

Insights into Halacha

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Shemitta Sheilos: Using Arbah Minim of Sheviis

by Rabbi Yehuda Spitz

This author recently received several similar sounding *Shemitta sheilos* regarding the purchasing of the *Arbah Minim* for this upcoming *Sukkos*, the year after *Shemitta* - when the *Arbah Minim* in and from *Eretz Yisrael* would be from *Shemitta* produce; yet, quite interestingly, the answers given were not the same.

- The first was from an American supplier of *Arbah Minim* for his city, who normally imported a large shipment of Israeli *Esrogim* et al. for *Sukkos*. He wanted to know if he may import his supply from *Eretz Yisrael* as usual.
- The second was from potential purchasers in *Chutz La'aretz* - who wanted to know if they may they buy their *Arbah Minim* from their usual supplier of superior Israeli '*Schoirah*.'
- A third query concerned *bochurim* returning home to *Chutz La'aretz* for *Sukkos*. Are they permitted to take along a *mehudar Esrog* for themselves and perhaps their father as well?

Although all of these questions sound quite similar, the issues involved are actually quite complicated, and the *halacha* actually varies, due to several important factors.

Kedushas Sheviis Status

First of all, it is important to note that only two of the four *Sukkos* species have no debate ascertaining whether or not they contain *Kedushas Sheviis* status: the *Esrog* and the *Aravah*. Concerning the *Esrog*, as it is an edible and fragrant fruit, all agree that if it grew and was picked during *Shemitta*[1] it would have *Kedushas Sheviis*; whereas the *Aravah*, the exact opposite holds true, and all consider it not to have *Kedushas Sheviis*, as it has no other use than being used for the *Mitzvah* and is not edible nor fragrant. Yet, it turns out that both the *Lulav* and *Hadass*' status *vis a vis* *Kedushas Sheviis* is not so simple.

Regarding *Hadassim*, as they are fragrant, the issue seems dependent on whether their main use is for the *Mitzvah* on *Sukkos*, or for their fragrance, as in example, many use them for *Besamim* for *Havdalah*. Practically, it seems that as long as they are not actively being used for their fragrance and rather for *Sukkos* use, most contemporary authorities consider *Hadassim* **not** to be *Shemitta* produce, and allow them be purchased as usual, as opposed to produce imbued with *Kedushas Sheviis*[2] (as explained in previous articles).[3]

Lulavim's status on the other hand, is even more interesting, as although the *Mishnah* (*Sukkah* 39a) initially implies that *Lulavim* grown during *Shemitta* are not inherently considered *Kedushas Sheviis* produce, nevertheless, the *Gemara* (ad loc. 39b) explains that the *Mishnah* was referring to *Lulavim* from the 6th year (*Shishis*), meaning that *Lulavim* grown during *Shemitta* are indeed considered *Shemitta* produce. However, the *Rambam* nonetheless rules that even *Lulavim* grown during *Shemitta* **are not** imbued with *Kedushas Sheviis*. [4] Although many authorities are at a loss to explain how the *Rambam* can seemingly rule against an explicit *Gemara*, [5] all the same, *Iema'aseh*, the majority of *Rishonim* and *Acharonim* follow the *Rambam*'s precedent and consider a *Lulav* grown during *Shemitta* not to contain *Kedushas Sheviis*, and allow it to be purchased as usual. [6]

Swallowing the *Esrog*?

This makes a practical difference, as one of the ways the *Gemara* allows 'the purchase' of an *Esrog*, which all agree contains *Kedushas Sheviis* and ergo may not be actually purchased, is by

performing 'havla'ah' (literally 'swallowing') on the *Lulav*. This refers to only paying for the *Lulav* with the price of the *Esrog* incorporated into the *Lulav's* purchase price, which would therefore be somewhat higher than usual.[7] Therefore if one is lenient with the *Kedushas Sheviis* status of the *Lulav* and / or *Hadassim*, he may pay more than usual for those items and acquire a 'free' *Esrog* along with it. However, if it is blatantly obvious from the prices that one is really essentially paying for the *Esrog*, then several *poskim* point out that 'havla'ah' may not actually work to solve the issue.[8]

Otzar Beis Din

Although the optimal solution for those of us here in *Eretz Yisrael* seems to be find orchards keeping *Shemitta* properly and finding and picking our own *hefker Esrogim* (and for the *machmirim* - also *Lulavim* and / or *Hadassim*), for the vast majority of us who are time challenged and non-agriculturally inclined, this is not a feasible possibility.

Therefore, it seems that our best bet is to rely on a properly run *Otzar Beis Din*, to avoid the many potential and probable *halachic* issues arising from just finding and acquiring our own set of *Arbah Minim*. [9] In fact, the *Badatz Eidah Hachareidis*, although known for their avoidance of utilizing *Otzar Beis Din* for *Kedushas Sheviis* produce all *Shemitta* long, [10] nevertheless sets up an *Otzar Beis Din* exclusively for *Esrogim*, as there is no other practical option to allow the masses to perform *Mitzvas Arbah Minim* properly on *Sukkos* of *Motzai Sheviis*.

The institution of *Otzar Beis Din* is based on the *Tosefta*, [11] that explains that during *Shemitta*, *Beis Din* has the right to gather (*hefker*) *Kedushas Sheviis* produce to store and distribute it as they see fit in small quantities. It also mentions that they may appoint workers to aid with their task. Therefore, many contemporary *Gedolim*, most notably the *Chazon Ish*, championed the cause of setting up *Otzar Batei Dinim* to enable distribution of *Kedushas Sheviis* produce, which still has to get from the field to the consumer, as well as ensuring proper *Shemitta* observance. [12]

Although one may not actually pay for *Kedushas Sheviis* produce, as it is *halachically hefker*, and as explained in previous articles, there is an '*Issur Schoirah*' on business transactions with *Shemitta* produce, nonetheless, the *Otzar Beis Din* workers may get paid for their time and effort as well as distribution costs. However, this means that the price one pays for *Otzar Beis Din Kedushas Sheviis* produce must be significantly and substantially less than one would generally pay for such produce in an ordinary year.

Additionally, such produce may not be bought in the usual manner, but rather acquired (as one is not actually purchasing, but rather receiving a distribution, with payment exclusively reserved for necessary operating costs) on credit or in advance, with no regard to the actual weight or amount of each individual item. Also, it should not be 'sold' in the regular stores where one normally purchases such produce. Of course, since *Otzar Beis Din* produce contains *Kedushas Sheviis* it must be treated as such, with all of the nuances that entails.[13] This also includes payment, as *Kedushas Sheviis* produce has *Tefisas Damim* - that whatever money one would use to purchase *Shemitta* produce also becomes imbued with *Kedushas Sheviis*, hence cash is not a great option.[14]

Therefore, it seems that the best solution for the masses in *Eretz Yisrael* is to utilize a properly run *Otzar Beis Din*,[15] from which to select *Esrogim*. Most would do so only with closed box sets,[16] with the *Esrogim* categorized by the *Beis Din* by several levels of quality and *hiddur*. Although, the price for an '*Alef Alef*' *Esrog* is still higher than the lower categories, this is due to the extra care they require from the workers of the *Otzar Beis Din*. Additionally, the *Beis Din* tallies up their total expenses and divided it up per *Esrog*, with purchasers of the higher quality *Esrogim* paying a higher percentage of the sales, mimicking, on a smaller scale, what is considered acceptable in a normal year, that a higher quality *Esrog* fetches a higher price.[17] In any case, the total price for such an *Otzar Beis Din's Esrog* should only be a fraction of the price such an *Esrog* would be 'worth' (perhaps up to a quarter or a third) in a normal year.[18]

What About *Chutz La'aretz*?

That is fine for those of us *zocheh* to be in *Eretz Yisrael* for *Sukkos*. But for those in *Chutz La'aretz*, *Otzar Beis Din* presents a plethora of problems; a downright cornucopia of complications. You see, as mentioned previously, *Otzar Beis Din* produce maintains *Kedushas Sheviis* status. As such, it may not be taken to *Chutz La'aretz* or sold in a normal manner. How then, can a seller export boxes of such *Esrogim* to *Chutz La'aretz* and have them sold commercially as he would in a regular year? And if he would not go through an *Otzar Beis Din*, the problems of *Shamor V'Ne'evad* (terms used to describe produce grown during *Shemitta* from working the land as usual or cultivated via forbidden labors or guarded produce without allowance for public access for the *halachically hefker* fruit; in direct transgression of the *Mitzvah of Shemitta*) would also apply. How can an exporter or importer violate several main tenets of the *halachos* of *Sheviis*?

Although there are potential solutions according to several *shittos*, [19] on the other hand, according to the majority consensus, the questions are far better than any possible answer, and all commercial exporting of *Esrogim* from *Eretz Yisrael* is effectively proscribed. [20]

This is why I advised the importer that this year it is preferable if he imports his *Esrogim* for the masses from *Chutz La'aretz* itself and not to get entangled in this complicated *Shemitta sheilah*.

Mass Purchase

However, it is important to note that the above response is only for an exporter, importer, and / or the seller. On the other hand, it turns out that according to most *poskim*, the same would not hold true for the buyer. This is due to the fact that according to most authorities, the possible proscriptions associated with bringing *Kedushas Sheviis* produce to *Chutz La'aretz* [taking *Shemitta* produce to *Chutz La'aretz*, *Shamor V'Ne'evad*, etc.] are the issue of the seller, not the buyer, and do not prohibit actual consumption of the fruit. [21] Consequently, according to the *Chazon Ish* and Rav Moshe Feinstein, once the *Esrogim* are already in *Chutz La'aretz*, they are permitted for purchase [22] [via '*havla'ah*', check, or by credit to ensure that there is no issue of *Schoirah* or *Tefisas Damim*].

To paraphrase the words of Rav Boruch Moskowitz, *talmid muvhak* of Rav Dovid Feinstein, explaining Rav Moshe Feinstein's famous responsum on topic: 'One may now fulfill their *Sukkos* obligation with these *Shemitta Esrogim lechatchillah*, even though their arrival to *Chutz La'aretz* may have only been *b'dieved*'.^[23] In fact, Rav Moshe himself, in a later *teshuvah*,^[24] wrote that if one in *Chutz La'aretz* is accustomed to purchasing *Esrogim* specifically from *Eretz Yisrael* due to their superior quality (less fear that it is from grafted stock; '*chezkas bilti murkav*'), then it would be preferable to continue to do so in the *Shemitta* year as well, even with all of the issues relating to these *Shemitta Esrogim* (he preferred using the '*havla'ah*' method to acquire them). However, it is important to note that in any case, they must still be treated as befits *Kedushas Sheviis* produce.

Private Import

As for the third question, whether *bochurim* returning home to *Chutz La'aretz* for *Sukkos* are permitted to take along a *mehudar Esrog* for themselves and perhaps for family members, it seems that it would be permitted in limited quantities and under specific circumstances. Interestingly, this *inyan* is based on a story.

The *Gemara* (*Pesachim* 52b) relates that Rav Safra traveled to *Chutz La'aretz* taking along *Kedushas Sheviis* produce. *Tosafos* (ad loc. s.v. *Rav Safra*) asks how he could have done so, as the *Mishnah* (*Sheviis* Ch. 6, *Mishnah* 5) explicitly prohibited such actions. *Tosafos* offers two potential solutions: 1) Rav Safra did so for *Schoirah*, merchandise, which would be permitted 2) he did so *b'shogeg*, accidentally.

Many authorities are troubled by the first answer, as the *Mishnah* (*Sheviis* Ch. 8, *Mishnah* 3 and 4; see also *Gemara Avodah Zarah* 62a) also prohibits selling *Kedushas Sheviis* produce commercially. How then can *Tosafos* propose such a solution?

One way of understanding, cited by the *Pe'as Hashulchan* and *Chochmas Adam* is that *Tosafos* meant '*ledavar mu'at*, only a small quantity' of merchandise, which is why it was permitted, as

opposed to commercial sales.[25] Others simply maintain that the *halacha* follows the second answer that it was *b'shogeg*; otherwise, such actions would clearly be prohibited.[26]

However, the *Chazon Ish* amends *Tosafos' girsa* (text) to read '*achilah*', and not *Schoirah*. Therefore, he maintains that certainly commercial merchandising is *assur*; however, accordingly, *Tosafos* is averring that a small amount of *Shemitta* produce to eat, would be essentially permitted to be taken along when leaving *Eretz Yisrael*. *Sefer Mishpetei Aretz* records that both Rav Yosef Shalom Elyashiv and Rav Shmuel Halevi Vosner followed the *Chazon Ish's* amended *girsa* in *Tosafos* to allow a small quantity of *Kedushas Sheviis* produce ('*tzeidah laderech*') to be taken out of *Eretz Yisrael b'shaas hadchak*. [27] Come what may, we see that commercial exporting and selling would not be allowed.

Makom Mitzvah

On the other hand, we also see that small quantities of *Kedushas Sheviis* produce for personal use might be permitted to be taken out from *Eretz Yisrael* under extenuating circumstances. In fact, the *Chazon Ish* later made an addendum elucidating this rule: that *Makom Mitzvah* (or more accurately, fear that one will not properly fulfill the *Mitzvah* otherwise) is considered enough of a reason to allow this dispensation as well. [28]

Accordingly, if one in *Chutz La'aretz* specifically usually uses an *Eretz Yisrael Esrog* for *Sukkos*, due to its *hiddur* and better pedigree (less fear that it is from grafted stock; '*chezkas bilti murkav*'), then he may appoint someone as his *shliach* to bring (or send) him such an *Esrog* this year from *Eretz Yisrael* as well, exclusively in small quantities and for private, non-commercial use.

However, for those utilizing his *hetter*, it is known that the *Chazon Ish* himself mandated cooking and eating the *Shemitta Esrog* immediately after *Yom Tov*, [29] while others maintain that instead, it must be returned to *Eretz Yisrael* after its *Sukkos* use. [30] In any case, at least there is a possible solution for our *bochur's Esrog* predicament.

However, all things being equal, in this author's estimation, practically speaking, this year, with the many obtainable *Esrog* options in much of *Chutz La'aretz*, including the wide range of *Esrogim* available from California, Morocco, and Calabria (Yanover), certainly in a standard case, their purchase would seem a safer bet than relying on Israeli *Esrogim* which most likely have been imported under non-*halachically* optimal conditions.

Yet, of at least equal importance, it is worth noting that we have seen three similar sounding *Shemitta Sheilos*, yet three very different answers. This should give us the impetus, and perhaps demonstrate why it is advisable for all of us, even those in *Chutz La'aretz*, and even in the eighth year (*Sheminis*), to be proficient in *Hilchos Sheviis*. Certainly a worthwhile investment.

Note: This article is not intended to serve as an exhaustive guide, but rather to showcase certain aspects of the intricate and myriad *halachos* of produce imbued with *Kedushas Sheviis*. One should ascertain from his own *halachic* authority what he should personally do, and how to be *noheg*, with / for his *Arbah Minim*.

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His recent English *halacha sefer*, "Insights Into Halacha - Food: A Halachic Analysis," (Mosaica/Feldheim) contains more than 500 pages and features over 30 comprehensive chapters, discussing a myriad of *halachic* issues relating to food. It is now available online and in bookstores everywhere.

[1]Although there is a *machlokes* in *Gemara Rosh Hashanah* 14b whether an *Esrog* is akin to a fruit or a vegetable *vis a vis* its *Kedushas Sheviis* status, and therefore whether it follows one-third of its growth or from when it was picked, this would be a moot point on *Sheminis*, the eighth year, as at that time, by any definition the *Esrog* used would be considered *Shemitta* produce.

[2]The first to address this *sheilah* (albeit indirectly) regarding *Hadassim* was the *Maharil Diskin* in a *teshuvah* referenced in *Shu"t Tzitz HaKodesh* (vol. 1: 15, 1), who mentions that it is preferable to purchase the *Esrog* via *havla'ah* (as will be explained further on) on the *Hadassim* (and not the *Lulav*; counter-indicative of the *Gemara Sukkah* 39a), implying that he held *Hadassim* do not contain *Kedushas Sheviis*. Rav Yechiel Michel Tukachinsky (*Sefer HaShemitta* Ch. 7, footnote 14) understands his ruling as since they are planted expressly for its *Mitzvah* on *Sukkos*, that is considered its main use and they therefore do not contain any inherent *Kedushas Sheviis*. However, it is known that the *Chazon Ish* and *Steipler Gaon* (*Orchos Rabbeinu*, 5775 edition vol. 3, pg. 270-271, 41-43 and *Derech Emunah* vol. 4, *Hilchos Shemitta V'Yovel* Ch. 7, *Tziyun Hahalacha* 222) were personally *machmir* and treated *Hadassim* that grew during *Shemitta* as *Kedushas Sheviis* due to their fragrance [see *Yerushalmi Sheviis* (Ch. 7, *Halacha* 1; *'iba'ui delo ifsheta'*) and *Chazon Ish* (*Sheviis* 14: 9; who was therefore *machmir*)]. See also *Shu"t Videbarta Bam* (vol. 1: 176, 2 s.v. *v'shama'ati*), quoting Rav Dovid Feinstein citing his father, Rav Moshe's personal *hanhagah*; that although not wishing to give a ruling, nevertheless, he himself was also personally *machmir* regarding *Hadassim* of *Sheviis*. Rav Yosef Shalom Elyashiv (cited in *Shu"t Yissa Yosef* vol. 5: 110, regarding *Hadassim* grown in a Jew's field; he held that the *Maharil Diskin's psak* was only referring to *Hadassim* grown in a non-Jew's field) and Rav Mordechai Eliyahu (*Darchei Halacha* glosses to the *Kitzur Shulchan Aruch*, *Kitzur Dinei Shemittas Karka'os* 20, pg. 645) were *machmir* as well. On the other hand, most contemporary authorities follow the *Maharil Diskin's psak* and maintain that one may indeed be *meikil* regarding purchasing *Hadassim*. See *Shemitta Kehilchasah* (Ch. 2: 12 s.v. *Hadassim*), *Shu"t Mishnas Yosef* (vol. 3: 8, pg. 75), *Shu"t Tzitz Eliezer* (vol. 6: 33 and vol. 11: 69), *Shu"t Minchas Yitzchok* (vol. 6: 130, 3), *Shu"t Minchas Shlomo* (*Kamma* vol. 1: 51, 23 s.v. *lefi aniyus daati*), *Shu"t Shevet Halevi* (vol. 1: end 181 s.v. *uvmah shekasav*), *Minchas Asher* (*Sheviis*, *Tinyana* 14: 2), *Yalkut*

Yosef (*Sheviis*, Ch. 20, pg. 443), *Mishpetei Aretz* (*Sheviis*, Ch. 14: 10), *Halichos Shlomo* (*Moadim* vol. 1, Ch. 10: 26), and the *Badatz Eidah Hachareidis' Dvar HaShemitta* (5775, pg. 53: 9).

[3] '*Kedushas SheviisProduce*', 'Fruit Use and Fruit Juice', 'More Mitzvah Use', and 'The Case of the Contraband Carrots'.

[4] *Peirush Mishnayos L'Rambam* (*Sukkah* Ch. 3, *Mishnah* 11) and *Rambam* (*Hilchos Shemitta V'Yovel* Ch. 8: 11).

[5] Although the *Mahari Korkos*, in his commentary on the *Rambam* (ad loc.), to answer up this seeming dilemma, understands the *Rambam* in his *Mishnah Torah* as referring to a '*Shishis Lulav*' used in the beginning of *Shemitta* and therefore backtracking from what he wrote in his *Peirush Mishnayos* that a *Lulav* is an '*Eitz B'alma*' and not containing *Kedushas Sheviis*, nonetheless, most authorities, including the *Radbaz* (ad loc.), understand that the *Rambam* was referring to a '*Sheviis Lulav*' in concordance with his *shittah* in his *Peirush Mishnayos*. Others who question the *Rambam's* ruling against a seeming explicit *Gemara* include R' Akiva Eiger (*Tosafos* R' Akiva Eiger on the *Mishnah* ad loc.) and the *Tiferes Yisrael* (ad loc. 66). The *Kapos Temarim* (*Sukkah* 40a) opines that the *Gemara* later mentions that '*stam eitzim lehasakah kayma*', and therefore perhaps means that although a *Lulav* should contain *Kedushas Sheviis*, nonetheless, *lema'aseh* a *Lulav* is *battel legabei 'shaar eitzim*', and therefore actually does not. The *Chasam Sofer* (*Sukkah* 39a s.v. *Sheviis*), *Aruch LaNer* (*Sukkah* 40a s.v. *amai*), and Rav Yosef Shalom Elyashiv (*Ha'aros Rabbeinu HaGri"sh*, *Sukkah* 40a s.v. *stam*) follow this approach as well. The *Ohr Somayach* (*Hilchos Parah* Ch. 11: 7 and *Hilchos Lulav* Ch. 8: 2 and 5) offers an alternate approach, that the *Rambam* is ruling *leshitaso* by the *Eizov* for *Parah Adumah*, that if one uses it for a *Mitzvah*, it is as if it was picked for '*Eitzim*' and not '*Le'achilah*' [which in order to be considered *Shemitta* produce it needs to be considered '*Lachem - L'achlah*', as mentioned in previous articles '*Kedushas SheviisProduce*' and 'Fruit Use and Fruit Juice']. A third solution, raised by the *Minchas Yitzchok* (*Shu"t* vol. 8: 100 s.v. *v'hinei*; see also vol. 6: 61), is that the *Rambam* was ruling like the *Yerushalmi* over the *Bavli*, as the *Yerushalmi* (*Sukkah* Ch. 3, end *Halacha* 10) only cites the original *Mishnah* that implies a *Lulav* has no *Kedushas Sheviis*, with no comment or qualification, implying that it is correct. He notes that the *Mahari Cologne* (a late *Rishon*) wrote many

centuries ago (*Shu"t Maharik, shoresh kuf*) that the *Rambam* has a predilection for *paskening* like the *Yerushalmi* over other sources. An alternate approach is given by Rav Boruch Dov Povarski, Rosh Yeshivas Ponovezh, and author of *Bo"d Kodesh*, in a *ma'amar* in *Kovetz Moriah* (*Elul* 5775; issue 400-402). Come what may, it seems that most authorities still follow the *Rambam's shittah* on this; see next footnote.

[6]As mentioned previously, the *Yerushalmi* (*Sukkah* Ch. 3, end *Halacha* 10) only cites the original *Mishnah* that implies a *Lulav* has no *Kedushas Sheviis*, with no comment or qualification, implying that it is correct. The *Rif* (*Sukkah* 19b) and *Rosh* (Ch. 3: 28) do so as well. The *Ran* (ad loc. end s.v. *lefi*) cites two approaches - one that the *Mishnah* was referring to a '*Shishis Lulav*' (implying a '*Sheviis Lulav*' would have *Kedushas Sheviis*), and alternatively, that a '*Lulav*' is considered an '*Eitz*' and therefore does not contain *Kedushas Sheviis*. Although several *Rishonim* seem to follow the first approach, including *Rashi* (*Sukkah* 40a s.v. *yatzu*), *Tosafos* (ad loc. s.v. *v'eitzim* and *Bava Kamma* 102a s.v. *h"g*; who adds the *sevara* that a *Lulav* is commonly used to sweep the house), the *Baal HaMaor* (*Sukkah* ad loc.), *Rabbeinu Chananel* (*Sukkah* ad loc.), and *Shitas Rivav* (*Sukkah* ad loc.), on the other hand, most authorities, including the *Bartenura* (ad loc.), *Radbaz* (on *Rambam* ad loc.), *Tosafos Ri"d* (*Sukkah* ad loc.), and *Rabbeinu Gershom* (*Bechoros* 31b), consider a *Lulav* not to contain *Kedushas Sheviis*. [See also *Pnei Yehoshua* (*Sukkah* 39a - b s.v. *B'Tosafos* and *B'Gemara*), who gives an interesting solution as to why *Rashi* and other *Rishonim* only cite the first approach, and explains why it is not at odds with the alternate approach]. Although, as mentioned previously, the *Maharil Diskin* (ibid.) did not want to allow '*havla'ah*' with a *Lulav*, implying that he was *choshesh* it contained '*Kedushas Sheviis*', nevertheless, several contemporary authorities, including Rav Shlomo Zalman Auerbach (*Shu"t Minchas Shlomo, Kama* vol. 1, 51: 23), the *Mishnas Yosef* (*Shu"t* vol. 1: 25-30), and Rav Chaim Kanievsky (*Derech Emunah* vol. 4, *Hilchos Shemitta V'Yovel* Ch. 8: 86), additionally point out that nowadays a *Lulav* really has no other use than the *Sukkos Mitzvah*, as it is no longer common to use it to sweep a floor [see similar *hetter* in *Chazon Ish* (*Sheviis*, 14: end 10)]. Therefore, they aver that it does not have *Kedushas Sheviis*. In fact, Rav Shmuel Halevi Vosner (*Shu"t Shevet Halevi* vol. 1: 181) noted that when he discussed the *Shemitta* status of *Hadassim* with the *Chazon Ish*, it seemed that it was *pashut* that he held that *Lulavim* do not contain any inherent *Kedushas Sheviis*. [The *Chazon Ish* himself also implied this way in his *Chazon Ish* (*Sheviis* 14: 1)]. He concludes that '*kedai haim Mosdei Olam shekasvu divreihem derech psak*

lismoch aleihem b'Shemitta bezman hazeh'. See also *Chaim U'Brachah* (os shin, 308 s.v. b'Lulav), *Aruch Hashulchan Ha'Asid* (Hilchos Shemitta V'Yovel 26: 8), *Shu"t Tzitz HaKodesh* (vol. 1: 15, 2), *Sefer HaShemitta* (Ch. 8: 3, 2), *Shu"t Igros Moshe* (Orach Chaim vol. 5: 42), *Shu"t Minchas Yitzchok* (vol. 6: 61 and vol. 8: 100), *Minchas Asher* (Sheviis, Tinyana 14: 1), *Yalkut Yosef* (Sheviis, Ch. 20: 1 and 12), Rav Yehoshua Noivert (Neuwirth)'s *Kitzur Dinei Shemittas Karka'os* (57), *Mishpetei Aretz* (Sheviis, Ch. 14: 11), *Mishmeres HaSheviis* (Ch. 22: 14), *Peiros Sheviis* (Ch. 22: 54), *Shu"t Videbarta Bam* (vol. 1: 176, 1 s.v. v'shama'ati; quoting Rav Dovid Feinstein citing his father, Rav Moshe's personal *hanhagah*), *Halichos Shlomo* (Moadim vol. 1, Ch. 10: 26), and the *Badatz Eidah Hachareidis' Dvar HaShemitta* (5775, pg. 53: 8), who rule similarly. However, although the *Chazon Ish* was indeed *notteh* that a *Lulav* does not contain *Kedushas Sheviis*, on the other hand it is recorded (*Orchos Rabbeinu* vol. 2, pg. 326; 5775 edition vol. 3, pg. 267, 29-31 and *Derech Emunah* *ibid.* *Biur Hahalacha* s.v. *haloke'ach* and *Tziyun Hahalacha* 117) that both he and his brother-in-law, the *Steipler Gaon*, were personally *machmir* that it does.

[7]For how 'havla'ah' works see *Rashi* (*Sukkah* 39a s.v. *mavlia*), *Rash* (Sheviis Ch. 7: *Mishnah* 3), *Rambam* (*Hilchos Shemitta V'Yovel* Ch. 8: 11), *Sfas Emes* (*Sukkah* 39a), *Sefer HaShemitta* (Ch. 8: 3, 2), and *Chazon Ish* (Sheviis 13: end 20).

[8]See *Shu"t Tzitz HaKodesh* (vol. 1: 15, 3, s.v. v'yatza), *Shemitta Kehilchasah* (Ch. 4: 4), and *Sefer Dinei Sheviis Hashalem* (Ch. 18: 3 s.v. *yesh*). Rav Yosef Shalom Elyashiv (*Ha'aros Rabbeinu HaGri"sh*, *Sukkah* 39a s.v. *mavlia*) is also *medayek* this way from *Rashi's shittah*. An additional concern is that some authorities, including the *Chazon Ish* (see *Derech Emunah* *ibid.* 88 and *Shemitta Kehilchasah* *ibid.*) and Rav Shlomo Zalman Auerbach (*Minchas Shlomo* on *Sheviis*, Ch. 7, *Mishnah* 3 and *Halichos Shlomo*, *Moadim* vol. 1, Ch. 10: 29), are of the opinion that 'havla'ah', even if performed properly, only solves the issue of 'D'mei Sheviis' and not of 'Issur Schoirah' with *Kedushas Sheviis* produce, and is therefore not a practical solution. For an opposing view, see *Beis Ridbaz* commentary on *Pe'as Hashulchan* (5: 18; at great length), who does not agree with the latter assessment. See also *Shu"t Igros Moshe* (Orach Chaim vol. 5: 42) and *Shu"t Videbarta Bam* (vol. 1: 176, 3); Rav Moshe Feinstein held that properly performed 'havla'ah' would also solve the issue of 'Issur Schoirah'.

[9]Including issues of '*Shamor V'Ne'evad*', '*Schoirah B'Peiros Sheviis*', '*Mesiras Demei Sheviis L'Am Ha'aretz*' and '*Tefisas Demei Sheviis*'. Many of these issues have been detailed at length in previous articles. *Sefer Dinei Sheviis Hashalem* (Ch. 26: 5) sums it up simply, '*harotzeh lekabel Esrog shelo al yedei Otzar Beis Din, ya'aseh sheilas Chacham, meshoom shedavar zeh karuch b'sheilos rabbos.*'

[10]See the *Badatz's Dvar HaShemitta* (5775, pg. 30-31 and 50), citing *Rabbanei Yerushalayim* of over 100 years ago, that they never accepted '*Otzar Beis Din*' as a practical means of allowing distribution of *Kedushas Sheviis* produce, as the system regrettably can lend itself to abuse by unscrupulous individuals, especially if it is not run properly. They cite examples of '*Otzar Beis Din*' produce somehow finding its way into supermarkets and being sold in the normal manner, quite counter-indicative of its *halachic Kedushas Sheviis* status. Unfortunately not an uncommon occurrence, this author has seen *Otzar Beis Din* produce being sold in regular stores (ostensibly with reliable *hechsherim*) this past *Shemitta* year by weight and price. The Star-K's Kashrus Kurrents article titled '*Shemitta 5775*' refers to a great deal of wine produced under the auspices of *Otzar Beis Din* that ended up in supermarkets... in the United States. See also *Minchas Asher (Sheviis, Tinyana 48b)* who cites another example of *Esrog* merchants abusing the *Otzar Beis Din* system by reserving top quality *Esrogim* for '*Admorim and Mechubadim*'. Similarly, *Orchos Rabbeinu* (new print vol. 3, pg. 260-261: 3-4) relates that certain years the Steipler *Gaon* would not rely on an *Otzar Beis Din* for *Esrogim*, as he held that they (perhaps those specific ones) were improperly run, and charging too high of a price to only include actual expenses. Unfortunately, abusing the *Hetter* of *Otzar Beis Din* seems to be the norm nowadays (or at least 'a norm'), to this author's great consternation. Other contemporary *poskim* who were wary of '*Otzar Beis Din*' include Rav Moshe Sternbuch (*Shemitta Kehilchasah* Ch. 3: 16, *Moadim U'Zmanim* vol. 8, *Lekutei Ha'aros* to vol. 6: 54, and *Teshuvos V'Hanhagos* on *Sukkos* pg. 345 and pg. 357 - 358), Rav Mordechai Eliyahu (*Shu"t Maamar Mordechai* vol. 5, *V'shavsah Haaretz*, 11; he additionally notes that the *Rambam* did not cite such a proviso) [Others however, 'answer up' that '*Otzar Beis Din*' is an '*eitzah*', not a *chiyuv*, and that is why the *Rambam* did not need to mention it.], and the *Karlsberg Rav*, Rav Yechezkel Roth (*Shu"t Emek Hateshuvah* vol. 2: 1). See also Rav Yirmiyohu Kaganoff's excellent recent article titled '*Otzar Beis Din or Hetter Otzar Beis Din?*'. On the other hand, see footnote 12.

[11]*Tosefta* (*Sheviis* Ch. 8; 1-3), and is mentioned by several *Rishonim*, including the *Ramban* in *Parshas Behar* (*Vayikra* Ch. 25: 7), the *Rash* and *Rosh* in their commentaries to *Mishnayos Sheviis* (Ch. 9 *Mishnah* 8), and the *Raavad* (*Hilchos Shemitta V'Yovel* Ch. 7: 3). Interestingly, there is a minority view, that of the *Rash M'Sirilio* (*Sheviis* end Ch. 9 s.v. *v'ani omer*) who understands the *Tosefta* in a completely different manner, that it was not referring to setting up an *Otzar Beis Din*. Although the *Yerushalmi* (*Pe'ah* Ch. 2: *Halacha* 4; cited by the *Rashbam* in *Bava Basra* 130b, end s.v. *ad sheyomru*) writes that we do not *pasken* from *Haggados* or *Toseftos*, many *poskim*, including the *Shach* (*Choshen Mishpat* 81: 56), explain that this generality only proves true when it contradicts an explicit *Gemara* (see, for example, the commentaries of the *Rashbam* to *Bava Basra* 63 a s.v. *tanu* and *Rosh* to *Chullin* Ch. 2: 6, for cases of this); otherwise, we can and do *pasken* from the *Tosefta*. Although some argue regarding *Aggadeta*, everyone agrees regarding the *Tosefta*, which, as the *Noda B'Yehuda* famously explained (*Shu"t Mahadura Tinyana*, *Yoreh Deah* 161 s.v. *umah sheratzah*) are "*ikarah lehalachos, u'lazeh hayah techillas kavvanas mechabram, v'R' Chiya v'R' Oshia heimah yisduah, vechol migmasam l'dinei Torah, u'lchein b'makom she'ein stirah b'divrei HaGemara somchim al HaTosefta*." See also *Shu"t HaRashba* (335), *Shu"t Ba'er Yaakov* (*Even Ha'ezer* 119), the *Chida's Machzik Bracha* (*Orach Chaim*, *Kuntress Acharon* 51, quoting *Rabbeinu Tam's Sefer Hayashar*), *Shu"t Maharsham* (vol. 1: 163 s.v. *hinei*), *Sdei Chemed* (*Maareches Alef*, *Klal* 95 - 96, and *Pe'as Hasadeh*, *Klal* 39), *Shu"t Emek Hateshuvah* (vol. 2: 1 s.v. *v'ode*), and *Shu"t Mishnah Halachos* (vol. 9: 319 s.v. *vhanirah lefi naiyus daatid* and *u'mah shekasav*).

[12]See *Chazon Ish* (*Sheviis* 11: 7 and 12: 6 and 8) and *Kovetz Igros Chazon Ish* (vol. 2: 73). *Orchos Rabbeinu* (old print vol. 2; new print vol. 3) dedicates an entire chapter (titled '*Otzar Beis Din*') describing how the *Chazon Ish* attempted to set up properly run *Otzar Batei Dinim* across *Eretz Yisrael* every *Shemitta*. *Mishpetei Aretz* (*Sheviis* ppg. 230-232) prints the *Chazon Ish's* actual instructions to storekeepers and suppliers on how to properly set up and distribute *Otzar Beis Din* produce. See also *Shu"t Mishnah Halachos* (vol. 9: 319) as well as the '*Michtavim*' printed in the back of *Chut Shani* on *Hilchos Yom Tov v'Chol Hamoed* (pg. 371-372) from Rav Yosef Shalom Elyashiv and Rav Nissim Karelitz on the importance of establishing *Otzar Batei Din*. See also footnote 15.

[13]As detailed at length in previous articles, '*Kedushas SheviisProduce*', '*Fruit Use and Fruit Juice*', '*More Mitzvah Use*', '*The Case of the Contraband Carrots*', and '*The Perplexing Puzzle of the Possibly Purloined Peppers*'.

[14]As explained in recent articles (see previous footnote). *Tefisas Damim* refers to the fact that whatever money one would use to purchase *Shemitta* produce also becomes imbued with *Kedushas Sheviis*. This is because the *Kedushah* transfers to whatever item the holy produce is exchanged for, and even any further exchanges, no matter how many times it is transferred. For example, if someone purchases *Shemitta* produce (even if it was sold in a permitted manner), although the fruit still maintains its 'holy' status, the money that was used to purchase it now contains *Kedushas Sheviis* as well. If one now uses that money to buy fish, the money is no longer considered 'holy' but the fish now is. If the fish is exchanged for oil, the fish has lost its *Kedushas Sheviis* status, but the oil has gained it. This cycle continues ad infinitum, and *Biur* must be done on the last item on the chain, along with the original fruit. See *MishnayosSheviis* (Ch. 8, *Mishnah* 7) and *Rambam (Hilchos Shemitta V'Yovel* Ch. 6: 1, 6, and 7).

[15]For more on the nuances of *Otzar Beis Din* and its relevant *halachos* and how they are properly applied, see the '*Kuntress Otzar Beis Din*' in *Chut Shani on Shemitta, Derech Emunah* (vol. 4, *Hilchos Shemitta V'Yovel* Ch. 6: 19), *Orchos Rabbeinu* (old print vol. 2; new print vol. 3 - Ch. '*Otzar Beis Din*'), *Shemitta Kehilchasah* (Ch. 3: 16), *Mishpetei Aretz (Sheviis* Ch. 13), *Dinei Sheviis Hashalem* (Ch. 20), *Yalkut Yosef (Sheviis* Ch. 18, '*Otzar Beis Din*'), *Shu"t Minchas Shlomo (Tinyana* 123: 11), *Shu"t Mishnah Halachos* (vol. 9: 319), *Minchas Shlomo (Sheviis* Ch. 9: 8, pg. 250), Rav Tzvi Cohen's '*Shemitta*' (Ch. 23), and *Kara Shemitta* (Ch. 9: 6, '*Otzar Beis Din*'; he also details the first *Otzar Beis Din* set up in modern times - in 1910, for the Rechovot vineyards of Rav Tzvi Hirsch Kahn, author of *Imrei Tzvi*, by the *Badatz* of Yerushalayim, consisting of such luminaries as Rav Yosef Chaim Sonnenfeld, Rav Chaim Berlin, and Rav Tzvi Pesach Frank.).

[16]See *Moadim U'Zmanim* (vol. 6: 54; also citing Rav Yisrael Veltz, author of *Shu"t Divrei Yisrael*) as to why selling *Shemitta Esrogim* via *Otzar Beis Din* in closed box sets is not considered an '*asmachta*', and is still the preferred method.

[17]See *Chut Shani (Shemitta, Kuntress Otzar Beis Din)* as well as *Shulchan Shlomo (Sheviis, Kuntress Otzar Beis Din)*, citing Rav Shlomo Zalman Auerbach. The *Badatz Eidah Hachareidis* allows this as well. However, Rav Yosef Shalom Elyashiv (*Mishnas HaGri"sh, Peiros Sheviis*, Ch. 5:16 and *Mishmeres HaSheviis, Kuntress Otzar Beis Din L'Esrogim*) held that it is preferable that the *Otzar Beis Din Esrogim* not be sold by different prices as to level of *Hiddur*, hence the preference for purchasing closed boxes.

[18]The *Chazon Ish* writes (*Kovetz Igros Chazon Ish* vol. 2: 72) that it must be '*Nikkar*' that the price of *Otzar Beis Din Esrogim* is significantly less than they would be in a regular year. This *psak* is echoed by Rav Yosef Shalom Elyashiv (*Mishnas HaGri"sh, Peiros Sheviis* Ch. 5:7) as well as the *Badatz Eidah Hachareidis (Dvar HaShemitta* *ibid.* and *sefer Minchas Yerushalayim, Mevo* to Ch. 9) – that the '*Chaluka*' price has to be noticable to all that it is exculsively going to cover costs, with no profit being made. However, there is a difference of opinion as to which *Esrog* expenses may be covered by price charged to consumers. The *Chazon Ish* himself was *mesupak* if the *Esrog's* growing expenses etc. can be passed off to customers or only its plucking, packaging, and shipping. Practically, from the language of an *Otzar Beis Din* he set up, we discern that practically, the *Chazon Ish* ultimately ruled leniently that all of the *Esrog's* expenses can be passed off to customers (*Derech Emunah* *ibid.* Ch. 6:20). This is also how Rav Elyashiv (*Mishnas HaGri"sh* *ibid.* *Teshuvos* 4) and Rav Nissim Karelitz (*Chut Shani* *ibid.*) ruled as well. On the other hand, Rav Shlomo Zalman Auerbach (*Shulchan Shlomo* *ibid.*; yet, see also *Shu"t Minchas Shlomo, Tinyana* 123:11) and the *Badatz Eidah Hachareidis (Minchas Yerushalayim* *ibid.*) *pasken* that only the *Esrog's* latter expenses can actually be charged. Hence, is is understandable how Rav Nissim Karelitz's *Otzar Beis Din Esrogim* may be sold at a higher price than the *Badatz's*. [See Rav Moshe Edelstein's "*Anveihu*" *Kovetz Hilchos Arbaas Haminim B'Shemitta*, 57-60.] Yet, this author is at a loss to explain the (unfortunately) seemingly common phenomenon in 5783/2022 of *Otzar Beis Din Esrogim* actually costing more than *Esrogim* of the same level of *Hiddur* do in a regular year.

[19]**1)** The *Tzitz HaKodesh (Shu"t* vol. 1: 15) cites a *teshuvah* from the *Maharil Diskin* that one may send *Esrogim* that are grown in a non-Jew's field to *Chutz La'aretz* by an interesting combination - '*havla'ah*' with a *hadass (leshitaso* - as opposed to a *Lulav*; as explained in footnote 2) and to make a '*tanei mefurash*' with the non-Jews not to relinquish ownership of the

Esrogim until they are already in *Chutz La'aretz* (meaning it is as if the non-Jew took it from *Eretz Yisrael* and exported it) and only then officially purchase it. However, nowadays, with the vast majority of *Esrog pardessim* in *Eretz Yisrael* under Jewish ownership, it would be hard pressed to accomplish this and therefore it does not prove to be a practical or viable option. **2)** The *Tzitz HaKodesh* additionally posits (ad loc 4 s.v. *u'l'inyan*) that perhaps the prohibition does not apply to produce that is not usually eaten, i.e. *Esrogim*; however, he himself does not give this *severa* much credence *lemaaseh*. **3)** An alternate, but novel approach is given by the *Ridbaz* (*Beis Ridbaz* glosses and commentary to the *Pe'as Hashulchan* Ch. 5: 18), who maintains that *Chazal* were never *gozer* against sending *Kedushas Sheviis* produce to *Chutz La'aretz* in certain situations. However, he also is of the opinion that the reason for the *gezeirah* is to allow people in *Eretz Yisrael* to have enough food to eat. Nowadays, he posits, with every country importing and exporting, that is no longer a concern. Additionally, he maintains that an *Esrog* is different than other *peiros Sheviis* and thereby has no *Zman Biur*, as it is always available to animals in the field. [He also follows the opinions of several *Rishonim*, including the *Bartenura* and the *mashma'os* of the *Rash* (in their commentaries to *Mishnayos Sheviis*, Ch. 6: *Mishnah* 5), who hold that the reason for the prohibition to take *Kedushas Sheviis* produce out of *Eretz Yisrael* is due to the *chashash* that it will miss the *Zman Biur*, which should be done in *Eretz Yisrael*. *Leshitaso*, the *Esrog* is technically exempt from this issue. However, most authorities [see for example, *Aruch Hashulchan Ha'asid* (*Hilchos Shemitta V'Yovel* 24: 25) and *Shu"t Tzitz HaKodesh* (vol. 1: 15, 4 s.v. *ul'inyan*)] follow the other approach, that of the *Raavad*, *Rash MiShantz*, and *Gr"a* (in their respective commentaries on the *Sifra / Toras Kohanim*, *Behar*, *Parshah* 1: 9) and the *mashma'os* of the *Rambam* (*Hilchos Shemitta V'Yovel* Ch. 4: 13; who makes no mention of the prohibition being associated with *Biur*), that the prohibition is not dependant on *Zman Biur*, but rather that many in *Chutz La'aretz* will not properly follow the myriad *halachos* of *Shemitta* produce, and therefore the proscription is fully in effect with all *Kedushas Sheviis* produce.] Therefore, in his opinion, since it is preferable to perform a *Mitzvah* with *Shemitta* produce, one may send *Esrogim* to *Chutz La'aretz* via '*havla'ah*'. According to this understanding, it seems that an *Otzar Beis Din* may send *Esrogim* for commercial selling in *Chutz La'aretz*, as there is no *Zman Biur* on fruit stored with an *Otzar Beis Din*. In fact, Rav Menashe Klein (*Shu"t Mishnah Halachos* vol. 12: 247 s.v. *lefi aniyus daati*) seemingly follows this approach, maintaining that one may use an *Otzar Beis Din Esrog* in *Chutz La'aretz* as they are '*bli shum chashash upikpuk*' implying that even their being sent there from the *Otzar Beis Din* is *lechatchillah*. This was also known to be the opinion of Rav Pinchas Epstein (cited in several *sefarim*; his actual letter dated

29 Elul 5727 was recently republished in *Kovetz Tzohar*, vol. 'Ohel Chanoch', Tamuz 5761 pg. 530), based on the *Ridbaz's shittah*. However, it is important to note that this is a novel approach and most authorities did not accept it [see, for example *Kuntress Mishmeres Lehabayis* (printed at the end of the *Beis Ridbaz* version of *Pe'as Hashulchan* ppg. 22a–23b; with published letters from the *Chazon Nochum*, Rav Nochum Weidenfeld and the *Machazeh Avrohom*, Rav Avrohom Menachem Halevi Steinberg, *Av Beis Din* of Brody - who only permitted 'b'hefsed merubah v'shaas hadchak gadol' and if otherwise the fruits would all rot in the field; however, in a later responsa, *Shu"t Machazeh Avrohom* vol. 1: 146, end s.v. *amnam*, he later retracts and states simply 'kasheh lehakel b'shel Yisrael'), *Shu"t Meishiv Davar* (vol. 1: 50 pg. 117 s.v. *al dvar mischar*), *Toras HaShemitta* (pg. 28, note 33 and 34), *Chazon Ish* (*Sheviis* 13: 4 s.v. *Pesachim* and 15: 3), *Minchas Shlomo* (*Sheviis*, Ch. 6: 5), *Shu"t Emek Hateshuvah* (vol. 2: 1), *Chut Shani* (*Shemitta* Ch. 5, pg. 248 - 249), and *Minchas Asher* (*Sheviis*, *Tinyana* 14: 4; see however his recent *Kuntress Minchas Asher* on *Dinei Dalet Minim B'Motza'ei Sheviis* 2: 3, where Rav Weiss is *melamed zechus* by combining several *sevaros*, including the aforementioned *Rash*, along with the fact that nowadays people generally do not actually eat *Esrogim*, and their prime use is exclusively for the Mitzva, hence perhaps we do not need to worry about *Zman Biur* of *Esrogim*); all of whom maintain that the *Esrog* has a *Zman Biur*. See next footnote, as well as footnotes 28 and 29; many contemporary *sefarim* do not even cite this *hetter*]. **4)** Another novel approach is given by the *Maharsham* (*Mishpat Shalom*, *Kuntress Mishmeres Shalom* 231: 4; thanks are due to Dr. Steven Oppenheimer for providing this important source) and Rav Chaim Berlin (cited by the *Ridbaz* in his *Beis Ridbaz* commentary to the *Pe'as Hashulchan* on *Sheviis* Ch. 5: end 18, pg. 72b s.v. *shlama* and pg. 73b s.v. *umah*; also cited by Rav Pinchas Epstein in his letter and in *Peiros Sheviis* pg. 424, footnote 77 and *Kara Shemitta* pg. 100-101), who opine that it is conceivable that what the masses are being *somech* on upon sending *Esrogei Eretz Yisrael* to *Chutz La'aretz* is possibly that if they are grown exclusively for mass export, perhaps they do not contain *Kedushas Sheviis*. This seems to be the *Maharsham's* understanding of *Tosafos* in *Pesachim's* (52b s.v. Rav Safra) first *teirutz*, which implies that there is a *hetter* for *Schoirah* in *Chutz La'aretz*. [This will be addressed later in the article at length.] However, the fact that this rationale is not mentioned by any other authority and does not seem to fit with the basic *Shemitta* guidelines, makes this *chiddush* not simple to rely upon *lemaaseh*. Indeed, the *Ridbaz* (*ibid.*) concludes that he 'does not know of a single source to allow such a dispensation.' **5)** Another novel rationale for permitting commercially sending *Shemitta Esrogim* to *Chutz La'aretz* is put forth by Rav Yitzchok Yaakov Wachtfogel (cited in *Shu"t Degel Reuven* vol. 2: 31; quoted

in Rav Elyakum Devorkes' *Nesivei HaMinhagim, Chag HaSukkos* pg. 186), Rav Shlomo Zalman Bahran (cited in *Shu"t Avnei Kodesh* end 2), and the *Ridbaz (Kuntress Mishmeres Lehabayis* ibid.pg. 22), is that nowadays since most *Esrogim* are cultivated and grown for the *Mitzvah* and not for *achilah*, they would not contain *Kedushas Sheviis*. On the other hand, as pointed out in *Shu"t Machazeh Avrohom* (vol. 1: 146 s.v. v'ode), *Shu"t Degel Reuven* (ibid.), and *Shu"t Mishnas Yosef* (vol. 2: 24 - 29), this reasoning seems quite tenuous, as the *Esrog* has to be 'raui la'achilah' to be able to make a *brachah* on it (see *Gemara Sukkah* 35a-b). Additionally, as mentioned previously, the *Mishnah* and *Gemara* already stated that an *Esrog* has *Kedushas Sheviis*. It would therefore seem difficult to rely on this *sevara* at all. **6)** A sixth, but quite controversial method of exporting *Esrogim*, is via relying on 'Hetter Mechira,' which circumvents *Shemitta* restrictions by selling Israeli land and its produce for the duration of the *Shemitta* year to non-Jews. Utilizing this method would technically mean that Israeli *Esrogim* do not maintain *Kedushas Sheviis* status and may be sold as usual. However, historical possible reliance notwithstanding [see, for example, Rav Yechiel Michel Tukachinsky's *Sefer HaShemitta* at length (who devotes the entire second half of his *sefer* to the nuances of reliance on 'Hetter Mechira'); Rav Avrohom Yitzchak Hakohen Kook - one of the prime proponents of 'Hetter Mechira' b'shaas hadchak - wrote numerous responsa on topic, including *Shu"t Mishpat Kohen* (86 and 87) and the preface to his *Shabbos Ha'aretz* (Ch. 14 and 15); and more recently, R' Sam Finkel's fascinating, historical *Rebels in the Holy Land*], nowadays, the vast majority of contemporary *poskim* [see, for example *Chazon Ish* (*Sheviis*, Ch. 21: 8 and 9, Ch. 24, and Ch. 27: 7), *Kraina D'Igresa* (vol. 1: 154), *Shu"t Divrei Yoel* (vol. 1: 96, 6), *Shemitta Kehilchasah* (Ch. 'Hetter Mechira Bizmaneinu'), *Derech Emunah* (vol. 4, *Hilchos Shemitta V'Yovel* Ch. 8, *Tziyun Hahalacha* 7 and *Michtavim M'Maran Zt'l* 26-27), the *Badatz Eidah Hachareidis' Dvar HaShemitta* (and *Kol Koreh* printed in the beginning), *Orchos Rabbeinu* (new edition; vol. 3, pg. 258), and *Chut Shani* on *Hilchos Yom Tov v'Chol Hamoed* (*Michtavim* pg. 373-374) with *Kol Koreh* signed by Rav Yosef Shalom Elyashiv, Rav Shmuel Halevi Wosner, Rav Aharon Yehuda Leib Steinman, Rav Chaim Kanievsky, Rav Michel Yehuda Lefkowitz, Rav Nissim Karelitz, and Rav Yehuda Shapiro] categorically reject relying on or even utilizing the 'Hetter Mechira' for any purpose whatsoever, even as a 'snif lehakel.' On the other hand, it is known that several *poskim* including Rav Shlomo Zalman Auerbach (see, for example, *Maadanei Aretz, Sheviis*, Ch. 1; *Shu"t Minchas Shlomo, Kama* vol. 1: 44, 1 s.v. *ela* and vol. 3, 158: 4; and *Shulchan Shlomo* on *Sheviis*, end sec. 'Hetter Mechirah'), Rav Ovadiah Yosef (*Shu"t Yabea Omer* vol. 3, *Yoreh Deah* 19: 7; vol. 10, *Kuntress HaShemitta, Yoreh Deah* 37-44, at length; *Shu"t Yechaveh Daas* vol. 4: 53, pg. 267,

and his letter printed at the beginning of *Yalkut Yosef* on *Sheviis* and Ch. 25 ad loc. at length), and Rav Mordechai Eliyahu (*Shu"t Ma'amar Mordechai* vol. 5, 'V'shavsah Ha'aretz', 21), were of the opinion that there is validity to the sale *b'dieved* and that in extenuating circumstances one may indeed rely upon it, and the produce is permitted for consumption. It is also worthwhile to see Rav Meir Mazuz, *Rosh Yeshivas Kisei Rachamim* of Bnei Brak's impassioned defense of 'Hetter *Mechira*' nowadays (printed in *Techumin* vol. 35; 5775). Of course, the Israeli Chief Rabbinate relies upon it as well for their basic *hashgacha*. However, all things equal, it would certainly seem that with all of its inherent issues, using non-problematic produce would undoubtedly be a preferred option. See also *Shu"t Igros Moshe* (Y.D. vol. 3: 131) who refers those in *Chutz La'aretz* to ask *Gedolei Eretz Yisrael*, including the *talmidim* of the great *Rabbanim* who lived there, such as the *Chazon Ish* and Brisker Rav, how they should treat *Peiros Sheviis*. However, even Rav Avrohom Yitzchok *Hakohen* Kook wrote several *teshuvos* (*Shu"t Mishpat Kohen* *ibid.*) explaining that he held it only works in theory regarding sending *Shemitta Esrogim* to *Chutz La'aretz*, but not necessarily on a practical level, and concludes that if relying on it, one should still only do so in conjunction with *havla'ah* on the *Lulav*. To sum it up, utilizing 'Hetter *Mechirah*' to commercially sell *Shemitta Esrogim* in *Chutz La'aretz* would seem tenuous at best. **7)**

Interestingly, R' Yosef Kletzkin (in his *ma'amar* in *Kovetz Tzohar*, vol. 'Ohel Chanoach', Tamuz 5761) combines many of these divergent minority opinions and rationales (even though several are quite contradictory to each other), opining that irregardless of the reason or opinion, still, the fact that there are several approaches to advocate leniency should be sufficient for allowing shipping of *Kedushas Sheviis Esrogim* to *Chutz La'aretz*. He concludes with citing a passage brought in *Bris Olam* (pg. 41), "v'chol Yisrael b'chol tefutzos HaGolah haya michav'vim v'hayu mevorchim al Esrogei shel Eretz Yisrael Hakedoshim b'Kedushas Sheviis, u'Mitzvah goreres Mitzvah she'al y'dei Netilas Arbah HaMinim hayu mekaymim ode Mitzvah Chavivah - Yishuv Eretz Yisrael."

[20]See *Shu"t Meishiv Davar* (vol. 1: 50 pg. 117 s.v. *al dvar mischar*), *Kuntress Mishmeres Lehabayis* (printed at the end of the *Beis Ridbaz* version of *Pe'as Hashulchan* ppg. 22a – 23b; with published letters from the *Chazon Nochum* - Rav Nochum Weidenfeld , and the *Machazeh Avrohom* - Rav Avrohom Menachem Halevi Steinberg, *Av Beis Din* of Brody), Rav Shmuel Salant's posthumously published *Aderes Shmuel* (*Hilchos Terumos U'Maaseros* 303; pg. 313-314), *Chazon Ish* (*Sheviis* 13: 4 s.v. *Pesachim*), *Toras HaShemitta* (pg. 28, note 34), *Kraina D'Igresa*

(vol. 1: 150), *Seder HaSheviis* (7), *Shemitta Kehilchasah* (Ch. 3: 17), *Moadim U'Zmanim* (vol. 8, *Lekutei Ha'aros* to vol. 6: 54), *Teshuvos V'Hanhagos on Sukkos* (pg. 345 and 357-358: 2), *Derech Emunah* (vol. 4, *Hilchos Shemitta V'Yovel* Ch. 5: 96), *Shu"t Minchas Shlomo* (*Tinyana* 123: 9), *Halichos Shlomo* (*Moadim* vol. 1, Ch. 10: 30), *Shu"t Emek Hateshuvah* (vol. 2: 1), *Minchas Asher* (*Sheviis*, *Tinyana* 14: 4), and *Yalkut Yosef* (*Sheviis* Ch. 20: 16). It is also worthwhile to read Rav Yosef Shalom Elyashiv's *teshuvah* on topic from 5733 (printed in *Kovetz Halichos Sadeh* vol. 50, pg. 8-9: 6; reprinted at the end of *Mishpetei Aretz, Teshuvos HaGri"sh Elyashiv* 4) where he writes that sending a *Shemitta Esrog* (singular tense) to *Chutz La'aretz*, 'B'pashtus' violates a *Mishnah Mefureshes* in *Maseches Sheviis*, as well as the *Rambam*. He adds that although there are *Acharonim* who 'chatru limtzo hetter badavar,' (literally, tunneling or digging to find any sort of justification), nevertheless, he concludes that unless one's *parnassah* is entirely dependant on it, he should not 'act in this manner' of attempting exporting *Esrogim* to *Chutz La'aretz*. [He later concludes (*Mishnas HaGri"sh* *ibid.* Ch. 10:5) that if one cannot otherwise find a kosher *Esrog* in *Chutz La'aretz* (even just for *nanuim*) he may then take one out from Eretz Yisrael (or purchase it there), but return it (or have it returned) immediately after Sukkos to Eretz Yisrael before its *Zman Biur*. More on this later on.] Although *Tosafos* in *Pesachim* (52b s.v. Rav Safrā; first *teirutz*) implies that there is a *hetter* for *Schoirah* in *Chutz La'aretz*, the *Chazon Ish* (*ibid.*) amends the *girsa* to read a *hetter achilah*, and not *Schoirah*. Additionally, the *Pe'as Hashulchan* (22: 56) and *Chochmas Adam* (*Shaarei Tzedek, Shaar Mishpatei Ha'aretz* Ch. 11, *Binas Adam* 5), although with the original *girsa*, maintain that *Tosafos* meant 'ledavar mu'at, a small quantity' of merchandise. Others maintain that the *halacha* follows the second *terutz*, that it was *b'shogeg*; otherwise, it would be prohibited. This is addressed later in the article.

[21]This is essentially a *machlokes Rishonim* in the end of *Gemaros Sukkah* (39b) and *Yevamos* (122a) with Rabbeinu Tam taking the stringent approach and arguing on his grandfather, *Rashi*, who was lenient. Many other *Rishonim* take sides as well. In fact, the *Rambam* (*Hilchos Shemitta V'Yovel* Ch. 1: 12; however, see his *Shu"t Pe'er Hador* 15, where he seemingly changes his mind) writes that any produce being grown during *Shemitta*, whether intentional or not, must be uprooted! Yet, *Iemaaseh*, he implies that the actual produce is still permitted to be eaten (*Hilchos Shemittah V'Yovel* Ch. 5: 13 and Ch. 6: 1). In fact, *Tosafos* (*Kedushin* 52a s.v. *hamekadesh*) concludes similarly. Other *poskim* who allowed it (as they held the *issur* is only on the seller, and

not on the buyer) include the *Mabit* (*Shu"t* vol. 1: 21), the *Kapos Temarim* (*Sukkah* 39a), the *Noda B'Yehuda* (*Kama, Even Ha'ezer* 77 s.v. *umah shehavi mechutani*), *Ridbaz* (*Beis Ridbaz* glosses to *Pe'as Hashulchan* 5: 18; regarding taking abroad), and the Rogatchover *Gaon* (*Shu"t Tafnas Pane'ach HaChadashos* 94 s.v. *harbeh*). On a more contemporary note and quite interestingly, although the *Chazon Ish* (*Sheviis*, Ch. 26 *Seder HaSheviis* 1 s.v. *avar*) explicitly rules that such produce is forbidden for consumption, nevertheless it is widely quoted that he really held that it was *muttar me'ikar hadin*. See *Kovetz Igros Chazon Ish* (vol. 2: 162), *Kreina D'Igresa* (vol. 1: 147), *Orchos Rabbeinu* (vol. 2, *Sheviis* 81 and 82; however, the Steipler Gaon was stringent), *Derech Emunah* (vol. 4, *Hilchos Shemittah V'Yovel* Ch. 6, *Tzion Hahalacha* 12), *ChutShani*(*Sheviis*, Ch. 6: 1), *Shu"t Cheishev Ha'Eifod* vol. 1: 22), *Shu"t Mishnas Yosef* (vol. 3: pg. 149), *Dinei Sheviis Hashalem* (Ch. 22: 1), *Mishmeres HaSheviis* (Ch. 11: 7), and *Shevus Yitzchak* (*B'Dinei Sheviis U'Prozbol*, end Ch. 9). However, Rav Moshe Feinstein (*Shu"t Igros Moshe, Orach Chaim* vol. 1: 186) and Rav Shlomo Zalman Auerbach (*Shu"t Minchas Shlomo, Kama* 44: 1 s.v. *ela*) both outright permitted the food to be eaten. See also Rav Elazar Kahanow's *Toras HaSheviis* (Ch. 1-3) who avers similarly at length. This is also how it is cited *lemaaseh* in *Dinei Sheviis Hashalem* (Ch. 17: 2 and Ch. 27: 1). On the other hand, it is known that many *Gedolei Yerushalayim* of previous generations forbade such produce outright. Indeed, Rav Moshe Sternbuch, in his *Shemittah Kehilchasa* (Ch. 3: 17) cites several *machmirim* who forbid their consumption, including the *Raavad*, the *Ra"sh* and the Vilna Gaon, and cites that Rav Moshe Mordechai Epstein ruled that one should attempt to return them to *Eretz Yisrael*. He concludes that it is preferable not to consume such *Shemitta* produce in *Chutz La'aretz*, but rather leave them until they rot by themselves. Similarly, Rav Chaim Kanievsky (*Derech Emunah* vol. 4, *Hilchos Shemittah V'Yovel* Ch. 7, *Tzion Hahalacha* 125) concludes that it's preferable to rather try to send it back to *Eretz Yisrael*. Rav Yosef Shalom Elyashiv (*Kovetz Teshuvos* vol. 1: 232, 2; also cited briefly in *Derech Emunah* Ch. 6 *ibid.*) cites this issue as *machlokes* between the *Noda B'Yehuda* (*ibid.*) against the *Sefer Hamakneh* (*Kiddushin* 52a) and Rav Yitzchak Halevi (cited by the *Makneh*; see also his *Metaamei Yitzchak*, 17 and *Ketzos Hachoshen* 182: 2) whether or not the purchaser is also considered transgressing the *Issur* of *Sechora*. However, Rav Elyashiv's practical position (cited in *Shevus Yitzchak, B'Dinei Sheviis U'Prozbol* Ch. 9, pg. 88-89), citing precedent of the *Pe'as Hashulchan* and the Vilna Gaon, as well as that of the *Badatz* of the *Eidah Hachareidis* (in their *Dvar HaShemitta* 5775, 5: 1 and 2, pg. 56), citing precedents of the *Ridbaz* and Rav Chaim Berlin, that any produce that is *Shamor V'Ne'evad* is strictly forbidden to be eaten. For more on this topic, see *Mishpetei Aretz* (*Sheviis*, 19: 13 and

14), *Minchas Asher* (*Sheviis*, *Tinyana* 15: 2), and Rav Ezriel Auerbach's recent extensive *maamar* on topic in *Machon Madaei Technologia B'Halacha's Aspaklaria* (39; Nissan 5782) detailing the *halachic* issues with *sechora* of *Peiros Sheviis*.

[22]See *Chazon Ish* (*Sheviis*, 10: 6 s.v. *v'im* and *v'Esrogin*), *Shu"t Igros Moshe* (*Orach Chaim* vol. 1: 186 and *Orach Chaim* vol. 5: 42), *Toras HaSheviis* (1 - 3; at length), *Derech Emunah* (vol. 4, *Hilchos Shemitta V'Yovel* Ch. 5: 96), *Shu"t Videbarta Bam* (vol. 1: 176, 4 s.v. *al kol panim*), *Sefer Dinei Sheviis Hashalem* (Ch. 27: 9), *Hararei Kedem* (vol. 1: 142), and *Yalkut Yosef* (*Sheviis* Ch. 20: 14 and 16). This is also the *shittah* of several earlier *Acharonim*, that one does not need to make a *cheshbon* how these *Shemitta Esrogim* arrived on foreign shores; just that now they are there they may be used for a *brachah*. See *Shu"t Beis Yitzchok* (end *Yoreh Deah* 121), *Shu"t Maharash Engel* (vol. 2, *Yoreh Deah* 4), and *Shu"t Maharam Brisk* (vol. 1: 125). On the other hand, there are several *poskim*, including the *Imrei Yosher* (*Shu"t* vol. 1: 183), the *Machazeh Avrohom* (vol. 1: 146, end s.v. *amnam*), the Satmar Rebbe (*Shu"t Divrei Yoel* vol. 1: 96, 4), Rav Menashe Klein (*Shu"t Mishnah Halachos* vol. 12: 247 s.v. *u'mihu*), and Rav Moshe Sternbuch (*Shemitta Kehilchasah* Ch. 3: 17), who aver that the above only applies with other *sefeikos*, but one may not make a *brachah* on an *Esrog* that was *vaday Shamor* or *Ne'evad* from the field of a Jew (and especially if such was sent to *Chutz La'aretz*). The Steipler Gaon as well (*Kreina D'Igresah* vol. 1: 150) was *notteh* not to make a *brachah* on such an *Esrog* in *Chutz La'aretz*. Several of these *poskim*, as well as the *Mishmeres Shalom* (*Chaim U'Brachah*, *os shin*, 308) and the *Divrei Yisrael* (*Shu"t* vol. 1: 181; even while praising and publicizing preference to purchasing *Esrogim* grown in *Eretz Yisrael*, and even during *Shemitta*), point out that the case the *Beis Yitzchok* was *paskening* was regarding *Esrogim* grown by non-Jews on their own land in *Eretz Yisrael* - that was then sent to *Chutz La'aretz*, which is why it was permitted (and even preferred over other types of *Esrogim*). They maintain that if was grown on Jewish land it may not have been. A similar ruling was given by the *Sha'arei Deah* (*Shu"t* 8), after citing various '*sniffim lehakel*,' that the above *hetter* only applies *lechatchillah* with a *Shemitta Esrog* grown on a non-Jew's land; on the other hand, if grown on Jewish land during *Shemitta* one may only be '*tzaded lehetter b'shaas hadchak*'. As mentioned previously, following this nowadays would not prove simple, as the vast majority of *Esrog pardessim* in *Eretz Yisrael* are under Jewish ownership. See next footnote.

[23]*Shu"t Videbarta Bam* (vol. 1: 176, 4 s.v. *al kol panim*) based on *Shu"t Igros Moshe* (*Orach Chaim* vol. 1: 186), and *Chazon Ish* (*Sheviis*, 10: 6). See also Rav Elazar Kahanow's *Toras HaSheviis* (1-3; at length). These *poskim* contend that there is also no *issur* of *lifnei iver* by purchasing these *Esrogim*, as the sellers had whatever *shittah* or *sevara* to rely upon, however contentious and tenuous they may be *lemaaseh*. Therefore, the *issur* is strictly incumbent upon them, and not the purchaser. Even so, several of these *poskim* maintain a preference, if at all possible, for non-*Shamor* or *Ne'evad Esrogim* [see, for example *Orchos Rabbeinu* (new print; vol. 3 pg. 263: 9, pg. 264: 15, pg. 273: 51), *Shemitta Kehilchasah* (Ch. 3: 17), *Sefer Dinei Sheviis Hashalem* (Ch. 27: 9), and *Yalkut Yosef* (*Sheviis*, Ch. 20: 14).] On a practical level, this might mean if one is in *Chutz La'aretz* and his choices of *Esrogim* are exclusively between an *Otzar Beis Din* or *Hetter Mechirah Esrog*, although both might have gotten there *b'issur*, there might be a preference to choose the *Otzar Beis Din Esrog*.

[24]*Shu"t Igros Moshe* (*Orach Chaim* vol. 5: 42 s.v. *u'lchein*).

[25]*Pe'as Hashulchan* (24: 56) and *Chochmas Adam* (*Shaarei Tzedek*, *Shaar Mishpatei Ha'aretz* Ch. 11, *Binas Adam* 5).

[26]*Pirush HaRash* (*Sheviis*, Ch. 6, *Mishnah* 5). The *Rambam* (*Hilchos Shemitta V'Yovel* Ch. 6: 1) also does not seem to make a distinction, and rules the all commercial merchandising is *assur*. Interestingly, both the *Pe'as Hashulchan* (*ibid.*) and *Chochmas Adam* (*Shaarei Tzedek* Ch. 17: 24) actually conclude that the *ikar* follows the second answer.

[27]*Chazon Ish* (*Sheviis* 13: 4 s.v. *Pesachim*), *Sefer Mishpetei Aretz* (*Sheviis*, Ch. 20: 3 - footnote 6). See also *Sefer Peiros Sheviis* (pg. 201), *Chut Shani* (*Shemitta* Ch. 5: 13), and *Kovetz M'Beis Levi* (vol. 16, pg. 35).

[28]See the *Chazon Ish's* letters published in *Orchos Rabbeinu* (new print; vol. 3 pg. 272 - 273), as well as the *Steipler Gaon's hanhaghos* based on them, *Kreina D'Igresa* (vol. 1: 151), *Derech Emunah* (vol. 4, *Hilchos Shemitta V'Yovel* Ch. 5: 96 and *Michtavim M'Maran Zt"l* #27), *Shu"t*

Teshuvos V'Hanhagos (vol. 2: 560) and *Shemitta Kehilchasah* (Ch. 3: 17) - citing *sefer Pri Eitz Chaim* that the Brisker Rav and Rav Isser Zalman Meltzer personally relied on this *hetter* (the Brisker Rav's letter to Rav Meltzer was recently republished in *Kovetz Tzohar*, vol. 'Ohel Chanoach', Tamuz 5761 pg. 529), *Sefer Dinei Sheviis Hashalem* (Ch. 27: 7), *Sefer Mishpetei Aretz* (Sheviis, Ch. 20: footnote 6), *Minchas Asher* (Sheviis, *Tinyana* 14: 4), and *Yalkut Yosef* (Sheviis, Ch. 20: 16). However, it is known that Rav Shlomo Zalman Auerbach would not rely on this *hetter* unless someone was literally stuck in *Chutz La'aretz* with no alternative *Esrog* (*Halichos Shlomo*, *Moadim* vol. 1, Ch. 10: 30 and footnote 115). Similarly, Rav Yosef Shalom Elyashiv wrote (responsum printed in *Kovetz Halichos Sadeh* vol. 50, pg. 8 - 9: 6) that sending a *Shemitta Esrog* (singular tense) to *Chutz La'aretz* is 'B'pashtus' against a *Mishnah Mefureshes* in *Maseches Sheviis*, as well as the *Rambam*, and concludes that one should not do so unless one's *parnassah* is entirely dependant on it.

[29]See *Orchos Rabbeinu* (old print vol. 2 pg. 331; new print, vol. 3 ppg. 272-273), *Kreina D'Igresa* (vol. 1: 151), *Derech Emunah* (vol. 4, *Hilchos Shemitta V'Yovel* Ch. 5: footnote 179), and *Chut Shani* (*Shemitta* Ch. 5, pg. 248 - 249). The reason for this is that the *Zman Biur* for *Esrogim* is unclear. The *Chazon Ish* was *choshesh* that it is in *Tishrei* [the *Maharil Diskin* (cited in *Shu"t Mishnas Yosef* vol. 3: 34, pg. 179) held that this is the *Esrog's* the *Zman Biur* as well], and therefore mandated the *Esrog's* cooking and eating immediately after the conclusion of *Sukkos*. This was also the approach of the *Netziv* (his letter is printed in his *Shu"t Meishiv Davar* vol. 1: 50). [On the other hand, other *poskim* hold that the *Esrog's* *Zman Biur* is later in the year and therefore many mandate shipping the *Esrog* back to *Eretz Yisrael* for its *Biur*. See next footnote.] However, several contemporary *poskim*, including Rav Moshe Sternbuch (*Shemitta Kehilchasah* Ch. 3: 17; in the footnote), Rav Dovid Feinstein (cited in *Shu"t Videbarta Bam* vol. 1: 176, 6, pg. 450 s.v. *v'shamaati*), and Rav Asher Weiss (*Minchas Asher*, *Sheviis*, *Tinyana* 14: 4), question the need to eat the *Shemitta Esrog* in *Chutz La'aretz* immediately after *Sukkos*, as several *Rishonim* are of the opinion that the reason for the proscription of taking *Kedushas Sheviis* produce out of *Eretz Yisrael* in the first place is because one may not eat such produce out of *Eretz Yisrael*.

[30]This is so that both the *Esrog's achilah* and / or *Biur* are performed in *Eretz Yisrael*. See *Shu"t Tzitz HaKodesh* (vol. 1: 15, 5), *Shemitta Kehilchasah* (Ch. 3: 17; citing Rav Moshe Mordechai Epstein), *Minchas Shlomo* (Sheviis, Ch. 6: 5), *Halichos Shlomo* (*Moadim* vol. 1, Ch.

10: *Dvar Halacha* 48), *Sefer Dinei Sheviis Hashalem* (Ch. 27: 8), *Mishmeres HaSheviis* (22: 10), and *Mishnas HaGri"sh* (*Peiros Sheviis*, Ch. 10:5). This is seemingly in line with Rav Shmuel Salant's ruling (see *Sefer HaShemitta*, Ch. 9: 9, note 4; and quoted by several later *sefarim*) that the *Zman Biur* of the *Esrog* is generally in *Shevat*. See also *Shu"t Mishnah Halachos* (vol. 12: 247) who writes that if at all possible then the *Esrog* should be sent back to *Eretz Yisrael* after *Sukkos*, if not, then it should be eaten right away in *Chutz La'aretz*, before its *Zman Biur*. On the other hand, Rav Moshe Feinstein (*Shu"t Igros Moshe, Orach Chaim* vol. 5: 42) holds that *lema'aseh* there is no actual *issur achilah* of *Shemitta* produce in *Chutz La'aretz*, implying that one is not mandated to send it back to *Eretz Yisrael*. [Interestingly, Rav Moshe (see *Dibros Moshe* on *Kedushin* 2, *anaf* 6 s.v. *v'nimtza* and on *Bava Kamma* 73; also addressed in *Shu"t Videbarta Bam* vol. 1: 176, 5 s.v. *v'shamaati*, pg. 448, citing Rav Dovid Feinstein) was of the opinion to be *choshesh lechatchillah* for the opinion that *Zman Biur* is dependant on when the fruit is picked (*basar lekitah*) and therefore an *Esrog's Zman Biur* is potentially on *Erev Rosh Hashanah* of the eight year. He therefore holds that one should preferably obtain an *Esrog* that was picked after *Rosh Hashanah*. Alternatively, he advises to be *mafkir* one's *Shemitta Esrog* before the onset of *Rosh Hashanah* and then immediately re-acquire it. In this way one can fulfill his *Biur* obligation. This was detailed at length in previous articles.] Rav Moshe Sternbuch (*Shemitta Kehilchasah* Ch. 3: 17) seemingly agrees and although preferring that these *Esrogim* get sent back to *Eretz Yisrael*, nevertheless concludes that in *Chutz La'aretz*, *me'ikar hadin* one may leave these *Shemitta Esrogim* out until they rot and then may disposed of them in a proper manner.

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda.