Assembly No 1 of 2021) sponsored by Hon. Alfred Keter, MP, Nandi Hills Constituency, seeks to amend the Pharmacy and Poison Act to prohibit the sale or dispensing of medicine without written prescription from a registered medical practitioners

The Health (Amendment) Bill, 2021 (National Assembly No 14 of 2021) sponsored by Hon. Moses Mwambu Wekesa Mabonga, MP, Bumula Constituency, seeks to amend the Health Act No 21 of 2017 to provide that the National government and county governments shall, in consultation through the existing inter-governmental relations mechanism establish regional cancer centers; to make it an offence for a person in-charge of a Public Health facility to demand or permit of payments of advance medical fees as pre-condition for the provision of medical services; to make it an offence for person in-charge of a Public Health facility to detain a body of deceased person as means of enforcing settlement of outstanding medical bills and to provide for regulation on levying of charges for the practice of conventional medical practice.

The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021) seeks to provide for the establishment and operationalization of the National Electronic Single Window System in order to facilitate trade, the establishment of the Kenya Trade Network Agency, to provide for electronic transactions, and for connected purposes.

The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021) seeks to provide for development, regulation and promotion of the Coffee Industry, provide for establishment, powers and functions of the Coffee Board of Kenya.

The Community Groups Registration Bill, 2021 (National Assembly Bill No.20 of 2021) seeks to provide a regulatory framework for the registration and regulation of community groups and connected purposes.

The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021) sponsored by Hon. David Pkosing, MP, Pokot South Constituency, seeks to amend the Kenya Roads Act (No. 2 of 2007) to align the Act with the provisions of the Constitution with regard to the auditing functions of the Office of the Auditor-General. The Act currently refers to the defunct office of the Controller of Budget and the Auditor-General. The Bill further seeks to amend the term of office of and the qualification for the Director-General of the Kenya Roads Board appointed under the Act.

The Computer Misuse and Cybercrimes (Amendment) Bill, 2021 (National Assembly Bill No. 11 of 2021) sponsored by Hon. Aden Bare Duale, MP, Garissa Township Constituency, seeks to amend The Computer Misuse and Cybercrimes Act, 2018 to provide for the prohibition against the sharing of pornography through the internet and prohibit use of electronic mediums to promote terrorism, extreme religious and cult activities.

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The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020) sponsored by Hon. David Gikaria, MP, Nakuru Town East Constituency, seeks to amend the National Construction Authority Act, No. 41 of 2011 to ensure women, youth and persons living with disabilities with start-up businesses who apply to be registered as contractors under category six, seven and eight are exempted from paying the prescribed fee. The amendment seeks to recognize women, youth and persons living with disabilities as marginalized groups and to cushion them from the burden of paying registration fees.

The Kenya Deposit Insurance (Amendment) Bill, 2020 (National Assembly Bill No. 43 of 2020) sponsored by Hon. Abdul Rahim Dawood, MP, Imenti North Constituency, seeks to amend section 28 of the Kenya Deposit Insurance Act, 2012 in order to increase the maximum amount a person with an account with an institution under liquidation is to be paid by the Kenya Deposit Insurance Corporation. It further seeks to delete the provision limiting the maximum amount a person is to be paid by the Corporation despite having different accounts.

The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill, 2020 (National Assembly Bill No. 49 of 2020) sponsored by Hon. Benjamin Gathiru Mwangi, MP, Embakasi Central Constituency, seeks to amend the Public Procurement and Asset Disposal Act, 2015 to enhance the amount for tenders where Kenya citizens are given

exclusive preference from the sum of five hundred million shillings to twenty billion shillings. This is to protect the Kenyan traders from foreign competitors.

The Irrigation (Amendment) Bill, 2021 (National Assembly Bill No. 12 of 2021) seeks to amend the Act by expanding the administration of irrigation matters to include management and regulation of irrigation matters. The Bill further seeks to amend the Act to harmonize the provision of the Irrigation Act, Water Act and Water Resources Management Rules, 2007.

The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021) seeks to amend the Tax Appeals Tribunal Act, 2013 to address the challenges affecting the performance of the Tax Appeals Tribunal to facilitate the expedition of tax disputes in the country.

Pursuant to Standing Order 127(1) of the National Assembly Standing Orders, the Bills proposing amendments to the various Acts of Parliament are committed to Departmental Committees of the National Assembly as set out in the schedule hereunder:

SCHEDULE

No.	BILL	COMMITTEE
1.	The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37)	Education and Research
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5.	The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021)	Agriculture and Livestock
6.	The Community Groups Registration Bill (National Assembly Bill No.20 of 2021)	Labour and Social Welfare
7.	Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021);	Trade, Industry and Cooperatives
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The Bills were read a First Time pursuant to Standing Order 127(3) on 8th and 9th June 2021. Copies of the Bills are available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be addressed to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Friday 18th June, 2021, at 5.00 pm.

MICHAEL SIALAI, CBS
 CLERK OF THE NATIONAL ASSEMBLY

11th June 2021



**REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – FIFTH SESSION**

In the Matter of Article 118(1) (b) of the Constitution

And

In the Matter of Consideration by the National Assembly of;

- | | |
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MICHAEL SIALAI, CBS
CLERK OF THE NATIONAL ASSEMBLY
11th June 2021

