



BRAZILIAN SOCIAL SECURITY OVERVIEW

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Introduction

Social Security has been gradually increasing its commitment to the well being of Brazilian workers' families, mostly those of lower income and hard access to elementary life good. Social security provides them with a broad specter of coverage, which reaches, in addition to several pension modalities, from paid maternity leave, going through sick pay, up to assistance in commitment to an institution, mitigating them all sorts of adversity.

And Social Security does not act only in this direct reach on worker's life. It keeps participating in admirable manner in the economy of most small Brazilian towns, to the point of making up the main source of resources in these localities, ensuring them the indispensable social balance, by providing certain social security benefits.

In this harmonious conjugation between the social role, which is specific to it, and alternative influence in spreading economic resources - which is to say, in better income distribution - a third real value instrument opens up in the social security framework in Brazil, which is the Supplementary Pension Coverage.

It expands projection o the entire system, strongly operating on improving workers' life conditions and, further, as a well-organized and well-directed manner of long-term savings.

A little of all this is presented, in the technical description and data basis, in this *Brazilian Social Security Overview*.

All over the civilized World, ceaseless cries in favor of greater citizenship and human rights values grow, as a primary way of achieving a long-lasting peace and a better social balance for the entire humankind. It is not different here in Brazil, where these ideals are being performed with endeavor by the Federal Government.

In the projection security of the instruments described here, in the healthy climate of true Democracy that we are enjoying in Brazil, Social Security has a broad horizon to thrive in conquering objects, which it imposes on itself to keep seeking, urgently, growing firmness and motivation: increased enrollment of new insured people, an elementary prerequisite in extending social security coverage to thousands of Brazilian families forsaken by it, and for a better financial and actuarial balance of the entire system; the ceaseless fight, without a truce, against frauds and tax evasion and, at last, not the least important, adoption of a special administrative policy, all of it oriented toward insured persons' care modernization and streamlining, in an intended without precedents work front in the long history of Brazilian Social security.

In year 1821, a decree by Regent Prince Pedro de Alcântara became the first legal text recording the Social Security theme in Brazil. Prior to it we have only knowledge of a protection plan for Navy officers (1793), which granted a pension to widows and dependent children. In the Beginning of Security, we know MONGERAL, which was a support plan to Ministry of the Economy employees.

I

Historical

Background

The dawn of Security as we know it today was, however, in 1923 with Eloy Chaves Law, which provided for the creation of a Retirement and Pension Bank for each railroad company and encompassing all their employees. As of this Law, social protection in Brazil started relying on an institution that offered pension, retirement, medical care and pharmaceutical assistance. Still today, pension and retirements are indispensable benefits for characterizing a social security institution. Up to 1923, institutions granted one or the other benefit only.

In the 1930s, the social security system was restructured, keeping corporate bases, so as to respond to the

Brazilian industrialization process beginning political-economic dynamism. At the same time as the Banks, Retirement and Pension Institutes proliferated, restricted to urban workers: Seamen's Retirement and Pension Institute (IAPM), in 1933, Commercial Employees' Retirement and Pension Institute (IAPC), in 1933, Bank Employees' Retirement and Pension Institute (IAPB), in 1934, Industry Employees' Retirement and Pension Institute (IAPI), in 1936, Civil Servants' Social Security and Assistance Institute (IPASE), in 1938, Brazilian Reinsurance Institute (IRB) in 1939.

The institutes, however, had a very remarkable characteristic; each one had a specific benefit and contribution structure, which created a great disparity between social protection qualitative and quantitative levels.

In the 1930s the relation between State and labor class was organized, by interconnecting three systems: labor union, Labor Court and social security policy. The policy adopted by the Government contributed for social security coverage to grow enormously. In the late 1940s, we had ten times more insured people than in 1934.

In the 1940s, definitive organization and operation of the Brazilian Welfare Legion (LBA) was authorized - August 28, 1942.

Its primary role was motherhood and childhood protection, support to elderly and invalidated people and medical care to needy people. In the II World War

period, LBA supported Brazilian soldiers through different campaigns such as: food, cigarette supply, among others.

In the subsequent decade, Social Security, through the Institutes, was summoned to participate in building the new Capital of the Republic, and its financial resources ensured a quick construction and without heavy burdens on the Treasury. Brasilia construction financing was, probably, the largest real estate investment of the Institutes during their entire existence.

In 1960, the Organic Social Security Law (Law No. 3807, of August 26, 1960) unified the institutes, because all social security execution agencies started complying with the same standards. Management unification, however, would take a few more years and would be implemented by creating the National Social Security Institute (INPS), in 1966.

With Law No. 6439, of September 1, 1977, the National Social Security and Welfare System appeared, with the hard mission of integrating the following functions: granting and keeping benefits, service rendering, activity and program funding, administrative, financial and property management of Social Security and Social Welfare. For carrying out this mission, INAMPS, INPS, IAPAS, CEME, DATAPREV, FUNABEM and LBA were created.

In July 1970 the National Settlement and Agrarian Reform Institute (INCRA) was created, which would later

start issuing needed documents for obtaining social security support by the rural laborer. In 1971 the Rural Laborer Welfare Program (FUNRURAL) was created (Supplementary Law No. 11, of May 25, 1971), which granted to the rural laborer retirement benefits by old age and disability, pension by death, funeral pay, health and social welfare services. Retirement corresponded, then, to 50% of the minimum wage.

In the 1980s, the *Citizen Constitution* implemented a new concept in Brazil, Social Security. In its social order chapter, the Constitution established that security consists of three basic segments: Social Security, Health and Social Welfare. The following principles started guiding public authority: coverage and care universality, according to which all citizens have access to social protection; uniformity and equivalence of benefits and services to rural populations, whereby the rural laborer starts integrating the set of citizens, mainly in social security scope, selectivity and distributiveness in rendering benefits and services, whereby individual needs determine benefits or services that must be granted; Irreducibility of benefit value; fairness in the form of participation in funding; financing base diversity - contributions must fall upon multiple economy and production sectors, and further upon salaries; democratic, decentralized management character.

In the 1990s, the Ministry of Social Security and Welfare went through a structural alteration. Early in the decade old INPS and IAPAS were extinguished, which

were replaced by the current National Social Security Institute (INSS), consolidating Social Security as a form of social insurance. This image has been consolidated over the decade and shows Social Security as a constitutional right of all Brazilian citizens. Currently established policies link Social Security to different social groups, transforming it into the Country's social stability factor. Resources injected by the INSS into the economy of Brazilian cities are fundamental for fighting poverty, improving income distribution and for economic and social dynamism, mainly in small and medium-size rural areas and cities.

In Brazil, the civil servants' social security system was deeply unbalanced, as a result of unsuitable rules of access to retirement and its calculations. Based on this unbalance, the current government has proposed and approved Social Security reform, through Constitutional Amendment No. 41/2003.

There are three large social security systems in our Country: the General System, managed by the National Social Security Institute, Own Civil Servants' Systems, as well as Supplementary Pension.

A quick analysis of Brazilian social Security benefit system structure presents the following concepts:

- a) The General Social Security System, managed by the INSS, is compulsory and, currently with a R\$ 2,894.28 ceiling, serves the private sector. Employers, salaried employees, home, self-

employed and rural workers, are system contributors. Retirements by age are granted to 65-year old men and 60-year old women in the urban area, and 60-year old men and 55-year old women in the rural area. Retirements by contribution time at 35 years for men and 30 for women. System management is public;

- b) The Civil Servants' Social Security System is compulsory, with a ceiling and sub-ceilings defined by Constitutional Amendment No. 41/2003, excluding from this group public company employees. Compulsory retirement at 70 for men and women and retirement by contribution time at 35 years for men and 30 years for women. System management is public; and
- c) Supplementary Pension (PC) is voluntary and its management is private. Generally PC has varied arrangements and is constituted in a supplement to RGPS/INSS benefit.

The General System and Civil Servants' System are independent, tight to each other, with separate budgets and specific legislation for each one. Supplementary Pension may serve either System.

The focus of the Brazilian Social Security Reform proposal, presented in early 2003 and enacted in December of the same year, was Federal, State and Local Servants' Security. The reform process motivations were:

1. establishing more social fairness;
2. establishing more long-term sustainability;
3. adjusting to demographic transformation and society's wishes for more solidarity in systems, though independent of each other;
4. own Social Security System (RPPS) and General Social Security System (RGPS) workers had a differentiated treatment.

Examples of the differentiation are:

	RPPS	RGPS
1	No ceiling	With ceiling
2	Minimum age: 53/48 (transf.) and 60/55 (permanent)	No minimum age
3	Retirement calculation by contribution time: last salary	Retirement calculation by contribution time: average and social security factor
4	Readjustment parity rule	Price-level restatement as a readjustment rule

The basis of Security Reform concept is to respect vested rights, assign social security concept to own system revert budget commitment scenario caused by existing unbalances. The current generation of retired people, pensioners and active workers will have vested

rights and transition rules respected and will be applied to those who have no vested rights. Future generations, which enter, as of the reform will have a new system, with converging rules with the General Social Security System.

The main Brazilian Social Security reform points are as follows:

- reference age rises from 53/48 (M/W) to 60/55 (M/W);
- new retirement and pension calculation rule;
- RGPS ceiling for future public servants too provided that supplementary pension is constituted for future public servants;
- contribution by retirees and pensioners;
- application of a general compensation ceiling (federal, state, local);
- indexing retirements and pensions to inflation/end of parity for new beneficiaries (except a few cases set forth in transition rules);
- encouraging remaining on the job;
- real RGPS ceiling increase from R\$ 1,869.34 to R\$ 2,400.00.

In Brazilian reform, he who is already retired or has fulfilled conditions by current access rules to this benefit has a vested right. He who is a public servant

today, can still obtain full retirement after completing the age 60/55 (M/W), + 35/30 years of contribution (M/W) + 20 years of public service, 10 years of career and 5 years in the position. He who entered public service prior to December 98 and has no vested right, may retire before the age of 60/55, but suffers a discount from 3.5% to 5% of retirement amount per year of advance.

The following points for the states stand out:

- application of a general compensation ceiling and sub-ceiling respectively;
- obligation of a minimum contribution aliquot equal to the Federal Government;
- unification of RPPS Managing Agencies in federated entities;
- public agency contribution consolidation while an employer.

II

Essential

Aspects

Brazilian Social Security, in its several systems (General, Own and Supplementary) has been the subject of two constitutional reforms in the past 5 years: Constitutional Amendment 20, of 1998, and Constitutional Amendment 41, of 2003. Both amendments have brought great changes to general legal framework, requiring, for their implementation, regulation through supplementary and ordinary laws, as well as resolutions by Management Councils of each system. These are the challenges placed before Brazilian Social Security for the next years.

The main points to be highlighted, already regulated, still missing instituting Supplementary Pension for civil service, are:

- a) application of the federal compensation ceiling and state and local sub-ceiling, which is an essential condition for making public expenditure in this area compatible;
- b) the purpose of the new retirement calculation formula, which is similar to the General Social Security System (80% of the highest

contribution salaries, considered from Jul/94 reference month), is to make the convergence of rules between both basic social security systems existing in Brazil;

- c) institution of contribution by retirees and pensioners of the federal, state and local governments, which constitutes a way of redistributing, in a more equitable manner, the cost of own system adjustments among participating generations;
- d) introduction of a new regulatory framework for managing public serviced own social security systems. This new framework is necessary Amendment 41 has determined unification of managing agencies in each federated entity. This regulatory framework also considers greater accounting transparency of the system, by introducing a specific account plan for social security systems, greater efficiency in investing funds according to Resolution No. 3244/2004 by the National Monetary Council, which establishes asset investment rules. There is the need, too, to develop better inspection and monitoring instruments of own systems.

At the time of Constitutional Amendment 41, in 2003, issues related to social security of federal army servicemen were not dealt with in sufficient manner. Although the armed forces servicemen social security system was submitted to a partial reform and 2000,

and President Lula's government acknowledges some particulars of the Armed Forces, there is the need to monitor their evolution and proposing measures for upgrading them.

In the scope of the General Social Security System, the most immediate challenges are placed on three axles: a) current government proposal to schedule a payroll reduction, diminishing the cost of formal labor; (b) redesigning Occupational Accident Insurance and enhancing the worker's health and safety policy; (c) a social security coverage expansion policy.

(a) Payroll Reduction

In the scope of Constitutional Amendment No. 42/2003, known as Tax Reform, there is a provision of a possibility of partial or, in an extreme scenario, full replacement of the payroll while a taxation basis of the employer's aliquot with another basis. This basis would be companies' revenues or billing, without cumulative impacts, whereby a new employer contribution calculation basis would be established, close to the modern value added concept. It is known that there are advantages and risks in reducing the payroll, which is currently the main financing source of the General Social Security

System. On one hand, there is the need for ensuring that the new contribution will be sufficient to assure a permanent financing flow to Social Security and that a new transition phase will be designed

between the current financing manner and the new one, in order to avoid that some economic segments are adversely impacted. On the other hand, the new basis, in addition to reducing the cost of formalizing labor, may represent a greater stability for long-term social security financing, because value added has grown more quickly than the salary mass due to productivity increase. Additionally, diversification of Social Security financing sources, always in a partial payroll reduction scenario, will engender a social security financing burden redistribution among economic sectors, summoning again those sectors that, in spite of obtaining an increase in their share of produced wealth, have reduced their share in employment generated in the last decades.

(b) Occupational Accident Insurance and Worker's Health and Safety

It is known that, historically, the focus of Occupational Accident Insurance (SAT) – as well as the worker's health and safety and permanent disability policy – have been little oriented toward prevention and rehabilitation and quite centered on repairing damage to Social Security account. Due to this compensation bias band, human, financial and social cost of Social Security passivity in this area has been enormous. Brazil is trying to invert the social security policy focus in these fields. As a result of this political orientation, the National Social Security Council (CNPS)

has approved a new methodology for characterizing occupational morbidities, by establishing an epidemiological technical nexus. Accordingly, employment-related accident is technically characterized by INSS medical expertise, by identifying the nexus between work and injury.

The nexus between work and injury is considered established when the epidemiological technical nexus is verified between the company's activity and the disability motivating morbid entity, listed in the International Disease Classification (CID).

The injury, disease, health trouble, disturbance, dysfunction, or acute, sub-acute or chronic evolution syndrome, of clinical or sub-clinical nature, including death is considered an aggravation, regardless of latency time.

Recognized by INSS medical expertise disability for work and the nexus between work and injury, will be due to accident provisions to which beneficiary has the right.

INSS medical expertise will no longer apply the provisions set forth in the previous paragraph when the nonexistence of causal nexus between work and injury.

The company may request the INSS not to apply the epidemiological technical nexus to the concrete case upon demonstrating the nonexistence of a corresponding causal nexus between work and injury.

The request may be submitted within fifteen days from the date of delivery of the GFIP (Social Security

Withholding Declaration Form), which records the worker's movement, under penalty of not acknowledging the allegation in an administrative court.

Upon characterizing the impossibility of complying with the provisions set forth in the previous item, motivated for by not acknowledging the injury diagnosis in time, the request may be submitted within fifteen days from the date when the company becomes aware of INSS medical expertise decision.

Along with the request, the company will formulate allegations that it deems necessary and will submit evidence that it has demonstrating the nonexistence of causal nexus between work and the injury.

Supporting documentation may bring, among other means of proof, circumstantiated and timely technical evidence to insured person's exposure, which may be produced in the scope of risk management, under responsibility of the company, which have a legally qualified technical responsible.

The INSS will inform the insured person about the company's objection so that, wishing, to challenge it, whenever the request investigation evidences the possibility of the nonexistence of a causal nexus between work and injury.

An appeal is appropriate of INSS decision, with a suspensive effect, on part of the company or, as the case may be, of the insured person to the Social Security Appeal Council.

The Prevention Accident Factor (FAP) consist of a variable multiplier in a fifty hundredth (0.50) continuous interval to two integers (2.00) and is applied to respective contribution aliquot, which will be reduced by up to fifty percent or increased by up to one hundred percent, due to the company performance in relation to its respective activity.

For reduction or increase purposes, a description of the company's performance is made, by standardized three-dimension coordinated distancing (frequency, gravity and cost rate), by assigning the maximum two integer (2.00) factor to those companies whose sum or coordinates is equal to or higher than six positive integers (+6) and the minimum fifty hundredth (.50) factor to those whose sum results to be lower than or equal to six negative integers (-6).

The FAP varies in a continuous scale by means of a simple linear interpolation procedure applied to companies whose sum of standardized three-dimension coordinates is comprised in mentioned interval, by considering as a reference the null coordinate point (0; 0; 0), which corresponds to FAP equal to one integer (1.00).

Frequency, gravity and cost rates are calculated according to a methodology approved by the National Social Security Council, taking into account:

I – for the frequency rate, the amount of incapacitating benefits whose disability causing injuries have generated a benefit with statistical significance

capable of establishing an epidemiological nexus between the company's activity and the morbid entity, added by pension benefits for accidental death;

II – for the gravity rate, the sum, expressed in days, of incapacitating benefit duration considered under subsection I, taking life expectation as a parameter for defining the date of accident assistance payment and accidental death pension stop.

III – For the cost rate. The sum of the amount corresponding to daily benefit salary of each benefit considered in subsection I, multiplied by respective gravity.

The Ministry of Social Security is in charge of publishing, annually, in the Official Government Newspaper, always in the same month, frequency, gravity and cost rates, by economic activity, and making available, over the Internet, the FAP by company, with information enabling it to check correctness of data used in determining their performance.

The FAP produces tax effects from the first day of the fourth subsequent month to its disclosure.

For annual FAP calculation, data from January to December of each year are used, counted from 2004, until completing the five-year period, from when data of the initial year will be replaced by new incorporated annual data.

For companies incorporated after May 2004, the FAP is calculated from January 1 of the following year

the one completing two years of its incorporation, based on existing annual data counted from the first year of their incorporation.

Exceptionally, in relation to 2004 accumulated data from May of that year are considered.

It is the responsibility of the company to perform classification in the prevalent activity, Brazilian Federal Revenue Service being in charge of reviewing it at any time.

Upon verifying an error in self-classification, Brazilian Federal Revenue Service will adopt necessary measures for correcting it, guiding the responsible person for the company in the event of undue withholding and notifying due amounts.

The company monthly informs, through the Employees' Severance Guarantee Fund Payment Fund and Social Security Information (GFIP), the corresponding aliquot to its degree of risk, respective prevalent activity and the business activity.

(c) Social Security Inclusion

Like other Latin America countries, Brazilian Social Security, born in 1923, is based on the Bismarckian contribution principle for access to a benefit. Although this core concept has been supplemented by several programs with differentiated contributive relationship (case of Rural Social Security) or even of welfare

characteristics (case of Lifetime Monthly Income and Continued Rendering Benefit), still today fundamental access to Brazilian social security system goes through the contributive relationship. It is estimated that, in 2005, there were about 28.8 million people without a contributive relationship with Social Security. Although Rural Social Security covers a portion of this population, it deals with an enormous social liability and requiring, therefore, a social inclusion policy and social security coverage expansion.

The Ministry of Social Security calculates that, out of the 28.8 million workers, 16.3 million could be Social Security contributors, because they have suitable income, position in the labor market and age. The reasons for non-participation of these workers are varied and may be in the lack of information and awareness about the importance of social security protection, in the need for increasing inspection over the economic segment or in the existence of barriers to inclusion, given the particulars of each non-contributor group. Social Security managerial ability and social security policy credibility increase could also be the reason leading some of non-contributors to membership.

In order to increase the degree of Social Security coverage, Brazil is wagering, in the first placed, on alterations to Social security financing form. Payroll reduction, already mentioned, will be an important contribution beside other forms that will allow expanding social inclusion.

- reduction of aliquots for individual contributors: Constitutional Amendments 41 and 47 have set forth the creation of special social inclusion system for low-income people, consolidated in Supplementary Law No. 123, of December 14, 2006, which instituted, as of April 2007, the Simplified Social Security Plan, reducing the contribution aliquot from 20% to 11% for individual contributors who render services individuals and optional contributors (housewives; students; non-remunerated condo managers; unemployed people; non-remunerated convicts and scholarship students) and businessmen or business corporation partners, provided that the previous calendar year's gross annual revenue was, at most, R\$ 36,000.00 (US\$ 20,000.00). The plan provides for access to all RGPS benefits, with the exception of retirement by contribution time and contribution salary is limited to one (1) minimum wage;
- implementation of actions, from technical studies already in progress, aimed at stimulating extension of social security coverage oriented toward gender (woman) race issues (equality of right promotion among races), which are particularly affected by informality and unstable relationship to Social Security;

- rural social security consolidation and update, ensuring legal stability to social protection in the field. A bill is in course in the National Congress, negotiated with rural workers' representative segments.

Social Protection in Brazil has as characteristics public and four-party management (government, workers, employers and retirees/pensioners, with financing via inter and intra-generational sharing and solidarity, the Brazilian model being in the Latin-American contest may be defined as follows:

Pillar 1 – Basic Social Security

Public, strong, four-party, sharing, mixed financing, with solidarity and inclusion.

Pillar 2 – Supplementary Pension

Private/public, volunteer, capitalization, narrowing between contribution and benefit

Pillar 3

Public Servants' and Armed Force Personnel Own Systems, obligatory, sharing, managed by respective federated entities.

Pillar 4

Other forms of voluntary personal savings in supplement

Pillar 5 – Social Welfare

For elderly and handicapped people under the poverty line

III

General

Social

Security

System —

Highlighting

in Income

Distribution

and The

Country's

Social

Stability

The General Social Security System (RGPS) is the social security system protecting most workers in the Country. The RGPS covers urban salaried, self-employed, house and rural workers, in other words, it is the social security of private enterprise workers and public servants under the Consolidation of Labor Laws. Currently, there are nearly 31.24 million contributors. The General System is, undoubtedly, one of the most effective social protection mechanisms in Brazil, benefiting directly and indirectly a significant portion of Brazilian population.

One of the main RGPS social impacts is poverty reduction in the Country. In 2005, 30.9% of Brazilians lived below the poverty line. Were it not for Security social protection action, this percentage would be 42.5%, that is, the General. System is responsible for reducing 11.6% percentage points of the poverty level in Brazil. The social role of this system also involves income distribution improvement and economic development promotion, mainly in the rural zone. Benefit total paid by Social Security is many times higher than to the population of several countries. The populations of

Chile and Uruguay, added up, are lower than the number of direct benefits paid by Brazilian Social Security.

Therefore, we can also realize social protection, considering the number of RGPS insured people. Currently, 63.5% of occupied population in the Country's private sector is insured by the General Social Security System.

The General System is of simple sharing and contributive character, which ensures coverage in the event of: disability for work, advanced age, contribution time and pregnancy, in addition to insured person's prison or death. Contribution for this system is obligatory. It has a national and public character and benefits have defined maximum and minimum amounts. Professional rehabilitation of insured people who become partially or totally disabled for work is also assured.

Retirement calculation in the General System is based on contribution time (mean amount and social security factor). Unlike the Public Servants' Own Social Security System, no minimum aged is required for retirement in the RGPS. Benefit readjustment of this system is based on the National Consumer Price Index (INPC).

According to the 1988 Constitution, Social Security, of which RGPS is a part, is financed by the entire society, in direct and indirect manner, by resources originating from the Federal Government, States, the Federal District and Cities, and the following social contributions:

- i) from the company and its matching entity on:
 - a) the payroll and other labor revenues paid or credited to service providers;
 - b) revenues or billing;
 - c) the profit.

- ii) from the worker and other Social Security insured people.

Insured people are divided into the following categories:

- a) employees;
- b) house employees;
- c) sundry workers;
- d) individual contributors (self-employed, businessmen, etc.);
- e) special (rural workers in family economy regime);
- f) optional, such as students over 16 and housewives, among others.

General Social Security System-oriented policy is formulated by the Ministry of Social Security, the Social Security National Institute (INSS) being the responsible agency for management.

In 1998, Brazilian Social Security went through a broad reform, aimed at generating the system's

indispensable financial and actuarial balance, reaching, mainly, retirement exclusively based on contribution time. As far as RGPS is concerned, the main alteration was rendering retirement calculation formula unconstitutional.

In 1999, Law No. 9876, of November 26, 1999, changed benefit value calculation rules. The basic calculation period was increased, which corresponds to 80% of the best contribution salaries since July 1994, and the “Social Security Factor” was created. This mechanism is aimed at balancing contribution time and value and retirement receiving time and value. The factor is applied to retirements by contribution time, obligatorily. Its formula contains life expectation, contribution time and insured person’s age at the time of retirement, which may reduce or increase the benefit value as the insured person advances or not his retirement.

In 2003, Social Security went through a new reform, which altered, mainly, Public Servants’ Own Social Security rules. As to the General System, the only alteration suffered in this year was benefit ceiling value, which was readjusted by approximately 28%, passing from R\$ 1,869.34 to R\$ 2,400.00.

General System benefits are directly paid to insured people, through bank transfers, avoiding, thus, the need for middlemen, which ensure the process honesty and quickness.

i) **Benefit Salary**

It is the basic amount used for calculating continued rendering benefit monthly income. It is calculated by taking as a basis contribution salaries from July 1994 to benefit request date or removal from work.

The benefit salary consists of:

- a) for retirements for contribution time and by age, in the simple arithmetic mean of the highest contribution salaries, price-level restated, corresponding to 80% of contributive period from 7/94 reference month, multiplied by the social security factor. In the case of retirement by age, the factor is only applied if it more advantageous; and
- b) In permanent disability and special retirements, sick pay and accident assistance payment, in the simple arithmetic mean of the highest contribution salaries, corresponding to 80% of contributive period from 7/94 reference month.

IV

Important

Concepts

In cases of sick pay and permanent disability, when insured person counts on less than 144 monthly contributions in the contributive period, benefit salary corresponds to the sum of contribution salaries divided by the number of contributions.

The benefit salary amount will be neither lower than a minimum wage (R\$ 380.00), nor higher than the maximum contribution salary limit (R\$ 2,894.28).

II) Social Security Factor

It is obligatorily applied in retirement by contribution time and, if more advantageous, in retirement by age. It is considered by insured person's age, life expectation and contribution time when retiring, by means of the following formula:

$$F = \frac{Tc \times a}{Es} \times \left[1 + \frac{Id + (Tc \times a)}{100} \right]$$

Where:

F = social security factor

Es = Survival expectation at the time of retirement

Tc = Contribution time up to retirement time

Id = age at the time of retirement

a = contribution aliquot corresponding to 0.31

iii) Grace Period

It corresponds to 12 or 180 monthly contributions, without interruptions, according to the kind of benefit. Contribution interruption characterizes insured person's loss of quality. For insured people affiliated to Social Security up to 07/24/1991, the grace period for retirements, with the exception of permanent disability, is set according to the year when insured person implements all conditions, being 156 contributions in 2007 and six more contributions for each year, up to 180 in 2001. For those enrolled after 07/24/1991, grace period is 180 contributions.

V

Social Security Benefits

As already said, the General Social Security System offers several benefits to insured people and their families, as a protection from salary loses for sickness reason, employment-related accident, old age, maternity, death and prison. Benefits are ranked in three large groups: retirements, pensions and assistance, monthly income being calculated, in most cases, according to the “benefit salary”, corresponding to the simple arithmetic mean of 80% of the highest contribution salaries since July 1994. Most times, a minimum contribution period is also required, with no interruptions, called “grace period”.

i) Retirements

They are monthly lifelong payments, made to insured person by reason of age, contribution time, disability for work or work performed in activities subject to noxious to health agents.

a) Retirement by age

This is, undoubtedly, one of Social Security oldest benefits. Retirement by age is granted to the insured person who,

after completing the grace period, reaches the 60- year age limit, if a woman, and 65 years, if a man.

Rural workers are entitled to the benefit five years earlier, that is, 55 years if a woman, and 60 years if a man. Minimum contribution time is 15 years. When the insured person reaches the minimum age, he/she may choose whether to use the social security factor in benefit salary calculation.

The benefit amount corresponds to 70% of benefit salary, plus 1% for each 12-contribution group, up to the maximum of 199%, and may neither be lower than the minimum age nor higher than maximum contribution salary. The higher the contribution and contributive period, the higher retirement amount will be.

The insured person who has met the grace period upon completing 65 years of age, if a woman, and 70, if a man, may have his/her retirement compulsorily requested by the company.

b) Retirement by contribution time

Men and women may retire by contribution time. Men, in order to have the right to this benefit, need to contribute for 35 years, and women, for 30 years. The benefit amount corresponds to 100% of benefit salary.

Insured people who joined Social Security prior to the reform (of 1998), are entitled to proportional retirement under the following conditions:

- 25 years of contribution for female gender insured and 30 years of contribution for male gender insured, plus the equivalent to 40% of the time missing to complete 25 or 30 years of contribution, as the case may be, on the date of reform;
- 48 years of age for a woman and 53 years of age for men;
- benefit amount corresponds to 70% of benefit salary when completing 25 or 30 years of contribution, added by 40%, plus 5% for each year, up to 100% maximum, and may neither be lower than the minimum wage nor higher than maximum contribution salary limit.

Teachers have their contribution time reduced by five years, provided that they prove 30 years (man and 25 (woman) of contribution, solely in teaching activity in children education and elementary and high school.

The higher the age, contribution time and amount of this contribution, the higher benefit amount will be.

c) Special Retirement

This benefit is granted to the insured person who has worked subject to special conditions that harm health or physical integrity. According to the risk, contribution time to obtain special retirement may range between 15, 20 or 25 years, and actual exposure

to chemical, physical, biological noxious agents or association of harmful to health agents or physical integrity, during these periods, must be proved.

In order to be entitled to this benefit one needs to be formally inserted into the labor market. The benefit amount corresponds to 100% of benefit salary, and may neither be lower than the minimum wage nor higher than contribution salary.

d) Permanent Disability

This benefit is granted to the insured person who is totally and definitively unable to work. Permanent retiree will have his retirement cancelled if he willingly returns to the activity, unlike beneficiaries of other kinds of retirement, which are lifelong. The disease or injury insured person is already a bearer when joining the RGPS will not bestow on him the right to the benefit, except when disability occurs by reason of the disease or injury worsening.

In order to be entitled to permanent disability, at least 12 years of contribution are required, this grace period being dispensed with for the disabled insured person as result of an accident of any nature, including employment-related, or stricken by a disease or infirmity specified in social security legislation. The benefit amount corresponds to 100% of benefit salary, never lower than the minimum wage or higher than the maximum contribution salary limit.

ii) Pensions

In this kind of benefit there is only one modality, which is pension payment due to death, granted to insured person's dependents due to death.

People entitled to this benefit, in this order:

Husband, wife/mate, non-emancipated child under 21 and disabled child of any age; or father and mother; or brother under 21 or disabled of any age.

Pension payment due to death amount corresponds to 100% of retirement that insured person earned or would be entitled to should he have retired for permanent disability, and is divided in equal parts among dependents. There is no grace period for pension payment due to death, it is enough to prove insured person's quality.

In case of a divorced spouse, parents and siblings, economic dependence in relation to insured person shall be proved.

iii) Assistances

a) Sick Pay

Insured person is entitled to sick pay when any physical or mental impairment prevents him from working for over fifteen days. The benefit is payable as of the 16th day of removal from the activity. The company pays the first 15 days. To other insured people the benefit is payable from the first day of disablement.

The insured person who joins the RGPS already bearing a disease that may cause disability, is not entitled to the benefit for this diseases, unless it is due to its worsening.

The grace period in order to be entitled to this benefit is 12 contributions. The insured person who becomes disabled as a result of an accident of whatsoever nature, including employment-related, or impaired by a disease or infirmities specified in social security legislation, is discharged from fulfilling the grace period.

The benefit amount corresponds to 91% of benefit salary, and may neither be lower than the minimum wage nor higher than the maximum contribution salary limit.

b) Assistance for Imprisonment

Assistance for imprisonment is a benefit paid to dependents of an insured person who is imprisoned, under the same conditions as pension payment due to death.

The benefit is only payable when the insured person's last salary is equal to or lower than R\$ 676.27 (annually updated amount), and he does not receive compensation from the company, or enjoying sick pay, retirement or an allowance for staying on the job.

When there is no contribution salary on actual withholding date, the benefit will be payable provided

there is no insured person's loss of quality. No grace period is required for granting assistance for imprisonment, it is enough to prove insured person's quality. The amount of this assistance corresponds to 100% of retirement to which he would be entitled if he were permanently disabled.

c) Accident Assistance Payment

This benefit is a compensation that insured person receives when, after consolidating injuries resulting from an accident of whatsoever nature, including employment-related, sequels reducing usually performed working ability result.

It corresponds to 50% of benefit salary and is payable up to the eve of the beginning of any retirement or from the insured person's date of death. No grace period is required for granting this benefit.

d) Paid Maternity Leave

All General Social Security System insured women are entitled to a paid maternity leave during a one hundred and twenty-day period.

This benefit is also payable, for a 120-day period, in the event of adopting a up to one-year old child; for a 60-day period, in event of adopting a child between 1 and 4 years old; for a 30-day period, in the event of adopting a child between 4 and 8 years old.

The benefit amount for the insured employee and a sundry worker corresponds to her last compensation. For housemaids, it corresponds to the last contribution salary. For the special insured employee, it is equivalent to one minimum wage; and for other insured women, to one twelfth of the sum of the last 12 contribution salaries, in a period not longer than 15 months. The benefit amount may not be lower than one minimum wage.

e) Family Allowance

It is monthly payable to the employee, except household worker, and the sundry worker, proportionately to the number of children up to 14 years old, whose amount corresponds to R\$ 23.08 for the insured person with a monthly compensation not higher than R\$ 449.93 and R\$ 16.26 for the insured person with a monthly compensation higher than R\$ 449.93 and equal or lower than R\$ 676.26.

This amount is annually updated. Family allowance amount is not incorporated to insured person's salary or to the benefit.

VI

Social

Security

Own System

The Social Security Own System (RPPS), of contributive character, is the system ensured to public servants holding effective positions of the Federal Government, States. The Federal District and 1,951 fully active Cities and 351 in extinction, on 10/19/2007, including their agencies and foundations, is governed by principles abiding by the financial and actuarial balance and is subject to guidance, supervision, control and audit by the Ministry of Social Security.

The table below shows the amount of Federal, States, Federal District and Local servants that the system benefits.

Entity	Active	Inactive	Pensioners
Federal ¹	1,008,551	537,051	438,580
States ²	2,085,115	1,182,299	479,230
Local ³	1,072,049	328,367	18,382
Total	5,515,715	2,047,717	1,036,192

Source: SRH/MP and SPS/MPS Oct. 2007

Preparation: SPS/MPS

¹ Position in June-2006, excluding public company and mixed company servants.

² Data from all the states and the Federal District.

³ Data from cities refer to 1,791 RPPS that completed the year 2006 Social Security statement.

In public servants' social security system, the servant receives his retirement directly from the State.

Accordingly, the retiree continues as a servant, only changing his condition from active to inactive.

The purpose of this system is to ensure payment of social security benefits to its insured people. For this to occur, there must be contributions by servants and employer. Received funds are solely designed for social security benefit payment, with an exception for RPPS administrative expenses.

Social security benefits, in most States occur through the defined benefit-type capitalized model, consisting of three fundamental social security plan components:

- accrued assets;
- contributions to be received;
- and benefits to be paid.

This model imposes a complex calculation system of its cost and financing, requiring constant follow-up on accounting, financial, and budgetary statements. These statements must be made available to servants' knowledge and follow-up, as a way of inspecting and controlling funds, in order to avoid favoring frauds. Transparency of these operations is a fundamental factor to the success of this model.

The Own System social security cost is financed by the following sources of resources:

- contributions from the state agency;

- contributions from active, inactive servants and pensioners;
- social security or financial compensation;
- social security fund.

Public servants' Own Social Security Systems have been regulated by Law No. 9717, of November 27, 1998, and by Administrative Rules No. 4882, of December 16, 1998, and No. 4992, of February 5, 1999.

VII

National

Social

Security

Forum

The National Social Security Forum is the first initiative by a Latin American government toward discussing through a social dialog the rules of its social security system, prior to forwarding a reform proposal to the Legislative Branch. It is traditional in Latin America to forward proposals for their subsequent discussion or even imposing reforms without a public debate (Pinochet – 1981 and Fujimori – 1992 governments). The absence of a social dialog affects social and political sustainability of social security systems, because these are, actually, large social contracts involving multiple generations. A politically tiresome process, where system participants do not feel having been heard and realize that they suffer eventual “losses of rights” with no justification, not fostering long-term support for social protection systems. Therefore, the social dialog process, though requiring a great deal of effort and patience of all players, allows reciprocal persuasion of the need for adjustments and creates a stronger support base for negotiated alterations.

Similar processes to the National Social Security Form have been tried, successfully outside Latin America.

Examples of Spain and Sweden stand out, which have resulted in long-term development reform guidelines of respective social security system in the 1990s. In Spain, the Toledo Pact was signed in 1995 among all political parties, listing principles designing Spanish social security according to social justice and long-term technical rationality and declaring that social security policy should be treated in above parties and institutional manner, because it deals with a social protection instrument of the Spanish people, which needs to have long-term sustainability. In Sweden, in 1998, a political agreement of all parties to approve a surprising social security reform, because all yielded on some point to win another and resulting design has significantly changed the old Welfare State, developed over the 20th century and that served as a reference for so many other countries in the world. The prevailing logic was that Sweden is a comparatively small country, which needs to be strongly integrated to world economy in order to have development perspectives; integration to globalization would require a strong social protection, but would have to be designed in a different manner from the previous post-war development model.

The National Social Security Forum context is differentiated from European cases because it proposes planning of rules, which will only be applied several years from now, for workers who will still enter the labor market. While more accelerated than in European countries, Brazilian demographic transition presents, at this time, the most favorable population constellation

to Social Security, with many people in working age. Therefore, one can think about long-term gradual transition manners, no longer may be done smoothly that is allowed us today.

Despite the favorable short-time scenario, we understand that the need for changes is unquestionable. It has been reinforced by recent National Household Sample Survey (Pnad) 2006 figures, disclosed last week, by Brazilian Institute of Geography and Statistics (IBGE). The Pnad shows continuity of the population growth slowdown trend already recorded in previous years. The Brazilian average of children per woman, dropped from 6.2 to 2.0 between 1960 and 2006. This means that the population has been planning its family size in an attempt to ensure quality of life improvement for their children and grandchildren. I defend cultivation of this protective spirit. This is because, technicians' expectation is that in the next decades this figure will drop to less than two children per woman. They are comparable statistics to the European continent, which point out to the older population increase and young population reduction.

The number of children aged between 0 and 9 years, which represented 17.1% of 187.2 Brazilians in 2005, dropped to 16.5% of the population in 2005. Meanwhile, the portion of people 40 years old or more, increased from 31.5% to 32.2%. This evolution allows forecasting a gradual "aging" picture of Brazilian population, which is worthy of our attention. In the

future, the number of active adults inserted into the labor market and, therefore, social security contributors, may be insufficient to meet amounts of benefits to be paid to retirees and pensioners.

It is necessary to take responsibility for preparing the social security system that will serve the future generation. If today Brazil has 2 million people over 80, it is estimated that, in 2050, it will have 14 million. And maintaining current rules may mean contribution and tax aliquot increase – including of social security revenue sources - that will fall upon future workers' salaries. This where the spirit of social dialog is: realizing that, given the social contract behind Social Security, today's decisions define future options of our children and grandchildren.

In a country where public managers have no administration/management planning culture, the perplexity around a Forum that is advancing discussion of standards that will only be applied to the social security system in the next 30 or 40 years is understandable.

However, manifestations in defense of insured people's vested rights, which are often placed by workers and beneficiaries, do not take into account President Lula's guidelines, who has determined: any change to retirement age rules in the General Social Security System will only affect workers who start working after approval and sanctioning of the new rules.

It is unfair and little recommendable to postpone this debate only because it does not directly workers who are active today. After all, the social security system is based on a generation pact. It is enough thinking that contributions from our great grandchildren, who are yet to be born, will ensure our children and grandchildren's benefit payments. Therefore, the matter concerns the entire society.

At the same time, the government is also doing its part in fighting evasion, suspending undue benefits and seeking to expand henceforth the social security collection base by encouraging labor market formalization increase. The *Supersimples*, the Federal Revenue Service of Brazil, the 11% aliquot for low-income self-employed workers, housewives and students, fraud combat task forces, review of benefits for disability and changes to medical expertise are parts of this effort.

In need courage to set aside tactical movements and examine some strategic themes, even if they are considered delicate by society and, as a result, by Forum participants. Correcting distortions in pensions for death and adjusting contribution times to the new Brazilian life expectancy reality, are only a few examples of the obstacles that we have the obligation to overcome if we want to ensure social security sustainability. Otherwise, the bill will remain to be settled by future workers.

NATIONAL SOCIAL SECURITY FORUM COMPOSITION

The National Social Security Forum was created by Decree No. 6019, of January 22, 2007, in the scope of the Growth Acceleration Program (PAC), aimed at promoting the debate among workers' representatives, employers and the federal government with a view to social security system upgrading and sustainability and their coordination with social welfare policies, with a long-term vision (years: 2030-2050).

Composition was established with a tripartite representation, non-equal, with federal government members, active workers, retirees and pensioners and employers, with the following entities:

From the Federal Government:

- Ministry of Social Security;
- Presidential Staff;
- Ministry of Labor and Employment;
- Ministry of Planning, Budget and Management;
- Ministry of Finance;
- Ministry of Social Development and Hunger Combat;
- Special Department for Women's Policies.

From active workers, retirees and pensioners:

- Independent Workers' Center (CAT);
- General Workers' Center (CGT);
- General Brazilian Workers' Center (CGTB);
- Sole Workers' Center (CUT);
- Brazilian Association of Retirees and Pensioners (COBAP);
- National Confederation of Agricultural Workers (CONTAG);
- Union Force (FS);
- New Workers' Union Center (NCST);
- Social Democracy Social (SDS).

From Employers:

- National Confederation of Agriculture and Livestock of Brazil (CNA);
- National Commerce Confederation (CNC);
- National Confederation of Financial Institutions (CNF);
- National Industry Confederation (CNI);
- National Transportation Confederation (CNT).

Forum Assumptions:

1. Maintaining the current model:
Public, Basic and Solidary Social Security and
Optional Supplementary Pension;
2. Vested rights will not be affected;
3. Long transition period.

Main reform axles:

1. adjustment in minimum retirement ages and
contribution times;
2. reduction of difference between men and women
and measures to compensate women;
3. adjustment in pension payments due to death;
4. restriction to accumulating benefits and benefits
with salary;
5. better coordination between Social Security and
Social Welfare;
6. Social Security Inclusion alternatives.

Definition and Purpose

Closed Supplementary Pension is part of social security and constitutes a great efficiency instrument to protect Brazilian worker. Following the consecrated model by most developed countries, the social security system in Brazil comprises an integrated set of actions by public authorities and society, designed to insure citizens' rights related to health, social security and welfare.

Social Security is, among the three, the only branch of activity having a contributive character and abides by capitalization criteria, for ensuring its logical consistence, they have to ensure a certain proportionality relation between the contribution amount and benefit amount. It occurs that, in any situation in life, the longer the period, the greater involved uncertainties are. In Social Security, the time elapsed between contribution start and payment end may be higher than sixty years.

Therefore, in order to diversify inherent risks to each social security system has been a trend in many developed countries, including as a means of increasing system sustainability, in view of changes to demographic patterns and labor market.

VIII

The New

Closed

Supplementary

Pension

In Brazil, the 1988 Federal Constitution divided social security into two faces: a mandatory one, founded upon simple sharing modality, responsible for private enterprise workers' basic general social security system and public servants' own social security; and another optional one, necessarily capitalized based on constituting reserves, accessible to all company employees and public servants in general and associates, or members of professional, class or sector character legal entities.

Pension funds, as entities integrating closed Supplementary Pension are known, currently protect, including dependents, about 6.5 million Brazilian. According to November 2003 data, supplementary pension benefits were paid to about 600 hundred thousand people, with an average retirement amount around R\$ 4 thousand. Comparing this result to the average monthly benefit amount paid by the General Social Security, approximately R\$ 450.00, it can be observed, by the difference between amounts, that the supplementary system contributes in effective way to keep the worker's standard of living, when he goes into inactivity.

According to large Social Security figures, a significant portion of the economically active population, which is 86 million people or about 50% of total population, does not participate in any kind of security. Considering that, out of approximately 78 million occupied workers, only 28 million contribute to the basic system and only 3 million earn more than 10 minimum wages per month, there is still a lot to be

done in terms of public inclusion policy. In social security matter, there are several working fronts on which public authority may and must undertake joint efforts.

The financial unbalance of social security systems, another recurring theme in this important area, does not constitute an exclusivity in Brazil; in fact it is a reality against which most countries struggle. Expanding Social Security to the totality of works is an objective walking in pace with obtaining the balance in public accounts. The closed Supplementary Pension system has shown to be a very powerful tool to keep public accounts adjusted, since its logic is based on constituting long-term savings, at a low funding cost and reasonable remuneration standards.

Basic and supplementary pension systems are structures making up the same system, and should act in harmonious, integrated manner, in spite of being independent of each other. While the compulsory basic system plays a relevant role for ensuring the entire working population a minimum benefit amount, the supplementary one, of optional character, is aimed both at supplementing the inactive person's income, and correcting distortions that the system general average may eventually introduce in specific society sectors. Segments such as oil workers, bank employees, steel workers, and so many others, present divergent specifics from the average, mainly in relation to involved risks, work useful life and income level. All these factors, left to chance, may constitute too much sacrifice of some individuals in relation to the entire society. In this way, supplementary pension, in addition to the

worker's inclusion instrument, is a relevant mechanism for fostering social justice.

In a word, Supplementary Pension is of its own accord a quite efficient social protection mechanism and, in the set of security nature policies, it is part of a well-structured system so as to provide it with consistence and sustainability. The population's coverage expansion, in the way Brazilian social security system is designed, will be as big, as higher the supplementary pension system will be and vice-versa.

Historical Concept

Supplementary Pension operation logic goes back to Social Security start itself, with the appearance of security funds in late 19th century. In Brazil, Elói Chaves Law authorized the creation of the first social security and pension funds for railroad company employees. In the pattern that today is understood as Closed Private Pension Fund, the first pension fund, in its broad meaning, was born there, by contributions from employees and employers.

The private concept in Social Security is inherent to its origin and, at no time, does it oppose the public notion. To the contrary, they supplementary and harmonious concepts to each other, demonstrating that the integration element between public authorities and society, set forth in the 1988 Federal Constitution is in the core of Social Security. The private nature of Supplementary Pension results, consequently, from the fact that it does not belong to the State.

Unlike labor relations, where the conflict is part of their nature, Social Security is a solidarity mechanism permeating and smoothing the struggle fought between employee and employers. In spite of not integrating this duality, since it does not constitute an essential element to its existence, Social Security depends on work outcomes so that it may subsist.

Accordingly, growing social conflicts that marked the first half of the past century bestowed on the State, while an institution responsible for social peace, the role of relation mediator between capital and labor. With the appearance of the social welfare State, public authority gradually started replacing private initiatives with others of public nature.

In Brazil, the concept that the State constituted an almighty institution lasted for early three decades, a fact that ended up by inhibiting private performance in sectors where it would be more efficient. The 1988 Constitution, in turn, represents the triumph of the idea that society is larger than the State and that resolving great national problems depends on a joint, coordinated action between both.

As of 1977, by publishing a Law ruling on private pension entities, closed pension was instituted under the law, in spite of already existing in fact since social security appearance in Brazil. This legislation introduced in 1977 was in force up to May 29, 2001, when approval of Supplementary Laws No. 108 and 109 determined reformulation of Brazilian supplementary pension, making it more suitable to new realities and increasing

its coverage as a way of providing better alternatives in the scope of entities managing pension plans with no profitable ends.

Currently Brazilian supplementary pension is seated on two pillars, closed entities and open entities, which present great differences between each other. The former, also called pension funds, are organizations without profitable ends, organized under the form of private law foundations or corporations. While the latter, Open Supplementary Pension Entities (EAPC) are organized under the form of limited companies, and act in the supplementary pension market with profitable ends. This modality offers the population different kinds of pension plans, which may be individual or collective.

Supplementary pension entities are regulated and inspected by different government agencies. The ERFPC, for example, are regulated by the Supplementary Pension Management Council (CGPC) and inspected by the Supplementary Pension Department (SPC) both linked to the Ministry of Social Security (MPS). The EAPC, in turn, are regulated by the National Private Insurance Council (CNPS) and inspected by the Superintendence of Private Insurance (SUSEP), agencies integrating the Ministry of Finance structure.

At last, it is worthwhile emphasizing that, in the scope of supplementary pension, the closed model imposes itself as hegemonic relying on more than 2.3 million participants and accumulated assets around 230 billion *reais*.

Basic Concepts

In spite of being independent, labor relations and Social Security are closely related concepts. Prevailing standards in the labor market do not determine the kind of social security, but influence its organization. Supplementary Pension, for example, has built its basis on relations made in large capitalist companies based on mass production of goods and services.

In Brazil, state-owned companies and multinationals determine to a great extent the standard that marked up institutionalization of Private Supplementary Pension. Basically, pension funds appeared from employees' and employers' will that, through a partnership relation, organized profitless entities aimed at managing funds originating from both contribution for forming assets that, in the future, should be used in order to pay social security and, eventually, welfare benefits.

The legal relation appeared around constituted assets with a specific social security purpose, either to manage it or enjoy its results, was built, at this first moment, on the participating employee, sponsoring company, and Closed Supplementary Pension Entity (EFPC) tripod. In general, pension funds receive contributions from participants and respective sponsor, and may eventually receive contributions from the latter only.

The technique developed for building any pension system is based on the capitalization principle, either based on the labor force or capital itself. The first model

concerns the integration pact, where the future generation when entering the labor market bears the burden of the previous generation's retirement. However, in Supplementary Pension matter, the legislation only allows capitalization based on accumulating capital, which occurs by accumulating assets, which may be real estate, debt securities and corporate interests in companies' capital.

In relation to the capitalization model based on accumulating assets, developed technique allows using a great diversity of methods, which vary according to the profile of insured workers' mass. If, for example, participants' average age is relatively low, the pension plan may accumulate funds at a slower rate in the beginning and more accelerated at the end, this is both for making the plan more attractive to younger people, and to adjust to the group's payment ability. At last the asset constitution process that will ensure benefit payment may take place in the proportion and speed whichever is more suitable to contributors' interests and financial capability, maintaining necessary compatibility for maintaining the balance between the contribution period and level in relation to benefit amount and receiving period.

To that end, the plan modality, whether a Defined Benefit (BD) or Defined Contribution (CD), roughly, does not directly interfere with the asset accumulation process, at most may indicate a specific strategy for such. In practice, BD and CD modalities concern the legal relationship established between participant and benefit plan, by means of a specific EFPC. In the first

case, the participant hires a certain benefit amount for an uncertain payment period, whereas, in the second, certain contribution amount and period are hired and the benefit will depend on the performance of revenues, which may be higher or lower than established by way of target. The fundamental difference between both consists of the legal manner to assign responsibility in the event of unbalance between the accumulation phase and benefit payment.

Benefit plan participants' asset management falls upon profitless Closed Supplementary Pension Entities (EFPC), specifically organized for this purpose, which is accomplished, including, with direct performance of representatives appointed by active and assisted participants. The closed supplementary system manages its funds in decentralized manner and, consequently, closer to direct beneficiaries and with participation of interested parties, a fact contributing to reducing administrative costs and fraud-related problems.

The Innovations

Since 1998, the social security system has been going through a restructuring process. First, Supplementary Pension started becoming one of Social Security pillars. Subsequently access to the supplementary system was expanded to nearly the entire private enterprise workers, and, lastly, it was also extended to public servants. However, the legal milestone of the new Supplementary Pension was set upon publishing Supplementary Law No. 109, of May 29, 2001. With this standard, Brazilian supplementary

system has not only been adapted to modern rules long introduced into more developed countries, as it has also innovated in many other meanings.

Initially, it is appropriate to draw attention to the conceptual evolution taking place in the characteristic mutualism of pension fund. In the beginnings, mutualism was, so to speak, little solidary, since in order to receive social security benefit it was necessary to be alive and whoever died before qualifying would completely lose any right on the fund's resources. Subsequently, the concept acquired new contours, with incorporation of risk benefits, evolving to a kind of restricted mutualism. This second situation lasted until publication of Supplementary Law No. 109/01, when mutualism stopped being in relation to the plan and started being in relation to the system.

Mutualism limited to plans presented the great inconvenience that precisely when the individual most needed solidarity was the mutual was most unfavorable to him. The loss of the employment relationship, and consequent dismissal from the plan, caused, in general, great losses to retiring worker, in favor of the others who remained. The turnover, in turn, became a responsible element for lower costs of plans to contributors. Many plans organized in the Define Benefit (BD) modality apparently became more favorable to participants precisely because they were based on gains that the collectivity would obtain with individual losses. Another factor contributing to creating the false impression that BD plans were more advantageous results from the fact that sponsors covered the

eventually existing benefit. However, this situation took place in a context where only the sponsor ran the EFPC, without participants' representation. With introduction of Supplementary Law 109/01, eventual deficits of Defined Benefit plans must be covered in proportionate manner between sponsor and participant.

In relation to plans organized in Defined Contributions modality, conceptually there is no deficit, because any unbalance, upward or downward, directly reflects on the benefit amount.

As seen above, both modalities present favorable points and others not so many. In the case of Defined Benefit, the main advantages consist of, on one hand, ensuring beforehand the participant, when he gathers conditions for acquiring the right, certain benefit amount, and, on the other, already bring in its rules a manner of equating an eventual deficit, obligatorily involving the sponsor. On the other hand, the disadvantage is that periodically the amount of monthly contribution installments may be readjusted, having as basis performance of revenues. In relation to Defined Contribution, advantages result, in the first place, from the fact that, because of not ensuring an exact benefit amount, making participant a potential inspector to follow up revenues and application manner of assets, and, second, not modifying participant's financial planning in relation to the amount of his contribution, which is always fixed, which does not prevent him from making extra contributions. Basically two aspects weigh against this plan modality, the first one concerns the fact of not impairing the sponsor with eventual deficits,

which does not forbid him from making voluntary contributions in favor of participants, and, the second, refers to the uncertainty as to benefit amount, which will no surprise to participant, if he makes systematic follow-up of his benefit plan evolution.

Inasmuch as the modality does not interfere with the manner of plan capitalization, the best current option for Defined Contribution results from the evolution in the mutualism concept. When becoming more solidary, the supplementary system gave an immeasurable qualitative leap toward constituting an efficient social protection mechanism. This is because with regulation of the institutes set forth in Supplementary Law No. 109/01, in the event of employment relationship loss. Will not suffer losses in favor of the mutual. Considering that the worker's staying time in the same employment has diminished by reason of new standards established in the labor market, mobility of resources accumulated by the plan participant not only constitutes a gain to the worker, as also to all in the Supplementary Pension system.

The institutes set forth in Supplementary Law No. 109/01 constitute a great advance to the supplementary system, equaling the Brazilian system to the practice long undertaken in more developed countries. The Deferred Proportional Benefit, Portability of Redemption and "Self-sponsoring" constitute a set of minimal rules that plans must consider, having in view ensuring and protecting participants' rights within the new system philosophy, today much more solidary and accessible to most workers.

Institutor

The greatest innovation introduced by Supplementary Law No. 109/01, however, consisted of the creation of the social security plan institutor figure oriented toward labor unions and class and sector entities, based on existing group identity. Although other countries already have plans based on this relationship, the Brazilian case is peculiar and, in many meanings, represents an innovation. In institutor plans the sponsor figure does not exist, in other words, the participant is the sole responsible for its defrayal and, therefore, all plans should be organized in the Defined Contribution modality. However, the standard empowers the employer to contribute, without joining the plan, on behalf of his respective employees. Another also regulated situation concerns asset management, which obligatorily should be outsourced. All legal and technical cares have been exerted so that class and sector associations and entities will be an instrument to strengthen Supplementary Pension and that it will be an instrument for consolidating harmonious labor relations.

The possibility of making closed Supplementary Pension accessible to workers in general, through an associative relationship, has engendered a compatible and supplementary structure to the traditional structure organized from sponsored plans. Traditionally, industries are organized by economic activity sector, so that within the same sector it is possible to find several specialized activities, from the executive to the factory hand.

In this way, benefit plans oriented toward occupational groups, based on employment relationship, are designed so as to accommodate the characteristic vertical structure of each economic sector, covering activities, even if distinct, correlated and supplementary to each other.

The associative relationship-based supplementary system, in turn, is conceived in horizontal manner, passing by, in many cases, more than one economic sector, but always within the same specialization area, such as, for example, steel workers and engineers, among others. From the conceptual and legal point of view, the Brazilian Supplementary Pension is complete, still remaining to develop it in some aspects and integrate its institutional structure more.

Supplementary Pension Retrospective and Perspectives

Simultaneously to changes occurred in the Supplementary Pension milestone, regulatory and inspecting agencies of Closed Supplementary Pension Entities (EFPC) have gained new assignments and a more suitable structure to perform their main competencies, among which participants' right protection, considered individually or collectively, is worthy of being highlighted.

Based on political orientations guiding, in 2003, preparation of the Multiannual Plan (PPA) proposal for the 2007-2007 period, the Ministry of Social Security promoted some initial and indispensable adjustments

at the Supplementary Pension Service, in order to confer a better institutional agility with a view to fostering and strengthening activities in Closed Supplementary Pension areas.

The guideline orienting the supplementary system institutional restructuring is contained in the diagnosis prepared in the PPA, which defined the main objective, that is, “Inclusion and Reduction of Social inequalities”. This point will be pursued, among other measures, by extending the most consolidated policy coverage, such as Social Security, to the most unprotected population portion.

Based on several conjectural scenarios of the Country’s social-economic situation for the next years, the Ministry of Social Security has started a series of preparations to offer a social protection mechanism to as many as there are workers who may opt for this public policy modality.

In relation to the Supplementary Pension Service, a set of actions has been established with a view to making available to as many workers as possible a safe, agile, transparent, friendly, informational and reliable Supplementary Pension system, with an effective and permanent performance of public authority in unconditional defense of participants. As a raw material for other government actions, Supplementary Pension should reciprocate with an expressive volume of long-term savings, indispensable to contributing to economic and social development in independent, sustainable manner.

As there was a very great distance between existing institutional structure and the really necessary one for facing new political orientations, and considering the shortage of financial and human resources, the Supplementary Pension Service started an emergency action, but undertaken in methodical, clear-sighted manner, in order to optimize investment of available resources. Initially, the duties of the regulatory agency were conceptually separated, in charge of the Supplementary Pension Management Council (CGPC) from those of the inspecting agency, performed by the Supplementary Pension Service (SPC). Both were valued and strengthened for performing their duties. The CGPC, with a leaner, representative structure, gained agility and was able to regulate situations that had been dragging for years due to lack of political definition.

The SPC concentrated efforts on the following lines of action: strengthening the closed Supplementary Pension system, fostering creation of instituting plans, follow-up on rule definitions for public servant's Supplementary Pension, establishing a partnership with players who are part of the system, defining new supervision concepts and developing a continuous monitoring system of pension plan inspection.

As a system strengthening measure, the SPC, along with the CGPC, has promoted regulation of crucial points to make the system more attractive and feasible for stakeholders. Among other measures, it is appropriate to highlight the effort toward endowing the service with a more specialized and agile technical structure for facilitating and reducing processing time of the most

varied demands daily entered into the protocol. In relation to Instituting plans, in addition to altering the rule so as to allow employer's contribution, a benefit plan regulation and a reference adhesion agreement were prepared and made available to stakeholders in order to reduce process procedural time.

It is worth emphasizing with special attention the effort undertaken aimed at making partnership with the supplementary system players. Considering EFPC governance structure, which, in addition to the Board of Directors and Executive Board comprises an Audit Committee with internal control duties, the SPC has sought, through several actions, to establish a close relationship with directors, in order to integrate outside control, in charge of the system inspecting agency, and internal control, which has on its staff participants' representatives.

In relation to supervision, the Service is developing continuous and permanent follow-up mechanisms, so as to be acquainted with due advance with situations where the inspecting agency's guidance may become indispensable for correct compliance with the legislation. In addition to permanently following up EFPC life, the SPC is promoting a reinforcement on its staff responsible for on-site inspection of benefit plans.

The Supplementary Pension Service for pension funds is anchored on some fundamental axles. The first one refers to completing upgrading and adequacy jobs of EFPC bylaws and regulations in light of the new legislation, giving pension funds more transparency and freedom in shaping pension plans.

This job will provide a stable environment, with clear, safe rules in governance field and more transparency to participants and assisted people.

The second point consists of strengthening associative supplementary pension, which is the segment presenting greater growth since 2003. Currently the associative system relies on 107 institutors, among labor unions, professional councils and other class entities; which are distributed over 44 instituting plans operated by 28 pension funds. Supplementary Pension definitely enters the agenda of main union leaderships of this Country, fulfilling more one important point of President Lula Government's Social Inclusion Program.

The third point refers to formulating, structuring and implementing Supplementary Pension for the public servant, an effective position holder, taking into account Constitutional Amendment No. 41/2003, by using already existing legislation, especially Supplementary Law No. 108/2001 and advancing in shared management by the active and inactive servant and the Government. Draft Law No. 1992/2007 has been forwarded to the National Congress, which regulates social security and creates FUNPRESP.

The last point consists of upgrading the inspection work methodology, which is being oriented toward a risk-based supervision, allied to the best international practices. In addition to inspection upgrading the State's performance capability will be strengthened and, at the same time, creation of internal control mechanisms promoted in each entity.

Due to the foregoing, perspectives for the current year are quite cheerful. It is expected, however, to give continuity to the work already being carried out, probing and diversifying already developed actions, having as main targets social security system strengthening, expansion of Institutor plans and intensive supervision over benefit plans. Public servants' supplementary pension, now that the Federal Constitution has already established its basic rules, will be, this year, the subject of the Service specific action with a view to organizing a lean, integrated structure and balanced since the beginning.

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