INTRODUCTION

The Galician coast is a highly risky area, characterized by a large number of maritime accidents and frequent shipwrecks resulting in ecological disasters. About 45,000 ships pass through the shipping corridor of Fisterra annually; around 13,000 of these transport hazardous substances, which translates to a daily traffic of thirty-six dangerous or potentially dangerous ships.

The oil tanker Prestige sank on November 19, 2002, 130 miles off Spain’s northwest coast, south of Fisterra Cape. The tanker, carrying a reported load of 77,000 tonnes of heavy fuel, first had navigation problems on November 11 while in Galician territorial waters. In the following days, the tanker was first towed to the coastline, and then northwards and finally southwards, where it sank at 3,500 meters. The exact amount of its load that had already spilled before the sinking has never been revealed. As with other oil spills, the arrival of hydrocarbons at the Galician coastline had negative effects both on the environment and on some activities closely related to the sea and the coast. In Galicia the activities affected—such as traditional coastal and bay fishing; shellfish collecting, which employs more than 9,200 people; sea aquaculture, particularly mussel aquaculture, with an annual production of 250,000 tonnes; and the canned goods and processed foods industry—play a critical role in the Galician economy. The magnitude of the disaster and the economic importance of the activities affected make an exhaustive damage assessment necessary, both to estimate the invest-
ments needed to restore the environment and to compensate those population groups affected.

Our article has two main objectives related to damage assessment. First, we analyze the compensation systems that could be applied and to estimate a part of these damages, considering the compensatory limits envisaged in the Civil Liability Convention (CLC/92) and the Fund Convention (FUND/92).1 Secondly, we estimate a part of these damages, using market techniques for estimating the amount of resource whose placing on the market was prevented by the spill. This will be achieved by analyzing landings in two affected areas: the so-called Costa da Morte (Death Coast) and the Ría de Vigo (Bay of Vigo).

COMPENSATION PROVISIONS FOR DAMAGES CAUSED BY HYDROCARBON POLLUTION UNDER THE IOPC FRAMEWORK

Typology of Compensable Damages

The International Oil Pollution Compensation Funds (IOPC) constitutes a system of international character, in which oil tanker owners have to pay compensation according to the established limits.2 These funds have

1. Compensation for pollution damages caused by spills from oil tankers is governed by an international regime elaborated under the auspices of the International Maritime Organization (IMO). The framework for the regime was originally the 1969 International Convention on Civil Liability for Oil Pollution Damage (1969 Civil Liability Convention) and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971 Fund Convention). This "old" regime was amended in 1992 by two Protocols, and the amended Conventions are known as the 1992 Civil Liability Convention and the 1992 Fund Convention. The 1992 Conventions entered into force on 30 May 1996. The 1992 Civil Liability Convention governs the liability of shipowners for oil pollution damage. The Convention lays down the principle of strict liability for shipowners and creates a system of compulsory liability insurance. The shipowner is normally entitled to limit his liability to an amount which is linked to the tonnage of his ship. The 1992 Fund Convention, which is supplementary to the 1992 Civil Liability Convention, establishes a regime for compensating victims when the compensation under the applicable Civil Liability Convention is inadequate. As of 1 August 2007, 117 States had ratified the 1992 Civil Liability Convention, and 101 States had ratified the 1992 Fund Convention. For further information, see <http://www.iopcfund.org>.