



Associação Nacional dos Auditores Fiscais da Previdência Social

○ ○ ○ **SAT**

**Seguro Acidente
de Trabalho no Brasil** ○ ○ ○
(revista, ampliada e atualizada)



2ª edição

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INJURY DISABLEMENT BENEFIT (SAT) IN BRAZIL

(revised, improved and updated version)

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PRESENTATION

It's with great satisfaction that we present the second edition of this publication, improved, revised and updated based on lectures and debates that took place at the International Seminar – Work, Health and Quality of Life, in Curitiba-Paraná, in August 2004. Innovations concern especially Law 10.666/03, which led to the Attachment to the CNPOS Resolution 1.236, in 28/04/2004.

This study, which was carried out through the analysis of data and information of the Ministry of Social Security, goes about extremely relevant issues, which should be of interest to all Brazilians: the importance of preventing accidents at work and its financing through the Industrial Injury Disablement Benefit (Seguro de Acidente de Trabalho – SAT).

The free trade system is the main economical power, however, this doesn't mean the government is less necessary nor does it reduce the government's role in modern society.

In the current Brazilian social and economical contexts, security and health in the workplace it's the State's responsibility. Health and Security are services that the private economy, due to its essence, does not provide.

Taking the profitable part of these services and giving them to private insurance companies challenges common sense, it's completely outrageous. It's important to understand that profit, in this case, conflicts with a greater public need.

ANFIP always participates in debates on important Brazilian issues aiming to defend the welfare of all Brazilians. Taken by this spirit, it's with great satisfaction that it presents this study.

1. INTRODUCTION

Concern with workers' health and safety, in a structured society, must be constant and permanent. The Industry Injury Disablement Benefit or Accident Benefit (SAT - Seguro de Acidente de Trabalho) is the most important political action, which aims to improve conditions of the workplace, decreasing risks to health and increase safety of workers inside companies/factories.

This matter deserves everybody's attention and interest: workers' especially, since they're direct beneficiaries of this policy; employers', because they're responsible for their employees' health and safety; and the government's, that has to treat this issue under a social point of view and promote actions to decrease the number of accidents at work in order to reduce the number of workers that are inactive due to accidents that cause temporary or permanent disablements or death.

According to Ministry of Social Security's data, "in Brazil, registries indicate that three deaths occur every two working hours and three accidents every minute. And this is only within formal market workers". This impressive piece of information reflects the dimension and importance of the problem.

Very few employers cared about the risks of the workplace or about the potential damage to their employees' health, until the first law on SAT. As a consequence, they didn't care about creating a safe and hygienic workplace, in order to avoid risks of diseases and accidents.

Besides being a social and human issue, the elementary right to health and safety at work, is also an economic matter that, recently, has been included in Total Quality programs.

The federal government must maintain the understanding that health and safety at the workplace is closely related to the productive system, the generation of national wealth and the strengthening of solidarity. Because, the greater the number of accidents is, the lower the number of the economically active population will be.

The government's role is dealing with creating and developing specialized workforce, working relations, conditions of work, workplaces, medical care and, most importantly, with preventing the loss of ability of the worker to work, always trying to rehabilitate workers as quickly as possible, as well as

compensating them for the time they were not able to work so that their basic needs are assisted.

Law n° 9.732/98, trying to find the best definition and terminology for INSS' procedures, replaced SAT (Seguro Acidente do Trabalho) for "benefit given based on the degree of labor disablement caused by environmental risks of the workplace". However, in order to facilitate the identification of the subject, the old terminology has been adopted in this study.

It's also important to clarify, that, in this study, the following have been considered to be accident benefits: invalidity retirement pensions, death pensions, illness benefits, accident benefits and supplementary benefits. Administrative costs with health and special retirements have not been included.

This subject is indeed complex. We'll approach its legal aspects, international experience, its social role, as well as responsibilities and flaws of the SAT system. Some issues for discussion in order to improve the current situation are also presented.

2. BRAZILLIAN LAWS ON INDUSTRIAL INJURIES DISABLEMENT BENEFIT (SAT) THROUGH TIME

Brazilian Social Security Laws on SAT began with the Decree Law 3.724, dated January 15th 1919, which determined the payment of compensation bonuses proportionally to the gravity of the injury, that is, it instituted the concept of professional risk.

On July 10th 1934, Decree 24.637 maintained the concept of professional risk and implemented the employer's obligation to choose either the compulsory insurance system or bank deposits as ways of guaranteeing the payment of compensation bonuses. Another innovative point of this norm was the broadening of the concept of "professional illness"

Decree-Lei nº 7.036, dated November 10th, 1944, differed from previous laws because it showed a concern with safety and hygiene at the workplace, which is now a fundamental matter in order to prevent illnesses and accidents.

On February 28th 1967, Decree 293, which didn't present changes and was revoked in the same year.

Still in the year of 1967, precisely on September 14th Law 5.316 came along. This Law meant a great change: compulsory insurance was now a responsibility of the State. Other important changes, like adopting the concept of course accident, broadening the definition of professional risk and implementing a new program of accident prevention and professional rehabilitation, were also made. It's when the causes of accidents begin to be a matter of concern as well as accidents themselves.

The following law, Law 6.397, dated October 19th 1976, which was regulated by Decree 79.037, dated December 24th 1976, determined that INPS' (currently INSS) contributions should correspond to 1,25% of additional revenue established in the article 15 of this Law to the Social Development Fund (FAS - Fundo de Apoio ao Desenvolvimento Social). This contribution aimed to finance projects of accident prevention which had been previously approved by the Ministry of Labor and Employment.

After that, Laws 8.212/8.213 (07/24/91) and 9.032 (04/28/95), which were regulated by Decree 3.048/99, that showed the importance of creating preventive measures in order to avoid accidents and illnesses. It also fixated a floor of 50%

on the contribution salary (until then, it had varied between 20%, 40% and 60%, depending on the injury), which was destined to compensate people who had suffered accidents and had permanent or partial disabilities.

Law 9.732, dated December 11th 1998, makes a change in rates, were it implements the addition of 12%, 9% and 6% to companies that had especial retirements. To the work cooperative, however, there were additional 9%, 7% or 5% and if workforce was shared, then the addition of 4%, 3% or 2% (Law 10.666/03) was necessary.

In the Constitutional Amendment 20/98, according to paragraph 10 of article 201, of the Federal Constitution, establishes that law “will rule the cover of accidents at work, which will also be attended by the General Social Security Regimen (RGPS - Regime Geral de Previdência Social), as well as the private sector”.

Decree 4.032, dated November 2001, normalizes the “Social Security Professional Profile” (PPP - Perfil Profissionográfico Previdenciário), which was created by Law 9.528/97 – that must contain environmental registries, results of biological monitoring as well as administrative data.

At last, Law 10.666, dated May 8th 2003, which made the rates of accident benefit financing more flexible (they might be cut in half as well as doubled, depending on the frequency, gravity and costs of accidents at work). It's expected that this will represent a significant step forward in refining social protection policies and stimulating the country's economic development by reducing costs and rewarding healthy work.

As a whole, Brazilian Social Security Laws on SAT have had great changes in its structure, however, without reaching its goals. That's because the number of work-related accidents and illnesses is still high. The key issue to reduce cases of work-related accidents and illnesses is to intensively audit the correct use of preventive measures.

3. INDICATORS OF ACCIDENTS AT WORK

Table 1 shows the number of work-related accidents from 1997 to 2003, according to the reasons mentioned in the Laws on SAT (Industry Injure Disablement Benefit). The numbers of typical accidents represent an average of 82% out of the total number of accidents in 2003, while accidents on the way to work and work-related illnesses, altogether, represent only 18%. Despite the tendency of decrease in the number of work-related accidents and illnesses (with the exception of 2002), there is still a high number of registered accidents.

Under the point of view of the employee, an accident occurs when one of the following situations is identified:

1 - The employee has an accident as a result of the characteristics of their work – typical accident;

2 - The employee has an accident on their to or from work – course accident;

3 - The employee has any kind of illness caused or triggered by their work, mentioned in the Regulations of Social Security (RPS - Regulamento da Previdência Social), which was approved by Decree 3.048/99.

TABLE 1
TOTAL NUMBER OF REGISTERED ACCIDENTS, BY
REASON - 1997 TO 2003

| YEAR | REASON | | | |
|------|---------|-----------------|--------------|---------|
| | TYPICAL | COURSE ACCIDENT | WORK ILLNESS | TOTAL |
| 1997 | 347.482 | 37.213 | 36.648 | 421.343 |
| 1998 | 347.738 | 36.114 | 30.489 | 414.341 |
| 1999 | 326.404 | 37.513 | 23.903 | 387.820 |
| 2000 | 304.963 | 39.300 | 19.605 | 363.868 |
| 2001 | 282.965 | 38.799 | 18.487 | 340.251 |
| 2002 | 323.879 | 46.881 | 22.311 | 393.071 |
| 2003 | 319.903 | 49.069 | 21.208 | 390.180 |

Source: Social Security Statistical Yearbook – 1997 to 2003.

The increase in the number of accidents, seen in 2002, is directly associated to the Minimum State policy that has been adopted by the Federal Government, which has disstructured the Brazilian public sector.

**INCIDENCE OF REGISTERED
ACCIDENTS AT WORK – BRAZIL 1990 to 2003**

| YEAR | INSURED WORKERS (¹) | TOTAL REGISTERED ACCIDENTS | INCIDENCE % |
|------|---------------------|----------------------------|-------------|
| 1990 | 22.755.875 | 695.673 | 3,06% |
| 1991 | 22.792.858 | 640.520 | 2,81% |
| 1992 | 22.803.065 | 532.514 | 2,34% |
| 1993 | 22.722.008 | 426.960 | 1,88% |
| 1994 | 23.016.637 | 388.304 | 1,69% |
| 1995 | 23.614.200 | 424.137 | 1,80% |
| 1996 | 21.672.336 | 395.455 | 1,82% |
| 1997 | 22.252.694 | 421.343 | 1,89% |
| 1998 | 24.758.801 | 414.341 | 1,67% |
| 1999 | 25.765.217 | 387.820 | 1,51% |
| 2000 | 27.265.342 | 363.868 | 1,33% |
| 2001 | 27.516.715 | 340.251 | 1,24% |
| 2002 | 29.883.440 | 393.071 | 1,32% |
| 2003 | | 390.180 | |

Source: Social Security Statistical Yearbook - 1990 to 2003.

(¹) Division of Planning and Socioeconomic Studies – INSS between 1990 and 1999; and from 2000 to 2003 Social Security Statistical Newsletter

Obs.: Does not include self-employed and facultative contributors.

Data in Table 2 show a considerable decrease in the occurrence of accidents among insured employees between 1990 and 2001 (from 3,06% to 1,23%), increase in 2002 to 1,23% and, after that, a new decrease in 2003 to 1,30% (estimated). Policies must be carried out in order to reduce these percentages that are incredibly high when compared to the international average number of work-related accidents.

Table 3 shows the number of registered accidents, organized per reason and sector of economy, from 1997 to 2003. Transformational and service sectors have registered higher amounts of accidents when compared to the other sectors of the Brazilian economy.

TABLE 3
TOTAL NUMBER OF REGISTERED ACCIDENTS AT WORK, BY REASON
ACCORDING TO THE FIELD OF ECONOMIC ACTIVITY - 1997 TO 2003

| ECONOMICAL ACTIVITY | YEAR | REASON | | | TOTAL |
|-------------------------------|------|---------|---------|--------------|---------|
| | | TYPICAL | TRAJETO | WORK ILLNESS | |
| AGRICULTURE | 1997 | 28.291 | 1.039 | 357 | 29.687 |
| | 1998 | 31.376 | 996 | 520 | 32.892 |
| | 1999 | 27.627 | 1.028 | 344 | 28.999 |
| | 2000 | 22.012 | 957 | 244 | 23.213 |
| | 2001 | 21.901 | 970 | 392 | 23.263 |
| | 2002 | 26.980 | 1.400 | 391 | 28.771 |
| | 2003 | 28.708 | 1.590 | 367 | 30.665 |
| INDUSTRY ⁽¹⁾ | 1997 | 41.409 | 3.729 | 2.374 | 47.512 |
| | 1998 | 40.217 | 3.264 | 1.824 | 45.305 |
| | 1999 | 151.205 | 12.083 | 10.884 | 174.172 |
| | 2000 | 144.182 | 12.821 | 8.776 | 165.779 |
| | 2001 | 138.934 | 12.578 | 8.508 | 160.020 |
| | 2002 | 153.444 | 14.474 | 9.915 | 177.833 |
| | 2003 | 120.551 | 12.605 | 7.817 | 140.973 |
| TRANSFORMATION ⁽²⁾ | 1997 | 135.128 | 9.680 | 15.074 | 159.882 |
| | 1998 | 123.790 | 8.696 | 12.012 | 144.498 |
| | 1999 | 115.828 | 8.802 | 9.498 | 134.128 |
| | 2000 | 111.676 | 9.197 | 7.475 | 128.348 |
| | 2001 | 106.651 | 9.117 | 7.282 | 123.050 |
| | 2002 | 117.619 | 10.579 | 8.498 | 136.696 |
| | 2003 | 93.936 | 9.388 | 6.806 | 110.130 |
| SERVICES ⁽³⁾ | 1997 | 124.297 | 21.424 | 17.254 | 162.975 |
| | 1998 | 130.817 | 21.563 | 14.621 | 167.001 |
| | 1999 | 127.251 | 23.157 | 11.758 | 162.166 |
| | 2000 | 113.302 | 23.140 | 9.458 | 145.900 |
| | 2001 | 108.484 | 24.393 | 9.300 | 142.177 |
| | 2002 | 132.345 | 30.397 | 11.556 | 174.298 |
| | 2003 | 110.659 | 28.767 | 10.326 | 149.752 |
| IGNORED | 1997 | 18.357 | 1.341 | 1.589 | 21.287 |
| | 1998 | 21.538 | 1.595 | 1.512 | 24.645 |
| | 1999 | 20.321 | 1.245 | 917 | 22.483 |
| | 2000 | 25.467 | 2.382 | 1.127 | 28.976 |
| | 2001 | 13.646 | 858 | 287 | 14.791 |
| | 2002 | 11.110 | 610 | 449 | 12.169 |
| | 2003 | 59.985 | 6.107 | 2.698 | 68.790 |
| TOTAL | 1997 | 347.482 | 37.213 | 36.648 | 421.343 |
| | 1998 | 347.738 | 36.114 | 30.489 | 414.341 |
| | 1999 | 326.404 | 37.513 | 23.903 | 387.820 |
| | 2000 | 304.963 | 39.300 | 19.605 | 363.868 |
| | 2001 | 282.965 | 38.799 | 18.487 | 340.251 |
| | 2002 | 323.879 | 46.881 | 22.311 | 393.071 |
| | 2003 | 319.903 | 49.069 | 21.208 | 390.180 |

Source: Social Security Statistical Yearbook - 1997 to 2003.

(¹) Industry: Mining, building construction, industrial public interest services.

(²) Transformation: Food and beverages, textile, cellulose, chemical products, rubber, mineral, metallurgy, machinery and equipment, electrical products, etc.

(³) Services: vehicles, wholesale, accommodation, communications, financial, computing, education, health, social services, etc.

The transformation sector showed, in 2003, 110.130 work-related accidents, while the service sector showed, in the same year, 149.752 accidents. It's surprising to see that the service sector has greater incidents of accidents than the transformation sector, since the probability of occurring an accident is supposedly greater in the transformation sector than in the service sector, because risks are much greater in an industry than inside an office. According to data collected in the Social Security Statistical Yearbook, in an industry of chemical products, for example, in 2000 there were 4.957 accidents. However, in the financial sector, 5.713 accidents were registered.

Table 4 shows the relation between revenues and overheads with benefits, from 1995 to 2003. It's important to emphasize that the SAT balance sheet had positive balance in the period considered, and that overheads totaled, in 2003, 75,7% of total revenues. In this period, overheads represented an average of 62,3% of total revenue. This sector is attractive to private insurance companies, which dream of easy profit, since they would have a slice of SAT, mainly for life insurances, while the Social Security would be responsible for maintaining risk benefits (Illness Benefit, Invalidity Pensions, etc), socializing liabilities and privatizing profit.

Inside the National Congress, during debate of the project that intended to privatize SAT (altered by the Constitutional Amendment 20/98), the Federal Council, brought back the public and social character of work-related accidents, while the Senate rejected the matter, approving the standards adopted by the Constitutional Amendment 20/98.

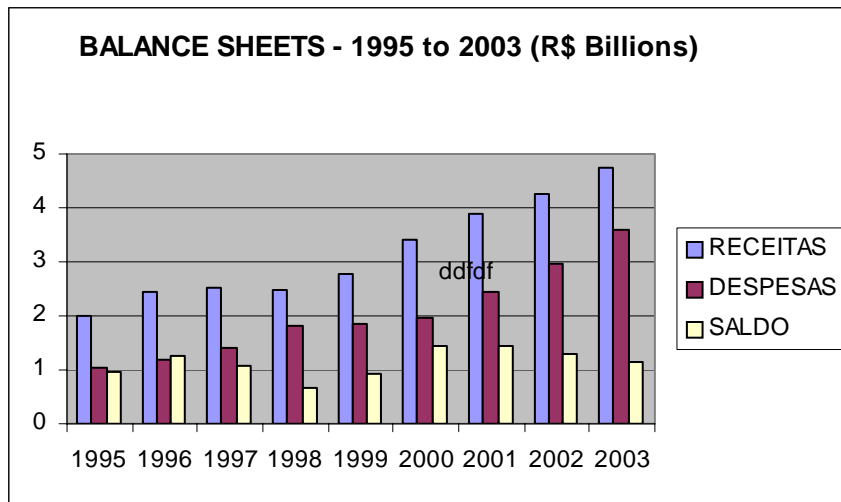
**TABLE 4
INDUSTRIAL INJURE DISABLEMENT BENEFIT - SAT
BALANCE SHEET - 1995 TO 2003**

| YEAR | REVENUES (R\$ Billions) | OVERHEADS (R\$ Billions) | BALANCE (R\$ Billions) | OVERHEADS/ REVENUES (%) |
|------|----------------------------|-----------------------------|---------------------------|-------------------------------|
| 1995 | 2,018 | 1,044 | 0,974 | 51,7 |
| 1996 | 2,431 | 1,167 | 1,264 | 48,0 |
| 1997 | 2,504 | 1,423 | 1,081 | 56,8 |
| 1998 | 2,487 | 1,805 | 0,682 | 72,6 |
| 1999 | 2,789 | 1,860 | 0,929 | 66,7 |
| 2000 | 3,410 | 1,962 | 1,448 | 57,5 |
| 2001 | 3,906 | 2,450 | 1,456 | 62,7 |
| 2002 | 4,262 | 2,954 | 1,308 | 69,3 |
| 2003 | 4,729 | 3,578 | 1,151 | 75,7 |

Source: Social Security Statistical Yearbook – 1995 to 2003.

Observation: Are considered accident benefits: disablement pensions, death pensions, illness benefits, accident benefits and supplementary benefits. Other expenses, such as: administrative costs, health and special retirement pensions haven't been considered. Social Security General Office – SPS/MPS estimates that, in 2003, R\$ 8,2 billions were spent with accident benefits and special retirement pensions.

Graph 1 shows revenues, overheads and closing balance through time.



Source: Social Security Statistical Yearbook – Ministry of Social Security

Tables 5 and 6 show, respectively, the amount and value of accident benefits per group. Data show a growth in the value of benefits maintained from 1997 until 2003. Benefits related to accidents are the most significant and grow in number as well as in values. They're followed by accident and invalidity pensions. .

TABLE 5
AMOUNT OF ACCIDENT BENEFITS MANTAINED PER GROUP -
1997 TO 2003

| GROUPS | | | | | | TOTAL |
|----------|---------|----------|---------------|------------|---------|---------|
| BENEFITS | | | | | | |
| YEAR | ILLNESS | ACCIDENT | SUPPLEMENTARY | RETIREMENT | PENSION | |
| 1997 | 72.345 | 225.678 | 97.643 | 92.439 | 124.873 | 612.978 |
| 1998 | 74.208 | 232.097 | 97.617 | 95.846 | 126.165 | 625.933 |
| 1999 | 70.770 | 241.268 | 97.412 | 101.297 | 127.678 | 638.425 |
| 2000 | 68.352 | 250.075 | 97.774 | 107.401 | 128.702 | 652.304 |
| 2001 | 69.283 | 250.370 | 97.112 | 103.487 | 124.524 | 644.776 |
| 2002 | 90.175 | 254.455 | 95.624 | 109.958 | 125.333 | 675.545 |
| 2003 | 101.834 | 255.967 | 93.228 | 115.772 | 125.414 | 692.215 |

Source: Social Security Statistical Yearbook 1997 to 2003

TABLE 6
VALUE OF ACCIDENT BENEFITS MANTAINED PER GROUP -1997
TO 2003 - (R\$ THOUSAND)

| GROUPS | | | | | | TOTAL |
|----------|---------|----------|---------------|------------|---------|---------|
| BENEFITS | | | | | | |
| YEAR | ILLNESS | ACCIDENT | SUPPLEMENTARY | RETIREMENT | PENSION | |
| 1997 | 29.823 | 30.974 | 4.756 | 24.682 | 38.918 | 129.153 |
| 1998 | 30.535 | 31.553 | 4.922 | 26.487 | 39.052 | 132.549 |
| 1999 | 31.177 | 36.767 | 5.242 | 30.523 | 41.861 | 145.570 |
| 2000 | 32.335 | 41.032 | 5.596 | 35.880 | 45.123 | 159.966 |
| 2001 | 36.767 | 45.828 | 5.991 | 40.508 | 48.448 | 177.542 |
| 2002 | 53.256 | 52.361 | 6.384 | 49.322 | 53.787 | 215.110 |
| 2003 | 72.346 | 64.592 | 7.450 | 64.808 | 65.108 | 274.304 |

Source: Social Security Statistical Yearbook 1997 to 2003

Table 7 shows the relation between the number of work-related accidents and the age of the insured people between 1997 and 2003. The age range of higher incidence of accidents is from 20 to 24, while, people older than 55 tend to have less accidents. This is because older workers are more cautious than the younger ones, due to their experience. Authorities should work out a way to train younger people who enter the work market, in order to generate specialized workmanship.

TABLE 7
RELATION BETWEEN AMOUNT OF ACCIDENTS AT WORK AND
AGE - 1997 to 2003

| AGE | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 97/TT | 98/TT | 99/TT | 00/TT | 01/TT | 02/TT | 03/TT |
|--------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|-------------|-------------|-------------|-------------|----------------|----------------|----------------|
| Under 19 | 30.901 | 29.015 | 19.903 | 16.516 | 14.801 | 15.413 | 14.007 | 7,33% | 7,00% | 5,13% | 4,80% | 4,35% | 3,92% | 3,59% |
| 20-24 | 73.691 | 74.343 | 71.370 | 61.962 | 62.718 | 74.036 | 73.125 | 17,49% | 17,94% | 18,40% | 18,01% | 18,41% | 18,84% | 18,74% |
| 25-29 | 69.500 | 70.973 | 69.527 | 60.475 | 60.946 | 71.775 | 73.898 | 16,49% | 17,13% | 17,93% | 17,58% | 17,89% | 18,26% | 18,94% |
| 30-34 | 63.664 | 64.379 | 63.231 | 55.114 | 54.122 | 62.560 | 61.383 | 15,11% | 15,54% | 16,30% | 16,02% | 15,89% | 15,92% | 15,73% |
| 35-39 | 54.950 | 55.177 | 55.169 | 49.763 | 48.830 | 55.510 | 54.820 | 13,04% | 13,32% | 14,23% | 14,47% | 14,34% | 14,12% | 14,05% |
| 40-44 | 45.172 | 44.571 | 45.143 | 41.340 | 39.802 | 45.453 | 44.556 | 10,72% | 10,76% | 11,64% | 12,02% | 11,69% | 11,56% | 11,42% |
| 45-49 | 30.513 | 29.966 | 30.940 | 28.837 | 29.094 | 33.320 | 33.601 | 7,24% | 7,23% | 7,98% | 8,38% | 8,54% | 8,48% | 8,61% |
| 50-54 | 17.500 | 17.276 | 17.793 | 16.885 | 16.721 | 19.702 | 20.001 | 4,15% | 4,17% | 4,59% | 4,91% | 4,91% | 5,01% | 5,13% |
| 55-59 | 9.298 | 9.266 | 9.370 | 8.412 | 8.730 | 9.674 | 9.857 | 2,21% | 2,24% | 2,42% | 2,45% | 2,56% | 2,46% | 2,53% |
| 60-64 | 3.850 | 3.528 | 3.962 | 3.413 | 3.203 | 3.720 | 3.696 | 0,91% | 0,85% | 1,02% | 0,99% | 0,94% | 0,95% | 0,95% |
| 65-69 | 1.079 | 943 | 1.032 | 922 | 798 | 987 | 900 | 0,26% | 0,23% | 0,27% | 0,27% | 0,23% | 0,25% | 0,23% |
| Over 70 | 346 | 310 | 341 | 274 | 229 | 312 | 289 | 0,08% | 0,07% | 0,08% | 0,08% | 0,07% | 0,08% | 0,07% |
| Ignored | 20.879 | 14.594 | 39 | 73 | 617 | 609 | 47 | 4,96% | 3,52% | 0,01% | 0,02% | 0,18% | 0,15% | 0,01% |
| TOTAL | 421.343 | 414.341 | 387.820 | 343.996 | 340.611 | 393.071 | 390.180 | 100% | 100% | 100% | 100% | 100,00% | 100,00% | 100,00% |

Source: Social Security Statistical Yearbook – 1997 to 2003

4. INTERNATIONAL EXPERIENCE

4.1. SOUTH AND CENTRAL AMERICA

In South and Central America, work-related accidents are clearly different in the General Social Security System (RGPS - Regime Geral de Seguridade Social). Differences and peculiarities are explained in this chapter.

Types of systems:

There are two basic work-related accident benefit systems: Social Security systems financed by society and Private or Semi-private Systems, which are demanded by Law.

In most countries where there are programs on work-related accidents, these programs are managed through a central public fund, which may or may not be part of the general social security system. All employees who are included in the program must contribute to the public insurance company (the one which pays for the benefits).

The cost of protection can vary a lot. Premium that private or mutual insurance companies charge for protection against working accidents generally vary depending on the risk level that different sectors of economy present. However, in some countries, the historical number of accidents has ceased to be considered and all workers pay the same fee, no matter the sector of economy for which they work.

In some cases, laws of indemnities to workers impose that the employer has the responsibility of paying for compensations directly to their employees who suffered accidents or to their family, in case of death, without being insured. Some employers, who are protected by those laws, may simply pay the benefits out of their own fund, when accidents occur. Others, deliberately sign mutual or private insurance contracts, aiming to protect themselves from risks.

Cover

Work-related accident benefit programs, generally, do not apply to workers who are self-employed. Programs in some nations that are more industrialized cover approximately all employers. However, many countries do not cover rural employers or cover only those whose activities involve operating engine powered machinery. Some programs also exclude small company employers.

Sources of financing

Accident benefits are mainly financed by employers' contributions, which show that they must be responsible for paying compensations whenever their employees have accidents at work.

However, there are some exceptions in which certain elements of accident benefit program are connected to one or more branches of the social security system. In these cases, financing frequently involves contributions of employees, employers, as well as contributions from the government.

Another exception occurs in countries that give medical treatment for illnesses which are related to work through ordinary public health assistance programs.

Benefits and services for accidents at work

Working accident benefit programs pay for financial and medical benefits. Financial benefits are divided into temporary disablement, total and permanent disablement, as well as partial and permanent disablement.

Besides benefits paid in cash, medical and hospital assistance are also given to employees. Services of physical, professional and social rehabilitation are sponsored too. They're often free of charge and may include a greater variety of services. These services normally remain available until the employee fully recovers from the accident.

Benefits paid to the family

Most accident benefit programs pay benefits to the family of a worker who died due to an accident at work. These benefits are generally paid to their

spouse, no matter their age, until they die or marry again. If the benefit isn't used by the closest relatives, other relatives may also receive smaller benefits.

4.2 EUROPE

GERMANY:

- Cover: employed workers, some categories of self-employed, facultative contributors, students, children at kinder garden and rural workers.
- Special system for public servants.
- Sources of financing: employee doesn't pay; employer's contribution varies according to the risk of activities, the average contribution is 1,31% on payroll; the government sponsors rural, student and child protection.
- Types of benefits: temporary disablement benefit; permanent disablement benefit; medical assistance; death pensions.

FRANCE:

- Cover: employed workers, students and some members of social service organizations (volunteers).
- Special systems for agriculture, mining, railways, public utility workers, sailors, non-rural as well as rural self-employed workers.
- Sources of financing: employee doesn't pay; employer's contribution varies according to the risk of activities, the average contribution is 2,26% on payroll).
- Types of benefits: temporary disablement benefit; permanent disablement benefit; medical assistance; death pensions.

ITALY:

- Cover: artisans, employees who perform risky activities, rural self-employed workers, as well as domestic employees.

- Special system for sailors.

- Sources of financing: employee doesn't pay; employer's contribution varies from 0,5% to 16% on payroll, according to the risk of activities; the average contribution is 3%.

- Types of benefits: temporary disablement benefit; permanent disablement benefit; medical assistance; death pensions.

SPAIN:

- Cover: employees in general, with special system for some high risk categories.

- Sources of financing: employee doesn't pay; employer's contribution varies from 0,81% to 16,2% on payroll; average contribution is 1,98%.

- Types of benefits: temporary disablement benefit; permanent disablement benefit; medical assistance; death pensions.

5. ACCIDENTS AT WORK: RISK AND CONSEQUENCE

Analyzing the need to evaluate risks of workplaces in Brazil, due to the high accident levels registered year after year, and, considering losses caused to the employees' life quality and how much accidents cost, the Ministry of Social Security (MPS – Ministério da Previdência Social) along with the Ministry of Labor and employment (MTE – Ministério do Trabalho e Emprego) are giving priority to the creation of policies that evaluate and control the current situation, identifying sectors that will receive greater incentives of the government in order to prevent and audit accidents.

According to Social Security Regulation (RPS – Regulamento da Previdência Social), companies are classified in three levels of risks in their workplaces, according to their economic activity: light, mild and serious. Depending on the type of risk, there are different rates to be paid, which will be used to finance accident benefits, respectively 1%, 2% and 3%. This contribution is paid by companies.

Since April 1999, Law 9.732/98, established a plus of 12%, 9% or 6% to companies that have special retirements. Cooperatives of Work pay 9%, 7% or 5%, and, in the case of workforce cession it's 4%, 3% or 2% (Law 10.666/03).

Creating a parallel to the actuarial concept of insurance, assigning different rates is because the probability is analyzed, like in any insurance plan, in the different fields of business. Therefore, when it's analyzed from this point of view, its statistics are based on: risks, premium, benefits, etc. It's extremely important to re-evaluate these bases, if we wish the insure system to function perfectly. Another important issue is re-evaluating the framing of companies into fields of business, which will be better dealt with in the next chapter.

Risks of accidents, typical accidents, professional illness or illness caused by special conditions of work, vary according to economic activity, technology used, conditions of work, workforce used and safety measures adopted. The nature of professional risk, according to BEDRIKOW, BAUMECKER and BUSCHINELLI (1996):

“...Mechanical agents generally produce sudden effects and traumatic injuries – accidents at work – whereas physical, chemical and biological agents cause professional diseases. Added to that are the ergo metrical

risks and psychosocial factors that affect the workers' mental health. Changes in technology used and the forms of work organization, informatization, as well as work from home, create new forms of risk..."

If the accident occurs, its consequences will be classified as follows:

1- Simple medical assistance: the person receives medical care at the workplace;

2- Temporary disablement: the person spends some time away from work, until they're recovered. To the Social Security, this time is divided as follows: under and over 15 days. If the person is away for more than fifteen days, they can get a pecuniary value of illness benefit.

3- Permanent disablement: the worker is incapable of carrying out, partially or totally, his activity. In the first case, the worker receives a bonus for their reduction of ability to carry out the activity they used to before the accident, but is able to carry out other activities. Situations for partial disablement are framed in Annex III, of RPS. In the second case, since the worker is unable to carry out any professional activity, they receive an invalidity retirement pension.

As for partial or total disablement, it's important to point out that there's no one criteria in all countries. In some countries, weights or rates of disablement are differentiated and incomplete, in some cases, more specifically when it comes to multiple injuries or workers who had previous injuries. In Brazil, however, there's the Brazilian Association of Technical Norms (ABNT – Associação Brasileira de Normas Técnicas), whose objective is setting up criteria for the registry of accidents, statistics and work analysis, as well as their publication. This norm determines weights and rates of disablement caused by multiple injuries, and these weights must be accumulated in each case. Therefore, in some cases, the accumulated weight derived from many multiple injuries overcomes the weight assigned to death.

Social Security Legislation, when it comes to permanent or partial disability, tells us that, until 1991, there were two types of benefits: accident benefits and supplementary benefits. Accident benefits were paid to the person who suffered the injury, after the results of the accident were consolidated, if they remained disabled to carry out the activity they used to perform, and not any other kind of activity. This benefit corresponded to 40% of the contribution salary. Supplementary benefits were paid whenever the injured worker had permanent disablements because of the accident, like an anatomic loss or reduction of the functional capacity, however,

without impeding the worker from carrying out their professional activities. This benefit corresponded to 20% of the contribution salary. Accident benefits were vitalicious whereas supplementary benefits ceased to be paid when the worker retired.

Law 8.213, dated 07/24/91, ended the so-called supplementary benefit and established that 30%, 40% and 60% of the contribution salary would be paid to workers who could receive accident benefits. Then, Law 9.032, dated 04/28/95, established that accident benefit would correspond to 50% of the contribution salary. Currently, accident benefits also stop being paid whenever the worker retires (Law 9.528/97).

After the risks are acknowledged, businessmen should implement policies to minimize accidents, with preventive measures. One of the main ways of trying to reduce the number of accidents at work is creating incentives to the companies that, through the use of technology or preventive measures, can reduce the risks to their employees, in the different sectors of economy, but mainly in sectors with greater accident levels, like: chemical industries, construction, etc.

According to the International Work Organization (OIT – Organização Internacional do Trabalho), avoiding 100% of accidents is an incredibly difficult task. An accident can't be completely avoid, however the possibility of its occurrence can be lowered. The 390.180 working accidents that happened in 2003 could be drastically reduced after the implementation of serious prevention measures, as well as government auditing, controlling and rewarding companies that reduce accidents in their workplaces.

6. FRAMING COMPANIES INTO FIELDS OF BUSINESS

Companies' contributions to SAT began with Law 6.367 (10/19/76). Later on, it was regulated by Decree 79.037 (12/24/76). Then, the new Regulations on Accidents at Work (Regulamento do Seguro de Acidente de Trabalho) was implemented. It was modified only in 1997, with Decree 2.173 (03/05/97). This modification concerned only the compatibility of activity codes, because, in 1976, the Regulations on Accidents at Work had established three degrees of risk based on the type of economic activity, which was called code SAT.

At the same time, there was also a National Code of Economical Activity (CNAE - Código Nacional de Atividade Econômica), which was used by the Ministry of Labor, and that had no compatibility whatsoever with code SAT. This made any data crossing analysis with other institutions' data extremely difficult and it also harmed studies that were aimed at revise degrees of risk. That's why, since 1976 there hasn't been alterations concerning degree of risk.

Law 7.787, dated June 30th, 1989, in article 4, established that the company whose numbers of accidents at the workplace were higher than the average number of accidents of their economical sector would have to contribute with additional 0,9% to 1,8% in order to finance SAT.

In order to stimulate investments in accident prevention, Law 8.212 (07/ 24/91), (paragraph 3 of article 22), allowed the Ministry of Social Security to change the sector of companies, for contribution purposes.

Article 27 do Decree 2.173 (03/05/97), established that the Ministry of Social Security could authorize the company to reduce until 50% of contribution rates, if the companies implemented measures for preventing work-related accidents and illnesses, as well as improvements in the workplace. These measures were analyzed during an INSS process, based on information collected by the Communication of Accidents at Work (CAT - Comunicação de Acidentes de Trabalho). The General Social Security Regimen (RPS), (Decree 3.048/99), in article 203, maintained this mechanism.

However, these important measures carried out in order to give incentive to investments on accident prevention have never been implemented.

On December 12th, 2002, Provisional Remedy 83 was edited and later

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converted in Law 10.666 (05/08/2003 that, in article 10, prescribes a new attempt to implement in Brazil a fair and efficient policy of reduction of work disablements as a result of environmental risks at the workplace.

7. FLAWS IN THE CURRENT LAWS ON SAT

The first SAT flaw, among others, is the insufficient cover that his model provides. That's because there are discrepancies in the relation between the economically active population and the number of insured employees. In an economically active population of 80 million people, approximately 1/3 is covered by SAT. Why does this happen? First issue: which workers are covered? Registered workers are covered, as well as freelancers and the specially insured, whereas the so called individual contributors (businessmen, self-employed and domestic workers) do not have that benefit. As for workers of the informal market, the "excluded" do not have access to social security: whether because they're able to, but don't contribute or simply because they can't do it.

A second flaw in the model is the insufficiency of medical care services to employees who have accidents at work. Due to management problems, or insufficiency of funds, or for other reasons, like the insufficiency of the Public Health System (SUS), medical assistance given to injured workers is clearly insufficient.

The third flaw takes place when the worker is not enrolled in INSS. In this case, the employer simply compensates the worker for the accident, when his responsibility is actually to prevent accidents at the workplace. Prevention of accidents has to be a key issue, and not just accepting accidents. That's because SAT is not compensational, but preventive.

The fourth flaw has to do with work illnesses. There's a growing difficulty to characterize the nature of work that causes damages to health and the increase in the number of illnesses caused by work. In 1980, it occurred in 1,98 of every 10.000 insured people; however, in 1997, the occurrence climbed to 14,3 cases of every 10.000 insured (latest data available). It's a significant increase, especially if we consider the advances in technology since 1980.

At last, but not least, there's the problem of rehabilitating workers who have had accidents. According to INSS data, despite the 30% loss of workers in the last five years, approximately 20.000 return to the work market. 50% of the workers who go through professional rehabilitation return to their professional activities, and others are rehabilitated to activities that pay less. However, this program is insufficient because needs are incredibly greater than the 40.000 people benefit from it every year.

Therefore, fixing these flaws and developing a SAT model that covers more people and that does it more efficiently. It must have a policy of prevention, education and rigorous governmental auditing so that the number of work accidents in Brazil can finally drop considerably.

8. THE SOCIAL SECURITY ACCIDENT FACTOR (FAP)

It's impossible to deny the importance of a good policy for financing social security benefits. According to current laws, benefits given based on the degree of labor disablement caused by environmental risks of the workplace, as well as special retirements are financed with 1%, 2% or 3% rates on the value of the salary that companies pay to their employees and freelancers, according to the type of activity. Workers who are subject to risks that generate special retirements there is an additional of 6%, 9% or 12% on the value of the salary paid to workers who are exposed to the conditions that generate this benefit, since April 1999. The contributions which have been mentioned previously (1%, 2% or 3%) are paid according to the sector of economy, despite the quality of the workplace. It's worth mentioning that a company of the transformation industry invests in improvements of the work environment, eliminating or reducing risks, this company's contributions will be the same paid by a company that doesn't invest in safety at the workplace.

It's expected that the new methodology of contribution's flexibilization approved in the Resolution 1.236/04 of the CNPS can change the current scenario, allowing companies that invest in improvements of their workplace to be rewarded, while those that don't do it, will be penalized. Therefore, companies that invest in accident prevention will have up to 50% off in contribution dues and, those which don't invest in improvements of the workplace will pay fees up to 100%, which means that 1% to 3% rates will vary from 0,5% a 6%.

The Social Security Accident Factor (FAP - Fator Acidentário Previdenciário – FAP) is a multiplier of 1%, 2% or 3% rates, which corresponds to the framing of the company into the field of business in the National Code of Economical Activity (CNAE - Código Nacional de Atividade Econômica). This multiplier must float in a continuous closed interval from 0,5 to 2, considering the gravity, frequency and cost, according to Law 10.666/03.

Based on frequency, gravity and cost, a primary element is found. It's typically immune to tax evasion, which can't be declared and is independent from the wish/power of the employer over information, as

well as intrinsically connected with working disability, illness, death or registry. It must be something whose medical responsibility is personal, what offers lower degrees of fraud, and, consequently, higher safety to the manager and justice.

FAP creation is a good initiative if it effectively rewards companies that invest in improvements of their workplace and penalizes those which don't.

9. ISSUES FOR DISCUSSION

9.1 Basic Principles

- I. Stimulating prevention of accidents through:
 - Participation of employees, businessmen and unions;
 - Rights and obligations clearly established;
 - Bonuses to companies that invest in the prevention of accidents;
 - Penalties to companies that don't invest in the prevention of accidents;
 - Directly connecting the conditions of the workplace to the values of contributions and benefits.
- II. Integrality of actions (integrated policies between Bodies like MS/MTE/MPS);
- III. Cover to employees, freelancers, especially insured people and individual contributors;
- IV. Massive campaigns of prevention using means of communication.

9.2. Rights and Obligations of the employee

- RIGHTS:
 - Information and specialization in prevention;
 - Information about the Insurance Plan;
 - Exposing bad working conditions through a department of employee relations of work-related accidents;
- OBLIGATIONS:
 - Be aware of the conditions of the workplace;
 - Undertake medical exams regularly, mainly workers of the risk level 3 sectors of economy;
 - Taking part in prevention programs, using mechanisms of prevention correctly;
 - Taking part in professional rehabilitation programs;

- Taking part in workforce specialization programs;
- Participar de programas de qualificação de mão-de-obra;

OBS: These actions will grow stronger due to the action of unions.

9.3. Rights and obligations of the employer

■ RIGHTS:

- Support to government actions;
- Taking part in giving medical assistance and professional rehabilitation;
- Companies that are implementing safety rules and reducing the number of accidents should take part in campaigns carried out by the government, as a way of promoting companies.

■ OBLIGATIONS:

- Train their employees;
- Be responsible for contributions, including benefits (subsection XXII, article 7 of the Federal Constitution);
- Establish safety rules and promote health of employees, as well as auditing their implementation.

9.4. Organizational structure

Considering the matter of the organizational structure of the SAT system, a good proposal must include:

The State, represented by the Ministry of Labor and Employment (MTE), Ministry of Social Security (MPS) and National Institute of Social Security (INSS), has the following functions:

- Coordinate, audit, regulate, control and execute system's actions;
- Creating national, state and municipality permanent work-related accident councils.

9.5. Taxation

Mechanisms to compensate and reward companies that invest in accident prevention, as well as penalize those that don't invest or that have high accident levels, must be developed. These mechanisms should be implemented with the Social Security Accident Factor (FAP - Fator Acidentário Previdenciário).

10. CONCLUSION

Besides recognizing the importance of restructuring the Accident Benefit System (SAT) in Brazil, as well as maintaining it as a public policy, this study also defends the call for permanent and intense campaigns for preventing accidents at work. Without prevention there is no SAT, only worker's insurance compensations and benefits.

Currently, SAT has got an important flaw: it doesn't assign responsibilities for accidents at work and it pays per sector, no matter the disgraces or costs. It means to say that whether companies invest or not in safety at the workplace, they're neither rewarded nor penalized.

It's very important that the article 10 da lei 10.666/03 is implemented. Deciding the destination of each investment in the prevention of accidents at work is incredibly difficult since there are more than three million establishments in the country. It's more than an economical matter of how much is spent with benefits, because it's the social and human matters that are important. It's necessary to look after the employees' health, uniting all agents involved in the process: the government, companies and workers.

Currently, there is a very high number of accidents at work, and it is still not possible to attend every victim of these accidents. Therefore, workers don't return to the work market, and, consequently, the economically active population (PEA) is reduced. It's necessary to change this scenery. The solution is to prevent accidents and create conditions to insert people who have suffered accidents at work back into the work market.

However, even with this malfunctioning, SAT's control and execution must remain a responsibility of the State in order to balance actions of the risks and workplaces, without having to worry about the private insurance market.

The Constitutional Amendment 20/98, aiming to privatize social security cover, extended accident insurance to private companies. It's necessary to invert this change that expresses a financial trading logic. Historically, SAT has always presented positive balance sheets (as shown in Table 4). That's why it has attracted the interest of private insurance companies.

Still within the privatization issue that prevails in the Constitutional Amendment 20, it's incredibly necessary to emphasize the importance of public insurance, otherwise, segments with weaker unions will be left at the mercy of the market to obtain risk benefits. Besides, privatizing social policies, such as SAT, in third world countries like Brazil, in which income is absolutely

concentrated in some social extracts, in the long run, leads to the formation of oligopolies. This will result in the restriction of competitiveness, and, consequently, the reduction of worries about service quality and increase in the pressure for rising prices, like, for example, what happened with the privatization of health insurance plans.

Another negative aspect of privatization of social policies is that only the profitable share is transferred to the private sector, whereas liabilities are socialized. With this policy, society loses because it has to afford the costs, while the ability of the State to provide social welfare is weakened.

Therefore, it is necessary to take out of the Federal Constitution the possibility of private insurance for work-related accident benefits, in order to maintain the public character of its collection and auditing. SAT is a social benefit and not some kind of merchandise to be managed according to the logic of profit maximization.

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