TREATY NEGOTIATIONS IN BRITISH COLUMBIA: THE UTILITY OF GEOGRAPHIC INFORMATION MANAGEMENT TECHNIQUES

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Abstract / Résumé

This paper provides a motif through which we can view the interplay between geography and Aboriginal land claims in British Columbia. While the theme concerns the significance of geographic techniques in claims settlement, the paper acknowledges that problems surrounding negotiations cannot be resolved through the perspective of any single academic discipline. Successful negotiation requires a multi-disciplinary approach and an explicit recognition of the views and aspirations of Aboriginal people.

L'article présente un motif par lequel on peut voir l'interaction entre la géographie et les revendications de terres par les Autochtones en Colombie-Britannique. Alors que le thème concerne l'importance des techniques géographiques dans le règlement des revendications, l'article reconnaît que les problèmes de négociations ne peuvent être résolus par une seule et unique discipline théorique. Une négociation couronnée de succès exige une approche multi-disciplinaire et une reconnaissance explicite des opinions et aspirations des Autochtones.

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Introduction

The present socio-economic and political character of British Columbia was shaped by the dynamics of frontier settlement in the 19th and early 20th centuries (Tennant, 1990). For Aboriginal people, frontier settlement meant forcible dispossession of their land and resettlement on Reserves (Bartlett, 1991). With the notable exceptions of the Douglas treaties of the 1800s and Treaty #8 (signed between the federal government and some Aboriginal groups in northeastern British Columbia), Indian Reserves and early European settlements in British Columbia were established without any treaty negotiations (Bartlett, 1991). Insufficient land allotments to Aboriginal people deprived them of their fishing, trapping, and hunting grounds (British Columbia Ministry of Native Affairs, 1989, 1990). Unfortunately, neither the federal nor the provincial government accepted responsibility for redressing the Aboriginal land question. Whether by design or accident, the Terms of Union that consolidated the marriage between British Columbia and Canada in 1871 did not address the issue (Council of Forest Industries of British Columbia, 1989; British Columbia, Ministry of Native Affairs, 1990). The impasse surrounding Aboriginal rights has surfaced in several court cases, including the Calder case of 1973 and the Sparrow case of 1984. In the former *(Calder v. Attorney General of British Columbia),* the Nisga'a people of British Columbia asked for a declaration that they had Aboriginal rights on their traditional land. The Supreme Court of Canada affirmed that Aboriginal title existed in common law, but the court was split on whether or not Aboriginal title had been extinguished in British Columbia (Bartlett, 1990). In the latter case (*R.* v. *Sparrow),* Ronald Sparrow, a member of the Musqueam Indian Band in British Columbia, was charged under the *Federal Fisheries Act for using* an illegally-sized drift net. Sparrow contended that his Aboriginal right to fish was guaranteed in the 1982 Constitution. In 1990, the Supreme Court of Canada accepted his defence and dropped the original conviction.

Against the background of these court decisions, the government of British Columbia has declared its commitment to negotiating treaties with Aboriginal people in the province (Cassidy and Bish, 1989; British Columbia, Ministry of Aboriginal Affairs, 1994b; 1994c). In furtherance of this, the government has recently created several agencies, including the Land Claims Implementation Group,[1] the British Columbia Claims Task Force,[2] the British Columbia Treaty Commission,[3] and the Land Claims Registry,[4] to facilitate treaty negotiations in the province.

Central Theme and Objectives

The treaty negotiation process in British Columbia faces a wide range of issues: What constitutes a fair and affordable compensation? How can the government maintain a province-wide standard for resource management and environmental protection in treaty negotiations? What are the appropriate measures for the protection of Aboriginal cultural sites? And how do we resolve overlapping land claims? The insistent premise of this paper is that since most of these questions concern matters of human group territoriality[5] and resource control, they can best be addressed with the aid of relevant geographic information and techniques. Among other things, we can determine land resource potential, realistic resource development policies, and fair compensation for land claimants through the use of sound geographic data and techniques. Furthermore, some of the concerns (and perhaps sensationalism) about overlapping claims in British Columbia (The Vancouver Sun, Friday, March 31,1995; Saturday, April 1, 1995; Tuesday, April 4, 1995; Thursday, April 6, 1995) can be addressed with the aid of relevant geographic data. It is argued that one of the major issues facing the B.C. government in treaty negotiations is the lack of a comprehensive data base that permits the integration, storage, and mapping of the spatio-cultural diversity of First Nations across the province.

This paper examines the treaty negotiation process in British Columbia and identifies the areas where geographic data and tools may be crucial for prudent decision making. The specific research objectives are twofold:

a) To highlight the characteristic features of treaty negotiations in British Columbia.

b) To examine the utility of geographic information and techniques in land claims negotiation.

While the synthesizing theme of the paper relates to the importance of geography in treaty negotiations, the paper acknowledges that standing alone, however, geography and geographic tools cannot contribute much to the settlement of land claims. It is reasoned that successful treaty negotiations depend on logical and legal persuasions couched in an explicit recognition of the diverging perspectives among government and Aboriginal negotiators. Following a brief overview of land claims in British Columbia, the paper examines the strengths and weaknesses of geographic techniques in treaty negotiations. It concludes with some general remarks on the benefits of treaty settlements in the province, and, consequently, the need to address the issues raised herein.

Contemporary Treaty Negotiations in British Columbia

The development of initiatives on Aboriginal land claims in British Columbia has been closely tied to court decisions and federal policies (Cassidy and Bish, 1989). Following the federal government, the province has been attempting to resolve two broad categories of land claims: specific claims and comprehensive claims.

Comprehensive Claims

Comprehensive claims deal with parts of the province where Aboriginal rights have never been surrendered by treaty. They involve a wide range of issues: financial compensation, land ownership, land use rights, and political rights. For a comprehensive claim to be accepted tot negotiation, the Aboriginal claimants must, among other things, demonstrate that they have occupied the territory over which they assert Aboriginal title since "time immemorial;" that they continue to occupy and use the land for some traditional purposes; and that their Aboriginal rights and title to the land have never been dealt with by treaty or any other legal means (Indian and Northern Affairs Canada, 1993:5-6).

Over the years, the province has argued that the Terms of Union gave the federal government trusteeship and management of Aboriginal land, and that Canada must bear the burden of treaty settlements (British Columbia, Ministry of Native Affairs, 1990). However, in response to recent court decisions and mounting public pressure, the British Columbia government is now expediting treaty settlements, using some guiding principles: open negotiation; protection of private property; and the payment of fair and affordable compensation to claimants (British Columbia, Ministry of Aboriginal Affairs, 1994a; 1994b; 1994c). Despite these initiatives, the resonant mixture of political and constitutional issues in treaty negotiations have undermined any significant movement toward the settlement of comprehensive claims in the province (Council of Forest Industries of British Columbia, 1989). Tables 1 and 2 summarize the major features of comprehensive claims in British Columbia. As of October 1989, 19 comprehensive claims, covering an estimated 703,832 sq. km of land, had been accepted for negotiations; three others, initiated by the Musqueam, the Sechelt, and the Homalco Bands, were under review during the same period (Tables 1 and 2). Figure 1 shows the approximate boundaries of these comprehensive claims.

Table 1: British Columbia: Comprehensive Claims Accepted For Negotiations By October, 1989

Aboriginal Group	Year	Land Area (Sq. km)
Nisga'a Tribal Council	1974	12,950
Kitwancool Band	1977	7,770
Gitksan-Wet'suwet'en Tribal Council	1977	51,800
Kitimaat Village Council (Haisla Nation)	1978	10,360
Association of United Tahltans	1980	108,780
Nuu-Chah-Nulth Tribal Council	1983	15,540
Council of Haida Nation	1983	10,360
Heiitsuk Nation	1983	15,540
Nuxalk Nation (Bella Coola)	1983	15,540
Nazko-Kluskus Band	1983	20,720
Kaska Dena Council	1983	62,160
Carrier-Sekani Tribal Council	1983	176,120
Alkali Lake Band	1983	4,532
Taku Tlingit (Atlin Band)	1984	2,590
Allied Tsimshian Tribes	1987	10,360
Council of the Tsimshian Nation	1987	13,500
Nlaka'pamux Nation (Thompson Salish)	1987	25,900
Kootenay Indian Area Council	1987	71,225
Kwakiutl First Nations	1988	46,620
Total Claims Area		703,832
Total Area of British Columbia		932,400

Source: B.C. Ministry of Native Affairs, 1990.

Table 2: British Columbia: Claims Under Review By October 1989

Aboriginal Group	Year	Land Area (Sq. kin.)
Musqueam Band	1984	1,243
Sechelt Band	1984	5,693
Homalco Band	1985	3,237
Total Claim Area Under Review		10,178

Source: B.C. Ministry of Native Affairs,1990

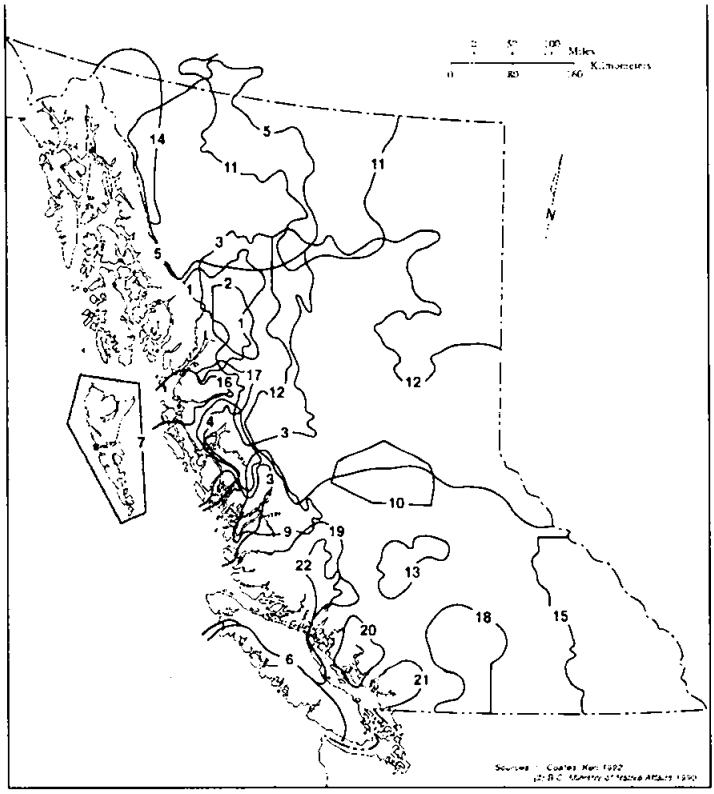

Figure 1: Approximate Boundaries of Comprehensive Land Claims in British Columbia, 1989.

Specific Claims

These claims result from Aboriginal grievances relating to the administration of Reserve land and other assets under the Indian Act, or with respect to other formal agreements. Specific claims can be initiated whenever First Nations feel that the terms of an existing treaty have not been fully discharged. In British Columbia, most of the specific claims result from disputes over "cut-off" lands; in 1916, following the recommendations of a Royal Commission, the sizes of 34 provincial Indian Reserves belonging to 22 Bands were arbitrarily reduced or "cut-oft'without the consent of Indians, hence the term "cut-off" claims. Negotiations to redress the issues surrounding "cut-off" land started in the mid-1970s. By 1991, 15 of the Bands had been compensated; negotiations continue with the remaining Bands (British Columbia, Ministry of Native Affairs, Annual Report 1989/90; 1990/91; British Columbia New Democratic Party, 1990).

The Utility of Geographic Techniques in Treaty Negotiation

Now that we have identified the main features of land claims in the province, the immediate task at hand is to assess the role of geographic methods in specific areasof the treaty negotiation process.As noted above, for a comprehensive claim to be legitimized,there should be evidence that the Aboriginal claimants have occupied and utilized the land since 'lime immemorial". The question, then, is how can this be ascertained in a manner that satisfies the parties involved in the negotiation process?

It is peculiarly hard to marshall comprehensive information on human land use spanning from 'time immemorial." To begin with,there are enormous difficulties in linking archaeological deposits from various historic activity spaces, such as hunting, fishing, and ceremonial sites,with specific contemporary Aboriginal groups.There is also the issue of how to integrate information as diverse as traditional knowledge, myth, genealogical records, toponymy, and oral history to provide meaningful profiles of the land use patterns of Aboriginal groups. Doubly problematic is how to presentthis information to an audience of a different cultural background in a potentially adversarial negotiation.

In cataloguing and presenting information on the relationships between First Nations and the land they occupy or used to occupy, the tool of mapping may be exceptionally effective. Maps can be employed to draw out the stages of human occupancy of a particular land. Geographers can use the techniques of toponymy and mental mapping to capture the relevant

historical and psychological dimensions of Aboriginal land use. Obviously, some of the information derived through these methods may be vague or ill-formed; nonetheless, with systematic analyses, some general trends will emerge.

In addition, the modem techniques of electronic cartography and Geography Information Systems (GIS) can be employed to expedite the management and analysis of relevant information on Aboriginal land use and occupancy. GIS is a computer-based technique for assembling, storing, manipulating, and displaying geographically referenced information. A GIS data base is typically composed of multiple graphic and non-graphic (or textual) information managed by a software. While some will argue, with merit, that speed and accuracy are important advantages of the GIS technology (Duerden and Keller, 1992), it is apposite to note that these benefits can be attained only after issues of data integrity are addressed. Perhaps the more significant advantages of GIS are in effective information management and replication, mere powerful archiving and querying functions, and the ability to model land use and resource potential in an iterative fashion. It is worth noting that GIS research is currently being undertaken by some Aboriginal groups (e.g., the Shuswap and Haida First Nations) and various government ministries in British Columbia, including the Ministry of Forests, in the area of integrated resource management thai includes some aspects of First Nations cultural heritage.

Another area where geographic techniques have a great potential relates to resource evaluations. Within the framework of treaty negotiations, Aboriginal people are expected to surrender their rights to land in return for various compensations from the provincial and federal governments. For the process to be fair, there should be a comprehensive evaluation of the resource potential of the land under negotiation. This will not only be useful in determining the appropriate compensation, but will also help in identifying parcels of land to be reserved for First Nations as part of the land claim.

It is long established that "[r]esources are not, they become; they are not static but expand and contract in response to human wants and human actions" (Zimmermann, 1951:15). Consequently, resource evaluation involves several subjective questions: What aspects of the land constitute resources? In what quantity and quality do these resources exist? How are they spatially distributed? What are their relative values in social and economic terms? And what are the possible environmental and social consequences of future resource development projects? Given the inherent subjectivity of resource evaluation, analysts need to gather more information on the basic understanding, perceptions, and preferences of First Nations regarding the value of land. This will help negotiators appreciate

the relative importance of different environmental attributes to Aboriginal people. Aboriginal Canadians express their attachment to land not only in economic terms, but also in aesthetic, nostalgic, emotional, spiritual, and cosmological terms; and data on Aboriginal environmental perception and spatial preferences are particularly significant in this context.

With the aid of GIS, and other techniques, such as environmental perception surveys, land capability surveys, and land use analysis, some geographers (e.g., Duerden and Associates, 1986; Riewe, 1988; and Shute and Knight, 1995) have evaluated not only the physical characteristics of Aboriginal land, but also the values and perceptions that Aboriginal people load onto the physical attributes of their land. One of the most profound ironies of treaty negotiations, according to Coates (1992), is that the matter has not yet assumed a truly Aboriginal perspective. In the words of Coates (1992"4), "rather than focus on native concepts of occupation, ownership, and transference of control, land claims discussions have remained within the constraints of the British/Canadian legal system." As with all human populations, Aboriginal spiritual and other beliefs colour their perspectives of land, and these perspectives are often diametrically different from those of non-Aboriginal Canadians (Shute and Knight, 1995). Yet, unless these diverging standpoints are somehow reconciled, the success of treaty negotiations may be seriously curtailed.

Geographers can also make significant contributions in assessing both the direct and indirect impacts of resource development projects on Aboriginal lands. Impact assessment may provide information on the possible negative consequences of resource development projects, and help determine what constitutes a fair compensation for the affected Aboriginal group. Unless the concerns of Aboriginal people regarding future projects are incorporated into treaty negotiations, Aboriginal roadblocks, such as the Adam Lake, Douglas Lake, and Gustafsen Lake blockades of the summer of 1995, will continue to be an integral part of resource development across the province.

The main political goal of Aboriginal people in treaty negotiations is to control the administration of Aboriginal resources and services on Aboriginal land; all the major Aboriginal initiatives in the province (e.g., the *Sechelt Indian Band Self-government Act* of 1986) express this desire. Several commentators agree that issues of Aboriginal self-government and Aboriginal land claims are intricately interwoven (Tennant, 1990; Coates, 1992; Wolfe, 1994). For an effective self-government, First Nations have to establish well defined territorial boundaries, without which they may have difficulties in regulating social interaction and group membership within their territories. Well demarcated boundaries may aLso help develop the emo-

tional bond that distinguishes between members of different cultures (de Blij, 1993). Geographers can play an important role in the survey and delimitation of Aboriginal boundaries across the province. In dealing with Aboriginal boundaries, geographers need to take cognisance of the difference in land tenure and ownership that exist between, say, the relatively sedentary coastal groups (e.g., Musqueam and the Sechelt First Nations) and the mobile forager groups in the interior (e.g. the Nazko-Kluskus and the Carrier-Sekani First Nations).

Potential Difficulties and Weaknesses

Despite the obvious significance of geography and geographic techniques in treaty negotiations, it may be utterly simplistic to suggest that the convoluted issues of land claims settlement can be addressed through the perspective of a single academic discipline, or by merely resorting to more high-tech devices. Events surrounding Abodginal land claims of the past decades, examined in retrospect, suggest that successful treaty negotiations require a pluralistic approach, grounded in an honest appreciation of the perceptions and aspirations of Aboriginal people. Before drawing this paper to a close, the present section identifies some of the potential difficulties and weaknesses of geographic information management technology in treaty negotiations. The discussion invokes two simple points: that like all techniques, geographic information management technology is only a means to an end; and that the technology is only as useful and accurate as the original data permit.

By far, the biggest problem in using geographic techniques for Aboriginal land claims relates to data collection. Building a large collection of geographically referenced data on Aboriginal land use patterns in a computer-based system is expensive, time-consuming, and problematic. The data base for a geographic information management technology is typically made up of a digital description of map features, logical geographic relationships among various attributes, and textual information that describes features found in specific locations (Antenucci *et al.*, 1991). The cost of building the data base can vary depending on the level of accuracy to be achieved, the condition of source materials, and the extent of data conversion--i.e., the changing of graphic and non-graphic data into computer-readable format--required (Antenucci *et al.*, 1991). Without elaborate and well-tested quality control procedures, the integrity of the data can be easily compromised. Faced with a vast amount of highly disjointed historical, cosmological, mythical, and genealogical information spanning from 'lime

immemorial," we can appreciate the difficulties encountered by analysts in attempting to ensure data integrity in this respect.

Another basic problem in mapping Aboriginal territories for land claims negotiations concerns scale (i.e., the ratio between distance on a map and corresponding distance on the ground). What is the appropriate scale of resolution for the wide variety of data relating to Aboriginal land use and occupancy? In geographic work, relationships that may be reasonable at one scale may be absurd at a different scale. Generally, as the scale of a map becomes smaller, the density of data per unit area increases, and it becomes necessary to reduce the level of detail to produce a meaningful map. Currently, the best available topographic representations of British Columbia are the 1:50,000 maps produced by the National Topographic System (NTS). At this scale, it is difficult to map some of the subtle landscape features of First Nations, such as small ceremonial sites, narrowly circumscribed family-owned fishing sites, and weakly defined hunting grounds, that figure prominently in the Aboriginal cultural landscape.

The sacred nature of some information about Aboriginal lands is yet another hurdle facing geographers and other scientists gathering Aboriginal data for treaty negotiations. As with all traditional societies, some of the relevant information on Aboriginal land might be sacrosanct, and, therefore, not to be explicitly discussed, mapped, or made available to outsiders for fear of defiling its sanctity. These are some, but by no means all, the potential difficulties in the use of geographic techniques in treaty negotiations.

Conclusion

This paper has briefly examined the role of geographic information and techniques in treaty negotiations in British Columbia. The paper argues that several of the issues surrounding treaty negotiation in British Columbia are inherently geographic, and can, therefore, be addressed through the aid of geographic data and methods. The province as a whole stands to benefit from Aboriginal treaty settlements. Among other things, they inject huge sums of federal money into the local economy, stimulate sustainable economic development in Aboriginal communities, reduce investment uncertainties in the province, and enhance resource development throughout the province. Consequently, it is in the interest of both Aboriginal and non-Aboriginal British Columbians for the government to address the Issues raised in this paper to facilitate treaty negotiations.

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Notes

1. The Land Claims Implementation Group co-ordinates the activities of several inter-ministry committees and working groups engaged in data collection and policy analysis.
2. Established by the province in December of 1990, in conjunction with the federal government and Aboriginal people, the Claims Task Force provides advice to all three parties on the scope and processes of land claim negotiations.
3. The Treaty Commission oversees tripartite treaty negotiations. It was created by the government of British Columbia, in association with Canada and First Nations.
4. Established by the British Columbia government in September of 1990, the Land Claims Registry receives and assesses claims once they have been accepted for negotiations by the federal government.
5. Territoriality refers to the attempt by a group to establish control over a clearly demarcated region.

References

Antenucci, J.C., K Brown, P.L. Croswell and M.J. Kevany

1991 *Geographic Information Systems: A Guide to the Technology.* New York: Chapman and Hall.

Bartlett, Richard H.

1991 *Resource Development and Aboriginal Land Rights.* Calgary: Canadian Institute of Resources Law, University of Calgary.

1990 *Indian Reserves and Aboriginal Lands in Canada: A Homeland.* Saskatoon: University of Saskatchewan, Native Law Centre.

British Columbia, Ministry of Aboriginal Affairs

1994a *Excerpts from Premier Mike Harcourt's Speech with Regard to Aboriginal Issues,* UBCM Convention, September 23. Victona: British Columbia Ministry of Aboriginal Affairs.

1994b News Release: Province Release all Pre-Treaty Agreements to Public. Victoria: British Columbia Ministry of Aboriginal Affairs.

1994c *Summary of the B. C. Government Approach to Consultation on Treaty and Pre-Treaty Negotiations.* Victoria: British Columbia Ministry of Aboriginal Affairs.

British Columbia, Ministry of Native Affairs

1990/91 *Annual Report.*

1989/90 *Annual Report.*

1990 *Indian Land Claims in British Columbia.* Victoria: British Columbia Ministry of Native Affairs.

1989 *Native People and the Land.* Victoria: British Columbia Ministry of Native Affairs.

Cassidy, Frank and R.L. Bish

1989 *Indian Government: Its Meaning in Practice.* Halifax: Institute for Research on Public Policy.

Coates, Ken

1992 Introduction, pp. 1-10, in K Coates (Editor): Aboriginal Land *Claims in Canada: A Regional Perspective.* Toronto: Copp Clark Pitman Ltd.

Council of Forest Industries of British Columbia

1989 *A Third Party Perspective: The Forest Industry.* Background Paper on Native Land Claims in British Columbia. Vancouver: Council of Forest Industries of British Columbia.

de Blij, H.J.

1993 *Human Geography: Culture, Society, and Space.* Toronto: John Wiley & Sons, Inc.

Duerden, Frank and C.P. Keller

1992 GIS and Land Selection for Native Claims. *Operational Geographer* 10(4):11-14.

Duerden, Frank and Associates

1986 *Yukon Indian Lands Potential Atlas.* Whitehorse: Council of Yukon Indians.

Indian and Northern Affairs Canada

1993 *Federal Policy for the Settlement of Native Claims.* Ottawa: Indian and Northern Affairs Canada.

Riewe, R.

1988 Land Use Mapping and Regional Variations Within Nunavut, pp. 80-85 in *Polar Science, Technology and Information.* Ottawa: Association of Canadian Universities for Northern Studies.

Shute, J.J. and D.B. Knight
1995 Obtaining an Understanding of Environmental Knowledge: Wendaban Stewardship Authority. *The Canadian Geographer* 39(2):101-111.

Tennant, Paul
1990 *Aboriginal People and Politics: The Indian Land Question in British Columbia, 1849-1989.* Vancouver: University of British Columbia Press.

Vancouver Sun
1995 Friday, March 3, 1995; Saturday, April 1, 1995; Tuesday, April 4, 1995; Thursday, April 6, 1995.

Wolfe, Jackie
1994 First Nations' Strategies for Reintegrating People, Land Resources and Government, pp. 239-270, in J. Andrey and G. Nelson (Editors): *Public Issues: A Geographical Perspective.* Waterloo: University of Waterloo Press.

Zimmermann, Eric W.
1951 *World Resources and Industries.* New York: Harperand Brothers.