



25 March 2015

Tricia Feeney  
Executive Director  
Rights & Accountability in Development

Dear Ms. Feeney,

Thank you for your summary briefing on the current state of corporate accountability for human rights performance. The briefing addresses several key concerns that we also have regarding the state of international standards and corporate accountability. We hope to engage in the future on these general concerns regarding accountability, and the roles of both companies and government in respecting and protecting human rights. Avanzar has witnessed how effective it is when government oversight works well. Identifying the duty-bearer for each impact is crucial to correctly assign accountability.

However, in this letter, we would like to respond to the statements made regarding our company, Avanzar LLC, and our work for one of our clients, Barrick Gold Corporation. We are not sure where the information was obtained regarding the information reported, but we would have welcomed the opportunity to provide direct information about our Human Rights Assessment process (HRA) to your organization and the authors of the report.

Firstly, we would like to briefly describe Avanzar's HRA tool:

Avanzar developed the assessment tool by reviewing other human rights questionnaires and over one hundred international conventions and covenants. These were then organized into seven categories<sup>1</sup> and 144 questions. Using this assessment protocol, the assessors analyse the potential, actual and perceived negative human rights impacts by the company and evaluate the risks to the *rights-holder* of these impacts. Avanzar personnel conduct the assessments by reviewing internal documents, external international and national reports; and interviewing employees, contractor employees and local and regional community stakeholders. Fund for Peace (FFP), a respected NGO that works to prevent conflict and human rights abuses in conflict areas – and is a member of the Voluntary Principles Steering Committee – served as an independent external expert on the project and reviewed the tool before it was implemented.

Secondly, we would like to clarify our human rights assessment work with Barrick specifically:

Avanzar LLC is hired by Barrick Gold Corporation's Legal Department to assess the risk exposure to the rights-holders of Barrick's business processes and the progress made in reducing the risk of infringing upon individuals' human rights. For initial assessments, a full scope HRA is conducted. For repeat assessments, Avanzar discusses the scope of work with Barrick and recommends specific issues that should be assessed based on past findings or emerging issues.

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<sup>1</sup> The categories are: Labour and Working Conditions (including safety and health); Indigenous Peoples Rights; Community Cultural, Social and Economic Rights; Community Environment and Health and Safety; Land Rights; Security; Anti-corruption.

To date, Avanzar's suggested scope has been accepted. The frequency of the assessments is based on site risk level (depending on the political, legal, community organization context).

Due to the on going, recurring nature of the assessments, the process is continuously improved to better identify potential human rights impacts. For example, in 2014, we worked with UNICEF to strengthen the assessment of children's vulnerability to human rights impacts related to mining. We welcome other organizations interested in improving the risk and impact identification process to work with us, because it is only through the identification of the risks and impacts that companies can then begin to address, mitigate and remediate them.

Thirdly, we would like to respond to specific comments made in RAID's report:

(1) RAID's report states that HRAs focus on business risk and not the risk to the rights-holder:<sup>2</sup> Avanzar's HRA process specifically focuses on the risk to the rights-holder. We developed a risk ranking methodology that clearly specifies the actual or potential risk to the rights-holder based on the severity of the actual or potential impact. Any actual human rights impacts identified are immediately classified as high risk to the rights holder. We would be pleased to discuss our current methodology in more detail. However, it should be clear that we felt strongly that the risk to the company (e.g. reputation, financing) should not be a consideration when ranking human rights risks or impacts.

(2) The report discusses concerns with legal privilege and confidentiality of Avanzar's assessments:<sup>3</sup> Avanzar has found that the cover of privilege allows frank discussions with employees and external stakeholders that allow us to obtain information that we would not be able to gain otherwise. We believe that it provides protection to whistleblowers and in the end helps the very individuals who may be impacted by potential human rights violations since the impacts are identified and the company can then mitigate them and ideally prevent the potential impact from occurring. If employees or community members were afraid that their comments could end up on the front-page news, we would not have as much access to them nor be able to obtain information from them. From a human rights perspective, confidentiality ensures that the rights holders involved are not harmed or at risk of harm by the publication of information.

External and internal advisors are frequently contracted to give the company confidential advice. The company is then responsible for considering that advice and making decisions on how to act. Barrick Gold Corporation has other processes that provide public assurance of its programs.<sup>4</sup> However, our reports and process are designed to be confidential.

(3) The report refers to Avanzar's status as a consulting company:<sup>5</sup> RAID is correct; Avanzar LLC

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<sup>2</sup> From report: "Given that the GPs advocate the utility of human rights risk management in terms of protecting a company's reputation, insuring against claims, and managing problems to avoid their escalation – all of which, ultimately, protect profits by reducing costs – it is difficult to see how they can ensure that 'rights holders' remain at the heart of the exercise."

<sup>3</sup> P. 7: "It is of obvious benefit to Avanzar and Barrick to avoid concerns or threats arising from public disclosure, but it is not so clear how this benefits victims of abuse who often rely upon wider public recognition of their plight in order to have any chance of redress."

<sup>4</sup> See Barrick's website and CSR reports for more information on these processes. [www.barrick.com](http://www.barrick.com)

<sup>5</sup> P. 7: "But the contractual relationship between Barrick and Avanzar is one of company to consultant, which is far removed from an independent monitoring of Barrick's human rights record."

is not an independent watch-dog, nor a government auditor. We are a consulting company hired to conduct a review of business processes and their potential, perceived and actual human rights impacts, similar to consultants or non-profits such as Verité, commissioned to conduct confidential labour risk assessments.

As we explain to the stakeholders who we interview, only through our actions can we demonstrate our independence. We have tried to embed objectivity in our process by (a) developing a tool that is rigorous, robust and comprehensive; (b) focusing on external and internal stakeholder interviews - only by recounting the information supplied by stakeholders and other sources in manner faithful and true to the source, can we ensure that we remain independent; and (c) having a final say on the content of the reports. The reports are solely the responsibility of Avanzar LLC and the assessor who produced the report.

Being remunerated for the work often leads to the perception of bias. Even multi-laterals and NGOs, when they partner with corporations are considered to be blue or green washing. The nature of being a consultant is not the root of the problem. We value our professional integrity and the integrity of our reports. We do not compromise on our findings of substance. When we believe our integrity could be compromised, we withdraw from the project or in a number of cases we have severed our relationship with the client.

Avanzar's founders and principals entered the discipline of human rights assessments from a background of community organizing and community development. Together we have conducted over 75 human rights assessments and Voluntary Principles assessments worldwide with a number of oil and gas and mining companies. We also work with companies to address human rights related impacts through training and the improvement of corporate policies, procedures and practices.

We recognize that the field of human rights assessments is in the process of maturing and we would like to engage in the discussion regarding improvements that will both empower the rights holders as well as respect business and interviewees confidentiality.

Sincerely,

Christina Sabater and Melissa Whellams  
Principals, Avanzar LLC