REUTERS

Push against investment rules in trade deals picks up

By Krista Hughes

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Law professors from around the United States on Wednesday urged lawmakers to keep rules to protect foreign investors out of trade pacts, warning they would give big companies too much power.

The letter from more than 100 law professors, from schools including Columbia and Harvard, is the latest step in a campaign against investor-state dispute settlement, or ISDS, laws.

The push is championed by influential Democratic Senator Elizabeth Warren, who told reporters that rules allowing private companies to seek compensation from governments were a "bad deal."

"The letter demonstrates that ISDS should raise alarm bells for everyone," she said on a call to release the letter.

United Nations figures show investor-state claims jumped since 2002, with high-profile cases such as a challenge by tobacco company Philip Morris's Asian arm to Australia's plain cigarette packaging law.

Consumer group Public Citizen and the libertarian Cato Institute have both warned that cases against the United States may increase as more large companies are headquartered outside the country.

The Obama administration, which has rejected criticism of the rules, on Wednesday released a fact sheet to rebut what it said were incorrect claims.

White House National Economic Council Director Jeff Zients wrote in a blog last month that ISDS rules proposed in the proposed 12-nation Trans-Pacific Partnership trade deal would narrow the scope of injuries for which companies can seek compensation, quickly dismiss frivolous claims, exclude sham corporations and make proceedings open and transparent.

National Association of Manufacturers Vice President Linda Dempsey said many foreign governments discriminated against U.S. companies, stole technology and denied them fair treatment.

"ISDS provides an internationally recognized enforcement mechanism that ensures investors an objective hearing if a foreign government denies the most basic internationally recognized rights," she said.

A Center for Strategic and International Studies report found 40 percent of claims arose in sectors with high levels of state intervention, such as oil, and most are against countries with weak legal institutions, like Argentina and Venezuela.

U.S. companies have brought 15 percent of pending cases before the World Bank's International Center for Settlement of Investment Disputes. There are no pending cases against Washington, which has never lost a case.

The rules are also a source of controversy in a proposed trade pact with the European Union, with particularly fierce opposition in Germany, Europe's largest exporter.