

Module 2

Prosecution and Adjudication of Wildlife Crime

Overview of this module

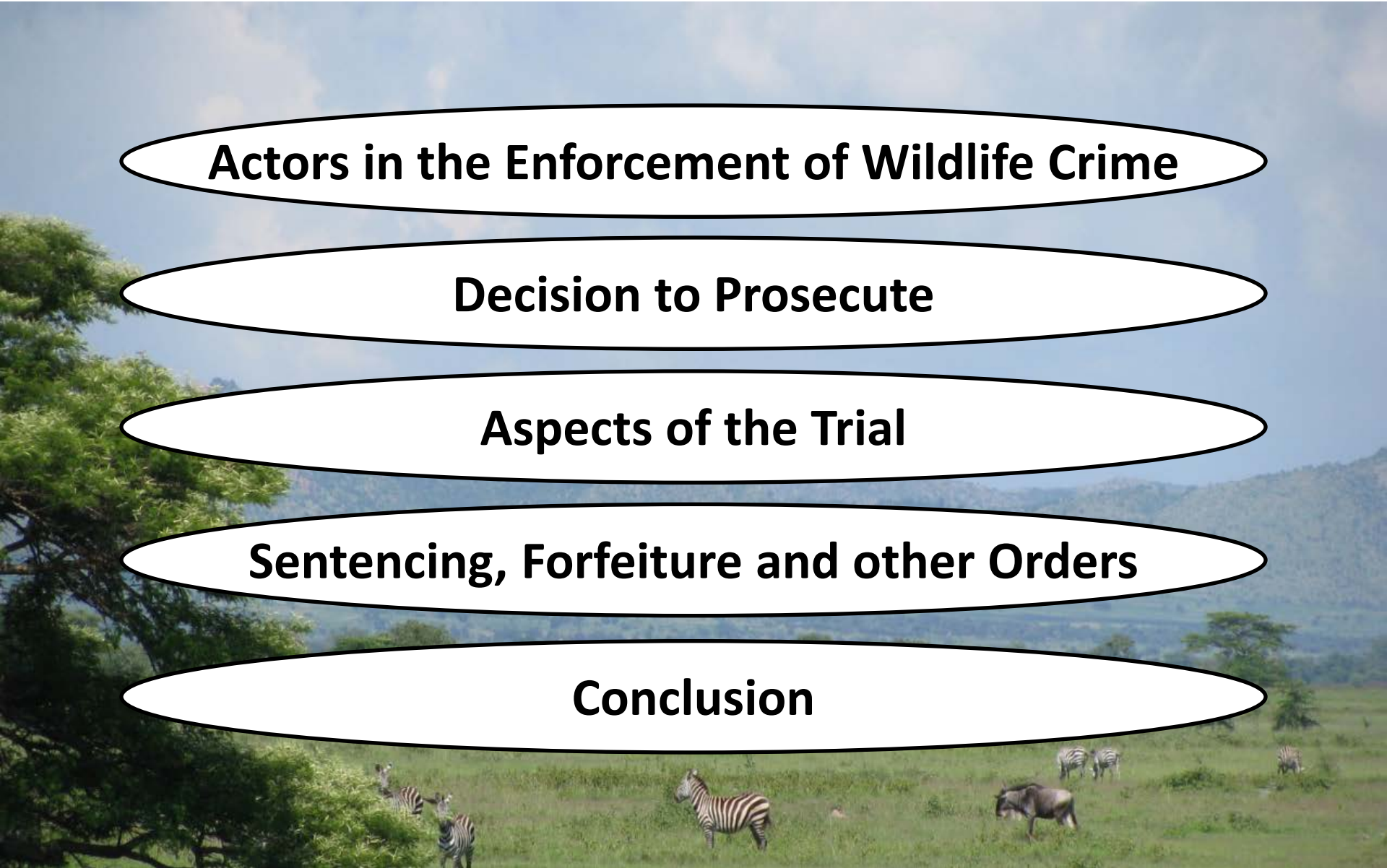
Actors in the Enforcement of Wildlife Crime

Decision to Prosecute

Aspects of the Trial

Sentencing, Forfeiture and other Orders

Conclusion



ACTORS IN THE ENFORCEMENT OF WILDLIFE CRIME



Investigation Authorities

Prosecutors

Judiciary

Investigation Authorities

Inspectorates

monitor compliance

conduct inspections

investigate wildlife crime

Police

border security

organized crime

crime intelligence

detective services

canine units

forensics

Investigation Authorities

Other authorities

protected area management authorities

revenue services, customs and excise

asset forfeiture unit

Multi Agency Teams

Prosecutors

Role?

prosecution

consultation and guidance to investigators

asset forfeiture

Prosecutors

dedicated environmental prosecutor?

specialization and expertise

prioritize wildlife crimes

Example: South Africa Environmental Court

dedicated prosecutors

24 hour helpline for investigators

systems to secure exhibits

recommendations for legislation

assistance in training of investigators

Judiciary

Role?

ensure procedure is followed

judgment and sentencing

interpret wildlife legislation

review executive decisions

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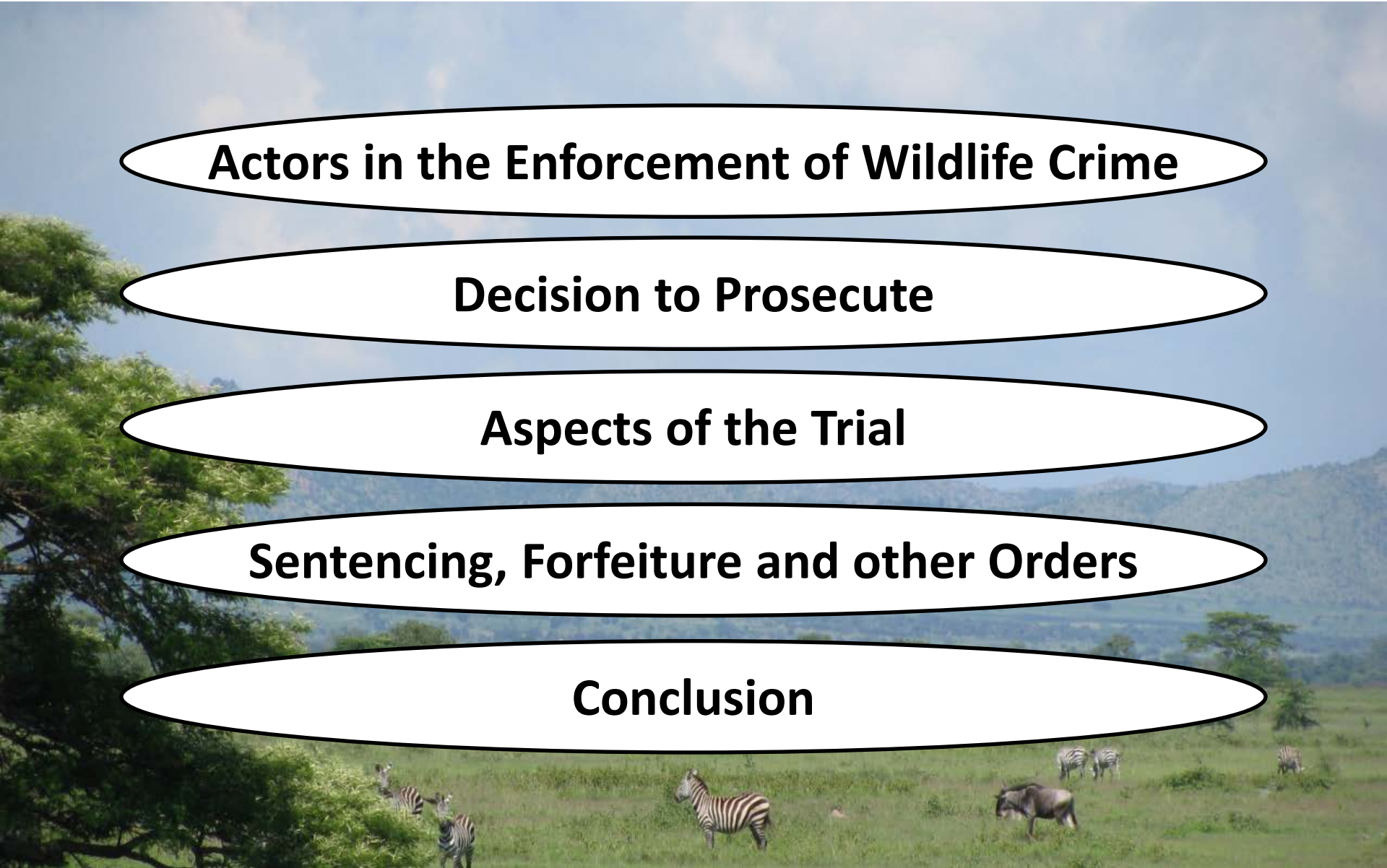
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THE DECISION TO PROSECUTE



Guiding factors

Alternatives to prosecution

Examples: when to prosecute

The Decision to Prosecute

General criteria

Evidence for elements of offence

Reasonable prospect of success

Interest of community

Additional criteria

Environmental harm

Culpability

repeat offender

organized crime

commercial crime

The Decision to Prosecute

Alternatives to Prosecution

Informal warnings

Suspension or cancellation of permits

Administrative notices

Admission of guilt fines**

**still a prosecution ...

Examples: When to Prosecute?

intentional or grossly negligent

caused serious negative impact on wildlife

involved organized crime

fraud, corruption, tax evasion, money laundering

persistent wrongdoing or prior offences

investigator impersonated, assaulted or intimidated

abuse of licensing system

obstruction of justice or false information

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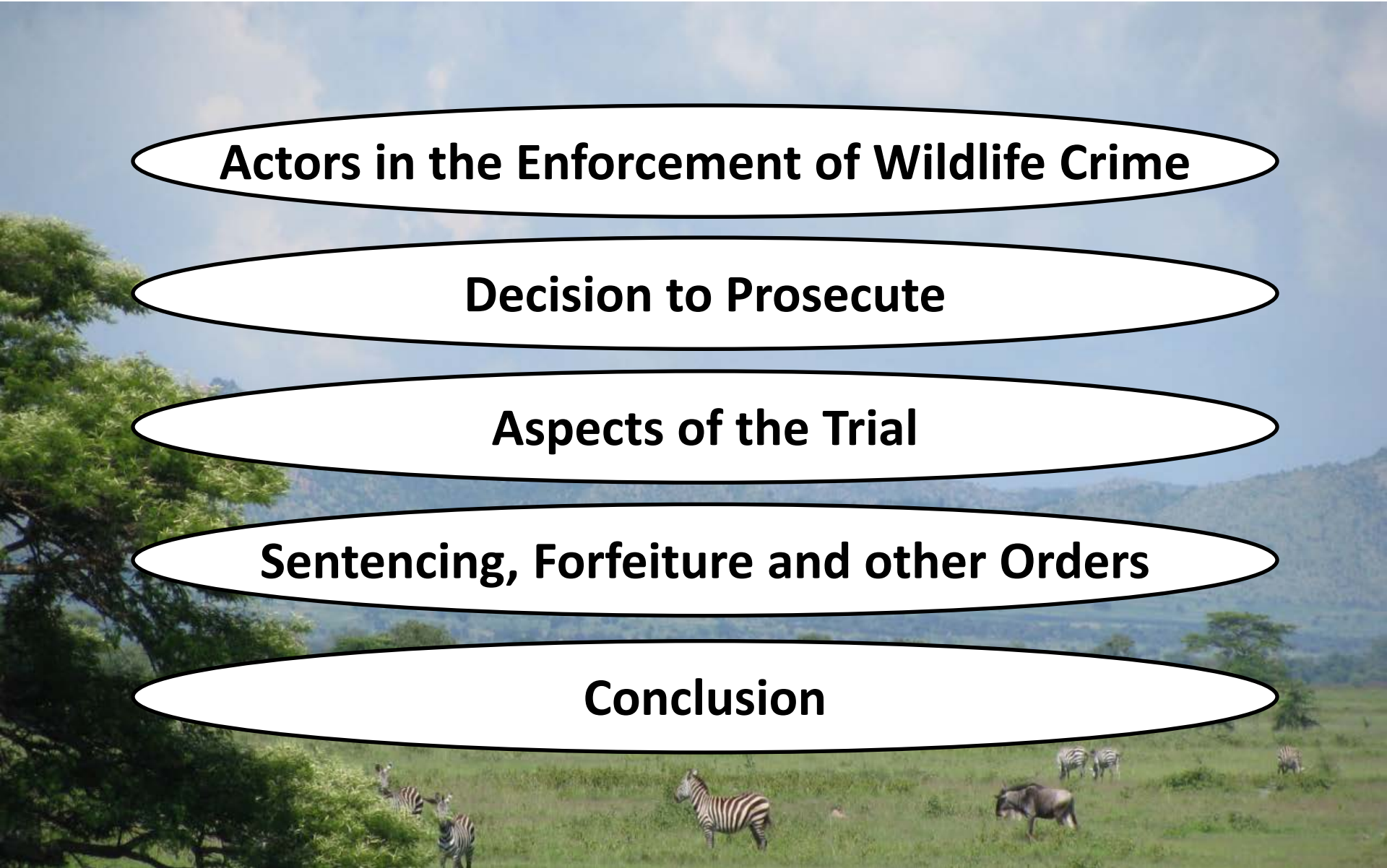
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ASPECTS OF THE TRIAL



Drafting charge sheets

Preparing for trial

Plea and sentence agreements

Drafting Charge Sheets

Basic Criteria

accurate and comprehensive

preamble to provide facts

reference to relevant sections/regulations

Pro forma charge sheets

Preparing for Trial

prepare and index documentation

consult with witnesses

ensure reliability of methodology used by experts

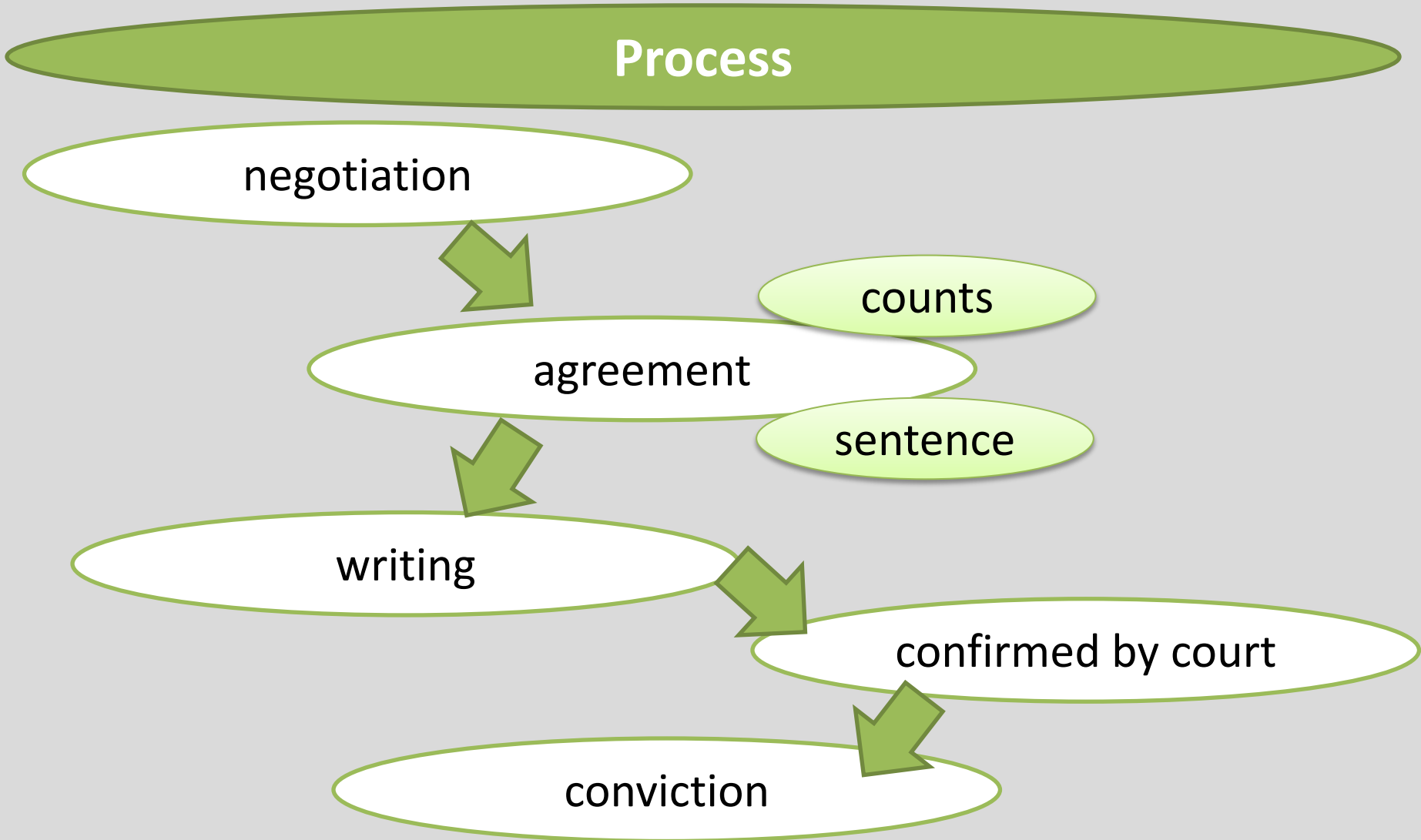
prepare expert witnesses

check laboratory analysis

plan for site inspection

research available or expected defence

Plea and sentence agreements



Plea and sentence agreements

Advantages

ensure conviction

avoid lengthy trial

swift disposal of cases

creative sentencing

use to catch “big fish”

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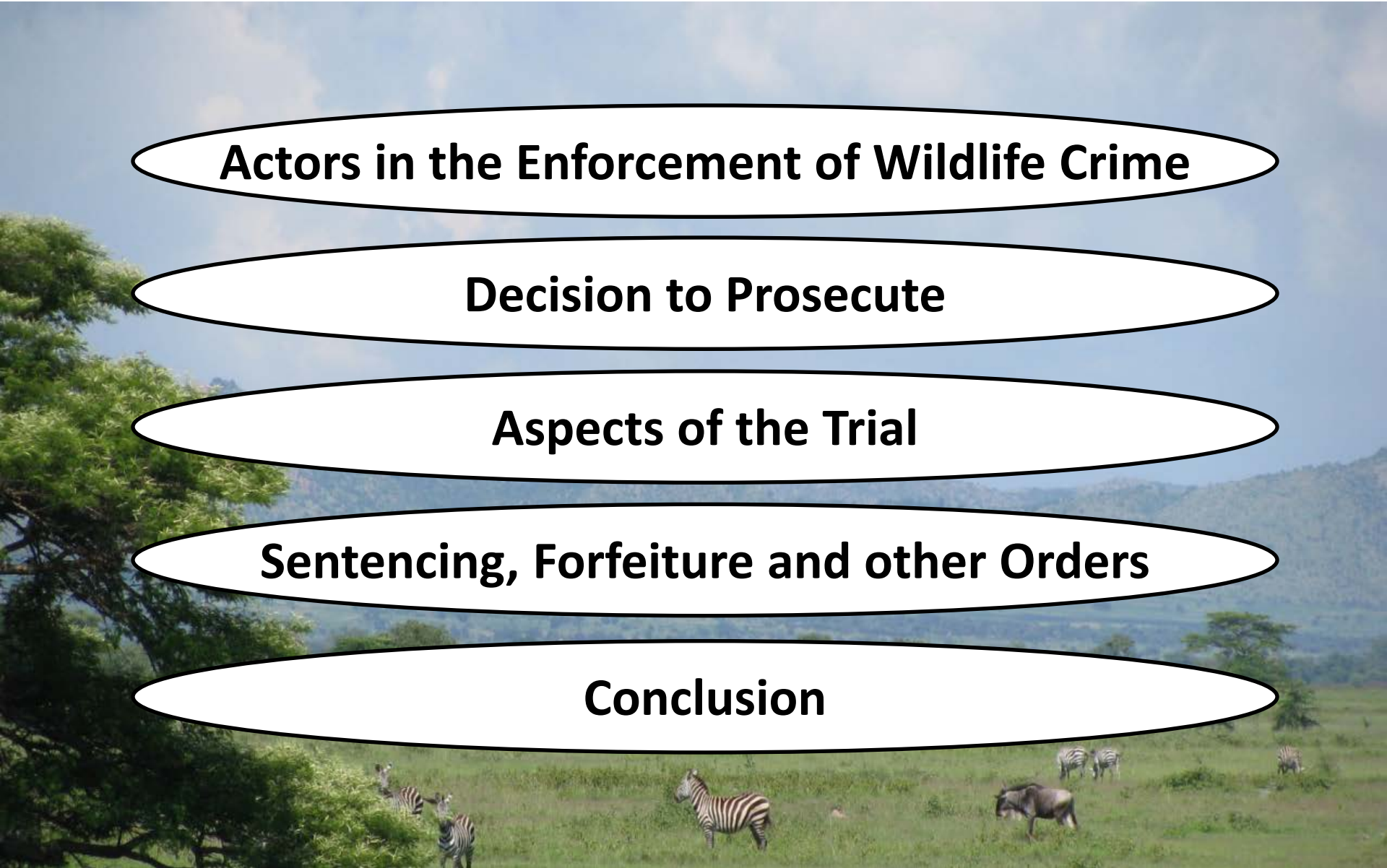
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SENTENCING, FORFEITURE AND OTHER ORDERS ON CONVICTION



Sentencing

Forfeiture orders

Additional orders

Sentencing

Aims of sentencing

deterrence

prevention

retribution

rehabilitation

Sentencing

General factors

personal circumstances of accused

seriousness of offence

interests of society

Sentencing

Evidence in aggravation

statistics on prevalence of wildlife crime

expert testimony as to effect on wildlife

expert testimony as to economic effect

testimony from affected individuals/communities

photographic evidence of effect

Forfeiture orders

Aims of forfeiture

remove incentives to commit crime

remove instrumentality of crime

deter persons from committing crime

advance justice

Additional or supplementary order

forfeiture of proceeds of crime

cancellation of licenses

ban accused from applying for permits

payment for damage, rehabilitation

payment of costs of investigation/prosecution

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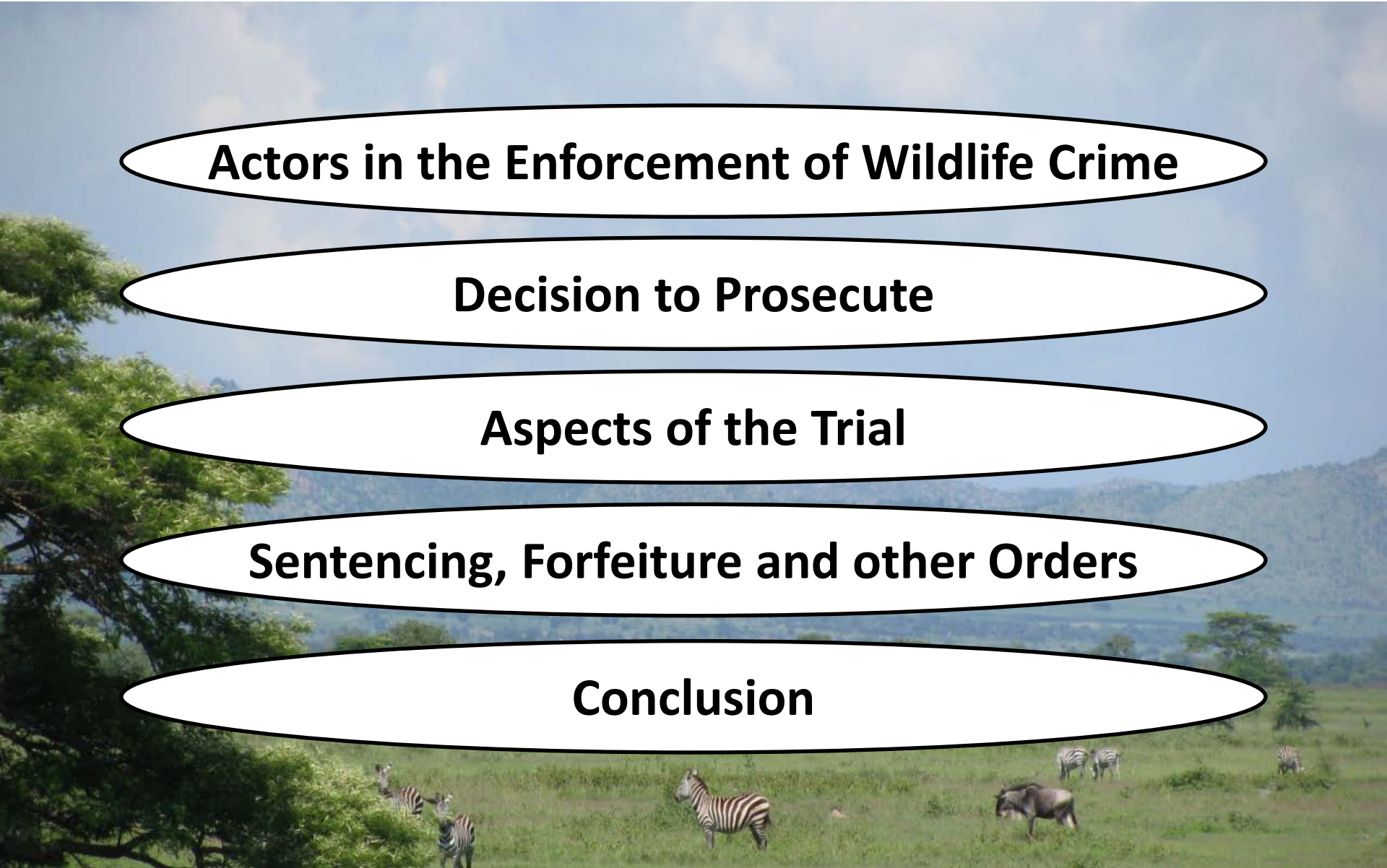
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CONCLUSION



Why a criminal law approach?

What makes criminal law effective?

Why criminal law?

Effective investigation/
prosecution

Criminal sanctions

Deterrent value

Liability for damages

Loss of proceeds

Removing the incentive to commit such crimes

Powers of enforcement officers and investigators

Successful prosecutions

Break up organised syndicates

What makes criminal law effective?

strong legislation

provides powers to enforce/investigate

creates offences covering all transgressions

provides for adequate penalties

effective detection, enforcement, investigation

prosecutors have awareness, knowledge, expertise

appropriate and public sentences

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