The General Assembly and the Rule of Law: Daring to Succeed?
– The Perspective of Member States

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I. Introduction

On 13 September 2006, the General Assembly decided to include in its agenda the item entitled The Rule of Law at the National and International Levels. The decision was taken without a vote and with broad support by Member States from all regions. There seemed nothing controversial about the proposition that the General Assembly was “uniquely positioned to [...] promote universal adherence to the concept of the rule of law, in particular at the international level”. In fact,
it seemed rather surprising that the rule of law had not already for
many years been a formal item on the agenda of the General Assembly,
given the role assigned to the Assembly under Article 13 of the United
Nations Charter for the progressive development of international law
and its codification. However, addressing the rule of law as a compre-
prehensive concept is a rather recent phenomenon for the General Assem-
bly.\footnote{For some of the history in that regard see T. Fitschen, in this Focus.}
This development received a decisive boost with the adoption of
the World Summit Outcome (WSO)\footnote{A/RES/60/1 of 16 September 2005.}
on 16 September 2005, following
many months of lengthy negotiations. The WSO contains numerous
references to the rule of law as well as to international law, and pro-
vided a springboard for Member States interested in the rule of law to
follow-up on those ideas in the context of the General Assembly. The
Sixth Committee’s work under the agenda item The Rule of Law at the
National and International Levels would serve as the center of gravity
for these activities.

This article intends to shed some light on the positions of United
Nations Member States regarding the rule of law, with particular em-
phasis on the rule of law at the international level. It examines the Gen-
eral Assembly’s work on this issue from the preparations for the 2005
World Summit to the present, as reflected in various debates, negotia-
tions and resolutions. It outlines the extent to which Member States
agree on the concept of the rule of law at the international level, and on
measures to strengthen the role of the United Nations in this area. Fi-
nally, the authors submit some recommendations for the future work of
the General Assembly under this agenda item, calling on Member States
to focus on the opportunities rather than on the risks of a deeper en-
gagement in rule of law issues.

II. Recent General Assembly Decisions regarding the
Rule of Law

1. The World Summit Outcome Document

History has taught us that every successful system of nations requires a
strong anchorage in international law for the achievement of the pur-