SHERRY CASKS
A Halachic Perspective

A Comprehensive Overview of Scotch Production
and its Kashrus Implications

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בלבדו דידי חזר והניאו את ההלכה, וわかりו יחדיו של מי הוא הארי חסידי והארץ, הלך והניאו את ברכה שאינה נ teknיה שית ברה ועש יתבר.

ראיתי את המרגשים שלך, שהרי ביורי הגמרא והגדתא בקושי, והיה ל:void עלתה והשלייה מהתברר, שילביהי לברך על גנותך ומטיאתך ומשתוקית. והיה יתבר, בלーム בלעדי, וברך בטעים עיוות, וטניי קשים, וטניי קשים. היה יתבר, בלעדי בלעדי, וברך בטעים עיוות, וטניי קשים, וטניי קשים.

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שאני-
I consider it indeed an honor and a privilege to have been asked to give a Haskoma to this Kuntrus “Sherry Casks: A Halachic Perspective”. Having read the Kuntrus I found it to be Me’at Kamus but Rav Aichus. Much has been written over the last few decades about whisky, however many of the articles written were based on incorrect technical details that do not reflect the realities at the distilleries. Many others may be factually and technically correct, but do not relate in depth to Divrei HaPoskim Z”TL. It is therefore refreshing to find this Kuntrus comprehensive and well balanced, addressing in great detail both the technical and Halachic aspects of this intriguing subject.

In the course of my activities on behalf of the London Beis Din Kashrus Division I have had the opportunities to visit numerous Scotch and other whisky distilleries. I have also visited several cooperages that service the whisky industry and have had the privilege to meet with distillery managers and ‘master blenders’ and to discuss these issues in depth and at length with some of the world’s leading experts in this field. For whatever my Haskoma is worth, I will state that the description of the Scotch whisky production portrayed by Rabbi Akiva Niehaus, Shlita is factually correct. As one who has spent many years researching and who has written several articles on this subject I will also state that I concur entirely with his conclusions too.

PS: While I agree with Rabbi Akiva’s conclusions that there are varieties of whisky that can safely be considered kosher, there is no doubt that the ideal situation would be that only kosher certified beverages should be consumed. Up until recently this has not been considered a very viable option for those of us who prefer to consume quality whisky. I consider it to be my privilege that I have in recent times been instrumental in the introduction of quite a number of premium quality Single Malt Kosher Whiskies certified by the LBD. As much the kosher community will demonstrate that there is a demand for such certified products, so the availability will increase.
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AUTHOR’S PREFACE

As the second, expanded edition of *Sherry Casks: A Halachic Perspective* goes to print, I would like to take this opportunity to thank the people who have had a tremendous impact on my life.

My first acknowledgement goes to my parents, Rabbi and Mrs. Ephraim Niehaus, who have encouraged me to reach for my goals and continue to support me in my endeavors. My in-laws, Rabbi and Mrs. Avrohom Union, for encouraging me like a son and for their constant support and advice.

The Mesivta of Long Beach, the Rosh HaYeshiva and Rabbeim helped mold me into what I am today. The Chicago Community Kollel, led by the Roshei Kollel, Harav Dovid Zucker and Harav Moshe Francis, has been my second home for the past six years. They have given me the opportunity to shteig in all areas. The Rosh Chaburah, Ray Yehoshua Goldstein, has always been there to help out.

Many people helped in the production of this publication. A special thank you goes to Rabbi Yaakov Galster, Rabbi Yeruchom Levovitz, Rabbi Dovid Rokach and Rabbi Aaron Rokach for their invaluable assistance. A very warm thank you goes to R’ Eliyohu Weinstein who has been a tremendous help. His mathematical prowess and knowledgeable sources were a huge asset. Thank you to Rabbi Eli Gersten, OU Rabbinic Coordinator, for looking through the manuscript and writing numerous comments. I have great appreciation to Harav Shlomo Miller, Rosh Kollel, Kollel Toronto, for granting me precious time to deal with various points in this publication. Thank you to Rabbi Akiva Osher Padwa, Senior Rabbinical Coordinator & Director of Certification, Kashrus Division – London Beis Din, for taking the time to read the manuscript and make valuable comments. Thank you also to Rabbi Moshe Armel, ACCU-TRANS Quality Translations, for his editing and comments. Thank you to Harav Moshe Heinemann and Rabbi Yossi Berger for their assistance. Gratitude is due, as well, to Dr. Shlomo Adler for his editing critique on the first edition. Thank you also to Rabbi Simcha Smolenski for sharing information and pictures.

I have received a large amount of feedback from the first edition with many comments and questions. It has been a tremendous source of chizuk to hear from people all over the world. I have incorporated many comments into the new edition and I hope to continue to hear more.

Special Note: All sources quoted in this publication refer to *chelek Yoreh Deah* unless otherwise noted. Foreign and other uncommon terms can be found in an alphabetical glossary at the end of this publication. Also, please note that the information in this booklet was correct at the time of publication to the best of my ability. Due to the constant changes in the Scotch industry, some information may change over time.

I conclude with tremendous hakaras hatov to my wife for being a constant source of chizuk; May Hakadosh Baruch Hu continue to grant us nachas from our children.

Akiva Niehaus
Chicago, IL
A Comprehensive Overview of Scotch Production and its Implications in Halacha

Among the many types of alcoholic beverages that one may encounter at a simcha, one will inevitably find a bottle of Scotch whisky. Scotch has been produced in Scotland for hundreds of years and there are currently many brands and varieties available. The connoisseur may have his preferred Single Malt Scotch, but the average person will sample whatever varieties he may see. As most Scotch manufacturers do not have Kashrus supervision for their products, much attention has recently been directed to the halachic status of Scotch. Let us review the process of Scotch production to discover if any halachic issues arise.

I. THE PROCESS OF SCOTCH PRODUCTION

According to the Scotch Whisky Regulations 2009 (United Kingdom, Ministry of Agriculture, Fisheries and Food, 23rd November 2009), in order to be called Scotch Whisky, the spirit: (a) must be distilled at a Scottish distillery from water and malted barley, to which only other whole grains may be added, have been processed at that distillery into a mash, converted into a fermentable substrate only by endogenous enzyme systems, and fermented only by the addition of yeast; (b) must be distilled to an alcoholic strength of less than 94.8% by volume so that it retains the aroma and taste of the raw materials used in its production; (c) must be matured only in oak casks of a capacity not exceeding 700 liters; (d) must be matured only in Scotland; (e) must be matured for no less than three years; (f) must be matured only in an excise warehouse or a permitted place; (g) must retain the colour, aroma and taste derived from the raw materials used in its production and maturation; (h) must not contain any added substance other than water and plain caramel coloring; and (i) may

not be **bottled** at less than 40% alcohol by volume. Let us explain these terms. (See also Section X: A Pictorial Guide to Scotch Production.)

**Malted Barley:** Malted Barley refers to barley which has been allowed to reach the point of germination. The starch content of barley is initially locked within the center of the grain by cell walls lined with protein. Malting breaks down these cell walls during three stages: steeping, germination, and kilning. First, the barley is alternately soaked and dried in “steeps” for about three days; once the grain has absorbed enough water and oxygen, it is dumped on the malting floor and spread out to a depth of 4-6 inches. On the malting floor, the barley starts to warm up and germinate. Over the course of a week or so, the barley is turned about twice a day, with windows being used to adjust the temperature. The turning serves to both moderate the temperature and disentangle the rootlets as the barley germinates. During this process, important enzymes within the seed are activated, begin to reproduce, and turn the more complex starches into simpler starches and sugars.

Once the barley root is about as long as the barley seed, the process is halted. The barley is loaded into a kiln where it is dried. In years past, peat fires were used to dry the barley; now, oil or coal is often used instead, with some peat thrown on the fire to provide the “traditional” peat (phenol) character to the malted barley when desired. Drying time depends on which heating method is used; with peat fire only, it might take 2-3 days, and with oil heat only, it can be done in less than half the time. Today, there are very few traditional floor maltings; most distilleries use
large communal drum or box maltings.

**Mashing and fermentation:** The dried malt is ground into coarse flour called “grist.” This is mixed with hot water in a large vessel called a mash tun where the grist is allowed to steep. Mashing is the process that extracts soluble sugars from the malted grain. The mash tun (the “coffee filter”) is generally a large stainless steel or cast iron vessel which can hold from 4-12 tons of grain and upwards of 40,000 liters of water. Tuns generally have moving arms that swirl through the mixture to speed the process along. This process is referred to as “mashing” and the mixture is the “mash.” In the course of mashing, enzymes that developed during the malting process are allowed to convert the barley starch into sugar, producing a sugary liquid known as “wort.” The grain is added first and then water is added in 3 or 4 batches (know as washes). The first wash is usually at 147-158°F and extracts the important enzymes and some sugars from the grain as it soaks through the barley. After about 30 minutes, the wash flows out of fine holes in the bottom of the tun where it emerges as a liquid called wort. The second wash is generally hotter, in the range of 158-167°F, and extracts more of the remaining sugars. The second water is then drained, combined with the first water, and collected in a worts receiver. The grains left in the mash tun still contain a small amount of sugar residue. This is too valuable to waste, and a third water – almost at boiling point – is added. The sugar content of this wash is much lower than the first two, so it is generally allowed to cool in order to be reused as the first wash of the following cycle.

![Malt Whisky manufacture – 2](Diagram Credit: © University of Edinburgh/John Butler)
The wort is then transferred to another large vessel called a “washback” where it is cooled (washbacks vary widely in size, some as large as 60,000 liters). Washbacks (fermenting vessels) are where the process gets more exciting; yeast is added to the wash and fermentation begins – sometimes violently. The resulting liquid, now at about 5-9% alcohol by volume, is called “wash” and is very similar to a rudimentary beer.

**Distillation:** Distillation is used to increase the alcohol content of the wash and to remove undesired impurities such as methanol. The liquid is heated to the boiling point of alcohol, which is lower than that of water (173.2°F). The most traditional method used for distillation is the pot still. A pot still consists of three distinct parts: the pot (where the fermented wort is heated – generally by steam); the “lyne arm” or swan neck (along which the evaporated alcohol travels); and the condenser (where the alcohol vapor cools and condenses back into a liquid). The traditional method of condensing is in a worm tub: the vapors pass through a worm-like coil of copper piping immersed in a tub of cold water. Many modern-day condensers consist of the shell-and-tube type: water flows through a bundle of tubes arranged in a vertical casing, and cools the vapors in the surrounding area of the shell.

All Scotch malt whisky distilleries distill their product at least twice, for which two stills are required. The first distillation is carried out in the wash still and the second in the spirit (or “low wines”) still; the first still will almost always be bigger than the second. Variations in the sizes and shapes of the component parts of a still affect the final flavor of the spirit in different ways. When a still needs to be replaced, every effort is made to replicate the construction of the old one. After the first distillation, the alcohol content of the liquid has risen to around 20-28% and is called “low wine.” The low wines are collected in a receiver and then passed through the spirit safe; the spirit safe is the control point for the distilling operation. Here, samples of the running distillate can be drawn off remotely and tested for strength by means of a hydrometer located in the safe. The low wine is distilled a second time, in the low wines still, and the distillate
is divided into three “cuts” which are directed through the spirit safe. The first cut contains about 74-75% alcohol and is called “foreshots.” This cut is generally quite toxic due to the presence of the low boiling point alcohol methanol and is generally saved for further distillation. It is the “middle cut” that the stillman is looking for, which will be placed in casks for maturation. At this stage, the substance produced is called “new make.” Its alcohol content can be anywhere from 63-72%. The third cut, with a 60-62% alcohol content, is called the “feints” and is generally quite weak. This is also saved for further distillation. The three cuts cannot be accessed directly by the stillman as they pass through the spirit safe, so he must judge the right moment to separate them, based largely on his knowledge and experience.

**Maturation:** Once distilled, the “new make spirit” is diluted with local water to an alcoholic content of about 63-65% and is placed into used oak casks for the maturation process. The aging process results in evaporation, resulting in a yearly loss of 0.5–2.0% loss of volume and a reduction in alcohol. The distillate must age for at least three years in Scotland to be called Scotch whisky, although most single malts are aged for a minimum of eight years.

**Color:** The color of Scotch whisky is determined by the type of cask used to age the whisky. All whisky is matured in oak casks and whisky manufacturers generally re-use barrels previously used to store other alcoholic beverages such as Sherry, cognac, bourbon, rum, or beer. Whisky stored in ex-Sherry casks is

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2. Because used casks are usually the barrel of choice, the barrels are “dumped” – emptied of their contents – or rinsed before use (based on an email conversation with Kevin Erskine, from *TheScotchBlog.com*). It’s quite possible, however, that a few liters of liquid (perhaps wine from previous use) may remain inside the cask when being filled with Scotch (based on emails from Rabbi Simcha Smolenski and Rabbi Akiva Padwa). See, however, *Mixing the grain with the grape*, by Ian Wisniewski (*Whisky Magazine*, Issue 51, 07/10/2005): “As the ‘finishing influence’ must stem from the cask rather than the contents, it’s thoroughly drained of any remaining liquid. Residual liquid absorbed by the cask staves is of course exempt, though it plays a significant role.”
usually darker or more amber in color, while whisky aged in ex-bourbon casks is usually a golden-yellow/honey color. The addition of legal “spirit caramel” is sometimes used to darken an otherwise lightly colored whisky.

**Bottling:** Single malts may be “vatted,” or “married,” (mixed) with other single malts (sometimes of different ages) from the same distillery. The purpose of this is to assure a uniform taste under a specific label. Distillers will occasionally release “Single Barrel” Whisky which is not vatted before bottling. The whisky is generally diluted to a bottling strength of between 40% and 46% alcohol content. Occasionally, distillers will release a “Cask Strength” edition, which is not diluted and usually has an alcohol content of 57–60%.

To summarize, according to Scottish law, Scotch may only contain water, barley (or other grain), yeast and caramel coloring, all of which do not pose any Kashrus issues. The only source of concern is that the maturation may have taken place in previously used wine casks, thus presenting an issue of stam yeinam (as explained below). Much has been written regarding the permissibility of Scotch due to the fact that many high-quality distilleries currently mature their products in casks that previously held stam yeinam (Sherry or other wine). Review of the relevant sources will clarify if the prohibition of stam yeinam is applicable.

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3. “The natural color of a malt matured in plain wood is a very pale yellow. Darker shades, ranging from amber to ruby to deep brown, can be imparted by sherry wood. Some distilleries use casks that have been treated with concentrated sherry, and this can cause caramel-like appearance and palate. Some add caramel to balance the color.” (Excerpt from Michael Jackson’s Complete Guide to Single Malt Scotch, 6th Edition, pg. 73.) The concentrated sherry Mr. Jackson refers to is likely a product called Paxarete, a highly concentrated wine. See Maltmaniacs.org, MM Archive, Issue #105, for further details.


5. The manufacturer’s fear of Government discovery and potential fines prevent the addition of any additional ingredients; this fear (mirsas) carries weight in halacha as well. (See similar concept in Igros Moshe, YD I siman 47.)
II. SOME BACKGROUND ON THE USE OF CASKS

In days of old, Scotch manufacturers used any type of available barrel. New barrels were generally not used; the sharp tannins found in the wood would ruin the delicate flavor of Scotch. Scotch manufacturers needed to find used casks and the vast majority of available used casks were Sherry casks. The reason for this is that Spanish wine manufacturers used to ship their Sherry wine in the cask to England for bottling because shipping bottled wine was cumbersome and expensive. As a result, there was an overabundance of wine casks hanging around in England with no particular use for them. The Scotch producers were quite pleased to purchase these barrels at a discounted price for their Scotch maturation.

This changed in the 1970’s when the Spanish wine manufacturers decided to bottle their wine in Spain before shipping to England. As a result, there was a shortage of wine barrels and the Scotch manufacturers needed to find a different source of barrels. The perfect suppliers turned out to be American bourbon producers. According to American law, bourbon must be produced in new barrels. The bourbon manufacturers had plenty of unneeded used barrels which they were glad to sell cheaply to Scotch producers.

In the 1990’s Scotch drinkers sensed that something about their Scotch was different; it just didn’t have the same flavor as it used to. At this point, Scotch producers realized that the Sherry casks might actually have been

6. Sherry wine is produced near Jerez de la Frontera in Andalucía, deep in Southern Spain. The word “Sherry” derives from English attempts to pronounce the Spanish name Jerez. “Jerez-Xérès-Sherry” is a Protected Designation of Origin (PDO), certified by the European Union, which helps to protect their geographical appellations against imitations and usurpations. Most Sherry is made from the Palamino grape. There are several styles, the most prevalent being – Fino: dry, delicate and fresh; Oloroso: rich, creamy and fruity; Pedro Ximénez: intensely raisiny, syrupy and dark (based on Michael Jackson’s Complete Guide to Single Malt Scotch, 6th Edition, pg. 25).

7. Due to the great secrecy prevalent in the Scotch industry, dates relating to industry events are estimated.

8. The reason for this change is unclear. See Michael Jackson’s Complete Guide to Single Malt Scotch, 6th Edition, pg. 60, “As sherry fell out of fashion, exports to the UK diminished. Meanwhile, the dictator Franco died in 1975, Spain became a democracy, and its trade unions insisted that the bottling of wines be carried out by local labour in Spain.”
contributing to the superior flavor of the original Scotch and decided to revert back to wine casks. However, Sherry casks now were very expensive (Sherry casks can cost ten times as much as bourbon casks9) and shipping them to Scotland added to the expense.

Some distillers decided that the superior taste was well worth the expense and returned to maturation in Sherry casks (passing on the added cost to the consumer, of course). Other distillers, wishing to save the expense of maturing Scotch for many years in relatively expensive Sherry casks, continued to mature their Scotch in the much-cheaper bourbon casks, then transferred the mature Scotch to Sherry casks for 6 months to 2 years in order to gain some of the benefit of those barrels. This is called “Sherry finish.” Some distillers disassemble the casks before shipping them to Scotland in order to reduce their shipping costs, but others ship them to Scotland whole (in which case, the casks may still have some wine inside). According to Oxford Wine Online, the casks are so important that some distillers (such as The Macallan) now construct their own casks and lease them to Sherry producers before reclaiming them for whisky maturation.10 Some distillers treat the casks themselves: they fill fresh casks with wine (and even steam them before doing so to ensure that the casks fully absorb the wine), empty the barrels, and then put the matured Scotch inside to finish.11

9. To quote John Grant, chairman of J&G Grant, owners of Glenfarclas, “The cost per litre (of Sherry casks) is in the region of 12 times that of Bourbon wood.” (Excerpt from Who’s afraid of the sherried beasties, by Gavin D. Smith, Whisky Magazine, Issue 88, June 2010.)
10. “When the availability of casks became a problem in 1976, the company (The Macallan) began to buy its own new wood in Spain and have it seasoned in the bodegas of Jerez for four years before shipping it and filling it with whisky.” And to quote the Glenfiddich blog, “We now have cooperages producing casks from new European oak, maturing a sherry for 18 to 24 months to season the cask before they are then sent to Scotland for use in the whisky industry, very costly but necessary for Glenfiddich as much of the complexity of flavour comes from the European oak.”
11. As heard from Rabbi Simcha Smolenski. The Minchas Yitzchok (Vol. II 28:2) mentions this procedure as well. A similar process is used to rejuvenate old casks; see Section VIII: I.
III. THE HALACHIC ISSUES

The potential problem raised by the use of Sherry casks is that the Sherry absorbed in these casks is almost certain to be *stam yeinam*. When a non-kosher liquid rests in a vessel for twenty-four hours, the walls of the vessel absorb non-kosher *blios* (absorptions) through a process known as *kavush* (soaking). A kosher liquid which subsequently rests in the vessel for 24 hours absorbs the non-kosher *blios*, potentially rendering it forbidden. Sherry casks, having stored non-kosher wine for more than 24 hours, contain *blios* of *stam yeinam*. When these casks are subsequently used to mature Scotch, *blios* of *stam yeinam* mix into the Scotch, creating a potential Kashrus problem. At first glance, this issue seems to be clearly discussed in the *Shulchan Aruch*.

The *Rama* (*Yoreh Deah* 137:1) rules that if kosher wine is stored in a barrel previously used for *yayin nesech*, the wine becomes forbidden. If the volume of wine is *shishim* (60 times) greater than the *yayin nesech*, the wine is permitted. If water, beer, or any liquid other than wine is stored in a wine barrel, that liquid is permitted (*Shulchan Aruch* 137:4). The source for this halacha is a Gemara in *Avodah Zara* (33b) where Ravina allowed Rav Chiya to store beer in a barrel which previously stored non-kosher wine. The *Poskim* explain that storage of beer is allowed because the non-kosher wine ruins and detracts the flavor of the beer. In fact,

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12. *Yayin nesech* refers to wine used by a gentile for idolatrous purposes; *stam yeinam* refers to wine handled by a gentile even without such intentions. According to many *Poskim*, Chazal prohibited *stam yeinam* in order to discourage intermarriage (see *Tur* and *Beis Yosef YD* 123). In the context of this article, the discussion and conclusions reached by the *Poskim* regarding *yayin nesech* apply equally to *stam yeinam* (with the exception of *issur hana'ah* – indirect benefit – as mentioned at the end of Section III; see also Addendum 6).

13. Although the *Shulchan Aruch* (137:1) is of the opinion that non-kosher wine *blios* are never nullified in kosher wine (see *Shach* s.k. 3), the *Rama* (ibid. and 134:2) argues that the wine *blios* are nullified b’shishim.

14. These liquids may initially be stored in such a barrel provided that the barrel is clean (*Shulchan Aruch* ibid.).

15. The *Bach* (s.k. 5) and *Taz* (137:7) quote the *Tur* who explains that the wine is *pogem* (ruins) other liquids when it comes in contact with them. This is based on the concept of *nosen ta'am l'pgam*, i.e., non-kosher food will not prohibit a kosher mixture if it ruins
any liquid which is ruined when mixed with wine may be stored in a wine barrel. (This is in contrast to kosher wine which may not be stored in a non-kosher wine barrel since it is enhanced by the non-kosher wine). Thus, since Scotch is not wine, it would seem to be an open-and-shut case that Sherry casks are permitted by the Shulchan Aruch. However, the story regarding Scotch is complicated by additional considerations.

A) Bitul of Stam Yeinam in Scotch

If a non-kosher food becomes mixed into kosher food, the mixture is forbidden unless: (a) the non-kosher ingredient ruins (pogem) the mixture upon contact, or (b) the kosher ingredients are of substantially greater volume than the non-kosher ingredient, causing it to be nullified (batul). In subsection a we will discuss whether Scotch is “ruined” when mixed with wine; in subsections b and c we will discuss the amount of wine absorbed in the cask walls (blios) that must be nullified and the volume of Scotch necessary to nullify them.

a. Does stam yeinam require bitul when mixed with Scotch?

At first glance, it would appear that since Scotch is not wine, its halachic status should be similar to the non-wine liquids described above. However, this is not so clear. As explained above, the reason that non-wine liquids remain permitted when stored in a wine barrel is that these liquids are ruined when mixed with wine. So, the question becomes this: is Scotch in fact ruined when mixed with wine?

The Noda B’Yehuda (Mahadurah tinyana, YD siman 58) writes that...
whiskey (yayin saraf), like other liquids, is ruined when mixed with wine, but elsewhere (ibid. siman 67) he writes that it is impossible to ascertain whether or not whiskey is ruined when mixed with wine. The Magen Avrohom (OC 451:40), Chaye Adam (125:15)\(^{17}\) and Maharsham (Vol. III siman 150) write that whiskey is enhanced when mixed with wine. It appears that the Poskim are unsure of the relationship between whiskey and wine.\(^{18}\)

Presumably, the mere fact that many distillers go out of their way to use Sherry casks as opposed to the substantially cheaper bourbon casks indicates that they specifically want the blios (absorption) of wine, and do not feel that it ruins Scotch.\(^{19}\)

\(^{17}\) It's quite possible that Sherry wine, with its high alcohol content, has a more stringent status according to all opinions; see footnote 22. See also Perach Mateh Aharon (Vol. I siman 57) and Noda B’Yehuda’s critique (Mahadurah tinyana, YD siman 58).

\(^{19}\) The Maharsham (Vol. III siman 150) makes a similar deduction (with regard to wine stored in a whiskey barrel): From the fact that companies put whiskey into wine, it must be that it enhances the wine. Here too, the fact that Scotch producers use wine barrels indicates that there is a positive taste contribution. If the wine blios ruined Scotch they would avoid using such barrels.

Even those distilleries that don't want the wine flavor per se, just a new type of flavor, still specifically use these casks, so it would be hard to say that the wine flavor ruins the Scotch – otherwise wine barrels would never be used.

In a conversation with Harav Shlomo Miller shlita, he suggested that it is quite possible that the flavor contributed by the wine does indeed ruin (pogem) Scotch (just like wine ruins beer – as indicated by the Gemara’s allowance to store beer in a non-kosher wine barrel). Nevertheless, it is possible that Scotch distillers specifically use wine barrels to allow the Scotch to absorb the wine’s fragrance, and according to halacha, fragrance added by a non-kosher ingredient is insignificant (reicha lav milsa – Shach 108:14). Accordingly, the non-kosher wine blios would not require nullification. (See footnote 61 for Rav Miller’s final ruling.)

This theory, however, appears to be at odds with numerous experts who claim that Sherry casks impart a positive taste – not just a fragrance (see next footnote). Rav Miller countered in a follow-up letter that even taste stems from fragrance; this is proved by the fact that someone with a cold and is unable to smell has difficulty tasting food. Accordingly, the experts are merely experiencing the fragrance, which is negligible in halacha.
This is further supported by numerous whisky experts who claim that Sherry casks impart a positive taste contribution (see footnote). This can be seen also in the tasting notes of various Sherried Scotches, where Sherry is acknowledged not only for its “nose” (fragrance) contribution, but also the “palate” (flavor), indicating that there is also a positive taste contribution (see footnote).

20. “Flavors are also imparted by the cask: sherry wood may add the nutty note of the wine; and bourbon barrels can impart caramel flavors, vanillins and tannins.” (Excerpt from Michael Jackson’s Complete Guide to Single Malt Scotch, 6th Edition, pg. 62.)

“…the link between Scotland and Jerez, between whisky and sherry, is still and always has been a close one. How close though in terms of flavor? The question, which has been nagging away in my mind for a number of years, has been what do we mean by a “sherried whisky”? It used to be so simple. You’d sit with a glass of fine dry oloroso, appreciating its intense aromas of walnut and raisin, and see within it the same smells and tastes which you found in a glass of “sherried” single malt. Sherried whisky got its flavors from the wine which had been in the cask. Simple.” (Excerpt from It’s not the Wine, and it’s not the Wood, by Dave Broom, Malt Advocate magazine, Winter 2009.)

“It has been known since medieval times that whisky, when stored in casks which had previously contained sweet wine, port or Sherry, became smoother and mellower and gained positively in flavour.” (Excerpt from Who’s afraid of the sherried beasties, by Gavin D. Smith, Whisky Magazine, Issue 88, June 2010.)

“In terms of flavour, sherry casks typically contribute rich fruit, including raisins, prunes, dates, figs and apricots; fruitcake, fortified wine, almond and walnut notes; spices such as nutmeg, ginger and cloves, not to mention Xmas pudding, creme caramel, chocolate, and a (positive) sulphurous note, all delivered within a rich, drying sweetness.” (Excerpt from No Spain no Grain, by Ian Wisniewski, Whisky Magazine, Issue 53, 12/01/2006.)

“Dalmore does well with Sherry because there is a citric, lemongrass note in the new make spirit which interacts beautifully with oloroso Sherry casks to give that lovely marmalade and Xmas pudding character. We take a few fino and amontillado casks, but the bulk is oloroso. That really gives the style we want.” (Richard Paterson, master blender for Whyte & Mackay, responsible for the Dalmore single malt, quoted in Who’s afraid of the sherried beasties, by Gavin D. Smith, Whisky Magazine, Issue 88, June 2010.)

21. Take, for example, the tasting notes of The Macallan 12 Year Old (100% Sherry Casks): Sherry oak, 12 years old. Colour: Rich Gold; Nose: Vanilla with a hint of ginger, dried fruits, sherry sweetness, and wood smoke; Palate: Deliciously smooth, rich dried fruits and sherry, balanced with wood smoke and spice; Finish: Sweet toffee and dried fruits, with wood smoke and spice (source: themacallan.com).
III. The Halachic Issues / 23

Therefore, it appears that Scotch in wine barrels is comparable to wine stored in wine barrels, thus requiring nullification in order to be permissible. This is also the opinion of Rav Yitzchok Weiss (*Minchas Yitzchok* Vol. II 28:3).²²

**It is important to note** that non-kosher taste absorbed in the walls of a vessel generally becomes stale (*pagum*) after twenty-four hours elapse (*aino ben yomo*). If so, Sherry casks cannot prohibit Scotch because one

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²² Additionally, Harav Yisroel Belsky, in his *sefer Shulchan Halevi* (English Ed.) pg. 120, has a brief *t’shuvah* discussing Sherry casks and mentions various opinions regarding the ratio of *bitul* required and clearly assumes that Scotch in Sherry casks is *l’ishvach* and requires *bitul*.

Some suggest further that since Sherry wine can have an alcohol content of 18-20%, 50% higher than regular wine, perhaps it has the status of *yayin saraf* (brandy) – not wine. The *Noda B’Yehuda* (*Mahadurah tinyana, YD siman* 58) writes clearly that whiskey stored in a barrel which previously stored *yayin saraf* is enhanced by the wine *blios*. Accordingly, Scotch stored in Sherry casks is certainly considered *l’ishvach*, requiring nullification.

Further, many *Poskim* write that if non-kosher food becomes mixed into kosher food and we are unsure if the mixture is *l’ishvach* or *l’pgam*, we may not decide ourselves that the mixture is *l’pgam*, not requiring *bitul*. The *Beis Shlomo* (*OC siman* 96) writes that we do not have the right to assume that something is *nosen ta’am l’pgam* based on our own intellect; one may be lenient only if there is proof from the *Poskim*.  

שכנגדו כל העל, אמרו. סיפש ברוב של בשרREMית ומטון טעם לקמש. זי אמור טעם הזחלקל פגום והא Molecular_bag, לקמש ומטון טעם לקמש ומטון הטולקל. He quotes the *T’shuvos Rama* as being of the same opinion and brings a number of examples where it seems clear that a certain mixture is *l’pgam* and the *Poskim* are unwilling to be lenient without sufficient proof. (The *Beis Shlomo* mentions specifically that although it seems clear that a barrel that previously stored whiskey ruins wine – the proof of this assumption being that such a barrel is rinsed numerous times until “the substance and smell is entirely removed” before storing wine inside – still the *Poskim* are unwilling to consider it *nosen ta’am l’pgam*.)

This is also the opinion of *Sefer Ha’Eshkol* (*Perek Gid Hana’she V’Hilchos Ta’aruvos*, end of *siman* 35) where he cites other *Poskim* who rule that we are not sufficiently proficient what is considered *l’pgam* except for what Chazal tell us, for example, *aino ben yomo*. (See *Badei Hashulchan* 103:4, *biurim d.h. v’yesh*.)

Accordingly, since the entire leniency is based on *nosen ta’am l’pgam* (as indicated in *Taz* 137:7 and *Shach* s.k. 17), and there is definitely a strong position indicating that Scotch – unlike other liquids – is enhanced by wine, therefore, we must assume that Scotch stored in wine barrels is *nosen ta’am l’ishvach* – and requires *bitul* – unless we have clear proof to the contrary.
may assume that the casks sat empty for a 24 hour interim. This leniency, however, is not applicable to Sherry casks. Wine, unlike other food and drink, remains potent, and even improves, after this time period has elapsed (Shulchan Aruch 135:16, Rama 137:1, Shach 137:10). Accordingly, the leniency of aino ben yomo does not apply to Sherry casks.23

b. Is bitul required against the klipah or the entire kli?

In order to ascertain whether wine blios (absorptions) in the Sherry casks are batul in Scotch, it is necessary to clarify how much forbidden wine remains in the wine barrel and subsequently mixes into the Scotch. Although the wine barrels are presumably emptied before they are filled with Scotch, there is still wine absorbed in the walls of the barrel. How much wine remains in the walls? If a forbidden liquid is cooked in a kosher pot, the blios are assumed to fill the entire thickness of the walls of the pot, thus requiring bitul against the entire volume of the walls. However, in the case of kavush (where a forbidden liquid remains in a vessel for more than 24 hours without cooking) which generally has a halachic status similar to cooking, the halacha regarding the extent of absorptions may be different. The Shach (98:13), quoting the Toras Chatos and the Issur V’Heter Ha’aruch, is of the opinion that kavush is similar to cooking and one must reckon with absorptions of the full thickness of the wall; the Taz (105:1), however, argues that only a klipah (the “peel” – a thin layer) is affected. The Pri Migadim (ad loc.) and the Chochmas Adam (57:11) both follow the opinion of the Shach that the full thickness of the wall is considered to contain forbidden blios, and this is the accepted ruling.

Regarding kavush involving yayin nesech, the Shulchan Aruch (135:13) states clearly that yayin nesech affects only the klipah of a vessel, and therefore rules that removing the klipah of a non-kosher wine barrel is an effective method of kashering wine barrels.24 This seems to be in

23. After twelve months have elapsed, the wine blios are indeed considered stale (Shulchan Aruch ibid.). See Sections VIII:C and D for further elaboration.
24. One contemporary Posek has suggested that modern-day wine barrels are more porous than the times of Chazal and blios are therefore absorbed through the entire thickness of the walls according to all opinions. He argues that we can see this from the fact that wine stains are often visible on the exterior of wine barrels, indicating that the wine has seeped through. However, many Poskim strongly disagree with this notion and feel that that the nature of barrels has not changed from the times of Chazal. Although the outside walls
accordance with the position of the Taz, that *kavush* affects only the *klipah*. How is this to be reconciled with the position of the Shach and other Poskim who are of the opinion that *kavush* generally affects the entire vessel? The Shach (135:33) writes that the leniency of the Shulchan Aruch applies only where one is uncertain if the cask ever stored non-kosher wine or if the wine was stored for a full 24 hours. If, however, non-kosher wine was definitely stored in a cask for at least 24 hours, the entire thickness of the cask is assumed to contain prohibited *blios*, conforming to the general rule of *kavush*, and removing the *klipah* is ineffective.25

Many Poskim follow the opinion of the Shach. The Chochmas Adam (81:11) and Kitzur Shulchan Aruch (48:17) rule that if yayin nesech was stored in a cask for 24 hours, the whole vessel is assumed to contain prohibited *blios*. They conclude that “l’tzorech gadol” (in case of great need) one may rely on the Poskim who reckon the *klipah* alone. This is also the opinion of the Imrei Aish (YD siman 44). Further, the Beis Meir (on the Chok Yaakov OC 451:58) offers a proof to the Shach’s view from the Mordechai (Pesachim siman 567). However, some Poskim argue on the Shach. The Chacham Tzvi (siman 75) and Macha’ane Ephraim (Hilchos Maachalos Asuros 11:15, quoting his son) argue with the Shach and maintain that even if yayin nesech was stored in a barrel for many days, only the *klipah* is prohibited. This is also the opinion of the Chazon Ish (55:6), Yad Yehuda (Hilchos Melicha, 69:64, pg. 69a, column 2) and Chikrei Lev (siman 77).26

It may be stained, the *blios* at that point are not strong enough to be considered forbidden. Therefore, only a *klipah* is affected, as stated in the Shulchan Aruch.

25. Although the Shach writes a second, seemingly related halacha and subsequently concludes that the latter halacha is *tzarich iyun* (requires further research), nevertheless, the Shach (137:9) repeats his position that the entire thickness of wine barrels are occasionally affected, indicating clearly that this is his position. (The Shach ibid. suggests further that perhaps all Rishonim agree to his position.) Ba’er Haitaiv (137:4) clearly understands this to be the Shach’s conclusion. See also Pri Migadim (M”Z 87:1 towards the end) and Maharsham (Vol. III siman 150) who quote the Shach as being stringent in this matter. See Addendum 2 for further analysis. (It should be noted that the Shach writes clearly that this halacha also applies to *stam yeinam.*)

26. It is unclear what these Poskim would say in cases of *kavush* other than *stam yeinam*. It is possible that they are of the opinion that *kavush* never affects more than the *klipah*; alternatively, perhaps *kavush* generally affects the entire vessel, but Chazal were lenient
Based on the above, it appears that according to the opinion of the Shach, nullification is necessary against the full thickness of the walls, whereas according to the Chacham Tzvi, bitul is only required against the klipah. In a dispute of this nature, Poskim generally advise one to follow the stringent opinion of the Shach and other Poskim. Indeed, many contemporary Poskim follow the stringent opinion, requiring nullification against the full thickness of the cask; see Section V.27

c. Is sheish or shishim required for bitul of stam yeinam?

It was established in the last section that, according to many Poskim, nullification is necessary against the volume of the entire thickness of the walls of the vessel. Now, it is necessary to determine the required ratio of bitul. Is the standard bitul b’shishim (60 times the volume of wine) required to nullify the non-kosher wine blios or is bitul b’sheish (six times) sufficient? Generally speaking, it is assumed that the flavor of non-kosher food is noticeable unless it is nullified in 60 times its volume of kosher food. Non-kosher wine, however, appears to have a different ratio of nullification. The Shulchan Aruch (134:5) states that yayin nesech mixed with water is batul b’sheish, a ratio of just six-to-one.28 What is the source for this ruling? The Mishnah (Avodah Zara 73a) states that yayin nesech is nullified in water if it does not contribute flavor (aino nosen ta’am) to the mixture. At what point does wine not contribute flavor? This is subject to dispute, as will be explained.

The Gemara (ibid. 73b) relates that if one had two cups of wine – one permitted and one not permitted – and he diluted each of them with the proper amount of water needed to dilute their strength, and then mixed in the case of stam yeinam since its prohibition is only Rabbinical (PM”G ibid. See also Chazon Ish ibid., Issur V’Heter Ha’aruch 2:8 and Hagahos Rav Boruch Taam, gloss to Noda B’Yehuda, Mahadurah tinyana, YD siman 67.). The K’nesses Hag’dolah (Hagahos Beis Yosef 135:39) writes that the Levush (135:13) sides with the Chacham Tzvi that the wine is only absorbed kidei klipah. The Chikrei Lev (ibid.) and the G’vul Yehuda (OC siman 5) both write that this is also the opinion of the Taz (105:1). See Addendum 3 for further analysis of the Taz’s position. (See Chavatzeles Hasharon, Tinyana, pg. 98, for an additional ramification of this dispute.)

27. For more analysis see Addendum 4.

28. Stam yeinam mixed with kosher wine and no water, however, requires bitul b’shishim (Rama 134:2).
the two cups together, we view the permitted wine as if it is not there, and the water overw heels the prohibited wine and nullifies it. The Gemara in Shabbos (77a) reveals that the standard rate of dilution in Talmudic times was one part wine and three parts water. The Ra’avad (Avodah Zara 39a d.h. v’Rabbi Yocho non, 73a d.h. yayin nesech) and Ri Hazaken (quoted in Ran, Ritva, and Rashba, Avodah Zara 73b) understand that the above Gemara in Avodah Zara is referring to two equal cups of wine; thus, when the diluted cups were mixed, the total mixture contained one measure of prohibited wine, one measure of permitted wine, and six measures of water. Still, the Gemara rules that if we view the permitted wine as if it is not there, the prohibited wine is nullified in the combined water – which is only six times greater than the prohibited wine. The Ra’avad and Ri Hazaken deduce from here that, unlike most forbidden substances which prohibit a mixture unless nullified in a ratio of sixty-to-one, non-kosher wine can only prohibit a mixture up to six times its volume. As a result, if the volume of water is six times greater than the forbidden wine, the mixture is permitted.

Some Rishonim argue on this conclusion. The Ritva, Ramban, and others (Avodah Zara ad loc.), maintain that wine is no different than other forbidden substances, and sixty measures are necessary to nullify one measure of wine. They therefore explain that the Gemara refers to unequal cups: The forbidden cup contains one measure of wine and three measures of water, whereas the permitted cup contains 19 measures of wine and 57 measures of water. When combined, the total mixture consists of one measure of forbidden wine, nineteen measures of permitted wine, and sixty measures of water. When we ignore the permitted wine, the sixty measures of water will nullify the one measure of forbidden wine. According to this stringent opinion, wine is only nullified in a mixture of sixty-to-one, at exactly the same ratio as any other prohibited substance.

The Tur (134:5) cites both opinions and the Beis Yosef quotes the Rashba as siding with the lenient opinion. The Shulchan Aruch (134:5) and Rama (123:8) both rule in accordance with the lenient opinion that non-kosher wine is nullified in a ratio of six-to-one.

Why does wine have a different nullification ratio than other prohibited foods? The Rishonim offer two explanations. The Ra’avad (ibid.) explains

29. Although the Rama cites two opinions in this matter, the halacha clearly follows the lenient opinion, as stated in Shach (123:16) (Igros Moshe YD I siman 62).
that a small amount of wine contributes a detrimental flavor when mixed in water six times its volume and is considered *nosen ta'am l'pgam* (i.e., a non-kosher food does not prohibit kosher food if the taste of the mixture is compromised).

The *Rashba* (*T’shuvos* Vol. I siman 633) argues that diluted wine actually enhances a mixture – not ruins it. Why, then, is wine nullified in *sheish*? The *Rashba* elsewhere (*Toras Habayis* 5:6 pg. 60b; *Chidushei HaRashba*, *Avodah Zara* 73b) explains that wine, a light, fruity beverage, loses its “wine” status when mixed with other liquids six times its volume, referred to as “*kiyuha*-acid” instead. This is also the opinion of the *Ran* (*Avodah Zara* 36b d.h. *v’garsinan*) and *Tosfos* (*Chulin* 25b d.h. *hamitamed*).\(^{30}\) Rav Moshe Feinstein (*YD* I siman 62 d.h. *v’hinei*) explains that the fact of the matter is that wine does not ruin water even in a volume six times its size. After all, many people mix a little wine into water to give it a bit of flavor, thus proving that wine actually enhances water. Why, then, is wine nullified in water when nullified in *sheish*? The answer must be that wine loses its status when mixed with other liquids six times its volume, referred to as *kiyuha* instead.\(^{31}\)

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\(^{30}\) It must be noted that both the *Rashba* and *Ran* (*Avodah Zara* ibid.) write initially that diluted wine is *nosen ta’am l’pgam* – wine imparts a detrimental flavor when diluted with six parts water, but both conclude that diluted wine is referred to as *kiyuha*. The *Pri Migadim* (*Psicha L’Hilchos Ta’aruvos*, 3:4 d.h. *shuv*) understands that the conclusion is the primary reason. This fits well with the *Rashba* in *T’shuvos*, quoted above, that a small amount of wine actually enhances water. It’s interesting to note that in yet a third location (*Toras Habayis* Hakatzer, 5:6 pg. 51a) the *Rashba* writes that wine diluted by six parts water contributes a detrimental flavor and is *nosen ta’am l’pgam*, seemingly contradicting the *Rashba* in *T’shuvos*. (It is possible that the *Rashba* in *Toras Habayis* is merely quoting the opinion of *Ra’avad* who permits wine when diluted in six parts because it contributes a detrimental flavor, whereas the *Rashba* himself permits such wine for a different reason, because diluted wine is referred to as *kiyuha*. See, however, *Toras Habayis*, ibid. pg. 66b.) Rav Moshe (*YD* III siman 19) explains that any mention by *Poskim* of *nosen ta’am l’pgam* in reference to wine diluted in six parts actually refers to the wine itself (i.e., the wine loses its flavor and character), not to the compromised flavor of the final mixture. Thus, the *Rashba* in all locations means the same point: non-kosher wine diluted in six parts has been compromised to the extent that it can no longer be called “wine.” The flavor imparted by such wine does not prohibit other foods.

\(^{31}\) In a later *t’shuvah* (*YD* III siman 19) Rav Moshe explains that if one wishes to drink
Thus, two explanations arise from the Rishonim as to why wine is nullified in a ratio of six-to-one: The Rashba and Ran are of the opinion that although diluted wine contributes a positive flavor, wine is extremely delicate and loses its identity when diluted in six parts, referred to as kiyuha instead. The Ra’avad argues that a small amount of wine contributes a detrimental flavor to a mixture when diluted in six parts and is nosen ta’am l’pgam.32

We must now clarify whether the 6:1 ratio applies only to wine in water (as in the case mentioned above) or even when wine is diluted in other liquids. The Shach (134:21, quoting Issur V’Heter 23:16) states that non-kosher wine is batul b’sheish only when mixed with water, but if the wine is mixed with kosher wine or food, shishim is required. The reason for this distinction is that non-kosher wine is ruined when mixed with water, granting it a status of kiyuha; thus, bitul b’sheish is sufficient. When mixed with wine or food, however, the non-kosher wine is enhanced and retains its wine status. Only when nullified in a ratio of sixty-to-one is the

wine, he would not do so if it were diluted in six parts water. Wine diluted to such a degree can no longer be referred to as wine. Therefore, if non-kosher wine is mixed into water six times its volume, it cannot prohibit the water. Rav Moshe continues that apparently there is a printer’s error in our edition of the Ran. Based on Rav Moshe’s explanation that wine actually enhances water when mixed in, the words “ואינו משביח המים אלא פוגמן” appear incorrect. Rav Moshe therefore suggests that these words be removed. He further edits the Ran’s final words to read “שאין טעמו (משביח) אלא (פגם) וקיוהאבעלמא (אלא)פגם [שקית] [מקודש] (פוגם) [פוגם] [מקודש] (משביח) משביח [שגיא טעם (משביח) (מקודש) (פוגם) (מקודש) (שקית) [מקודש] (פוגם) (שקית) [מקודש] (משביח) משביח” to correctly reflect his explanation. He notes that these edits conform with the Rashba’s version (ibid.).

32. The Mateh Yehonoson (gloss to Rama 114:4) apparently sides with the Ra’avad’s explanation; see below, footnote 35. See also Taz (134:5). Rav Moshe (YD III siman 19) feels that the Ra’avad’s explanation is so difficult to comprehend (as explained above that a little wine enhances a large quantity of water – not ruins it) that halacha simply doesn’t reckon with the Ra’avad’s position. He suggests further that the Ra’avad’s commentary on 39a was added by a different author and is not authoritative. The Ra’avad on 73a who suggests that wine mixed in water is nosen ta’am l’pgam does not mean that the wine compromises the taste of the water, but rather that the wine itself becomes pagum, i.e., the wine loses its character when diluted, similar to the Rashba’s explanation. Accordingly, all Poskim agree that wine loses its identity when diluted in six parts, even though it still contributes a positive flavor to the mixture.
non-kosher wine considered nullified. If so, what is the halacha when wine is mixed with Scotch; is Scotch comparable to water, or to wine and other foods?

The Rama (114:4) writes that one may not buy apple wine or other beverages from a gentile if the custom is to mix wine (which is cheaper than these other beverages) into the drink, unless one is certain that the wine is batul b’shishim. The Taz (s.k. 4) asks: if, indeed, the Rama is of the opinion that wine is batul b’sheish in liquids other than wine (as the Shulchan Aruch in 134:5 states with regard to water) why does he require bitul b’shishim? The Taz, therefore, concludes that the Rama is simply quoting the words of the Mordechai who is of the opinion that wine always requires bitul b’shishim. In truth, however, the halacha follows the opinion that wine is batul b’sheish in other liquids. Therefore, one need only ascertain that there is six parts beverage – not sixty – against the wine.

The Nekudos Hakesef (gloss to Taz ibid.; authored by the Shach) takes the opposite approach. The Rama wrote bitul b’shishim and that is what’s required. The Rama rules that wine is only batul b’sheish when mixed with water because water ruins (is pogem) the wine; if wine is mixed with any other liquid, shishim is required. The Nekudos Hakesef maintains that this is what the Issur V’Heter (quoted by the Shach 134:21) had in mind when writing that wine is batul b’sheish only when it falls into water as opposed

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33. This explanation follows the position of the Rashba, quoted above, that diluted wine is referred to as kiyuha. (This is, in fact, the position of the Issur V’Heter (ibid.) himself.) Therefore, when non-kosher wine is mixed with wine or food it is not referred to as kiyuha and requires shishim (see Igros Moshe YD I siman 62 d.h. v’hinei who understands this to be the distinction mentioned in Magen Avrohom 204:16). This halacha may also be true according to the Ra’avad, quoted above, who is of the opinion that wine is nullified in sheish because a small amount of wine contributes a detrimental flavor when diluted in six parts and is nosen ta’am l’pgam. This only applies when wine is mixed with water; if non-kosher wine is mixed with kosher wine or food, the mixture is actually enhanced and the standard ratio of shishim is required.

34. The Rama later (114:6) records a similar ruling, that one may purchase a beverage from a gentile even if non-kosher wine sediments may have been added, provided that the sediments are batul b’shishim. The Taz (s.k. 6) comments again that according to accepted practice, sheish is sufficient.
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This difference in understanding the Rama plays itself out if stam yeinam is mixed with liquids (other than wine or water) that are not spoiled when mixed with wine, such as Scotch. The Nekudos Hakesef requires bitul b’shishim (a ratio of sixty-to-one) to permit the mixture, but the Taz requires only bitul b’sheish (six-to-one). Many Poskim side with the Taz, including the Pri Chadash (YD 114:10), Chochmas Adam (66:15) and Magen Avrohom (204:16). This is also the opinion of the Minchas Yitzchok (Vol. II 28:4) and Rav Moshe (Igros Moshe YD I siman 62).  

35. The Mateh Yehonoson (gloss to Rama 114:4) offers a third approach. A distinction can be made between mixtures enhanced by wine and those ruined by wine. Those mixtures enhanced by wine require shishim to nullify the wine, like other prohibited foods, whereas mixtures ruined by wine suffice with sheish to nullify the wine. The Mateh Yehonocon apparently sides with the Ra’avad’s explanation (quoted above) that non-kosher wine is batul b’sheish because it ruins the mixture. He therefore rules that a mixture enhanced by the wine requires shishim. (This distinction applies to wine mixed with both water and other liquids.) Accordingly, the Rama who rules that shishim is required is referring to a beverage enhanced by wine. 

Rav Moshe (YD I siman 62 d.h. v’hinee, quoted above) argues that wine never ruins the mixture and the leniency is based on the fact that diluted wine is referred to as kiyuha, as stated in the Rashba and other Rishonim. Rav Moshe therefore rules that according to the opinion that wine is nullified in sheish, this ratio is sufficient even if the mixture is enhanced. [Rav Moshe questions further that if it’s true that a higher level of nullification is required when wine enhances a mixture, why is shishim sufficient? This should presumably be a situation of avida l’ta’ama which is not nullified even when mixed into shishim.] However, Rav Moshe concludes that a ba’al nefesh should require shishim if the non-kosher wine enhances the mixture, to accommodate the position of Mateh Yehonocon. This is an additional reason for a ba’al nefesh to be concerned with Sherry casks, because according to the Shach and other Poskim quoted above (Sec. III:A:b), Sherry casks do not contain shishim against the forbidden wine blios, as will be explained later (Sec. IV). See also Addendum 6.  

36. Although the Magen Avrohom follows the opinion of Nekudos Hakesef that liquids other than water require shishim, he also writes that present-day wine is weak and delicate, and bitul b’sheish is sufficient. 

37. Rav Moshe writes that it is quite possible that the Nekudos Hakesef requires shishim only when wine is mixed with non-sharp liquids, but if wine is mixed with a sharp liquid, like whisky, then perhaps only sheish is required. He writes this to avoid a seeming
Rav Moshe concludes, however, that a ba’al nefesh (a scrupulous person) should be stringent and require bitul b’shishim in order to accommodate the position of the Nekudos Hakesef.  

Based on the above, it appears that most Poskim rule that wine mixed with Scotch is rendered permissible through bitul b’sheish (but according to Rav Moshe, a ba’al nefesh should require shishim). Accordingly, Scotch matured in Sherry casks is deemed permissible only if the volume of Scotch is at least six times as much as the amount of wine absorbed in the cask walls. We will examine whether or not this ratio is generally present in Section IV.  

B) Potential Limitations to Bitul

Since any forbidden wine mixed with Scotch requires nullification, as discussed above, we must determine if it is possible to nullify the blios of Sherry wine absorbed by the Scotch. Various considerations that prevent bitul from taking effect are discussed in halacha. These considerations are treated below.

a. Avida l’ta’ama (added for taste purposes)

An important limitation to the rule of bitul is avida l’ta’ama (added for taste purposes). The Rama (98:8) writes that even a minute amount of forbidden spice prohibits kosher food into which it has become mixed. Non-kosher food is generally nullified when mixed into a kosher food

contradiction between the above-mentioned Shach and a quote of the Shach by the Magen Avrohom (OC 202:3). The Minchas Yitzchok (ibid.) and Mishne Halachos (Vol. X siman 109) also suggest the idea that wine is nullified in sharp liquids b’sheish.

38. This is in addition to the position of Mateh Yehonoson, quoted above, footnote 35.

39. It is interesting to note that in Hilchos Brachos (202:1) the Rama writes that if wine and beer are mixed together, the bracha on this mixture follows the majority ingredient; if the majority is beer then the bracha is shehakol. How can this halacha be reconciled with the halacha found in Yoreh Deah that wine is batul in other liquids only if there are six or 60 parts against the wine? The Sha’ar Hatziyun (202:14) explains that the guidelines for brachos are quite different than those of yayin nesech. To nullify yayin nesech one needs to obliterate the wine’s identity – this can be accomplished when there are six or 60 parts against the wine. Regarding hilchos brachos, however, the main guideline is ikur v’tafel – the main ingredient decides the identity of the mixture, and this is based on the majority ingredient.
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whose volume is substantially greater, but spices cannot be nullified in this way because a minute quantity imparts detectable flavor even to a large volume of food, thus retaining their non-kosher identity.40 Are the wine absorptions in Scotch avida l’ta’ama? To answer this question it is necessary to determine why Scotch producers prefer Sherry casks.

There is no clear consensus as to the specific reason that Scotch manufacturers prefer to use wine casks for maturation. One accepted reason is to add color to the naturally light-colored Scotch.41 It is also likely that the manufacturers want the wine flavor to enhance the Scotch, as explained in the background section above. This may be especially true with regards to “finishes.” As explained above, many distilleries transfer fully matured Scotch to casks previously used for wine. This is called “finishing.” Many argue that the primary purpose of finishing is to permit the Scotch to absorb the wine flavor. If this is true, then the absorbed wine is considered avida l’ta’ama and can never be nullified.

However, it is more likely that the distillers are not interested in the actual flavor of wine – after all, they are producing Scotch, not wine. Rather, they want the enhanced flavor created by the blend of Scotch with the wine absorptions. According to Keith Cruickshank, Master Distiller of Benromach, by using various wood-finishes for aging and finishing, one is not flavoring the whisky but achieving “a complementation of elements, a strong merge.”42 Since one cannot actually taste the wine flavor, but only a new blend of flavors, the case with Scotch is not comparable to spices where one can taste the actual forbidden spice.

Additionally, some maintain that distillers are not interested in the wine flavor at all; they only want the flavor of the wood. The Glenlivet’s Ian Logan says: “We’re not interested in what’s been in the barrel but in the wood itself.”43 In this case, the wine flavor would certainly not be

40. The Rama repeats this halacha in 114:6. See Addendum 5 for further analysis.
41. The Scotch Whisky Regulations 2009 allows for the addition of caramel coloring to rectify this problem.
42. Quoted in From wine barrels, out pours Scotch, by Charles Perry, LA Times, Nov. 8, 2006.
43. Quoted in LA Times, ibid. According to Narciso Fernandez Iturrospe, owner of Tevasa Cooperage, it isn’t only the Sherry seasoning that makes the barrels ideal for aging single malts. The wood itself plays a large part in imparting special flavors to the whisky. Sherry barrels are made from Quercus Robur, a Spanish oak that is felled when it reaches 60 to
considered *avida l’ta’ama* because the wine flavor is both undesirable and indiscernible, unlike a forbidden spice whose taste is desirable and discernable.

On the other hand, even if the distillers were specifically interested in the wine flavor (as, for example, the makers of Glenmorangie claim\(^{44}\))

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70 years of age and contains approximately 10 times more tannin than does the 30 to 40-year-old *Quercus Alba*, or American White Oak, which is used to make bourbon barrels. Research has shown the tannins in the wood act as a catalyst that aids oxidization during the maturation period and hence is highly desirable to malt producers. (Source: *Barrels of fun? Using sherry casks to age Scotch is a complicated process*, by Gary Regan, June 18, 2001. findarticles.com)

Some suggest that the wine does not contribute any flavor and wine barrels are used simply because the wine neutralizes the bitter wood flavor (see *Minchas Yitzchok* Vol. II 28:21, *Mishne Halachos*, Vol. X siman 109). However, the *Minchas Yitzchok* (ibid.) points out that this seems to be sharply disputed by many experts who claim that the wine does contribute to the overall flavor of the drink. An additional difficulty is that the *Mishne Halachos* favors this theory that the Scotch makers aren’t interested in the wine flavor based on the premise that if distillers truly wanted the wine flavor, it would be simpler to add wine directly to the Scotch. However, this premise is based on a false assumption. As stated clearly in the Scotch Whisky Regulations 2009, Scotch must not contain any added substance other than barley (or other grain), yeast, water and plain caramel coloring. Accordingly, even if Scotch distillers wanted wine flavor, they may not add wine directly to the whisky without risking fines and ruining their reputation. Indeed, the only way to add wine flavor would be through aging the whisky in wine casks.

44. “I believe the flavour coming into the finishing cask from the wine has a more significant impact than the wood extractives. I’d say two-thirds is a direct result of the wine itself, and one-third is down to further wood-derived chemistry.” (Glenmorangie’s Dr. Bill Lumsden, quoted in *Mixing the grain with the grape*, by Ian Wisniewski, *Whisky Magazine*, Issue 51, 07/10/2005.) This is indicated as well by the fact that Glenmorangie produces the “Extra Matured Range” with Single Malts finished in four different wine casks (Sherry, Sauternes, Port, and Pedro Ximénez). This indicates that there is indeed a significant contribution from the wine – not merely from the wood. To quote Anthony Burnet, Ambassador Emeritus, Glenmorangie (quoted in *Sherry; “Sherry Oak” – which is it?,* by Kevin Erskine, *TheScotchBlog.com*): “[Regarding] Glenmorangie Wood Finishes [currently called “Extra Matured Range”]… it is indeed the traces of the different fortified wines which have previously been aged in the casks that add so much to the final products…not just the characteristics that the oak itself also brings to the party. One has only to nose/taste those
there are grounds to argue that *avida l’ta’ama* does not apply to the wine absorbed in Scotch. As discussed above (Sec. III:A:c) once wine is *batul b’sheish* it loses its status as wine and is treated as *kiyuha* (“acid”) instead. This idea is also brought in *Igros Moshe* (*YD I siman* 63). There, Rav Pinchos Teitz is quoted as arguing that wine added to whiskey should not be nullified because it was *avida l’ta’ama*, added for flavor. Rav Moshe countered that even if wine was added for flavor the whiskey would not be prohibited because wine which is *batul b’sheish* is referred to as *kiyuha* and treated as “acid.”⁴⁵ Rav Moshe supports this position (in the previous siman) from various sources, including *Tosfos* (*Chulin 25b d.h. hamitamed*) who write that diluted wine is called *kiyuha* and is not considered “*ta’am gamur* – authentic flavor.” This indicates that even though the flavor of the wine can be tasted, it loses its status as “wine,” even if the intention was to add wine flavor. Based on this concept, it would certainly seem that any wine flavor absorbed by the Scotch can be nullified according to the rules of *bitul*, even in the case of distilleries that are truly interested in the wine flavor.

The issue of *avida l’ta’ama* is also addressed by Rav Weiss. In *Minchas Yitzchok* Vol. II (28:5-7, written in 5716) he argues that if the actual wine flavor can be detected then it can never be nullified. If, however, the taste cannot be detected and there is only some change in the flavor due to the presence of wine, then it may be permitted based on the principle *zeh v’zeh gorem* (ibid. *s.k.* 16-18). The rationale for this is that many factors in the production of Scotch affect the final flavor of the drink, including malted barley, water, wood flavor, peat and Sherry flavoring. Since the overall flavor is affected by many factors, the wine’s particular contribution cannot be considered *avida l’ta’ama*. This is also the opinion of *Mishne Halachos* (Vol. X siman 109).

It appears that most Scotch experts agree that, although the wine affects the overall flavor, the actual taste of wine cannot be detected. The *Minchas Yitzchok* himself (*s.k.* 21) acknowledges that this seems to be the accepted opinion. Therefore, even though *blios* of wine in Scotch is *avida l’ta’ama*, the forbidden wine *blios* can be nullified.

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⁴⁵. וא״כ מה לנו אם בכוונה poate מדר טעם הקיוהא – הא עכ״פ לא ניתם טעם יין设立 לשו ל鲧א במכיאות, טעם.
However, it is hard to accept the application of *zeh v’zeh gorem* in the case of Scotch. The concept of *zeh v’zeh gorem* is applicable only in cases where the resulting flavor could have been achieved with the other kosher ingredients had they been present in larger quantities, and the non-kosher ingredient is not absolutely required to achieve the desired outcome. In contrast, the distinctive flavor of Scotch matured in Sherry casks cannot be achieved without the addition of forbidden Sherry flavor. Rav Weiss himself grapples with this issue in a later volume (Vol. VII 27:4, written in Iyar 5738) and writes that *zeh v’zeh gorem* is not applicable to Sherry casks, since the distinctive Scotch flavor could not have been attained solely with the other kosher ingredients. Rav Weiss notes that this differs with the earlier *t’shuvah* and concludes that this issue is *tzarich iyun* (requires further elucidation).

An additional reason to disregard the concern of *avida l’ta’ama* is that some Poskim are of the opinion that *avida l’ta’ama* prevents *bitul* only of actual forbidden items (*bi’en*); imparted flavors (*blios*), however, are not subject to the limitations of *avida l’ta’ama* (*Beis Shlomo OC siman 87; S’dei Chemed, Ma’avareches chometz u’matzah 4:6:10 and 4:12, Volume 7, pages 103 and 108). Other Poskim, however, argue that the concern of *avida l’ta’ama* applies to *bi’en* and *blios* alike (*Pri Migadim M”Z OC 451:27*).

To summarize: It is unclear if Scotch makers are interested in the Sherry casks for the flavor of their wine *blios* (presenting a concern of *avida l’ta’ama*), or for the overall effect of the wine or wood on the Scotch. Most experts agree that the original wine flavor is not preserved and cannot be identified in the Scotch, and therefore it is subject to *bitul*. One may not invoke the principle of *zeh v’zeh gorem*; nevertheless, according to Rav Moshe once the wine is diluted at a ratio of 6:1 it is “acid” and not “wine,” and there is no longer any concern of *avida l’ta’ama*. Additionally, according to some Poskim *avida l’ta’ama* does not apply to *blios*. Thus it appears that there are sufficient grounds to consider wine *blios* not subject to the limitation of *avida l’ta’ama*.

**b. Darkon b’kach (an integral ingredient)**

The *Shulchan Aruch* (134:13), quoting the *T’shuvos HaRashba* (Vol. III siman 214), rules that one may not drink any beverage of a gentile if it is customary (*darkon b’kach*) to add (non-kosher) wine to it. The *Rashba* clarifies that the drink is forbidden even if there is enough kosher liquid to nullify the wine. The reason for this is that any food or liquid
routinely added to a mixture is considered an integral ingredient of the mixture. This fundamental part of the mixture defines the final product, similar to the concept of *davar ha’ma’amid* (i.e., a forbidden food that acts as a “support” for the final product), and cannot be nullified (*Minchas Yitzchok* Vol. II 28:12, based on the *Machatzis Hashekel* 447:45 towards the end). Accordingly, it would seem that Scotch containing absorptions of Sherry wine should be forbidden.

However, the *Noda B’Yehuda* (Mahadurah tinyana, *YD* siman 56) notes that since many Poskim (Rambam and Ri Migash, quoted by Ran, *Avodah Zara* 13b) argue with the Rashba, one may be lenient and permit these beverages as long as the wine is *batul*. This is also the position of *Gilyon Maharsha* (gloss to *Shulchan Aruch* 134:13).

Furthermore, Rav Weiss (ibid. 28:18), based on the *Machatzis Hashekel* mentioned above, maintains that this prohibition does not apply when *zeh v’zeh gorem* is applicable (just like it doesn’t apply to *davar ha’ma’amid*). Since the desired taste of the beverage cannot be achieved without the other permissible ingredients, the forbidden substance cannot be said to define the entire mixture. Hence, since the unique taste of Scotch is only achieved with a combination of various ingredients, the presence of non-kosher wine cannot be reason to forbid the Scotch.

Rav Moshe Feinstein (*YD* I siman 63) seems to have a different view on this halacha. After quoting the *Shulchan Aruch* (ibid.) that one may not drink the beverage of a gentile if it is customary to add wine to it, he notes that the *Rama* (114:4 and 6) disagrees and rules that the beverage

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46. See *Minchas Yitzchok* (ibid.) who explains the difference between this prohibition and *avid l’ta’ama*. It should be noted that the Ra’avad (quoted by Ran, *Avodah Zara* 13b) explains this prohibition differently. The Ra’avad explains that Chazal prohibited products to which forbidden food is routinely added out of concern that the volume of forbidden food may be too large to be nullified. The Rashba himself equates his position with that of the Ra’avad, as does the *Noda B’Yehuda* (Mahadurah tinyana, *YD* siman 56). Thus, the *Machatzis Hashekel*’s interpretation of the Rashba is debatable.

47. See also *Magen Avrohom* (OC 442:1) who understands that the Rashba’s stringency is only Rabbinical in nature. The *Noda B’Yehuda* (ibid.) points out that this is actually explicit in the *Ran* and Rashba.

48. According to the Ra’avad’s explanation of this halacha, quoted above (footnote 46), the leniency of *zeh v’zeh gorem* does not apply to situations of *darkon b’kach* because Chazal forbade all such mixtures, regardless of where the particular forbidden flavor originated.
may be consumed as long as the wine is nullified. Rav Moshe maintains that although the halacha follows the Rama, it is advisable that a baal nefesh abstain from drinking such a beverage in order to accommodate the position of the Rashba.

\[c. \text{Chazusa (coloring)}\]

The Rama (102:1) rules that if a forbidden ingredient adds color to a mixture, the ingredient cannot be nullified. Accordingly, since one of the primary functions of Sherry casks is to add color to the light-colored Scotch, the wine should not be batul.

However, the Minchas Yitzchok (Vol. II 28:19) cites the Pri Chadash (102:5) who rules that Chazal were not concerned about coloring when dealing with an item which is only Rabbinically forbidden, which includes the prohibition of stam yeinam. Furthermore, since the color is affected by many other factors, including the barrel and caramel color, this is certainly a case of zeh v’zeh gorem and the non-kosher ingredient can be nullified.

\[d. \text{Bitul Issur L’chatchila (intentional nullification)}\]

Another potential issue of concern is bitul issur l’chatchila. It is forbidden to add even a minute amount of non-kosher food (even if only

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49. However, Rav Weiss (ibid. s.k. 12-13) maintains, based on an apparent contradiction in the Shulchan Aruch, that the lenient position of the Rama applies only when the non-kosher ingredient does not enhance the mixture, but if it was added to improve the mixture then the mixture is forbidden (unless it is a scenario of zeh v’zeh gorem).

50. It is important to realize that Rav Moshe was referring to a scenario where wine was poured into whiskey, as opposed to Scotch which is simply matured in wine casks. One may argue that Rav Moshe’s stringency applies only to the scenario he specifically discussed, where wine was actually poured into whiskey, and in that case alone a baal nefesh should adhere to the Rashba’s opinion that an integral non-kosher ingredient causes the entire beverage to be forbidden. With regard to Scotch, however, wine is never poured into the barrel; rather, the Scotch absorbs the blios of wine through kavush. Since wine is not an added ingredient to Scotch, perhaps even the Rashba would agree that the standard rules of bitul apply; thus even a baal nefesh need not be concerned with the restriction of darkon b’kach.

51. This is also the opinion of Yad Avrohom (gloss to Rama ibid.) and Chasam Sofer (gloss to Shach 102:5). See also Gr’a (102:6) who has a different explanation of the Rama.
Rabbinically forbidden) to a kosher mixture, even though the amount will certainly be nullified (*Shulchan Aruch* YD 99:6). If the non-kosher ingredient was intentionally added, Chazal imposed a penalty and prohibited the food to the one who mixed it in and to the person for whom it was added (ibid. 99:5). This prohibition is referred to as *bitul isur l’chatchila*. What is the halacha if a forbidden ingredient was added intentionally by a commercial manufacturer – is the product forbidden to the consumer? Rabbi Akiva Eiger (gloss to *Shulchan Aruch* ibid.) quotes the *Rivash* that it is forbidden to the customers because it is considered as if the manufacturer mixed in the forbidden item specifically for the customer. He notes, however, that the *Taz* (s.k. 10) permits the item to the purchasers because it was not mixed with any particular individual in mind. Accordingly, it would appear that the absorption of Sherry wine in Scotch is considered *bitul isur l’chatchila* according to the *Rivash*, but not according to the *Taz*.

However, Rav Moshe Feinstein (*Igros Moshe* YD I siman 62) writes that since Scotch is mainly marketed to gentiles, it is considered as if the addition of wine was done for them. As such, there is no problem for Jewish consumers even according to the *Rivash*.

Rav Moshe reasons further (ibid. siman 63) that even though the manufacturer created additional Scotch to accommodate the Jewish market, no penalty can be imposed upon the Scotch because the (non-Jewish) Scotch manufacturer did not violate any prohibition by adding the wine. Furthermore, many *Poskim* side with the *Taz* that the penalty of *bitul isur l’chatchila* was not imposed on consumers of commercially produced food and beverage. Additionally, gentile wine in contemporary times has the status of *stam yeinam* and not *yayin nesech*. The distinction here is crucial. In the days of old when gentile wine had the status of *yayin nesech*, it was forbidden to have any benefit, directly or indirectly, from the wine. *Stam yeinam* is less problematic, for though one may not drink it, one may benefit from it indirectly, for instance, by selling it. This indicates that the injunction against *stam yeinam* is not due to any real concern that the wine was used for idolatrous purposes, but rather that it is a Rabbinical ordnance meant to prevent intermarriage and has no direct Torah source (*ain lo shoresh min haTorah*). Accordingly, some *Poskim* permit intentionally nullifying this wine (*Tosfos*, Pesachim 30a). In addition, the *Rambam* (*Hilchos Ma’achalos Asuros* 15:26) rules that one may intentionally nullify any food that is only Rabbinically prohibited.
In light of all these considerations, Rav Moshe concludes that whiskey containing wine cannot be prohibited because of *bitul issur l’chatchila*.

Rav Yitzchok Weiss (*Minchas Yitzchok* Vol. II 28:20) cites an additional reason that *bitul issur l’chatchila* does not apply to Scotch. The *Maharsham* (Vol. III siman 234) explains that Chazal’s motivation behind imposing a penalty for intentionally nullifying a prohibited item was their concern that one may come to add such a large amount of the forbidden food that nullification won’t occur. Rav Weiss therefore argues that the penalty of *bitul issur l’chatchila* cannot possibly apply to Scotch because one would carefully avoid adding a large volume of wine, lest one ruin the Scotch.⁵²

**Summary of Section III**: Scotch matured in non-kosher wine barrels can be permitted only if the wine *blilos* are nullified. Most *Poskim* are of the opinion that a six-to-one ratio is sufficient to nullify non-kosher wine (although a *ba’al nefesh* should require *shishim*). Many *Poskim* require the volume of whisky to be six times the volume of the entire thickness of the cask walls. According to Rav Moshe, there is no problem of *avidat l’ta’ama*. There is also no concern (mei’ikur hadin) of *darkon b’kach*, *chazusa*, or *bitul issur l’chatchila*.

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⁵² One can also argue that the penalty against *bitul issur l’chatchila* applies only to one who mixes a forbidden item into kosher food. In our scenario, however, wine is not being added into the Scotch; our issue is only the absorption of wine *blilos*. Accordingly, this may not be considered an act of *mevatel issur l’chatchila*. It is also questionable if an act of nullification done by a gentile is subject to the penalty of *bitul issur l’chatchila*. The *T’shuvos Radvaz* (Vol. III siman 547) rules that one may not purchase a food product from a gentile in which a forbidden ingredient was intentionally nullified. He reasons that the act of purchasing such a product is considered nullification. Many *Poskim*, however, argue that the product may be purchased; see *T’shuvos Ein Yitzchok* (Vol. I, *OC* siman 19) who proves this point from the *Rama*. The *Rama* (*YD* 114:6) permits the purchase of a beverage from a gentile in which a non-kosher ingredient was added, provided that the non-kosher ingredient was nullified. The *Minchas Yitzchok* (Vol. II 28:20) notes that this is also the opinion of Maharam Lublin (Vol. I siman 104). See *Darkei T’shuvah* (108:20) and *Yabea Omer* (Vol. VII, *YD* siman 7) for additional sources.
IV. ESTABLISHING THE FACTS: DO SHERRY CASKS CONTAIN THE RATIO NECESSARY FOR NULLIFICATION?

Now that we have determined that according to many Poskim, in order to nullify the wine blios in Sherry casks, the volume of Scotch must be at least six times greater than the amount of wine absorbed in the casks (see above, Section III:A:b), it is crucial to determine if that volume is generally present. This requires an evaluation of the volume of the contents of the barrel vs. the volume of liquid absorbed in the walls of a Scotch barrel. The wine barrels commonly used nowadays to mature Scotch are Sherry casks, or “butts,” which generally contain 500 liters. In order to conclude that the wine blios are batul b’sheish one must ascertain that the liquid-to-wood ratio is more than 6:1. Studying the dimensions of a standard 500 liter Sherry butt, one discovers that the liquid-to-wood ratio is substantially less than 6:1, which means that there would not be enough Scotch to nullify the blios of the entire thickness of the walls b’sheish. (Although one would intuitively take the wood mass into consideration when calculating how much wine is absorbed, for purposes of halacha we measure the blios contained in the walls as if the walls were hollow and full of blios. The Shulchan Aruch 98:4 explains that since it is impossible to ascertain the precise volume of non-kosher taste absorbed in the walls, we must consider the walls to be completely imbued with non-kosher taste.)

How does one calculate the volume of absorbed wine in a Sherry cask? The Beis Yosef (98:4) cites the Mordechai that the simplest method to calculate the volume of the walls of a vessel is to use the displacement method: One fills a large vessel with water, dunks the vessel in question inside, and measures the displaced water. However, this is quite difficult to do with a large 500L barrel. Accordingly, we must use a different method.

The calculation of the volume of the walls of a standard barrel was

53. If there is actual wine inside the cask, e.g., if the cask was shipped to Scotland with wine actually sloshing around inside and the cask was not emptied prior to filling with Scotch, the volume required for bitul must be measured relative to this wine as well.
54. See Sections VIII:G and H for further analysis.
made using a barrel calculator (http://www.cleavebooks.co.uk/scol/calbarr.htm) to figure the volume of a barrel using dimensions of a 500L Sherry butt offered by Antex Rioja, a used-barrel supplier in Spain. The internal and external dimensions are presented in the accompanying chart. The barrel calculator indicates that the internal volume of liquid contained inside this barrel is 511.5L (fairly close to the stated volume), while the external volume of the barrel is 647.4L. Accordingly, it appears that the walls have a volume of 135.9L, which gives a liquid-to-wood ratio of 3.76:1, and would not be batul b’sheish.

[It should be noted that these calculations were done with the dimensions of a standard 500L Sherry butt which actually stored Jerez Oloroso Sherry; if maturation is done with different size barrels, the calculations may differ, possibly changing the halacha.]

<table>
<thead>
<tr>
<th>500 L Sherry Cask</th>
<th>Internal Dimensions (derived)</th>
<th>External Dimensions (actual)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height</td>
<td>110.38 cm</td>
<td>117.38 cm (excluding chimes)</td>
</tr>
<tr>
<td>Head Diameter</td>
<td>68 cm</td>
<td>75 cm</td>
</tr>
<tr>
<td>Center Diameter</td>
<td>83 cm</td>
<td>90 cm</td>
</tr>
<tr>
<td>Volume</td>
<td>511.5 L</td>
<td>647.4 L</td>
</tr>
<tr>
<td>Stave/Head Thickness</td>
<td>3.5 cm</td>
<td></td>
</tr>
<tr>
<td>Volume of Walls</td>
<td>135.9 L, a ratio of 3.76 : 1</td>
<td></td>
</tr>
</tbody>
</table>

55. The chimes (3.81 cm on a standard wine barrel x 2= 7.62 cm) have been excluded from this calculation; see Chochmas Adam (57:11).
56. The calculator uses the dimensions of a barrel and considers the stave thickness to be paper-thin. By subtracting the volume of a slightly smaller barrel (using the internal dimensions) from the volume of the larger barrel (using the external dimensions), one can ascertain the volume of the walls.
57. According to a Posek familiar with Sherry casks, the liquid-to-wood ratio of Scotch barrels is 4.25:1, not batul b’sheish.
V. Conclusion

In conclusion, the permissibility of Scotch matured in Sherry casks seems to be questionable. It appears from the Poskim that the blios of wine located in the walls of Sherry casks require nullification and it is sufficient to nullify the blios with a liquid-to-wood ratio of at least 6:1. Although there are numerous concerns regarding the susceptibility of the wine blios to nullification (namely, avida l’ta’am, darkon b’kach, chazusa, and bitul issur l’chatchila) it appears from the Poskim that there is sufficient room (mei’ikur hadin) to be lenient in this regard.58

The main concern, however, regarding Sherry casks, is due to the opinion of the Shach, Chochmas Adam and Kitzur Shulchan Aruch that the blios of stam yeinam are located in the entire thickness of the barrel walls. Although many Poskim are of the opinion that only a klipah of the wine barrel is affected and, as such, the blios of stam yeinam are nullified in the Scotch,59 the halacha generally follows the stringent opinion of the Shach and other Poskim. Indeed, many contemporary Poskim60 advise that one be stringent like the Shach and other Poskim that the entire thickness of the barrel is saturated with non-kosher wine blios. In a standard cask, it appears that there is not sufficient volume of Scotch to nullify the blios b’sheish. Accordingly, Scotch matured in Sherry casks appears to be problematic (see footnote).61 In the next section (Section VI) we will

58. A ba’ala nefesh, though, must be concerned that the addition of wine is considered darkon b’kach, not susceptible to nullification (Rav Moshe Feinstein, quoted above, Sec. III:B:b. However, see above, footnote 50).

59. According to the lenient opinion that only a klipah is affected, it can be assumed that the blios are nullified even b’shishim (see Shach 69:65, 137:9 and Binas Adam, Shaar Issur V’Heter siman 43, that a standard vessel contains shishim against the klipah).

60. To quote Harav Moshe Heinemann shlita, “The minhag of Klal Yisroel is to be machmir like the Shach.” According to Harav Shlomo Miller shlita, “l’chatchila one should be machmir like the Shach.” See next footnote. It must be noted that Rav Moshe Feinstein’s heter of “blended whiskey” (Igros Moshe, YD I simanim 62-64) does not apply to Scotch, as will be explained in Section VIII:A.

61. Indeed, Rabbi Akiva Padwa strongly recommends against drinking Scotch matured in Sherry casks (if Sherry is mentioned on the label) due to the numerous Kashrus concerns.

Some Poskim suggest various considerations to permit Scotch matured in Sherry casks.
In a conversation with the author, Rav Heinemann maintained that if a wine barrel is sawed open, it is clear that the wine stains do not penetrate the entire thickness of the walls. Accordingly, there is no need to assume that the walls are completely saturated with blios. One may therefore assume that the minimal absorption of wine blios are indeed batul b’sheish. (However, this point appears to be disputed by others (see above, footnote 24) who maintain that the exterior of the barrel is occasionally discolored from wine, indicating that wine blios are absorbed in the entire thickness of the walls. Furthermore, the Shach (135:33, 137:9) rules that wine blios are absorbed in the entire thickness of the barrel, seemingly unimpressed with the lack of wine stains.)

In a conversation with the author, Rav Miller ruled that Sherry-matured Scotch is permitted. His main leniency was based on the Gemara’s ruling that liquids (other than wine) are permitted when stored in non-kosher wine barrels. Rav Miller ruled that this leniency also applies to Scotch. (This point, however, is questionable. The Gemara’s lenient ruling is based on nosen ta’am l’pgam; as explained above (see footnotes 19 and 22), Scotch is likely considered l’shvach and therefore requires nullification.) Rav Miller added a number of snifim (supporting theories): 1) Mei’ikur hadin, blios are only absorbed k’dei klipah. He proved this from the Chochmas Adam (81:11) who rules that “l’tzorech gadol” (in case of great need) one may rely on the Poskim who reckon the klipah alone. Further, the Noda B’Yehuda (cited in Pischei T’shuvah 135:2) rules that miluy v’iruy is effective even in a situation where wine was definitely stored in the barrel 24 hours. This indicates that wine was only absorbed k’dei klipah. (See, however, Addendum 2 if this is conclusive proof.) 2) The addition of water prior to bottling allows the wine blios to be nullified b’sheish (see Section VIII:B). Although it was clarified that due to the relatively thick walls of European Sherry casks, the addition of water is not sufficient to nullify the wine blios, it is still possible that sheish does indeed exist. Accordingly, one may be lenient based on the concept of safek d’rabbanan l’hakkel. This is strengthened by the possibility that any particular bottle of Scotch may be from a second (or later) fill which perhaps does not contain any forbidden wine blios (see Sec. VIII:E and Addendum 8 for further analysis of this suggestion). 3) We find that Chazal prohibited the wine of a Jew which came into contact with a gentile because he may have had intent for idolatrous purposes. Additionally, Chazal prohibited wine produced by a gentile even if it was not touched by a gentile so as to discourage intermarriage (see Har Tzvi, YD siman 111). Wine produced nowadays in a commercial setting can be assumed to have avoided direct contact with a gentile because the entire process is mechanical. (According to the Chazon Ish, touching the exterior of a vessel containing wine is not considered direct contact.) Since such wine is only forbidden by the latter prohibition, it’s possible that it is batul birov (nullified in a mixture which contains a majority of kosher food). The Shach (112:23) and many
other Poskim are of the opinion that bishul akum (food cooked by a gentile) is batul b’rov when mixed into kosher food. Although non-kosher food generally requires nullification b’shishim, food which Chazal prohibited solely to discourage intermarriage (such as bishul akum) is nullified b’rov. One can argue that since commercially-produced Sherry wine is prohibited nowadays solely to discourage intermarriage, it is also batul b’rov, similar to bishul akum, and sheish is not required. (According to halacha, stam yeinam is nullified only with sheish or shishim, but perhaps one may be lenient when combined with the factors mentioned above.) Based on the above factors, Harav Miller is of the opinion that Scotch matured in Sherry casks is permitted.
VI. VARIOUS VARIETIES

As discussed above, Scotch matured in Sherry casks is problematic due to the absence of the ratio necessary for nullification. Some varieties are more problematic than others, as will be explained.

A) Sherry Casks Mentioned on Label

Many bottles of Scotch list on the label the type of cask used for maturation. If Sherry casks are mentioned on the label, this generally indicates that there is a high percentage of Sherry casks present. This will generally disallow nullification, as will be explained.

a) 100% Sherry Casks

It is important to note that the problem of Sherry casks generally applies only to Scotch that is labeled as 100% Sherry casks. This can be expressed in a number of ways:

1) The label states that it was matured in Sherry casks (such as The Macallan 12 Year Old which is “exclusively matured in selected Sherry oak casks from Jerez, Spain”);
2) The Scotch was “finished” in Sherry (or other wine) casks (such as Glenmorangie Lasanta which is “initially matured in bourbon casks, then extra matured or ‘finished’ in Oloroso Sherry casks”62);
3) It was “double-matured” (such as The Balvenie DoubleWood 12 Year Old which is matured in traditional whisky oak casks and a “further few months’ maturation in European oak Sherry casks”).

Such Scotch, which is 100% Sherry cask matured or finished, is problematic because it does not have a liquid-to-wood ratio of at least 6:1.

b) Mixture of Sherry and Bourbon Casks

Even if the label mentions Sherry casks, some Single Malts may still be acceptable. Several varieties of Single Malt Scotch found on the market

62. This is one of the four Glenmorangie “Extra Matured Range.” The other three are: Nectar d’or – finished in Sauternes ‘barriques‘; Quinta Ruban – finished in Port; Sonnalta – finished in Pedro Ximénez (super-sweet Sherry).
consist of a mixture of bourbon casks and Sherry casks (e.g., Glenfiddich 12 Year Old). (This should not be confused with “double-matured” Scotch mentioned above which refers to Scotch that is matured first in bourbon casks and then in Sherry casks.) This Scotch is more lenient because only the portion of Scotch that originated in Sherry casks requires nullification. The portion that originated in bourbon casks does not require nullification. Generally, the volume of Scotch which originated in non-wine barrels, in addition to the Scotch itself, is enough to nullify the wine blios b’sheish. Based on various calculations, it appears that any Scotch containing a mixture of Sherry and bourbon casks may be assumed to have at least sheish against the non-kosher wine blios, provided that the percentage of Sherry casks is less than 66.5% (see footnote). Listed below are a number of examples that fit this criterion.

In the example above (Glenfiddich 12 Year Old), the label (newly designed) states that it is “matured in the finest Oloroso sherry & bourbon casks.” Although the distiller does not disclose the cask breakdown, other

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63. Assuming that there is no concern of chanan, as explained below, Section VIII:B.
64. Assuming that the standard Sherry cask has a liquid-to-wood ratio of 3.76:1, the maximum allowable Sherry cask percentage to attain 6:1 is 53.71%. (The original ratio $\frac{1}{3.76} \times \frac{1}{y} = \frac{1}{6+1}$, $y = 7/3.76$, $y = 1.8617$, and $1/1.8617 = .5371$ or 53.71%). When taking into consideration the water added for dilution after removal from the casks (see below, Section VIII:B), the maximum allowable Sherry cask percentage to attain 6:1 (assuming dilution from 58% ABV to 40% ABV) is 77.9%. [To calculate a dilution from 58 to 40, one multiplies the original ratio by $\frac{1}{1.45}$. So $\frac{1}{3.76} \times \frac{1}{1.45} \times \frac{1}{w} = \frac{1}{(6+1)}$, so $w = 1.2839$, $1/1.2839 = .779$ or 77.9%.] It is important to note that according to Rav Moshe Feinstein (quoted above, Sec. III:A:c and footnotes 35 and 38) a ba’al nefesh must be concerned that the wine blios are still not batul b’shishim. This is true even when considering the addition of water after removal from the casks. The maximum allowable Sherry cask percentage to attain 60:1 (assuming dilution from 58% ABV to 40% ABV) is 8.9%. [To calculate a dilution from 58 to 40, one multiplies the original ratio by $\frac{1}{1.45}$. So $\frac{1}{3.76} \times \frac{1}{1.45} \times \frac{1}{y} = \frac{1}{(60+1)}$, so $y = 11.189$, $1/11.189 = .089$ or 8.9%.] See Addendum 6 for more analysis on Rav Moshe’s stringency regarding a ba’al nefesh.

In a worst-case scenario of dilution from 57% to 46%, the maximum allowable Sherry cask percentage including dilution to attain bitul b’sheish is 66.5%. If one were to follow the stringent opinion cited in Section VIII:B with regard to chanan, the maximum allowable Sherry cask percentage to attain bitul b’sheish is 14.3%. [1/7 of the total mixture = 14.3%.]
sources reveal that it is 85% ex-bourbon cask, 15% ex-Sherry cask.65 Since only 15% of the Scotch originated in Sherry casks, the wine blios are batul b’sheish.66

Another example, the label of the Glenfiddich 18 Year Old states that it is “matured in the finest Oloroso Sherry and bourbon casks, [and] is then married for at least three months in oak tuns.” According to the official Glenfiddich blog (run by Glenfiddich ambassadors and linked from the main site): “The 18 year old is a vatting of 80% American oak matured whiskies and 20% European (wine barrels), a very classy whisky that ensures we remain the most awarded single malt whisky in the world.” Since only 20% of the Scotch originated in Sherry casks, the wine blios are surely nullified.67

With regard to Glenfiddich 15 Year Old, the label states, “The richly layered Glenfiddich 15 Year Old is matured in three types of oak cask: sherry, bourbon and new oak before being married in our unique, handcrafted Solera vat.” According to acclaimed whisky writer Dave Broom (The World Atlas of Whisky, Octopus Publishing, 2010, pg. 69), the split is 70% bourbon, 20% Sherry, 10% new oak casks. Because only 20% of this Scotch was Sherry-cask matured, the wine blios are batul b’sheish.

An additional example of this is The Macallan Fine Oak 10 Year Old (not to be confused with The Macallan Sherry Oak). The label states that it is “triple cask matured in a unique complex combination of exceptional oak casks; European Oak casks seasoned with Sherry, American Oak casks seasoned with Sherry, American Oak casks seasoned with bourbon.” Although the company does not disclose the cask breakdown, at least one source reveals that 50% of the whisky originated in bourbon casks.68

66. If 15% of the vatting is from Sherry casks, then the liquid-to-wood ratio is 25.08:1 (1/3.76 x 1/6.67 = 1/25.08), certainly batul b’sheish. As noted above, according to Rav Moshe Feinstein (quoted above, Sec. III:A:c) a ba’al nefesh must be concerned that the wine blios are still not batul b’shishim.
67. If 20% of the vatting is from Sherry casks, then the liquid-to-wood ratio is 18.8:1 (1/3.76 x 1/5 = 1/18.8). See footnote 64 with regard to a ba’al nefesh.
Accordingly, the non-kosher wine blios may be assumed to be nullified b’sheish.

Many expressions of The Dalmore are a mixture of Sherry and bourbon casks and the breakdown is listed on the carton (but not the bottle). The Dalmore 12 Years Old states on the carton that it is “50% bourbon American White Oak and 50% Oloroso Sherry wood.” The Dalmore Gran Reserva is “matured and married in 60% Sherry wood and 40% American White Oak.” These percentages of Sherry casks, all under 66.5%, may be assumed to be batul b’sheish. However, The Dalmore Cigar Malt Reserve is “70% Oloroso Sherry wood; 30% bourbon American White Oak.” The wine blios in this expression may not be batul b’sheish.

Most Sherry-cask single malts currently on the market are a mixture of Sherry casks and bourbon casks; based on the above, these products are likely permissible.

B) No Mention of Sherry Casks on the Label

In the previous section we discussed Scotch which mentioned Sherry casks on the label. Such Scotch, if 100% Sherry-cask matured or finished, is problematic due to the absence of a six-to-one ratio against the non-kosher wine blios. If, however, the label makes no mention of wine casks, a doubt exists as to whether such casks were used, and therefore, the dictum safek d’rabbanan l’hakkel (one may be lenient when in doubt regarding a Rabbinical prohibition) applies (Igros Moshe YD I siman 62, based on Rama 114:10 and Shach 114:21). Furthermore, if there is no mention of Sherry on the label one can assume that it was not matured in Sherry casks. Since Sherry cask maturation is a great marketing gimmick, distillers are likely to advertise the use of Sherry casks (and charge more accordingly).

It should be noted that Single Malt Scotch generally comes from many casks which are vatted (mixed) with other Single malts (sometimes of different ages) from the same distillery, as noted in Sec. I (a notable exception is the occasional “Single Barrel” Whisky which is not vatted before bottling). Accordingly, it is quite possible that a Single Malt may contain some Scotch that originated in Sherry casks, even though there is no mention of Sherry casks on the label. (According to a source familiar with the subject, a typical expression has 10-20% Sherry casks in the vatting even with no mention of Sherry on the label.) However,
the minimal volume of wine blios from such barrels is generally nullified in the Scotch originating in non-wine barrels.\textsuperscript{69} This is especially true if the label makes no mention of Sherry casks, thus indicating that even if some Sherry casks were indeed used, it is likely only a small amount. The higher the Sherry influence, the more likely distillers are to mention it on the label.

An example of this is The Balvenie 10 Year Old Founder’s Reserve; the label makes no mention of wine casks, but the accompanying brochure states that some Sherry casks were used: “[The Balvenie Founder’s Reserve] results from a marriage of The Balvenie Single Malt matured in bourbon casks with that matured in sherry casks, or butts.” Although the brochure does not disclose the cask breakdown, other sources reveal that this Scotch was matured in 90% American oak and 10% Sherry.\textsuperscript{70} Since the volume of Scotch originating in Sherry casks is only 10%, the wine blios are batul b’sheish.\textsuperscript{71} The distiller did not mention Sherry casks on the label apparently because of its low presence. Accordingly, if the label makes no mention of wine casks or finishes, one can assume that wine casks were not used, or the percentage of wine casks were minimal, small enough to be batul b’sheish.

\textbf{C) Label Mentions Bourbon (or American) Casks}

On occasion, a Single Malt may state on the label “matured in Bourbon casks” or “matured in American Oak casks.” In such an instance there is no case to be stringent at all. As explained above, if Sherry casks are not mentioned on the label there is strong argument to be lenient and assume that Sherry casks were not used (or only minimally used). This is surely true if the distillery actually claims that bourbon casks were used. In this scenario the company can certainly be believed because Sherry casks are

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69. See footnote 64 that the maximum allowable Sherry cask percentage to attain 6:1 is 53.71%, and 66.5% when taking dilution into consideration (assuming a worst-case scenario of dilution from 57% ABV to 46% ABV).
71. If 10% of the vatting is Sherry casks, then the liquid-to-wood ratio is 37.6:1 (1/3.76 x 1/10 = 1/37.6), certainly batul b’sheish. As noted above, according to Rav Moshe Feinstein, a ba’al nefesh must be concerned that the wine blios are still not batul b’sheishim, even when dilution is taken into consideration.
\end{flushright}
 generally perceived as enhancing the whisky.\textsuperscript{72}

\section*{D) Blended Scotch Whisky}

It should be noted that this entire discussion refers only to Single Malt Scotch Whisky. Blended Scotch Whisky (e.g., Grant’s, Johnnie Walker), consisting mainly of grain whisky, is generally not a problem.\textsuperscript{73} According to scotchwhisky.net, a blended Scotch whisky may contain a combination of whiskies from over 40 or 50 different malt and grain distilleries. It is generally accepted that only a very small percentage, if any, of grain whisky is aged in Sherry casks. As such, even if whisky from Sherry casks were blended in, it is likely to be only a small amount of the entire blend lending itself to \textit{bitul}. Further, if the label makes no mention of Sherry casks then a doubt exists if such casks were used, as mentioned above.

\textbf{Summary of Section VI:} Sherry-matured Scotch is problematic only if it was certainly 100\% Sherry cask matured (e.g., the label declares “exclusively matured,” “finished,” or “double-matured” in Sherry or other wine cask). If, however, a doubt exists if it was 100\% Sherry-matured or the Scotch is a mixture of bourbon and Sherry casks, one may assume that the Sherry wine is \textit{batul b’sheish} (a \textit{ba’al nefesh}, though, must be concerned that it isn’t \textit{batul b’shishim}). Further, if the label makes no mention of Sherry casks, then one may assume Sherry casks were not used. This is certainly true if the label claims that the whisky was matured in bourbon or American oak casks. The vast majority of Single Malt Scotch currently on the market is not 100\% Sherry-matured or finished and is therefore permitted (\textit{mei’ikur hadin}). Blended Scotch is almost certainly not a problem.

\textsuperscript{72} As heard from Rabbi Akiva Padwa.

\textsuperscript{73} Malt Whisky refers to whisky made only from malted barley. Single Malt Scotch Whisky refers to malt whisky produced in Scotland in a single distillery, and not vatted or blended with whisky made in any other distillery. (Single Malt Whisky may be produced elsewhere in the world, but no other nation may call a product “Scotch.”) Vatted or Blended Malt refers to malt (barley) whisky combined from different distilleries. Blended Scotch Whisky (not Malt) refers to whisky produced from a mixture of malted barley, wheat, or corn (maize) whiskies.
VII. LOOKING FORWARD: POSSIBLE SOLUTIONS

Due to the serious concern of Scotch matured in Sherry casks, let us explore possible solutions and various alternative methods to mature Scotch.

A) Kashering Sherry Casks

A vessel which absorbs non-kosher blos may not be used to store kosher food until it is kasher (made kosher). Numerous kashering methods are discussed in the Poskim and we must identify which methods may be effective on Sherry casks.

a. Hagalah (scalding with water)

A vessel which absorbed blos through kavush (soaking), such as Sherry casks, may be kasher through a process known as hagalah (Shulchan Aruch OC 451:21). The process consists of boiling water in the vessel, or alternatively, dunking the vessel in a large pot of boiling water, allowing all the blos to be nullified. Let us clarify if such a process works to kasher Sherry casks.

The Shulchan Aruch (YD 135:15, OC 451:8) states that one may kasher a wooden vessel with hagalah. Mishnah Brurah (451:56) notes that this may be done only if the vessel is smooth, without cracks or holes. This halacha is based on Shulchan Aruch (OC 451:3) and Rama (OC 451:5) who write that any vessel that has cracks or holes may not be kasher with hagalah. The Taz (ad loc. s.k. 24) notes that the custom is to remove one of the barrel ends in order to clean and remove any residue stuck between the boards, but concludes in the name of the Bach that one should not attempt to kasher beer barrels for Pesach use due to the difficulty in cleaning them. This custom is echoed by the Taz (s.k. 20) as well (with regards to borscht barrels), and the Pri Migadim (ad loc. s.k.

74. Some Poskim allow one to pour boiling water in a non-kosher barrel and roll the barrel back and forth to allow the water to hit all the sides. The Rama (YD 135:15) writes that one may rely on this opinion b'dieved. The Shach (ad loc. s.k. 34) notes that this is a special leniency for vessels which absorbed non-kosher blos through kavush – such as Sherry casks.
24) supports this custom.\textsuperscript{75} However, The *Knesses Hag’dolah* (*YD Hagahos Tur*, 121:22) notes that this custom refers only to barrels which absorbed *chometz*; barrels which absorbed other forbidden foods – such as Sherry casks – may be kashered with *hagalah*, provided that the barrel is opened and cleaned well before kashering. The *Mishnah Brurah* (s.k. 119) writes that if one did *hagalah* without opening one end and cleaning very well, the *hagalah* does not work even *bdieved* (ex-post-facto). Accordingly, *hagalah* may be an effective method of kashering Sherry casks provided that the cask is opened and cleaned well. It is unknown, however, whether this would ruin the delicate nature of the Sherry cask.

\textbf{b. Libun (scorching)}

An alternative method to kasher vessels is through a process called *libun* (scorching). The *Shulchan Aruch* (*OC 451*:4) writes that for *libun* to be effective, a vessel must be exposed to such extreme heat that sparks fly from the other side of the vessel (a process known as *libun chamur*). This process will obviously not work on Sherry casks due to its wood construction.\textsuperscript{76}

The *Rama* (ad loc.), however, notes that some Poskim are of the opinion that it is sufficient to heat the vessel to a degree that straw placed on the exterior of the vessel will burn (a process known as *libun kal*). With regard to wine casks, the *Shulchan Aruch* in *Yoreh Deah* (135:14) rules that it is sufficient if the exterior walls have reached the temperature of *yad soledes bo* (hot enough that the hand recoils upon contact) which is around 160°F according to Rav Moshe Feinstein (*Igros Moshe OC IV*, 74: *bishul*:3).\textsuperscript{77} Accordingly, Sherry casks may be kashered with *libun kal*, i.e.,

\textsuperscript{75} See also *T’shuvos Tzemach Tzedek* (*OC simanim* 51-52). The *Taz* (s.k. 20) suggests that such barrels may be cleaned well and kashered provided that water was stored in them for many days, but the *Mishnah Brurah* (s.k. 94) writes in the name of the *Chayei Adam* that barrels constructed from many boards may not be kashered in such a fashion.

\textsuperscript{76} See *Tosfos* (*Avodah Zara* 33b) who rule that *libun chamur* may not be performed on wooden barrels out of concern that the process may not be done effectively so as not to damage the wood.

\textsuperscript{77} The *Rama* (*OC 451*:5) notes that any vessel that may not be kashered with *hagalah* due to cracks or holes – such as a wine barrel – may be kashered using *libun kal*. Although the *Rama* generally is of the opinion that the exterior of the vessel must reach sufficient heat to burn straw (a degree hotter than *yad soledes bo*), it is quite possible that the *Rama*
the interior of the cask is heated to such an extent that the exterior of the barrel reaches the temperature of *yad soledes bo*. However, this process would likely ruin the barrel. (See below, Section VIII:I, with regard to charring.)

c. Miluy V’iruy

A third method of *kashering* is *miluy v’iruy*: a non-kosher vessel is filled with water, allowed to rest for 24 hours, and then emptied; the process is repeated three times (see *Shulchan Aruch* YD 135:7, 12; *Shulchan Aruch* OC 451:21 and *Mishnah Brurah* ad loc. s.k. 118). Is this process effective to *kasher* Sherry casks?

The *Shach* (135:33) writes that *miluy v’iruy* is effective only if it is uncertain that wine rested in the barrel for 24 hours; if, however, it is certain that wine was stored in a wine barrel longer than 24 hours, *miluy v’iruy* is not effective. The *Shach* earlier (135:24) records this halacha and quotes the *Levush* as arguing and allowing *miluy v’iruy*. It is quite interesting that the *Shach* in a third location (135:13) seems to contradict himself – the *Shach* writes quite clearly that even if wine was stored in a barrel longer than 24 hours, *miluy v’iruy* helps. How can this contradiction be reconciled? See *Noda B’Yehuda* (*Mahadurah tinyana, YD siman* 58, at the end) who points out this apparent contradiction. The *Atzei Livona* is stringent only with vessels that absorbed *blios* through heat, or when dealing with the stringent prohibition of *chometz*; when dealing with a vessel that absorbed *blios* through *kavush*, such as Sherry casks, however, perhaps he agrees that it is more lenient and may be *kashered* to a degree sufficient to heat the exterior walls to *yad soledes bo*, as indicated by *Shulchan Aruch* YD (135:14). This is indicated as well by the fact that the *Rama* in *Yoreh Deah* does not record any objection to the *Shulchan Aruch’s* opinion. In fact, many *Poskim* (*Taz* OC 451:8, *Magen Avrohom* 451:27) argue on the *Rama* and are of the opinion that a vessel that may be *kashered* through *hagalah* – if not for its cracks and holes – need only be heated to the extent that the exterior walls have reached the temperature of *yad soledes bo*. Rabbi Akiva Eiger (gloss to *OC* 451:4, *Be’er Hagolah* s.k. 30) appears to side with the lenient *Poskim*; see, however, gloss to *Magen Avrohom* ibid. where he sides with the *Rama*. Additionally, the *Mishnah Brurah* does not quote the lenient opinion, indicating that he sides with the opinion of the *Rama* that the heat must be sufficient to burn straw. See also *Shulchan Aruch* Harav (451:16) who records a custom to be stringent and require sufficient heat to burn straw placed on the exterior, as stated in *Rama*.

78. The *Shach* concludes, though, that this halacha is *tzarich iyun*. 
(gloss to *Rama* 135:9) answers that the *Shach’s* opinion is that *miluy v’iruy* doesn’t work in such a situation – the earlier comment of the *Shach* (s.k. 13) is merely citing the *Levush’s* opinion (quoted in s.k. 24) that *miluy v’iruy* does help. Rav Moshe Feinstein (*YD* III siman 32), however, is troubled by the contradiction in the *Shach* and concludes on this basis that the halacha follows the simple understanding of the other *Poskim*, that *miluy v’iruy* helps for wine barrels even if non-kosher wine sat in the barrel longer than 24 hours. Accordingly, *miluy v’iruy* may be a solution to *kasher* Sherry casks. This is also the ruling of *Noda B’Yehuda* (cited in *Pischei T’shuvah* 135:2).79

B) Other Casks

As explained previously, distillers generally do not use new casks to mature Scotch because the sharp tannins found in the wood would ruin its delicate flavor. Used casks are utilized instead, with many distillers preferring wine casks for many reasons (as explained above, Section III: B:a). Such casks present Kashrus concerns due to the *blios* of *stam yeinam*. Let us discuss other options which do not present such concerns.

a. Kosher Wine Casks

One possible solution is to mature Scotch in Kosher wine casks. One such Scotch does exist, namely the Bruichladdich (pronounced “brook laddie”) 18 Year Old, distilled in 1989. According to the label, it was matured in bourbon casks and additionally matured in “Kosher wine casks from Carmel Winery, Israel.” It is unclear if this company is trying to avoid the problematic maturation in Sherry casks by using kosher wine barrels or is just trying to create a unique marketing gimmick. It would appear that the issue of *stam yeinam* is indeed avoided because the *blios* of kosher wine presumably do not become *stam yeinam* when gentiles handle the wine cask.80

79. See Addendum 2 for further analysis.
80. If a small amount of wine was left in the barrel during shipping, it may become *stam yeinam* upon contact with gentile workers. This small amount of wine would certainly be nullified in the Scotch. See Addendum 9 for further analysis.
b. Rum Casks

An additional solution is to mature Scotch in Rum casks, which is actually becoming more popular amongst distillers. Some varieties of Scotch recently appeared on the market that were finished in Rum casks, e.g., Glenfiddich 21 Year Old, The Balvenie 14 Year Old Caribbean Cask. Since Rum is produced from distilled sugar and molasses, no concern of *stam yeinam* exists.\(^{81}\)}
VIII. SEVERAL SUGGESTIONS TO PERMIT SCOTCH MATURED IN SHERRY CASKS

A) Rav Moshe Feinstein’s Heter (lenient ruling)

Many people maintain that Scotch matured or finished in Sherry casks is permitted based on Rav Moshe Feinstein’s ruling in *Igros Moshe* (YD I simanim 62-64) with regard to “blended whiskey.” Rav Moshe concludes that “blended whiskey” is permitted *mei’ikur hadin* due to the fact that *stam yeinam* added to the whiskey is *batul b’sheish*. (Rav Moshe advises a *ba’ al nefesh* to be stringent; see Addendum 6.) However, it is of vital importance to realize that Rav Moshe was not referring to Scotch; rather, he was referring to whiskey (perhaps Canadian or American) into which a small amount of wine (less than 2½%) was added. Thus, it was quite clear that the small volume of added wine was indeed nullified. Our discussion, however, refers to Scotch; the issue of concern is that it is matured *in* wine casks – wine is *never* poured into the barrel (it is actually illegal to do so). Although one might think that Scotch is more lenient since it is only an issue of absorbed wine (*blios*) – not actual wine (*bi’en*), it may be more stringent due to the opinion of the Shach and other Poskim that the volume of *blios* is measured by the entire thickness of the walls, and there is not sufficient volume of Scotch to nullify the *blios b’sheish*. Accordingly, Rav Moshe’s *heter* does not apply to Scotch.

B) Addition of Water Prior to Bottling

As mentioned in Section I, after Scotch has fully matured it is generally diluted to a bottling strength of between 40-46% alcohol content. Accordingly, the argument goes, even if wine *blios* truly require *bitul b’sheish*, this addition of water, together with the Scotch itself, is enough to nullify the wine *b’sheish*.82

However, this argument is fraught with difficulty. Chazal teach us that the principle of *chaticha na’asis neveila* (“chanan” – the entire mixture

82. It is important to note that according to Rav Moshe Feinstein (quoted above, Sec. III: A:c) a *ba’al nefesh* should require *bitul b’shishim*; this ratio is not present even when the addition of water is taken into consideration.
becomes forbidden) generally disallows the addition of kosher liquid to recalculate the original ratio that existed at the time the forbidden substance was added (see Shulchan Aruch 92:4). Accordingly, nullification is necessary against the entire contents of the barrel – not just the wine blios – and the addition of water prior to bottling is not sufficient to nullify this large volume of forbidden Scotch.83

It appears, though, that there is a strong argument that chanan does not apply with respect to stam yeinam. The Poskim discuss whether chanan applies to Rabbinical prohibitions, such as stam yeinam. Some Poskim rule that chanan does not apply to Rabbinical prohibitions (Pri Chodosh 92:17 based on Ran, Chulin 44b; Aruch Hashulchan 92:25). Other Poskim, however, rule that chanan applies to both Biblical and Rabbinical prohibitions (Taz 92:11 and Pri Migadim ad loc.). Although the accepted ruling follows the stringent opinion, some Poskim allow one to follow the lenient opinion with regards to prohibitions other than basar b’chalav (milk and meat mixtures), such as stam yeinam (K’sav Sofer siman 52; see also Chochmas Adam 44:13, and Tzvi L’Tzaddik, gloss to Taz 92:11). Additionally, liquid mixtures (lach b’lach) have certain leniencies. The Rama (92:4) rules that chanan does not apply when dealing with a liquid mixture (involving prohibitions other than basar b’chalav) in situations of hefsed gadol – when faced with a great financial loss. If this principle were applied, it would follow that nullification is necessary only against the actual wine blios.84 Even though the Rama is lenient with regards to chanan only when faced with a great financial loss, the Igros Moshe (YD II siman 36) rules that when dealing with a Rabbinical prohibition, such as stam yeinam, one may be lenient even without a great loss. Although some Poskim rule that one may not be lenient even with regard to a Rabbinical prohibition unless there is a hefsed gadol (see Noda B’Yehuda, Mahadurah tinyana YD siman 58, Tzemach Tzedek YD 66:6), it appears that there are sufficient grounds to be lenient in this issue (see footnote).85

83. The issue of chanan has ramifications for those Single Malts which are a mixture of Sherry and bourbon casks; see Sec. VI:A:b. If the concept of chanan applies, nullification would be necessary against the entire portion of spirit which originated in Sherry casks.
84. See Shach (103:20) and Gr’”a (103:26) that blios are considered lach b’lach.
85. See Shach (134:16) who cites both the leniency of the Ran with regard to Rabbinical prohibitions and the opinion of the Rama with regard to lach b’lach. (See Nekudos Hakesef, gloss to Taz 137:5.) There is further room to be lenient based on the position of the Rashba,
It must be noted, however, that this leniency applies only to Scotch which is diluted after the maturation in the Sherry cask is complete; Scotch which is diluted before being placed in a Sherry cask would not have this leniency. “Cask Strength” whisky is not diluted before bottling and is therefore not subject to this leniency. (See footnote with regard to “finishes.”86)

86. Some have suggested that “finishes” are diluted to bottling strength before being placed in a Sherry cask. Consequently, “finishes” would not be subject to this leniency. This appears to be vindicated by Ian Wisniewski in Mixing the grain with the grape (Whisky Magazine, Issue 51, 07/10/2005) who quotes Glenmorangie’s Dr Bill Lumsden: “We fill finishing casks with whiskies that could be in the mid-40s or up to 60% ABV (alcohol by volume).” It is quite clear that those whiskies which have been filled in the mid-40’s ABV have been diluted before placement in the finishing cask, thus the leniency of dilution would certainly not apply.

However, numerous distilleries (including The Glenlivet, Lagavulin, and surprisingly, Glenmorangie) affirmed by email that all dilutions are done immediately before bottling. The Glenlivet explained that doing so certainly makes sense: “Remember, a cask will lose 0.25% to 0.33% of alcohol strength every year so if we put it back into the cask at 40% it may end up under strength.” (According to the Scotch Whisky Regulations, Scotch must

Toras Habayis 4:1, pg. 14, who is of the opinion that wine – which is batul b’sheish – is not subject to the limitations of chanan. This combination of leniencies will allow one to be lenient even in the absence of a great loss (Harav Shlomo Miller shlita). [This leniency certainly applies according to those that follow the opinion of the Shulchan Aruch (ibid.) that chanan does not apply to prohibitions other than basar b’chalan.] Additionally, some Poskim (Hagahos Yad Shaul, gloss to Shach 134:16; Imrei Boruch, gloss to Shach 137:11, based on Yam Shel Shlomo, Chulin 7:60) rule that chanan never applies to stam yeinam stored in a barrel. The rationale for this ruling is that Chazal prohibited lach b’lach only if the mixture may occasionally be cooked; a mixture which will never be cooked, such as blios in a wine barrel, is not subject to the limitation of chanan.

Furthermore, some Poskim argue on the Rama and permit lach b’lach b’shaar issurim in certain situations even without hefsed gadol (see Taz s.k. 15, Zer Zahav ad loc. citing Bach and Levush). Many Poskim, however, rule in accordance with the Rama (Shach 103:20, 134:16; Gr’a 103:26, Chochmas Adam 44:9, Aruch Hashulchan 92:28). [The Aruch Hashulchan (ibid.) notes that hefsed gadol refers to a loss greater than hefsed mirubah; other Poskim (Chavas Daas 92:10, Pri Migadim, M”Z 92:15, Chochmas Adam 51:24) equate hefsed gadol with hefsed mirubah.] Based on the above considerations, it appears that there are sufficient grounds to be lenient on the issue of chanan.
Most importantly, it must be noted that this leniency generally does not apply to Sherry casks. Due to the relatively thick walls of European wine barrels which contain a large amount of blios (as opposed to the thinner walls of American wine barrels), the addition of water is not sufficient to nullify the wine blios.87

C) Aino Ben Yomo Wine Casks

Generally speaking, non-kosher food taste that has been absorbed in a vessel (blios) becomes stale after the passage of a 24 hour period. This is referred to as “aino ben yomo – it is not of today.” Such blios cannot affect kosher food subsequently cooked in the pot (see Shulchan Aruch 103:5). It has been noted that wine blios remain potent even after 24 hours and are not subject to the general leniency of aino ben yomo (Shulchan Aruch 135:16, Rama 137:1). The reason for this is that blios in general become stale over time; wine blios, on the other hand, actually improve over time (Shach 137:10).88 [The exception is if twelve months have elapsed since the barrel was emptied; after such a lengthy time, even wine blios are assumed to turn stale (Shulchan Aruch and Rama ibid.); see below, subsection D, Dried-out Barrels.] The simple understanding of this halacha is that wine blios remain potent (within 12 months) regardless of what is subsequently stored in the pot – be it wine, other liquids, or food. This is indeed the opinion of the Magen Avrohom (OC 447:25) who applies this halacha be at least 40% ABV.)

87. For example, the liquid-to-wood ratio of a standard Sherry cask from Antex Rioja is 3.76:1, as stated above. If the whisky is 58% ABV (alcohol by volume) when it is disgorged and water is added to reduce the strength to 40% ABV (a fairly standard rate of dilution) then we must multiply the original ratio by 1/1.45 (.58/x = .40, which is x = .58/.40 = 1.45). As a result, the original ratio (1/3.76) multiplied by percentage watered down (1/1.45) is 5.452:1 and is still not batul b’sheish.

88. This halacha is based on the Ran and Rosh (quoted in Beis Yosef 137:1, Darkei Moshe 137:2). Although the Ramban is quoted as permitting wine vessels which are aino ben yomo (see Ramban, Avodah Zara, hashmatos 75b d.h. im emes), see T’shuvos HaRosh (19:6) who asserts that this ruling was fabricated. The Ramban (Avodah Zara 40a d.h. v’kulan) suggests that the Ramban never intended his ruling to be applied as practical halacha. See also T’shuvos HaRashba Hamiyuchosos L’Ramban (siman 167) who is unsure if the Ramban may be used in combination with other factors even b’shaas hadchak.
even to a honey drink cooked in a wine barrel, and assumes that the wine blios remain potent even after 24 hours have elapsed.

The Pri Migadim (Aishel Avrohom 447:25) suggests a novelty: Perhaps this halacha that wine blios always remain potent and do not have the leniency of aino ben yomo is true only when wine is subsequently stored in the barrel; if food or other drinks are stored in the barrel after 24 hours have elapsed from the removal of the non-kosher wine, perhaps the blios are indeed considered stale with regard to these mixtures. Accordingly, since Sherry casks likely remain empty for at least 24 hours before being filled with Scotch (stam kli aino ben yomo), and wine blios turn stale when mixed with liquids other than wine, the Scotch would be permitted based on the concept of nosen ta'am l'pgam.

However, the Pri Migadim notes that this position is at odds with the Magen Avrohom (ibid.) who applies this halacha even to foods and other drinks, and therefore concludes that this halacha is tzarich iyun – requires further research. Accordingly, it is difficult to rely on this leniency.

**D) Dried-out Barrels**

As mentioned above, the Shulchan Aruch (135:16) and Rama (137:1) write that if kosher wine is stored in a non-kosher wine barrel which remained empty for at least twelve months, the wine is permitted because at that point, the wine blios are assumed to be stale.89 Based on this halacha, some have suggested an additional reason to be lenient with Sherry casks: It is quite possible that the barrels were left to dry for twelve months during shipping and transport, which makes the blios of wine pagum. This is especially likely if the barrels were disassembled prior to being shipped to Scotland, allowing plenty of time for the barrels to dry during shipping and storage until being reassembled. However, it is unlikely that this reason applies nowadays. Since Sherry casks are now so expensive, it is assumed that the wine casks were used as soon as possible and did not sit unused for twelve months.90

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89. See Gilyon Maharsha (gloss to Shulchan Aruch ibid.) as to why Chazal did not forbid such a barrel out of concern that one may mistakenly permit a barrel which sat empty less than twelve months, similar to the initial prohibition of aino ben yomo.

90. Further, the distilleries want to assure that the barrels remain fresh. “Being a ‘wood extractive’ liquid rather than simply wine, it [i.e., the wine absorptions] also includes
Even if twelve months were to transpire from the time the barrels leave Spain until their use in Scotland, this leniency does not apply for the simple reason that the barrels often contain wine during shipment. Research shows that many companies currently ship their barrels while still assembled\(^91\) and, according to Antex Rioja, a used-barrel supplier in Spain, it is common to ship wine barrels with some wine still inside, often as much as 10 liters, which prevents the barrels from drying out.\(^92\) Accordingly, this leniency does not apply to Sherry casks.\(^93\)

E) Second Fills

Another suggestion to be lenient is the fact that Sherry casks may be used numerous times (called fills), possibly even three times. Perhaps one may assume that the wine *blios* already came out in the first fill, and the subsequent fills do not contain any wine *blios*. Accordingly, Sherry-matured Scotch should be permissible. Since most of the bottles on the market are from second or later fills, any particular bottle is assumed to be a first fill, and as fresh as possible to retain maximum levels of residual liquid (the sooner casks reach Scotland the less ‘dehydrated’ they are).” (Excerpt from *Mixing the grain with the grape*, by Ian Wisniewski, *Whisky Magazine*, Issue 51, 07/10/2005.)

Additionally, according to Ian Wisnieski (*Let's do the char char*, *Whisky Magazine*, Issue 34, 5/10/2003) the trip to Scotland generally takes under two months: “Prior to being shipped, each cask receives ‘one for the road’ in the form of 5 litres of wine, helping to maintain freshness during a 4-6 week journey to Scotland. (This is of course emptied prior to filling with spirit in Scotland).”

91. “The traditional practise of dismantling and shipping barrels as ‘shooks’ (staves) for reassembly in Scotland, has declined enormously over the past 10-15 years.” (Excerpt from *Let's do the char char*, by Ian Wisnieski, *Whisky Magazine*, Issue 34, 5/10/2003.) “The [Sherry] casks are shipped whole, thus maintaining the sherryish character of the wood. This would diminish if they were knocked down into staves.” (Excerpt from *Michael Jackson's Complete Guide to Single Malt Scotch*, 6th Edition, pg. 61.)

92. To quote another source, “Seasoned casks are kept fresh en route to Scotland by giving them four to five litres of ‘transport sherry’ (emptied of course prior to filling with new make spirit in Scotland).” (Excerpt from *No Spain no Grain*, by Ian Wisniewski, *Whisky Magazine*, Issue 53, 12/01/2006.)

93. See Addendum 7 for further analysis.
to be from the majority of kosher bottles and permitted. However, this argument does not carry weight in halacha, as will be explained.

The *Rama* (98:4), based on the *Gemara Chulin* (97b), writes that if a piece of non-kosher meat falls in a pot of kosher food, and subsequently falls in a second pot of kosher food, the second pot is permissible only if it contains a volume of *shishim* against the entire piece of non-kosher meat. This rule applies even though a large amount of flavor already went out in the first pot, regardless of how many pots the non-kosher meat falls into. Since it is impossible to know if and when the entire flavor went out, *bitul* is required in every pot against the entire piece of meat.

We must clarify if the same halacha is true with regard to different batches of food cooked in the same pot. For example, if non-kosher food falls into a pot of soup and there is not *shishim* against the non-kosher food, the soup is prohibited. If one cooks a different batch of soup in the same pot within 24 hours, is *shishim* necessary against the non-kosher food or is it sufficient to have *shishim* in total between the first and second batches of soup? For example, if the first batch of soup had a thirty-to-one ratio and the second batch had a thirty-to-one ratio, is the second pot of soup permitted because there is a grand total of *shishim* against the non-kosher food, or do we say that since we don’t know when and where the *blios* came out, we must have *shishim* in every batch, similar to a non-kosher food which falls into two pots?

The *Rama* (103:2) rules that if forbidden food falls into a mixture in which it is *nosen ta'am l'pgam*, the food is permitted but the pot is prohibited. If one cooks food (which is *l'shvach* with the forbidden food) in the pot before *kasherling* it, the food is prohibited unless there is *shishim* against the original non-kosher food. Accordingly, it is quite clear that, even without *chanan*, *shishim* is required against the original non-kosher food even though the first mixture definitely nullified some of the *blios*. The reasoning must be that since we can’t know at which point the *blios* were released, we must require *shishim* in every mixture, just like the non-kosher food which falls into two pots. Thus we see that every mixture

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94. This question is only applicable where there is no concern of *chanan*, e.g., *lach b'lash b'shaar isurim b'hefsed gadol* – see *Rama* (92:4) and above, Sec. VIII:B.

95. See *Issur V'Heter Halaruch* (32:12) and *Biur HaG’ra* (s.k. 8) for the explanation of this halacha. See also *Shach* (s.k. 9) who explains that the principle of *chanan* does not require *shishim* against the entire first pot of food because the first mixture was *l'pgam.*
cooked in a pot which absorbed non-kosher taste requires *shishim*.\(^96\)

According to the above, even if a wine barrel is used numerous times to mature Scotch, every fill of Scotch must have *sheish* against the *blios* of wine, and if *sheish* is not present, every fill is prohibited.\(^97\)

Some suggest that the above ruling applies only to situations of Biblical prohibitions; Rabbinical prohibitions, on the other hand, are treated more leniently, based on the dictum *safek d’rabbanan l’hakkel* (when in doubt regarding a Rabbinical prohibition, one may be lenient). As stated above, it is unknown when and if the forbidden wine *blios* went out. Since *stam yeinam* is a Rabbinical prohibition, the argument goes, one may assume that any particular bottle of Scotch is from a fill which did not receive prohibited wine *blios*. This argument, however, appears to be refuted by the *Poskim*.

\(^96\) Another example of this concept: The *Shulchan Aruch* (92:5) writes that if a drop of milk splashes against the outside wall of a pot filled with meat soup and there is *shishim* in the soup against the drop of milk and the drop fell below the soup level, the soup is permitted (and must be emptied out immediately from the other side of the pot). What is the status of the pot? The *Rama* (92:6) writes that the pot requires *hagalah*, and if the pot is used without *hagalah* to cook soup within 24 hours of the first cooking then the second batch of soup is also forbidden unless it has *shishim* against the drop of milk. (See *Shach* 92:27 why *chanan* does not require *shishim* against the entire volume of the walls.) The *Shach* (92:19, 27) agrees with the *Rama* that the second batch of soup is forbidden (unlike the *Taz* s.k. 17 who permits *bidieved* the second batch of soup) and explains that we are concerned that some of the milk did not spread in the walls of the pot and may subsequently come into the second batch. Although most of the milk likely spread inside the walls and was nullified, *shishim* is required against the *entire* drop because it is impossible to know how much of the absorbed milk remains in the wall. Thus we see another example of a pot which absorbed non-kosher taste and requires *shishim* against the entire non-kosher food every time something is cooked in the pot (within 24 hours) even though some of the *blios* likely went out in the previous cooking.

\(^97\) Perhaps after the third fill one can assume the *blios* have all been nullified – just like we find that *miluy v’iruy* three times can *kasher* a wine barrel. Although the *Shach* (135:33) is of the opinion that *miluy v’iruy* does not work to *kasher* a wine barrel which definitely stored non-kosher wine longer than 24 hours, Rav Moshe Feinstein (*Igros Moshe* *YD* III *siman* 32) rules in accordance with the *Noda B’Yehuda* (*Mahadurah tinyana, YD siman* 58) who is of the opinion that *miluy v’iruy* may be done. See Section VII:A:c for further analysis.
The *Shulchan Aruch* (109:1) rules that a mixture of two pieces of meat (both pieces are the same flavor – *min b’mino*), one kosher and one not, may not be consumed. Only if the mixture consists of three pieces, two kosher and one not, may the mixture be consumed, based on the concept of *bitul chad b’trei*; see ibid. for more details. The *Shach* (109:9), explaining a seemingly difficult *Rama*, clarifies that this halacha applies even when the mixture consists of two pieces, one kosher and one Rabbinically prohibited. Even in this situation, the mixture is prohibited (unless there are at least two kosher pieces larger than the non-kosher one). He explains that this ruling follows the majority of *Poskim*, unlike the ruling of *Or Zarua* who actually permits a mixture with only two pieces. *Or Zarua* reasons that either piece may be assumed to be the kosher piece, based on the dictum *safek d’rabbanan l’hakkel*. (However, one person may not consume both pieces.) The *Shach*, based on the *Beis Yosef* and other *Poskim*, rules that neither piece may be consumed, because the dictum *safek d’rabbanan l’hakkel* does not apply. (In a situation of three pieces the mixture may be consumed based on *bitul chad b’trei*.) Thus, it is apparent that *safek d’rabbanan l’hakkel* (without qualifications of *bitul*) cannot permit a questionable mixture. Accordingly, although Sherry casks may have been used for numerous fills, every fill remains prohibited (unless the laws of nullification apply).

It should be noted that, with regard to finishes, it is highly unlikely that a second (or later) fill was used. According to Rabbi Akiva Osher Padwa, Senior Rabbinical Coordinator & Director of Certification, Kashrus Division – London Beis Din, nearly every finish takes place in a fresh fill. This is because there is currently a dearth of Sherry casks in Scotland (largely due to the Solera system commonly used in Spain where barrels are constantly refilled). Therefore, distilleries generally hire cooperages to construct barrels for them, and then contract with Spanish bodegas to fill the barrels with Sherry for an extended period of time. (The Sherry is subsequently discarded or used for wine vinegar.) This is obviously an expensive endeavor resulting in Sherry casks costing as much as ten times the cost of standard barrels. Distilleries therefore wish to get the most they can out of these barrels and second fills do not give as strong a flavor as first fills. Therefore, nearly all finishes take place in first fills (with second fills going for blends or lower quality Scotch). Accordingly, Scotch finished in Sherry casks likely came from a first fill and there is no doubt that perhaps a particular bottle of Scotch finished in Sherry casks came...
from a second (or later) fill.98 (See Addendum 8 for further analysis.)

F) Are Blios of Stam Yeinam Prohibited?

The Mishne Halachos (10:109) suggests a novel idea to allow Sherry-matured Scotch. Many Poskim are of the opinion that since most gentiles do not serve idols in contemporary times, the prohibition against stam yeinam in modern times is solely to prevent intermarriage – not out of concern that it was used for idol worship (see Tur and Beis Yosef YD 123). Accordingly, the Ran (quoted in Beis Yosef 123:26) is of the opinion that ‘honey’ produced by gentiles from wine is permitted because the concern of intermarriage arises only from actual wine – not honey. (This refers to ‘honey’ produced by cooking and concentrating sweet wine. A thick, sweet syrup is produced, similar to honey.) Although the halacha does not follow the Ran and the honey is prohibited (Shulchan Aruch 123:26), the Mishne Halachos suggests that all Poskim agree that wine blios – as opposed to actual wine – which mix into Scotch were not included in the original prohibition. Because the drink is classified as Scotch – not wine – and the wine taste is indiscernible, it is not included in Chazal’s prohibition against wine. Consequently, Sherry casks, which contain only blios of wine, will not prohibit Scotch stored in them.

Besides for the fact that this highly novel approach does not appear in other Poskim, it must be noted that this leniency is predicated on the fact that wine is undetectable in Sherry-matured Scotch – thus there is no concern of intermarriage. If the wine is discernable in the Scotch then even blios are subject to Chazal’s concern of intermarriage. As noted above (Section III:B:a), although the actual taste of wine cannot be distinguished, the wine affects the overall flavor and is discernable. Accordingly, this leniency does not seem to apply to Sherry casks.99

98. Based on a phone conversation with the author, 10/28/2011.
99. Rabbi Akiva Padwa offered a further reason to argue on this leniency. It is curious to note that the Beis Yosef cites the stringency of the Rashba (that a non-kosher ingredient customarily added to a mixture may never be nullified – see above, Sec. III:B:b) only with regard to yayin nesech but does not mention the concept elsewhere. Rabbi Padwa notes that his grandfather, Harav Henoch Padwa zt”l, noted on the margin of his Shulchan Aruch that there is a fascinating Tzemach Tzedek who writes that the Rashba is only referring to prohibitions that are prohibited out of concern of intermarriage and not to any other
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G) Standard Absorption of Vessels – *Mishnah Baba Metzia* 40a

As mentioned earlier (Section IV), if one wishes to nullify wine *blios* absorbed in a Sherry cask, nullification must take place against the entire thickness of the walls. Although one would intuitively take the wood mass into consideration when calculating how much wine is absorbed, the *Shulchan Aruch* (98:4) writes that we measure the *blios* contained in the walls as if the walls were hollow and full of *blios*. Since it is impossible to ascertain the precise volume of non-kosher taste absorbed in the walls, we must consider the walls to be completely imbued with non-kosher taste.\(^{100}\)

It is interesting to note that although the *Poskim* write that a vessel generally does not contain 60 times the volume of its walls (see *Shach* 93:1), some *Poskim* provide general measurements for the liquid-to-wood ratio. Based on these general rules some suggest that we may assume that Sherry casks have the necessary liquid-to-wood ratio to allow *bitul*.

The *Pri Migadim* (*Hanhagas Ha’nishal* 2:5) writes that the contents of a vessel are certainly thirty times the volume of its walls, but he does not give a source for his ruling. The *Ginzei Yosef* (ad loc.) and *Minchas Shai* (ad loc.) are greatly disturbed by the lack of source and suggest that the *Pri Migadim* actually means that the contents are 30 times greater than the *klipah* – not the entire thickness of the walls. The *Machatzis Hashekel* (*OC* 451:40), *Nishmas Adam* (*Hilchos Pesach* siman 24) and *Chasam Sofer* (*OC* siman 120) appear to side with the *Pri Migadim* that the contents are thirty times the walls, but *Ginzei Yosef* (ibid.) points out that the *Chasam Sofer* appears to be unsure about the matter.

The *Yad Yehuda* (*Hilchos Melicha*, 69:64, pg. 69a, column 2) asks that type of *issur*. The reason is simple and brilliant. Chazal generally formulated their decrees according to Torah standards. Therefore, if non-kosher wine is added to a kosher mixture incidentally or accidentally then it is nullified according to the guidelines of any other *issur*, i.e., 1 part in 60 or in 6. If, however, the wine is an integral part of the recipe then the original decree applies. Accordingly, even if the wine taste is not recognizable in its own and even if the quantity is so small that under normal circumstances it would be nullified, the *Rashba* says it will never become nullified. According to this interpretation, non-kosher wine intentionally added to a mixture will remain prohibited even if they are only in *blios* form, contrary to the opinion of *Mishne Halachos*.

\(^{100}\) The *Shach* (98:10) extends this ruling to Rabbinical prohibitions, such as *stam yeinam*. See *Shach* (98:9) for the rationale behind this ruling.
the opinion of the Pri Migadim seems to be contradicted by a Mishnah. The Mishnah (Baba Metzia 40a) states that if a custodian was entrusted with wine (and poured the wine into his own vessel), he may deduct a sixth when returning it, for this proportion is absorbed by the barrel (see Rashi ad loc. See also Rashash ad loc.). Thus it appears that the contents are only six times the walls – not 30? The Shoel U’maishiv (1:3:28) was also asked this question and responds that the Mishnah in Baba Metzia refers to a case of cold liquid stored in a vessel (kavush); accordingly, a sixth is absorbed. The Pri Migadim, on the other hand, is referring to a case of cooking (bishul); in such a case the contents are thirty times the walls. (See Darkei Ho’ra’ah perek 39 who explains why kavush absorbs more than bishul.)

Based on the above, there seems to be a clear Mishnah that kavush absorbs a sixth of the contents, and this is the opinion of Yad Yehuda and Prisha (YD 135:34, in haga’ah. See also 103:7). Accordingly, some Poskim rule that Sherry casks are permissible because, being a case of kavush, we may assume that the contents are six times the volume of the walls (see Mishne Halachos, Vol. X siman 109).

This position is difficult for numerous reasons: The Darkei Ho’ra’ah (ibid.) points out that the Mishnah states that a sixth was absorbed in the walls, implying that the contents are a fifth against the walls – not a sixth. For example, if 30L of wine are poured in a barrel and a sixth is absorbed, 5L of wine were absorbed, which is one fifth of the remaining wine (25L). Accordingly, the necessary liquid-to-wood ratio of sheish is not present.101

Furthermore, the Darkei Ho’ra’ah (ibid.) points out that many Poskim explain the Mishnah differently. The Shitah Mekubetzes (ad loc.) quotes the Rosh who understands that the deduction of a sixth is caused not only by the absorptions but also by the sediments. Accordingly, there is no proof from the Mishnah as to the exact ratio of wine absorptions. (See, however, Yad Yehuda ibid. who questions this explanation.)

Additionally, this position is subject to dispute. Some Poskim bring proof from elsewhere that a vessel contains eight times the volume of its walls. The Darkei Ho’ra’ah (ibid.), Kreisi U’Pleisi (94:9) and Rav Moshe

101. This argument, however, is quite difficult to understand. If the barrel subsequently stores 30L of Scotch, it should nullify the 5L of wine originally absorbed with a 6:1 ratio. It is curious that the Darkei Ho’ra’ah calculates the nullification ratio based on the remaining wine – not on the subsequent storage.
Feinstein (IG”M YD II siman 36) prove this from Tosfos (Chulin 100b end of d.h. b’she’kadam) and the Rosh (Chulin 7:38) who explain that it is possible to kasher a large vessel within 24 hours of use for non-kosher (ben-yomo) by boiling water in it two times (provided that there is no concern of chanan). The rationale is that although some blios came out of the walls during the first boiling and subsequently returned to the walls because the contents were unable to nullify them, the blios were diluted before returning to the walls. Therefore, when one boils water a second time, there is sufficient water to nullify the diluted blios. For example, if two ounces of non-kosher food are absorbed in the walls, and one boils 100 ounces of water in the pot, the two ounces are not nullified by the first cooking because the pot does not contain sixty times their volume. However, the two ounces were diluted somewhat in the water, allowing only a small amount of non-kosher food to be returned to the walls. After the second boiling the non-kosher food is indeed nullified because there is sixty times against the non-kosher food. Since two times will always nullify the non-kosher food, it must be that the maximum blios that come out of the walls is an eighth of the contents, thereby allowing the second boiling to nullify all forbidden blios (the double dilution is represented by the square root of 60, which is approximately 8). Thus, these Poskim assume that the contents of a pot are at least eight times the walls.  

The question therefore arises that the above conclusion, based on Tosfos, that a pot contains eight times the volume of its walls, seems to be refuted by the Mishnah which indicates that a vessel contains six times its walls? The Darkei Ho’ra’ah (ibid.) proves from here that the deduction allowed by the Mishnah is not due solely to the wine absorptions, but also to other factors. The Maharsham (Vol. I siman 191, Vol. VIII siman 148) addresses this issue as well and concludes that it is impossible to assume a standard ratio in this matter, and every vessel has a different liquid-to-wood ratio dependant upon the thickness of the walls. He concludes that most vessels contain at least four times the walls, and some even contain five or six times the walls. See also Darkei T’shuvah (93:11).

The Minchas Shai (ibid.) also concludes that there is no standard

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102. It is interesting to note that the Minchas Shai (ibid.) suggests that the above Tosfos proves that the contents are thirty times the walls – not eight – in support of the Pri Migadim mentioned above.
ratio and it depends on the size of the pot and the thickness of its walls. Although Tosfos seems to give a standard ratio for pots, perhaps he was referring to huge vats with thin walls. Alternatively, Tosfos does not mean that two times boiling will nullify the blios in every pot; most pots will suffice two times boiling, but some pots will require extra boilings in order to nullify all the absorptions.

In conclusion, although some Poskim write that a standard vessel contains 30 times the volume of its walls, it appears that they were referring only to a case of bishul; kavush has a different ratio. Although some Poskim prove from the Mishnah in Baba Metzia that a pot absorbs a sixth of its contents, the proof is inconclusive. Other Poskim prove that a standard vessel contains eight times its walls, but many Poskim write that there is no standard rule to determine the volume of a pot’s walls, and every pot must be judged based on its size and wall thickness. Therefore, in a case such as Sherry casks, where the liquid-to-wood ratio is unknown, we must view the walls as hollow, full of blios, requiring nullification against the entire thickness of the walls.

H) Absorptions of Liquids in Vessels

As mentioned above numerous times (Sections IV and VIII:G), if the liquid-to-wood ratio of a vessel is unknown, such as the case with Sherry casks, it is necessary to view the walls as hollow, full of blios, requiring nullification against the entire thickness of the walls (as discussed in Shulchan Aruch 98:4). Although the volume of the non-kosher wine does not appear to have decreased by such a large amount, one must assume that all of the taste of the non-kosher wine was imparted into the walls of the barrel (ibid.). The reason for this halacha is simple: since it is impossible to ascertain the precise amount of non-kosher taste that was imparted from non-kosher food, one must assume that all of the taste was imparted. For example, if one ounce of non-kosher food falls into soup, one needs to have 60 ounces of kosher soup relative to the entire ounce even if the ounce of non-kosher food is still intact (see Taz ad loc. s.k. 7 and Aruch Hashulchan 98:51).

A novel approach suggested by the Netziv and Rav Moshe Feinstein may permit Sherry casks. The Netziv (Maishiv Davar Vol. II siman 23) and Rav Moshe (Igros Moshe, YD I siman 41) write that although the halacha is that a sixty-to-one ratio is required against the entire non-kosher food,
the halacha is different with regard to liquids. A liquid can only impart flavor when it itself is absorbed; if the liquid remains at its original volume then one does not need 60 times relative to all the liquid (e.g., if one cooks 10 ounces of pork brine in a kosher pot and, after cooking it, discovers that 8 ounces remain, one needs 60 times only against 2 ounces). The rationale for this distinction is that when it comes to solids, it is possible to separate the taste (ta’am) from the food (mamash), as opposed to liquids where it is impossible to do so. Accordingly, since many experts maintain that the walls of a barrel do not absorb more than 5-10% of the liquid contents, one would require the proportion of bitul only relative to this minute amount, which is certainly present.

However, many Poskim argue against this leniency and feel that the proportion of bitul required is relative to all the liquid that was in the pot, and that no distinction is made between solids and liquids. This is quite apparent from the Rama (92:8) who writes that if one places a pan of milk under a pot of meat inside the oven, a sixty-to-one ratio is required relative to the milk, including the milk remaining in the pot. In addition, Badei Hashulchan (92:146 and biurim d.h. mah & 92:8 biurim d.h. u’v’inan) cites many Poskim (including the Chavos Yair, Kreisi U’Pleisi, and Chavas Daas) who rule that the proportion of shishim is required against all the liquid and therefore concludes that this leniency requires further research (tzarich iyun).

103. “The freshness of the cask also affects the level of “indrink,” meaning the amount of malt absorbed by staves when the cask is filled. This is typically two to three per cent, though drier casks could achieve up to eight per cent.” (Excerpt from Mixing the grain with the grape, by Ian Wisniewski, Whisky Magazine, Issue 51, 07/10/2005.)

“The level of wood extractive liquid within the staves of the cask, which is not simply residue sherry, as it also incorporates woodderived compounds, could total around five-10 litres in a (500L) butt.” (Excerpt from No Spain no Grain, by Ian Wisniewski, Whisky Magazine, Issue 53, 12/01/2006.)

“In a large Butt (cask that holds 110 gallons, or 415L) you get approx 11 litres of ‘indrink’, liquid absorbed into the wood, so clearly you do get a small direct influence from the previous liquid held in cask, on both color and taste.” (Ian Millar, Chief Brand Ambassador, William Grant & Sons, quoted in Sherry; “Sherry Oak” – which is it?, by Kevin Erskine, TheScotchBlog.com.)

104.
I) Charred Sherry Casks

It is of interest to note that some distilleries char their casks before use, i.e., the interior of the casks are scorched with fire (see Photo Section). Some argue that this may be considered a form of *libun*, which would *kasher* the Sherry cask and permit Scotch stored inside such barrels.

However, many (if not most) distillers do not char their Sherry casks. According to Kevin Erskine in *Into the Wood* (http://inebrio.com/thescotchblog/?p=138), it is quite unusual to char Sherry casks: “How ex-sherry casks are treated, once whiskey distillers get their hands on them, differs by distiller. Most will empty the cask of any residual sherry, nose the cask (to ensure the cask smells fresh), and then fill with new spirit. [The Macallan’s] Dave Robertson doesn’t believe any one would char fresh sherry casks unless the sherry cask does not smell ‘right’, in which case they might char, or may simply reject the cask.” This was confirmed by Rabbi Akiva Padwa, who said that charring is generally not performed on Sherry casks; after all, such a process would completely ruin the Sherry effect of the barrel.105

Even if charring were to take place before filling the barrel with spirit it is likely not considered a form of *libun*. Charring may be considered *libun* only if the exterior of the barrel reaches the temperature of *yad soledes bo*, as stated in *Shulchan Aruch* (135:14).106 According to Chris Ballard from

105. Based on a phone conversation with the author, 10/28/2011. Rav Padwa said that charring a Sherry cask before filling with spirit would be “suicidal.” This is also the opinion of Jeff Hershauer from ScotchHobbyist.com (in an email): “Scotch distilleries do not make a regular practice of charring before filling their casks. They usually rely on the charring that has already taken place in the production of Bourbon and Sherry [barrels] (heavy charring of the bourbon barrels, and lighter “toasting” of the sherry casks). While charring/toasting is desired at some point in the process in order to activate the oak, they don’t necessarily want such a strong influence from the char in Scotch as can be found in Bourbon/Rye whiskeys.” Another source: “A sherry butt or bourbon barrel will impart considerable aroma and flavor to its first fill… Some distillers feel that the more restrained second fill provides a better balance. A third fill will impart little… If there is a fourth fill, it is likely to go for blending after which, 30 or 40 years on, the inside of the cask might be recharred. The preferred word is ‘rejuvenated’.” (Excerpt from *Michael Jackson’s Complete Guide to Single Malt Scotch*, 6th Edition, pg. 63.) Thus we see that casks are generally not recharred until perhaps the fourth fill.

106. See above, Section VII:A:b, for further discussion.
Kentucky Cooperage, the exterior of the barrel definitely does not reach a high temperature during charring and it is certainly possible to place one’s hand on the exterior during charring (indicating that the exterior did not reach the degree of *yad soledes bo*).\(^{107}\) Therefore, charring is not an effective form of *kashering* Sherry casks.

Some distilleries rechar, or “rejuvenate,” used, worn-out Sherry casks, i.e., the interior of the casks are scorched with fire, the burnt part is scraped off, and the barrels are then steamed for a while. This process is also not considered *kashering*. The burning procedure is not considered *libun*, as explained above. With regard to the scraping, a thin layer of the interior of the barrel is removed, possibly considered *kdei klipah* (similar to *Shulchan Aruch* 135:13 allowing the removal of the *klipah* with a plane). This, however, is effective only if the forbidden *blios* are located solely in the *klipah* (like the opinion of the *Chacham Tzvi* quoted in Section III:A:b). According to the *Shach* and other *Poskim* mentioned earlier (ibid.), however, the *blios* are located in the entire thickness of the walls. According to the latter opinion, scraping off a *klipah* (as well as shaving off a *klipah* with a plane) is not an effective form of *kashering*.

Most importantly, after rejuvenating Sherry casks, distillers generally “recharge” the casks with fresh wine: “Rather than retiring casks from the ageing process, another option is to extend a cask’s life-span by recharring… Recharring can take around three to four minutes using gas burners (which also of course partially caramelises wood sugars in the layer underlying the char). Recharred casks can either be filled with spirit, or undergo additional ‘re-seasoning.’ European oak casks, for example, may be filled with sherry to help ‘recreate’ the original influences, prior to filling with spirit.”\(^{108}\)

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107. Based on an interview conducted by the author in Kentucky Cooperage, Lebanon, Kentucky, 8/18/2011. This fact was confirmed by Rabbi Akiva Padwa, who says that he’s watched the charring process and seen the employees holding the barrels with their bare hands. See also *Lets do the char char*, by Ian Wisnieski (*Whisky Magazine*, Issue 34, 5/10/2003): “[When charring bourbon barrels] a surface level typically 2-4 mm deep essentially becomes pure carbon, with wood sugars partially caramelised in the underlying 2-3 mm, releasing flavour compounds such as vanilla (the majority of the stave, around 20 mm, remains unaffected).” This seems to indicate that the exterior of the vessel did not reach *yad soledes bo* and is thus not affected in the least.

108. Excerpt from *Lets do the char char*, by Ian Wisnieski, *Whisky Magazine*, Issue 34,
In summary: Scotch distillers generally do not char Sherry casks before filling with spirit. Even if some casks were charred, such an act is not considered a valid form of kashering. Furthermore, after charring, casks are generally recharged with fresh (non-kosher) wine. Accordingly, one may not rely on charring to permit Sherry casks.

Summary of Section VIII: Numerous suggestions have been proposed to permit Sherry-matured Scotch. However, analysis of the suggestions has revealed that they are questionable from a halachic standpoint, and are unable to comfortably permit such Scotch.
IX. ADDENDUM

1) Analysis of discussion in Shulchan Aruch 137:4 regarding permissibility of liquids stored in a barrel which previously stored non-kosher wine (relevant to Section III)

The Gemara in Avodah Zara (33b) states that Ravina allowed Rav Chiya to store beer in a barrel which previously stored non-kosher wine. Many Poskim extend this ruling to all liquids other than wine. What is the reasoning behind this leniency?

The Tur (137:4) writes: א"פ ע"פ שאסור ליתן יין בכלי שנמשךבטה בהלילה – although one may not store kosher wine in a barrel which previously stored non-kosher wine, one may store water, beer, and other drinks in those barrels because “the wine is pogem (ruins) them,” i.e., the wine ruins and detracts the flavor of the kosher liquids. The Taz (s.k. 7) concurs with this explanation. The Bach (s.k. 5) explains that the Tur follows the opinion of the Rosh (Avodah Zara perek 2 siman 23) who writes: ואפיי על גב כלしゃי מתשבחים א"פיי – the wine is pogem (ruins) the liquids as soon as it enters. This explanation is based on the classic dictum that nosen ta'am l'pgam is permitted, i.e., a non-kosher food item will not prohibit a kosher mixture if it ruins the mixture upon contact.109

The Shach (s.k. 15), however, explains this halacha differently: המני – the other liquids are mivatel (nullify) the wine flavor. This is similar to Rashi (Avodah Zara ad loc. d.h. lo chash) and the Ran

109. The Bach (ibid.) questions why liquids may be stored initially in a non-kosher wine barrel; after all, nosen ta’am l’pgam is only an allowance b’dieved – not l’chatchila. The Bach therefore explains that Chazal placed a prohibition l’chatchila on nosen ta’am l’pgam only in a situation where the non-kosher food may occasionally impart a positive flavor. Wine in other liquids, however, always contributes a detrimental flavor; accordingly, Chazal permitted storage of other liquids in non-kosher wine barrels even l’chatchila. The Taz (ibid.) offers an alternative explanation. Wine barrels absorb non-kosher blios through soaking (kavush), a lenient form of absorption (as opposed to, for example, cooking non-kosher food in a pot). Such absorption has certain leniencies, one of them being that nosen ta’am l’pgam is allowed even l’chatchila.
(Avodah Zara 12b d.h. i’ba’i) who write: “the beer is mivatel (nullifies) the wine flavor.” The Bach (ibid.) points out that Rashi’s explanation appears to be the opposite of the Rosh and Tur: According to Rashi the wine is nullified in the beer, as opposed to the Rosh and Tur who are of the opinion that the wine ruins the beer.

There appears to be a practical difference between these two opinions: May a liquid be stored in a non-kosher wine barrel if it is not ruined when mixed with wine? For example, Scotch stored in a wine barrel does not get ruined by the wine – in fact, it may actually be enhanced by the wine. May it be stored in such a barrel? According to the Taz, this leniency is based on nosen ta’am l’pgam; therefore, only liquids which are ruined when mixed with wine may be stored in a barrel which previously stored non-kosher wine. Consequently, Scotch, which is not ruined when mixed with wine absorptions, will be prohibited when stored in a non-kosher wine barrel. According to the Shach, however, this leniency appears to be based on bitul – nullification. Accordingly, it is possible that any liquid (other than wine) may be stored in a non-kosher wine barrel – even if the liquid is not ruined – because it nullifies the wine flavor. As such, Scotch stored in a wine barrel would be permitted because the wine flavor is nullified. However, the Shach’s position is not clear, as will be explained below.

The Rashba (Toras Habayis Hakatzer, 5:6 pg. 66b) takes a third approach. He writes: “the volume of blios that emerge from the walls of the barrel is quite minimal and it is impossible for those blios to give flavor to the liquid.” (This is commonly referred to as the rule of tashmisho b’shefa – see Shulchan Aruch 122:5.110 See also Bach ibid. who quotes the Rosh as being of the opinion that there is not enough liquid to nullify the wine blios – unlike the Rashba.)

The Ran (ibid.) quotes a fourth opinion in the name of Acheirim: “some say that the bitterness (sharp flavor) of the beer ruins the wine.”111

110. The Rashba is of the opinion that tashmisho b’shefa is permissible even l’chatchila; see Ran (Avodah Zara 12b d.h. i’ba’i) who quotes Rabbeinu Yonah as subscribing to the same position. See Taz (99:15) for further analysis of Rashba’s position.

111. It’s curious that the Bach (s.k. 5) at first understands Rashi to have a different opinion than the Rashba (see Shach s.k. 17), but in a later edition (ibid. Kuntres Acharon) understands Rashi to be of the same opinion as the Rashba, that a large volume of other
The Bach suggests that there is a practical difference between the explanations of Rashba and Acheirim: may liquids other than beer (the scenario described in the Gemara above) be stored in a wine barrel? According to Rashba it is permissible to store other liquids because the large volume of liquid will nullify the wine blios, whereas according to Acheirim this is prohibited because beer is unique in that it ruins the wine flavor. He quotes Tosfos (Avodah Zara 33b d.h. shara) as being lenient with other liquids, thus indicating that Tosfos’ view is not like the Acheirim.112 The Rambam (Hilchos Ma’achalos Asuros 11:16) codifies this halacha by stating that one may store beer and brine in a barrel that previously stored non-kosher wine. He does not state that all liquids (other than wine) may be stored, indicating that he argues on the other Poskim and disallows other liquids to be stored in a non-kosher wine barrel.113

Thus, it appears that we have many explanations for this halacha: 1) Rosh, Tur and Taz: the wine is pogem other liquids when it comes in contact with them. 2) Rashi, Ran and Shach: the other liquids are mivatel (nullify) the wine flavor. 3) Rashba: the minute volume of wine is nullified in the larger volume of liquids. 4) Acheirim in the Ran: the bitterness of the beer ruins the wine. As mentioned above, a practical ramification of this dispute is whether liquids (other than wine) may be stored in a barrel.

liquids will surely nullify the minute amount of wine. Alternatively, the Bach suggests that Rashi means like the Acheirim, that the sharp beer flavor ruins the wine. Both latter suggestions differ with the simple understanding of Rashi, as mentioned above.

See also K’nesses Hag’dolah (Hagahos Tur s.k. 8) who initially understands Rashi as agreeing with the Rashba and subsequently suggests that Rashi sides with Acheirim.

112. It’s interesting to note that the Bach writes that the halacha doesn’t follow the reasoning of the Rashba because in Tur and Shulchan Aruch siman 122, the Poskim (see Bach 122:5, Shach s.k. 3) argue on the Rashba and are of the opinion that tashmisho b’shefa is forbidden. (See below, footnote 117.) The Shach (137:17) argues that although the halacha does not follow the Rashba that tashmisho b’shefa is permissible, bdieved one may be lenient like him, and our case certainly has shishim because only the klipah was affected. The Taz (s.k. 8) seconds this idea and writes that we may rely on the Rashba with regard to yayin nesech.

113. See K’nesses Hag’dolah (Hagahos Beis Yosef s.k. 22). The Rosh (Avodah Zara perek 2 siman 23) writes that water may also be stored in such a barrel, seemingly indicating that all liquids (other than wine) may be stored in the barrel, similar to the position of Rashba and Tosfos.
which previously stored non-kosher wine. The *Tur* (137:4) and *Shulchan Aruch* (ibid.) rule that it is permissible to store all liquids (other than wine) in a barrel which previously stored non-kosher wine, in accordance with the position of *Rashba* and *Tosfos*.

Let us return to the *Shach’s* explanation. In 137:15, the *Shach* apparently sides with *Rashi’s* opinion that other liquids nullify the wine flavor. In a later comment (137:17) the *Shach* quotes *Rashi* and understands that he is of the same opinion as the *Tur* and *Rosh*, that the wine ruins other liquids on contact. In truth, this understanding is quite difficult; *Rashi* indicates that the beer ruins the taste of the wine, whereas the *Tur* indicates that the wine ruins other liquids. Does beer ruin wine or vice versa? It is also difficult to understand how the *Shach* equates the *Tur* and *Rosh*. The *Rosh* writes clearly that the *blios* are "ughtya topeq" indicating that the wine is ruined by the liquids (unlike the *Bach’s* version of the *Rosh*, that the *blios* are "ughtya topeq"), whereas the *Tur* writes the opposite: that the wine ruins other liquids.114 Apparently, the *Shach* is of the opinion that both are true – first the beer ruins the wine *blios*, and then those ruined *blios* ruin the liquids into which they get mixed.

Accordingly, it comes out that the *Shach s.k. 15* – who seems to quote *Rashi* that other liquids nullify the wine – really understands that other liquids may be stored in wine barrels because it is *nosen ta’am l’pgam* – like the *Taz*. Thus it appears that both the *Taz* and *Shach* understand that one may store other liquids in a wine barrel based on *nosen ta’am l’pgam*. Consequently, only liquids which are ruined when mixed with wine may be stored in a barrel which previously stored non-kosher wine. As a result, Scotch stored in such a barrel will be prohibited because it is not ruined when mixed with wine.

This is further supported by careful analysis of *Ba‘er Haitaiv* (137:7). The *Shulchan Aruch* (137:4) writes that if any liquid (other than wine) is stored in a barrel which previously stored non-kosher wine, the liquid is permitted. The *Taz* (137:7) comments that this is true even if other liquids were stored in the wine barrel longer than 24 hours. Although such a length of time generally allows transfer of *blios* (*kavush*), thus allowing non-kosher wine *blios* into the liquid stored in the barrel, the liquid is

114. The *Tur* himself, in an earlier location (134:5), appears to understand that the wine ruins the water – unlike what he writes later (137:4) that the wine ruins the water; see *Igros Moshe* (YD I siman 62 d.h. v’heenei).
nevertheless permitted because the wine ruins them and is nosem tanam l’p’am. The Ba’er Haitaïv (137:7) apparently understood initially that the Shach would argue on the Taz because the Shach in s.k. 15 understands that the leniency of the Shulchan Aruch to permit other liquids stored in a wine barrel is based on bitul – not nosem tanam l’p’am; accordingly, the liquid is permissible only if its volume is sufficient to nullify the wine blios. Since the Shach (137:9, 135:33) is of the opinion that wine stored in a barrel longer than 24 hours imparts blios into the entire thickness of the barrel, the volume necessary for bitul is generally not present. Therefore, other liquids that are stored in a barrel which previously stored wine are permitted only if stored less than 24 hours. If, however, they are stored longer than 24 hours, the large volume of wine blios cannot be nullified, unlike the Taz’s position.

However, the Ba’er Haitaïv suggests that the Shach agrees to the Taz that other liquids are permitted even if they are stored in the wine barrel 24 hours, because he agrees to the Taz that wine blios in other liquids are nosem tanam l’p’am.115 He concludes that the Shach (137:17) himself supports this theory because he understands the Rashba as being of this opinion as well, that other liquids in a wine barrel are permitted even if they remain for 24 hours.

The Shach concludes that although the Rashba’s leniency is based on tashmisho b’shefa and the halachah does not follow his opinion (see footnote 112), bdieved we may be lenient like him, and our case certainly has shishim because only the klipah was affected. Although the Shach earlier (137:9, 135:33) writes clearly that a wine barrel that stored wine for longer than 24 hours has blios in the entire thickness of the barrels – not just the klipah, the Shach explained (ibid.) that when the Shulchan Aruch writes that only a klipah is affected (see Shulchan Aruch 135:13 and 137:1) he is referring to a case where it is uncertain if non-kosher wine was stored for 24 hours. So too, Shulchan Aruch 137:4 refers to a case where it is uncertain if the barrel stored wine for 24 hours – similar to the other cases in the Shulchan Aruch. (The Shach apparently feels no need to

115. Although the Shach (134:21, Nekudos Hakesef on Taz 114:4) is of the opinion that wine in other liquids is l’ishvach – thus requiring shishim – that is only when the wine is bi’en; wine blios, on the other hand, are considered l’p’am when mixed with other liquids (see Gr‘a 103:16). This, however, may not be true with all liquids. As explained above (Sec. III:A:a), wine blios mixed with Scotch may be considered l’ishvach.
speak this out again because he just explained this in s.k. 9.)

To summarize, the Ba’er Haitaiv suggests that the Shach agrees with the Taz that other liquids are permitted when stored in a wine barrel even if stored longer than 24 hours because it is pogem the liquids. He writes that this is true even if the non-kosher wine was initially stored in the barrel longer than 24 hours. Thus it appears that the Ba’er Haitaiv understands that the Shach agrees to the Taz that wine blios ruin other liquids. Although in s.k. 15 the Shach seems to suggest otherwise, the Shach’s true position is that liquids stored in a wine barrel are permitted based on nosen ta’am l’pgam.

Thus it appears that according to both the Taz and Shach, liquids stored in a wine barrel are permitted only if they are ruined by wine blios. Since Scotch stored in wine barrels is enhanced by the wine, the above leniency does not apply and the forbidden blios require bitul, similar to kosher wine stored in a non-kosher wine barrel.

2) Position of the Shach vis-à-vis miluy v’iruy (relevant to footnote 25)

The Shach (135:33) discusses two halachos which, at first glance, seem to be related. The first issue is whether barrels that stored wine longer than 24 hours may be kashered by removing a klipah, and the second is whether such barrels may be kashered with miluy v’iruy. The two issues seem to hinge on one issue: are the blios located only in the klipah or have they been absorbed in the entire thickness of the walls. If the blios are located only in the klipah, then removing the klipah is sufficient, and miluy v’iruy will be effective. If, however, the blios are absorbed in the entire barrel – not just the klipah – then removing the klipah is not sufficient, and miluy v’iruy is likewise not strong enough to remove blios past the klipah. Accordingly, if one is lenient regarding the latter halacha (i.e., that miluy v’iruy is effective to kasher wine barrels), one should be lenient with regard to the first halacha as well (i.e., that the blios are located only in the klipah).116

116. This is the position of the G’vul Yehuda (OC siman 5). He maintains that since the Shach writes tzarich iyun with regard to miluy v’iruy, the halacha follows the view of the Poskim who argue on the Shach (as recorded in Pischei T’shuvah 135:2) and allow miluy v’iruy even in a situation where wine was definitely stored in the barrel 24 hours. Because
Careful analysis of the Shach, however, reveals that these two issues are unrelated. Regarding the issue of kdei klipah, the Shach maintains that a barrel which stored wine longer than 24 hours absorbs blios more than the klipah, and removing the klipah is not effective. [He even repeats this halacha in a later comment (137:9).] Regarding miluy v’iruy, however, the Shach appears to be unsure, and is willing to accept that miluy v’iruy is effective even if the barrel definitely stored wine longer than 24 hours. [He concludes that the latter halacha is “tzarich iyun” (the matter requires further research).] This appears to be contradictory; at first glance, miluy v’iruy appears to be effective only on the klipah – how then can miluy v’iruy be effective if blios are absorbed past the klipah? Apparently, the Shach is of the opinion that miluy v’iruy is effective even when blios are located in the entire thickness of the wall. This is in fact the opinion of many Rishonim, as will be explained.

Shulchan Aruch (135:13) rules that removing a klipah of a wine barrel is an effective method of kashering a non-kosher wine barrel. This follows the opinion of Tosfos (Avodah Zara 74b d.h. darash), Rosh (T’shuvos 19:4), and Rabbeinu Yonah (quoted in the Rashba, Toras Habayis Ha’aruch 66b). Other Poskim, however, argue that removing the klipah is ineffective. This is the position of the Ran (Avodah Zara 12b d.h. i’ba’i) and Ramban (Avodah

this halacha is dependant on the earlier question of kli vs. klipah, he continues, the halacha does not follow the Shach in the first question as well, and only the klipah is affected.

The G’vul Yehuda brings a proof to his position: The Shulchan Aruch states in Hilchos Pesach (OC 451:21) that miluy v’iruy is an effective method of kashering a barrel used for sheichar (chometz beer) even if the sheichar was stored in the barrel for many days (as pointed out by the Mishnah Brurah, ad loc.). The fact that miluy v’iruy is effective on the chometz barrel seemingly indicates that only a klipah was affected – even though the barrel stored chometz for many days, contrary to the Shach’s position that the entire kli is affected. However, the Shach himself (135:33) seems to counter this proof with two approaches: 1) Miluy v’iruy is effective on a beer barrel only in a scenario of aino ben yomo (this approach is quoted in Mishnah Brurah 451:117); 2) Chometz has a unique leniency because it is heteira bala – the absorption happened before Pesach began, before the blios were prohibited (this approach is alluded to in Mishnah Brurah s.k. 118). Since both of these scenarios (i.e., aino ben yomo and heteira bala) are not as stringent as standard issurim, a lenient form of kashering (e.g., miluy v’iruy) is allowed. Accordingly, there is no proof from this halacha against the Shach, for the Shach himself agrees by chometz that miluy v’iruy is effective even though the entire kli is affected.
Zara 33b end of d.h. v’hai). What is the source for this argument?

The Ran (ibid.) records the following discussion: The Rashba deduces from the Gemara in Avodah Zara (33b) that water used for miluy v’iruy may be consumed. Why is this not a concern of bitul issur l’chatchila? After all, the water used for miluy v’iruy was utilized to nullify forbidden wine blios; if so, this should be considered intentional nullification? Rabbeinu Yonah explains that since the wine absorptions were minimal, unable to impart flavor to the barrel contents, nullification of such blios is not subject to the general rules of bitul issur l’chatchila. Rabbeinu Yonah continues that this is proof to the ruling of Tosfos that removing the klipah of a wine barrel is sufficient; since the wine absorptions were minimal, removing the klipah successfully eradicates all forbidden blios.117

The Ran (ibid.) counters that this is logical only if miluy v’iruy works similar to hagalah, i.e., that the forbidden blios are purged from the walls into the contents of the pot and nullified. If that were the case, miluy v’iruy would be subject to the same limitations as hagalah (e.g., bitul issur l’chatchila), and the fact that miluy v’iruy is not considered bitul issur l’chatchila is proof that the blios only occupy the klipah. However, this is not the case. The mere fact that miluy v’iruy is performed with cold water indicates that it cannot possibly purge blios; only hot water can purge blios. It must be that miluy v’iruy works with a different methodology: miluy v’iruy ruins the wine blios and destroys their flavor without actually purging the blios.118 Such a mechanism is not subject to the general rules

117. According to some Poskim, this is also the source for the law of “tashmisho b’shefa – its general usage is plentiful,” i.e., one may use a large vessel which absorbed a minute volume of non-kosher blios without prior kashering because the minute volume of non-kosher blios is unable to impart taste to the large contents of the pot. This is the opinion of the Rashba (Toras Habayis Ha’aruch 66b). Other Poskim argue and forbid use without kashering; see Shulchan Aruch (99:7) and other Poskim (ad loc.). There appears to be a contradiction in the Tur in this regard: In one location (135:13) the Tur sides with the Rashba that removing the klipah is effective, whereas earlier (122:5) he argues with the Rashba and rules that tashmisho b’shefa is prohibited, presumably siding with the Ran and Ramban that blios are assumed to fill the entire thickness of the vessel walls. If so, how does removal of the klipah obliterate all the forbidden blios? See Taz (99:15) who addresses this issue.

118. This appears to be based on the concept of nosen ta’am l’pgam; see T’shuvos HaRashba (Vol. I siman 633) who quotes such an approach.
of *bitul issur l’chatchila*. Accordingly, it is quite possible that the wine *blios* actually fills the entire thickness of the walls, and accordingly, removing a *klipah* is ineffective. The *Ramban* (*Avodah Zara* 33b end of d.h. *v’hai*) is also of the opinion that removing the *klipah* is insufficient, and the *Bach* (135:22) explains that the *Ramban* is of the opinion that *miluy v’iruy* purges *blios* even deeper than the *klipah*.119

Thus, it appears that both the *Ran* and *Ramban* understand that *miluy v’iruy* is effective even if *blios* are contained in the entire thickness of the walls. Although the *Shulchan Aruch* rules that removing the *klipah* is effective, the *Shach* is of the opinion that this is true only if it is uncertain that wine was stored for 24 hours; if it was definitely stored longer than 24 hours, removing the *klipah* is ineffective. Yet, the *Shach* maintains that although removing the *klipah* is ineffective, *miluy v’iruy* may still be effective, in accordance with the position of the *Ran* and *Ramban* that *miluy v’iruy* is effective even though the entire thickness of the walls contain *blios*, either because *miluy v’iruy* burns *blios* – not purges them, or because *miluy v’iruy* has the ability to purge *blios* even past the *klipah*.120

Accordingly, we may rule that *miluy v’iruy* is an effective method of *kashering* wine barrels (even those that stored wine longer than 24 hours) and still rule like the *Shach* that such barrels contain *blios* past the *klipah*, filling the entire thickness of the barrels.

### 3) Position of the *Taz* with regard to *kli* vs. *klipah* (relevant to footnote 26)

As mentioned above, Sec. III:A:b, the *Poskim* disagree whether *blios* of non-kosher wine are absorbed through the entire *kli* or only in the *klipah*. The position of the *Taz* in this matter is unclear. When discussing the laws of *kavush* (soaking) in general, the *Taz* (105:1) begins with a quote of the *Issur V’Heter* that *kavush* affects the entire thickness of the walls. The *Issur V’Heter* asks on himself that this seems to be contradicted

119. The *Bach* implies that these *Poskim* are of the opinion that *miluy v’iruy* is indeed able to purge *blios* past the *klipah* – unlike the *Ran’s* explanation that *miluy v’iruy* only burns and destroys. This explanation can also be found in the *T’shuvos HaRashba* (ibid.).

120. The *Shach* (135:33) concludes that *miluy v’iruy* is effective only with regard to *yayin nesech*; vessels prohibited by other *issurim* may not be *kashered* with this process (see above, footnote 116).
from *Hilchos Yayin Nesech* where we see that removing the *klipah* is sufficient, indicating that *blios* are stored only in the *klipah*. He explains that although *kavush* generally affects the entire thickness of the walls, Chazal were lenient with regard to *yayin nesech*. The *Taz* points out that the *Rashba* seems to argue on this theory because the *Rashba* is of the opinion that *kavush* affects only the *klipah* and his source is *Hilchos Yayin Nesech*. The *Rashba* obviously understands that *yayin nesech* is not an exception to the rule, and all *issurim* affect only a *klipah*.

The *Taz* continues that in certain situations, non-kosher liquids stored in a vessel 24 hours (*kavush*) will prohibit the vessel, which will subsequently prohibit food stored inside such a pot. This situation applies only to *yayin nesech* which remains potent even after 24 hours. If, however, the pot contains *blios* of other prohibitions they will not affect the food stored inside since the prohibited *blios* become stale (*aino ben yomo*) before they have the ability to affect the food stored inside. The *Taz* concludes, “it appears that food items stored or cooked in a vessel that previously stored a forbidden food item longer than 24 hours, will not be prohibited *bidieved* (ex-post-facto).” The words – or cooked, are difficult to understand. If one cooks kosher food in a pot previously used for forbidden food (other than wine) within 24 hours, why should the food be prohibited only *l’chatchila*? What does he mean that it is permitted because it is *nosen ta’am l’pgam*? If the cooking takes place within 24 hours of the removal of the non-kosher food, the *blios* are still fresh (*ben yomo*); why would food subsequently cooked in the pot be permitted *bidieved*?

There appears to be two approaches: 1) The *Pri Migadim* (ad loc.) explains that the *Taz* is referring to a scenario where one cooked kosher food after 24 hours have elapsed; if one cooks within 24 hours then the food would, in fact, be prohibited. (He explains that the novelty of this halacha is that *kavush* is not worse than cooking, as could be understood from the opinion of the *Issur V’Heter* that *kavush* can prohibit food even after 24 hours. The *Taz* therefore tells us that *kavush* cannot prohibit after 24 hours.) According to this explanation the *Taz* seems to conclude that *kavush* affects the whole *kli* – not just the *klipah* – because if only the *klipah* was affected (as per the opinion of the *Rashba*) why would it prohibit food cooked within 24 hours – there is certainly *shishim* against the *klipah*? It must be that the *Taz* is concluding like the opinion of the
Issur V’Heter that kavush affects the whole kli. In fact, this is how the Taz writes in an earlier comment (93:2) (with regard to kli cheres yoshon – a used earthenware vessel).

2) The Pri Migadim (ibid.) quotes the Orach Mishor as having another approach. He explains (based on the hand-written manuscript of the Taz) that the case of cooking is within 24 hours and it is permitted because the blios only entered the klipah, like the position of the Rashba. The Taz mentioned the leniency of nosen ta’am l’pgam only to explain why kavush will not prohibit the kosher food. (The gloss of the Shulchan Aruch actually brings down such an approach from the Hagahos HaTaz.) According to this approach the Taz’s conclusion is that kavush only affects a klipah (not like he seems to suggest in his earlier comment at 93:2).

What is the Taz’s opinion if stam yeinam was stored in a barrel longer than 24 hours? This appears to depend on the above explanations. According to the Orach Mishor, the conclusion of the Taz is that a vessel never absorbs more than a klipah; accordingly, the kli will absorb only a klipah of stam yeinam, like the simple reading of the Shulchan Aruch (135:13). According to the Pri Migadim, however, the conclusion of the Taz is that vessels generally absorb the entire thickness of the walls. Why, then, does the Shulchan Aruch rule that stam yeinam is only absorbed a klipah? There are two approaches: 1) There is a special leniency with regard to stam yeinam that applies even if the wine is stored longer than 24 hours. 2) The Shulchan Aruch is lenient only if it is uncertain if wine was stored more than 24 hours; if it was definitely stored longer than 24 hours, the entire vessel is affected. Accordingly, the Taz’s position is unclear.

The Chikrei Lev (ibid.) and the G’vul Yehuda (OC siman 5) write that the Taz (105:1) is of the opinion that even if yayin nesech was stored in a barrel longer than 24 hours only the klipah is prohibited. It is likely that they understand the Taz like the Orach Mishor that the Taz’s conclusion is like the Rashba that kavush never affects more than the klipah. According to this explanation, the Taz’s opinion is, in effect, halachically inconsequential, because the Poskim clearly write with regard to other issurim that kavush affects the entire kli.

It is possible, however, that they understood the Taz like the Pri Migadim, that kavush generally affects the entire kli, and they understood that there is a special leniency with stam yeinam that only a klipah is affected.

Thus it appears that the Taz’s opinion is unclear and it is possible that
the *Taz* agrees with the *Shach* that the entire *kli* may be affected.

### 4) *Rishonim on Kli vs. Klipah* (relevant to Section III:A:b)

Non-kosher wine stored in a barrel for at least 24 hours imparts non-kosher wine *blilos* into the walls. How deep are the *blilos* absorbed? Do they enter the entire thickness of the walls of the *kli* or only the thickness of a *klipah*? This question has two halachic ramifications: Is removing the *klipah* an effective method of *kashering* the barrel? If the *blilos* merely penetrated the *klipah*, this is indeed effective; if the *blilos* entered the entire walls of the *kli* then this is ineffective. Similarly, if kosher wine was subsequently stored in the barrel before *kashering*, is the wine permitted? This would depend if the nullification ratio is measured relative to the *klipah* or to the entire thickness of the walls. If *blilos* are located only in the *klipah* then the kosher wine is assumed to be at least sixty times the volume of non-kosher wine *blilos*; if the *blilos* are located in the entire *kli* then the volume of kosher wine may not even be six times – let alone sixty – the volume of non-kosher wine *blilos*. This question of how deep the *blilos* penetrate appears to be a dispute amongst the *Rishonim*.

Many *Rishonim* (*Tosfos*, *Avodah Zara* 74b; *Rosh*, *T’shuvos* 19:4; and *Rabbeinu Yonah*, cited in *Rashba*, *Toras Habayis Ha’aruch* 66b) rule that removing a *klipah* of a wine barrel is an effective method of *kashering* a non-kosher wine barrel. What is the source for this ruling?

Two sources are quoted. *Tosfos* (ibid.) proves the above halacha from the fact that *iruy kli rishon* (pouring hot water from a scalding pot) is an effective manner of *kashering* wine barrels (as stated in *Avodah Zara* 74b). Now, *Tosfos* is of the opinion that *iruy kli rishon* affects only the *klipah* (see below for other opinions), and nevertheless, is effective to remove all wine *blilos*. This proves that the forbidden *blilos* are located solely in the *klipah*. Therefore, removing the *klipah* effectively removes all forbidden *blilos*.

*Rabbeinu Yonah* (ibid.) proves this same halacha from a different source. The Gemara (*Avodah Zara* 33a) rules that *miluy v’iruy* is an effective means of *kashering* non-kosher wine barrels, and this is indeed the ruling of *Shulchan Aruch* (135:7). *Rabbeinu Yonah* understands that *miluy v’iruy* is unable to purge *blilos* deeper than the *klipah*, and nevertheless, is an effective method of *kashering*. Accordingly, removing the *klipah* is
sufficient to remove all forbidden blios.121

The simple reading of these Rishonim indicates that the above leniency applies even if non-kosher wine was stored in the barrel long-term (see Bach 137:1 and Shach 137:9). Furthermore, the fact that these Poskim were discussing barrels generally used for long-term storage seems to imply that only a klipah is affected even if it is known that the wine was stored longer than 24 hours in the barrel (Shach 137:9 and 17). This, however, may not be correct, as will be explained.

Other Rishonim argue that removing the klipah does not kasher a non-kosher wine barrel, because the blios are absorbed in the entire thickness of the barrel walls. This is the position of the Ramban (Avodah Zara 33b end of d.h. v’hai) and Ran (Avodah Zara 12b d.h. i’ba’i)i).122 How do they counter the above sources which seem to indicate that blios are located solely in the klipah? With regard to Tosfos’ proof from iruy kli rishon one can counter that iruy kli rishon does not affect only the klipah – it actually has the same qualifications as a standard kli rishon (a scalding pot of water) and is able to purge blios from the entire thickness of the barrels (in line with the first position quoted in Tosfos ibid.). Alternatively, these Poskim side with the Rashbam (quoted in Tosfos ibid.) who rules that iruy kli rishon has the status of a kli sheini and is generally unable to kasher utensils. The fact that iruy kli rishon is able to purge blios from the

121. Interestingly enough, the Ran (Avodah Zara 12b d.h. i’ba’i) quotes Rabbeinu Yonah a bit differently: Rabbeinu Yonah understands that the water used for the miluy v’iruy process may be consumed even though blios of non-kosher wine were nullified in it. Why is this not a concern of bitul issur l’chatchila? After all, the water used for miluy v’iruy was utilized to nullify the forbidden wine blios; if so, this should be considered intentional nullification. Rabbeinu Yonah explains that since the wine absorptions were minimal (and thus unable to impart flavor to the barrel contents) nullification of such blios is not subject to the general rules of bitul issur l’chatchila. Rabbeinu Yonah concludes that this is proof to the ruling of Tosfos that removing the klipah of a wine barrel is sufficient; since the wine absorptions were minimal, removing the klipah successfully eradicates all forbidden blios.

122. See Beis Yosef (135:13) who quotes the Ran’s position as being inconclusive. See, also, T’shuvos HaRashba Hamiyuchosos L’Ramban (siman 167) who states explicitly that wine blios are absorbed only kidei klipah, seemingly contradicting the Ramban quoted above. This may be an additional proof that this t’shuvah was in fact authored by the Rashba – not the Ramban.
entire thickness of wine barrels is only because the forbidden blios were absorbed through kavush. Since iruy kli rishon is effective on the entire thickness of the vessel (for either of the reasons given above), no proof can be brought to the effectiveness of removing the klipah.

Regarding the proof from miluy v’iruy, these Poskim understand that miluy v’iruy is effective even if blios fill the entire thickness of the walls. This is either because miluy v’iruy burns blios – not purges them (as suggested by Ran ibid.) – or because miluy v’iruy has the ability to purge blios even past the klipah (see Bach 135:22 and T’shuvos HaRashba, Vol. I siman 633).

According to the opinion that blios are located solely in the klipah and removal of the klipah is sufficient to remove the forbidden blios, it follows that kosher wine stored in a non-kosher barrel prior to removal of the klipah is permitted. As explained above, the contents of a standard vessel are assumed to be at least sixty times the volume of the klipah, and the forbidden wine blios located in the klipah are therefore automatically nullified. Indeed, this is the position of the Rashba. The Rashba (Toras Habayis Hakatzer 5:6, 66b) rules that liquid stored in a non-kosher wine barrel is permitted if the contents are at least six times the volume of the klipah. This is also the position of the Rosh. The Rosh (T’shuvos 19:4) writes that kosher wine stored in a non-kosher wine flask may be consumed because the kosher wine nullifies the non-kosher wine blios located in the klipah. The Rosh apparently sides with the opinion of the Rashba, stated above, that forbidden blios are located solely in the klipah.

The Beis Yosef (ibid.) answers that this ruling seems to be refuted by a Mishnah. The Mishnah (Avodah Zara 29b) states that kosher wine which was stored in a non-kosher wine flask may not be consumed due to the absorption of non-kosher wine blios. How can this be reconciled with the Rashba and Rosh’s opinion that the forbidden blios are located solely in the klipah and are therefore assumed to be nullified?

There are a number of approaches to answer this question. The Beis Yosef (ibid.) answers that the Mishnah is referring to a case where the flask is not full of kosher wine; thus, the volume of kosher wine is not great enough to nullify the non-kosher wine blios. The Rosh, on the other hand, is referring to a full flask; accordingly, the volume necessary for nullification is indeed present.

The Bach (137:1) points out that the simple understanding of the Mishnah is that the flask is filled with kosher wine. Why, then, is the
forbidden wine not nullified? The *Bach* offers an alternative explanation: The *Rosh* is of the opinion that wine *blios* are absorbed *kidei kliyah* only when wine is stored for a short period of time; if, however, wine is stored for an extended period of time, the wine is absorbed in the entire thickness of the walls. Accordingly, the *Mishnah* refers to non-kosher wine stored for a lengthy time, thus imparting a large volume of non-kosher wine *blios* in the walls. When kosher wine is subsequently stored in the barrel, the large volume of *blios* located in the walls cannot be nullified. The *Rosh*, however, refers to short-term storage, and the minimal volume of *blios* located in the *kliyah* is therefore nullified in the kosher wine.

The *Bach* continues that this is apparently the position of *Rabbeinu Tam* as well. *Rabbeinu Tam* (quoted in *Tosfos*, *Avodah Zara* 73a *d.h.* *yayin*) posits that although *yayin nesech* may never be nullified when mixed with kosher wine (even when mixed with *shishim*; see *Mishnah*, *Avodah Zara* 73a), *stam yeinam* is nullified in *shishim*. If so, asks the *Bach*, why does the *Mishnah* (*Avodah Zara* 29b) prohibit kosher wine stored in a non-kosher wine flask – let the non-kosher wine *blios* be nullified in the kosher wine? It must be that the *Mishnah* refers to non-kosher wine stored long-term. Such storage imparts *blios* in the entire thickness of the walls, not allowing them to be nullified.

Thus it appears that the *Rosh* and *Rabbeinu Tam* are of the opinion that short-term storage of non-kosher wine imparts *blios* only in the *kliyah* whereas long-term storage imparts *blios* in the entire thickness of the barrel walls.\(^{123}\) This appears to also be the opinion of *Rashba* and

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\(^{123}\) The *Shach* (137:9), however, suggests parenthetically that the above deduction is not necessarily true. Perhaps the *Rosh* and *Rabbeinu Tam* are of the opinion that non-kosher wine imparts *blios* only in the *kliyah*. Why, then, does the *Mishnah* imply that non-kosher wine *blios* are unable to be nullified? The *Shach* explains that the author of the *Mishnah* is of the opinion that non-kosher wine mixed with kosher wine may never be nullified (*min b’mino lo batul*). Alternatively, the *Mishnah* refers only to an era where idol worship was prevalent; in such times wine could not be nullified. The *Rosh*, however, refers to contemporary times where idol worship was less prevalent and, as a result, *stam yeinam* has a more lenient status and is subject to nullification. According to this approach, it is possible that the *Rosh* and *Rabbeinu Tam* side with the *Rashba* and other *Poskim* that non-kosher wine imparts *blios* only in the *kliyah*. [It should be noted that in a later comment (137:17) the *Shach* seems to side with the *Beis Yosef*’s interpretation that the barrel was not full. Another note of interest: The *Bach* himself subsequently suggests the first explanation
other Poskim, mentioned above, who rule that removal of the klipah is an effective method of removing forbidden blios. These Poskim must understand that the Mishnah’s prohibition of wine stored in a non-kosher wine barrel refers to wine stored long-term; such storage imparts blios through the entire thickness of the walls, a volume that cannot be nullified by the contents of the barrel.

The Bach’s explanation resolves an additional difficulty. There appears to be a seeming contradiction in the Rosh: The Rosh, quoted above (T’shuvos 19:4), states explicitly that shishim is present against the wine blios located in the klipah, whereas elsewhere (Avodah Zara 2:23) he writes explicitly that blios fill the entire thickness of the walls and the contents do not contain shishim against the non-kosher wine blios.124 Are blios located solely in the klipah or do they fill the entire thickness of the walls? According to the Bach’s explanation, there is no contradiction. The latter comment of the Rosh (in Avodah Zara) refers to short-term storage of wine which imparts blios only in the klipah; as such, the contents surely contain shishim against the klipah. In T’shuvos, however, the Rosh refers to long-term wine storage which imparts blios into the entire thickness of the wall. In such a case, the contents of a barrel are not shishim against such a large volume of blios.125

of the Shach, mentioned above, and appears to prefer this explanation. However, the Shach quotes only the first explanation of the Bach, seemingly implying that this is the accepted explanation.]

Although the Shach writes that this explanation is feasible, it is apparent from the rest of his commentary that he still accepts the Bach’s assertion that Rabbeinu Tam is stringent when wine is definitely stored for 24 hours and assumes that the entire thickness of the barrel walls are full of blios.

124. The Rosh in a previous comment (Avodah Zara 2:20) also implies that the wine blios are located in the entire thickness of the walls.

125. The Shach (137:17) suggests parenthetically an alternative approach to answer the contradiction: The Rosh in T’shuvos was discussing a full wine barrel which is assumed to contain sixty times the volume of blios, whereas the Rosh in Avodah Zara was discussing a partially full barrel which may not contain the required volume of wine necessary to nullify the blios.

This explanation, however, doesn’t completely answer the contradiction. The Rosh in Avodah Zara assumes that the blios fill the entire thickness of the walls, whereas in T’shuvos he assumes that the blios merely fill the klipah. According to the explanation of the Bach,
Moving on to the Poskim, the Tur (135:13) cites two opinions as to whether removal of the *klipah* is effective. He concludes that it is in fact effective, following the opinion of the *Rashba* and other lenient Poskim. This is also the ruling of the *Shulchan Aruch* (135:13). In addition, the Tur and *Shulchan Aruch* (137:1) rule that kosher wine mixed with water stored in a non-kosher wine barrel is permitted if the water is at least six times the volume of the *klipah*. Although the *Shulchan Aruch* makes no distinction as to the length of time wine was stored in the barrel, the *Shach* (135:33) writes that if wine was definitely stored for at least 24 hours, removing the *klipah* is ineffective due to the fact that the wine *blios* have been absorbed in the entire thickness of the walls. This ruling is in accordance with the opinion of *Rabbeinu Tam* and *Rosh* (as noted in *Shach* 137:9). The *Shach* (137:9) further writes that if non-kosher wine was definitely stored in the barrel for longer than 24 hours then nullification is required relative to the entire thickness of the walls. The *Shach* (ibid.) notes that the simple understanding of the *Rashba* and other Poskim indicates that wine *blios* are never absorbed more than the *klipah* – even when stored 24 hours. However, the *Shach* concludes that it is possible that all Poskim agree with *Rabbeinu Tam* that *blios* are absorbed into more than just the *klipah* if it is certain that the wine sat in the barrel for at least 24 hours. Based on the above, this assertion is very likely made to avoid contradicting the *Mishnah*.

As mentioned above (Section III:A:b), some Poskim argue with the *Shach* and maintain that removing the *klipah* is always effective, but others side with the *Shach*. As was just explained, many Rishonim appear to side with the *Shach*.

5) *Avida l’ta’ama* with regard to food items other than spices  
(relevant to Section III:B:a)

The *Rama* (98:8) writes that anything which is *avida l’ta’ama* (added for taste purposes), such as salt and spice, is not *batul*. Therefore, if forbidden spices fall into a mixture, the mixture is forbidden even if it contains *shishim* against the spices. The *Taz* (s.k. 11) wonders if this limitation applies only to spices or even to other foods, such as forbidden fat. He concludes with a quote of the *Issur V’Heter Ha’aruch* who maintains

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this difficulty is resolved as well.
that this halacha applies only to sharp items, similar to salt and spices; all other items are *batul b’shishim*.

The *Pri Migadim* (ibid.) quotes the *Chidushei Hagirshuni* who is of the opinion that all food items are subject to the limitation of *avida l’ta’ama*, but also quotes the *Beis Lechem Yehuda* as siding with the *Issur V’Heter Ha’aruch* that only spices may not be nullified. The *Chochmas Adam* (53:30) also maintains that this halacha applies only to sharp items.

The *Minchas Yaakov* (85:61) and *Shulchan Aruch Harav* (*OC Kuntres Acharon* 513:4) point out that this seems to be at odds with a statement of the *Rambam* (*Pirush L’Mishnayos*, *Orlah* 2:10) that “spices” are not limited to pepper and the like, but include any food added to enhance the flavor of a mixture. How can this be reconciled with the position of the *Taz* and other *Poskim* who are of the opinion that the limitation of *avida l’ta’ama* applies only to sharp items? The *Shulchan Aruch Harav* answers that it depends how the forbidden food became mixed in: if the food was specifically added to the mixture then the *Rambam* is correct that any food added for flavor is not *batul*. If, however, the food fell in to the mixture on its own accord, it is indeed subject to *bitul* unless it is a sharp food, as the *Issur V’Heter Ha’aruch* writes.

The *Badei Hashulchan* (98:87) writes that it is unclear whose opinion we follow. He adds (*Biurim*, *d.h.* *vi’la’chen*), however, that these two opinions differ only if the actual taste of the forbidden food cannot be detected; if the actual taste can be sensed then we agree that the food is not *batul*, as stated by the *Rama* (ibid.) that any food which is *avida l’ta’ama* is not *batul*.

To summarize: According to the *Taz* only spices are subject to the limitation of *avida l’ta’ama*, but according to the *Chidushei Hagirshuni* any food used to flavor a mixture is not *batul*. According to the *Shulchan Aruch Harav*, all agree that if one intentionally added food for flavor then it is never *batul*. According to the *Badei Hashulchan*, if the actual forbidden food can be tasted then all agree that it is not *batul*. Accordingly, it appears at first glance that wine *blios* in Scotch are not subject to nullification because the actual forbidden food can be tasted. This appears to be confirmed by the *Rama* (114:6) who repeats this halacha with regards to wine. See, however, discussion above (Sec. III:B:a) whether wine *blios* are, in fact, limited by this concern.
6) Rav Moshe’s Five Reasons for a *Ba’al Nefesh* to be Stringent
(relevant to footnote 64)

Rav Moshe in *Igros Moshe* (*YD* I siman 62) discusses the question of “blended whiskey.” Rav Moshe concludes that “blended whiskey” is permitted *mei’ikur hadin* due to the fact that *stam yeinam* added to the whiskey is *batul b’sheish*. As explained above (Sec. VIII:A), Rav Moshe was not referring to Scotch; rather, he was referring to whiskey (perhaps Canadian or American) into which a small amount of wine (less than 2½%) was added. Rav Moshe mentions a number of reasons to suggest that a *ba’al nefesh* (a scrupulous individual) should be stringent and avoid drinking blended whiskey, and many of these reasons may be applicable to Scotch matured in Sherry casks.

1) In the days of old when gentile wine had the status of *yayin nesech*, it was forbidden to have any benefit, directly or indirectly, from the wine (*assur b’hana’ah*). There is a question in the *Poskim* whether *stam yeinam*, wine prohibited by Chazal but not actually *yayin nesech*, is less problematic or not. Some *Poskim* (see *Shulchan Aruch* 123:1) are of the opinion that *stam yeinam* is *assur b’hana’ah* (even indirect benefit is forbidden) even in contemporary times. Although the *Rama* (ibid.) argues that *stam yeinam* is more lenient, for though one may not drink it, one may benefit from it indirectly, for instance, by selling it (*mutar b’hana’ah*), some *Poskim* (see *Taz* s.k. 2 and *Shach* 124:71) rule that one may be lenient only when faced with financial loss. Blended whiskey is enhanced by the addition of non-kosher wine and, therefore, a *ba’al nefesh* should be stringent and not drink such whiskey. Since Scotch is also enhanced by non-kosher wine *blios*, a *ba’al nefesh* should avoid drinking such whisky.

2) Some *Rishonim* (see above, Sec. III:A:c) rule that non-kosher wine requires *shishim* for nullification even when mixed with water. Even though the *Shulchan Aruch* and *Rama* (134:5) rule that *sheish* is sufficient, a *ba’al nefesh* should require *shishim* to accommodate the stringent opinion.

3) The *Nekudos Hakesef* (gloss to *Taz* 114:4) requires *bitul b’shishim* when wine is mixed with liquids other than water, as mentioned above (Section III:A:c). This is also the simple understanding of *Rama* (114:4 and 6). Although most *Poskim* rule that *sheish* is
sufficient, a ba’al nefesh should require shishim.

4) The Mateh Yehonoson (gloss to Rama 114:4) rules that sheish is sufficient to nullify wine mixed with other liquids only if the wine ruins the mixture; if, however, the mixture is enhanced by the wine, shishim is required to nullify the wine, like other prohibited foods. Although Rav Moshe doesn’t understand the logic of this ruling, he concludes that a ba’al nefesh should require shishim if the non-kosher wine enhances the mixture, to accommodate the position of Mateh Yehonoson. Since Scotch is enhanced by the wine blios, a ba’al nefesh should require shishim to nullify the wine blios.

5) In a later t’shuvah (siman 63), Rav Moshe cites an additional reason for a ba’al nefesh to be stringent. As explained above, the Shulchan Aruch (134:13), quoting the T’shuvos HaRashba (Vol. III siman 214), rules that one may not drink any beverage of a gentile if it is customary (darkon b’kach) to add (non-kosher) wine to it (even if there is enough kosher liquid to nullify the wine), because any food or liquid which is an integral ingredient of a mixture can never be nullified. Although many Poskim argue on the Shulchan Aruch and allow nullification, a ba’al nefesh should be stringent in order to accommodate the Rashba’s opinion.126

Based on these considerations, Rav Moshe advises a ba’al nefesh to abstain from blended whiskey, and commends Rav Teitz for arranging Kashrus supervision on blended whiskey without added wine. It should be noted that although Rav Moshe himself generally avoided drinking blended whiskey, he would drink a little if offered a l’chaim shot in public so as not to appear haughty (and perhaps cause embarrassment).

As explained above (Sec. IV), according to the Shach and other Poskim quoted above (Sec. III:A:b), Sherry casks do not contain shishim against the forbidden wine blios. Accordingly, a ba’al nefesh should avoid drinking Sherry-matured Scotch.

7) Twelve Months (relevant to Section VIII:D)

It was explained that a non-kosher wine barrel may be used to store kosher liquid provided that the barrel sat empty for twelve months. This

126. It is questionable if this stringency applies to Scotch; see footnote 50.
leniency likely does not apply to Sherry casks because they are filled with Scotch before twelve months have elapsed. Some suggest that even if twelve months did not elapse from the removal of the wine until the first fill, twelve months will certainly have elapsed before the second and later fills go in. Although the barrels did not sit empty for twelve months, the Tur (135:16) quotes the Rosh that even if water was stored in the barrel after the removal of the wine, the twelve months are counted from the wine removal. The Beis Yosef (ad loc.) explains that although the water prevents the wine from drying out, it also ruins wine and causes the wine to go bad. The Shach (135:36) writes in the name of the Rosh (quoted in Beis Yosef ibid.) that even if kosher wine is stored in the barrel, the clock starts from the removal of the non-kosher wine [provided that the volume of kosher wine is sufficient to nullify the non-kosher wine blios]. Accordingly, since the second and later fills certainly take place after twelve months have elapsed from the removal of the non-kosher wine, the wine blios will not prohibit the Scotch, even though Scotch was stored in the barrels in the interim. Since most bottles on the market are from second or later fills, any particular bottle is assumed to be from the majority of permitted bottles.

However, careful analysis of the Beis Yosef reveals that this leniency applies only if the liquid stored in the barrel is not prohibited by the wine blios, i.e., the volume of liquid is great enough to nullify the non-kosher wine blios in the walls. If, however, the wine blios are not nullified, which is the case with standard Sherry casks (according to the Shach and other Poskim that bitul is necessary against the entire thickness of the walls), all Poskim agree that the twelve months count only when the barrel remains empty. Accordingly, since the first fill is forbidden and did not nullify the wine blios, it reinvigorates the wine, thus requiring a new twelve months of sitting empty, which is generally not the case with Sherry casks.

8) Bitul B’rov – Nullification in a Majority
(relevant to Section VIII:E)

According to halacha, even if a non-kosher wine barrel is used numerous times to mature Scotch, every fill of Scotch requires a ratio of 6:1 (i.e., sheish) against the blios of wine. If sheish is not present, every fill is prohibited, as was explained previously (Section VIII:E). Although some wine blios are nullified in the first fill, we continue to consider the
barrel walls full of non-kosher wine *blios* for later fills because we do not know at which point the wine *blios* left the walls. It is important to realize that if Sherry casks were used for three fills, only 1/3 of the total bottles produced actually contain forbidden wine *blios*; the other 2/3 do not contain wine *blios* because the *blios* definitely went out in only one of the fills (after all, wine can only impart non-kosher *blios* up to six times its volume). Nevertheless, we must treat each fill as if it contains the wine *blios* because we don’t know which one got the *blios*. If so, some suggest that perhaps all the bottles are permissible based on the concept of *bitul b’rov* (nullification in a simple majority). This form of nullification works if the majority of a mixture is kosher and the non-kosher taste is not noticeable (*min b’mino*). (If, however, the taste of the non-kosher food is noticeable – *min b’she’aino mino*, a stronger form of nullification is necessary, either *bitul b’sheish* or *b’shishim* – nullification in a six-to-one or sixty-to-one ratio.) A common example of *bitul b’rov* is if a piece of non-kosher food becomes mixed up with a majority of similar tasting kosher food, the non-kosher food is nullified. Accordingly, the bottles which contain *blios* of wine may be nullified in the bottles that don’t, thereby permitting all Scotch.

In order to deal with this issue, it is necessary to explore the concept of *bitul b’rov*. The *Shulchan Aruch* (105:9) writes that if pieces of kosher meat are salted with forbidden cheilev (fat), every piece of meat that came in contact with the fat requires *shishim*. If *shishim* is not present, the meat is forbidden. Even if the combined volume of meat that came in contact with the fat is *shishim* against the fat, the meat is still forbidden because the fat does not spread evenly to all the meat. However, if the fat touched only one piece and the piece got mixed into other pieces of kosher meat, the meat is permitted based on *bitul chad b’trei*. The *Shach* (105:30) asks that if the fat touched many pieces, it is obvious that only one piece became forbidden because fat can only give forbidden flavor (*ta’am*) into *shishim* – we just don’t know which piece absorbed the forbidden flavor. If so, we should say that the piece which has forbidden flavor is *batul chad b’trei*

127. Some Poskim require a ratio of two-to-one – indeed, classic sources describe *bitul b’rov* as *bitul chad b’trei* (one piece is nullified in two pieces), whereas others rule that a simple majority is sufficient; see *Shach* (109:6) and *Pischei T’shuvah* (109:1).
128. Some Poskim rule that the entire mixture should not be eaten at once but others are lenient (see *Shulchan Aruch* 109:1 and *Rama* 109:2).
Many explanations are suggested by the Poskim. Some Poskim (Pri Chodosh s.k. 39, Pleisi s.k. 21) answer that the Shulchan Aruch is referring specifically to a case where the majority of pieces do not have shishim against the non-kosher fat, so the majority of pieces are definitely forbidden and therefore bitul chad b’trei won’t work, but if most pieces have shishim then all pieces are indeed permitted. However, the Pri Migadim (ad loc.) and Aruch Hashulchan (105:59) argue that the simple reading of the Shulchan Aruch indicates that the meat is always prohibited – even if the majority of pieces have shishim.

The Knesses Hagidolah (Hagahos Beis Yosef s.k. 58) answers that bitul chad b’trei can only take place with pieces that are definitely permitted. Pieces which are under scrutiny, like our situation where all the pieces touched the fat, cannot enact bitul chad b’trei. However, he writes that this distinction may not be true. Further, the Pri Migadim (ad loc.) writes that, if anything, the opposite is true; since each piece started off kosher, why shouldn’t they be able to enact bitul?

The Chavas Daas (s.k. 16) answers that a forbidden piece of food can give off blios even beyond shishim, because the flavor which was exuded can return to the forbidden piece and become rejuvenated. Therefore, all the pieces that came in contact with the fat become forbidden. Since each piece is definitely forbidden, we cannot enact bitul chad b’trei. However, this is extremely difficult to understand. The halacha is quite clear that if forbidden food falls into a pot of food with shishim against the forbidden food, the pot of food is permitted. According to the Chavas Daas, however, the food should be prohibited because the forbidden food gives off blios even past shishim! See Imrei Baruch (ad loc.) who is also disturbed by this question.

The Chazon Ish (33:2) offers an alternative explanation for the Shulchan Aruch. Since it is impossible to ascertain at which point the blios

129. The Shach writes that this halacha is very understandable according to the Rama (92:4) who is of the opinion that we say chanan b’shaar issurim. It is quite possible that the piece that absorbed the forbidden flavor then became forbidden and gave its own forbidden flavor back to the fat which subsequently gives forbidden flavor to the next piece, etc. The Shulchan Aruch (ibid.), however, is of the opinion that we do not say chanan b’shaar issurim. If so, asks the Shach, why are all the pieces forbidden?
came out, Chazal made a special decree to treat the forbidden food as if it were still full of flavor, thus requiring *shishim* in every pot to which it falls. Accordingly, each piece of meat that did not contain *shishim* is definitely forbidden – not a *safek* (a doubt) – and therefore, we are not permitted to nullify any of the pieces based on the concept of *bitul chad b’trei*.

The discussion above helps explain the position of the *Shulchan Aruch*, that if pieces of kosher meat are salted with forbidden fat, and *shishim* is not present against the fat, every piece of meat that came in contact with the fat is forbidden. However, the *Shach* (ibid.) disagrees and maintains that if the combined volume of meat that came in contact with the fat is *shishim* against the fat, all the pieces are permitted. This is also the position of the *Pri Migadim* (ibid.).

In summary, if forbidden food touches three pieces of meat and there is *shishim* in the sum total against the fat, the *Shulchan Aruch* rules that all the pieces are prohibited. According to the *Shach*, however, all the pieces are permitted (provided that there is no concern of *chanan*). The *Chavas Daas* and *Chazon Ish* rule in accordance with the *Shulchan Aruch*, whereas the *Pri Migadim* sides with the *Shach*.

Returning to our situation, it was stated previously that although every fill of Scotch requires *sheish* because we consider the barrel to remain full of wine *blios*, the fact is that 2/3 of the bottles cannot contain the *blios*. If so, perhaps we may say that all the bottles are permitted based on the concept of *bitul chad b’trei*? This would seem to depend on the aforementioned dispute. According to the *Shulchan Aruch*, *Chavas Daas* and *Chazon Ish*, *bitul* cannot take place because all the bottles are considered to contain *blios* with certainty. In contrast, the position of the *Shach* and *Pri Migadim* would seem to allow *bitul*.

However, there is room to argue that in our case, all the *Poskim* would agree that *bitul chad b’trei* is effective. It is quite possible that the *Shulchan Aruch* disallows *bitul chad b’trei* only in a situation where the actual forbidden food is present, similar to the case he discussed where the pieces of meat came in contact with the actual piece of forbidden food. Accordingly, the *Shulchan Aruch* rules that the forbidden food can continuously forbid other pieces of meat, either because the forbidden food can give off *blios* even past *shishim* (like the *Chavas Daas* explained), or because Chazal treated the forbidden food as if it constantly retains its flavor (like the *Chazon Ish* explained). However, when dealing with pots that absorbed flavor of forbidden food, not the actual forbidden
food, it is likely that Chazal never gave it a status of actual *issur*. (When judged individually, *sheish* is needed in every fill because it is impossible to know with certainty when, and if, the *blios* were nullified. However, when numerous fills are mixed together, only a minority of the sum total of bottles contain the forbidden *blios*.)

Accordingly, it is likely that the *Shulchan Aruch* and *Chavas Daas* agree that when dealing with pots and barrels, the concept of *bitul chad b’trei* does apply. Based on this reasoning, it would come out that after three fills have taken place, all the bottles of Scotch are permitted. Since only 1/3 of the bottles actually contain *blios* of wine, they are nullified in the other bottles. As a result, it would be permissible to drink any Single Malt Scotch – even those that were matured in Sherry casks – for one may assume that even if this particular bottle contains those forbidden wine *blios*, the bottle was nullified in the other fills.

However, it appears that there is a strong impediment to *bitul* with

130. The *Poskim* discuss whether the above logic is applicable even according to the *Chazon Ish*. *Minchas Pri* (*Melicha* pg. 145) writes that the above logic certainly makes sense according to the understanding of the *Chavas Daas* who assumes that the forbidden food has never-ending *blios mei’ikur hadin*; accordingly, one can argue that only the actual *issur* has the power to rejuvenate – not absorbed flavor. However, according to the *Chazon Ish* who is of the opinion that even with regards to a piece of *issur* we assume that it does not give off *blios* more than *shishim* and it is a special rule that we must treat it as if it still has flavor, this should apply to absorbed flavor as well and should still be forbidden.

On the other hand, it is possible to argue that even according to the *Chazon Ish*, Chazal created a special rule only with regard to the actual piece of forbidden food – since it was originally a piece of forbidden food, Chazal declared it permanently *assur*. When dealing with absorbed flavor, however, something which was never an actual piece of forbidden food, it is quite possible that Chazal did not enact such a rule to consider it like permanent *issur*. Accordingly, it is likely that even according to the *Chazon Ish* a pot which absorbed *issur* was not included in this special rule to be considered *definite issur*.

131. The *Mishnah Brurah* (447:89) rules that olives cut with a knife previously used for *chometz* are forbidden even if cut before Pesach. The *Sha’ar Hatziyun* (ad loc. s.k. 128) explains that since we require *shishim* against the entire knife and it is unknown when the *blios* come out, every olive must be treated as having absorbed *chometz* inside. Why don’t we say that since the forbidden flavor was only absorbed in some of the olives, those olives are *batul chad b’trei*? Perhaps he is referring to a case where the grand total of olives does not contain *shishim* against the knife.
regard to Scotch bottles. The second fill is bottled many years after the first fill was bottled (usually 10+ years) and it is extremely likely that the bottles from the first fill have already been drunk. This is certainly the case with the third fill which is bottled many years after the second fill, and there is likely a span of 20+ years since the original bottling. Accordingly, *bitul* cannot possibly take place. In order for the non-kosher bottles to be nullified, they must be nullified in a mixture of other kosher bottles; if the kosher bottles have already been consumed or not yet produced, the non-kosher bottles are not considered nullified. The *Yad Yehuda* (*Hilchos Melicha* 69:63:7, pg. 55b) rules that *bitul chad b'trei* cannot take place if some of the pieces have been eaten or discarded before the mixture was discovered (*lo noda ha'ta'aruvos*). In our case, where there was never a *ta'aruvos* (mixture) to begin with (because the bottles from the first fill left the factory years before the second fill, and certainly the third fill, was bottled) it certainly is not possible to rely upon *bitul chad b'trei*.\(^{132} \)\(^{133} \)

Accordingly, it appears from the *Poskim* that every fill requires *sheish* against the wine *blios*, and the concept of *bitul chad b'trei* does not apply to our situation.

9) Kosher wine casks (relevant to Section VII:B:a)

As mentioned above (Sec. VII:B:a), it would appear that Scotch matured in kosher wine casks is permitted and the issue of *stam yeinam* is avoided. However, using Israeli wine casks raises other serious questions. Fruit grown in Israel is subject to restrictions not applicable to fruit grown elsewhere, including the requirement to separate *ma'aser* (tithes). Wine produced from grapes grown in Israel is subject to the same requirement. Accordingly, it is important to ascertain that *ma'aser* was removed from

\(^{132}\) Although the *Chamudei Daniel* (*Hilchos Ta'aruvos* 1:3) is unsure about this halacha and seems to indicate that he would be lenient with regard to an *issur d'rabbanan*, it is highly unlikely that he would agree that *bitul* can take place in our case where there was never a *ta'aruvos* to begin with (*aino b'olam*).

\(^{133}\) Although *bitul chad b'trei* can take place even though the bottles are not in one location, as stated in the *Darkei T'shuvah* (109:4) in the name of many *Poskim*, *bitul* cannot take place if the pieces were not in the world at the same time (*aino b'olam*). In a conversation with the author (10/27/2011), Rav Shlomo Miller agreed that *bitul chad b'trei* cannot take place.
the wine stored in wine barrels originating in Israel; if ma’aser was not removed, the wine blios located in such barrels are prohibited (referred to as tevel).\(^{134}\)

In an email correspondence with Rabbi Aryeh Ganz, Mashgiach of Carmel Wineries, Israel, he asserted that his company is careful to separate ma’aser (after grapes are pressed) within two months of harvest (either while in storage bins or in the barrels themselves) in order to avoid mixing tevel with non-tevel wine. Since the wine sits in barrels far longer than two months, the wine barrels definitely do not contain blios of tevel.

10) Rum Casks (relevant to Section VII:B:b)

As mentioned above (Sec. VII:B:b), Rum is produced from distilled sugar and molasses and, therefore, no concern of stam yeinam exists. Although flavored Rum requires kosher certification due to the addition of non-kosher flavorings, there is no concern that Rum barrels used for Scotch maturation contained flavored Rum. Standard protocol in the field is to mature unflavored liquor in barrels, with the flavor being added after maturation, right before bottling. Since the barrels only stored unflavored Rum, no Kashrus concern exists.

\(^{134}\) One can assume that there are no issues of orlah and shvi’is because the Kashrus agency that supervises Carmel wineries would not allow storage of wine that had such problems.
A PICTORIAL GUIDE TO SCOTCH PRODUCTION
The barley is first steeped and spread out to germinate

The barley is then dried in a kiln
The grinding takes place in the Grist Mill
It is then steeped in the mash tun (“the coffee filter”)

Next, it is transferred to the washback for fermentation

Inside look at fermentation (Notice bubbling yeast)
The distillation process takes place in the Pot Stills

The Pot Stills are heated by steam coils running inside
It is then condensed back into liquid in the Worm Tub.

Inside look at Worm Tub.
The stillman tests the strength of the spirit in the Spirit Safe.

The whisky is mixed and left to mature in a Sherry Cask (center) or bourbon barrels (right and left).
Charred Barrel

Charred Bourbon Barrel, Woodford Reserve. Photo Credit: A. Niehaus
XI. GLOSSARY

Ain mivatlim issur l’chatchila: one may not intentionally nullify forbidden foods. There is a difference of opinion among the Rishonim if this prohibition is Biblical or Rabbinical (see Beis Yosef YD siman 99). One who intentionally causes nullification of non-kosher food may not partake of the food. Others may eat from the mixture unless it was specifically nullified on their behalf.

Aino ben yomo: Literally, “it is not of today” – non-kosher blios that remained in a vessel longer than 24 hours; such blios are generally assumed to have lost their flavor and are deemed pagum. (Note: this rule does not apply to wine blios which remain potent up to one year – see Shulchan Aruch 135:16, 137:1.)

Avida l’ta’ama: Literally, “added for taste purposes” – non-kosher food that is generally used to flavor mixtures (e.g., spices) retains its potency even when added to a large mixture and therefore cannot be nullified. See Rama (98:8).

B’dieved: ex-post-facto – once the action is done (opposite of l’chatchila); its halachic status is generally more lenient.

Ben yomo: Literally, “it is of today” – non-kosher blios that were absorbed in a vessel within 24 hours; such blios are generally assumed to remain potent and have the ability to prohibit other foods with which they come in contact (as opposed to aino ben yomo).

Bi’en: Literally, “actual” – referring to tangible substance of non-kosher food which is mixed into kosher food (as opposed to blios).

Bitul (or batul) b’sheish: Literally, “nullified in six” – when yayin nesech or stam yeinam becomes mixed into kosher liquid six times its volume, the non-kosher wine becomes nullified.

Bitul (or batul) b’shishim: Literally, “nullified in sixty” – when non-kosher food becomes mixed into a kosher mixture sixty times its volume, the non-kosher liquid becomes nullified.
**Bitul issur l’chatchila:** see “Ain mivatlim issur l’chatchila”

**Blios:** Literally, “absorptions” – the absorption of non-kosher food without tangible food substance (as opposed to bi’en). For example, non-kosher wine which sits in a barrel for 24 hours will impart blios into the walls of the barrel. These blios retain the capacity to enter subsequent batches of wine, potentially rendering them forbidden.

**Chanan** (acronym for chaticha na’asis neveila): Literally, “the piece becomes prohibited like a carcass” – If non-kosher taste is mixed into kosher food in which it is unable to be nullified, the entire mixture becomes a prohibited entity (in certain situations; see Shulchan Aruch 92:4). If this mixture becomes mixed into other kosher food, nullification is required against the entire mixture.

**Chazusa:** color – non-kosher food that adds color to a mixture retains its identity and cannot be nullified. See Rama (102:1).

**Chometz:** Leavened bread product; may not be consumed, or be found in one’s possession, during Pesach.

**Davar ha’mama’amid:** Literally, “an item that supports” – A forbidden food that acts as a “support” for the final product cannot be nullified. Common examples are yeast in dough, and rennet used for production of cheese. See Shulchan Aruch (87:11).

**Distillation:** the process of purifying a liquid by successive evaporation and condensation.

**Foreshots:** Also known as the head of the distillation or heads. The first cut of the output from the low wines or spirit still. This liquid is returned back to the low wines and feints charger for re-distillation as part of the next batch.

**Kasher (or kasheried or kashering):** process of making a vessel previously used for non-kosher acceptable for kosher use (or vessel already made kosher). See Shulchan Aruch (YD siman 135 and OC siman 451).

**Kavush:** soaking – if non-kosher liquid soaks in a kosher pot for twenty-four hours, the vessel absorbs non-kosher blios.
**Klipah** (or *k’dei klipah*): Literally, “(an amount sufficient to be) peel(ed)” – When kosher and non-kosher items come in contact under certain circumstances, only minimal *blios* are transferred. In these situations only the least amount that can be removed in one piece from the surface of the food or vessel must be discarded.

**Lchatchila**: initially (opposite of *bdieved*).

**Libun**: a form of *kashering* – removing non-kosher absorptions from a vessel; a non-kosher vessel is exposed to intense fire, thereby burning out the *blios*.

**Lyne arm**: The part of a pot still extending from the top of the neck down to the worm tub or condenser (sometimes called the lye pipe or swan neck). There is considerable variation in its design and distilleries will vigorously defend their own design as having a unique contribution to their final product.

**Mash**: crushed malt or grain meal steeped and stirred in hot water to produce *wort*.

**Mei’ikur hadin**: the letter of the law (usually indicates that there is good reason for a scrupulous individual to be stringent).

**Miluy v’iruy**: Literally, “filling and pouring” – a form of *kashering* applicable to certain non-kosher vessels; a non-kosher vessel is filled with water, allowed to rest for 24 hours, and then emptied. The process is repeated three times. See *Shulchan Aruch* (*YD* 135:7, 12 and *OC* 451:21).

**Nosen ta’am l’pgam**: contributes a detrimental flavor. The taste or flavor of a prohibited food will prohibit other foods only when the resultant mixture is improved. A non-kosher food which compromises the taste of the food to which it is added does not prohibit the mixture. See *Shulchan Aruch* (*siman* 103).

**Orlah**: Produce in its first three years since planting; such produce is forbidden to be consumed. See *Shulchan Aruch* (*YD siman* 294).

**Pagum or pogem**: ruined or ruins – non-kosher food which ruins a kosher food mixture upon contact; such food will
generally not forbid the mixture.

**Peat:** an accumulation of partially decayed vegetation matter.

**Poskim** (singular, **Posek**): Rabbinic decisors.

**Protected Designation of Origin (PDO):** A certification that officially guarantees the origin and quality of products with a history and tradition behind them. The PDO was created by the European Union to help consumers by informing them about the specific features of the products, and to protect their geographical appellations against imitations and usurpations.

**Shvi’is:** Produce grown in Israel during the seventh and final year of the *Shemita* cycle; such produce may be consumed only under certain circumstances.

**Steep:** a vessel in which the mixture of unmalted whole barley and regularly-changed, fresh water is left to soak prior to the soaked grain being spread on the Floor Maltings to germinate (or, as a verb, the action of soaking the barley in water).

**Still:** a utensil in which the heat of the fire is applied directly to the pot containing the mash.

**Stam yeinam:** wine touched by a gentile, even if not used for idolatry; according to many Poskim, stam yeinam was prohibited by Chazal to avoid social interaction which could lead to intermarriage (see *Tur* and *Beis Yosef YD siman 123, Kehilos Yaakov, Avodah Zara siman 13*).

**Tevel:** Untithed produce; it is forbidden to be eaten until tithed.

**Wash:** The low-strength beer product of fermentation in the Washback which is used in the Wash Still for the first stage of distillation. Typically, the wash is at about 8% alcohol by volume (ABV). Sometimes known as the brew or (in the US) beer.

**Washback:** The Washback is a vessel, traditionally made of Oregon Pine, in which the wort and yeast are left to ferment into a wash. It is sometimes called a fermenter.

**Wort:** An infusion of malt which is in the act of fermentation; the sweet infusion of malt, which ferments and forms
beer. Note: Wort consists essentially of a dilute solution of sugar, which by fermentation produces alcohol and carbon dioxide.

**Yad soledes bo:** Literally, “a hand recoils from it” – the degree of heat sufficient to cause one’s hand to recoil upon contact is the minimum degree of heat necessary to cause transfer of taste.

**Yayin nesech:** wine used for idol worship. One may not derive any benefit from this wine. See *stam yeinam*.

**Zeh v’zeh gorem:** Literally, “this and this caused it” – a forbidden food will not prohibit a mixture if the flavor (or taste) that it provides could have otherwise been attained from permissible food in the mixture had it been present in a larger quantity. See *Rama* (87:11).