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ENERGY GOVERNANCE IN KYRGYZSTAN: INSTITUTIONAL AND PRACTICAL ANALYSIS AND REVIEW OF CHANGES SINCE 2009

Brief version

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ENERGY GOVERNANCE IN KYRGYZSTAN: INSTITUTIONAL AND PRACTICAL ANALYSIS AND REVIEW OF CHANGES SINCE 2009[1]

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[1] Brief version

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Preface, methodology, introduction

1. Preface. This report is based on the repeated survey conducted by the Working Team of civil society experts of Kyrgyzstan, using the methodology proposed by the Electricity Governance Initiative (EGI) Programme, which has been developed jointly by the World Resources Institute (Washington, USA) and the Prayas Energy Group (Pune, India). The programme development lasted over 18 months (2003-2004) and discussions involved more than 100 experts from various countries. In 2007, the methodology was further revised based on experience of pilot surveys in four Asian countries: India, Indonesia, Thailand and Philippines. In 2009, the methodology was applied for the first time in former Soviet republics of Tajikistan and Kyrgyzstan.

The first publication prepared based on EGI programme methodology "Energy Governance in Kyrgyzstan – Institutional and Practical Analysis" and released in 2009, caused significant changes in the approach to evaluating correctness or incorrectness of power sector decisions, which had been in practice for a long time, and focused discussions on better understanding of **the process impact on resultant decisions.** Findings and recommendations of that paper formed the basis of 18 civil society organisations' appeal to the Provisional Kyrgyz Republic Government (after revolution of 2010) to restore population confidence in the power sector management.

2. Survey methodology. The methodology is primarily focused on transparency, accountability, civil society participation and decision-making potential with related questions arranged in a set of 68 indicators/questions. In terms of sector decision-making levels, indicators are divided into **policy and regulatory processes**, with special focus on social and environmental issues. The methodology also addresses key survey aspects of energy governance processes, such as capacity of executives, regulators and civil society organisations, participation of consultants and donors in the power sector, and quality of media coverage of policy, etc. The general methodology structure is shown in Fig. 1.

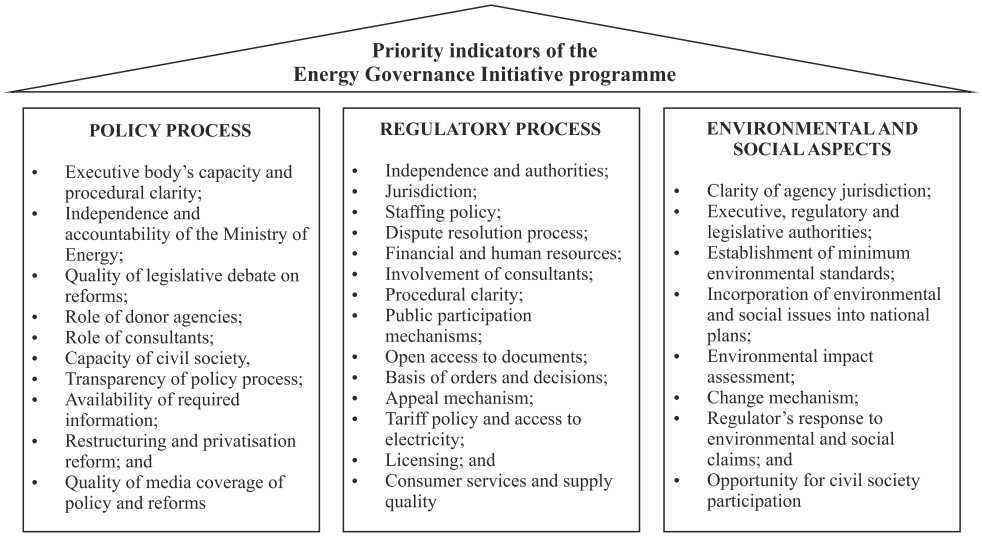

Fig. 1. *General Energy Governance Initiative methodology structure*

Indicators provide the survey with a set of questions enabling civil society to assess the sector governance against some indices (criteria). The toolkit allows assessment of institutional capacities and their conformity with requirements of a good process. The EGI Programme enables building of a holistic picture of energy governance and determining of basic gaps and the socio-economic level of an identified challenge. Fig. 2 exemplifies a completed PP26 indicator (in brief). Following the completion, further assessment is performed subject to existing or missing data for five levels: low, low-medium, medium, medium-high and high. The table also provides information sources, brief explanations and additional information.

3. Introduction (Review of key changes in the governance process).

The previous analysis of the Kyrgyz Republic's energy governance system was published more than five years ago and a great deal of events from small changes to major political coups occurred during this period in the sector. The most important change is the **fruitfulness and effectiveness of public involvement** – particularly, in performance of procedures complying with existing laws that ensures sustainability of made decisions. Surely, it takes certain time for the changes to become obvious and tangible; however, considering the chronology of multiple events occurred, several thematic "spirals" are clearly notable, which eventually unwind as changes grow in importance and scale. These changes are gradual and not universal, but their presence is already sensible and even now a series of decisions made in compliance

PP 26 TRANSPARENT SELECTION OF PRIVATE SECTOR SERVICE PROVIDERS		
Element of Quality		**Explanation**
Transparency in request for proposals	no	The civil society organizations are familiar with several cases of engagement of private enterprises for provision of power supply services to the consumers., in all the cases the information concerning the conditions of engagement of private enterprises was not circulated or publicly discussed. The cases of engagement were examined by the public already as a fact.
Information provided to bidders publicly available	no	The conditions of tender for private enterprises are also unknown. There is no information neither on evaluation criterion nor evaluation process.
Transparency in decision criteria and process	no	There was not any information provided to the public about the bidding for the right to provide electricity services to consumers, because there was not any bidding.
Justification for decision	no	Justification on the decision-making is not provided
Continued Explanation: An open joint stock company —Vostokelektro‖ providing services to customers in Naryn and Issyk-Kul oblasts, has attracted two private companies - —AKSEL‖ Ltd and —KUN Energo‖ Ltd. Joint Stock Company —Severelektro‖ providing services to consumers of Chui and Talas oblasts, has attracted one private company – —Kyrgyzenergoresurs‖ Ltd. Besides, there is a private electricity distributing company - closed joint stock company (CJSC) Transelektro operating in Bishkek. It is not clear to public which criteria were followed in engaging private enterprises to provide electricity supply services to consumers, how the tender was conducted and assessment of tender results. Such information is not disseminated and not to be discussed. The same situation exists with private companies engaged in export of electric power from Kyrgyzstan. For instance, in 2005, such activity has been carried out by 12 companies, including: Limited Liability Companies (Kazakhstan) "Mol-Kuat", "Kazenergoresurs", "Kyzylordaenergo", "Tarazenergoholding", "EC Transenergo", "Almaty Power Consolidated", "Aktivenergo", "Kazfosfat" and JSC "Zhambylenergo", as well as the companies "Romard Productions LTD", "Troyer Consulting Inc", and "Birgert Management Inc."		

Values	**Select**
Not applicable / Not assessed	
The private participation process satisfies **no** elements of quality	**Low**
The private participation process meets **one** element of quality	Low - medium
The private participation process meets **two** elements of quality	Medium
The private participation process meets **three** elements of quality	Medium-High
The private participation process meets **four** elements of quality	High

Researcher Name and Organization: N. Otunchieva, «Unison-Group»

Sources of Information:
Staff of the Government and the Jogorku Kenesh, OJSC "Vostokelektro" and "Severelektro", Central Asian forum on reducing the loss of electricity (Bishkek, June 7-8, 2007)
Information agency «Tazabek.kg» от 25/03/14

Any additional information:
Unlike attract suppliers for electricity services, tenders for other activities like coal procurement, power equipment, components, etc. wide coverage. Among the committee members for the observance of the autopsy process, evaluation of tenders and solutions are invited media representatives, NGOs, local government and others. On the other hand, it should be noted that in the process of organization, preparation and conduct of the tender marked shortcomings.

Fig. 2. *Example of a completed EGI Programme indicator*

with all decision-making procedures including public involvement is observable. For instance, involvement of civil society representatives in tender committee activity of energy complex companies as recommended in 2010 has been established in March 2015 as a corporate commitment by the Decree of the Defence Board of the Kyrgyz Republic.

The **Fuel and Energy Complex Transparency Initiative (FECTI)** launched in 2010 by Ms. Roza Otunbayeva, the ex-President of the Kyrgyz Republic, with formation of the Supervisory Council at the Ministry of Energy and Industry was an especially striking change featuring increased involvement of civil society in the decision-making process. The Council membership equally represents both governmental structures including FEC enterprises and civil society. The unique nature of FECTI and activity of organisations comprising the Supervisory Council, general post-revolution enthusiasm and the high expert potential have yielded worthy results. The amount of "savings" for the state budget assigned to implementation of Kyrgyzstan energy system development projects exceeds US$220 millions (as calculated from initial project costs discussed by SC FECTI to their approved costs).

Generally, these changes impacted further undulating developments at the policy level, particularly in terms of efficient governance and diversification of concepts and ideas within the context of Kyrgyzstan energy sector. Currently, there are over 10 actively working independent institutions and individuals that are high-class experts in various energy governance issues and associated economic or environmental aspects. With FECTI, a forum for well-reasoned debate was created and civil society capacity increased manyfold.

Importantly, the **Electricity Consumer Advocacy institution** has been established to cover trilateral interaction among energy utilities, energy consumers and local self-governments. Interests of energy consumers are represented by Civic Centres for Energy Consumer Advocacy (CC-ECA), which are also united into a network. Benefits from advisory support provided by Centres on specific appeals from individual citizens and their groups in relation to electricity supply issues now amounts to KGS8.5 mln of "savings" for consumers (on account of bills with undue penalties, fines, etc.).

Better transparency and openness of sector-specific information have led to significant impact on both governmental bodies and energy utilities. In response to growing demand for information about energy issues, **the quality and quantity of media coverage has also changed** with transition from fragmented publications providing official opinions only to detailed reviews presenting alternative views.

FECTI also enhances transparency of energy utilities, which yield to permanent pressure from general public and have started to raise awareness of energy issues as well through provision of information and data that enables society to participate in the decision-making process. This enhanced transparency has vividly manifested itself in **reduction of electricity losses** from 39% in 2010 to 23% in 2011. Moreover, in 2014 Severelektro OJSC reported its total electricity losses as not exceeding the threshold of 16%. Nevertheless, it should be noted that these figures are included in the "Commercial Losses" items of FEC companies' reports, and in absence of accurate data the issue of calculation reliability remains open.

Another visible change of the system – a thematic "spiral" – is the **practice of publication of major debtors list**, initiated by the Vostokelektro OJSC and carried out on a regular basis. Public attention attracted to the list of major debtors and intensive media coverage with disclosure of financial solvency of non-payers helped pull back the shroud of secrecy over buildup of electricity distributors' receivables.

It is necessary to emphasise the determined progression of the Kyrgyz Republic Government towards **establishment of an independent energy sector regulator,** which has started its work within a new framework since November 2014. When tracing legislative changes for tariff setting by the Government without Parliament's intervention, one may

that decision-making processes became steadier and political intervention was minimized. However, the practice shows that changes in procedures and decision-making processes are insignificant; therefore, it remains unclear whether re-subordination of the regulator from the Ministry of Energy to the Government is efficient.

It is also gratifying to mark **positive developments in governmental arrangements for public discussion** of energy facilities construction projects financed with credit support from international financial institutions, which has been initiated by civic organisations. For example, public discussion of the CASA-1000 Project in 2011 was initiated by a number of civil society organisations concerned about numerous project-related challenges, which had to be resolved at making administrative decisions in the energy sector. In response to raised questions, explanation of project tasks was prepared for all stakeholders,[3] and further project discussion activities were arranged with direct involvement of the Ministry of Energy.

All these achievements are unprecedented in the history of the Kyrgyz Republic energy sector and have become important milestones in enhancing transparency, accountability and efficiency of the sector.

I. POLICY PROCESS IN ENERGY GOVERNANCE

1. Institutional structure and policy institutions. Following the independence, the management policy and decision-making system in energy governance changed repeatedly, though not essentially, and a number of structural changes also took place lately. The main structural reform was the establishment of the State Agency for Regulation of the Fuel & Energy Complex,[4] with transferring of regulatory functions outside the Ministry of Energy and Industry of the Kyrgyz Republic in order to separate functions for formulation of fuel & energy complex development policy and ensure independence of the sector regulator. Meanwhile, the Zhogorku Kenesh (Supreme Council) of the Kyrgyz Republic and advisory committees of donors and civil society are also important players in decision-making process. Distribution of functions is outlined in Fig. 2.

The Committee for Fuel & Energy Complex and Subsoil Use of the Zhogorku Kenesh of the Kyrgyz Republic possesses sufficient resources and powers for improvement of regulatory framework and enforcement of laws in supervised sectors of the fuel & energy complex and subsoil use. The Committee is entitled to request any information from public authorities, to formulate the agenda, and to invite specialists of government institutions and other parties to its meetings. However, consultations with civil sector are not carried out on a regular basis.

The state policy for development of the fuel & energy complex and industry is carried out by the **Ministry of Energy and Industry**, which, in spite of its numerous rights and duties,[5] has no direct and effective mechanisms of impact on energy sector companies and institutions.

2. Donor participation. International donor institutions play important part in maintaining governmental programmes for both technical assistance and support of institutional energy sector reforms. However, despite the growing number of projects and total financing amount, websites of the Kyrgyz Republic Government and the Ministry of Energy and Industry provide no data on credit conditions for energy sector projects, related

[3] http://www.bankinformationcenter.org/wp-content/uploads/2013/02/CASA+Questions_final_0420.pdf
[4] See Chapter 4 Regulatory Process in Energy Governance for details of the structure and procedures of the State Agency for Regulation of FEC.
[5] Regulations of the Ministry of Energy and Industry of the Kyrgyz Republic, approved by the Resolution of KRG No. 116 dated February 20, 2012

payments and project activity evaluation mechanisms.
Loan agreement information is available in articles, notes and individual interviews, but official documents are not publicised in details. The selection procedure for both creditors and organisations immediately providing technical services, transparency of activity results and their assessment also remain restricted and are not communicated to the public. Concepts of technical assistance loans are not publicly accessible. Information about selection procedure, credit conditions and project implementation progress in many cases is confidential.

Information about assistance provided by financial institutions is available on official websites of donors themselves and websites of energy utilities; however, at the same time these data are not detailed: one may find out financing amounts and types only. *Materials are presented mostly in English that complicates their wide dissemination among population.* According to analysis results, donor participation transparency was evaluated at **low** (technical assistance transparency, PP24) and **medium** (credit use transparency, PP23) **levels.**

3. Advisory committees of the Ministry of Energy. It should be noted that within the Ministry of Energy there is no separate structure of an advisory committee as such. Meanwhile, there are three various standing advisory modes: advisers to the Minister, advisory panels under donor programmes, and the Supervisory Council of FECTI. The Ministry's website does not give public notice of consultants' Terms of Reference and contracts made thereby (except for those of the Supervisory Council of FECTI). Information published on cooperation of the Ministry department with consultants is insufficient, final recommendations / reports of consultants are not presented for public discussion, and final decisions based on consultant reports are made without participation of the public. Therefore, the question of recommendations to be refined by consultants following the public discussion leaves pending. On the other hand, one may also note low transparency of executive bodies' feedback, which is mainly due to lack of an alternative opinions consideration mechanism.

In addition to these consultant teams, (over 30) interdepartmental and intradepartmental task groups for various issues work at the Ministry. Task groups are formed at once, in response to current challenges facing the Ministry, but lack further effective moderation, clear definition of their mandate and financial remuneration, and the work remains futile.

Thus, the quality of consultants functioning (indicator PP11) corresponds to the low-medium level, and disclosure of information about use of Ministry consultants (indicator PP22) does not correspond to any of quality element and is evaluated as low.

4. Management of energy sector assets. Sector enterprises' asset valuation process is a key element in assessment of energy governance processes after privatisation-oriented reforms. Asset valuation allows having clear financial statements on efficiency of corporate operations and provides insight into its prospects for the public and investors. Therefore, it is important that the fixed asset valuation methodology is substantiated, carefully reviewed by an independent third party and disclosed to the public.

Until now, Kyrgyzstan has not developed a methodology for appraisal of fixed assets of energy utilities and a substantiated approach to asset valuation. Today, it is because of absence of assets appraisal that estimated cost of a power unit of newly built hydropower plant is now higher than the book value of all fixed assets of a company. For these reasons as well as for absence of an appraisal procedure and involvement of an independent third party to review results, evaluation of other key indicators of assets valuation transparency – application, data sources and their availability –

5. Capacity and staffing policy. Human resources – from inspectors and electricians to engineers and CEOs of energy utilities – play the major part in maintenance of normal operation of an energy system. Timely and adequate training of high-skill personnel, engineers and technicians largely determines both performance and independent functioning of the national energy sector. A set of problems is now observable in the sphere of staff training.

In spite of existing regulations, in practice there are no rules and mechanisms preventing conflicts of interests or precluding the possibility of coming back to the Ministry or holding managing posts at energy utilities for those persons who are accused of abuse of their offices, mercenary sale of electricity or other actions for serving personal interests. Thus, once illegal actions have been detected, an employee is not barred from coming back to the Ministry in several years or he/she can easily continue his/her employment with the energy utility. In view of this fact, a number of criminal cases were opened and some officials of FEC enterprises were condemned and dismissed in course of anti-corruption activities of the Ministry of Energy and the Industry of KR in 2013-2014.

Considering these aspects of Ministry staff training and management, the indicator PP5 Ministry Staffing Policy was evaluated as **medium-high**.

6. Policy process accountability. The FEC Committee of ZhK KR annually reports on performed activities; furthermore, according to the Constitution of the Kyrgyz Republic, Zhogorku Kenesh hears annual reports of the Prime Minister, containing information about the work executed in the energy sector as well. These reports are accessible electronically in the regulatory database and on the Parliament's web portal. A summary overview report covering activities of the Ministry of Energy and Industry for the reporting period is not published (quarterly newsletters with answers to frequently asked/ topical questions and a summary of infrastructure projects progress since January 2015 are available only).

Within a year, Collegiums of the Ministry of Energy and Industry regularly hold their meetings with participation of the Supervisory Council of FECTI, energy utilities experts, civil sector, and mass media. Unfortunately, minutes of the Ministry Collegium's meetings and question-and-answer sessions of the Ministry management are neither posted on the web nor printed. As regards mass media, information is provided in form of some short messages with one-two abstracts/ statements of problems or their solutions addressed at the held meeting. A full review of Collegium's agenda is never published.

All energy utilities have signed performance contracts stipulating certain standards (allowable level of losses, electricity bill collection plan, monthly decrease in receivables, etc.). Performance contracts are carried out formally, sporadically, and their implementation is not monitored continuously.

7. Policy-making accountability. Action plans for the fuel & energy complex are determined by the Government of the Kyrgyz Republic and incorporated in national and sector development strategies. Nevertheless, the Committee's frequency of putting topics on a meeting agenda depends on external political factors and energy sector condition, receipt of draft laws and new instructions to the Committee, and on progress of Committee decisions implementation and consideration of its recommendations. Quite often potential decisions are discussed subject to immediate emergence of problems, which are due to depressive condition of the energy sector, caused by low tariff support.

8. Financial accountability. In contrast to past years of 2008 to 2010, now the Ministry website has the Financial Statements section where one can learn basic performance indicators of energy utilities (Oshelektro JSC, Severelektro JSC, and

Zhalal-Vostokelektro JSC), with cash flow and net worth changes since 2010.

Energy sector entities are audited by the Audit Chamber of the Kyrgyz Republic (AC KR) and audit results are published on the official site of AC KR. Generally, one may note non-transparency of financial and business operations of all FEC enterprises in form of joint-stock companies, and insufficiency of consumer information about their expenditures, tariffs and distribution of profit and dividends. Moreover, one of essential difficulties in evaluating the energy sector accountability today is the absence of fixed assets appraisal of energy sector enterprises; therefore, evaluation of their operating performance is significantly complicated.

9. Accountability for selection of suppliers from the private sector. Transparency and accountability of processes whereby conditions of private sector involvement are determined, are the important tool to restrain the probability of corruption and bribery, and to ensure fair-price assets for the public (in case of complete privatisation) or no need to pay large sums (in case of a management contract).

The legislation does not prohibit arrangement of bidding for power supply services where necessary. Everyone can submit or invite bids for power supply services; however, in fact the electricity market is not developed yet. The energy sector does not arrange tenders or competitive selection of power supply service providers. Large companies are monopolists in territorially divided areas.

In course of the analysis, we could not find official information about invitation for expression of interest in power supply to communities and industrial facilities. The Ministry of Energy and Industry does not plan and forecast the electricity demand, which increases along with development of new areas, change of distribution between residential and industrial sectors, and, in general, growth of power grid load. Since the very procedure of tender and electricity supplier selection is unavailable, selection criteria and requirements to participants are not known, accordingly.

10. Participation of civil society in the policy process of energy governance. Civil society in Kyrgyzstan interacts with government bodies in such formats as information, consultations and cooperation. However, in contrast to 2009, the interaction is built owing to both well-directed efforts of the Government and insistency of NGOs and their ability to competently use the current legislation. Successful and effective interaction is vividly exemplified by **civic supervisory councils (CSC)** at every ministry, which have been created after the revolution of 2010. Outcomes of the first three years of CSC existence show that this is an effective forum for interaction between authorities and civil society, which facilitates restoration of society confidence in authorities.

In the energy sector, CSC has a unique architecture featuring equivalent representation of ministry personnel up to the minister level in the council. The Supervisory Council at the Ministry of Energy is just a component of a range of measures aimed at improvement of transparency in the sector through the **Fuel & Energy Complex Transparency Initiative**. Since its early development, SC FECTI made a good start and held a number of meetings beginning from December 30, 2010 to discuss more than 50 hot topics of the energy sector such as state procurement, transparency indicators, preparation for autumn and winter period, etc.

Firstly, owing to involvement of Supervisory Council members and representatives of civic organisations, the initially approved cost of Kyrgyzstan energy system development projects was reduced by nearly US$200 millions. Apart from these amounts, public hearings of SC FECTI on the Bishkek CHP retrofit project with US$30 million price tag showed that the contract between Electric Power Plants JSC (Kyrgyzstan) and Tebian Electric Apparatus

Stock Co. Ltd (TVEA, China) was signed contrary to provisions of the Law of the Kyrgyz Republic "On State Procurement" (Articles 8, 9, 14, and 38) on maintenance of openness, transparency and publicity of procedures.

Secondly, introduction of FECTI principles resulted in reduction of electricity losses in distribution companies' networks from 39% in 2010 to 22.3% in 2011, which meant electricity saving worth about 100,000 Soms. However, it should be noted that while these indicators were recorded in the Commercial Losses item of energy utilities reports and under Performance Contracts made between utilities and the regulator soon after introduction of FECTI, the questions of reliable calculations leave pending against the background of insufficient accurate data and reports. However, this outcome shows the importance of civic oversight and accountability in the energy sector as the cost of commercial losses can be shifted to consumers in form of increased tariffs, especially in the absence of transparent tariff revision process.

Thirdly, activity of the Supervisory Council allows revealing of corruption facts such as abuses committed by managers of Severelektro subsidiaries in relations with their customers and estimated at more than 73 million Soms, and unreasonable write-off of debts receivable in 2010. The Secretariat of the Supervisory Council receives a host of appeals from consumers, forms committees thereupon with participation of MEI representatives and makes investigations. For example, the following cases of group appeals were studied: misfeasance of the Zhayil District SAPS (single-area power system) management in communication with SAPS personnel; theft of electricity and heat from the National Computer School; charge of theft of the Toktogul HPP manager; violation of consumer rights in the Iskra village, etc.

11. Procedural clarity for participation of the public. In addition to activity in the format of the Supervisory Council of FECTI, participation of civil society representatives can manifest itself immediately in activity of task and expert teams/committees that are formed at the Ministry of Energy and Industry for addressing of specific issues.

Furthermore, according to the Law of KR "On Laws and Regulations" No. 241 dated July 20, 2009, the society participates in public discussions of all draft regulations, arranged by initiators of development/amendment of these documents. A public discussion term is counted beginning from the day following the publication date of a draft regulation. When published, a public discussion notice, as a rule, sets the term for submission of comments and proposals till the end of public discussions. Actually, after discussions the revised document with inclusion of collected comments is submitted to ZhK KR for approval, but it is not presented for repeated public discussion. Information about consideration of public's proposals by the discussion initiator is not provided.

Public discussions procedures on some issues in regions are covered in mass media and through official websites of the Government of KR and the State Department of FEC of KR. However, information on other specific questions such as discussion of the draft Heat Energy Usage Rules is not provided. No special measures are taken to disseminate information about venue and date of public meetings among particularly vulnerable populations, who cannot obtain the information. Generally, the mechanism for arrangement and holding of public discussions is absent. The very process of public discussions is substituted by public hearings.

12. Participation of civil society in decision-making process. CSO capacities are recognized at all decision-making levels, and experts and representatives of the sector are invited to participate in meetings of ZhK KR committees, parliamentary groups, task groups for development and amendment of draft regulations, and in meetings of tender

committees for state procurements at FEC enterprises. However, a mechanism for consideration of alternative opinions in making decisions related to formulation of national and regional energy policies and preparation of relevant programmes and projects has not been developed yet. Thus, participation of CSO in task groups and committees for development of draft regulations is present, but the desired goal is not achieved.

13. Efficiency of civil society participation. Efficiency of civil society participation in the decision-making process is indirectly evidenced in particular by the fact that the Government of KR two times approved and three times changed the MTTP (medium-term tariff policy) structure within less than just one year (2014). Dissenting opinions and criticisms stated during public discussions on proposed projects and after adoption of MTTP, and its subsequent urgent revision in view of main comments definitely is a result of active public participation. However, since there is no clear mechanism for consideration of opinions received during public discus-sions, one may note only indirect impact on the final outcome.

Owing to efforts made by CSO and high activity of citizens, civil society participation in policy and decision-making processes receives high assessment, which strikingly differs from that of 2009 (low).

14. Media coverage of energy issues. When compared to previous years of 2008 to 2010, the level media coverage of energy sector issues has considerably changed.

Comparative analysis of the last assessment "Low" and the current one "High" shows the change in information priorities and increased mass media capacity in coverage of on-going energy sector reforms. Information through mass media is performed primarily in the form of short messages from news agencies ("24.kg", "Akipress", "Kabar") with relevant headings. For hot topics of general interest such as tariffs and their increase, infographics are prepared and long-form articles are published with alternative opinions on both debated and made decisions. In addition, there are mass media web portals, which monitor implementation of policy programme documents and decisions, and publish them, for example, on the website of the Politmer.kg project.

However, while the number of articles increases, one may note publications of "biased" pieces covering only one point of view and aimed at a specific objective. Moreover, inexact presentations of data and interviews can be observed that results in lowered confidence of energy sector specialists in mass media and stricter requirements to publication quality with maintenance of a context. Therefore, the question of raising the media representatives' awareness of energy sector specifics retains its relevant.

15. Summary of policy process. The performed analysis of energy governance policy process has shown different statuses of key indicators and processes with assessments ranging from low to high (see Table 1).

Table 1. *Summary table of policy process assessment*

POLICY PROCESS			
EGI indicator	**Score**	**As per the indicator**	**Actual**
INSTITUTIONS			
PP 1 Capacity of legislative committee	**Medium - high**	The committee has access to information, financial resources and is entrusted with sufficient powers and authorities	Committee instructions are mandatory for partially state-owned companies and advisory for private ones.
PP 4 Effective functioning of the legislative committee on electricity	**Medium**	The committee initiates consideration of draft laws, performs independent monitoring of execution of decisions and invites the public to participation in meetings	Regular statistic data and generally the monitoring of committee's decision execution are inaccessible. Consultations with civil sector are not carried out on a regular basis.
PP 5 Staffing policies of the Ministry	**Medium - high**	Clear staffing criteria have been defined; there are legislative provisions determining disclosure of interests and preventing conflicts of interests	Authorities, responsibilities and tenure are not stipulated. In practice, there are no rules and arrangements to prevent conflicts of interests.
PP 10 Annual reports of the electricity ministry/ department	**Medium**	Reports are regularly submitted to the state top management	Top-down accountability of energy sector policy management is not observable
		Reports are regularly submitted to the state top management	Public is informed fragmentarily
PP 11 Advisory committees to the electricity ministry / department	**Low**	Various standing and project-specific advisory teams exist and function.	Advisory team membership is not balanced. Executives' response to consultant recommendations is not known.
PP 13 Capacity of civil society organizations	**Medium - high**	High expert capacity of CSOs. CSOs interact on a systematic basis.	In absence of an opinion consideration mechanism, it is difficult to evaluate CSO participation in the policy process
POLICY FORMULATION			
PP 15 Quality of media coverage of electricity policy and reform	**High**	Mass media publish articles and stories covering different opinions and analysing relevant topics	Media information does not cover in details all sector reform aspects.
PP 16 Clarity of process for public participation in policy-making	**Medium**	Legislation stipulates mandatory requirements and necessity of public debates in making nationally important decisions	Regulations do not define public debate arrangements; there is no clear mechanism for recording of comments and their consideration. Public debates are substituted by public hearings.

EGI indicator	Score	As per the indicator	Actual
PP 18 Effectiveness of public participation process	**High**	A wide range of stakeholders is involved in discussion of energy issues	Following hearings, a final document is not provided for examination; public participation remains at a low level.
PP 22 Public disclosure regarding use of consultants	**Low**		There is no transparency in involving consultants and providing them with data.
PP 23 Transparency of donor engagement through policy loans	**Medium - high**	Information about creditor's political stances is available; project loan payment terms are publicly available	Only brief summary of on-going projects is published, but project deliverables are not evaluated.
POLICY IMPLEMENTATION			
PP 24 Transparency of donor engagement through technical assistance	**Low**	General data on on-going projects are available on websites of donors, news agencies, energy utilities and joint ventures.	Detailed information about technical assistance is inaccessible, credit disbursement and completed project deliverables are not reported.
PP 26 Transparent selection of private sector service providers	**Low**	There is a case of private sector provider involvement through bidding	Open tenders are not carried out, involvement process is not transparent, provider selection conditions are not disclosed, and justifications of committee decisions are not provided
PP 27 Transparency of asset valuation / balance sheet restructuring	**Low**	Fixed assets of energy utilities have been valuated	Asset valuation methodology is unavailable, independent scrutiny mechanism is not defined, and valuation results are inaccessible

II. REGULATORY PROCESS

Regulatory process is a critical mechanism to ensure that financial, economic, environmental and social aspects of energy sector are aligned.

Twelve indicators were studied for analysis of the energy governance regulatory process management.

16. Institutional structure of the regulatory process. The regulatory process survey is focused on the State Agency for Regulation of Fuel & Energy Complex (SARFEC) at the Government of the Kyrgyz Republic, established on the basis of the State Department for Regulation of Fuel & Energy Complex at the Ministry of Energy and Industry of the Kyrgyz Republic.

Despite the wide scope of authority and precisely stated mandate, SARFEC is not proof against political and departmental intervention, and regulator's decisions may come under pressure: many tariff decisions are politically and socially encumbered and do not satisfy economic demands only. Furthermore, considering this circumstance and the regulator being financed from the state budget rather than from funds of regulated enterprises and companies, regulator's decisions hardly can be called independent. In the new structure, no cases of regulatory powers exercise were observed apart from tariff setting and revision.

17. Procedure and substantive basis of decision-making. SARFEC enjoys free access to all documents of fuel & energy complex enterprises and full powers to demand fulfillment of license conditions and requirements as well as obligations under Performance Contracts, and to penalise as appropriate within its powers for violation of license requirements or Performance Contract obligations.

The tariff setting and approval process is detailed in the "Procedure for determination of product (work, services) cost setting of electricity tariffs[6]". According to the Procedure, subject to submission of relevant forms and reports, the regulator begins consideration of documentation and collection of data to be used in making final decision on proposed costs. Cost data will be used in the future to determine the final structure of tariffs. However, the tariff-setting practice applied by the regulator with redistribution of funds from profit-making energy utilities to loss-making ones is inconsistent with market economy rules and principles. Moreover, insufficient and incomplete compliance with decision-making procedures and substantive basis is notable due to lack of the opinion consideration mechanism.

Thus, evaluation of this indicator demonstrates a high degree of the decision-making substantive basis but low level of performance.

18. Capacity of the fuel and energy complex regulator staff Similarly to personnel of the Ministry of Energy and Industry of KR, SARFEC staff is annually trained under SPS (State Personnel Service) programme (planned for 80% of personnel) and participates in trainings and workshops under the Kyrgyz Republic Government Personnel Capacity Building Plan. Trainings are provided on public finances, effective management skills, regional socio-economic development management, and public administration basics. SARFEC does not have its own courses and educational arrangements.

19. Functions of the regulator. State regulation in the energy sector is aimed at electricity and heating supply throughout the Kyrgyz Republic at economically reasonable, socially affordable and non-discriminatory prices, and control of security, safety and reliability of both generation and consumption of electric and heat energy.

[6] Approved by the Order of the State Department for Regulation of FEC at the Ministry of Energy and Industry of the Kyrgyz Republic No. 32 dated 11/10/2014.

20. Tariff definition. The current tariff policy adopted on November 20, 2014 by the Resolution of GKR No. 660 is aimed at ensuring of financial sustainability of the national energy sector and steady provision of consumers with electricity through improvement of condition of energy system infrastructure of the Republic. However, implementation of the current tariff policy is notable for the absence of properly and clearly formulated purpose and the need for development of a new electricity tariff policy, that prejudices its adequate perception by consumers, especially as all previous tariff policies adopted in the past 20 years and claiming lack of funds in the energy sector have failed to achieve the stated goals, and the quality of power supply to consumers has degraded.

Claims of energy utilities income and expenses and financial deficit in the energy sector not supported by convincing arguments to justify utilities costs of electricity generation, transmission and distribution including due to the lack of *tariff calculation and setting methodology* cause public non-confidence in energy sector control and administration bodies. This comes against the background of a number of criminal cases opened in connection with overpricing of procured goods and services, and loss of electricity including write-off of uncollectable receivables or their transfer to accounts of feigned consumers.

21. Licensing. Currently, 17 Kyrgyzstan companies are licensed for electricity sale, transmission and distribution. Establishment of private electricity wholesalers started in 2001 and was intended to attract investments in the energy sector, create favourable conditions for development of competition on the electricity market, and to develop alternative sources of power supply to consumers. The regulator's official website has no materials with detailed description of requirements to license application.

22. Consumer services and supply quality. In the Kyrgyz Republic, electricity supply quality is regulated by the standard GOST 13109-97 adopted by the Interstate Council for Standardization, Metrology and Certification (Protocol No. 12-97 dated November 21, 1997) and the new standard GOST 32144 "Electric Energy Quality Standards for General-Purpose Power Supply Systems" (since 2014). The quality of energy supplied to consumers must conform to these standards and the power supplier is statutorily obliged to maintain it. On the other hand, procedures for independent structures to monitor standard compliance are not clearly defined. Another complication is that energy quality indicators can be measured only subject to availability of special meters and appropriate measurement methods. Therefore, the level of consumer services and service provision quality for the indicator RP 32 is evaluated as "medium-high".

23. Balance between interests and representation of weaker group interests. The existing tariff policy provides the concept of the "social monthly electricity consumption rate" of 700 kWh a month as established based on capabilities of the Kyrgyzstan power supply system. According to MTTP, residential tariffs are socially oriented since they retain the level of prior tariffs allow for possibilities of the indigent to pay for consumed electricity. The earlier proposed version of the tariff policy distinguished between summer and winter social consumption rates: 300 kWh and 600 kWh, respectively. This proposal was debated with active participation of all stakeholders, with numerous arguments and wide media coverage, and their recommendations and proposals were incorporated in the revised version of MTTP.[7] However, the question of compliance with higher-ranking regulations in the legislation hierarchy (**Civil Code of the Kyrgyz Republic (Art. 386) and the Law "On the Power Industry" (Art. 22)**) concerning a uniform tariff for all consumers **connected to the**

[7] However, the quantity and nature of comments received from citizens and other stakeholders has not been reported. Consideration, inclusion or rejection of opinions received from communities are not confirmed.

same voltage class equipment and **charging of energy utilities with social consumer support functions irrelevant to them** leaves pending.

24. Interventions by civil society in the regulatory process. Since 2009, the number of Kyrgyzstan civil society organizations involved in protection of electricity consumers' civil rights in the regulatory process has considerably increased (with change of their interaction structure). While the percentage of "private interest" cases is higher, civil society groups are responsible for use of regulatory process to advocate long-term public interests.

As regards protection of "public" interests, one may note participation of specialised consumer protection organisations in task groups and committees, including development of MTTP, etc. However, since public hearings are substituted for public debates and a mechanism for consideration of submitted recommendations and proposals is unavailable, the desired goal is not achieved.

25. Appeal mechanism. The current legislation of the Kyrgyz Republic provides opportunities for appeal; however, the appellate procedure is complicated and legal trials have protracted nature. Generally, the legislation provides for appeal of regulator's decisions on procedural grounds. This was clearly evidenced by the judgment of the Interdistrict Court of the Bishkek City, delivered in favour of Nurbek Toktakunov for cancellation of the Resolution of the Government of the Kyrgyz Republic on the medium-term tariff policy as the latter had been approved in breach of the public debate procedure for draft regulations.

The SARFEC website does not provide information on the appellate procedure. There is no information about other regulator's decisions appealed during the period under review.

26. Summary of regulatory process. The performed analysis of electricity governance regulatory process including assessment of 4 regulatory structure indicators, 4 decision-making process indicators, and 4 operational issues indicators, showed that for the most part of criteria the assessment level is medium-high (see Table 2).

Table 2. *Summary table of regulatory process assessment*

REGULATORY PROCESS			
EGI indicator	**Score**	**As per the indicator**	**Actual**
REGULATORY STRUCTURE			
RP 1 Institutional structure for regulatory decisions	**High**	The State Agency for Regulation of FEC has been established at the Government of KR	The regulator is not proof against political and departmental intervention
RP 2 Authority of the regulatory body	**High**	It has a wide scope of legal powers for investigation. Regulator requirements are binding.	
RP 9 Appeal mechanism	**High**	Regulator decisions can be appealed by any concerned party on procedural grounds	The appellate procedure is complicated and legal trials have protracted nature.

EGI indicator	Score	As per the indicator	Actual
RP 11 Training of regulatory body members and staff	**Medium - high**	Personnel improve their skills systematically and in various disciplines	The training provided does not include specifics of energy regulation.
DECISION-MAKING PROCESSES			
RP 15 Clarity about regulatory procedures and substantive basis of decisions	**High**	Clear procedures and substantive basis of regulatory decision-making have been defined	Incomplete performance of procedures, low level of execution/application
RP 22 Institutional mechanisms for representing the interests of weak groups	**Medium - high**	A number of institutional mechanisms for representing the interests of weak groups have been formalised in legislation	Low level of interdepartmental interaction. There are no special representatives of weak groups in the Government
RP 24 Interventions by civil society in the regulatory process	**High**	In practice, CSO participate in the state regulation improvement process via various mechanisms and procedures	SC FECTI, the network of CC-ECA and other CSOs are involved in activity of the regulator. Participation of CSOs influenced making of final decisions on public and private interests
RP 25 Electricity provider engagement with CSOs and potentially-affected populations	**Medium**	The Service Quality Center (SQC) is responsible for public relations	SQC is not active in prompt information of population about energy utilities activity.
OPERATIONAL ISSUES			
RP 29 Participation in decision-making related to affordability of electricity prices	**Medium**	General rules of tariff affordability are stipulated in the legislation	Electricity tariffs are revised without accurate analysis of their impact on and affordability for population. No special efforts are made to raise awareness of socially vulnerable groups
RP 30 Licensing	**High**	There are clearly defined rules for consideration of issuing/withdrawal and dispute settlement	Information about regulator's licensing activity and performed monitoring of licensee activity is not available
RP 31 Periodic performance reports by licensees and utilities	**Low-medium**	Reporting is mandatory and periodic	Brief summary of utilities activity is provided. Licensees' detailed reports to the regulator are not disclosed to the public.
RP 32 Consumer services and quality of supply.	**Medium - high**	There are standards of service. Supply quality must comply with requirements of GOST.	There is no technical equipment for monitoring of supplied energy quality, and quality of energy is not reviewed regularly.

III. SOCIAL AND ENVIRONMENTAL ASPECTS

Apart from regulatory and policy processes, the decision-making environment and accounting of external factors not immediately related to the energy sector are important for electricity governance. For example, regional features of the Central Asian region, political alignment of forces, global climate changes and other environmental and social aspects have considerable though indirect influence on decisions made in any of sectors.

27. Regulatory framework of social and environmental issues of the energy sector

The fundamentals of nature and environment management are set forth in the Constitution of the Kyrgyz Republic, and the existing legal basis governs legal relations between users of nature and the state. Nevertheless, inaccessibility of project documents hampers evaluation of how environmental issues are considered in on-going and proposed projects for construction of large energy facilities with immediate environmental impact.

28. Capacity to evaluate environmental issues. The State Agency for Environmental Protection and Forestry (SAEPF) at the Government of the Kyrgyz Republic is the executive authority responsible for environment protection, but its structure lacks a department dealing with energy issues only. Environmental supervision and monitoring functions are vested in the State Environmental and Technical Safety Inspectorate, whose performance decreases with reductions of staff and territorial branches. Environmental issues become urgent only in emergencies or when accentuated by the public.

The capacity of Ministry of Energy and Industry of the Kyrgyz Republic and other departments to consider environment conditions in the energy sector within their jurisdiction is evaluated as "low-medium".

29. Application of and impact on environment protection in implementation of infrastructure projects. Over the past 5 years (2009-2014), participation of communities in development of strategic documents immediately influencing the national environment has increased. Environmental and ecological safety issues are debated with participation of stakeholders, but decisions made are not communicated to the public. While the legislative base exists, there are some barriers in developing national strategies and programmes such as poor consideration of strategic environmental risks and insufficient ecological awareness of decision-makers.

30. Kyrgyzstan and electricity market of the Eurasian Economic Union. With accession to the Euroasian Economic Union (EEU), Kyrgyzstan has the necessary opportunity to enter the electricity market of EEU as an equal and sound (predictable and reliable) entity to carry out electricity import and export operations. Kyrgyzstan entrance to the EEU electricity market is a step towards integration of power grids of its members with access to neighbouring coun-tries as an electricity exporter or transiter. Meanwhile, Kyrgyzstan and other EEU member states have avail-able the electric power infrastructure (power plants and trunk lines) ensuring and supporting these op-portunities. Declaration of potential throughput capabilities of Kyrgyzstan for import and export of electricity, regulation power as well as electricity transit through its power networks can become a very important component. This opportunity can be fully provided by Kazakhstan where power genera-tion in 2015 may achieve nearly 100 billion kWh, while in Kyrgyzstan the generation is forecasted up to 15 billion kWh.

Implementation of these capabilities with regard

to interests of Kyrgyzstan will be carried out on the basis of agreements/contracts executed between parties.

31. Summary of the decision-making environment. Analysis of electricity governance environmental component showed existence of separation of powers and mechanisms of interaction of government bodies, but understanding of the need for consideration of environmental issues including climate change remains at a low level. As before, economic benefits prevail over ecological safety and global, economic and social results of environmental impact are poorly elaborated, which hinders priority consideration of environmental issues.

In view of social tension and the responsibility of the Government of the Kyrgyz Republic for regulator's decisions influencing socio-economic conditions in the country, and regulator's activity related to tariff-setting and licensing that directly affects consumer interests – the regulator performs better in addressing of social issues than environmental ones.

Table 3. *Summary table of assessment of social and environmental issues*

ENVIRONMENTAL AND SOCIAL ISSUES			
EGI indicator	**Score**	**As per the indicator**	**Actual**
PP 8 Capacity of executive to evaluate environmental issues	**Low-medium**	A point person has been designated and environmental impact assessment procedures are available; establishment of research foundations is permitted.	The responsible authority does not have sufficient access to expertise. There is no system approach in professional development of personnel.
PP 32 Inclusion of environmental considerations in the national plan for the electricity sector	**Medium**	Environmental issues are integrated into national policies, legislation and programme documents	Poor consideration of strategic environmental risks and insufficient environmental awareness of decision-makers. Decisions made do not get extensive coverage.
PP 33 Comprehensiveness of environmental impact assessment laws, policies and procedures	**Medium**	EIA guidelines have been determined and applied in practice for implanted projects	Project EIA results are inaccessible to the public. Socio-economic consequences of project implementation are not considered in full
PP 36 Participation in decision-making on access to electricity services	**Medium**	Mechanisms are available for contribution of public comments	The approach to expansion of population access to electrification especially in new areas is not systemic. A mechanism for receipt, consideration and summarization of community proposals is absent.

Conclusion

The analysis of the sector management system performed under the Electricity Governance Initiative programme and comparison with results of similar analysis in 2009 have shown that in recent years the sector management has been more open, with extended media coverage and involvement of concerned parties in discussions of problems. However, the epoch of data secrecy and confidentiality of the energy sector as a strategically important sector was replaced with the era of incomplete and sporadic information. Doubts of the public about dishonest management of the sector and inappropriate distribution of funds are dispelled through provision of numerous extensive data on condition of Kyrgyzstan power industry, its problems and capabilities. Against the background of massive information, there remain topical questions of reliability and verification of these data, complicated by missing actual valuation of fuel & energy complex fixed assets and assessment of true electricity cost.

As for participation and accountability procedures, the survey confirms that execution of statutory provisions remains without considerable changes, and the existing regulatory framework is undermined by insufficiency of enforcement mechanisms. For example, public debates of draft documents are substituted by public hearings, and legal proceedings for consideration of filed appeals against regulator's decisions last for years. Despite the high expert capacity of civil society and existence of the legal basis ensuring the public's right to participate in policy and regulatory processes, efficiency of this participation is at the average level.

The mechanism for consideration of opinions received from public debate participants is not developed that frustrates all efforts for commenting and making suggestions. Isolated cases, which resulted in considerable change of a proposed project (as with approval of the medium-term tariff policy and cancellation of residential power supply limits depending on connection type) show the relevance of debates with both population and expert community, and the necessity of stringent facilitation of the debate process. As a matter of fact, public access to decision-making process for all other documents and actions is limited, decisions are made by higher-ups and delivered to population without real right of appeal or debate in spite of well-defined and enacted mechanisms.

This time, evaluation of participation of advisory committees of the Ministry of Energy and Industry and transparency of their work was included by the working group in the set of survey indicators along with assessment of donor community's performance in the energy sector. The analysis has shown existence of several advisory teams working in different formats but with uniformly insufficient disclosure of information about use of consultants, imbalanced membership and low transparency of executives' feedback. Among institutions providing advisory support to the Ministry of Energy and having their stands on topical issues being regularly published, the Supervisory Council of the Fuel & Energy Complex Transparency Initiative is rather the exception that proves the rule. This is mostly due to unique, equally proportional structure of the Council and integrated approach combining both the advisory body and a number of practical mechanisms for improvement of transparency and accountability. At the same time, the role of consultants in making governmental decisions on the energy sector as well as the role of the donor community retains its high importance.

Best practices confirm that predictable actions of the regulator are based on sound economic principles. Political intervention in regulatory decisions just shifts a problem to another time plane or economic sector. As such, expenses can be much

higher than current costs related to existence of the problem. Thus, uncoordinated stands and actions of national leaders and structures, and their unforeseen intervention reduce efficiency of regulatory management in the sector as a whole (as with suspended implementation of the approved tariff policy in the spring of 2015).

The analysis showed that global, economic, environmental and social issues in Kyrgyzstan are poorly elaborated on a long-term horizon. Fulfillment of international obligations of the country under various conventions, for example as for the climate change[8] is incorporated in basic policy documents; however, there are considerable gaps in implementation of these standards. While considerable attention is paid to request of financial support from other countries, the specificity of actions whereto funds are requested and provision of transparency in financing and implementation of these actions, unfortunately, are not of primary concern. Here, again, low transparency and coordination of actions among sector departments are noticeable, both in preparation of regulatory documents and their execution.

Based on the survey conducted with use of the EGI methodology and considering the revealed electricity governance shortcomings, the working team has developed basic recommendations to upgrade decision-making mechanism in the following areas:

a) Enforcement of the current legislation:

- ➔ Revision of staff recruitment procedures for managerial positions in the sector and **eliminate turnover of persons** brought to trial;
- ➔ Reforming of the current tariff policy so that electricity tariffs do not differ depending on consumption (the tariff has to be uniform for all groups of consumers without social rates);
- ➔ Total enforcement of all technical regulations for repair and maintenance of power equipment with regard to prospective development of the system; and
- ➔ Acceleration of making the final decision on cancellation of the Resolution of the Government of the Kyrgyz Republic on the medium-term tariff policy.

b) Updating and development of the regulatory framework:

- ➔ Development and introduction of an **effective mechanism for consideration of opinions received during public debates for comprehensive inclusion of opinions of all parties, which is the basis for correct decision;**
- ➔ Acceleration of developing the **methodology for actual valuation of fixed assets** of energy utilities with inclusion of verification by the competent independent third party for revision of results; and
- ➔ Development of quality monitoring procedures for electricity supply to end users with an effective mechanism of response to non-conformity of electricity parameters with technical standards.

c) Updating of structure and separation of powers:

- ➔ Assignment of functions for management of state-owned share of energy utilities assets including influence on sector staffing policy to the Ministry of Energy and Industry of the Kyrgyz Republic; and
- ➔ Taking measures to establish a **demand planning and forecasting centre** for optimisation of the national fuel & energy balance.

[8] UN Framework Convention on Climate Change ratified by the Kyrgyz Republic in 1992

d) Awareness raising:

- ➔ Improvement of **transparency of donor community and consultants participation** through publication of detailed terms of reference and reports prepared by consultants;
- ➔ Improvement of **information on on-going infrastructure projects** in the fuel & energy complex through creation of a single information resource (connected to the departmental web portal) with inclusion of detailed information about application of funds, final reports of every project, and provision of other documents (feasibility study reports, EIA reports, public debate reports, etc.);
- ➔ Enhancement of information support to the Ministry of Energy and Industry of the Kyrgyz Republic with regular updating of the website and provisioning of all its pages, and with posting of financial documents and reports including references to the special reports on receipt and expenditure of funds from electricity export; and
- ➔ Revision of **engineering personnel training for the power industry** of Kyrgyzstan and examination of opportunities for task-oriented training of necessary specialists (in foreign higher education institutions) with regard to future implementation of energy facilities construction and modernisation projects.

e) International relations and EEU:

- ➔ Within the Shanghai Cooperation Organisation (SCO), launching the initiative on the objective need for cooperation among Central Asian states in the energy sector with the view of transition to new civilised relations in the regional electricity sphere; and
- ➔ Development and introduction of political and economic relationship mechanisms considering existing infrastructure capabilities of every Central Asian state.