



POLICY OPTIONS FOR ENHANCING FOREST DATA SHARING AMONG AND WITHIN OFESA COUNTRIES IN EAST AND SOUTHERN AFRICA

Robert Kibugi¹, Raphael Tsanga², Douglas Bwire Ombogoh², Ivy Amugune²,
Lorna Nyaga² and Paolo Omar Cerutti²

¹ University of Nairobi

² CIFOR-ICRAF

KEY MESSAGES

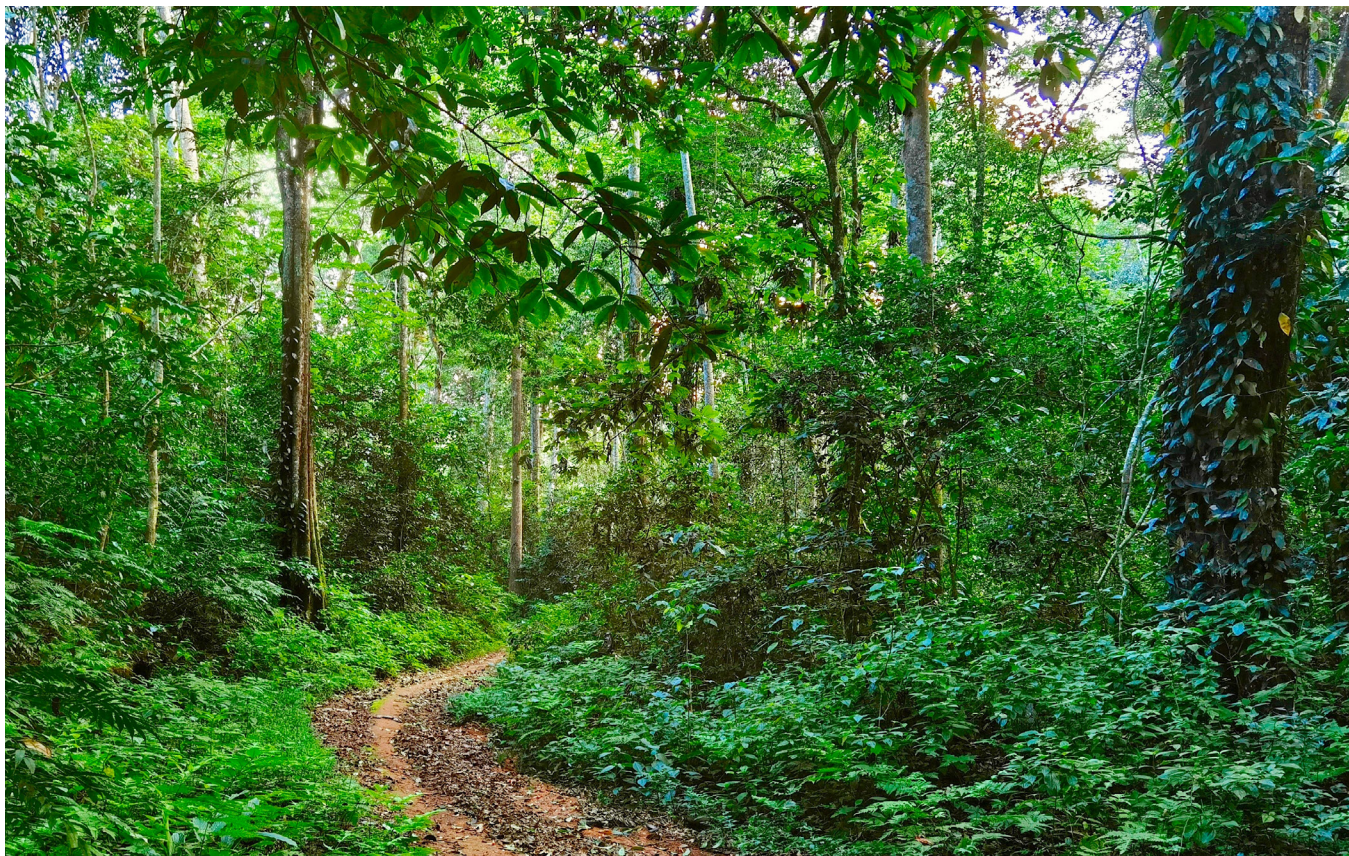
- Sharing of forest data is important both regionally and among forestry institutions within a country.
- Regional bodies to which OFESA countries belong have legal frameworks that can govern forest data sharing. However, the EAC and the SADC have limitations as only Tanzania belongs to both blocs. While the agreement establishing RCMRD could be amended to anchor a regional forest data-sharing framework, Mozambique would still need to become a full member.
- Each of the five countries under review (Ethiopia, Kenya, Mozambique, Tanzania and Uganda) have legal frameworks, including constitutions and access to information laws that make provision for data sharing. In Kenya and Uganda, such access is limited to citizens only.
- Forest data sharing within and among forest institutions faces significant country barriers. The sharing of forest data regionally encounters still more difficulties.
- Mistrust is a leading cause of the lack of, or weak, data sharing both within and among institutions, as well as with entities outside the country.
- Model guidelines have been recommended that could help forestry institutions develop internal data-sharing policies. These could also guide data sharing with partners from other institutions or from outside the country.
- Two policy options are recommended for development of a regional forest data-sharing framework. In the short term, data-sharing clauses could be embedded in agreements for collaborative projects. Ultimately, the RCMRD Agreement should be amended to anchor a data-sharing framework.

BACKGROUND

This Infobrief is an outcome of a collaborative project between the Centre for International Forestry Research (CIFOR) and the Regional Centre for Mapping of Resources for Development (RCMRD). Together, they aim to support countries participating in the East and Southern Africa Forest Observatory (OFESA) to develop a regional framework to govern and enhance effective sharing of forest data. We reviewed the legal, policy and institutional context in the five countries: Ethiopia, Kenya, Mozambique, Tanzania and Uganda. National consultation workshops were held in each country between February and August 2023. In January 2024, a regional stakeholder validation workshop in Nairobi presented lessons from each of the five countries. In addition, it proposed future regional data-sharing governance arrangements, as well as model guidelines for sharing institutional data.

REGIONAL LEGAL ARCHITECTURE FOR FOREST DATA SHARING

The five participating countries belong to three regional bodies relevant to forest data sharing: RCMRD, the East African Community (EAC) and the Southern African Development Community (SADC). The 2006 EAC Protocol on Environment and Natural Resources, although not yet established, requires partner countries to develop, publish, review and evaluate regularly the effectiveness of national forest policies, programmes and plans; and to regularly assess forests encompassing all forest resources and all forested lands, regardless of ownership. The SADC Protocol on Forestry requires Parties to assess forests based on a harmonized methodology, as far as practicable. This would support collaboration in establishing



Rainforest in the Usambara mountains in Tanzania.
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and maintaining a regional database on the status and trends, management and use of all forest resources within the region. It also requires Parties to exchange data and information concerning the management of forests and implementation of the protocol. The 1975 Principal Agreement establishing the RCMRD, in Article VIII, which is focused on cooperation of the governments (Contracting Parties) primarily provides for funding of RCMRD; movement of aircraft and other means of transportation; and defining the immunity of members of RCMRD survey teams. This provision is an important consideration as a potential anchor for a regional, legally binding data-sharing mechanism. It will, however, require that Mozambique become a full Contracting Party to the 1975 RCMRD Agreement. Anchoring forest data sharing on either the EAC or SADC is impractical because only some of the countries belong to each body, except Tanzania.

NATIONAL LEGAL FRAMEWORK FOR FOREST DATA SHARING

Ethiopia's Constitution guarantees freedom of expression and the right to access information. The Freedom of the Mass Media and Access to Information Proclamation³ provides the right of all persons to access information held by public bodies. The Forest Development, Conservation and Utilization Proclamation⁴ emphasizes the need for continuous information exchange in the forestry sector. Nonetheless, despite the legal basis, a specific data- and information-sharing policy for forests has not been established in Ethiopia. A draft policy was prepared in 2018, but it has not yet been endorsed. While there are constitutional foundations for developing a data- and information-sharing policy, its implementation and practical significance remain limited in Ethiopia.

3 Proclamation No. 590/2008

4 Proclamation No. 1065/2018

The Constitution of Tanzania guarantees every person freedom of opinion and expression of ideas; the right to seek, receive and/or disseminate information regardless of national boundaries; and the freedom to communicate, and to be informed at all times of various issues important to society. The Statistics Act (CAP. 351) mandates the National Bureau of Statistics to collect, manage and disseminate data. In addition, the e-Government Act of Tanzania (No. 10 of 2019) provides for data exchange and sharing to public institutions.

In Kenya, the Constitution has guaranteed a right of access to information (art. 35). However, this right is restricted to citizens, who are entitled to any information held by public and state agencies; and to privately held information to the extent this information is required to fulfil human rights. The Access to Information Act (2016) provides that a citizen's right to access information is not affected by any reason the person gives for seeking access or a public entity's belief of the person's reasons for seeking access. It also provides the circumstances under which access to, and disclosure of, information may be limited. This includes national security; information under deliberation; and information that may endanger the safety, health or life of any person or cause unwarranted invasion of privacy. The Act also requires public entities to appoint an information access office (the Chief Executive Officer or a delegate) to handle compliance with the law. The Forest Conservation and Management Act (2016) requires the Kenya Forest Service (KFS) to develop, maintain and regularly update a geographic information system database of all forests in Kenya.

The Constitution of Uganda provides a right for every citizen to access information in possession of the state or any other organ or agency of the state except where the release of the information is likely to prejudice the security or sovereignty of the state or interfere with the right to privacy of any other person. The Access to Information Act (2005) provides a guarantee that such information shall be accurate and up to date so far as is practicable. It also requires the chief executive of each public body to be responsible

for ensuring that records of the public body are accessible to the public. The National Forestry and Tree Planting Act contains robust provisions on forest data and information sharing. It provides a right of access to information for every citizen. This refers to information submitted to, or in the possession of, any forest management body. It also requires an application for information, and grants access after payment of the prescribed fee. Finally, it limits access to proprietary information, which means information on research or practices initiated or paid for by an individual or private company that is not for public consumption.

In Mozambique, the Right to Information Law (No. 34/2014) was enacted to implement Article 48 of the Constitution. It governs the exercise of the right to information, in support of the constitutional principle of consistent democratic participation of citizens in public affairs and in establishing other related fundamental rights. This law applies to state organs and institutions (including the forest and conservation institutions reviewed above) that perform activities of general interest or receive public funds and hold information of public interest. It includes obligations to render public interest information accessible to citizens subject to lawful exceptions; and to publish and disseminate public interest information with a bearing on fundamental rights and freedoms of citizens. Public entities are required to maintain open archives, and practise open government/public administration. This is based on freedom of access to public documents and archives without requiring the applicant to demonstrate legitimate and direct interest, or the purpose for which the information is intended. The information must be provided in a timely manner and free of charge, except for document reproduction, notarized statements or affidavits [certificates], which are subject to fees.

The various national legal frameworks have provisions that govern forest data sharing. In the case of Kenya and Uganda, the right of access to information is restricted to citizens by constitutional provisions, but these do not extend to forest law.



The Gorongosa National Park Forests in Mozambique are home to diverse wildlife.
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COMMON LESSONS ON FOREST DATA SHARING

Five broad areas of lessons can be drawn from a review of laws, and common points arising from discussions during national workshops and the final validation workshop.

COMMON CHALLENGES IN FOREST DATA SHARING

The following challenges were identified as affecting forest data sharing across all countries:

- Trust undermines sharing of data, internally and externally.
- There is a common culture of defensive data sharing, defined by general reluctance to share, or sharing the minimum, if at all.
- Internal policies on data sharing are absent or weak.
- Institutional culture of not sharing data:
 - i. Data are shared with institutional collaborating partners.
 - ii. Students may access data with difficulty if properly requested.
- Raw data sharing is a challenge and highly restricted.
- Acknowledgement of data source or credit in final use is weak or absent; feedback loop is weak.

FACTORS THAT WOULD ENHANCE INTRA-COUNTRY FOREST DATA SHARING

The following were identified as factors that would make it viable for public and non-public institutions to collaborate and share data within a country:

- Digital platforms for sharing information such as OFESA or at the national level that are developed and operated collaboratively.
- Standardization of data collection methodologies.
- Presence of data dissemination of institutional platforms (websites).
- Building trust and accountability.
- Shortening long-step processes and defensive data sharing.
- An enabling legal framework.

INSTANCES AND TYPES OF FOREST DATA WHOSE SHARING IS RESTRICTED

Participants in national workshops identified the following types of data whose sharing should be restricted:

- Location data of illegally hunted species (elephant, endangered species, etc.).
- Plant genetic resources.
- Raw data from forest inventories.
- Raw data from land use and cover/forest cover maps.
- Data with security ramifications; lack of a standard definition of 'security ramification' leaves broad discretion that can be used to restrict access to data.
- Incomplete data that can be misused.
- Data that are subject to intellectual property claims.

EXPERIENCE WITH SHARING FOREST DATA WITH PERSONS FROM OUTSIDE THE COUNTRY

Participants indicated their general experience when sharing data with persons from outside their countries as follows:

- Uncertainty and fear in terms of misuse of the data.
- Very good experience in sharing geospatial information.
- Good experience where information sharing has been face-to-face, or with people known to them.
- Difficulties experienced in sharing raw data.
- For organizations working in various countries, it was reportedly easier to share data outside the country.
- Data sharing as part of present or potential collaborative arrangements and funding.
- Certain international partners (such as universities) seek a lot of data but do not always acknowledge the data source.

THE BENEFITS OF MAKING FOREST DATA ACCESSIBLE, FROM PUBLIC AND NON-PUBLIC INSTITUTIONS

Participants agreed on the following benefits from sharing data across public and private institutions:

- enhancing evidence-based policy decisions
- creating awareness
- enhancing accurate and comprehensive reporting
- supporting research
- providing knowledge for education
- supporting fundraising and financing potential

POLICY OPTIONS

This section highlights the major policy options discussed with participants of the meetings, alongside relevant recommendations.

Problem: Sharing of data among forest institutions in a country or abroad has significant limitations.

Recommendations: Establish common principles to inform regional forest data-sharing governance.

The following principles were identified as central to enhancing openness in future forestry data

sharing in the region. These can also be adapted within forestry institutions.

- Consistency in data acquisition methodology and sharing.
- Coordination among key actors.
- Evidence-based data acquisition.
- Accommodating the roles of different actors and enhanced conscious stakeholder cooperation.
- Classification of data based on access: open, closed or restricted.
- Working with knowledge generated and evidence-based data.
- Having trustworthy, accurate, valuable and reliable data.
- Validation of data, especially by stakeholders who provided the data.
- Value addition to data by subsequent users without distortion.
- Interpretation of laws and policies on forest data sharing.
- Rules to guide intellectual property rights.
- Development and collaborative of forest data sharing infrastructure.

Problem: Forest data sharing within the countries is limited.

The literature review and national consultations revealed significant gaps in sharing forest data intra-country (within and among forest institutions in the same country). Trust emerged as the most significant limitation. This drives a culture of defensive data sharing defined by general reluctance to share, or sharing the minimum, if at all. The absence of, or having weak, internal data-sharing policies or protocols within forestry institutions, is a major barrier.

Recommendation: Adopt model guidelines for development of internal forest data-sharing policies within and among forestry institutions in a country. Such a forest data-sharing policy can be framed alongside the following features:

- Definition of forest data.
- Categorization of forest data:
 - open access
 - restricted access
 - security limitations.
- Hierarchy of data access and authorization: who in the organization can have access to what data.
- Ownership of data generated through official duties in a public institution.
- Procedure for handling external data requests; linkage with national law or policies:
 - a. How is a request submitted?

- b. To whom is a request submitted?
- c. Are the terms of data engagement clear from the outset?
- d. Period of data processing – different categories of data.
- e. Cost (of data, or reproduction).
- f. Requirement to give reasons for declining a request – within a fixed period.
- Internal sharing of data:
 - a. Identify if staff need such a requirement – link to ownership of data.
 - b. Identify any incentives needed.
 - c. Identify mode of sharing: continuous, periodic or upon request.
 - d. Identify protocol for sharing: raw versus processed data.
 - e. Develop guidelines to handle personal data.
 - f. Sharing of data with other public institutions.
- Rules on sharing data with non-citizen institutions; or institutions or persons based out of the country.
- Other relevant provisions based on the needs of the institution.

Problem: A regional forest data-sharing governance framework is absent.

The review of the EAC and SADC legal frameworks demonstrated potential anchor provisions in the protocols that could provide a basis for a framework to govern forest data sharing. However, the 2006 EAC Protocol on Environment is not yet in force, and only Tanzania belongs to both regional bodies.

Recommendation: Several options have been identified and framed as follows:

Option 1 – Regional Data-Sharing Agreement through amendment to Article VIII of the 1975 RCMRD Agreement to include data and information sharing as part of the cooperation responsibilities of the Contracting Party governments.

For this option to be fully viable, the status of Mozambique would have to change from an affiliated or non-contracting state to a Contracting Party to the 1975 RCMRD Agreement.

Key features of the amendment to the RCMRD Agreement:

- a. Anchoring provision committing countries to cooperating in sharing and exchange of forest data.
- b. Definition of data (e.g., as opposed to information).
- c. Clarity on categories of data that can be shared, or not shared, and hierarchy of data movement, i.e., what a data recipient can do with them.
- d. Rules on movement of data, i.e., from states to RCMRD (and vice versa), and between states.
- e. Question of methodologies for data acquisitions, generation.
- f. Security of shared data.
- g. Other relevant provisions.

Option 2 – Integrating data-sharing clause in a project agreement or memorandum of understanding

Option 2 would involve anchoring a data-sharing provision in a broader cooperation agreement between RCMRD and each of the participating countries. Such an agreement could take the form of a project-specific implementation agreement or Memorandum of Understanding based on national preference on nomenclature. This data-sharing clause should provide for the categories of data to be shared, the use of that data, etc.; and the procedure for requesting (two-way) data between the collaborating institutions.

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ABOUT OFESA

OFESA provides a platform for sharing, exchanging, and accessing data and information related to East and Southern Africa's forests. The objective of the observatory is to produce a comprehensive and harmonized regional dataset on the latest trends and threats to forests, and to make information useful and easily accessible to policymakers, funders, forestry practitioners and citizens. By informing decision making, OFESA supports five countries in the region – Ethiopia, Kenya, Mozambique, Tanzania and Uganda – to meet their climate and environment targets. In these five countries, OFESA works closely with focal point institutions from the Kenya Forest Service, the National Directorate of Forests Mozambique, the Ethiopia Forestry Development, the Tanzania Forest Service and the National Forestry Authority Uganda.

➤ ofesa.rcmr.org/en

ABOUT CIFOR-ICRAF

CIFOR-ICRAF harnesses the power of trees, forests and agroforestry landscapes to address the most pressing global challenges of our time – biodiversity loss, climate change, food security, livelihoods and inequity.

➤ cifor-icraf.org

ABOUT RCMRD

RCMRD is an inter-governmental organization established in 1975 under the auspices of the United Nations Economic Commission for Africa and the former Organization of African Unity (today the African Union). RCMRD is based in Nairobi, Kenya with 20 contracting member states in the Eastern and Southern Africa regions. RCMRD is a Premier Centre of Excellence in the provision of geo-information and allied technologies for sustainable development in member states and other stakeholders. The RCMRD training institute offers training in cartography & GIS, photogrammetry & remote sensing, cartography, land surveying, information technology, accounting courses, etc.

➤ rcmr.org

CONTACTS

Douglas Bwire

✉ d.bwire@cifor-icraf.org

Ngugi Kimani

✉ mkimani@rcmr.org

Media Inquiries

✉ media@cifor-icraf.org