Global Tax Governance

Adrián ***Grant*** | *Frederik* ***Heitmüller***

13 December 2018

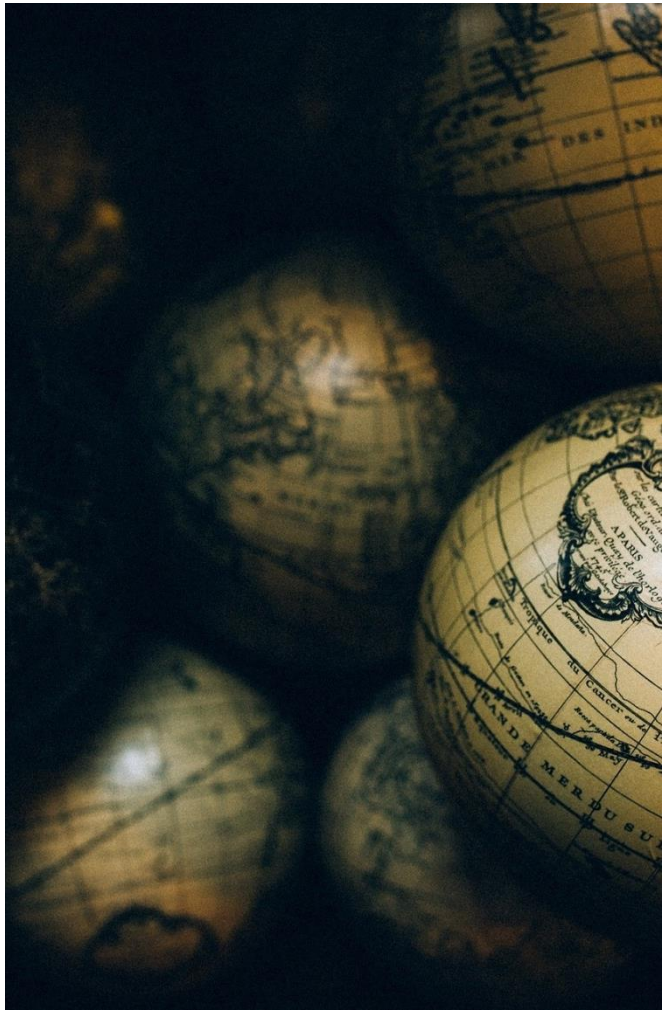
Universiteit Leiden
The Netherlands

GLOBTAXGOV
A NEW MODEL OF GLOBAL GOVERNANCE IN INTERNATIONAL TAX LAW MAKING

erc
European Research Council
Established by the European Commission

Index

- Introduction
- OECD BEPS Project
- Legal transplants
- GLOBTAXGOV research plan
- Conclusions



1. Introduction

Global tax governance

"Global tax governance [...] consists of the set of institutions governing issues of taxation that involve cross-border transactions or have other international implications."

(Dietsch & Rixen, 2016)

Current model

- Double tax treaties
- OECD
- BEPS
- UN? Other actors?

2. OECD BEPS Project

Description & Objectives

International framework to combat tax avoidance by multinational enterprises ("MNEs") using base erosion and profit shifting tools.

Objectives:

- Close tax loopholes
- Increase revenue after economic crisis
- Consolidate hegemony of OECD

2. OECD BEPS Project

Minimum standards

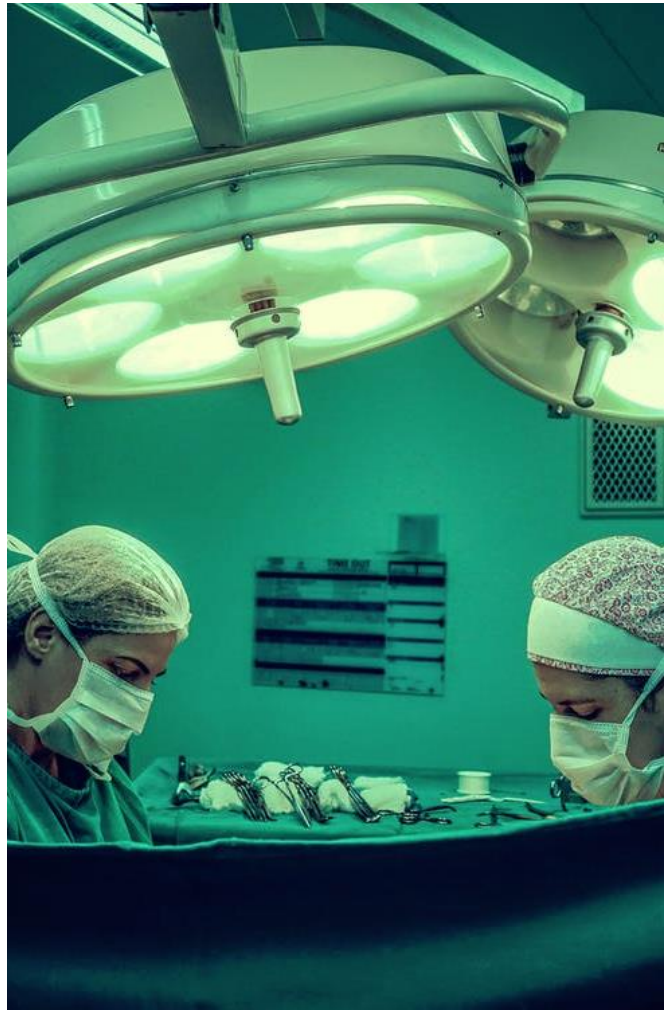
Inclusive framework includes non-OECD countries.

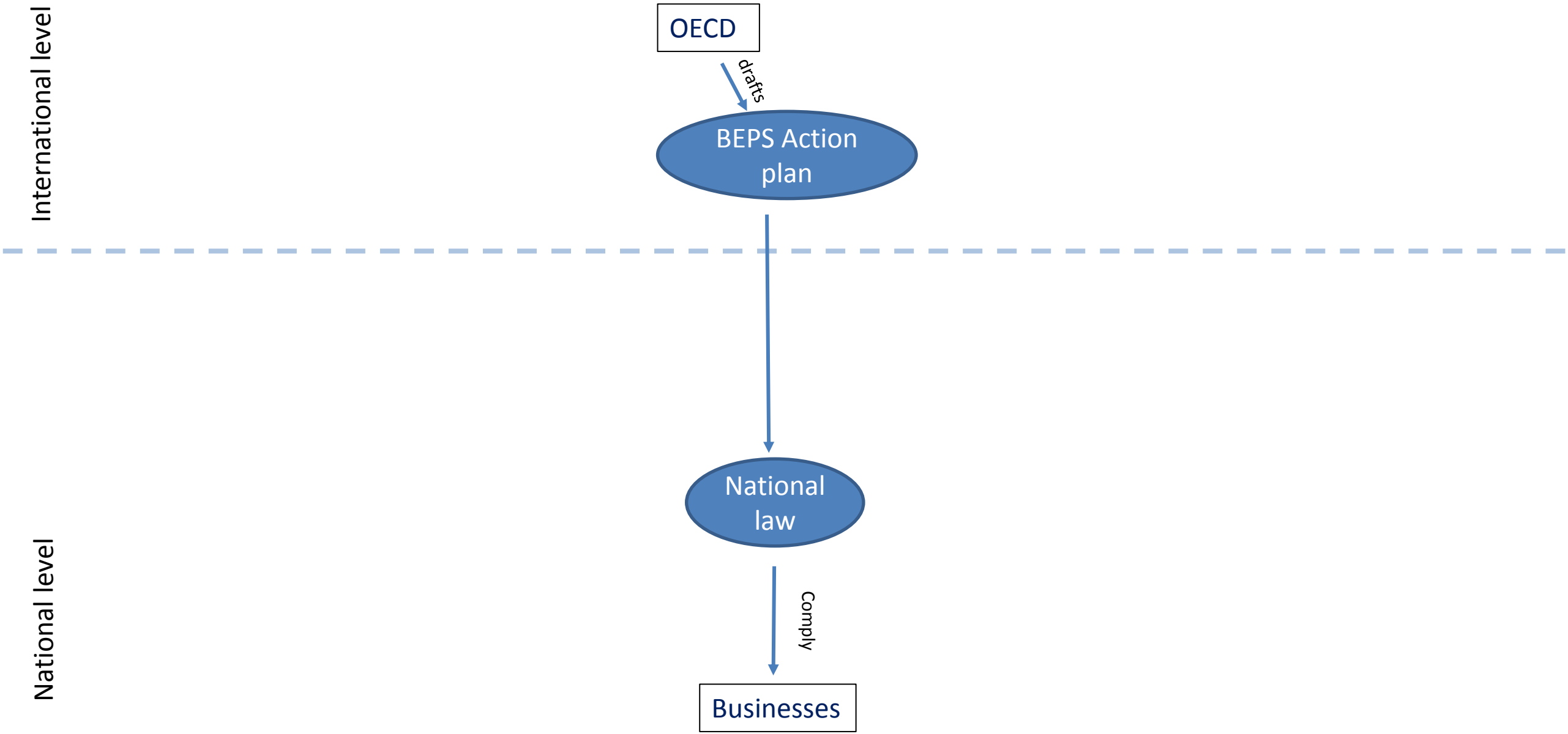
Members of the IF commit to these measures:

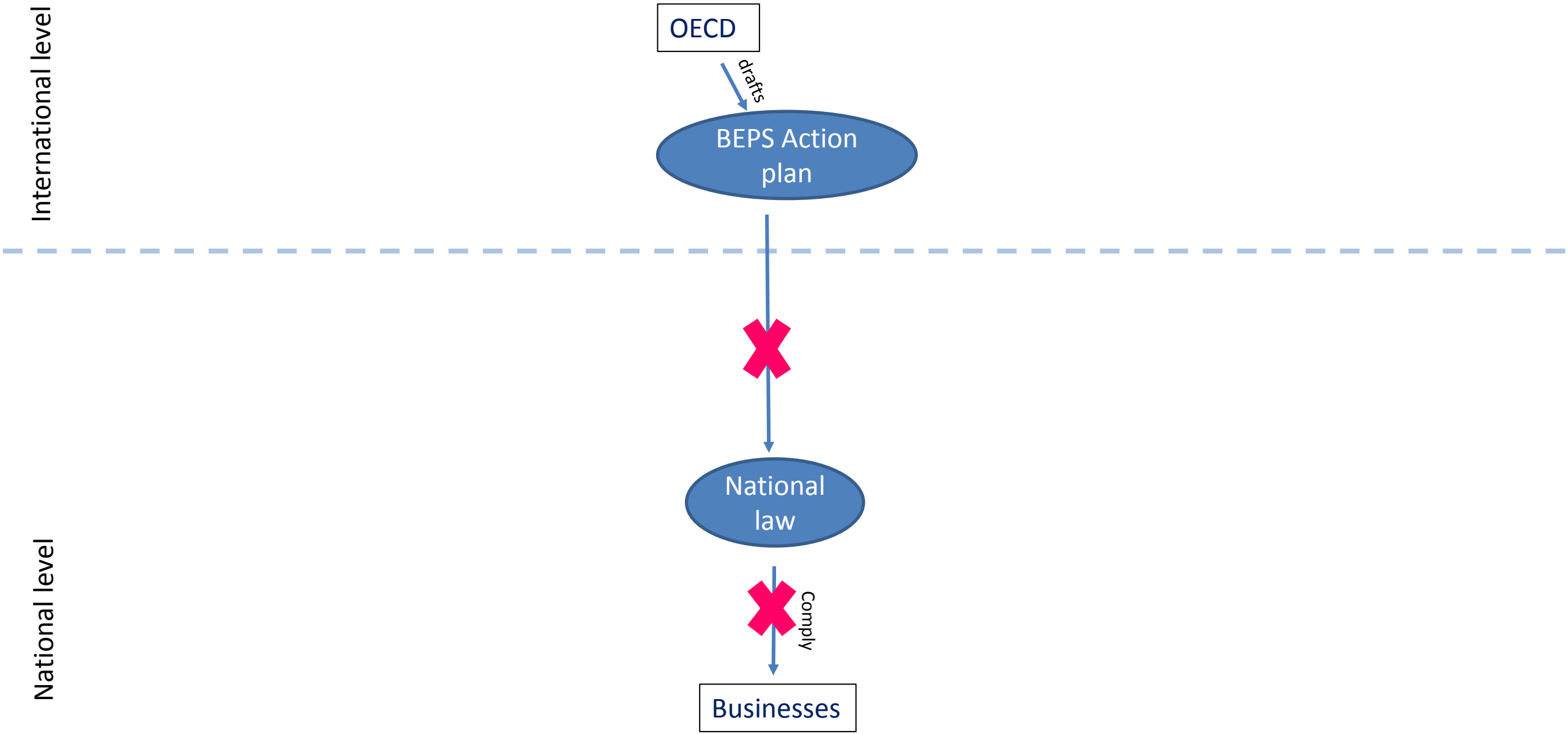
- Action 5: Harmful Tax Practices
- Action 6: Treaty Abuse
- Action 13: Transfer Pricing Documentation
- Action 14: Dispute Resolution

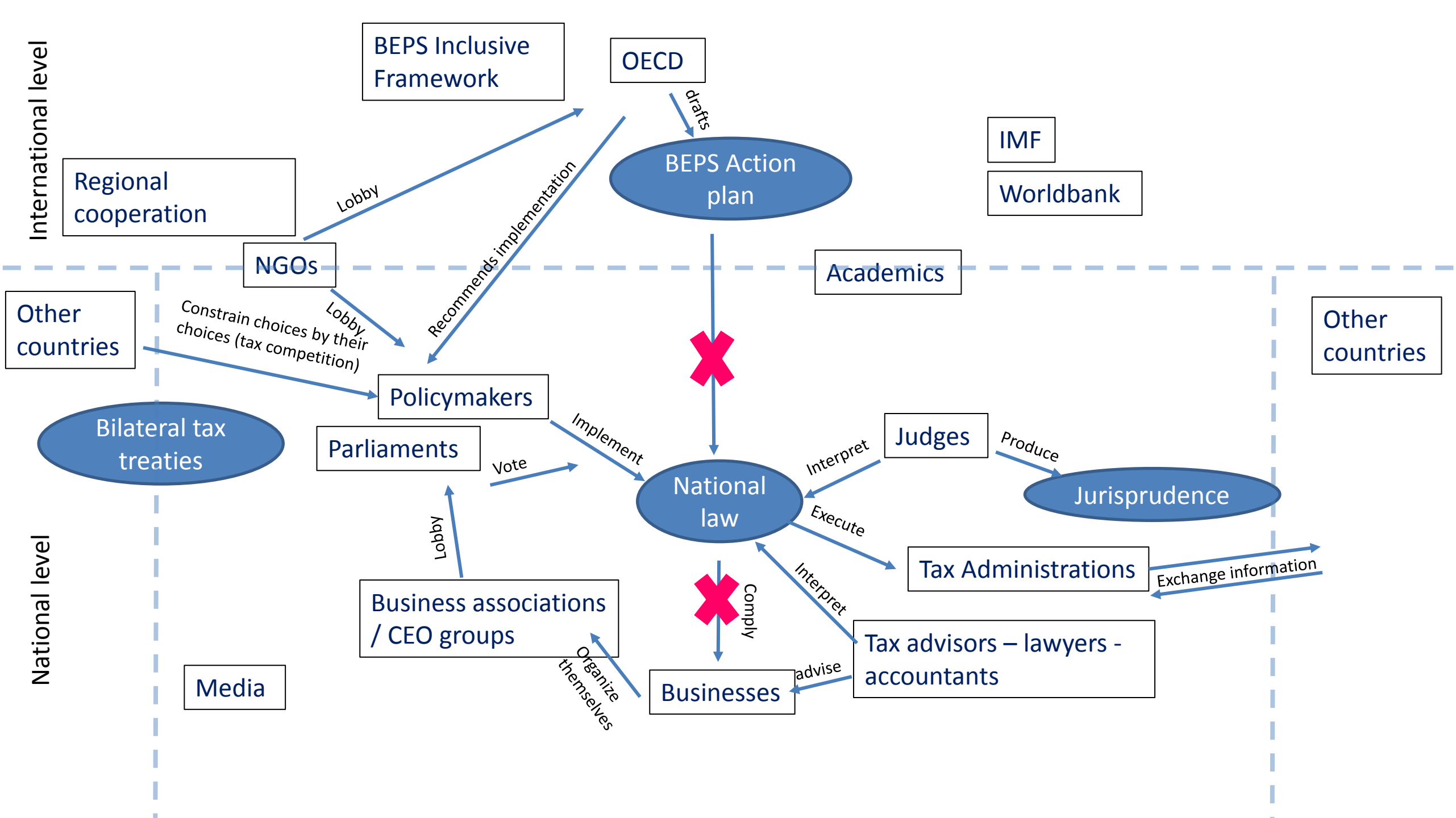
3. Legal transplant

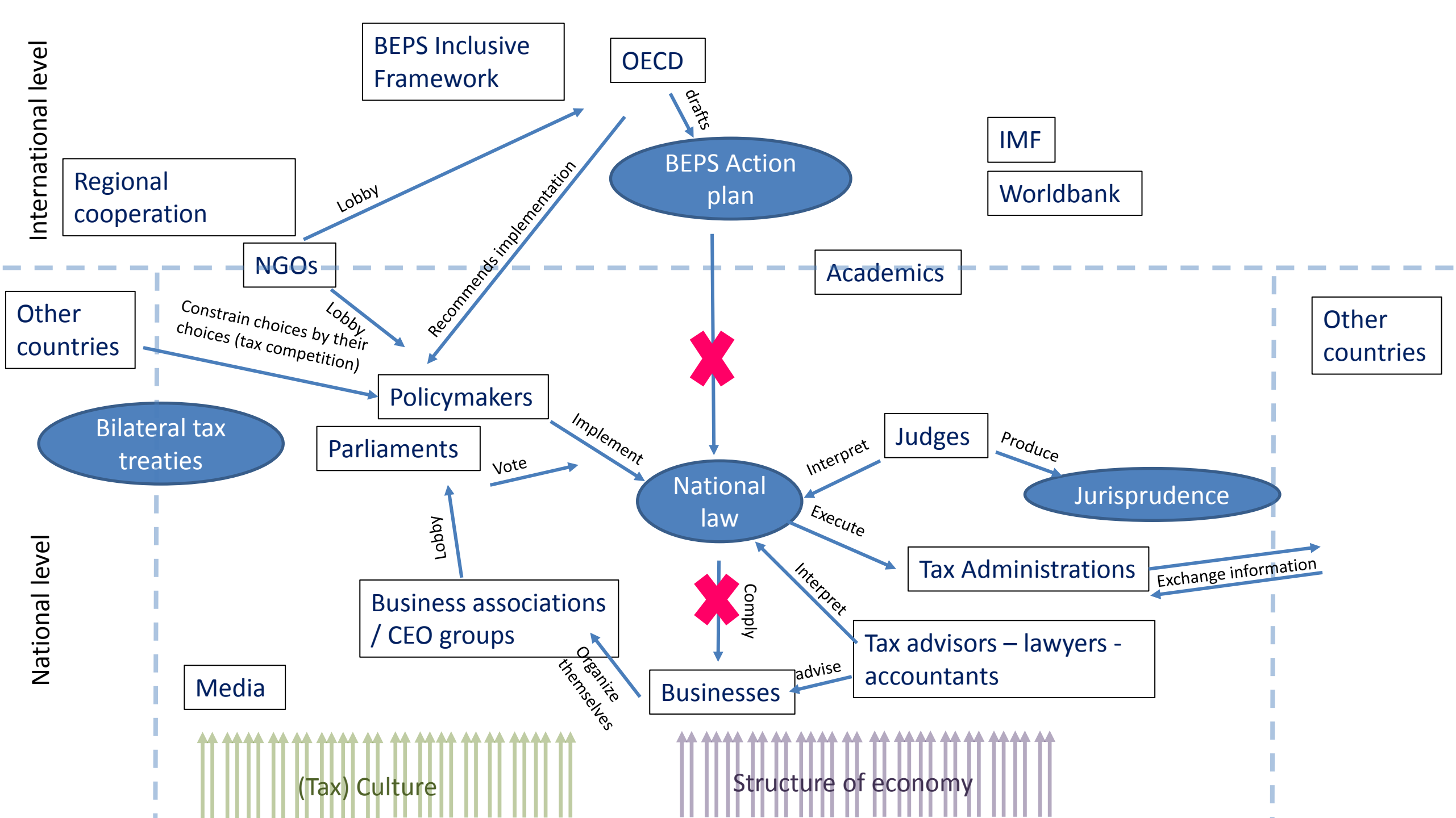
- Importing foreign institutions to produce social change
- Influence of
  - political system
  - legal system
  - geography
  - structure of economy
  - culture

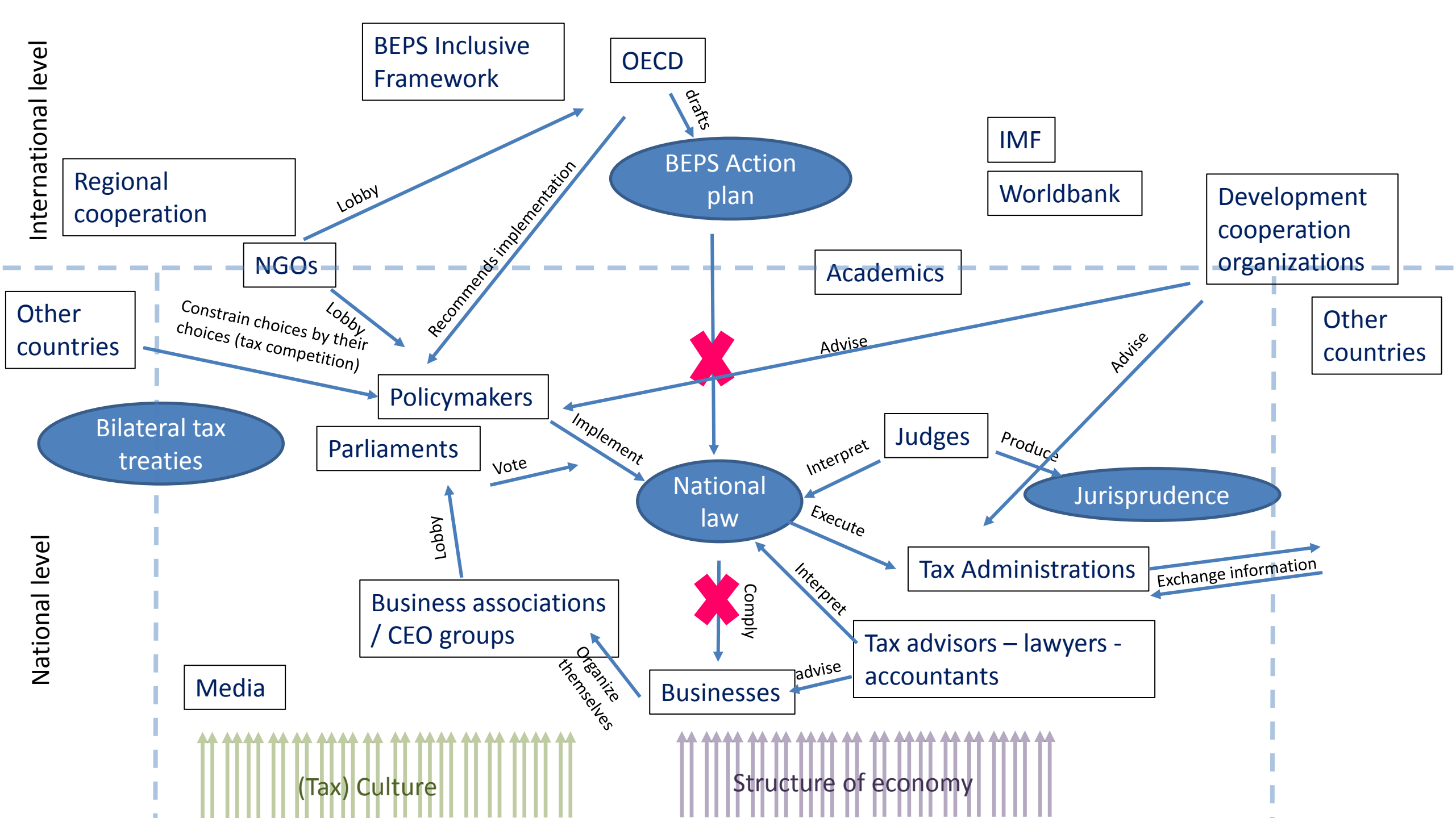


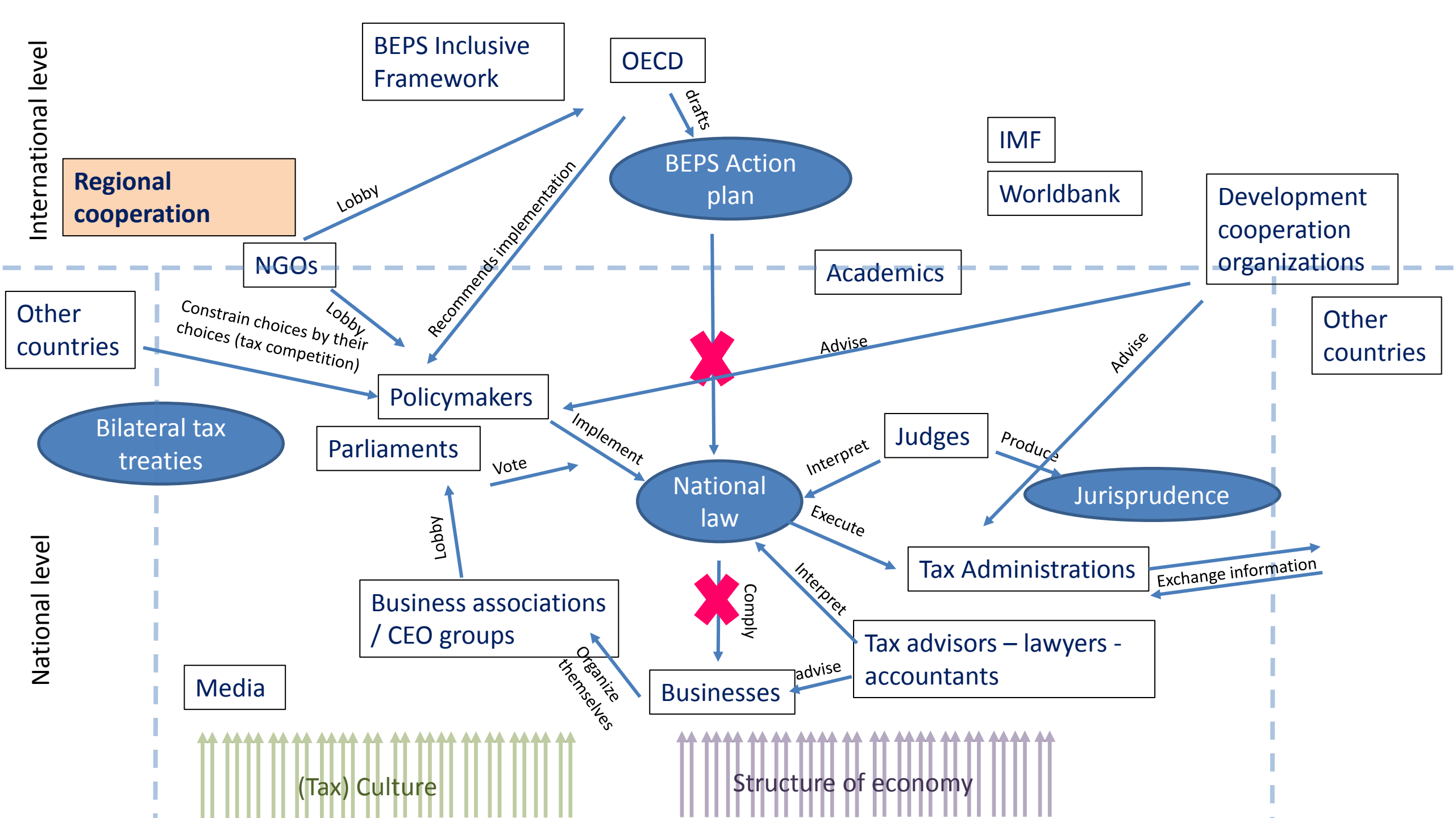

International level
OECD
drafts
BEPS Action plan
National law
National level
Comply
Businesses

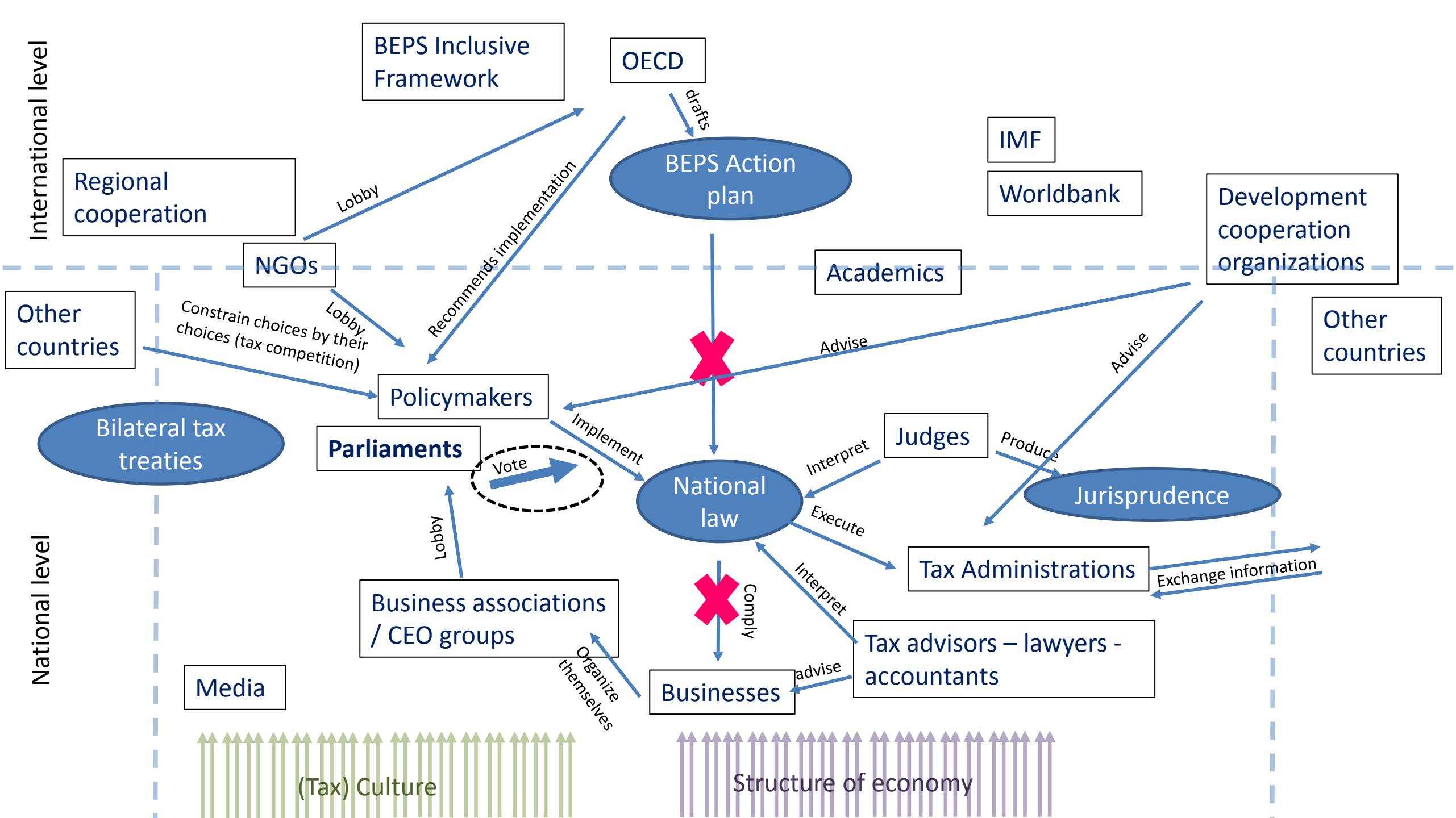

International level
OECD
drafts
BEPS Action plan
National law
Comply
Businesses
National level

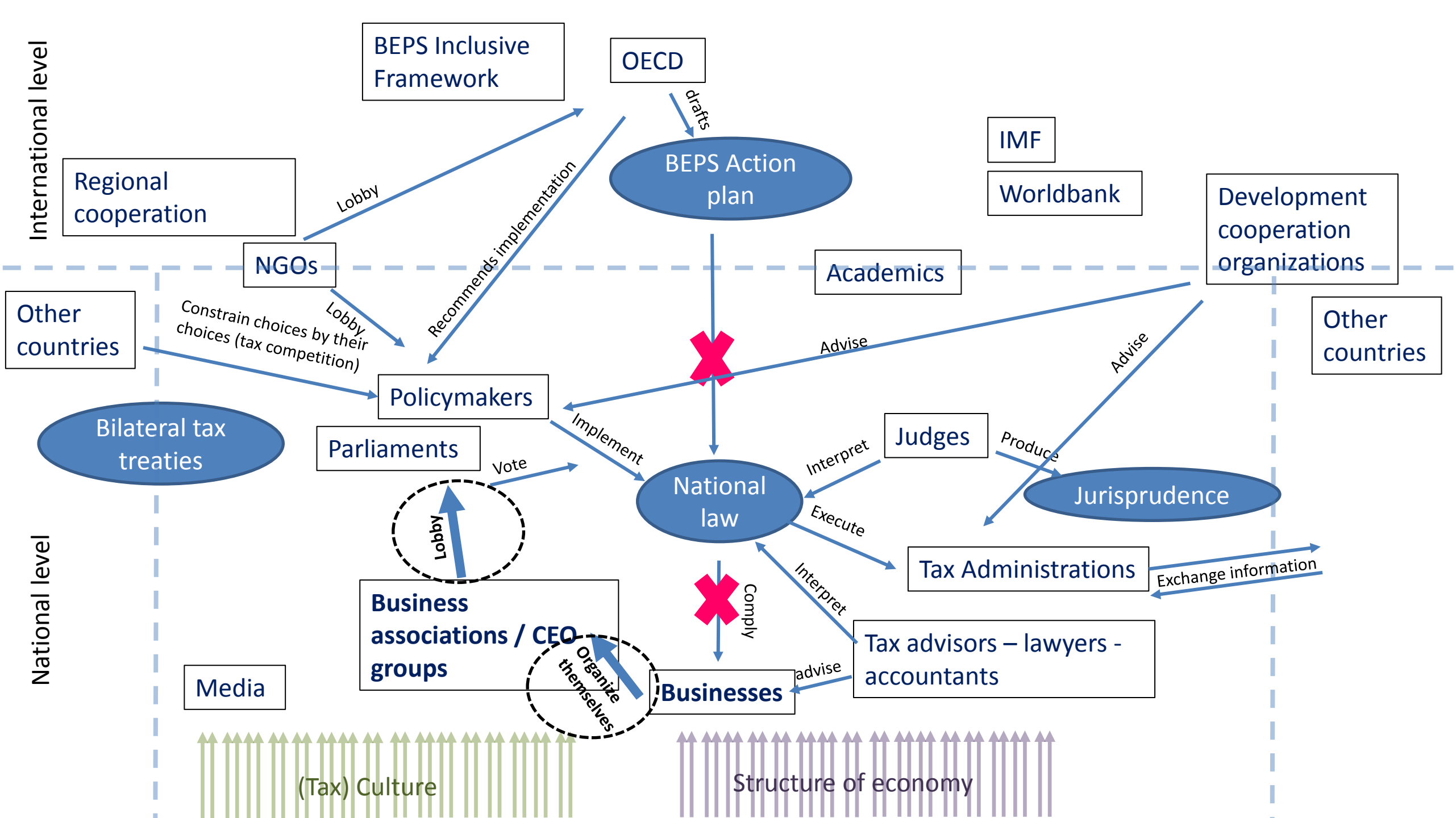

International level
BEPS Inclusive Framework
OECD
drafts
BEPS Action plan
IMF
Worldbank
Regional cooperation
Lobby
Recommends implementation
NGOs
Academics
Other countries
Lobby
Constrain choices by their choices (tax competition)
Other countries
Policymakers
Bilateral tax treaties
Parliaments
Implement
Vote
National law
Interpret
Judges
Produce
Jurisprudence
Execute
Tax Administrations
Exchange information
Lobby
Business associations / CEO groups
Comply
Interpret
Tax advisors – lawyers - accountants
National level
Media
Organize themselves
Businesses
advise

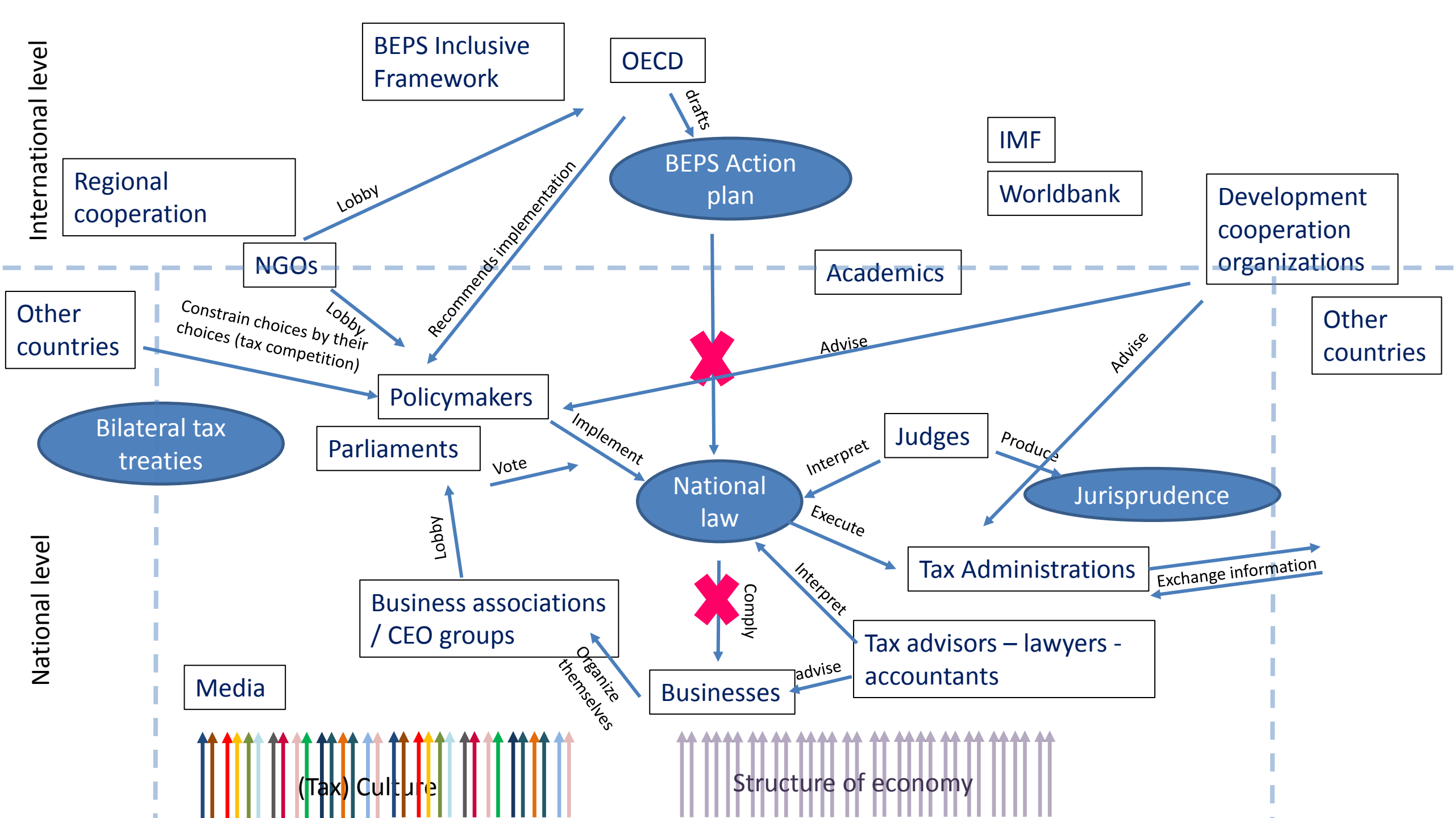

International level
BEPS Inclusive Framework
OECD
drafts
BEPS Action plan
IMF
Worldbank
Regional cooperation
Lobby
Recommends implementation
NGOs
Lobby
Academics
Other countries
Constrain choices by their choices (tax competition)
Other countries
Policymakers
Bilateral tax treaties
Parliaments
Implement
Vote
National law
Interpret
Judges
Produce
Jurisprudence
Execute
Tax Administrations
Exchange information
National level
Lobby
Business associations / CEO groups
Comply
Interpret
Tax advisors – lawyers - accountants
Organize themselves
Businesses
advise
Media
(Tax) Culture
Structure of economy


International level
National level
BEPS Inclusive Framework
OECD
drafts
BEPS Action plan
IMF
Worldbank
Development cooperation organizations
Regional cooperation
Lobby
Recommends implementation
NGOs
Lobby
Academics
Other countries
Constrain choices by their choices (tax competition)
Advise
Advise
Other countries
Policymakers
Bilateral tax treaties
Parliaments
Vote
Implement
Judges
Interpret
Produce
National law
Jurisprudence
Execute
Lobby
Business associations / CEO groups
Comply
Interpret
Tax Administrations
Exchange information
Tax advisors – lawyers - accountants
Organize themselves
advise
Businesses
Media
(Tax) Culture
Structure of economy


International level
National level
BEPS Inclusive Framework
OECD
drafts
BEPS Action plan
IMF
Worldbank
Development cooperation organizations
Regional cooperation
Lobby
Recommends implementation
NGOs
Lobby
Academics
Other countries
Constrain choices by their choices (tax competition)
Advise
Advise
Other countries
Policymakers
Bilateral tax treaties
Parliaments
Implement
Vote
Judges
Interpret
Produce
National law
Jurisprudence
Execute
Lobby
Tax Administrations
Exchange information
Business associations / CEO groups
Comply
Interpret
Tax advisors – lawyers - accountants
Organize themselves
advise
Businesses
Media
(Tax) Culture
Structure of economy


International level
National level
BEPS Inclusive Framework
OECD
drafts
BEPS Action plan
IMF
Worldbank
Development cooperation organizations
Regional cooperation
Lobby
Recommends implementation
NGOs
Lobby
Academics
Other countries
Constrain choices by their choices (tax competition)
Advise
Advise
Other countries
Policymakers
Bilateral tax treaties
Parliaments
Vote
Implement
National law
Interpret
Judges
Produce
Jurisprudence
Execute
Lobby
Tax Administrations
Exchange information
Business associations / CEO groups
Comply
Interpret
Tax advisors – lawyers - accountants
Organize themselves
Businesses
advise
Media
(Tax) Culture
Structure of economy


International level
National level
BEPS Inclusive Framework
OECD
drafts
BEPS Action plan
IMF
Worldbank
Development cooperation organizations
Regional cooperation
Lobby
Recommends implementation
NGOs
Lobby
Academics
Other countries
Constrain choices by their choices (tax competition)
Advise
Advise
Other countries
Policymakers
Bilateral tax treaties
Parliaments
Implement
Judges
Interpret
Produce
Vote
National law
Jurisprudence
Lobby
Execute
Tax Administrations
Exchange information
Business associations / CEO groups
Comply
Interpret
Tax advisors – lawyers - accountants
Organize themselves
Businesses
advise
Media
(Tax) Culture
Structure of economy


International level
National level
BEPS Inclusive Framework
OECD
drafts
BEPS Action plan
IMF
Worldbank
Development cooperation organizations
Regional cooperation
Lobby
Recommends implementation
NGOs
Lobby
Academics
Other countries
Constrain choices by their choices (tax competition)
Advise
Advise
Other countries
Policymakers
Bilateral tax treaties
Parliaments
Implement
Vote
Judges
Interpret
Produce
National law
Jurisprudence
Execute
Lobby
Tax Administrations
Exchange information
Business associations / CEO groups
Comply
Interpret
Tax advisors – lawyers - accountants
Organize themselves
advise
Businesses
Media
(Tax) Culture
Structure of economy

3. Legal transplants – some hypotheses

- Difference between countries
  - Structure of economy (FDI recipient or exporting, FDI intensity, MNE headquarters, importance of sectors)
  - Level of development
  - Political system (influence of parliament and interest groups) Genschel/Seelkopf 2016
  -

- Differences within countries

4. GLOBTAXGOV research plan

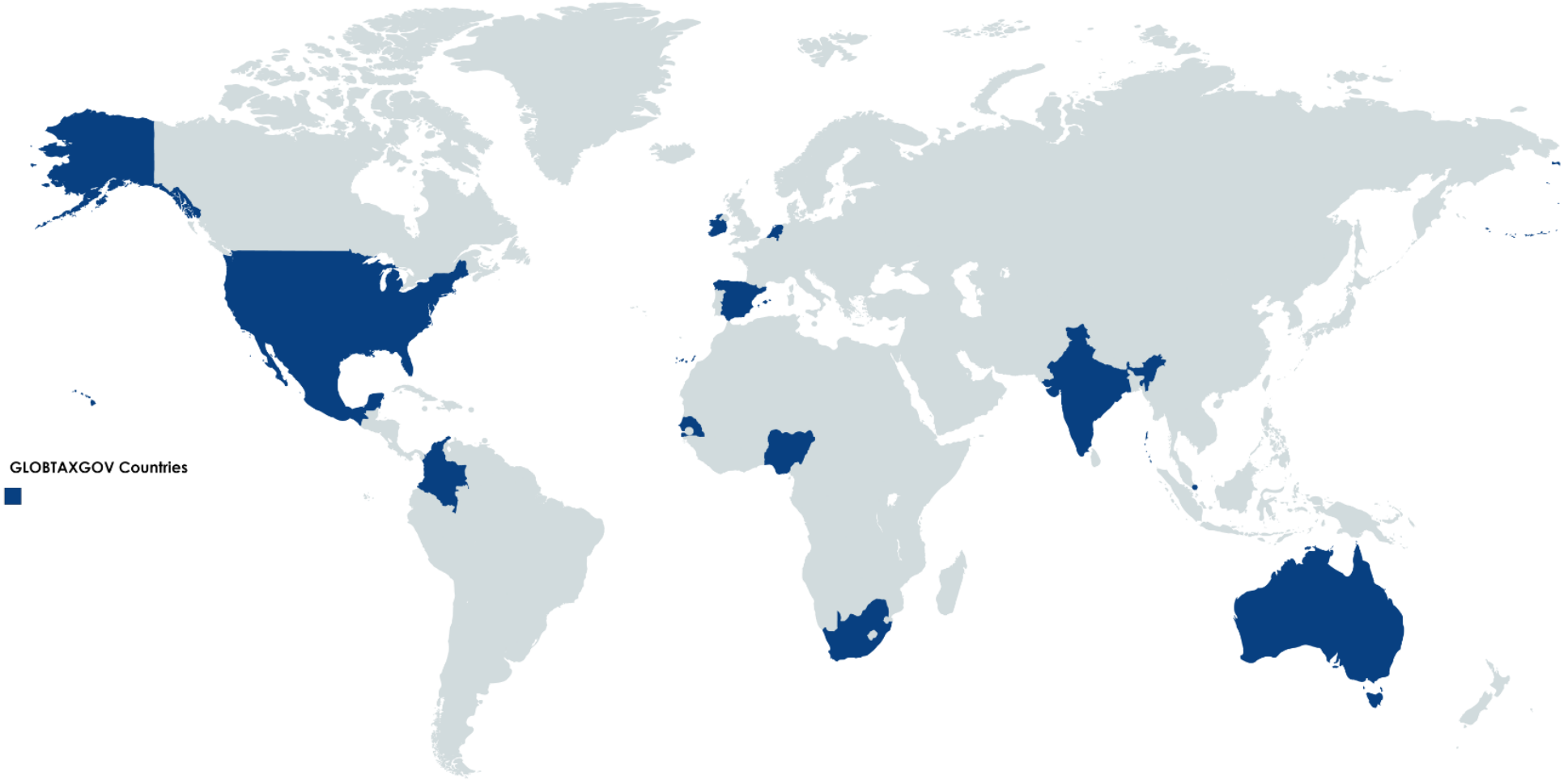
Assessment of the current global tax governance model

3 Sub-questions:

- Why are these countries participating in the BEPS Project?
- How will the BEPS minimum standards be transplanted into the tax system of these countries?
- How can the differences in tax systems and tax cultures of these countries influence the content of these minimum standards?

4. GLOBTAXGOV research plan

Countries to analyze



4. GLOBTAXGOV research plan

Criteria for choosing these countries:

1. Location
2. Legal system
3. Economy
4. BEPS commitment
5. Membership

4. GLOBTAXGOV research plan

Work plan:

1. Desk research (legal transplants, country particularities)
2. Interviews (tax professionals, tax authorities, scholars, etc.)
3. Surveys
4. Workshops

Dankuwel.
Thank you.
Gracias.
Merci.

Universiteit
Leiden
The Netherlands