

*Testimony of*

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**President and Chief Executive Officer  
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*on*

**H.R. 1031, the “American Shipping Reinvestment Act of 2011”**

*Presented at the*

**House Ways and Means Committee Subcommittee on Oversight**

**and**

**House Ways and Means Committee Subcommittee on Select Revenue Measures**

**Hearing on**

**Maritime Tax Issues**

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Chairman Boustany, Chairman Tiberi, Ranking Member Neal, Ranking Member Lewis and members of the Subcommittees, thank you very much for convening this important hearing on tax issues facing the maritime sector.

My name is Morten Arntzen, and I am President, Chief Executive Officer, and a Board member of Overseas Shipholding Group, Inc.

OSG is a market leader in global energy transportation services. As of December 31, 2011, OSG owned and operated an international-flag and U.S.-flag fleet of 116 vessels made up of 111 operating vessels, aggregating 10.9 million deadweight tons and 864,800 cubic meters, and five vessels under construction. OSG has approximately 3,600 employees and had 2011 shipping revenues of over \$1 billion.

The U.S. maritime industry is critical to our economic well-being and our homeland and national security. A recent PricewaterhouseCoopers study for the Transportation Institute about the U.S. domestic maritime industry found that the industry overall contributed more than \$100 billion in economic output to the domestic economy and employed nearly 500,000 workers. Today, there are more than 40,000 vessels in the domestic maritime fleet, comprised of some of the most technologically advanced vessels and other assets in the world.

The technological advances which have resulted from that massive commitment of capital have greatly improved the flow of cargo, resulting in virtually seamless movement of goods from origin to destination anywhere in the world.

The U.S.-flag industry also continues to invest in the expansion and modernization of the fleet. For example, during the past year OSG took delivery of the last of the last of twelve Jones

Act ships constructed for us by Aker Philadelphia Shipyard, Inc., a huge investment that created thousands of U.S. shipbuilding jobs, and will create thousands more relating to the vessels' operation, maintenance, and commercial use. The construction of these ships at Aker represented the largest commercial shipbuilding order since World War II.

OSG also has made substantial investments in its U.S.-flag international fleet, which has been described by the Department of Defense's U.S. Transportation Command as "a vital element of our military's strategic sealift and global response capability." These investments help to sustain a U.S. shipbuilding industrial base, a pool of American seafarers and a fleet of U.S.-flag vessels for time of war or national emergency.

OSG and the U.S. maritime sector also play a key role in maintaining a vibrant U.S.-owned international shipping fleet which may be called into service for our nation's defense. American-owned companies' international ships are part of what is called the Effective U.S. Controlled Fleet ("EUSC fleet"), that is, the fleet of merchant vessels, registered in certain foreign nations, that are available for requisition, use or charter by the U.S. government in the event of war or national emergency. However, a 2002 study commissioned by the Department of Defense and performed by professors at the Massachusetts Institute of Technology found that the EUSC fleet dropped by 38 percent in terms of numbers of ships and nearly 55 percent in terms of deadweight tonnage between 1986 and 2000. Today, OSG's ships constitute a critical component of the EUSC fleet.

Despite the successes of the U.S. maritime industry, and notwithstanding the critical role U.S. shipping companies play in our nation's economy and national defense, we face severe

competition and challenging market conditions. Moreover, as a highly capital-intensive industry, we have very substantial funding needs. U.S. shipping companies simply cannot thrive if we are burdened with tax code provisions which do not apply to other U.S. corporations, or if access to capital, particularly our own earnings, is impeded.

A recent Lexington Institute study on the contributions of the domestic maritime industry to U.S. security found that “the greatest danger to the role and function of the United States as a seafaring nation is the decline of its maritime industry and merchant marine.” I am here to testify today because OSG wants to do its part to keep the U.S. maritime industry healthy. My testimony focuses H.R. 1031, the “American Shipping Reinvestment Act of 2011”, which would correct an antiquated provision in current law that singles out U.S. shipping companies for less favorable treatment than other U.S. businesses, and impedes our access to our own earnings. As a result, that flaw in the tax code has impeded shipping companies like OSG from having access to their own capital, funds that otherwise could be used here in America.

By way of background, as a general rule, U.S. corporations are permitted to defer U.S. taxation on their foreign subsidiaries’ income. Over thirty years ago, in 1975, section 955 was added to the Internal Revenue Code. Section 955 provided that U.S. shipping companies could defer immediate taxation on their foreign subsidiaries’ earnings from shipping operations only if those earnings were reinvested abroad in qualified foreign shipping assets.

The Tax Reform Act of 1986 made matters even worse by ending deferral altogether for shipping income earned by foreign subsidiaries of U.S. shipping companies, even if reinvested in foreign shipping assets. The loss of deferral devastated U.S. shipping over the next two decades.

Over time, Congress recognized the extent of that damage. To help revive U.S. shipping, the American Jobs Creation Act of 2004 (“JOBS Act”) restored deferral for shipping income. This change strengthened our balance sheet and allowed us to embark on the largest U.S. shipbuilding effort since World War II.

That 2004 law also lowered the tax barriers that prevented U.S. companies which did business internationally from bringing foreign earnings earned prior to 2004 back for investment in the U.S. However, because the JOBS Act failed to address the problems created by enactment of section 955 thirty years earlier, shipping companies could not benefit from those lowered tax barriers. As a result, U.S. shipping companies were denied an opportunity that the JOBS Act afforded all other American corporations, and the foreign earnings reinvested in foreign shipping assets before 1987 remained stranded abroad.

Because section 955 remains law, U.S. shipping companies still must maintain investments in foreign shipping assets made decades ago, pre-1987. Any net decrease in those investments results in an immediate tax. This vestigial quirk in the tax law has caused capital of U.S. shipping companies to be left offshore, effectively preventing those companies from investing their earnings back into the U.S. economy. Legislation is needed to fix that problem for U.S. shipping companies, and permit those companies to redeploy their pre-1987 earnings in the U.S.

The American Shipping Reinvestment Act, or “ASRA”, would repeal section 955, and allow U.S. shipping companies to bring home pre-1987 earnings that are stranded overseas by

affording U.S. shipping companies the same tax treatment on those earnings as the 2004 Act already extended to all other U.S. corporations with foreign subsidiaries.

Enactment of ASRA will allow U.S. shipping companies to be treated the same as all other companies were treated in the JOBS Act, giving them the ability to redeploy funds currently stranded abroad for use here at home. ASRA will help U.S. shipping companies make investments in the U.S.-flag fleet, as well as vessels that support homeland security and the military. ASRA also will help create and sustain thousands of American jobs in the shipbuilding, seagoing and related trades. More generally, by freeing up needed capital for the maritime sector, the legislation will provide an immediate economic boost in the short-term, while creating lasting benefits for the economy in the long-term.

For all those reasons, the American Shipping Reinvestment Act has earned broad, bipartisan support in the House and the Senate. It is also supported by U.S. maritime labor, U.S. shipyards, state maritime academies and U.S. shipping companies.

I am deeply grateful for the leadership of Chairman Tiberi and Congressman McDermott, the lead sponsors of ASRA, as well as Chairman Boustany and Congressmen Roskam and Schock, the members of the Subcommittees who have cosponsored the bipartisan legislation. We in the maritime sector look forward to working closely with the chairmen and members of the Oversight and Select Revenue Measures Subcommittees to ensure prompt passage of this important legislation.

Thank you again for the opportunity to testify today.